

**TOWN OF EAST HAVEN, CT
MINUTES OF A REGULAR MEETING
ZONING BOARD OF APPEALS
APRIL 19, 2012 7:30 P.M. EAST HAVEN SENIOR CENTER**

MEMBERS PRESENT: CHARLES LEMONS – CHAIRMAN
JOSEPH PORTO – VICE CHAIRMAN
ANTHONY REDENTE
ROBERT FALCIGNO
PAUL BEISLER

ALTERNATES PRESENT: DONALD THOMAS -ABSENT
MICHAEL ENDERS-ABSENT
RONALD VESTUTI-ABSENT

MEMBERS PRESENT: DAVE ANDERSON -ZEO
ALFRED ZULLO-ATTORNEY
ROSALIE DEPALMA-CLERK

The meeting was called to order at 7:30 P.M. by Chairman Lemons who then explained the procedure of the Board to the audience. A motion was made by Vice Chairman Porto to accept the minutes of the previous meeting; seconded by Robert Falcigno. Motion carried unanimously.

- 12 – 010** Applicant & Property Owner: Christopher Pates; Property Affected: 9 Catherine Street; Zone: R-1; Construction of a new stairway along the back of a recently elevated single-family home. Variances required: Schedule “B”, General Bulk Standards, Line # 8, *minimum setback from rear property line*, from 3.14 ft (existing) to 0.17 ft.

Christopher Pates addressed the Board on his behalf. He was seeking to re-locate the entry stairs to the rear (east side) of his residence. The width of the stairs would be 30” allowing the stairs not to encroach on the shared property line. He stated the stairs would be convenient as they would be closer to his carport. The required certified receipts were submitted. Chairman Lemons read into record a letter from his neighbor, Jack Tiboni 283 Cosey Beach Avenue in favor of this application. Hardship: Pre-existing non-conforming lot. No further comments were made.

- 12 – 011** Applicant & Property Owner: Sean A. Devlin; Property Affected: 266B Cosey Beach Avenue; Zone: R-1; Application for the construction of a new single-family home to the current FEMA requirements. The former home was destroyed by Tropical Storm Irene. Variances required: Schedule “B”, General Bulk Standards, Line # 7, *minimum setback from street line*, from 25 ft to 0.17 ft (2nd floor deck), to 2.94 ft (1st floor balcony), and to 7.33 ft (primary wall); Line # 8, *minimum setback from rear property line*, from 20 ft to 1.38 ft (stairs) and to 4.86 ft (primary wall); Line # 9, *minimum setback from side property lines*, from 10 ft to 5 ft (north wall), to 1.6 ft (south stairs), and to 5 ft (south wall); Line # 11, *maximum lot coverage as % of lot area*, from 25% to 53%; Line # 12, *maximum floor area as % of lot area*, from 50% to 116%; and Waiver of Section 25.4.3, *Additional Setbacks*, for building over 30 ft in height, total height to be 34 ft. Additionally the Board will consider the Coastal Site Plan comments.

Mr. Tom Cassidy an architect addressed the Board on behalf of the applicant. He was seeking the aforementioned variances and stated the construction of the new single family home would be FEMA compliant, within the footprint of the existing house, would now be a two story dwelling, percentage of lot area increase from 23% to 50%, and square footage from 1238 sq. ft. to 2200 sq. ft. The required

