



TOWN OF OLD SAYBROOK
Zoning Board of Appeals

Robert J. McIntyre, Vice Chairman
Dorothy T. Alexander, Secretary
Adam Boyd
Kevin Danby
Jacqueline Prast

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Alternate Members
Catherine J. Purcell
Charles Gadon
Brenda Dyson

MINUTES
REGULAR MEETING
February 13, 2019 at 6:00 p.m.
Town Hall, 1st Floor Conference Room
302 Main Street, Old Saybrook, CT

NOTICE IS HEREBY GIVEN that the Zoning Board of Appeals of the Town of Old Saybrook at its **Regular Meeting** that was held on **Wednesday, February 13, 2019 at 6:00 p.m.** at the Town Hall, First Floor Conference Room, 302 Main Street, heard and decided the following appeals:

I. **CALL TO ORDER 6:00 P. M.**

II. **ROLL CALL**

Attendant Members

Robert McIntyre
Dorothy Alexander
Kevin Danby
Jacqueline Prast
Catherine Purcell, Alternate, Seated for Adam Boyd
Brenda Dyson, Alternate

Absent Members

Adam Boyd

Staff and Representatives

Christina Costa, Zoning Enforcement Officer
Michael Cronin, Town Attorney
Bridget Riordan, Recording Clerk

There were 9 people in the audience.

The Vice Chairman read aloud the Agenda items and stated that Application 18/19-17C Anne Nghiem has been granted an extension of time to keep the public hearing open at the request of Attorney Terry Lomme on behalf of the applicant to the March 13, 2019 Meeting.

III. **CONTINUED PUBLIC HEARING** (Voting Session after each Public Hearing)

Catherine Purcell will be seated for Adam Boyd.

18/19-18 CF 15 North Main Street, LLC seeks a variance of Par 63.3.1C (front yard landscaped area/shrubs & plantings required/shrubs, plantings & ornamental plaza proposed) of the Zoning

Regulations to retain the front ornamental plaza and front walkway at 15 North Main Street, Map 40/Lot 6, Shopping Center Business B-2 District.

ZEO Chris Costa read letter from Attorney Mark Branse legal advisor to the Old Saybrook Zoning Commission into the record:

Vice Chairman. Requested Atty. Cronin's opinion. Mike Cronin stated that he concurred with Mark Branse's opinion letter. He went on to specifically address the example of *Gregorio v. Zoning Board of Appeals*, 155 Conn. 422(1967) to say that it didn't address the issue of special exemption and the facts and analysis doesn't fit this case when asking for direct variance in the regulation itself. There was discussion about hardship and harmony. Hardship has a high threshold of proof and must not be self-created. The purpose of the regulation is to create a street scape which creates harmony between zones. There was discussion about the correct process. Mike Cronin clarified that as a board the ZBA had no authority to grant a variance of conditions granted by the ZC. If the requested variance approved the applicant must go back to ZC and that ultimately the ZC has the right to take legal action against the ZBA. In the end Atty. Cronin confirmed that ZBA does have the right to hear the application for a variance of regulation.

Chris Costa read in to the record Landscaping Regulation 63.3.1C. There were no questions from the Board Members.

Attorney Cassella introduced himself and Joe Wren, Professional Engineer presenting for the applicant. Atty. Cassella began by stating the request of a variance of the previously mentioned section of the landscape regulation so the circular paver patio that is part of the completed ornamental plaza be allowed to remain. He stated that they were in full agreement of the procedure to do so previously stated and that the applicant had agreed to the other 4 conditions requested by the ZC. Atty. Cassella directed the Board's attention to one question; should the patio remain. He highlighted hardships contributing to the final location of the patio (B-2 Zone, 10ft landscape buffer, non-conforming historic building, rear parking). He mentioned grants used by the town to create attractive streetscapes in this unique part of town where B-1 & B-2 Zones intersect and similar commercial landscape applications (Welcome Center, Starbucks) have been allowed. He suggested that every variance is self-created to some degree and concluded by asking the Board to consider that "all tolled" regulations create problems and if there would be any negative impact as a result of the variance being granted.

