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Town of East Haven
Zoning Board of Appeals

Regular Meeting Minutes – November 16, 2023
East Haven Senior Center, 91 Taylor Avenue

I. Roll Call and Pledge of Allegiance

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

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

The 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.

Mr. Budrow said there are no changes to the agenda. Also, he said that there were no meeting minutes ready.

II. Review and Action on Prior Meeting Minutes

There were no meeting minutes to approve.

III. Public Hearings and Deliberation

Application No. 23-28 – on behalf of Ralph Mauro, 8 Morgan Terrace.

Ms. Sparago recused herself. Mr. Carbone was seated in her place.

Attorney Leonard Fasano presented. He said the patio and other stuff will be removed from the plan and not part of the application. He said the variances requested are the 25 feet where 35 feet is required, and the side yard variance near the easement. He handed out his Exhibits A, B and C. He said A and B were the same. He said the lots were created in 1929 as South End Development. The second page is an Assessor map showing the 15-foot easement. He also submitted an August 17 letter from Jonathan Bodwell (Coastal Area Management Site Plan memo). A fourth item handed out was a list of area properties and their lot characteristics.

Attorney Fasano said this lot dates back to 1929. The Regulations came in in 1936 and this lot was nonconforming. They are asking for a Variance to build a house. This house is the minimal required. It is 935 square feet of livable space and the Regulations require 900 square feet.

Attorney Fasano said the property is in harmony with other lots in the area. He said this is a single application. He said this should be the only record. He shared that the transcript of a previous approval (different property) only just got completed.

Attorney Fasano said that this is the smallest house that can be built. The patio is being removed. He said Mr. Budrow received a letter from the Land Trust today. They have an interest in the right of way. His client is okay with their request for the wall to remain and a monument being installed at the street. They can't do a pin near the water.

Attorney Fasano said this is all he has for a presentation. They have presented the least-intrusive variance.

Mr. Budrow confirmed that a letter from Bob Sand, the President of the Land Trust, was received. He read a part of it. Attorney Fasano asked that he read another portion regarding the wall.

There were no questions from the Board.

Mr. RJ Connors, of 13 Morgan Terrace, approached the Board. He said Mr. Mauro has asked for variances multiple times. After purchasing the property, he was denied multiple times. A Court said that no hardship was established. He said recently, an easement was granted to 12 Morgan Terrace for a deck. He felt that this makes the lot smaller. He said a year ago, the owner of 126 Morgan Avenue was told that buying a small house is not a hardship. Mr. Mauro was never told he should have bought a bigger lot. There is no hardship shown. He said the property was edited in the 1940s.

Ms. Stephanie Sudikoff, of 7 Morgan Terrace, approached the Board. She asked what unique hardship exists today that didn't exist in September, 2021.

Ms. Katie Connors, of 13 Morgan Terrace, spoke. She trusts that the rules and regulations will work things out. She said Judge Blue made a decision. She still doesn't know what the hardship is. She described the conditions at 8 Morgan Terrace.

Anne McGuire, of 52 South Street, said she feels intimidated going to the beach. She said he has a house on Morgan Avenue.

Mr. Page asked where the pilings were that people keep mentioning.

Mr. Mauro answered saying that DEEP allowed him to put a couple pilings into the ground on the land side in order to delineate the property. He placed a pin on the beach but was told to remove them. The pilings are shown on the site plan. He said, as for the right of way, he is the only person that maintains it. He has used sand, shells, and little rocks but they all get washed away. He put rocks in place and they have worked. He said that people can go to the beach over his property. He said he doesn't intimidate anyone. He said he wants to live down there.

Attorney Fasano pointed out that the site plan shows the neighbors' deck encroachment. It is very small. He also said that the difference between this proposal and the 2021 application is that the previous request was for a 2300 square-foot house and this one is for 935. He said this is the minimum necessary. He added that the wall and stones are on Ralph's property.

Leslie Jennings Lax, of 7 Morgan Terrace, approached the Board. She said that the work that Mr. Mauro has done is not on land that he owns. The DEEP has cautioned him before. The work he does contaminates the Sound.

Mr. Mauro said he has pictures of ruts in the right of way. The rocks he placed on the property were above the regulated area. He is trying to rectify a situation. Katie Connors approached again. She said the accessway is not his responsibility. Nature moves sand around. She said the property was beautiful with flora and grasses.

MOTION: Mr. Gersz made a motion to close the public hearing for **Application No. 23-28**. Mr. Page seconded the motion.