certified receipts were submitted. Hardship: The existing nonconforming house is uninhabitable due to the effects of Tropical Storm Irene. The lot which predates zoning is undersized for the zone. The only bathroom and portions of the bedrooms on the second floor of the existing house are non compliant with current building Codes and amenities in the existing house are for a bygone era. Due to the tight proximity of properties on adjoining sites, the proposed 2nd floor balcony and 3rd floor deck are strategically located to take advantage of the only view of the beach from the east corner of the site. The lot sits at a very low elevation compared the FEMA Flood zone requirement forcing the proposed lowest horizontal structure of the house to be at or above elevation 13' (NAVD 1988) which puts the first floor level of the proposed structure at approximately 9'5" above existing lot grade level, thus pushing the highest point of the two story structure to 34' above grade. Chairman Lemons questioned and had concerns with the size of the dwelling. Mr. Kevin White, Town Engineer and Director of Public Works addressed the Board stating he felt this application as presented with this increase of living space would not be a prudent decision both on the applicants or Towns part. He cautioned the Board in their decision as he felt eventually a major hurricane would occur and the more people, buildings and activities the more damage. ZEO Anderson requested the Board accept the DEP and Coastal Site Plan recommendations in regard to this application. Mr. Falcigno suggested the Board Deny this application without prejudice so the applicant would have the opportunity to re-submit without a waiting period. No further comments were made.

- 12 – 012** Applicant & Property Owner: James A. Esposito; Property Affected: 318 Cosey Beach Avenue; Zone: R-3; Application for the elevation of an existing structure to the current FEMA requirements. Existing deck, pool & garage will be removed and new stairs and new decks will be constructed. Variances required: Schedule "B", General Bulk Standards, Line # 8, *minimum setback from rear property line*, from 30 ft to 6 ft (new deck); Line # 9, *minimum setback from side property lines*, from 20 ft to 17.2 ft (west stairs), to 2.7 ft (east wall), and to 4.9 ft (east deck); Line # 11, *maximum lot coverage as % of lot area*, from

20% to 24%; Waiver of Section 25.4.3, *Additional Setbacks*, for building over 30 ft in height - total height to be 37 ft; and Waiver of Section 44.7 to allow enlargement of the nonconformity. Additionally the Board will consider the Coastal Site Plan comments.

Jennifer Fisher, a surveyor, of LWF Land Surveying, 48 Alps Road, and Linda Dow, an engineer with Criscuolo Engineering 420 East Main Street, Branford, CT addressed the Board on behalf of the applicant. They were seeking the aforementioned variances.

Hardship: The pre-existing nonconforming house was heavily damaged by Irene. The existing coverage of the damaged home is 34% and the floor area is 25%. The proposal includes lifting of the existing structure and removal of the existing decks, pool and garage. They will add a new deck to the south side of the structure as well as a small deck on the west. There will be two new sets of steps to allow access to the elevated structure. They are proposing an overall reduction in both the lot coverage and floor area. The setback on the west side will increase by 17.2' by the removal of the existing deck that is on the property line. The lot is unusual in shape is undersized for the zone. The lot is at a low elevation compared to the FEMA flood zone requirements forcing the lowest horizontal structure of the house to be at or above elevation 15'9NAVD 1988) which puts the first floor of the structure 11' above the ground level, thus pushing the ridge of the two story structure to 37' above grades. ZEO Anderson requested the Board grant the variance as presented and also approve the Coastal Site Plan as presented. The motion was made by Vice Chairman Porto, seconded by Robert Falcigno. Motion carried unanimously. The required certified receipts were submitted. No further comments were made.

12-013 Applicant & Property Owner: Gretchen Schrader; Property Affected: 354 Cosey Beach Avenue; Zone: R-3; Application for the elevation of an existing structure to the current FEMA requirements and the construction of new stairs. Variances required: Schedule "B", General Bulk Standards, Line # 8, *minimum setback from rear property line*,

from 30 ft to 28.3 ft (new stairs) and to 16.8 ft (primary wall); Line # 9, *minimum setback from side property lines*, from 20 ft to 2.3 ft (west wall), to 1.9 ft (west stairs), to 3.9 ft (east wall), and 7 ft (east stairs); Line # 11, *maximum lot coverage as % of lot area*, from 20% to 33%; Waiver of Section 25.4.3, *Additional Setbacks*, for building over 30 ft in height - total height to be 38 ft; and Waiver of Section 44.7 to allow enlargement of the nonconformity. Additionally the Board will consider the Coastal Site Plan comments.

