

TOWN OF EAST HAVEN, CT
ZONING BOARD OF APPEALS
MINUTES – REGULAR MEETING
November 21, 2019 - 7:00 P.M. – EAST HAVEN SENIOR CENTER

The East Haven Zoning Board of Appeals Commission held its' Regular meeting at 7:00 pm on **Thursday, November 21, 2019** at the East Haven Community Center, 91 Taylor Avenue in order to transact the following:

MEMBERS PRESENT: ROBERT FALCIGNO – CHAIRMAN
 JOE PORTO – VICE CHAIRMAN
 MICHAEL SMITH
 DONALD THOMAS
 DAVID GERSZ

ALTERNATES PRESENT: VINCENT LETTIERI - ABSENT

STAFF PRESENT: MICHAEL LUZZI – ATTORNEY
 CHRISTOPHER SOTO - ZONING ENFORCEMENT OFFICER
 SAL BRANCATTI – ECONOMIC DEVELOPMENT
 TEMPLE SMITH – CLERK

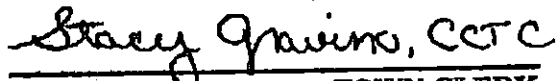
Bob Falcigno open meeting at 7:00 p.m. – Roll Call (see above).

Joseph Porto makes a motion to approve the minutes from October meeting. David Gersz seconds. Roll Call Vote. All in Favor. Motion Carried.

2020 Dates are set for the new calendar of meeting. Removing December meeting. Clerk will file accordingly. Donald Thomas makes the motion to accept. Joseph Porto seconds the motion. Roll Call Vote. All in Favor. Motion Carried.

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TOWN CLERK

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19-38

APPLICANT: Ralph Mauro; Property Concerned: 8 Morgan Terrace, Zone R-3, Map 010, Block 0003, Lot 015 – *Construction of new FEMA compliant, 2-bedroom, single family home.*

VARIANCES: Sched B; Line 7: Street line setback 26.6' required; 17' proposed. Sched B; Line 8: Rear yard setback 31.6' required, 25' requested. Sched B; Line 9: Side line setback 21.6' required, 5' requested. Line 9: Side line setback 21.6' required, 13' requested. Sched B; Line 11: Maximum lot coverage of 20% allowed, 30% requested. Sched B; Line 12: Maximum floor area ratio 0.40 maximum, 0.52 requested. §25.4.4 Waiver of additional setbacks for narrow streets.

COASTAL AREA MANAGEMENT APPLICATION: Review & Possible approval of Coastal Site Plan.

Bob Falcigno quotes to Atty. Mingione 59-1 zoning regulations. Bob states that there have been no substantial changes in order to resubmit.

Atty. Mingione is requesting a tabling of this matter without the opening of a public hearing tonight as we are not prepared. Atty. Mingione stated that there are changes that have been made and it is significantly less in size of the original house. The original house was coming in at 1400 sq. ft. this house is coming in at under 1,000 sq. ft. so it is significantly different. We are asking for a lesser variance for a smaller house and would say that this is a different application.

Chris Soto suggests options such as tabling this until January to discuss if counsel is not ready as the public hearing has not been opened therefore you cannot discuss details.

Michael Smith states that there was discussion in the last meeting that this was the last final tabling of this application as this was the third time. Before we decide I would like to find out what the significant changes are as we do not have the evidence in front of us. The only thing I see on the prints is that the roof line was lowered and the correction on the overhang was not corrected as well.

Michael Smith makes a motion to deny based on the fact that there have been no significant changes and blueprints brought forth.

Joe Porto seconds the motion. Roll Call Vote. All in Favor. Motion to deny carries.

APPEAL HEARING 19-42

APPELLANT: Donna Caponera; Property Concerned: 18 Edgemere Road; *(Illegal Dwelling Unit)*

Chris Soto states that the appellant has complied and I am withdrawing. I have inspected and all is in compliance.

Donna Caponera states that she is withdrawing her application.

