

Lisa Butler
TOWN CLERK

Town of East Haven
Zoning Board of Appeals
East Haven Senior Center, 91 Taylor Avenue

Regular Meeting Minutes – February 16, 2023

I. Roll Call and Pledge of Allegiance

In attendance: Judy Mison, chair, John Wobensmith, vice-chair, David Gersz, Cindy Sparago, Chuck Page, Bridgett McCann (alternate) and Bill Carbone (alternate).

Also in attendance: Joseph Budrow, Planning and Zoning Administrator/ZEO.

Meeting began at 7:00pm. Ms. Mison introduced the Board members present. The Pledge of Allegiance was recited. Ms. Mison described the process of the meeting.

Ms. Mison asked Mr. Budrow if there were changes to the agenda. Mr. Budrow stated that the applicant for Application No. 22-27 was working on their CAM submission. The applicant for Application No. 23-01 would not be heard tonight. DEEP comments just came in for Application 23-02 and would not be heard tonight. There was a Notice failure for Application 23-03 and the application would be heard in March. Lastly, the two sets of Meeting minutes are not ready yet.

II. Review and Action on Prior Meeting Minutes

Mr. Budrow said there were no meeting minutes to vote on and that three sets will be available at the March meeting.

MOTION: Mr. Wobensmith made a motion continue the public hearing for **Application No. 22-27** to the next meeting. Mr. Gersz seconded the motion. All were in favor.
Motion carried, 5-0.

III. Public Hearings and Deliberation

Application No. 22-20 - on behalf of Jeff Wilhite for Silver Sand, LLC., 67 Minor Road.

Mr. Budrow gave a brief history for what led to this repeat request for a Variance for a dormer on the north side of the house. He described his errors measuring site plans that were not to scale and making a few miscalculations.

Mr. Jeff Wilhite presented. He said he needs stairs to the third floor for a furnace in a cubby hole. He said he needs two furnaces. He said he has two notes from neighbors who are for it. He said he has been trying to do this for two years.

Ms. Mison asked if he will live there. He answered that the house will be rented.

Mr. Carbone asked if he had pulled a building permit for the dormer yet. Mr. Wilhite replied that he can't until he gets zoning done. Mr. Budrow confirmed that zoning needs to be approved before a building permit can be approved. Also, he shared that the two neighbor letters were from 77 and 78 Minor Road.

Mr. Wobensmith asked if the dormer will have windows. The answer was 'yes.' He asked if there will a window in the dormer facing north. He asked what the distance the window would be to the neighbor's house. Mr. Wilhite said 20 to 25 feet.

Ms. Sparago asked Mr. Wilhite how many properties he owned on Minor Road and if they were all rentals. The answer was 'yes.' Mr. Wilhite shared that the Town moved some lot lines on him resulting in two houses on one lot.

Ms. Sparago told him that the Board should only grant Variances when a minimum variance is necessary, per Section 51.7.3 of the Zoning Regulations. She then read into the record from legal case a statement that a property owner's disappointment in a use of their property is not a legal hardship. She said what was approved before may have been the minimum variance required.

Ms. Mison asked if this was just for putting up a furnace. She asked why there isn't another place for it. Mr. Wilhite said the house is very narrow at 17 feet. Ms. Mison asked of the other houses he owned were single family homes. He said, 'yes.'

Mr. Wobensmith asked if the attic was to be for storage. He asked what was the plan for the rest of the space. Mr. Wilhite wasn't sure as he hasn't got that far yet.

Ms. Sparago asked if there will be electricity and water on the third floor. Mr. Wilhite said there will be gas and electric, but no water. Mr. Budrow asked if there will be a bathroom or a sink up there. Mr. Wilhite said 'no.' Mr. Budrow asked if the house will be a single-family dwelling. The answer was, 'yes.'

Ms. Mison asked if there was anyone in the public who would like to speak.

Mr. Joe Giordano, a realtor who lives at 2 Old Town Highway, said he was a long-time resident. He said he was excited to see the work going on at this property. The property has long been dilapidated and in rough shape. He said he was angry when the dormer was denied and that there wasn't a conflict with the windows. He stated he was surprised the Board approved a house at 20A Maplevale Road (*he was mistaken*). He wondered how the dormer was denied when that house that was approved. He then brought up a house on Laurel Street that the Board approved (*Paprocki*.) Ms. Mison assured him that the Board members visited any properties. Mr. Giordano responded saying that past Boards did not. He said the dormer was not an issue.

Mr. Gersz said he did not have an issue with the dormer, but with the how the applicant did the job doing things as he went on. He referred to the Laurel Street house and that he recommended a Colonial-style house.