Joe Wren began by citing 51.6.4E Site Plan Regulation where total lot coverage specifically includes ornamental plazas and subsection 2 where "decorative paving" is included as landscaping. He addressed Atty. Branse's comment regarding the patio being "impervious" and submitted several pictures to prove otherwise. He continued by citing similarities between 15 North Main St landscaping and other commercial sites (Way Back Burger, Chamber Building, & Starbucks) in B-1 to B-4 Zones proving Harmony. He saw no mention of regulation variance/special exception in files for these properties pointing to the possibility of using pavers in front landscaped areas and the fact that a precedent has already been set. He added that the Applicant agreed to 4 of the 5 other conditions requested of them and had done nothing on purpose to "go around" the processes. He closed by respectfully requesting that the Board approve the variance.

There was discussion about additions to the record and the ZEO confirmed the entire Zoning Commission Special Exception file was added to the record at the last meeting. Chris Costa explained the pedestrian node and its purpose and read several sections of the regulations to the Commission. The ZEO commented that the example properties mentioned may have pre-existing

non-conformities and indicated that different regulations may have been in place at the time of permitting.

There were comments and questions from members of the board offering other solutions after which The Chairman brought their focus back to the request of a regulation variance.

There was discussion again about the process and relationship between ZC and ZBA. Chairman asked if the Ornamental Plaza (including pavers) had been on the plan originally and was denied by ZC would the Applicant have had the right to come to ZBA for a variance. Atty. Cronin's response was that the Applicant still would have needed a variance to the zoning regulation. Discussion about process and variances previously granted where pavers and patios exist. Reference to Atty. Branse' opinion regarding "the practice of what's going on so as not to set precedence of policy and interaction between boards..." was made.

Atty. Cassella clarified the purpose of the vote which is to vary Section 63.3.1c to allow for the plaza to remain within the front landscaping buffer since the 1815 structure was preserved and incorporated into the 15 North Main St site.

The Vice Chairman asked if there was anyone in the Public to speak for or against.

MOTION was made by K. Danby, **SECONDED** by R. McIntyre, to **APPROVE** a variance of **Par 63.3.1C 18/19-18 CF 15 North Main Street, LLC. . VOTING IN FAVOR:** R. McIntyre, K. Danby, J. Prast and C. Purcell; **ABSTAINING:** D. Alexander. **OPPOSED:** None **APPROVED:** 4-1-0.

The Vice Chairman called for a 5-minute recess.

18/19-19C Norman O. & Gail A. Lalonde seek a variance of Par. 10.7.1 & 10.7.2 (nonconformity enlargement/change) and Par 24.5.3 (side yard setback/15' required/11.1' proposed to South and 5' proposed to North) of the Zoning Regulations to permit the construction of a 382 s.f. first floor addition, a 699 s.f. 2nd story addition and 724 s.f. garage at 47 Knollwood Drive, Map 4/Lot 134, Residence A District, Coastal Area Management Zone.

Atty Cassella representing Norman & Gail La Londe presented an updated site plan including As Built septic system approved by CRAHD, 19.4% lot coverage/23.4% gross fl coverage where 40% is allowed. Hardships regulation change and location of septic. Property not in flood zone.

The Vice Chairman asked if there was anyone in the Public to speak for or against.

Paul Uccello 51 Knollwood Dr opposed the 724 s.f. garage being 5 ft from his property. He said Town setbacks allow for space between properties & prevent the feeling of urban claustrophobia.

Board member D. Alexander questioned the height of the garage (29ft/conforming) and suggested windows on the side of the garage match the house to improve Mr. Uccello's view. Applicant agreed to change windows.

There was no other public input. The Vice Chairman closed the Public portion of the Hearing.