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19-41

APPLICANT: Nick Mingione; Property Concerned: 46 Leigh Drive, Zone R-3, Map 390, Block 4924, Lot 011 – *Allow for an 8' fence where 6' is the maximum.*

VARIANCES: Variance to allow for a fence 8' in height where 6' is the maximum allowance pursuant to § 2.4, 4.44.1 and 25.4.11 of the East Haven Zoning Regulations. In addition, variance request for side yard setback (Section 25, Schedule B, Line 9) of .5 feet where 20 feet is required.

Atty. Mingone states that this applicant is seeking to not run the fence to the street line or site lines but to run from the edge of the house to the back of the property line and solely on that portion of the property. Atty. Mingone states that 8-6 of the CT General Statue is to promote safety. The application is promoted based on an unhealthy relationship with a neighbor that is in place right now. There has been a 2005 case of Resino vs. The Fairfield ZBA that showed safety is a hardship – the court has ruled that in fact safety is in fact a hardship. 2 other cases were cited as well proving this hardship.

Atty. Mingone shows the board and files with the clerk for background the following history of the unhealthy relationship:

Certified Copies of Police Repots:

CFS#1600011744 – Evidence 19-41 – A
CFS#1600014808 – Evidence 19-41 – B
CFS#1600015766 – Evidence 19-41 – C
CFS#1600018012 – Evidence 19-41 – D
CFS#1700011473 – Evidence 19-41 – E
CFS#1700017586 – Evidence 19-41 – F
CFS#1800011771- Evidence 19-41- G
CFS#1800015549 – Evidence 19-41 – H
CFS#1800022717 – Evidence 19-41 – I
CFS#1800031531- Evidence 19-41 – J
CFS#1800023718 – Evidence 19-41 – K
Call Summary Report 9/4/18 @13:26 hr. – Evidence 19-41- L
CFS#1800024874 – Evidence 19-41 – M
Judicial Pending Case Detail September 5, 2019 – Evidence 19-41 – N
CFS#1900016661 – Evidence 19-41 – O
CFS#1900020044 – Evidence 19-41 – P

Photographs Evidence:

Evidence 19-41; photographs 8x11 paper printouts numbered 1 -9

Atty. Mingone states there have been cameras put up peering over the existing 6 foot fence pointing down on the applicant's property which serves no other purpose than looking into the applicant's property; there are two pictures showing that. There is a history of signs that have been placed over and above the 6 ft.

fence pointing toward the applicants property; serving no other purpose than to deteriorate the relationship of the neighbor; keep out signs - which there is no ability to gain access as it is a 6 ft. fence; hunting signs that are being posted there not only on the fence but on the applicants side of the fence; the last picture you will see along the fence line there are about 8 – 10 bird feeders directly along the fence

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line, the bird excrement that is solely on the side of the applicant's fence. The applicant has had to put up their own bird deterrents to prevent this health hazard. Again this is probably the best thing for the separation of neighbors right now the extra two feet of fence from the applicant to calm this situation down and the potential safety issues going on.

David Gersz I don't see how the two feet will help the situation which against the zoning regulations is this going to stop this or aggravate the neighbor more. Are the people coming over? Atty. Mingone states that in the police report you will see that the neighbor was found in the applicant's property after midnight unwanted and uncalled upon. The police was called and resolution was he was told to stay away. The bird deterrents are also being cut on the applicant property, the bird feeders are greater than 6 feet in height so the fence will prevent that from happening as well. It's a minimal variance we are asking for regarding safety issues and to minimize the problems.

In Favor:

Andrea & Andrew DaCote – 47 Leigh Drive – we are the second people to move into that development in November 1988. We have seen people come and go and have never called the police on anyone. I myself this year in June called the police because there was someone laying on their horn starting around 2 blocks up the street all the way down the street. This one day I was on my back porch and fell asleep on the porch and heard the horn. We have a boy in the neighborhood who is 8 years old and seriously thought someone hit him and everyone on our street came out and the neighbor was pulling into his driveway and I started yelling at him – “What are you doing you are harassing everyone constantly and you won't stop”. He tries to intimidate you and he pulls out of his driveway and pulls in front of my house and we had it out and had a swearing match at each other- he said it's not for you, I am not talking to you, ignore it, I will do what I want. Now because I did that I cannot leave my house if I am out there he harasses me, gives me the finger, he waits for me. As I pull out of my driveway he pulls out and lays on the horn, he takes out the video camera and videos us. It's hard to live like this he harasses everyone. Last year our son was helping us blow leaves he is 33 years old he comes in the house and says mom Paul just did all his leaves in the backyard and this guy took out his blower and blew all the leaves to his property. He's a bully and someone is going to get hurt it's been going on every day. Whenever the police come and they bang on all the doors and he never comes out. We have lived there for 30 years and have never had to live like this ever.

