The East Haven Zoning Board of Appeals Commission held its’ Regular meeting at 7:00 pm on Thursday, January 16, 2020 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
DAVID GERSZ

ALTERNATES PRESENT: VINCENT LETTIERI - ABSENT

STAFF PRESENT: ATTORNEY LOUIS DAGOSTINE
CHRISTOPHER SOTO - ZONING ENFORCEMENT OFFICER
KEVIN WHITE - TOWN ENGINEER
TEMPLE SMITH – CLERK

Bob Falcigno open meeting at 7:00 p.m. – Roll Call (see above). Michael Smith makes a motion to approve the minutes from the previous meeting. Joe Porto seconds. Roll Call Vote. All in Favor. Motion Carried.

APPEAL HEARING 19-44
APPLICANT: Nicholas Mingione, Esq.; Property Concerned: 198 Beach Ave; (Zoning Permit).

Attorney Mingione requests to open up the public hearing and tabling the matter as it is the applicant’s intention to complete the plans so they can present the property as a rebuild of the existing structure as they would like to place another application in front of you for consideration. Michael Smith makes a motion to open Appeal Hearing 19-44 to the public. David Gersz seconds the motion. Roll Call Vote. All in Favor. Motion Carried. Michael Smith makes a motion to table Appeal Hearing 19-44 to the February 20, 2020 meeting. Joe Porto seconds the motion. Roll Call Vote. All in Favor. Motion Carried.

TOWN OF EAST HAVEN, CT
ZONING BOARD OF APPEALS
MINUTES – REGULAR MEETING
January 16, 2020 - 7:00 P.M. – EAST HAVEN SENIOR CENTER

APPEAL HEARING 20-01
APPELLANT: Nicholas Mingione Esq.; Property Concerned: 45 Mansfield Grove Road Camp 57. Zone R-1, Map 080, Block 0421, Lot 057 – Expand 3’ 9” x 18’ deck to 10’ 4”x18’.
VARIANCE: 44: Expansion of a non-conformity. Sched B; Line 7: Street line setback 25’ required; 16’ requested.

Attorney Mingione hands green cards to Christopher Soto. Attorney Mingione states that he is there for the extension of the deck. This was an issue that the town itself did not know even existed, the background is that Mansfield Grove Campers Association for the past several, several years believed that it was a self-governing with their own rules and regulations on expansion and operations of the property etc. This process was that my client asked the Association of the rules and regulations of an expansion of their deck and when going for a building permit it was determined that the property was actually an R1 the as the assessor’s office has it listed as a PDD. This property is centrally located around other properties that are PDD but his one ended up not being a PDD. With that being the case we are required to come to you to ask for a variance. The Campers Association holds their own meetings as well and my client had received letters of approval to expand the deck and that they are ok with it. Attorney Mingione hands the clerk the following exhibits:
Exhibit A – Mansfield Grove Campers Association, Building, Remodeling and Altering Grounds Rules 10/28/2010
Exhibit B1 – Mansfield Grove Campers Association letter to Christopher Soto- Approval from Association.
Exhibit B2 - Mansfield Grove Campers Association letter to Kathleen and Louis Anastasio regarding approval of application to rebuild deck and no opposition from neighbors.
Exhibit D – Zoning Board of Appeal Application from 1985
(the ZBA clerk reads all the exhibits into the record)

Michael Smith states that on line 8 this property has received previous variance; do you know what they were for? Attorney Mingione states that he believes it was for the original deck and an expansion on that cottage itself. It was my client that is just trying to do the right thing by asking for a building permit that this was all discovered regarding them being in an R1 zone.
Christopher Soto, Z.E.O states that he first issue is that no deed was attached to the application which is one of the requirements, the second is that the map provided with the zoning application is a GIS map the variance being asked for is allowed the building to be within 16 feet when 25 feet are required so essentially they are looking for 9 feet of relief. We need to be quite specific within the variance we are asking for so that presents a whole host of issues that need to brought to light. (Christopher Soto passes out exhibits to the board and the clerk. The Clerk reads the exhibits into the record)
Exhibit – C – ZEO Exhibits 45 Mansfield Grove Road – Variance #20-01
A. Zoning Permit to Replace existing deck & add 6’3” (Oct 15, 2020)
B. GIS Map: 45 Mansfield Grove Road
C. Plot Plan: Zoning Permit for 12’x18’ deck (April 30, 1988)
D. Plot Plan Excerpts: From Zoning Permit to Replace existing deck & add 6’3” (Oct, 15, 2020)
E. GIS Zoning Map Excerpt

