



**MINUTES – ZBA REGULAR MEETING – 24 FEBRUARY 2016**

The Westbrook Zoning Board of Appeals met on Wednesday, February 24, 2016, in the Multi-Media Room of the Teresa Mulvey Municipal Center located at 866 Boston Post Road. Chairman Bonnie Hall called the Regular Meeting to order at 10:45 following a brief recess after the close of the Public Hearings. Members present were Chairman Bonnie Hall, Vice Chairman Mark Damiani, Vincent Neri, Devin Xenelis, and Alternates Richard White and Nick Alaimo. Also present was Recording Secretary Category I, Janet L. Aiken.

**DECISIONS:**

**No. 16-001 - Appeal of Lynn M. Marquis and Lorraine M. Whitehouse, applicants; Old Mail Trail LLC, owner; Thomas Elliott AIA, agent.** Property located at 73 Old Mail Trail. Identified on Assessor's map 195 as Parcel 97 & 98. HDR zone. Variance requested from Zoning Regulations Section No. 4.33.06(a) front yard setback to allow 21' (to residence) and 17' (to stair) where 25' required, and Section No. 4.33.06( c ) rear yard setback to allow 31' (to residence) and 27' (to stair) where 35' required, for construction of new year round 3 bedroom structure on existing lot. CAM required.

Nick Alaimo was seated for this application.

Discussion included the following:

- Request was reasonable;
- Applicants under contract to buy the site;
- Variance goes with the land & not the owner;
- Site is one lot having combined parcels 97 and 98 & evidence is filed on the Land Records;
- The combined lot is less nonconforming than if the lots had not been combined;
- Land subdivided into lots in 1927;
- As established in 1927, a house could have been built on each lot creating more intensive use;
- One house as proposed is a less intensive use;
- Hardship is not based on health or amount of taxes paid;
- Applicants have right to build on land;
- Proposed deck is not on beach side (south) – it's on the side of the house;
- The lot is not that wide – maybe for a cottage but not for a year round home;
- Code compliant septic proposed;
- Parking for 6 cars is proposed for under the house with 2 more in driveway;
- No parking on street should be necessary;
- HVAC system located in reverse dormer;
- No impact on coastal resources;
- Hardship has been demonstrated.

A motion was made by Mark Damiani, seconded by Devin Xenelis, to grant the variances including the CAM application, as presented, as the variances granted are the minimal variances that will alleviate the circumstances and conditions applying to the land or structure for which the variance is sought. The motion carried unanimously.

**No. 16-003 – Appeal of Savino Melluzzo, owner/applicant; Joe Wren PE, agent.** Property located at 115 Old Mail Trail. Identified on Assessor's map 195 as parcel 87. HDR zone. Variance requested from Zoning Regulations Section No. 4.33.06(b) side yard setback to allow 5.8' (to steps-East), 6.0' (to a/c deck-East) and 7.5' (to house-East & West) where 10' required, Section No. 4.33.06( c ) rear yard setback to allow 5.6' (to landing), 7.1' (to stairs) and 10.6' (to house) where 35' required, and Section No. 4.33.08 maximum height to

allow 35.8' where 35' is maximum, for construction of new 3 bedroom structure on existing lot. CAM required.

Nick Alaimo was seated for this application.

Discussion included the following:

Request was reasonable and not excessive;

Applicant agreed to reduce the dwelling's height thereby eliminating the height variance request;

Request was minimum request to alleviate conditions;

No opposition from the neighbors;

A motion was made by Devin Xenelis, seconded by Vincent Neri, to grant the variances including the CAM, as presented, as they are the minimum variances that will alleviate the circumstances and conditions applying to the land or structure for which the variances are being sought.

Discussion of the motion included reducing the variance request by one created a less nonconforming condition, the lot was subdivided in 1927, house built prior to zoning, and hardship has been demonstrated.

On the motion:

The motion carried unanimously.

