

Draft Minutes
Westbrook Zoning Board of Appeals
Public Hearing
January 25, 2012 at 7:30 P.M.
Teresa Mulvey Municipal Center- Multi-Media Room
866 Boston Post Road

Members Present: Mark Damiani, John Boehme, Eve Barakos, Bonnie Hall, Vincent Neri
Members Absent: None
Alternates Present: Richard White
Alternates Absent: Devin Xenelis
Staff: Nancy Rudek, Zoning Enforcement Officer
Approximately 25 people in the audience.

The meeting of the Westbrook Zoning Board of Appeals commenced at approximately 7:35 P.M.

Appointment by Chair Damiani of members sitting for this meeting: Boehme, Barakos, Hall, Neri, Damiani.

Chair Damiani read the procedure to be followed for the meeting.

Applications:

No. 11-23 – Appeal of Stempien Realty Trust, owner; Zdon Builders Inc, applicant, William Zdon, agent. Property located at 48 Elm Avenue. Identified on Assessor’s map 196 as Parcel 005. HDR zone. Variance requested from Zoning Regulations Section No. 4.33.06(a) front yard setback, to allow 7.9’ where 25’ required, Section No. 4.33.06(b) side yard setback, to allow 7.2’ where 10’ required, and Section No. 4.33.06(c) rear yard setback, to allow 25’ +/- where 35’ required, to allow raising of the existing house to meet flood elevation code, remove existing garage, and construct new addition. CAM required. Continued from 12/14/2011.

Present for the Applicant: William Zdon

Mr. Zdon showed pictures of the area.

Mr. Zdon explained the house was damaged during Irene and needs to be raised to meet FEMA flood requirements. The house is being raised to elevation 13.75’, the garage is being removed and a 20’X14’ addition, covered porch, is being attached to the house. There is no grade change. The total height is under 30’. The porch is just covered not screened in. Silt fencing will be used for erosions control measures but the area is flat. There is not going to be a paved parking area so there will be more drainage. The location of the structure is not changing it is just being raised and a porch added.

Public Comment:

In Favor: None

Opposed: Dan Lions 47 Sunrise asked question about the proposal but was not opposed.

Patricia Lions 47 Sunrise asked questions about the proposal but was not opposed.

The public hearing closed at 8:02 P.M

No. 11-24 - Appeal of Dominick Daniels, owner/applicant. Property located at 385 Seaside Avenue. Identified on Assessor’s map 172 as Parcel 11. HDR zone. Variance requested from Zoning Regulations Section No. 4.33.06(b) side yard setback, to allow 5’ where 10’ required, Section No. 4.33.06(c) rear yard setback, to allow 2’ where 35’ required, and Section No. 4.33.07 tidal wetlands, to allow 5’ where 50’ required, to allow 8’ x 10’ storage shed. CAM exempt.
Application continued to next meeting.

Cmsr. White recused himself from the following application.

No. 11-25 – Appeal of Joan Ireland, owner/applicant; Thomas Elliott AIA, agent. Property located at 151 Old Mail Trail. Identified on Assessor’s map 195 as Parcel 078. HDR zone. Variance requested from Zoning Regulations Section No. 4.33.06(c) rear yard setback, to allow 7.75’ where 35’ required, and Section No. 2.10.7 replacement of non-conforming structure. CAM exempt.

Present for the applicant: Thomas Elliott, agent; Joan and Paul Ireland

Mr. Ireland explained the house was damaged in Irene the bottom level was flooded with 2-3’ of water. Due to the expense the house is not being raised just repaired and renovated.

Mr. Elliott passed out an overview of the application.

Mr. Elliott explained the laundry room and front entry way are being removed and a new smaller entry is being proposed. The new entry is a covered platform with stairs to the sides. CAM is not needed since it is a minor change less than 200 sq ft.

Cmsr. Hall read the unofficial health department notes.

Mr. Elliott stated that the addition is not over the septic

Public Comment:

In favor: Richard McGinley, Cmsr. Damiani read two letters into the record Barbara McGinley 147 Old Mail Trail, and Barbara Peet, 155 Old Mail Trail.

Opposed- None

The public hearing closed at 8:21 PM

No. 12-01 – Appeal of Ronald E. Lyman & Jacqueline A. Lyman, Trustees, owners; Ronald E. Lyman, Trustee, applicant; Edward M. Cassella, Esquire, agent. Property located at 73 Second Avenue. Identified on Assessor’s map 181 as Parcel 132. HDR zone. Variance requested from Zoning Regulations Section No. 4.33.06(b) side yard setback, to allow 1’ where 10’ required, Section No. 4.33.06(b) side yard setback, to allow 0.6’ where 10’ required, Section No. 4.33.06 (c) rear yard setback, to allow 2.4’ where 35’ required, Section No. 4.33.05 maximum building coverage, to allow 38% where 25% is maximum, and Section No. 2.10.06 enlargement/alteration of non-conforming structure, for minor additions including a storage shed, handicapped access elevator, expansion of third floor living space, and second story addition over garage. CAM required.

Present for the Applicant: Edward Casella, Attorney; Peter Springsteel, Architect; Ron and Jackie Lyman

Mr. Casella passed out new site plans, architectural plans, an aerial view of the neighborhood, copies of previous variances granted, building code requirements and property coverage for Stannard Beach.

Mr. Casella explained that the Lyman’s would like to add an elevator from the first to second floor, a handicap accessible addition of a bedroom and bathroom on the second floor for an elderly family member, additions to the three third story bedrooms and storage sheds. A lot coverage variance is also being asked for. Lot coverage will be at 38%, 25% is allowed. The lot is currently in the low 30’s.