TOWN OF EAST HAVEN, CT
Christopher Soto states that the first thing he wants to bring to the boards attention is that permit that was brought to light for the variance and the map he provided and what was historically our records you will see there that is a rather bold line and the structure #47 and a 10x18 deck you will notice that this plot plan is thought to be considerably closer to the street line and about 5 feet if you measure it out. You see a cottage that is not necessarily rectangular and sits over a portion of the deck, you will see the deed of this shows the same s map that was printed on the cottage is considerably further away from the property line and call to your attention the disclaimer that is printed on the GIS map. “This map is for assessment purposes only. It is not for legal description or conveyances. All information is subject to verification by any user.” This brings up another issue, the same plot plan that was used for permit application that goes together with the variance that is present today, and you will see there is a 12x18 deck and right next to that 12x18 deck is a distance of approx. 30 feet. The same property line if we were to look at that distance and scale it off and it would be approx. 15 feet, you will see that the 16 feet that they are requesting is not there at that deck. However this is the last copy of the plot plan and the last permit that was issued for that property and you will see it is a rectangular house with a 12x18 deck and what has been explained to me was that somewhere after this permit was approved the homeowner expanded the house over a portion of that 12x18 deck. So there is the possible existence of an unpermitted structure over the previously approved 12x18 deck. So as you can see that 16 foot distance does not appear to be there. If you go to D, you have some colored illustrations with a blown up map, it is 10x18 and the next page clearly that this distance is not there and because of that this board would not even have the distance to consider this variance. In addition I do believe that an additional variance would be needed for a narrow road. The previous two variance that were received in Oct of 1984 those are two variance; one to demolish and reconstruct a structure that was there cottage #57, the two applications that he cottage was given a variance to build and requested another variance to increase by two feet and several inches, so be aware that any further improvements on the property require variances. So these are several issues that need to be addressed, one you do not have accurate information, additional variances would be need for a narrow street and lastly there is potentially an unpermitted structure. These issues were all brought up to the applicant as well. Attorney Mingione states that this is his first time seeing Christopher Soto’s evidence packet C and it would have been nice to see it beforehand however it is a little hard pressed to hear an argument to say look at this GIS map in completely inaccurate unless I draw on it as the town official then it might be a little more accurate. Christopher Soto sates with all due respect the counselor was informed several times that he needed to get a survey, the response was my client is not bound to have the whole property surveyed what is not being represented here is that I am not saying a GIS map is more accurate because I draw on it – that is not accurate representation of what I have been saying here. Attorney Mingione states that what was told is my client does not have an individual lot, this is the entire Campers Association, to put that burden on the applicant of a semi-portion or individual cottage to survey the entire Campers Association would be an undue burden on the applicant. The Town of East Haven says that the application specifically calls for an A2 survey and or a sketch. What was provided to the town was what your application allowed. Also what was presented to eh town is a particular request is a 9 foot variance, for 16 feet where 25 is available. To then look a permit that was previously presented but never issued and to say that goes hand in hand with the variance

TOWN OF EAST HAVEN, CT
ZONING BOARD OF APPEALS
MINUTES – REGULAR MEETING
January 16, 2020 - 7:00 P.M. – EAST HAVEN SENIOR CENTER

Application to which we would have to pull another permit anyway to make a new permit application you can’t put that information as part of the application. It’s is not part of this application it was not granted and at that point a new submission was making a variance application. This property is also part of the association is the reason why there is not deed. Chairman Bob Falcigno states that we have had problems like this before where there has been no A-2 survey and we have to take their word for it, but based on what Mr. Soto states and the deed not being attached to the application we have to take their word on it and there are inconsistencies. Attorney Mingione states that I cannot present something that does not exists and two if the Town of East Haven feels that there is a requirement to have A-2 survey’s then make that your requirement – the application itself calls for a sketch. Chairman Falcigno states that maybe that doesn’t but the court would require you to do that as part of the variance. He drew this…Attorney Mingione states that I am not asking you to determine whether he is right or wrong I am asking you to determine you cannot go close than 9 feet. Whether there is an A-2 survey to that or not the restriction that you are placing on his is 9 feet, where the 9 feet lies is not the problem right now, we are just asking 9 feet off the road. If I need to amend my application I certainly will, and I cannot put the burden on my client for the entire Campers Association when are they asking for is an additional 6 feet on a deck. Christopher Soto states that in the end we will ask for an A-2 survey regardless to ensure that the building was put up where it was supposed to and if it does not meet the 9 feet that they have asked for who tells them to tear it down. It is best to be precautionary instead of having an applicant back before this board requesting additional variances, not to mention that where is the proper margin based on the length, so we are asking for expansion of a non-conformity, where clearly the applicant needed to come in for variances before that. At the end of the day we are going to request an as built and chances are it will show that the building is not located where it is supposed to be and we will be back for variance or requesting to take down the cottage. Michael Smith states that he personally is trying to figure out what the undue hardship is and the reason for the deck, it’s not for a fire escape, and not a handicap access, it’s elevated off the ground so to me it is just aesthetics and just a bigger deck to enjoy the summer. The Campers Association hardships may be less lenient then our but I do not see a hardship to build a bigger deck. David Gersz agrees with Michael Smith as it is not a necessity.

Public Comment:
In Favor – None
Opposed – None
Bob Falcigno closes the Public Hearing. Roll Call Vote. Michael Smith makes a motion to deny the application based on their being no hardship exists on line 7 and believes it is an accommodation rather than a hardship. (Vote for Yes is to deny the application and a vote for no is to approve the application)
David Gersz – YES
Michael Smith –YES
Bob Falcigno – YES
Joe Porto – YES
All in Favor. Motion Carried to deny the application.

Christopher Soto Z.E.O. states that it has been brought to his attention from counsel that any comment such as any other business or items to come before the board opens you up to additional public comment that you did not attend on taking this evening. – Just for future reference.
TOWN OF EAST HAVEN, CT
ZONING BOARD OF APPEALS
MINUTES – REGULAR MEETING
January 16, 2020 - 7:00 P.M. – EAST HAVEN SENIOR CENTER

Michael Smith makes a motion to adjourn at 7:43 p.m. Joe Porto seconds the motion. Roll Call Vote. All in Favor. Motion Carried.

Respectfully Submitted by:

Temple Smith – ZBA Clerk