

Town of East Haven
Zoning Board of Appeals
Special Meeting Minutes – September 8, 2022
East Haven Senior Center, 91 Taylor Avenue

I. Roll Call and Pledge of Allegiance

In attendance: Judy Mison, chair, John Wobensmith, vice-chair, David Gersz, Cindy Sparago and Bridget McCann.

Also in attendance: Joseph Budrow, Planning and Zoning Administrator/ZEO and Jennifer Coppola, Assistant Town Attorney.

Meeting began at 7:10pm. Ms. Mison introduced the Board members present. The Pledge of Allegiance was recited.

Mr. Budrow reminded the Board of the zoning history for the property since the initial zoning permit, for a single-story beach residence that was approved in 2019. That zoning permit was followed by a Cease a Desist, an appeal (withdrawn), a request for Variances (approved), another zoning permit, another Cease and Desist and a zoning permit, for a single-story home, in March, 2021. He also addressed a comment made by a Board member, at a prior hearing, when it was stated that the basement of the house at 198 Beach Avenue was a story. After an inspection, Mr. Budrow stated that the area under the house was natural terrain with a large piece of ledge just feet from the bottom of the first floor, and more area where no one could stand. He said it was a crawl space, not a basement and thus, not a story.

Attorney Coppola read the definition of STORY from the Zoning Regulations. She then reminded the Board that during the deliberation, they are to focus on the record, which includes a portion of the original hearing, evidence from this hearing and that they are being asked to amend the original Variance.

II. Special Meeting and Deliberation

Ms. Mison opened the deliberation.

Mr. Wobensmith pointed at January, 2020, when a request for a single-story residence was made to the ZBA. The request was on subsequent agendas through July when it was approved. During all that time there were no corrections made in the requesting a “single-floor residence.” He shared his recollection of the permitting history that followed, leading to the current proposal requesting a two-story residence. Throughout the permitting since July, 2020, no one questioned the approved “single-floor residence.” He sees no hardship or support for an amendment to the original Variance.

Ms. Sparago was concerned about the confusion surrounding the debate on 'single-story' vs. 'single-floor.' She referred to the memo submitted by Attorney Fasano and his submitted transcript that referred to a motion made by then-ZBA chair, Bob Falcigno, where he allegedly misspoke when he made a motion to approve. She did not think he was confused. She mentioned, upon the motion being made, there was never a correction. She said there were a couple of neighbors who recognized that the plans showed two stories. She said that Attorney Nick Mingione said that the two-story building would be a one-story building and that it would be shorter.

Ms. Sparago continued, saying she didn't think Mr. Falcigno was confused when he made the motion to approve the application back in 2020. She mentioned that no one appealed the Variance, as approved, and no one appealed any future approvals for a single-story home. She said she found it bothersome and unacceptable that the applicant later submitted plans showing an attic space just to keep the job moving. She mentioned how Karen Martin stated, at a previous hearing night, that there was no confusion about what was being voted on.

Mr. Gersz felt that Mr. Falcigno felt that the house was like a Cape Cod-style home. Mr. Gersz never felt that finishing a second story was adding a second story. He shared that Mr. Falcigno questioned if the second story of the proposed house would have an outside entrance.

Ms. Sparago stated there never was confusion and Mr. Falcigno even asked Attorney Coppola if he got the motion right.

Mr. Gersz said the size of the upstairs was obvious. He said the lawyers and zoning people told him that 'you can't do that.' Attorney Coppola denied ever saying something to that effect.

Ms. Mison shared that she felt if the applicant came in requesting a Variance in a different way, this could have been settled differently.

Ms. Sparago pointed out that Mr. Gersz was not at that final hearing in 2020. She was bothered by the last Cease and Desist sent late in 2020.

Mr. Wobensmith shared that he was bothered by the months of back and forth and no one ever brought up that the proposal was still for a single story.

Ms. Sparago stated that she felt that Mr. Falcigno and Ms. Martin knew it was proposed as a single-story home. Mr. Gersz felt that Mr. Falcigno felt differently.

Ms. Mison pointed out that the original application stated exactly what was being proposed.

Ms. McCann agreed with Mr. Wobensmith and Ms. Sparago and added that the submitted plans showed what they showed. She said what was approved was a single-family, single-story home. She feels if the applicant wants to finish the second story, then a new application needs to be made. The applicant got exactly what he asked for.

Mr. Wobensmith said it comes down to this Board being asked to amend a decision approved by a previous Board when a second floor was not requested. This was unacceptable. Ms. Mison stated that there was never a hardship shared about the second floor being an attic.

MOTION: Mr. Wobensmith made a motion to deny Application No. 22-06. Ms. Sparago seconded the motion. Upon Attorney Coppola requesting reasons he added that no hardship was found and that there was no reason given for proof to require an amendment to the previous Board's findings. **Motion carried, 4-1.**

III. Adjournment

Mr. Wobensmith made a motion to adjourn the meeting at 7:40pm. Ms. Sparago seconded the motion. **All were in favor. Motion carried 5-0.**

- Joseph Budrow
Planning and Zoning Administrator