MOTION was made by D. Alexander, **SECONDED** by K. Danby to **APPROVE** a variance of **Par. 10.7.1 & 10.7.2 plus the Coastal Site Plan Application for 18/19-19C Norman O. & Gail A. Lalonde. VOTING IN FAVOR:** R. McIntyre, K. Danby, D. Alexander, J. Prast and C. Purcell; **ABSTAINING:** None. **OPPOSED:** None **APPROVED:** 5-0-0.

IV. PUBLIC HEARINGS

18/19-21C Frederick J. Marinelli & Mary Beth Marinelli seek a variance of Par 23.5.1 (street line setback/35' required / 30.5' proposed) to permit the construction of a 4,967 s.f. house(including stairs and utility platform) and existing pool, pool house and patios at 21 Cedarwood Lane, Map 15/Lot 20, Residence AA-2 District, Coastal Area Management Zone.

Joe Wren representing Applicant requested variance. Hardship is change of regulation.

MOTION was made by K. Danby, **SECONDED** by R McIntyre to **APPROVE** a variance of **Par. 23.5.1 including the Coastal Site Plan Application because it is consistent with all applicable coastal polices and makes all reasonable measures to mitigate adverse impacts for Appeal 18/19-21C Frederick J. Marinelli & Mary Beth Marinelli VOTING IN FAVOR:** R. McIntyre, K. Danby, D. Alexander, J. Prast and C. Purcell; **ABSTAINING:** None. **OPPOSED:** None **APPROVED:** 5-0-0.

18/19-22 JAVCO Holdings, LLC seek a variance of Par 64.3 (signage/sign required to be on lot with use/offsite sign proposed) of the Zoning Regulations to permit the installation of an offsite sign on Map 39/Lot 17 which is vacant and adjacent to Map 39/Lot 11 the lot where the manufacturing use is located. 1 Williams Lane/Mill Rock Road East, Industrial District.

Atty Cassella representing Applicant requested variance. Hardship is that locating sign on lot w/use would not be seen from road. ARB has approved the sign.

The Vice Chairman asked if there was anyone in the Public to speak for or against. There was no one in the audience.

MOTION was made by D. Alexander, **SECONDED** by K. Danby to **APPROVE** a variance of **Par 64.3. for Appeal 18/19-22 JAVCO Holdings, LLC. VOTING IN FAVOR:** R. McIntyre, K. Danby, D. Alexander, J. Prast and C. Purcell; **ABSTAINING:** None. **OPPOSED:** None **APPROVED:** 5-0-0.

V. REGULAR MEETING

- A. **New Business** None
- B. **Minutes**

MOTION was made by K. DANBY, **SECONDED** by C. PURCELL to **APPROVE** the regular meeting minutes of January 9, 2019 as presented. **VOTING IN FAVOR:** R. McIntyre, K. Danby, J. Prast and C. Purcell, K. Danby; **ABSTAINING:** None. **OPPOSED:** None **APPROVED:** 5-0-0.

- C. **Correspondence & Announcements:**
Nothing to report.

D. Committee, Representative & Staff Reports

The ZEO commented that during the deliberations for CF15 that it was mentioned that Attorney Branse should have been at the meeting to answer questions. The ZEO advised the ZBA that the ZC decided to have the Attorney write a letter on their behalf to keep legal costs down rather than have Attorney Branse attend a lengthy hearing.

VI. ADJOURNMENT

MOTION was made by D. Alexander, **SECONDED** by C. Purcell to **ADJOURN** the February 13, 2019 meeting at 8:50 p.m. to the next regularly scheduled meeting **on Wednesday March 13, 2019 at 6:00 p.m., at the Old Saybrook Town Hall, 1st floor conference room, 302 Main Street.**
VOTING IN FAVOR: R. McIntyre, D. Alexander, K. Danby, J. Prast and C. Purcell;
ABSTAINING: None. **OPPOSED:** None. **APPROVED:** 5-0-0.

Respectfully submitted,

Bridget Riordan, Recording Clerk

NEXT REGULAR MEETING
**Wednesday, March 13, 2019 at
6:00 P.M.**
Town Hall, 1st Floor Conference Room
302 Main Street
Old Saybrook, CT