Jennifer Fisher, a surveyor with LWF Land Surveying, 48 Alps Road, Branford, CT and Linda Dow, an engineer with Criscuolo Engineering LLC., 420 East Main Street, Branford, CT addressed the Board on behalf of the applicant. They were seeking the aforementioned variances. The required certified receipts were submitted. Hardship: The preexisting non conforming house was severely damaged by Irene. The existing coverage of the damaged home is 31% and the floor area is 41%. The minimal increase in the coverage is simply to allow the construction of additional steps on the East and North side of the structure need to access the elevated structure. The lot which predates the implementation of zoning is undersized for the zone. The lot sits at a low elevation compared to the FEMA Flood zone requirement forcing the lowest horizontal structure of the house to be at or above elevation 15' 9NAVD 1988) which puts the first floor of the structure 13' above the ground level, thus pushing the ridge of the two story structure to 38' above grade. ZEO Anderson requested the Board accept the variance request as presented and also approve the Coastal Site Plan as presented. No further comments were made.

- 12 – 014** Applicant & Property Owner: Albert V. Carocci; Property Affected: 376 Cosey Beach Avenue; Zone: R-3; Application for the elevation of an existing structure to the current FEMA requirements. House will be moved 12 ft towards the street and new stairs will be constructed. Variances required: Schedule “B”, General Bulk Standards, Line # 8, *minimum setback from rear property line*, from 30 ft to 16.7 ft (new

stairs) and to 25.3 ft (primary wall); Line # 9, *minimum setback from side property lines*, from 20 ft to 4.1 ft (west side) and to 2.9 ft (east side); Line # 11, *maximum lot coverage as % of lot area*, from 20% to 40%; Waiver of Section 25.4.3, *Additional Setbacks*, for building over 30 ft in height - total height to be 34 ft; and Waiver of Section 44.7 to allow enlargement of the nonconformity. Additionally the Board will consider the Coastal Site Plan comments.

Jennifer Fisher, a surveyor with LWF Land Surveying, 48 Alps Road, CT and Linda Dow, an engineer, with Criscuolo Engineering LLC. 420 East Main Street, Branford, CT. addressed the Board on behalf of the applicant. They were seeking the aforementioned variances. The required certified receipts were submitted. Hardship: The pre-existing nonconforming house was severely damaged by Irene. The existing coverage of the damaged home is 36% and the floor area is 56% The relocation of the existing house 12' towards the street would increase the setback of the house to the mean high water line by 12'. The minimal increase in the coverage is simply to allow the construction of additional steps to access the elevated structure. The lot, which predates the implementation of zoning, is undersized for the zone. The lot sits at a low elevation compared the FEMA Flood zone requirement forcing the lowest horizontal structure of the house to be at or above elevation 13' (NAVD 1988) which puts the first floor of the structure 11' above the ground level, thus pushing the ridge of the 1 1/2 story structure to 34' above grade. ZEO Anderson informed the Board this applicant was previously before the Board seeking a variance for an addition and it was denied. Attorney Zullo informed the Board the condition of denial was the addition be torn down and it was in court appeal pending for the last three years and was under and currently under a demolition order. The required certified receipts were submitted. Chairman Lemons noted he had reservations upon acting on this application due to pending appeal and suggested Board deny variance requested and accept the Coastal Site Plan approval ZEO Anderson stated the Board could act on the Coastal Site Plan approval. A motion was made by Vice Chairman Porto to accept the Coastal Site Plan and table variance pending legal litigation; seconded by Robert Falcigno. Motion carried unanimously. Attorney John

Lambert of 25 Trumbull Place, North Haven, CT addressed the Board on behalf of the neighbor who brought the complaint on the original variance. He stated on record that all parties involved were willing to settle their differences with a monetary agreement. No further comments were made.

- 12 – 015** Applicant: Paul R. Whitney; Property Owner: Vincent J. Perricone; Property Affected: 350 Cosey Beach Avenue; Zone: R-3; Application for the elevation of an existing structure to the current FEMA requirements. Variances required: Schedule “B”, General Bulk Standards, Line # 8, *minimum setback from rear property line*, from 30 ft to 19 ft (new stairs); Line # 11, *maximum lot coverage as % of lot area*, from 20% to 35.04%; Waiver of Section 25.4.3, *Additional Setbacks*, for building over 30 ft in height - total height to be 39 ft; and Waiver of Section 44.7 to allow enlargement of the nonconformity. Additionally the Board will consider the Coastal Site Plan comments.

