

# **APPROVED ON 5/20/2021**

## **TOWN OF EAST HAVEN ZONING BOARD OF APPEALS MINUTES OF SPECIAL MEETING HELD MAY 4, 2021 AT 7:00 PM VIA ZOOM VIDEOCONFERENCE AND CONFERENCE CALL**

Attorney Jennifer Coppola, Counsel to the Board, called the special meeting to order at 7:03 p.m.

### **I. Roll Call**

Sotonye Otunba-Payne, Clerk, called the roll for the Board as follows:

Karen Martin - Present

Joseph Ginnetti - Present

Judy Mison - Present

David Gersz - Present

John Wobensmith- Present

The following were in attendance:

Jennifer Coppola - Counsel to the Board.

### **II. Election of Officers**

Attorney Coppola called for nominations for Chair.

Mr. Ginnetti nominated Ms. Karen Martin as Chair. Said motion was seconded by Mr. Wobensmith.

Karen Martin - Yes.

Joseph Ginnetti - Yes.

Judy Mison - Yes.

David Gersz - Yes.

John Wobensmith - Yes.

The motion passed unanimously.

Ms. Martin was congratulated. She thanked everyone. She indicated that there has not been a Vice Chair in a long time. She called for nominations for Vice Chair.

Ms. Martin nominated Ms. Judy Mison as Vice Chair. Said motion was seconded by Mr. Wobensmith.

Karen Martin - Yes.

Joseph Ginnetti - Yes.  
Judy Mison - Yes.  
David Gersz - Yes.  
John Wobensmith - Yes.

The motion passed unanimously.

Ms. Mison was congratulated.

### **III. Review and Action on Prior Meeting Minutes**

1. Accept and Approve of Minutes of the February 18, 2021 Regular Meeting

Ms. Mison moved to approve the Draft Minutes of the February 18, 2021 Regular Meeting. Said motion was seconded by Mr. Wobensmith. The motion passed unanimously.

### **IV. Public Hearing**

1. **Application No. 21-02 on behalf of Joseph and Laurie Kikosicki, 242 Cosey Beach Avenue,** East Haven, CT, Assessor's Map 30, Block 214, Lot 12, R-1 District, requesting variances of sections **25.4, 25.4.3 and 344.7** of the East Haven Zoning Regulations to elevate an existing house to FEMA standards to an approximate height of 35' 2". Also, to a point 9' 6" from the east side property line where 22 feet is required, and to a point 10' 8" from the west side property line where 22 feet is required, and to a point 7 feet from the rear property line where 32 feet is required.
2. **Application No. 21-03 on behalf of Joseph and Laurie Kikosicki, 242 Cosey Beach Avenue,** East Haven, CT, Assessor's Map 30, Block 214, Lot 12, R-1 District, a request to approve an application for a Coastal Area Management Site Plan Review.

Ms. Kikosicki stated that they purchased their home in February. They would like to raise their home in order to meet FEMA standards.

Ms. Martin stated that there was nothing more to be done regarding the C.A.M. site plan as it goes with the application.

Attorney Coppola advised the Board that there were necessary findings that it had to be made regarding the variance application which could be found at Section 51.7. Section 51 deals with the types of applications the Board can consider. Section 46 of the regulations deals with Coastal Area Management and the statutory criteria are listed in Section 46.5.

Attorney Coppola stated that she would read the review comments by both Mr. Jonathan Bodwell, Town Engineer, and Mr. Joseph Budrow, ZEO, who were not present, into the record.

Mr. Bodwell's memorandum as read by Attorney Coppola: I have reviewed the Coastal Area Management application for the property and believe the proposed project will bring the house more into compliance. If the Board approves the ZBA/variance application, it can approve the C.A.M. If your Board denies the application, the C.A.M. should be denied.

Mr. Joseph Budrow's report as read by Attorney Coppola: The property at 242 Cosey Beach Avenue is a shoreline property approximately .25 acres in size. The lot is approximately 43 feet wide and 250 feet deep. It fronts the street. The property is mostly flat, tapering downward toward the beach.

The proposal is to raise the **existing** house from a first-floor elevation of 10 feet 6 inches to 16 feet +/- . The existing building height is 28 feet 2 inches. The resulting height is 34 feet 2 inches. When a building exceeds, 30 feet all setback lines increase 2 feet for every 1 foot over 30 feet in height. Here, at a proposed height of 35 feet 2 inches, the normal side setbacks of 10 feet become 22 feet. And the 20-foot rear setback (the beach) becomes 32 feet.

There is no true land-based hardship, of course. The hardship bases are FEMA regulations that allow minimal improvements to structures within Special Flood Hazard Areas. Overall, the neighboring homes have all been going upward. This proposal does not appear to lower neighboring property values.

### **C.A.M. Application:**

The applicant needed to apply for a Coastal Area Management Site Plan Review because this proposal was within 100 feet of a Beach. The application was administratively approved by the Town Engineer. His approval signifies that State and Federal guidelines are being followed.

Questions to ask:

1. Will this proposal have any adverse impact on the coastal resource?
2. Where will erosion and sediment controls be installed?
3. Where will boring sediment, if any, be placed?

