TOWN OF EAST HAVEN, CT

ZONING BOARD OF APPEALS

MINUTES OF A REGULAR MEETING

MARCH 17, 2016 7:00 P.M. EAST HAVEN SENIOR CENTER

MEMBERS PRESENT: ROBERT FALCIGNO-CHAIRMAN

 GEORGE HENNESSEY-VICE CHAIRMAN

 DONALD THOMAS

 CHARLES LANG

 JOSEPH PORTO

ALTERNATES PRESENT:

STAFF PRESENT: ALFRED ZULLO-ATTORNEY- ABSENT

 JOSEPH ZULLO - ATTORNEY

 CHRISTOPHER SOTO-ZEO

 ROSALIE DEPALMA – CLERK

Chairman Falcigno called the meeting to order at 7:00 P.M. and explained the procedure of the Board to the audience. Donald Thomas made a motion to accept the minutes of the previous meeting, second by Joseph Porto. Motion carried unanimously. At this time, Chairman Falcigno read and submitted into record a letter of resignation from Board member, Ben Giaquinto dated February 1, 2016 and read and submitted a letter of resignation from alternate Board member Ronald Vestuti dated February 20, 2016. Chairman Falcigno then introduced new Board member, Donald Thomas.

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**\*\*PUBLIC HEARINGS\*\***

The Public Hearing regarding an appeal of the Certificate of Occupancy for the property located at **93 Caroline Road**, which was continued at the February 18, 2016 meeting will continue at the beginning of tonight's meeting.

The Public Hearing regarding an appeal of the of the Zoning Enforcement Officer’s Notice of Violation dated October 15, 2015 for the property located at **93 Caroline Road**, which was continued at the February 18, 2016 meeting will continue at the beginning of tonight's meeting.

Attorney Timothy Yolen of Yolen and Perzin, New Haven, CT. addressed the Board on behalf of the applicants Peter and Heather Chometa. Attorney Yolen stated in his presentation he would incorporate the two aforementioned appeals. He noted the applicants were advised September 28, 2015 by Building Official Jim Bassett the property at 93 Caroline Road could only be used for seasonal use only which prohibits occupancy between October 1st and March 31st and if violated incurred a fine of $100 per day a fine which the Chometas were incurring since October 2, 2015 along being cited for other violations (Cease & Desist Order) by the Town. Attorney Yolen stated he filed F.O.I. requests from the Town of East Haven which were comprehensive and he requested information on other properties on Caroline Road and it was determined other properties were in violation. Attorney Yolen expressed the Chometas never knew nor was it communicated to them in any form the dwelling use was only seasonal even when they filed for permits to rebuild their cottage in 2008. Mr. Chometa testified under oath that he only knew of the seasonal use of the dwelling since September 28, 2015. Attorney Yolen in his presentation expressed the fine be waived and all neighbors be treated fairly and equally on Caroline Road. Attorney Yolen submitted seven exhibit packets (on file in Zoning Office) substantiating his claims.

Attorney Zullo noted for the record he believed with respect with the issuance of fines Connectictut General Statute 8.7 would apply (fine non-existent while under appeal)

Attorney Zullo stated to Attorney Yolen 70% of the documents he provided were referenced by him and asked if he would consent to omission of the articles along with the art exhibits he submitted into record this night. Attorney Yolen consented.

Attorney Zullo stated the Town was representing two appeals one of the actions of the Building Official issuing a Certificate of Occupancy with a restriction and the ZEO issuance of a Cease & Desist order from using the property outside of the prohibited boundaries and ordinance, and the appellant has the burden of proof and the Town has to establish facts on the issue. He stated the applicant has to establish that the actions of both Town Officials were arbitrarily and capriciously and it was his job to prove that there were facts, public records, and rules and regulations in the Town that did justify their actions such that their actions were not arbitrarily

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and capriciously. Attorney Zullo noted after an extensive detailed background history on the property as far back as the 70’s and 80’s and litigation issues on the property (packets on file in

Zoning Office) he concluded with facts and evidence he researched and obtained the Chometas were or should have been responsibly aware of the seasonal use of the property. Attorney Zullo

also expressed that all homeowners on Caroline Road were notified by mail of its seasonal use and each if any violation would be addressed by the Town individually.

Robert Deko Jr.97 Caroline Road, East Haven, CT read into record (on file in Zoning Office) his opposition and concerns on this appeal.

