



**TOWN OF WESTBROOK
ZONING BOARD OF APPEALS**

866 BOSTON POST ROAD
WESTBROOK, CONNECTICUT 06498
(860) 399-3046 • FAX (860) 399-3092

MINUTES - ZBA PUBLIC HEARING – 13 November 2013

The Westbrook Zoning Board of Appeals met on Wednesday, November 13, 2013, in the Multi-Media Room of the Teresa Mulvey Municipal Center located at 866 Boston Post Road. Legal Notice of the Public Hearing was published in *The Hartford Courant* on 31 October 2013 and 6 November 2013.

Chairman Mark Damiani called the Hearing to order at 7:30 p.m. and introduced Board members to the public in attendance. Members present were Mark Damiani, John Boehme, Vincent Neri, Eve Barakos and Alternates Richard White and Devin Xenelis. Also present was Recording Secretary Category I, Janet L. Aiken and ZEO Nancy Rudek.

Chairman Damiani read the procedures to be followed at the Hearing into the record.

No. 13-22 – Appeal of Adam L. Schwartz, owner/applicant; Thomas Elliott AIA agent. Property located at 154 Second Avenue at Stannard Beach. Identified on Assessor's map 181 as Parcel 107. HDR zone. Variance requested from Zoning Regulations Section No. 4.33.06(a) front yard setback to allow 15.3' for deck and 23.5' for balcony where 25' required, Section No. 4.33.06(b) side yard setback to allow 10.0' for residence and 12.01' for deck where 15' required, Section No. 4.33.07 tidal wetlands buffer for residence to allow 37' where 50' required, and Section No. 2.10.07 replacement of existing non-conforming structure, to allow removal and replacement of existing residence to meet base flood elevations, and removal of existing shed, resulting in a reduction of site coverage of 881 square feet. CAM required. Public Hearing CLOSED; Decision CONTINUED TO 11/13/13 Regular Meeting.

No. 13-24 – Appeal of Glenn Salamone, owner/applicant; Attorney Edward M. Cassella, agent. Property located at 48 Tarpon Avenue. Identified on Assessor's map 189 as Parcel 113. HDR zone. Variance requested from Zoning Regulations Section No. 4.33.06(b) side yard setback to allow 5'0" where 10' required, Section No. 4.33.06(c) rear yard setback to allow 7'3" where 35' required, Section No. 4.33.07 tidal wetlands buffer to allow 13'9" where 50' required, and Section No. 11.00.05 building in tidal wetlands setback, to complete renovations of existing second floor, remove front entry porch and non-conforming shed, and construction of rear deck. CAM required. Continued from 10/23/13.

This agenda item was moved to the end of the Public Hearing schedule by request of Attorney Cassella.

No. 13-26 – Appeal of Appeal of Lynn E. Abraham, owner/applicant; Thomas Elliott AIA, agent. Property located at 39 Sunrise Road. Identified on Assessor's map 196 as Parcel 008. HDR zone. Variance requested from Zoning Regulations Section No. 4.33.06(c) rear yard setback to allow 25.8' where 35' required (residence), Section No. 4.33.06(c) rear yard setback to allow 28.9' where 35' required (sunroom), both in existing footprint, and Section No. 2.10.06 extension/enlargement of non-conforming structure, to build new attic on existing residence and a sunroom on second floor over existing sunroom, remove all utilities from basement to above flood elevation and full basement to create crawl space. CAM exempt.

Alternate Devin Xenelis was seated for this application.

Tom Elliott was present for the application. Lynn Abraham spoke before the board indicating that she spent much time as a child on the shore in Westbrook beginning in 1956, purchased the subject property

in 1985, and became a full time resident in 1999. She further noted that she loves the house, neighborhood and beach, is a member of the Association, and brought along letters in support of her application. Lastly she told the Board of costly damage and loss during storms Irene and Sandy losing all mechanicals in the basement two times, and that health and safety reasons are current issues.

Mr. Elliott submitted **Exhibit 1** which outlined the history, file exhibits, requests sought and hardships associated with the application. He noted that under FEMA regulations any repairs/modifications to the structure were limited to less than 50% of the structure's appraised value per assessor's records without having to adhere to FEMA requirements. The basement flooded twice with 3' to 5' of water during recent storms due to the low elevation of the basement (elevation 2.07') and basement door (elevation 5.05').

The present three bedroom home would remain three bedrooms, the septic underwent an upgrade in 2008, all proposed work will be within the existing footprint and modifications will be vertical. Deeded covenants exist indicating "Sunset Walk" as the front of the property with "Sunrise Road" as the rear, the zoning Regulations are in the reverse. The side yard nonconformity will be reduced and all mechanicals will be located in the attic. The basement will be filled and a slab 4' crawlspace created. The foundation and sidewalls are of block construction and their ability to withstand additional future hydrostatic pressure is in doubt. A full second floor is proposed including an uninhabitable attic area due to lack of headroom, with a pull down stair for access. The South side (rear) addition of the second floor sunroom will be an extension of the new master bedroom, a second bedroom on the second floor, with a third bedroom on the first floor. The existing stairwell leading to the basement will be converted into a kitchen pantry, and the electrical and a/c are to be located above the flood elevation. Mr. Elliott stated the variances sought were the minimal variances sought to alleviate the special circumstances of the site and the proposed structure was similar to those in the area. It was also noted on the record that the site was located in an A Flood Zone with a base flood elevation of 11. Mr. Elliott further noted that the applicant was aware that the application was not conforming to FEMA regulations, a decision in part due to the desire to keep modifications under the 50% rule.