Ms. Martin stated that with regard to the first question, all the homes in the area have been doing the same thing.

Ms. Martin asked about erosion and sediment controls being installed. Mr. Kikosicki replied that the company that they contracted to do the work had

done majority of the home improvements in the Cosey Beach area. The proper applications would be done as indicated in their contract with the company.

Ms. Martin asked what company they contracted to do the work. Mr. Kikosicki replied High Caliber Contracting in Milford.

Ms. Martin asked where the boring sediments would be placed. Mr. Kikosicki said taken away or redistributed. Whatever cannot be leveled would be taken away.

Mr. Gersz asked if they would be putting silt fences around the property. Mr. Kikosicki replied by saying that during the raising of the house, yes. Mr. Gersz said the fence would be up until they had their Certificate of Occupancy.

Mr. Wobensmith stated they had all the relevant documents. However, he had not seen any submitted objections. He asked if any objections were submitted. Ms. Kikosicki replied that they had not received any complaints. Their neighbors were pleased with what they planned to do.

Mr. Gersz asked if this meeting was properly posted. Attorney Coppola indicated that the notifications were sent and checked by Staff.

Ms. Martin asked if there was any public comment - anyone who was for or against the proposed plan. There were no responses.

**Mr. Wobensmith motioned to close the public hearing. Said motion was seconded by Ms. Mison. The motion passed unanimously.**

## **V. Deliberation Session**

1. Discussion and possible decision on **Application No. 21-02** on behalf of Joseph and Laurie Kikosicki, 242 Cosey Beach Avenue, East Haven.

Attorney Coppola said the Board would need to vote on each of these applications separately. The Board should state its collective reasons for its action.

Attorney Coppola read these the relevant sections of the Zoning Regulations for the variance application as follows: *51.7, the findings of the Zoning Board of Appeals shall be fully described, in detail in the minutes of the Board. It shall be the policy of the Zoning Board of Appeals, when exercising the power to determine and vary the standards or application of these Regulations to make the following findings: 51.7.1, that conditions exist that especially affect the parcel of land for which the variance is being*

*sought, as a result of which conditions, that a literal enforcement of these Regulations would result in exceptional difficulty or an unusual hardship; 51.7.2, that these conditions do not generally affect the district in which the parcel is situated; 51.7.3, that, for reasons set forth in the findings, the variance is necessary to relieve the exceptional difficulty or unusual hardship, and is the minimum variance necessary to accomplish such purpose; and 51.7.4, that, the variance will be in harmony with the purpose and intent of these Regulations and will continue to conserve the public health, safety, convenience, welfare and property values.*

Ms. Martin stated that Section 51.7.4 is really what the Board was looking at, to conserve the public health, safety, convenience, welfare and property values. Without this variance, they would be unable to conserve the welfare and property values. The variance should be granted for this reason.

Ms. Mison motioned to approve the variance based on Section 51.7.4 of the Zoning Regulations. Said motion was seconded by Mr. Gersz.

Karen Martin - Yes, because of 51.7.4, to uphold the value and safety of the property.

Joseph Ginnetti - Yes.

Judy Mison - Yes.

David Gersz - Yes.

John Wobensmith - Yes.

The motion carried.

2. Discussion and possible decision on **Application No. 21-03** on behalf of Joseph and Laurie Kikosicki, 242 Cosey Beach Avenue, East Haven.

Mr. Wobensmith motioned to Approve Application No. 21-03, C.A.M. application.

Attorney Coppola directed the Board to Sections 46.5 and 46.6 of the Zoning Regulations. She expressed the importance of the Board articulating that it had evaluated the proposed plans for compliance with the criteria that is reflected in Section 46.5 which is the criteria that mirrors that which is in Section 22a-96 of the Connecticut General Statutes. And as is indicated in Section 46.6, in the second paragraph, Section 22a-106 of the Connecticut General Statutes does indicate that the findings and reasons for the Board's action with respect to any coastal site plan that is approved, conditioned, modified or denied shall be stated in writing. So, what the Board says will be reduced to writing. In approving any coastal site plan application, the Board needs to make findings consistent with what is listed in Sections 46.6.1, 46.6.2, and 46.6.3 of the Zoning Regulations.

Ms. Mison seconded the motion.

Karen Martin - Yes, to approve due to the potential adverse impacts of the proposed activity and future development opportunities with the Connecticut General Statutes in mind. Overall, it will increase the value, yet protect the coastal management area.

Joseph Ginnetti - Yes.

Judy Mison - Yes.

David Gersz - Yes.

John Wobensmith - Yes.

The motion passed unanimously.

There were discussions about C.A.M. applications as a requirement regarding variances such as were requested in this application. Attorney Coppola stated that there are laws requiring the submission to protect precious resources. She stated that this topic could be put on an agenda for discussion at a future meeting.

## **VI. Adjournment**

Mr. Gersz moved to adjourn. Said motion was seconded by Mr. Ginnetti. The motion passed unanimously.

The next meeting is on May 20, 2021.

The Board adjourned at 7:38 p. m.

Respectfully Submitted,

Sotonye Otunba-Payne