

RECEIVED FOR FILING
East Haven
DATE 09/21/2022 TIME 11:30 am
TOWN CLERK'S OFFICE
EAST HAVEN, CONN
Lisa Boller
TOWN CLERK

Town of East Haven
Zoning Board of Appeals
Regular Meeting Minutes – January 20, 2022

I. Roll Call and Pledge of Allegiance

Ms. Mison started the meeting started at 7:08.

Present for the meeting were regular members, Judy Mison - chair, John Wobensmith – vice chair, David Gersz, Cindy Sperago, Kevin Coyle (alternate). Ms. Mison stated the ZBA will deliberate after each application.

Also, in attendance were Zoning Officer, Joseph Budrow and Assistant Town Attorney, Jennifer Coppola.

The Pledge of Allegiance was recited.

Mr. Budrow shared that Items 6 had a Notice issue and should not be opened tonight. Also, Item 7 is now off the agenda due the Cease and Desist was rescinded.

II. Review and Action on Prior Meeting Minutes

The Board saw no issues with the November 4 Special Meeting minutes. In the November 18, 2021, Regular Meeting minutes Mr. Wobensmith made a correction that he made a motion to close Application 21-38. In the December 16, 2021 Regular Meeting minutes Mr. Coyle stated that the vote was 4-1 for Application No. 21-34.

MOTION: John Wobensmith made a motion to approve the November 4, 2021 special meeting minutes, the December 14, 2021 regular meeting and the December 20, 2021 Regular Meeting, as amended. Mr. Gersz seconded.

III. Public Hearings

Application No. 21-36 – 157 Dodge Avenue. Mr. Quince was not present.

MOTION: John Wobensmith made a motion to place this application lower on the agenda. Mr. Gersz seconded the motion. **All were in favor. Motion carried.**

MOTION: John Wobensmith made a motion to close the public hearing for Application No. 21-39. Mr. Coyle seconded the motion. **All were in favor. Motion carried, 5-0.**

Application No. 21-30 – 5 Pequot Street. Attorney Len Fasano and John Miessau presented. Attorney Fasano stated new information has been submitted to the Town and he hasn't seen it yet. His client has done research regarding questions from November. Mr. Miessau wanted to submit information for clarification to show a snapshot of density and the situations of neighboring properties. It was shared by the Board that they had little opportunity to review the submitted materials.

Attorney Coppola stated that this was the second time the applicant submitted a late submission of materials. Attorney Fasano, who stated he hasn't seen the materials, expressed a willingness to extend the hearing to February. Mr. Miessau looked at four surrounding properties. Ms. Sperago reminded him the question was specific to building on lots that were less than 4,000 square feet. Ms. Mison asked for a summary of his materials. He described situations on 11 Pequot Street, 53, 63 and 67 Morgan Avenue and Attorney Fasano handed information to each Board member. He also submitted maps of neighboring properties to show perceived nonconformities. Mr. Miessau said around his lot two houses were newer and two were built prior to 1936. Ms. Sperago asked if any Variances were granted since 2001 for new houses on lots less than 4,000 square feet. The answer was that it was unknown.

Attorney Coppola asked the applicant to restate the hardship they are presenting. Attorney Fasano stated he will do so at the next meeting. Attorney Coppolla reminded him they first alluded to Statute 8-26 and Attorney Fasano said they are not abandoning that claim.

Public comment was requested. David Garamella of 53 Morgan Avenue spoke. He shared that in 2003 there was a denied Variance request. He objected to the proposal.

From the Zoom audience, Lester Winograde spoke and responded to what he heard tonight. He stated there is a legal right to build on the property. He stated that lots less than 4,000 square feet have been built on. Houses in the area are close to each other. He alluded to the two previous submissions he has made.

Attorney Coppola reminded the Board that the applicant is confusing the Board with their legal argument.

Mr. Howard Hanson spoke in favor of the application. There was no other public comment.