Jennifer Coughlin – 54 Leigh Drive – I can attest to Andrea when he lays on the horn, he laughs and gives you the finger, the bird shit is everywhere this is done on purpose. I have a video of him yelling at a woman just walking by I will follow you home and shit on your lawn. He is completely out of control. He does this on purpose to harass everyone.

Nick Tsialas – 39 Leigh Drive – I have no problem with the 8 foot fence. I really have not had any dealings with the neighbor across the street from me. I don't know why, some say he is afraid of me which I doubt that he is. To be honest with you I wish he would just sell his house and leave. I have never had a problem with any neighbor. I am in favor for the fence not a problem.

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Opposed:

Dr. Maurice Bunnell – 38 Leigh Drive – This is my spouse Dr. JL Speraaza also of 38 Leigh Drive. To say there was no conflict with me and the neighbor at 46 would be a lie. There has been conflict but this is not a civil court we are here to address if zoning regulations are to be adhered to. This all started a few years ago when a tree warden rang my door bell. He said that you neighbor is complaining that your trees are imposing on his property. So I figured I had a lot of trees along both sides of my property. I spent over 19,000 dollars to remove the trees, but that was not good enough. So I put a nice vinyl fence. I don't know what they are talking about that the fence is encroaching on their property as I had the property surveyed. I have a copy of the survey map. The neighbor removed a couple of the stakes, I wrote a letter stating that if he continues to remove stakes you will have to pay to get the survey done. They came over screaming and yelling at me "what are you talking about" I said you cannot remove stakes. (Dr. Bunnell submits pictures for the record – Evidence 19-41 A-G Opposing Party) – The second incident came out when the wife of the neighbor came screaming out – Dr. Bunnell states we like birds, I have the right to put up bird houses, do birds defecate yes we have no control over that, the defecate on our property, their property, and the neighborhood. I can't stop Robins or Sparrows, or Blue Jay or Pigeons from defecating. Neither should the right be denied to put bird feeders in my yard. She came out screaming your birds are shitting all over the place. I said well they are not my birds their gods birds so excuse me for feeding the birds. It's a right. According to zoning regulations there has to be a hardship and they are not demonstrating a hardship here. I put a beautiful fence and after it was surveyed and as you can see there is not practical need to put up another fence. This needs be settled in civil court and I plan to take civil action because I am the victim of harassment. Because of this man here (Dr. Bunnell points out into the audience – Chris Soto state – no no we don't do that here- Dr. Bunnell apologizes) That man actually ended up in my garage and screamed at me because my mother in law who is now passes had dementia she crossed our yard and sat on his porch. He had the nerve to scream at me – I apologized – I did not know she crossed the street she could have been hit by a car. We have also been victims of harassment and I think it's not because we are new neighbors, and certainly not because we take good care of our property, but because we are gay! (The crowd outbursts – c'mon really- that is a sorry excuse – Chris Soto and Bob Falcigno regains control of the audience) – This harassment needs to stop – an 8 foot fence does not demonstrate a legal hardship – it takes away from the harmony of the neighborhood. This needed to be settled in a civil court and not with zoning. Thank you for your time. (Dr. Bunnell submits to the clerk an opposition of the 8 foot fence from neighbors – signatures- Evidence 19-41 H – Opposing Party)

Atty. Mingone draws that the attention of a couple of police reports –one being that the neighbor blew and air horn in a dogs face, to insinuate that this fence is going to ruin the harmonious nature of the neighborhood is kind of laughable. The harmonious nature of this neighborhood is done it is gone. So now the intention is can we bring it back? The application for this board is not an extensive application it seems it might be but it is 2 feet higher than fence that is already in existence. The neighbors have not proven nor did they say it would aesthetically be a problem other than it is not a hardship which safety is a hardship. We have police reports in front of you that show activity of health issues and safety issues. If the applicant is having a problem with neighbor just as much as the neighbor to the said application why wouldn't you want the fence up? The applicant is running up against opposition where ever they turn for help.