**No. 16-004** – Appeal of Wyatt and Heidi Teubert, applicant/owners; Michael E. Cronin Jr., Esquire, agent. Property located at 209 Salt Island Road. Identified on Assessor's map 182 as parcel 112. HDR zone. Variance requested from Zoning Regulations Section No. 4.33.06(a) front yard setback to allow 7'6" where 25' required, Section No. 4.33.06(b) side yard setback West to allow 3'6" and East 7'6" where 10' required, and Section No. 2.10.06 enlargement of nonconforming structure, to construct landing and stairs to provide access to first story of existing dwelling. CAM exempt.

Richard White was seated for this application.

Discussion included the following:

Exterior staircases not an uncommon thing on beach properties;

Exterior staircases can be an issue with every job and structure;

The proposed south location of the landing & stairs reduces the nonconformity that the previously granted variance created where the landing & stairs were between the Teubert's and Carlson's houses;

The request is the same stairs and landing that was approved the last time in a different location;

Lifting the house removed two other steps/stair access between the houses;

The house was lifted to FEMA standards;

Two egresses and ingresses are code;

Part of the house that was on Town property at the street has been removed;

The proposal is less nonconforming than previously;

If this same proposal had been presented to the Board in the last application, it would have been approved;

The side location previously approved cannot now be used due to the Court stipulation;

There's no room on the street side nor on the east side to place the access;

The design of the landing and stairs makes it flush with the house to the west;

The prior decision was made before new case law;

Standards of legal hardship;

Ability of the Board to grant a variance;

The belief that granting of the variance is superseded by new case law;

Relocate the stairs under the house;

Can't grant a variance if an alternative is available;

Beach property owners understand the close quarters they live under;

Board previously granted the deck and stairs;

Location in the way of owners to get into house.

Richard White called the question regarding a vote.

A motion was made by Mark Damiani, seconded by Vincent Neri, to grant the variance as presented as the variances granted are the minimum that will alleviate the circumstances and conditions applying to the land or structure for which the variances are sought and the request is less non-conforming than the last approval given that the house is to be raised to conform to FEMA regulations, there is no change to the floor plan and no internal changes are proposed.

For: Bonnie Hall, Vincent Neri, Mark Damiani, Devin Xenelis

Opposed: Richard White

The motion carried.

**MINUTES:**

A motion was made by Bonnie Hall, seconded by Richard White, to approve the Public Hearing minutes of 1/27/16 as amended, The motion carried unanimously.

A motion was made by Bonnie Hall, seconded by Richard White, to approve the Regular Meeting minutes of 1/27/16 as amended. The motion carried unanimously.

**BILLS:**

A motion was made by Richard White, seconded by Devin Xenelis, to approve the invoice from Janet Aiken in the amount of \$469.70 for secretarial services. The motion carried unanimously.

A motion was made by Mark Damiani, seconded by Richard White, to approve the bill from the Hartford Courant in the amount of \$373.61. The motion carried unanimously.

A motion was made by Mark Damiani, seconded by Richard White, to approve the bill from Bonnie Hall in the amount of \$40 for tuition of a Land Use seminar to be held on March 26.

For: Mark Damiani, Devin Xenelis, Richard White, Vincent Neri

Abstained: Bonnie Hall

The motion carried.

**CORRESPONDENCE:** Reviewed including Cease & Desist Orders issued by the ZEO.

**OTHER BUSINESS:**

A motion was made by Bonnie Hall, seconded by Vincent Neri, to change ZBA's legal advertising provider from the Hartford Courant to the Harbor News as soon as possible. The motion carried unanimously.

**ADJOURNMENT:**

A motion was made by Mark Damiani, seconded by Vincent Neri, to adjourn. The motion carried unanimously.

The meeting adjourned at 11:26 p.m.

Respectfully submitted,

*Janet L. Aiken*

Janet L. Aiken, Recording Secretary Category I  
Westbrook Zoning Board of Appeals

(ONE (1) CD was recorded for the 2/24/16 Public Hearing and Regular Meeting and filed with the Town Clerk's Office).

*Janet L. Aiken*

Janet L. Aiken, Recording Secretary Category I

2/29/16

Date submitted