MOTION: Mr. Wobensmith made a motion to continue the public hearing for Application 21-30. Mr. Gersz seconded the motion. **All were in favor. Motion carried, 5-0.**

Application No. 21-31 (CAM) – 5 Pequot Street. Attorney Fasano stated that he is in agreement with the comments of Town Engineer Jonathan Bodwell. Mr. Budrow read Mr. Bodwell’s comments, which stated the comments of DEEP.

MOTION: John Wobensmith made a motion to close the public hearing for Application 21-31. Mr. Gersz seconded the motion. **All were in favor. Motion carried, 5-0.**

Application No. 21-40 – 174 Beach Avenue. Mr. Wobensmith asked Attorney Coppola about the status of Beach Avenue. She asked Attorney Fasano to respond as he was going to do some research. He said it’s still a question mark. He also stated that the request for a Variance is a separate issue than the Ordinance not allowing building permits for buildings where a property is not on a Town road. Attorney Coppola shared that the building permit is related to zoning, in a way. She told the Board that the Variance is a separate issue.

Attorney Fasano stated that his clients have adjusted the plan while listening to the concerns of the neighbors on each side. Architect, Robert Mangino, answered a question about the house proposal. Ms. Sperago noted that the proposal seems like an extreme propose with regard to house size. The neighbor’s opinion shouldn’t matter. A Variance request should be to a minimum. There was discussion on the size and shape of the proposed house.

Mr. David Biller spoke to describe why they want to come back to East Haven. He stated the proposal will be an improvement for his family’s life. He stated he did not want to initially demolish the existing house. He talked about the back and forth with the neighbors.

Ms. Kwessel asked if the existing house can be elevated. The answer was that any elevation would require variances. This led to more discussion on the house size, property history and the neighboring properties.

Application No. 21-41 (CAM) – 174 Beach Avenue. Ms. Sperago expressed disappointment on the application. She stated the proposal was not an addition, but a new house. There will be footings that may require excavation and fill. The application does not show this. Attorney Fasano responded that DEEP looks at CAM applications. There was discussion about the construction. There was discussion on the CAM process.

Mr. Budrow stated that he has noticed that CAMs do seem to be minimally filled out and he will do his due diligence to see that they are improved going forward.

Attorney Fasano thanked the Board for their time.

MOTION: Mr. Gersz made a motion to close the public hearing for Application 21-40. Mr. Wobensmith seconded the motion. **All were in favor. Motion carried, 5-0.**

MOTION: John Wobensmith made a motion to close the public hearing for Application 21-41. Mr. Gersz seconded the motion. **All were in favor. Motion carried, 5-0.**

Deliberation: Mr. Gersz wishes the house was smaller but will vote ‘yes.’. Ms. Sperago was not favoring due to no hardship. Mr. Wobensmith thought the house was in better compliance and liked that the family was able to visit. He liked that the neighbor’s concerns were listened to. Ms. Mison was favorable as a new house was an improvement over the current state of the existing house. Mr. Coyle was in favored due to the proposal allowing the family coming together.

MOTION: John Wobensmith made a motion to approve Application 21-40 and that is complies with Sections 51.7.1 and 51.7.4. Mr. Gersz seconded the motion. **All were in favor. Motion carried, 4-1.**

MOTION: John Wobensmith made a motion to approve Application 21-41 based on 46.6.1, 46.6.2 and the conditions shared by DEEP in their response to the application. Mr. Gersz seconded the motion. **All were in favor. Motion carried, 5-0.**

Application No. 21-43 – 20A Maplevale Road. This application was continued.

Application No. 21-44 removed from the agenda.

Application No. 21-45 – 284 Coe Avenue. Ms. Monique Morales presented. They see potential with the house but it is small for a family. They would like a second floor for a growing family. Mr. Wobensmith stated the only expansion is the deck along Redfield Avenue. There was a question about possibly moving the proposed deck to the west side of the house. The answer was there is an existing entrance at the proposed area.

There was no public comment.

MOTION: Mr. Gersz made a motion to close the public hearing for Application 21-45. Mr. Wobensmith seconded the motion. **All were in favor. Motion carried, 5-0.**

MOTION: Mr. Gersz made a motion to approve Application 21-45 due to the house being very small. Mr. Wobensmith seconded the motion and referred to Zoning Regulation Section 51.7.1. **All were in favor. Motion carried, 5-0.**

Application No. 21-46 – 245 Hemingway Avenue. The applicant was not present.

