



TOWN OF OLD SAYBROOK
Zoning Board of Appeals

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

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Alternate Members
Catherine J. Purcell
Charles Gadon
Brenda Dyson

MINUTES
REGULAR MEETING
June 12, 2019 at 6:00 p.m.
Town Hall, 1st Floor Conference Room
302 Main Street, Old Saybrook

I. CALL TO ORDER 6:00pm

II. ROLL CALL

Attendant Members

Robert McIntyre
Kevin Danby
Catherine Purcell - seated
Jacqueline Prast
Brenda Dyson – seated
Charles Gadon – seated

Absent Members

Adam Boyd
Dorothy Alexander

Staff & Representatives

Chris Costa, ZEO
Atty. Michael Cronin, ZBA
Bridget Riordan, Recording Clerk

III. PUBLIC HEARINGS (Voting Session after each Public Hearing)

PEOPLE IN ATTENDANCE 24

18/19-30C Anne Nghiem, seeks a variance of Par 10.7.1/10.7.2 (non-conformity enlargement/change); Par 24.5.1 as amended by Par 68.1.2 (narrow street setback/40' required/22.2' proposed); Par 24.5.3 (other property line setback/15' required/12.1' and 11.6' proposed to the south for addition and deck and 3.5' and 4' proposed to the north for addition and deck), and Par. 24.6.2 (building/structure coverage/20% allowed/37.9% proposed) to permit the construction of a 308 s.f. deck, stairs and landing, a wall to enclose patio, a 53 s.f. 2nd story deck, and 366 s.f. 2nd story addition at 11 Barnes Road, Residence A District, Coastal Area Management Zone.

K. Danby asked Atty Cronin for confirmation that the application was “OK” to hear. Atty Cronin confirmed **18/19-30C** is a NEW application.

L. DeBatisto presented the New 2 Phase Appeal including Project #1 Deck and Project #2 Enlarge 2nd fl Loft Area. Submitted photo showing proposed deck in line with neighbors' decks & providing 2 forms of egress. Pavers & plantings under the house will prevent erosion. Interior height of loft area will be raised to 7ft to meet building code, exterior doors will be added. Since last meeting DEEP, Building Official and ZEO have been consulted re: proposed plan.

C. Costa clarified that the Building Official has asked that the “first course” (6 inches) of the cinder block retaining wall remain. DEEP deferred to the Building Official re: retaining wall as a supporting structure. The 6 inch retaining wall will have a 2-3 inch concrete cap.

Atty. Lomme reiterated 1) Basis of variance is reduction of non-conformity, 2) the 2nd fl is consistent w/2nd fl houses in the neighborhood, 3) 2nd fl is already assessed as usable space by Town, 4) New application relocates steps closer to the house and removes more of the retaining wall per DEEP request.

K. Danby asked applicant to identify the hardship related to construction of the deck.

Atty. Lomme confirmed that they are not claiming hardship because they are within their rights to request a variance by virtue of the reduction of non – conformity.

There was discussion re: location of stairs, concrete walkway and wall relative to the proposed deck.

R. McIntyre – asked applicant to confirm that retaining wall, footings and deck are interdependent. They are.

C. Gadon – read 10-11 (E & F) of Flood Plain Compliance regulation re: removal of parts of surface coverage.

Atty. Lomme – answered cannot have a Town Regulation that interferes with the Statute and the owners have the absolute right to what they had at the time they started construction. Standard is submitted into record.

Atty. Cronin agreed with Atty. Lomme – State Statute was adopted roughly 1.5 yrs after the town regulation and is not yet completely sorted out. It is clear that unless there is intentional abandonment

Discussion about at what point applicant will address the sea wall.

Atty. Cronin – suggested a condition of granting this variance be a Certificate of Permission condition of Certificate of Zoning Compliance.

C. Purcell brings up neighbors concern relative to being located in a flood plain. Code minimums have been addressed in design of structure.

Chairman invited Public Opinion

A. Resnicki – 5 Barnes - in favor. Submitted photos of sunsets which all neighbors have view of.

C. Miranda -14 Barnes – opposed. Concerned about septic issues/ environment related to allowing more than 20% coverage. Everything is getting larger on the shoreline. Approving this variance will set a precedence.

E. & J. Carnicelli -23 Barnes – opposed. Deck and stairs diminish neighbors' views which is a right. No other houses have storage. Issue should have been considered before the house was purchased. Approving this variance will set a precedence.

Atty. Lomme – responded to public comment 2ND story is same size as is allowed and is engineered to withstand storm. Deck is consistent w/ neighborhood. Happy to comply with the following conditions; 1) no construction June, July August. 2) Comply w/ Building Official re: height of retaining wall 3) Cert of Permission from DEEP before Cert of Zoning Compliance is issued. Applicant has no intention of having more than 3 bedrooms.