Mr. Paul Whitney 35 Hubbell Place, Milford, CT addressed the Board on behalf of the applicant. He was seeking a variance to elevate home to proper elevation from 11’8” to top of first floor from 6’ to 17’8” and install new pier foundation with breakaway plywood walls and stated there would be no change to footprint. Hardship: Hurricane Gloria and Irene both damaged first floor of the dwelling. The proper certified receipts were submitted. No further comments were made.

- 12 – 016** Applicant & Property Owner: Martin J. Hallier; Property Affected: 104 Frontage Road; Zone: CC; Application for the proposed construction of a convenience store with retail sale of gasoline. Variances required: Schedule “A”, Permitted Uses, Line # 40, from 1500 ft to 420 ft for the required separation distance between pumps for the retail selling of gasoline on separate lots; Schedule “B”, General Bulk Standards, Line # 7, *minimum setback from a street line*, from 25 ft to 0 ft (proposed canopy) and to 9 ft (proposed pump island).

Mr. George McCloskey, VP Standard Petroleum, 299 Bishop Avenue, Bridgeport, CT. addressed the Board on behalf of the applicant. He was seeking a variance for the construction of a convenience store with retail sale of gasoline. Hardship: Location and historical use of property for retail sale of gasoline; configuration of property along street frontage due to irregular highway line. The required certified receipts were submitted. ZEO Anderson informed the Board application needed P & Z approval. Robert Falcigno questioned non access R.O.W. ZEO Anderson stated this application had to go before P & Z for approval. Attorney Kenneth A. Volpe, 8 Frontage Road, East Haven, CT addressed the Board in opposition on behalf of NAV Haven LLC, Corporate Services, 82 Frontage Rd. citing applicant gave no evidence of hardship and there is a 1500 ft. requirement between gas pumps and to reduce this requirement by 1100 ft deprives his client the benefit of the regulation and had concerns with safety and traffic issues. Marie Petollo, 29 Wilson Street spoke of her concerns stating her property abuts this property and asked if a buffer could be built to protect flooding from a creek behind her property. Martin Hallier owner of this property for twenty years addressed the Board stating he did not believe this construction would cause traffic issues, would build a buffer, and this construction benefit the Town of East Haven. Attorney David 2230 Main Street, Glastonbury, CT spoke on behalf of Standard Petroleum addressing the hardship. He also noted this piece of property's former use was a gas station and submitted to the Board copies of variances approved for other stations in the area . ZEO Anderson stated he felt no hardship was shown. No further comments were made.

- 12 – 017** Applicants & Property Owners: Anthony & Tracey Torello; Property Affected: 957 North High Street; Zone: R-2; Application to locate an above ground pool on the side of the house. Variances required: Section 25.4.13 to allow the location of a swimming pool outside of the rear yard and to reduce the minimum distance between the pool and the main structure from 15 ft to 9 ft.

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ZBA

Anthony Torello addressed the aBoard on his behalf. He was seeking a variance to install an above ground pool on the side of his home. The required certified receipts were submitted. Hardship: No backyard. Cynthia Lettiero, 1 Hellstrom Rd. spoke in opposition of this application. No further comments were made.

12 – 018 Applicants & Property Owners: Paul & Sheila Smith; Property Affected: 10 Wildwood Drive; Zone: R-2; Application to legalize an existing two-family structure. Variances required: Schedule “B”, General Bulk Standards, Line # 2, *minimum lot area per dwelling unit*, from 12,800 sq.ft. to 5,227 sq.f.t.

