

Zoning Board of Appeals

Branford, Connecticut 06405

Minutes

The Branford Zoning Board of Appeals meeting of October 17, 2017 was called to order at 7 pm by Chairman James Sette. Also attending were Anthony Beccia, David Laska, Leonard Tamsin and Alternates Brad Crerar, Donald Schilder and Barry Beletsky who sat for absent Peter Berdon.

Old Business:

17/8 – 2. Joel and Jody Rebhun, 21 Harbor Street: The required A-2 Survey is not complete on time to be submitted at this meeting and it was requested that it be continued to November 21, 2017 and the Board agreed.

New Business

17/10 – 2. Wayne and Anita Maculaitis, 177 Alps Road: Tony Thompson represented the plan to allow conversion of a 24x36 ft. garage into a master bedroom with access to a new pool and patio at grade level. The house is nonconforming and a 12x16 ft. shed will be removed, however during discussion it was found that the requested pool variance was modified from the published request for a 12 ft. setback to a more modest 15 ft., however because it was a lessor variance request it could be heard. It was further shown that if the garage was to measure 24x30 ft. it could be built without a variance therefore would be no hardship. On the motion to grant made by Jim Sette, seconded by David Laska, Leonard Tamsin, voted yes, but Bud Beccia and Barry Beletsky voted no and the application was denied 3/2.

17/10 – 3. Edward Reyes, 19 Toole Drive: (Hearing continued to November 21, 2017)

17/10 – 4. Richard Addy, 133 Linden Ave: A prior application heard in September granted the variance to allow for a garage to be smaller than the one requested, however in granting that variance, the driveway needed to be expanded which variances had not been requested and the applicant applied for a new variance to address this need. The Board agreed with the application and on the motion by Jim Sette, seconded by David Laska, the variance was granted 5/0 with Barry, Lenny and Bud in agreement.

17/10 – 1. Raffaele and Lucia Aschettino, 101 Sunset Beach Road: The applicant was represented by Atty. James Perito, joined by Bob Criscuolo to address the topography and conditions on the property. The house is in need of repair and in order to do so must be removed and replaced meeting the FEMA Regulations. Atty. Perito explained that the lot is rectangular with the narrow area closest to the current house and the current nonconforming house sits angular to the property lines. Once removed, the position of the proposed house will be repositioned on the lot instead of the original footprint and will eliminate several variances making it less nonconforming by meeting some of the property line setbacks, however it would still need the requested variances granted to be built. The hardship is the undersized lot with two ROW's bisecting the property which leave the home on one side of Sunset Beach Road and the 20x20 ft. garage on the other and having the Coastal setbacks to contend with requirements that it be FEMA compliant.

Applicant's submitted exhibits in the folder are as follows: A-1 Original application; A-2 Summary; A-3 International Residential Code; A-4 Flood plan sheet; A-5 Neighborhood Variances granted; A-6 Chart; A-7 Deeds; A- 8 Memorandum of Decision; A-9 Six letters of support. Neighbors were also present in support of the application as being understandably necessary due to flooding in storms,

In opposition Atty. Joseph Schwartz representing Donna and Joe Guerrero made claim that the structure was not consistent with the Town's Comprehensive Plan of Development, saying that because you want a bigger house is not a hardship and there is currently a home on the lot, so it is not depriving anyone of use of the land. The property was bought knowing it was an undersized nonconforming lot and the house in need of repairs. He pointed to an application that was granted by the ZBA, a decision that was brought to court where it was overturned as not proving hardship. He further stated that under FEMA the new structure should remain on the same footprint. He submitted two Exhibits, #1 - Memorandum of Decision and #2 – Verrillo v Branford Zoning Board of Appeals.

Rebuttal

Atty. Perrito explained that when the damage to be repaired is greater than 75% the structure and the structure torn down, the new one must be made FEMA compliant. Inasmuch as the footprint of the original house would require more variances than the proposed house which is less nonconforming and if the property lines didn't narrow where the house will be built, it would have been even more in compliance with the Zoning Regulations. It is the contours of the lot that makes the need for variances no matter where it is located, but requires fewer where it is planned. It also does fit in the Comprehensive Plan inasmuch as that plan encourages residential dwellings in the area which has been residential for many years and pre-knowledge does not preclude requesting a variance, it is exactly what the Zoning Board of Appeals is there for. He also pointed out that the decision on the Verrillo matter was made prior to the FEMA Regulations, which set a whole new standard being addressed. He submitted one more Exhibit, #A-10, a variance granted to Mr. Guerrero.

During discussion Bud Beccia pointed out that the new house will be made less nonconforming on three sides and must be made FEMA compliant. Jim agreed and said that more area homes will be in need of repairs as they age and will be requesting variances before long. David stated that the entire shoreline will need to be FEMA compliant before long, so on the motion by Jim Sette, second by Bud Beccia, with Barry, Lenny and David in agreement the vote was 5/0 to grant the variances. The decision on the CAM application as presented by Bob Criscuolo was continued until November when it will be advertised and it was stipulated that it needs to be seen by the ZEO prior to building.

The Minutes of September 19, 2017 were accepted on the motion by Anthony Beccia, David Laska, Leonard Tamsin and Alternates Brad Crerar, Donald Schilder also voting.

The meeting was adjourned at 8:55 p.m.

Respectfully submitted,

Mary Leigh Bianchi