C. Costa read into record authors of correspondence:

In Favor:

Susan Piro 23 Walker Ave
Rachel Farley 1 Buckingham Ave
Michael Alfano – 18A Walker Ext
Chris & Laura Stack -16A Walker Ext
Joseph Worthen – 27 Walker Ave
Virginia Riley – 5 Barnes Rd S
Elaine Pruchnicki – 18 Walker Ave
Paul Tarascio – 26 Walker Ave
Frances Guerrera – 7 Barnes Rd S
Annabelle Resnisky – 5 Barnes Rd
LeMila LLC – 22 Walker Ave
Tarascio Family – 3 Buckingham Rd

Opposed:

Ann Van Lent- 9 Barnes Rd
Evelyn & James Carnicelli – 35 Barnes Rd
Jill Cover & Nancy Flachsbart - 11 Barnes Rd
David Gerber – 19 Barnes Rd
Melissa Gerber – 31 Barnes Rd

Professional Opinion:

Marcy Balint - DEEP
Tom Makowicki – Residential Wood Deck Const. Guide

MOTION was made by K. Danby, **SECONDED** by R. McIntyre to **APPROVE** appeal #18/19-30C. (with conditions) based on there being no clear intent to abandon part of the existing structure during construction, strict adherence to the code creates a hardship and the proposed plans are more code compliant. Conditions are: 1) Per Building Official, lowest course of retaining wall must remain & a 2-3inch cap will be added, 2) must consult w/DEEP re: Certificate of Permission 3) must have a Certificate of Zoning Compliance. **VOTING IN FAVOR:** K. Danby, R. McIntyre, J. Prast, C. Purcell, B. Dyson, C. Gadon. **OPPOSED:** None **ABSTAINING:** None **The Motion passed unanimously. 5-0-0**

18/19-28 Elizabeth Pellici, seeks a variance of Par. 10.7.1/10.7.2 (non-conformity enlargement/change); Par. 24.6.2 (maximum building/structure coverage/20% allowed/25.8% proposed) of the Zoning Regulations to permit the construction of 606 s.f. in additions including a two story building addition, garage, mudroom and covered entry landing at 31 Gates Road, Map 1/Lot 54, Residence A District, Coastal Area Management Zone.

Atty. E. Cassella – introduced J. Wren, PE & D. Von Dassel, KV Design.

J. Wren – not introducing new non- conformity, making it more conforming by removing concrete slab (impervious coverage reduced). Consistent with the neighborhood in terms of lot coverage and garage. Septic recently installed and approved by CRAHD. Addition is totally w/in zoning setbacks. CAM doesn't apply, not in Gateway, not in Flood Zone. House built in the 1950's included pea stone parking area, garage is proposed in the most likely spot. Existing steps in back yard will be removed. Addition designed to be the minimum size possible.

D. Von Dassel – No covered entry into the house. Office space above garage has access to existing attic has 7 ft. side walls (code), Addition is well below 35ft height limit - garage is 20.6 ft., house is 16.5 ft.

Atty. E. Cassella – submitted photos of neighborhood. Board is charged w/determining 2 things; hardships & consistent w/ comprehensive plan of development. 1000sq ft. single story house is smallest in neighborhood and located 4 ft of Northern boundary with zero opportunity for expansion is basis for argument for legal hardship. Law says that if you're granting a variance it must be minimum necessary to alleviate hardship. Additionally, reduction of non-conformity can be basis for granting a variance. Submits Nejd v Town of Clinton case in support of position.

Letters of support:

Linda Longobardi – 32 Gates Rd
Melvin & Barbara Beal – 33 Gates Rd
Wirth – 34 Gates Rd

Letters in Opposition:

David & Valentine Shaw- 29 Gates Rd
Francis & Maria

Chairman invited Public Opinion:

Linda Longobardi spoke in favor

David Shaw – reiterated points made in his letter of objection.

J. Wren – submitted neighborhood map showing support and reiterated coverage percentages of neighboring properties.

Chairman closed Public Hearing

MOTION was made by K. Danby, **SECONDED** by R. McIntyre **to APPROVE** appeal #18/19-28. Based on reduction in non-conformity by removal of shed and stairs, proposed garage addition being the minimum size it could be and still be code compliant, provide safety and is in harmony with the neighborhood. **VOTING IN FAVOR:** K. Danby, R. McIntyre, J. Prast, C. Purcell. **OPPOSED:** None **ABSTAINING:** B. Dyson **The Motion Passed. 4-0-1** (C. Gadon recused himself).

18/19-26 Gerald Macari seeks a variance of Par 24.6.2 (building structure coverage/20% allowed/22.6% proposed) of the Zoning Regulations to permit the construction of a 550 s.f. 14' high patio at 490 Maple Avenue, Map 5/Lot 82, Residence A District, Coastal Area Management Zone.

Atty. E. Cassella – introduced K. Reed and I. Sveilich of Waterview Landscaping submitted photos and comparison of 490 Maple Previous vs. Current Condition representing 1.3% increase in coverage as result of the raised stone patio which is at grade with the house to accommodate the owners mother who is elderly. Yard is more pervious currently than it was before. Increased rain fall is responsible for more standing water than in prior years. Regulation states, “existing grade” so filling and grading is not an option to bring patio into compliance. Basis for approval of this application is that the regulation is a hardship along with the reduction of non-conformity.

