

Zoning Board of Appeals
Town of Branford
Branford, Connecticut 06405

Minutes

The Branford Zoning Board of Appeals met on Tuesday February 15, 2022 via remote technology as authorized by [Executive Orders 7B and 7I](#) to conduct Public Hearings. Chairman James Sette called the Zoom meeting to order at 7 pm with ZEO Dylan Willett acting as Moderator and with members David Laska, Brad Crerar, Donald Schilder and Leonard Tamsin in attendance. Absent were Barry Beletsky and Bud Beccia. Richard Falcigno was available but not needed.

Chairman James Sette called the meeting to order at 7 pm and the members adjourned to meet briefly in other rooms with Town Attorney William A. Aniskovich, in Executive Session to discuss strategy in the pending matter of: Moshe Gai v. Branford Zoning Board of Appeals, et al., Docket No NNH-CV-21-6118997-S.

The meeting resumed at 7:40 when James Sette announced that there had been no votes and no transcript of the meeting. He then made the motion to place the outcome of the executive session on the Agenda, which was seconded by Brad Crerar and passed by votes in agreement by Donald Schilder, Dave Laska and Leonard Tamsin to make it 5/0.

He then made another motion which was to accept the settlement as presented by Attorney Girard in regards to the matter of Moshe Gai which was seconded by Brad Crerar as well, and again the roll call of votes from Leonard Tamsin, Donald Schilder and David Laska were to accept 5/0.

Returning to the business of the regular meeting, the applications were heard in reverse order so item 22/2 – 1. Michael Discepolo, Owner/Brent Fleming, Applicant, 14 Indian Woods Drive. (08-2-21 R- 4) Var. Sec. 3.4.A Line 7: Rear Setback from 50 ft. to 34.6 ft. to allow rear single story addition with second story above was called first and Brent Fleming the builder acting as agent clarified that what they were asking for was just for the addition mentioned in the application as a single story addition on the rear of the house. They would also be adding a second story addition over the existing garage however that addition needed no variance.

In addressing the current application he explained that there had been a previous variance approved in June 1980 for the three season room next to the wood deck when they went from 50 ft. to 35 ft., so the plan is to follow that roof line across the length of the house 15 ft. off the back and 31 ft. across for more living space and it will be an extension of the footprint of the house.

The second story shown on the plans doesn't require a variance. It is currently a two car garage with a small living space beneath the place where the second story will be added. There is no need for coverage as it will still be less than the maximum number allowed. The requested variance is that due to the curve in the road which cuts into a corner of the setbacks to the rear of the house which is pushed back on the lot. This is the only one on the road that is shaped this way and creates a hardship because there is no other area to add an addition without requesting a variance.

Speaking in favor of the application was Michael Mortali, who also spoke for neighbor Lisa Verzella, who couldn't attend the meeting, as the neighbors closest impacted and said they had no problem with the addition.

Jim then closed the meeting and confirmed that the addition would merely square off the rear of

the house to which Leonard Tamsin concurred. On his motion to grant the variance, seconded by Dave Laska with Leonard Tamsin, Donald Schilder and Brad Crerar also voting, the variance was granted, 5/0.

22/1 – 2. SCRLLC Associates, Owner/Halloran & Sage LLP – James J. Perito, Applicant; 29-31 Sagamore Cove Road, (D11-10-11 R-3) and Coastal Site Plan Review. (Continued from January 18, 2022 to allow time for the applicants to arrange a meeting to address the neighbors concerns).

Although this application had been explained and discussed at the January 18th meeting when, due to the worries of several neighbors concerning the height, drainage and over burdening of the property should more tenants be added, it was continued so that they could be addressed.

Leonard Tamsin was not in attendance at the previous meeting, so Atty. Perito was asked to explain the original application as well as the way he addressed those concerns since he had changed the requests relying on Engineer Chuck Mandel and Architect John Matthews expertise in working up a revised plan which would pull the house back away from the Critical Resources and eliminating or lessening some of the nonconformities..

Atty Perito explained that the house sideline was originally at 9.3 ft. and the previous request was for 5.7 ft., but now will be pulled back to 7.2 ft. and keep in mind that the house was compliant, it's the deck that must be raised up to meet FEMA requirements that infringes into the property to 7.2. He reminded the Board that the house itself was compliant, it was the deck that was needing the variance because it needed to be FEMA compliant.

Jim Sette asked if he meant that without the deck both structures could be built without variances, and Atty Perito said, no because of the deck on the side and the height. The Bungalow was originally at 2.8 and was shifted to 4.8 to be more compliant . The house was originally at 2.6 now would be 5.

