

TOWN OF EAST HAVEN, CT  
ZONING BOARD OF APPEALS  
MINUTES – REGULAR MEETING  
January 17, 2019 - 7:00 P.M. – EAST HAVEN SENIOR CENTER

MEMBERS PRESENT: ROBERT FALCIGNO – CHAIRMAN  
GEORGE HENNESSEY – VICE CHAIRMAN  
MICHAEL SMITH  
DONALD THOMAS  
JOSEPH PORTO

ALTERNATES PRESENT:  
VINCENT LETTIERI  
DAVID GERSZ

STAFF PRESENT: JOSEPH ZULLO – ATTORNEY  
CHRISTOPHER SOTO – ZONING ENFORCEMENT OFFICER  
TEMPLE SMITH – CLERK

The East Haven Zoning Board of Appeals Commission held its' Regular meeting at 7:00 pm on **Thursday, January 17, 2019** at the East Haven Community Center, 91 Taylor Avenue in order to transact the following:

Chairman Falcigno called meeting to order at 7:00 p.m. Roll Call. A quorum was established.

Donald Thomas made a motion to approve the Minutes from previous meeting Michael Smith seconds.  
Roll Call Vote. All in Favor. Motion Carried.

**APPEAL HEARING # 18-23**

**256 and 266 Thompson Street:** *Appeal of Cease and Desist/Action of Z.E.O. (excavation/grading of topsoil, sand, and gravel)*

ZEO, Christopher Soto states that the towns legally withdrew the cease and desist

Christopher Soto asks the board if they could rearrange the agenda to be heard in the order of ;

1<sup>st</sup> – Appeal Hearing 18-23

2<sup>nd</sup> – Appeal Hearing 18-38

3<sup>rd</sup> - Appeal Hearing 18-36

4<sup>th</sup> – Appeal Hearing 18-35

5<sup>th</sup> – Appeal Hearing 18-37

6<sup>th</sup> – Appeal Hearing 18-39

Michael Smith makes a motion for the rearrangement. Joseph Porto seconded. Roll Call Vote. All in Favor. Motion Carried.

**APPEAL HEARING # 18-24**

**1 Barberry Road:** *Appeal of Cease and Desist/Action of Z.E.O. (excavation/grading of topsoil, sand, and gravel)*

Attorney Peter Alter – with him is John Patton owner of 1 Barberry and Farm River Rock the lessee of the property. Regarding stop work order issued August 2<sup>nd</sup>. We want to make clear that our position with this real estate has not changed and we feel this property is exempt from the application of the regulation from the ZEO of non-conforming use which includes stockpiling of material. In support of that contention (shows map) Item 1 – it shows that fact that as of the date 1/24/16 there are 10 stockpiles of material on this site. That is part of the use of the on goings on this quarry. You know we have litigation going on as a matter of if this is of non -conforming use and we took an appeal from and you rejected our contention of result of that use and were forced to go out of business and have lost millions of dollars. That matter is going to be heard on February 20<sup>th</sup> by the court and will have the opportunity to decide as to whether the decision you made was valid or not. I might suggest to this board that rather than spend a lot of time on this matter we can finish the public hearing tonight and then have 65 days from the close of the public hearing to make a decision – in that time period the court many have made a decision on this matter. Since this cease there has been no mining, quarrying, activity, except to dismantle his equipment to get it off the site. While reserving our right to operate I want to explain what Mr. Soto saw. Earlier in the summer Mr. Patton was approached by a contractor who was doing road work for the State of CT DOT in Branford. That contractor asked Mr. Patton if he could store construction materials from the project. The material that came out of that project would go back into the project and wanted to temporally store the material. The contractor paid nothing to them for the use. He did it as an accommodation to a customer. As of today 1/17/19 there is substantially less material there since Mr. Soto was there in August. Because of the temporary circumstance we did not believe we needed a permit for this. If we thought there was a permit to be required we would have required the contractor to secure the permit for such. The contractor stated the balance of the material will be gone shortly although we cannot tell you when that will be.

Opposed – Dennis Pertillo – 225 Totoket Road – North Branford – I see trucks everyday 20-40 loads a day and I have to deal with the aggravation and noise from those trucks and if the quarry is under a cease a desist they are still stock piling there every day and we are tired of it. ZEO - Tom Hoggerty said once the trucks are loaded he does not card where they go. There is still activity at that quarry. We are tired of the many trucks going by with jake brakes going by 80 times a day they are going to a piece of property

in East Haven that should have a cease and desist and a lot of those trucks speed down that road. Chairman Falcigno states that the cease and desist is for the operation of the quarry. In defense of Mr. Patton he has no control of those trucks and how they drive. The quarry is not in operation. It is not the Town of East Haven's responsibility for the trucks and where they go – you need to contact Town of North Branford I cannot stop them and your ZEO officer. Chris Soto states that regarding the access into East Haven etc. is not the purpose of this meeting we need to address the concern is the appeal I can only suggest that you contact North Branford we cannot enforce anything. If they are coming from North Branford to deposit fill in East Haven – we are doing as much as we can – but you have to speak with your ZEO and Police Chief and First Selectman.

Attorney Zullo states that it is his request that you go along with Attorney Alters request to close the public hearing and reserve the decision to next month as we may be able to resolve this before the next meeting.