Letter of support:
Candace Beacham – 486 Maple Ave

Letter of Opposition:
Jan Lehrer – 22 Fenwood Dr

Waterview Landscaping – the patio is what it is, it's already done. There was no intent to get around regulation.

Sydney Wollock – former applicant – it is worth making homes elderly compatible because we are all living longer.

Chairman closed Public Hearing.

MOTION was made by K. Danby, **SECONDED** by C. Purcell **to APPROVE** appeal #18/19-26 based on reduction in non-conformity, removal of the patio after the fact would be a hardship and it is ADA compliant. **VOTING IN FAVOR:** K. Danby, R. McIntyre, J. Prast, C. Purcell. B. Dyson **OPPOSED:** None **ABSTAINING:** None **The Motion Passed unanimously. 5-0-0** (C. Gadon recused himself).

18/19-27 Len & Susan Mariani, seek a variance of Par. 10.7.1/10.7.2 (non-conformity enlargement/change); Par 58.2.1 (riparian buffer setback Gateway Conservation Zone/100' required/96' from tidal wetlands to proposed); Par 58.6 (setback Gateway Conservation Zone/100' required/96' from tidal wetlands to addition proposed) of the Zoning Regulations for enlargement of a 2nd story deck by 6 s.f. at 2 Mulberry Street, Map 24, Lot 92-2, Residence A District, Gateway Conservation Zone, Coastal Area Management Zone.

Atty. E. Cassella – ZC approved deck w/ peculiar angles as part of overall project last year. They would like to square off deck. Coverage is not an issue here. Minor variance b/c 2nd floor is w/in 96ft of Ct River Coastal Resources. Hardship is Tidal Wetlands on 3 sides creating a unique situation and the implementation of Gateway Regulations on the site.

Chariman invited Public Opinion – none

Chairman closed Public Hearing

MOTION was made by K. Danby, **SECONDED** by B. Dyson to **APPROVE** appeal #18/19-27 based on the proposed change to the previously approved deck being in harmony with the neighborhood. **VOTING IN FAVOR:** K. Danby, R. McIntyre, J. Prast, C. Purcell. B. Dyson **OPPOSED:** None **ABSTAINING:** None **The Motion Passed unanimously. 5-0-0** (C. Gadon recused himself).

18/19-29C Anthony Lamattina, seeks a variance of Par. 10.7.1/10.7.2 (non-conformity enlargement/change); Par. 24.6.2 (maximum building/structure coverage/20% allowed/21.3% proposed); Par 24.5.1 (street line setback/25' required/17.6' proposed); and Par 24.5.3 (side yard setback/15' required/9.5' proposed) of the Zoning Regulations to permit the construction of a 516 s.f. second story addition, a 95 s.f. open deck, and 309 s.f. storage above **carport** at 15 Knollwood Drive, Residence A District, Coastal Area Management Zone.

Atty. E. Cassella – submitted photos. D. Von Dassel demonstrated reduction in coverage by removal of eaves while adding small 2nd fl master bath and storage above carport thereby reducing non-conformity by 3%. Gaining storage in deck house design w/o a basement is objective of proposed project. House already approved by CRAHD for 3 bedrooms, plan is for 3 bedrooms. No development outside existing foot print. Setbacks will not be further encroached upon.

Chairman invited Public Opinion – none
Chairman Closed Public Hearing

MOTION was made by R. McIntyre, **SECONDED** by C. Purcell to **APPROVE (with condition)** appeal **18/19-29C** based on overall reduction in coverage and proposed changes being within the existing foot with the **condition that the carport remains a carport. VOTING IN FAVOR:** R. McIntyre, J. Prast, C. Purcell. B. Dyson **OPPOSED:** None **ABSTAINING:** None **The Motion Passed unanimously. 5-0-0** (C. Gadon & K. Danby recused themselves).

IV. REGULAR MEETING

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

MOTION was made by R. McIntyre, **SECONDED** by C. Purcell to **APPROVE** the April 10, 2019 Regular Meeting Minutes **IN FAVOR:** R. McIntyre, J. Prast, C. Purcell, B. Dyson **OPPOSED:** None **ABSTAINING:** None **The motion passed unanimously. 5-0-0**

- D. **Correspondence & Announcements** None
- E. **Committee, Representative & Staff Reports** None

V. ADJOURNMENT

MOTION was made by R. McIntyre, **SECONDED** by C. Purcell to **Adjourn** the June 10, 2019 meeting at 9:15 p.m. to the next regularly scheduled meeting on **Wednesday, July 10 at 6p.m.**
IN FAVOR: R. McIntyre, J. Prast, C. Purcell, B. Dyson **OPPOSED:** None **ABSTAINING:** None
APPROVED:5-0-0

NEXT REGULAR MEETING
Wednesday, July 10, 2019 at 6:00 P.M.
Town Hall, 1st Floor Conference Room
302 Main Street
Old Saybrook, CT

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