Ms. Sparago said that people don't get to build what they want. A standard roof is the minimum necessary.

MOTION: Mr. Wobensmith made a motion to close the public hearing for **Application No. 22-20**. Mr. Page seconded the motion. All were in favor. **Motion carried, 5-0.**

Deliberation:

Mr. Wobensmith had a stipulation, that if there are windows and they are to be within 25 feet of the neighbor, they be frosted, per Section 25.9 of the Regulations.

Mr. Budrow said that he did not have the Zoning Regulations with him but he feels that Section refers to apartment complexes. Three members of the Board disagreed stating you look into another house. Mr. Wobensmith still feels the windows should be frosted. Ms. McCann asked if this window would look into the neighbor's house, or is the neighbor lower? Mr. Wobensmith answered that it didn't matter, the window was within 25 feet.

Mr. Budrow said that a zoning permit can be conditioned to remind the applicant of the condition on the Variance.

Ms. Sparago said the difference between the denial of the November proposal and tonight was 2 feet. Mr. Wobensmith said the reason he denied the request in November was because the applicant knew he needed a Variance for the dormer.

Mr. Gersz said the he agrees with all that was said. The applicant answered the questions and he like what Mr. Budrow said about the windows.

MOTION: Mr. Wobensmith made a motion to approve **Application No. 22-20** with a condition that any window in the dormer be frosted. Mr. Budrow confirmed that only if the Regulation also pertained to single-family dwellings. Mr. Page seconded the motion. Ms. Sparago mentioned a roll call vote. Mr. Gersz confirmed that he agreed with what Mr. Budrow was saying about windows. Ms. Sparago was a 'no' based on Zoning Regulation 51.7.3. Ms. Mison was a 'yes' and agreed with the condition. She added that the third floor not have a kitchen, sink or water. It should be storage only. Mr. Gersz asked about allowing a bedroom. Mr. Wobensmith said he was concerned about that with a heater up there. Mr. Budrow confirmed that the motions were for frosted windows, and no water, kitchen or bedroom on the third floor. **Motion carried, 4-1.**

Mr. Budrow updated the Board on **Application No. 23-01**. He shared that a building permit was granted for work on a cottage and the scope went beyond that permit. Mr. Budrow was asked if a zoning approval was needed. After confirming that a zoning approval was required, the applicant was told an A2 survey was also required. The applicant was responsive and submitted a request for a Variance. Due to an illness, they request the hearing be opened in March.

MOTION: Ms. Mison made a motion to continue the opening of the public hearing for **Application 23-01** to March 16. Mr. Gersz seconded the motion. All were in favor. **Motion carried, 5-0.**

Mr. Budrow updated the Board on **Application No. 23-02**. He said a Variance for a new house was approved in 2014. He saw that there wasn't an approved CAM application and confirmed with the Town Engineer that there was no evidence of an approval. There was an opinion from DEEP, though. He referred to the meeting minutes from 2014. He then said that a comment from DEEP arrived earlier today and that the opinion was the same as in 2014. He urged the applicant to not present tonight and to wait for the Board to have their legal counsel present.

Ms. Sparago asked if the Board should have legal counsel present for this application. The Board agreed.

MOTION: Mr. Wobensmith made a motion to continue the opening of **Application No. 23-02**. Ms. Mison seconded the motion. All were in favor. **Motion carried, 5-0.**

Mr. Budrow updated the board on **Application No. 23-03**. A Variance was granted in 1986 to allow lot lines to change in order for a property owner to build a new house. He said that, reportedly, a condition was in place to remove the existing cottage that existed on the property. That condition was not written on the filed Variance. The meeting minutes are nonexistent. Approximately 30 years later, the Town ZEO inspected the site and later issued a Cease and Desist stating the cottage was in violation of the 1986 Variance. That decision was appealed and a Court decision upheld the Cease and Desist stating that even though the condition to remove the cottage was not written on the Variance, it was written on a site plan and thus intended to be removed. He said, to this day, the cottage is still on the property. He said Attorney Pellegrino will present on behalf of the property owner in March. Due to not posting a yellow sign at the front of the property in a timely manner, the application cannot be heard.

MOTION: Ms. Mison made a motion to continue the opening of the public hearing for **Application 23-03** to March 16. Mr. Wobensmith seconded the motion. All were in favor. **Motion carried, 5-0.**

IV. Adjournment

Mr. Wobensmith made a motion to adjourn the meeting at 7:55 PM. Mr. Page seconded the motion. **All were in favor. Motion carried 5-0.**

Joseph Budrow
Planning and Zoning Administrator
Town of East Haven