Paul and Sheila Smith addressed the Board on their behalf. They were seeking to legalize an existing two-family structure. ZEO Anderson gave following background on this application: Legal status of house one family, in 1992 owner turned portion of house into an in-law apartment. Building Department gave building permits for status of house presently and received approval from the Building Department for upstairs apartment. Zoning interpretation of a house is a two family. Zoning regulations only recognize one family or two family dwellings. It does not recognize in-law apartments. Mr. Falcigno stated in checking all building permits issued and CO were for a single family dwelling. Mr. Smith indicated in 1992 he bought the dwelling and completed the second floor in August 1992 and at that point was issued is CO. Mr. Smith stated is being taxed for a two family dwelling for twenty years. Chairman Lemons questioned safety issues as it was determined dwelling had only one egress and the hardship. Town Attorney Joseph Zullo suggested Board table this application so he could further research this application. No further comments were made.

NO RECESS CALLED

SEE VOTING

PAGE TEN

VOTING:

12-010

GRANTED

Lemons – yes
Beisler – yes
Falcigno – yes
Redente – yes
Porto – yes

12-011

DENIED WITHOUT PREJUDICE-A MOTION WAS MADE BY VICE CHAIRMAN PORTO TO DENY VARIANCE AND ACCEPT DEP AND COASTAL SITE PLAN; SECONDED BY MR. FALCIGNO. MOTION CARRIED UNANIMOUSLY.

Lemons – yes
Beisler – yes
Falcigno – yes
Redente – yes
Porto – yes

12-012

GRANTED-VICE CHAIRMAN PORTO MADE A MOTION TO APPROVE VARIANCE REQUEST AND TO APPROVE COASTAL SITE PLAN REVIEW; SECONDED BY ANTHONY REDENTE. MOTION CARRIED UNANIMOUSLY.

Lemons – yes
Beisler – yes
Falcigno – yes
Redente – yes
Porto – yes

12-013

GRANTED-VICE CHAIRMAN PORTO MADE A MOTION TO APPROVE VARIANCE REQUEST AND TO APPROVE COASTAL SITE PLAN REVIEW; SECONDED BY ANTHONY REDENTE. MOTION CARRIED UNANIMOUSLY.

Lemons – yes
Beisler – yes
Falcigno – yes
Redente – yes
Porto – yes

12-01 4

GRANTED-A MOTION WAS MADE BY VICE CHAIRMAN PORTO TO APPROVE VARIANCE AND TO APPROVE COASTAL SITE PLAN REVIEW; SECONDED BY ANTHONY REDENTE. MOTION CARRIED UNANIMOUSLY.

Lemons – yes
Beisler – yes
Falcigno-yes
Redente – yes
Porto – yes

12-014

TABLED-A MOTION WAS MADE BY VICE CHAIRMAN PORTO TO TABLE VARIANCE PENDING LEGAL LITIGATION AND APPROVE COASTAL SITE PLAN REVIEW; SECONDED BY ROBERT FALCIGNO. MOTION CARRIED UNANIMOUSLY.

Lemons – yes
Beisler – yes
Falcigno – yes
Redente – yes
Porto – yes

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ZBA

12-015

GRANTED- A MOTION WAS MADE BY VICE CHAIRMAN PORTO TO GRANT VARIANCE AND APPROVE COASTAL SITE PLAN REVIEW; SECONDED BY ROBERT FALCIGNO. MOTION CARRIED UNANIMOUSLY.

Lemons – yes
Beisler – yes
Falcigno – yes
Redente – yes
Porto- yes

12-016

DENIED-NO HARDSHIP SHOWN

Lemons – no
Beisler – no
Falcigno-no
Redente-no
Porto-no

12-017

GRANTED

Lemons – yes
Beisler –yes
Falcigno – yes
Redente – yes
Porto – yes

12-018

TABLED

Lemons –yes
Beisler – yes
Falcigno – yes
Redente – yes
Porto – yes

PAGE THIRTEEN

ZBA

Vice Chairman Porto made a motion to adjourn; seconded by Paul Beisler. Motion carried unanimously,

Chairman Lemons adjourned the meeting at 9:30 P.M.

Respectfully submitted,

Rosalie DePalma
Clerk