

Town of East Haven
Zoning Board of Appeals
Special Meeting Minutes – September 2, 2021

I. Roll Call and Pledge of Allegiance

Ms. Martin started the meeting at 7:15.

Present for the meeting were Karen Martin (chair), Judy Mison, John Wobensmith, David Gersz and Kevin Coyle. All were seated.

Also in attendance were Zoning Officer, Joseph Budrow.

Ms. Martin asked if there were any changes to the agenda. Mr. Budrow answered that item 2 was withdrawn.

Ms. Martin read a procedural statement for the evening's proceeding.

Ms. Mishon read Item 1 from the agenda.

II. Public Hearings

Application No. 21-18 on behalf of Attorney Nick Mingione for Ralph Mauro, 8 Morgan Terrace. This item is an appeal of a Notice of Violation sent to the owner of 8 Morgan Terrace. Mr. Budrow spoke first and shared the items he was entering into the record. Entered was the definition of “dwelling” from the Zoning Regulations. Next, were three photos of an RV on a property and hooked up to electric and sewer. Then, he entered an aerial photo of the neighborhood where 8 Morgan Terrace is. Finally, he entered the Cease and Desist that was issued. He read the Order. He then described the situation that initiated a Cease and Desist being mailed to the property owner of 8 Morgan Terrace. He stated that 4 Morgan Terrace is a vacant lot on the shoreline that has been under appeals by neighbors. An Appeal was filed due to a Zoning Board of Appeals decision, and an Appeal was filed due to a decision by the Zoning Enforcement Officer at that time. Mr. Budrow was asked to investigate some complaints between March and May and assess if the presence of the RV was a zoning violation. Mr. Budrow stated that when he saw that the RV was hooked up to sewer, he deemed the vehicle as a dwelling since it also was hooked up to electric and had a satellite dish on the roof. It was a dwelling as it stayed on the property for consecutive nights.

Attorney Nicholas Mingione spoke for the property owner. He said that an RV is not a dwelling and is not being used as one and he disagreed with the Zoning Officer. He stated that his client lives at 155 Morgan Avenue. He alleged that outside parties influenced him. Attorney Mingione said that facts must be proven. He asked, ‘what is a dwelling?’ and then read a definition of “dwelling” from the Zoning Regulations. He said an RV is called out as exempt as a dwelling.

Attorney Mingione focused on the term “dwelling.” He stated they don’t just up and move. He said a “trailer” and “tent” are not dwellings. He read the definition of “trailer.”. He said that the words that are being written are assumed to be written for a particular purpose and that the writers understood what they were writing. He said that we are to assume that the Regulation writers meant to exempt trailers as dwellings for a reason. Ms. Martin asked what the difference is between a motor home, an RV and mobile home. He focused on the language in the Order connecting “living” and “trailer.”

Attorney Mingione feels an RV is not a mobile home. He said the RV is permitted to hook up to sewer.

He entered a number of items for the record. Regulations 4.10, 4.45 and 4.46. Section 25.7A.3, Section 41.14.1.1. He submitted *Farrior v. Zoning Board of Appeals of the Black Point Beach Club Association*. He pointed at the definition of a dwelling being a building. He stated that Mr. Mauro’s intent is to build a single-family dwelling and there were Appeals to the Variances granted to allow that. The recreation vehicle is allowed.

Ms. Martin asked the difference between a motor home, a mobile home, a recreational vehicle and a trailer. Attorney Mingione answered.

More questions were asked and Attorney Mingione stated the Regulations are not clear. He stated an RV parked on a lot someone owns is not a dwelling. No one is living there. Nobody sleeps there.

Mr. Budrow stated that the term “recreational vehicle” is a newer term that some towns define and others do not. He was still confident that the definition of “dwelling” exempts trailers for a reason. He added that he feels the RV is an accessory use to a principle use that is not in place and thus has to be removed.

Attorney Mingione again stated that dwellings and motor homes are not the same. Mr. Budrow said that an RV is a motor home. Mr. Gersz asked a question and Attorney Mingione stated since the RV is not a building it is not a dwelling.

Mr. Budrow stated that he was not influenced to act on this violation. He stated he had communications with Attorney Coppola to inspect the property at certain times. Attorney Mingione asked why the appellant’s attorney was Cced on the NOV.

Mr. Wobensmith asked if recreational vehicles are allowed in residential neighborhoods. He stated that the property is vacant and is meant to be a for a residency. The RV seems to be there for residency. Attorney Mingione denied that. Discussion ensued about RVs are allowed on residential properties in driveways and in rear yards.

Ms. Martin stated that the Regulations, as written, could be inferred at times for meaning. Attorney Mingione challenged that stating they can’t be inferred.

Mr. Coyle, looking at a photo, asked what a certain hose, or pipe, was that comes up from the ground not far from the sewer hook-up. Attorney Mingione did not know. It was asked of the sewer line into the property was permitted. Mr. Budrow did not know. Attorney Mingione stated the sewer line was approved by various entities.

Ms. Martin asked if there was anyone in the public who felt that Mr. Budrow was wrong in issuing the Order. No one spoke. She asked if there was anyone who would like to speak in favor of the NOV as issued.

Neighbor, Leslie Jennings-Lax of 7 Morgan Terrace, spoke against the RV being on the property and referred to Zoning Regulation 44.14.1. She referred to the definition of "trailer." She said the RV is set up for habitation and stated the Regulations are clear and to look at the definition of "trailer."

Neighbor, Robert Connors of 13 Morgan Terrace, spoke and said there were times when the RV was stayed in overnight. Ms. Martin asked from where he had observed this. He said from his home.

Attorney Mingione stated that his client resides at 155 Morgan Avenue. He also has a home in Branford. There was a dispute on whether "trash and litter" was spoken about earlier.

MOTION: David Gersz made a motion to continue the opening of the public hearing for Application No. 21-2. Ms. Mison seconded the motion. **All were in favor. Motion carried, 5-0.**

Mr. Budrow reminded the Board to state reasons for a decision if there is a vote tonight.

III. Deliberation Session

At 8:10pm the Board then huddled and were inaudible. They were urged to be louder for the mic. There was a mention that upholding the Order could be appealed. That was seen a veiled threat. Discussion went toward the terminology in the Regulations and nitpicking. There was discussion about maybe waiting until the 23rd to vote. The Board did not have Legal Counsel present and thought maybe to wait. At one point Mr. Gersz stated he may not be ready to vote tonight. The Board looked at record items.

The Board deliberated for 30 minutes.

MOTION: Judy Mison made a motion to uphold the appeal, reversing the Notice of Violation, stating the wording of the Regulations are an issue and that arguing what a recreational vehicle is vs a trailer etc etc. Mr. Gersz seconded the motion. All were in favor. **Motion carried, 5-0.**

IV. Adjournment

MOTION: Ms. Mison made a motion to adjourn the meeting at 8:45. Mr. Gersz seconded the motion. All were in favor. **Motion carried, 5-0.**

- Joseph Budrow
Zoning Enforcement Officer