Peter Springsteel explained that the shed is on the east side of the property next to the neighbors. There is no basement in the house so the sheds will provide needed storage space for kayaks and bikes. The garage is a mechanical room with very little space for storage. By placing the shed by the neighbors it preserves the view from Second Ave. There will not be a need to go on the neighbor’s property. The addition walls will be built on the ground and then stood up. The elevator will be to the second floor and no closer to the property line than the present structure. The third floor bedrooms are not considered habitable space due to their size. They will be no closer than the existing structure. The material is Alaskan Yellow Cedar Shake

that does not require maintenance, PVC trim and Aluminum clad windows that tilt in for cleaning. This gives 40-50 years with no maintenance. The third floor bedrooms will be cantilevered. The proposed addition adds 577 sq ft.

Mr. Casella explained that the variances are minor that meet the intent of the regulations, are not injurious and are in keeping with the aesthetics. The lot is only 6000 sq ft. The variances requested are not more than those granted previously. The house will go from 7 to 6 bedrooms. There is a CAM application. The sheds will be on piers.

Commission members asked questions about the elevator, the crawl space, and building code.

Applicant: the outside stairs to the basement were not built and the space is filled with ductwork. In order to keep the house under the height requirement and have the ceiling height desired the house has no basement. There is no structural reason for the elevator not to be in the house. The building code did not change since the house was rebuilt in 2007.

ZEO Rudek: The revised plans submitted this evening, do they show variances that are slightly less than those requested on the application?

Applicant: yes, it is a smaller structure than originally proposed.

Public Comment:

In Favor:

Dennis Hersh 41 Second Ave

Lewis Brown 65 Second Ave

Brian Jeremia Stannard Beach

David Caslynn 61 Second Ave

Chairman Damiani read letters in favor from the following people.

Stannard Beach Association – side yards only

John Abella 57 Second Ave

Patricia & Keith Charles 56 Rippley Hill Road

Joe and Pam Fedorko 51 Second Ave

Bob Katz 101 Second Ave

Sherlyn Marsh 79 Second Ave

Martin Webber 56 Second Ave

The house is a beautiful addition to the neighborhood. The variance would not harm anyone and is for an elderly family member.

Opposed:

Mike Bonanno Attorney for Laurie Spazorini

Glen Turk Attorney Stannard Beach Association- rear yard

JP Langlos 7 Avenue B

Harvey Fishman 77 Second Ave

Adam Fishman 77 Second Ave

Bill Ryman 72 Second Ave

Ed Spazorini 3 Third Ave

Lou Brown

The variance requested is a personal one not a zoning one. The easement agreement between the Lyman's and Fishman's was presented.

From the Comments the following questions were raised.

The commission asked what court cases Attorney Bonanno was referring to. He stated four of them. It was clarified that the association is not opposed to the side yard variances only the rear yard (shed)

There is a hammer law in the association; all work will need to be completed by July first.
The applicant agreed to modify the plan by reducing the shed size to the setback line.

The public hearing closed at 10:22 PM
A break was had from 10:22 PM to 10:39 PM

REGULAR MEETING immediately following public hearing

Decisions:

Discussion and possible decisions on Appeal No. 11-23, 11-24, 11-25 and 12-01.

Appeal No. 11-23

This is to make the house flood compliant the non-conformity will be less than what is currently there.
There is less impervious surface, with no grade change.

Upon a motion by Cmsr. Hall and seconded by Cmsr. Boehme it was unanimously voted to grant the application and CAM as presented with the following conditions:

The porch is to remain open with no screens or windows.

Appeal No. 11-25

This will make the non-conformity less.

Upon a motion by Cmsr. Hall and seconded by Cmsr. Barakos it was unanimously voted to grant the application as presented.

Appeal No. 12-01

The commission clarified that the rear property line setback is 35' not 25 as stated on the plan. The previous variances were discussed and their stipulations. The elevator can be put inside. The bedrooms were not built to building code originally. The commission approves zoning hardships not financial, health or personal.

Upon a motion by Cmsr. Hall and seconded by Cmsr. Damiani it was unanimously voted to deny the application due to the hardships presented were deemed not to be adequate zoning hardships relevant to 12.22.01 A & B.

Minutes:

Public Hearing and Regular Meeting of 14 December 2011

Upon a motion by Cmsr. Damiani and seconded by Cmsr. Barakos it was unanimously voted to approve the Public hearing minutes as amended.

Upon a motion by Cmsr. Damiani and seconded by Cmsr. Hall it was unanimously voted to approve the regular meeting minutes as amended.

Bills

Upon a motion by Cmsr. Damiani and seconded by Cmsr. Boehme it was unanimously voted to pay the recording secretary's bill.

Upon a motion by Cmsr. Damiani and seconded by Cmsr. Hall it was unanimously voted to pay Halloran & Sage's bill.

Upon a motion by Cmsr. Damiani and seconded by Cmsr. Barakos it was unanimously voted to pay the Hartford Currant bill.

Correspondence

Cmsr. Damiani went through the correspondence.

Any Other Business

Discussion of Board Offices

Upon a motion by Cmsr. Boehme and seconded by Cmsr. Hall it was unanimously voted to appoint Cmsr. Damiani Chair.

Upon a motion by Cmsr. Boehme and seconded by Cmsr. Damiani it was unanimously voted to appoint Cmsr. Hall Vice-Chair.

Then, with no further business before it, upon a motion by Cmsr. Damiani and seconded by Cmsr. Barakos it was unanimously voted to adjourn the meeting of the Westbrook Zoning Board of Appeals at approximately 11:48 p.m.

Respectfully Submitted,

Katie Arbuckle
Recording Secretary