**16-04**

**APPLICANT & PROPERTY OWNER**: Gregorio & Gina Rivera; Property Affected: 18 Ledyard Place; Zone R-2, Map 100, Block 1117, Lot 003

*Convert one family home to two-family home. Add walls and doors. Remove tree for additional parking.*

**VARIANCE:**  Schedule B Line 2 - Lot Size: 25,600 sq ft required, 12,196 available, 13,463 sqft of relief requested.

Mr .& Mrs. Gregorio Rivera addressed the Board on their behalf. They were seeking a variance to convert a one family home into a two-family home for her 88 year old mother. The required certified receipts were submitted to the Board. Hardship: Two family homes are allowed in district but lot is not large enough. No further comments were made

**16-05**

**APPLICANT & PROPERTY OWNER**: East Haven High LLC; Property Affected: 388 North High Street; Zone R-2, Map 270, Block 3517, Lot 005

*Legalize 10x10 addition built without permit by previous owners.*

**VARIANCE:**  Schedule B Line 9 - 15 feet required, 5 feet exists, requesting 10 feet of relief (Northern side yard).

Chairman Falcigno noted this application was revoked as they failed to submit the required certified receipts.

**16-06**

**APPLICANT & PROPERTY OWNER**: Katherine Ringsted/Phil Bilides; Property Affected: 37 Second Avenue; Zone R-1, Map 030, Block 0318, Lot 015

*Raise house, new foundation, new deck and stairs.*

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**VARIANCE:**  Schedule B, Line 1: 7,200 sq. ft. required, 4,582 sq. ft. existing, requesting 2,618 sq. ft. relief; Line 4: 60 ft. required, 37 ft. existing, requesting 23 feet of relief; Line 7: Street

Line 25 ft. required, 9 ft. 3 in existing, requesting 15 ft. 9 in relief; Line 9: Side yard 10 ft.required, 3.6 ft. existing, requesting 6.4 ft. of relief; Line 11: Coverage 25% allowed, 34.2% existing, requesting 9.2% relief.

Mr. Philip Bilides addressed the Board on his behalf. He was seeking a variance to raise house with new foundation deck and stairs. The required certified receipts were submitted to the Board. Hardship: Pre-existing nonconforming lot and wants to raise dwelling above flood zone It was brought to the attention of the Board a correction on this variance Line 9, Side yard 10 ft. required 3.6 ft. existing, requesting 6.4 ft. of relief s should have read 12 inches existing requesting 9 ft. of relief. No further comments were made.

**16-07**

**APPLICANT & PROPERTY OWNER**: RPL Real Estate, LLC; Property Affected: 4 Brookfield Road; Zone R-2, Map 480, Block 5837, Lot 003

*Elevate ranch style home & create a 2 story colonial style home.*

**VARIANCE:**  Schedule B Line 9: 15 feet required, 10 feet existing on east side, 9 feet existing on west side, request 5 feet of relief east and 6 feet of relief west; Line 4: 80 feet required, 75 feet existing, 5 feet of relief requested.

Chairman Falicigno stated this application had been Withdrawn.

**16-08**

**APPLICANT & PROPERTY OWNER**: Gurukrupa Investment LLC; Property Affected: 75/82/93 Hemingway Avenue; Zone PEFD, Map/Block/Lot: 160/1915/019, 160/1915/018, 160/1916/001

*Development of 106 age-restricted 55 & over residential dwelling units.*

**VARIANCE:**  Variance of Section 42.2 to allow a parking ratio of 1.5 spaces per 1 bedroom unit where 2.5 spaces are required for a total of 159 spaces where 265 is required.

Chairman Falcigno stated this application had been Withdrawn.

**16-09**

**APPLICANT & PROPERTY OWNER**: Adriana & John Terebessy; Property Affected: 98 Tyler Street; Zone R-1, Map 190, Block 2215, Lot 021

*Install new bilco door on side of house.*

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**VARIANCE:** 4.5 feet on left side line where 10 feet is required (Schedule B Line 9).

Mr. & Mrs. John Terebessey addressed the Board on their behalf. They were seeking a variance to install a new bilco door on the side of the house. The required certified receipts were submitted. Hardship: They need another exit from house, as secondary exit from basement will be covered by a deck. No further comments were made.