Deliberation:

Ms. Mison said there is not a hardship. She appreciated the effort to downsize. Mr. Gersz said Mr. Mauro has done everything asked of him and more. He said he likes that the patio is coming out. He said it will be a nice house. He said he doesn't know what is going on with the right of way and said that Mr. Mauro is a good mason. Mr. Page said that the hardship was created when the lots were made too small. There is a right to put a house on it. He read Zoning Regulation 51.7.3. He said every lot has a house on it. This is down to the bare minimum. Mr. Carbone agreed with Mr. Gersz and Mr. Page. Mr. Wobensmith agreed with Mr. Page about the lots being created too small. Mr. Mauro can't go any smaller. He understands that there have been changes made. Mr. Mauro had nothing to do with the lot being made smaller. He has the right to build. He has met the minimum requirements to do so.

MOTION: Mr. Page made a motion to approve **Application No. 23-28**. He said that Section 51.7 has been met due to the size of the lot. Also, per Section 51.7.3, he said this is the minimum variance necessary to accomplish such purpose of building on the lot. Also, provided that the patio and shed are eliminated, and a pin is placed at the street side of the property per the latter from the Land Trust. Mr. Wobensmith seconded the motion. (Mssrs. Wobensmith, Gersz, Page and Carbone) voted in favor of the motion. (Ms. Mison) voted against the motion. **Motion carried, 4-1.**

Ms. Sparago rejoined the Board and was seated.

Application No. 23-29 – on behalf of Michael Hubbard, 44 David Drive.

Mr. Michael Hubbard presented. He is looking to add a full shed dormer to the house. He said his family is growing and they need their own space. Three bedrooms will go upstairs. The house is currently eleven feet off the property line.

Mr. Wobensmith asked if he was raising the roof height. Mr. Hubbard answered that ridge line will not increase. Mr. Wobensmith confirmed that the house footprint will not increase. Mr. Hubbard answered that the foot print will not increase.

Mr. Budrow said there was a typo on the agenda. An extra Section was added to the list of variances required. The typo will not affect the variance request tonight.

There was no public comment.

MOTION: Mr. Wobensmith made a motion to close the public hearing for Application No. 23-29. Mr. Page seconded the motion. **All were in favor. Motion carried, 5-0.**

Deliberation:

Mr. Wobensmith had no objections. He said everything is in the same parameters. Ms. Sparago asked the Board what the land-based hardship was. Mr. Wobensmith said there was no expansion. Mr. Carbone asked Ms. Sparago to clarify her question. She referred to Zoning Regulation 51.7.1 and then listed some examples of land-based hardships.

There was discussion about when the house was built and if the Regulations may have been amended, thus changing the setbacks. Mr. Budrow stated an opinion that the Statute for the ZBA's powers was written when there was still a lot of vacant land left. When people wanted to build, then, a Board can hold them to the standards land-based hardships. Can't do that now. Ms. Sparago asked Attorney Dagostine if he agreed with that. He said he did not disagree.

Mr. Wobensmith said he is looking at Section 51.7.3. Ms. Mison asked if there were other dormers in the area. Ms. Sparago said she had seen some and that she is not against the application. She just wants the Board to be consistent.

MOTION: Mr. Wobensmith made a motion to approve Application No. 23-29. Ms. Mison seconded the motion. All were in favor. **Motion carried, 5-0.**

Application No. 23-30 – on behalf of Alex Perez, 444 Foxon Road.

Mr. Budrow said that he gave the Board a memo tonight that states that the Planning and Zoning Commission has given a favorable comment about the following presentation. He then reminded the Board of the existing zoning issues along Foxon Road resulting in nonconforming uses.

Christine and Alex Perez presented. She said she wants to relocate her dance studio to this property. Mr. Perez said he wants to move his hair salon there, too.

Mr. Gersz asked if they have the parking. Mr. Wobensmith said that the Commission addressed that question. There was discussion about the lot and the other businesses located there. There was more discussion about the businesses and the inside layout.

There was no public comment.

MOTION: Mr. Wobensmith made a motion to close the public hearing for Application No. 23-30. Mr. Gersz seconded the motion. **All were in favor. Motion carried, 5-0.**

Deliberation:

Mr. Budrow shared that there was a favorable comment from the Planning and Zoning Commission.

MOTION: Ms. Sparago made a motion to approve Application No. 23-30 and referred to Section 51.8.4.1 of the Zoning Regulations. Mr. Wobensmith seconded the motion. **All were in favor. Motion carried, 5-0.**

MOTION: Mr. Wobensmith made a motion to approve the 2024 Meeting Schedule. Mr. Page seconded the motion. **All were in favor. Motion carried, 5-0.**

IV. Adjournment

MOTION: Mr. Wobensmith made a motion to adjourn the meeting at 8:15 PM. Ms. Sparago seconded the motion. **All were in favor. Motion carried, 5-0.**

Joseph Budrow
Planning and Zoning Administrator
Town of East Haven