Non to speak in Favor. Chairman Falcigno closes public hearing.

Michael Smith makes a motion to table 18-24 to next months' meeting. Joe Porto seconds. All in Favor. Motion Carried.

#### **18-35**

**APPLICANT:** James M. Pretti, Jr; Property Concerned: 184 Charter Oak Avenue, Zone CC, Map 230, Block 2909, Lot 010 – *Demolition of portion of existing building, remodel remainder and construction of 3 new dwelling units.*

**VARIANCE:** Sched B; Line 7: Street line setback 25' required; 11.2' existing.

James Pretti of Criscuolo Construction representing the property owner of 184 Charter Oak Avenue. James is asking that in the front is the original screen porch is coming off 150 sq. ft. and putting back 28 as it is an entry way porch. There will be a total of 4 units in the building. We are here due to non-conformity. None in Favor, None Opposed. Bob Falcigno closes public hearing. Roll Call Vote. All in Favor. Motion Carried.

#### **18-36**

**APPLICANT:** Brian Prinz; Property Concerned: 60 Brown Road, Zone R-3, Map 110, Block 1125, Lot 004 – *Enclose existing porch to build a stair case to enable interior access to power & water mains.*

**VARIANCE:** § 44.7 –Enlargement of a non-conforming use, Sched B; Line 8: Rear yard 30' required; 20' proposed. Schedule B; Line 9: Side yard setback 20' required; 1.83' proposed.

Christopher Soto asks for this item to be tabled as they had not notified the Town of Branford if they wanted to attend. In the meantime they will not pursue any fines or enforcement actions. Joseph Porto makes a motion to table until next month. Donald Thomas seconds the motion. Roll Call Vote. All in Favor. Motion Carried

**APPEAL HEARING # 18-37****1 Ledyard Place: *Appeal of Action of Z.E.O. (zoning permit)***

Attorney Cote states that his client has a covered building on his property that was permitted and several years ago through a storm it collapsed and obtained a replacement cover and it is 4 inches higher than what is permitted. Chris Soto states that the reason that they are here is because it came to our attention that we issued a violation and a permit was submitted to correct that violation and we picked up on the change in height and could not issue the permit. I believe they are appealing that as an attempt to gain extra time to correct the proper height structure. Attorney Cote agrees. He can do it however it's the middle of the winter and he just had surgery a couple of weeks ago and needs some time to fix it.

There was no one for or to speak against the applicant. Chris Soto suggests tabling this item until our next meeting. Chairman Falcigno suggests tabling. Michael Smith makes a motion to table until the next meeting. Donald Thomas seconds. Roll Call Vote. All in Favor. Motion Carried.

**APPEAL HEARING # 18-38****60 Brown Road: *Appeal of Action of Z.E.O. (unpermitted structures)***

Christopher Soto asks for this item to be tabled as they had not notified the Town of Branford if they wanted to attend. In the meantime they will not pursue any actions. Joseph Porto makes a motion to table until next month. Donald Thomas seconds the motion. Roll Call Vote. All in Favor. Motion Carried

**18-39**

**APPLICANT:** Stephen and Suzanne Holt; Property Concerned: 43 Piscitelli Circle, Zone R-3, Map 100, Block 0917, Lot 005 – *Encroachment into side yard setback.*

**VARIANCE** Sched B; Line 9: Side yard 20' required; 16' proposed/existing.

Stephen Holt states that they built a house according to the survey. When it came time for the as built survey the original surveyor was not in business anymore and a new surveyor had to start from the beginning and found that the original survey was 4 feet off into the side yard setback.

No one in favor of the applicant.

Opposed – Donna Gargano 164 Alps Road Branford & Jim Diliato – 288 Briarwood Drive, Guilford. Donna states that they just learned about his 9 days ago. She feels the value of the property that they own next door will be a problem and is concerned how this even happened. Donna shows a map and that all was fine. Chairman Falcigno explains that the survey was done and then that surveyor went out of business and the second engineer found the error after the house was built that is why they are here. The only thing that happens now is that he is here for a variance as he is 16 feet from the side yard and should be 20 feet and no one picked up the error until after the fact. Chris Soto states that as far as we know it was a surveyors error from the beginning and all we would have told the homeowner to do is what they are doing now come and apply for a variance. Donna states that she is trying to understand what processes and policies are in place to protect either side of the home from these kinds of errors. Jim states that they are planning to sell the property and now we feel it has lost value due to this. Chris Soto states that the board grants variances due to hardship it's up to the board to find a hardship. Donna asks that the board table this until next month so she can consult with private counsel. Chris Soto states that the

opposed was in his office and discussed in length with his staff and discussed several things they wish to happen. I think they have had the opportunity to look this up. Donna states she had all of 5 minutes with Giovanna and was told she had the opportunity to come to this meeting to discuss. Jim states the damage is done and the damage is done to us. Now I have a narrow building lot and we are looking to sell I would like a fence put up. Chairman Falcigno states that we cannot put stipulations on anything. Jim asks for at least a postponement so they can seek counsel. Chairman Falcigno closes public hearing. Michael Smith makes a motion to approve the variance due to the hardship of the owner to which it was not his fault. Donald Thomas seconds the motion. Roll Call Vote. All in Favor. Motion Carried.

Submitted by:

*Temple Smith*  
Temple Smith

Clerk