MOTION: John Wobensmith made a motion to not open Application 21-46. Mr. Gersz seconded the motion. **All were in favor. Motion carried, 5-0.**

Application No. 21-47 – 376 Cosey Beach Avenue. Mr. David Diaz presented. He stated there was an approved rec room above the detached garage and that an existing stairway was structurally compromised. He admitted to not pulling a building permit. He thought there was no zoning issue because it was within the property lines. There was discussion on the construction of the stairs and landings. Ms. Sperago noted that the footprint was so much more than the former stairs and landings.

There was no public comment. Mr. Budrow shared that three neighbors were favorable to the proposal. Also, he stated that based on a submitted photo tonight does not match the site plan proposed. Importantly, the resulting lot coverage is still accurate.

MOTION: John Wobensmith made a motion to close Application 21-47. Mr. Gersz seconded the motion. **All were in favor. Motion carried, 5-0.**

Deliberation: Ms. Sperago was not favorable. Mr. Gersz was in favor. Mr. Wobensmith was looking at Section 51.7.4 and favorable to approving. Attorney Coppola cautioned the Board about how they look at properties as exclusive. She went through Section 51.7. Ms. Sperago stated she felt a staircase could have been built without requiring a Variance. Ms. Mison agreed.

MOTION: John Gersz made a motion to approve Application 21-47. Mr. Wobensmith seconded the motion. Mr. Gersz said the existing stairs were illegal and unsafe. Motion based on Section 51.7.3 and 51.7.4. **Motion carried, 4-1.**

Application No. 21-48 – 218 Hemingway Avenue. Fabio Acevedo and Ada Sanchez presented. An addition was built off the rear of the house. Ms. Sanchez described how flooding has caused issues and something had to be done. They did not want to do anything illegal. Mr. Budrow clarified that they had a back and forth with Town Hall but still built the addition. Ms. Sanchez stated that damage was done and that she went to get a permit but Town Hall was closed (due to Covid). There was some discussion as to how this became a situation. Ms. Sanchez stated they want to do everything they need to do now to get this corrected. Mr. Acevedo stated that this situation is now a court issue. Attorney Coppola described their situation with regard to Town enforcement history. She stated it is okay for the Board to go forward with a vote, or request more information from Mr. Budrow on the history of this situation.

Lorena Venagas spoke in favor of this application. She expressed there was sporadic communication issues with Town Hall from March, 2020 through the summer. She felt the applicants could have been helped better.

Mr. Budrow shared that a zoning permit was submitted by the applicants and was told to not proceed as there was an arrest warrant related to the applicant. He regretted not acting quicker as to the situation. He admitted the applicants have been active in trying to get right with permits.

MOTION: Mr. Gersz made a motion to close the public hearing for Application 21-48. Mr. Wobensmith seconded the motion. **All were in favor. Motion carried, 5-0.**

Deliberation: Ms. Mison cited 51.7.3 and favored the Variance.

MOTION: Mr. Gersz made a motion to approve Application 21-48 based on Section 51.7.1 and 51.7.3 of the Zoning regulations. Ms. Sperago seconded the motion. **All were in favor. Motion carried, 5-0.**

Application No. 21-36 – 157 Dodge Avenue. Mr. Quince was not present. This is the third attempt to hear this application.

MOTION: John Wobensmith made a motion deny Application No. 21-36. Mr. Sperago seconded the motion. The reason is the applicant did not appear and there is no hardship. **All were in favor. Motion carried.**

Attorney Coppola told the Board that a decision was received by the Appellate Court regarding 8 Morgan Terrace and a request to review a prior decision was denied.

IV. Adjournment

MOTION: John Wobensmith made a motion to adjourn the meeting at 10:12pm. Mr. Gersz seconded the motion. All were in favor. **Motion carried, 5-0.**

- Joseph Budrow
Zoning Enforcement Officer