In addressing the height of the house, 35 is allowed and it was at 31.2. If they hadn't had to comply with FEMA as they originally requested would be 41.5, but they squeezed it down to 39.5,

For the bungalow lot coverage was originally requested to be 31.8 has been dropped down to .28 which is still above the required .25. and floor area currently at 37, requested to be 55.5 slightly more than the 50 required. By pulling the house back it relieved the burden on the Coastal Resources. He then got into case law, he showed the granting of variances by reducing a nonconformity would eliminate the need to show hardship.

Engineer Chuck Mandel confirmed that both nonconforming structures were to be removed and rebuilt less nonconforming while adhering to FEMA requirements as presented originally, as this would be the same result if they were heavily damaged in a storm and had to be replaced. He further explained that the new plan was to install a drainage trench inside a 4 ft. tall retaining wall which would start at the street and run all along the property line to collect and clean runoff into the critical coastline while also preventing flooding of adjacent properties even in a 50 year storm.. Additional stone could be added which would increase filtration and cleanse water from impervious surfaces to address runoff to adjoining properties due to a 100 year storm.

The Architect John Matthews advised that on the proposed plan is for a two and a half story house that will be shifted back, with a two car garage on the first floor and an elevator on a slab foundation with the house on a crawl space. He went on to describe the house as depicted on the plans in detail as to grade and layout of the rooms all the way to the attic area. But said in lessening the interior space and due to the contours of the peaked roof which reduced usable space, an area would be reserved there for a family room, a home office and bathroom which would require a ceiling of 9 ft.. He reminded that only the deck intrudes into the setback all other changes are to the interior. Leonard Tamsin questioned the various grade levels and Mr. Matthews confirmed that the ceiling height will be 9 ft. on all levels, that being standards of today. By shifting the house away from the water, it created the interior problems. He described other homes in the area that received variances

when they converted from summer homes to year round that will be soon converting again due to FEMA Regs. Brad asked how many exceeded the 35 height requirement and, although he didn't know he didn't think any of them were renovated since FEMA entered the picture.

Opposition:

Pretty much all of the same neighbors who opposed the original plans represented that they were disappointed that the proposed meeting between them and the applicant's experts failed to take place and were not satisfied with the minor changes proposed as not answering their concerns.

Mary Margaret Dunn felt that they had not addressed her concerns and was still felt that the building was too high and passed her speaking time to her Cheshire Attorney Kevin Hecht, who expressed that his understanding is that #31, the current house, is a two story, 2 bedroom, 2 bathroom home, being converted into a 3 story, 4 bedroom, 4 bathroom house with a usable family room with a bathroom as well... that has the potential of 5 bedrooms, 5 bathrooms that is far different than what they have with a Floor Area of 3,056 SF going to 4,056 SF and there also was a discrepancy in following the FEMA requirements as to zone, by taking the one they have concerning height, if they went with the Town and FEMS regs, they would be at 34.9 ft. not 39.4 ft. He also pointed out that this was not a storm damaged property that is being rebuilt, it is self described as a discretionary tear-down/rebuild. He also spoke to the issue of Atty. Perito's claim that lessening nonconformity replaced the need for showing hardship. He said that de minimis changes to avoid meeting requirements concerning hardship were never meant to be acceptable. The case law he was citing did not apply to this application.

Nancy King, 22 Sagamore Cove Road was upset that additional fill would be shifted during construction.

John Ford, 33 Sagamore Cove Road questioned the wall to be built on the property line between his and the applicant's which would be holding back some 3 ft. of fill and would be nothing more than a French drain while it would leave hardly enough room for him to use his lawn mower.

ZEO Dylan Wylette interrupted to explain that he had received an email that day in opposition from Paula Kinney at 28 Sagamore Cove Road, which he had forwarded to the Board. She later spoke of her concerns regarding having experts connected to the application being the only ones testifying to favor the applicant.

William Ford, 33 Sagamore Cove Road worried about a 4 ft. wall down his complete property line.

Rebuttal

Atty. Perito pointed out that all ceiling measurements were to remain at 9 ft. because that was the current FEMA number. The wall went down to two feet at the water, and the drain was calculated to withstand 50 to 100 year storm and every concern had been given due thought and had been adjusted.

Jim closed the hearing and made a motion to grant the variances, seconded by Brad Crerar and in the discussion that followed Brad stated he had a problem with the height of the house being driven upwards by the attic area being extended requiring 9 ft. ceilings and Leonard Tamsin concurred, as did David Laska who felt the plans for additional living space were too aggressive. When it came to a vote Leonard Tamsin, No; Donald Schilder, Yes; Brad Crerar, No; David Laska, No and James Sette, No. The variances were denied 4/1

The Minutes of January 18, 2022 were accepted on the motion by Brad Crerar, Seconded by Jim Sette and the meeting adjourned at 9:05.

Respectfully submitted,

Mary Leigh Bianchi, Clerk