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David Gersz asked if East Shore Health has been contact regarding the bird poop. Atty. Mingone stated yes and their answer was that this is a natural occurrence and there is nothing that can be done. So once again basically it was someone saying this is not our problem. What we are asking for is not much truly it is not.

Bob Falcigno states that this looks like it is going to go to civil court. Atty. Mingone states that sooner or later it may so be it. All we are asking for is some support for the applicant for safety.

Bob Falcigno closes public hearing 19-44.

Michael Smith states bird poop is like asbestos or mold, it is ok until disturbed.

Bob Falcigno states that my personal opinion is that if you put a 30 foot fence up this will not be resolved and the police department will do nothing. I think that putting up an 8 foot fence is not going to solve the problem.

Michael Smith states it may solve some problems. Bob Falcigno states that I do not want to see this escalate this where someone gets hurt. I just don't think this will solve the problem. I think this will go up town and a judge can solve it. We are going a vote now.

Donald Thomas it sure would be nice if cooler heads would prevail I don't think it's going to help. It's a horrible thing and I cannot get over it.

Chris Soto states that I suggest you make the motion to be affirmative. The yes vote would be to approve, and the no vote would be to deny.

Bob Falcigno states who wants to make the motion as I cannot do that. Skip? (Donald Thomas)

Donald Thomas states – I am not doing it.

Michael Smith states that I feel that yes there is a safety issue here. Will an 8 foot fence solve the problems? No – but it will make some people here feel more comfortable living in their own home and I think that is the most important feeling comfortable being in your own home or being in your backyard. I am trying to put myself on both sides of the fence here and obviously there is a fence to keep these two families apart. Do I think there is a safety issue? Yes. IF you want me to make the motion I am going to make the motion to grant the variance.

Donald Thomas seconds the motion.

Bob Falcigno –Yes – the reason I am saying yes is because I do not think it's going to end at this point but I am going to go along with it and I think it will be resolved uptown. I have overlooked the safety issue and have agreed with Michael on feeling more comfortable.

Donald Thomas – Yes
Michael Smith – Yes
Joe Porto – Yes

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David Gersz – I have to ask a question- where is this fence going to be put on the property line by our zoning regulations and will that become an issue in the future? Michael Smith states ½ foot from the property line. I vote Yes.

All in Favor. Motion Carried.

Bob Falcigno states that the variance is granted there is a 15 day statutory time limit for appeal. The applicant has the opportunity within 15 days of publishing to appeal.

19-43

APPLICANT: Lisa Burwell; Property Concerned: 10 Washington Avenue, Zone R-1, Map 150, Block 1909, Lot 007 – *Occupation of a trailer as a temporary dwelling unit.*

VARIANCES: § 24.2.1 The use or occupancy of a trailer or tent as a dwelling is prohibited.

Chris Soto states that this application was withdrawn by the applicant.

There was an appeal problem in my office with the town engineers appeal 19-44 – 198 Beach Avenue.

Michael Smith makes a motion to add Appeal action 19-44 to the agenda. Joe Porto seconds the motion. Roll Call Vote. All in Favor. Motion Carried.

19-44

198Beach Avenue

Chris Soto states that this appeal came in after we already published so we could not notify everyone properly as per law so we are asking that we set a public hearing for the next regularly scheduled date which would be January 16, 2020. We have already spoken with counsel and they have granted the necessary extensions for the public hearing on that date.

Michael Smith motions to set the date of January 16, 2020 for the Public Hearing. David Gersz seconds. Roll Call Vote. All in Favor. Motion Carried.

Donald Thomas makes a motion to adjourn the hearing at 8:00 pm. Michael smith seconds the motion. All in Favor. Motion Carried.

Respectfully Submitted by:

Temple Smith – ZBA Clerk