**16-10**

**APPLICANT & PROPERTY OWNER**: Lothrop Associates/Martin Patricelli; Property Affected: 42 Minor Road; Zone R-3, Map 010, Block 0306, Lot 001

*Raise the existing dwelling to 2 feet over the floodplain as determined by FEMA flood maps per FEMA regulations on a new foundation system. Repair minor siding and trim damage and repair/replace the roof. Replace exterior stairs to accommodate new height to existing doors. Abate hazardous materials*

**VARIANCE:** Schedule B Line 1 - Lot area: 20,000sqft required, 10,289.5 sq. ft. existing, 9,7105.5 sq. ft. relief requested; Line 3 - Min. dimension of square: 100 feet required, 91.5 feet existing, 8.5 feet relief requested; Line 4 - Frontage: 100 feet required, 91.5 feet existing, 8.5 feet relief requested; Line 7 - Street Line Setback: 25 feet required; 16.5 feet existing; 8.5 feet relief requested; Line 9 - Side Yard Setback: 20 feet required, 11.5 existing on south side, 8.5 feet relief requested.

Mr. Arthur Seckler, Senior Associate, Lothrop Associates LLP, 333 Westchester Avenue, White Plains, New York 10601 addressed the Board on behalf of the applicants. The required certified receipts were submitted to the Board. Mr. Seckler noted he had been before the Board prior on this aforementioned application and was here for a correction and omission in the variance for an 11 ½ side yard variance and was before the Board for the correction in order receive approval for the final CO. No further comments were made.

**16-11**

**APPLICANT & PROPERTY OWNER**: Lothrop Associates/Jean Quartiano; Property Affected: 38 Minor Road; Zone R-3, Map 010, Block 0202, Lot 006

*Repair storm surge damage, raise dwelling above the flood plain per FEMA regulations on a new foundation, construct stairs and stair landings to reach existing doors at new level.*

**VARIANCE:** Schedule B Line 1 - Lot area: 20,000sqft required, 7,028.6 sq. ft. existing, 12,971.4 sq. ft. relief requested; Line 3 - Min. dimension of square: 100 feet required, 60 feet existing, 40 feet relief requested; Line 4 - Frontage: 100 feet required, 60 feet existing, 40 feet relief requested; Line 7 - Street Line Setback: 25 feet required; 22.5 feet existing; 2.5 feet relief requested; Line 9 - Side Yard Setback: 20 feet required, 9.6 existing on south side for 8.5 feet relief requested, 18.7 feet existing on North side for 1.3 feet of relief requested.

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Mr. Arthur Seckler, Senior Associate, Lothrop Associates LLP, 333 Westchester Avenue, White Plains, New York 10601 addressed the Board on behalf of the applicants. The required certified

receipts were submitted to the Board. Mr. Seckler stated he was before the Board prior on this aforementioned application and was here for the correction and omission in the variance for a 9.6 ft. side yard variance and he was before the Board for the correction and needed to receive approval for the final CO. No further comments were made.

CHAIRMAN FALCIGNO CALLED A TEN MINUTE RECESS AT 9.35 P.M.

MEETING RECONVENED

SEE VOTING:

VOTING:

Appeal – 93 Caroline Rd DENIED

Certificate of Occupancy

Falcigno – Denied

Thomas – Denied

Lang – Sustained

Porto – Sustained

Hennessey – Denied

Appeal – 93 Caroline Rd DENIED WITH CONDITION - Fine Remitted

Notice of Violation as of this date in its entirety but will continue

 to accrue after this date per Town regulation.

Falcigno – Denied with condition

Thomas – Denied with condition

Lang – Denied with condition

Porto – Denied with condition

Hennessey – Denied with condition

16-04 DENIED

Falcigno – no

Thomas – no

Lang – yes

Porto – yes

Hennessey – no

16-05 REVOKED

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16-06 GRANTED

Falcigno – yes

Thomas – yes

Lang- yes

Hennessey – yes

Porto -yes

16-07 WITHDRAWN

16-08 WITHDRAWN

16-09 GRANTED

Falcigno – yes

Thomas – yes

Lang – yes

Porto – yes

Hennessey – yes

16-10 GRANTED

Falcigno – yes

Thomas – yes

Lang – yes

Porto – yes

Hennessey – yes

16-11 GRANTED

Falcigno – yes

Thomas – yes

Lang – yes

Porto – yes

Hennessey – yes

A motion was made by Joseph Porto to adjourn, second by Donald Thomas. Motion carried unanimously.

Chairman Falcigno adjourned the meeting at 10.35 P.M.

Respectfully submitted,

Rosalie DePalma

Clerk