

# Zoning Board of Appeals

Branford, Connecticut 06405

## Minutes

The Branford Zoning Board of Appeals May 19, 2020 meeting was called to order at 7 pm by Acting Chairman James Sette. Also attending Asst. Town Planner Kaitlin Piazza, Members Leonard Tamsin, David Laska, Brad Crerar, Donald Schilder, Absent: Peter Berdon and Barry Beletsky due to tech problems connecting to Zoom, and were unaware that if joining by phone you had to press star 9 to be heard.

Chairman Jim Sette called the meeting to order at 7:05 pm and Kaitlin Piazza gave a brief introduction to the use with Zoom for those who were present in favor and opposed. She also advised the members that application 20/2 – 2. Patricia Montagnino, 24 Old New England Road requested to be postponed to June.

Jim announced holding until last action on 20/2 – 2. Brian and Melissa Lonergan, 45 Sunset Beach Road due to opposition and proceeded to read in the other applications in the following order.

20/3 – 1. Leslie Shanbrom, 17 Halls Point Road which had been postponed from April 21, 2020 and was represented by James Pretti, Criscuolo Engineering that the application was to simply enclose a 64 SF area on a stone foundation with a second story above it, for use as a pantry and half bath. The house was built pre zoning in 1840 and would result in a total area of 973 sf. on an existing footprint, it is located on a 30 ft. wide lot which would require a variance in any case. It shares an ample septic system located on opposite side of the road. There have been no previous variances on the property. The lot size serves as a hardship and the enclosure will not change the footprint, nor will it change the character of the neighborhood. On the motion to approve by Jim Sette, second by Brad Crerar, joined by Leonard Tamsin, yes, David Laska, yes and Donald Schilder, yes to grant the variance to be consistent with site plan and paperwork in the file 5/0.

20/2 – 4. 29 Flax Mill Road: Applicant Colter Dziurgot was not present, however it was a simple MVD Location Approval for a general repair license which had been postponed twice and is just a technical approval which is also acted on by the Zoning Commission and on the motion by Brad Crerar with Jim Sette for discussion and there being none, Jim Sette made a motion to approve, with Brad Crerar making the second, Leonard Tamsin, Donald Schilder and David Laska voted unanimous to approve.

20/2 – 1. Brian and Melissa Lonergan, 45 Sunset Beach Road: The applicant represented that the principal structure, the house was built in 1890 as many on the shore line were, facing the water. There is a door there, and also one on the road side which is used perhaps 90% of the time. The request for a side line variance was eliminated because the applicant shortened the proposed garage by a foot.

The original garage is small, built for horse and carriage. The new 25x20 ft. garage would be two story open floor plan with interior stairs to access a loft and attached to the existing garage to alleviate the problem of much needed dry storage space. There is a salt marsh under the current garage and it consistently suffers from water damage due to flooding. Water accumulates at the entrance to the current garage and limits the dry storage on the floor. With high tide and high winds off the water raises

high tide by about three feet over the seawall often causing flooding.

Due to the configuration of the property there is little room to build unlike the neighbors who have built their garages across the road. The new drive would be moved and allow for a T intersection at the widest point in the road which would relieve a safety problem by offering a better sight line when pulling out. Brad Crerar asked the hardship which is the property configuration lack of buffer from the waves and flooding on a property that predates current zoning. Jim Sette then asked if there were any who wished to speak in favor.

In Favor: **Jim Gold**, an abutting neighbor said that the new structure would complement the neighborhood, that he shared the same problem of a small house with little storage and flooding. He utilized his garage as much as possible.

**John Hart**, who lives on the same side of the street three doors down, said as the applicant stated he had the same problem and even after a storm this is a second flooding. He felt the new garage would be a nice addition.

Opposition: Atty. Edward Zelinski, 16 Sagamore Cove Road was strongly opposed because there is no hardship under the description of the law. He then presented 5 exhibits, #A - Many residents have a long standing easement in their deed granting access to the Beach where the new garage is proposed. #B - A diagram showing the garages at 1,840 SF on two floors would be larger than most houses. #C - 2 story structures are not allowed. #D - It would create an impervious surface which violates the Ct. Coastal Management Act and would cause more flooding during storm surges and would interfere with opportunity to enjoy recreation. And # E. Approval would end with the Town engaged in Litigation.

His wife, Doris Zelinski, spoke next agreeing with him and also showed an Areal map showing a large beach and the easement to another smaller beach being used by neighbors and said the enlarged garage would not conform to the character of the neighborhood and felt that the existing garage could be raised to accommodate more dry storage area.

Next, Joe Murray, and his wife, Susan Kirby, 60 Sunset Beach Road concurred with the Zelinski adding that when they bought their house they knew that there was to be flooding in the area and prepared for it and they too thought raising the existing garage was a better idea.

Also opposed was Mrs. Katherine King, 22 Sagamore Cove Road who said she had lived there all her life and agreed that there was a deeded easement allowing many neighbors passage over the area to use the beach, She also felt that the placement of a new garage adjacent to the existing one would give the appearance of one elongated building overwhelming the area. She pointed out that the one existing garage might be enlarged for storage without building another next to it.

Paula Kenny, 28 Sagamore Cove Road felt sorry for the Lonergan's, but also found it to be inappropriate to close off the easement and was opposed for many of the same reasons.

Applicant Rebuttal: Mr. Lonergan refuted the claim of easement for passage over the area to use the beach since he had a title search before purchasing the home and it is not shown on the Lonergan A2 Survey. He said that he had made improvements over the past 25 years and nothing has changed to impede access to the beach and the addition of the garage wouldn't either.

Jim Sette closed the hearing and made the motion to approve the application, on a second by David Laska, and after a brief discussion Leonard Tamsin agreed with the opposition that the garage would seem like one very large building too close to the road. Jim said was looking at the new survey

and can't see an easement on the property. Don Schilder admitted he had never heard of an easement over private property, Lenny Tamsin answered that in past years it was allowed in order to gain access to the ocean, but since there is no proof as to whether or not there was an easement it should be settled first before any action should be taken. Brad Crerar went to see the property with the papers in hand and felt the structure as proposed was too large and didn't feel there was a hardship, he also and that an approval decision might be open to litigation. David Laska felt that a 20 by 46 ft. building was over the line for granting variance, although he would be in favor for them to rebuild the existing garage. Jim admitted he thought the new one was sought in order to replace the old one. And together the Board felt the structure was too large and voted to deny, and the decision was to deny the application.

Jim then asked for the vote on approval and David voted no; Brad voted opposed, Lenny also voted opposed, Don voted yes, and Jim voted no, so the variance was denied, 4/1.

The Minutes from April 21, 2020 were accepted on the motion by Brad Crerar, second by Don Schilder and Jim Sette, Leonard Tamsin and David Laska were in agreement.

Meeting adjourned at 8:20 pm.

Respectfully submitted,

Mary Leigh Bianchi

Clerk