Upon inquiry, ZEO Nancy Rudek stated she would be keeping track of the costs incurred on the project in order to establish the 50% threshold, based on the estimates on the building permits issued.

Speaking in favor from the audience was George Abraham of 19 Lilac Road. No one spoke in opposition.

Five letters in favor of the application were read into the record: Lorraine Mongrain of 40 Sunrise Road, undated; Nancy and Gregg Bromley of 52 Sunrise Road, dated 10/28/13; Eric and Brunilda Levine of 36 Sunrise Road, dated 10/31/13; Francis and Marcia Burke of 28 Sunrise Road, dated 11/6/13; and, Joseph D. Marino of 22 Sunrise Road, dated 10/11/13.

The hearing closed at 8 p.m.

No. 13-27 – Appeal of Michael and Penelope Tosatti, owners/applicants; Thomas Elliott AIA, agent. Property located at 12 Mohican Road West. Identified on Assessor's map 195 as Parcel 132. HDR zone. Variance requested from Zoning Regulations Section No. 4.33.06(b) side yard setback (East) to allow 7.8' (residence) where 10' required, Section No. 4.33.06(b) side yard setback to allow 6.75' (chimney) where 10' required, Section No. 4.33.06(b) side yard setback (West) to allow 8.2' (residence) where 10' required, Section No. 2.10.06 extension/enlargement of non-conforming structure, and Section No. 8.10.00 projection (chimney) into required yard area, to increase roof pitch in non-conforming gable ends to allow headroom for placement of windows, and to allow increase of chimney height to meet building code requirements above new conforming second floor addition. CAM exempt.

Alternate Richard White was seated for this application.

Tom Elliott was present for the application and Michael Tosatti made a brief statement to the Board noting the grandfather purchased the property in 1958 and that he and his wife were the 3rd generation to use the property, purchasing it in 2010. Letter in support of the application were given to the Chairman.

Exhibit 1 was submitted into the record by Tom Elliott which outlined the history, file exhibits,

requests sought and hardships associated with the application. **Exhibits 2-1 to 2-4**, photos of the 4 sides of the house with the proposed alterations drawn thereon were submitted for the record. Mr. Elliott reviewed the variances requested noting they were the minimal variances to alleviate the unusual circumstances associated with the site. ZEO Nancy Rudek inquired as to the stability of the structure once the second story was added. Mr. Elliott stated the proposed second floor would have 2x10" beams over the first floor, with the second floor strapped down to the first story for wind loads, easily done since the house will be resided as well providing easy access. The current structure is in excellent condition having been well maintained. There is a partial basement and the 2 bedroom house will be converted into a 3 bedroom house, with 2 bedrooms on the second floor, and the 2 small first floor bedrooms combined into one for the master.

No one from the audience spoke in favor or opposition of the proposal.

Five letters in support of the application were read into the record: Janet and William Brownstein of 111 Riverview Road, dated 10/21/13; Caroline and Mark Wojeicki of 122 Riverview Road and 35 Mohican Road West, dated 10/30/13; Phyllis J. Pallett-Hehn and Paul N. Hehn of 90 Riverview Road, dated 11/5/13; Joseph M. and Linda Quinn of 5 Mohican Road, dated 11/2/13; and, Richard and Dolores Daly of 12 Mohican Road West, dated 10/15/13.

The hearing closed at 8:16 p.m.

No. 13-24 – Appeal of Glenn Salamone, owner/applicant; Attorney Edward M. Cassella, agent. Property located at 48 Tarpon Avenue. Identified on Assessor's map 189 as Parcel 113. HDR zone. Variance requested from Zoning Regulations Section No. 4.33.06(b) side yard setback to allow 5'0" where 10' required, Section No. 4.33.06(c) rear yard setback to allow 7'3" where 35' required, Section No. 4.33.07 tidal wetlands buffer to allow 13'9" where 50' required, and Section No. 11.00.05 building in tidal wetlands setback, to complete renovations of existing second floor, remove front entry porch and non-conforming shed, and construction of rear deck. CAM required. Continued from 10/23/13.

Richard White remained seated for the application from 10/23/13.

Attorney Cassella was present. Discussion took place regarding four of the present members having the ability to vote on the application and whether the applicant and/or agent wanted to continue it to the next meeting. After conferring with his client, Attorney Cassella asked for a continuance to the December meeting, and placed the request in writing. Richard White noted that the application contained unique issues regarding tidal wetlands impact and desired Bonnie Hall to be present at the meeting and take part in the decision process. A copy of the recorded 10/23/13 meeting will be made available to Eve Barakos, and a copy of the 11/13/13 meeting will be made for Bonnie Hall as well as providing her with a copy of additional information received. Attorney Cassella entered case law entitled Mead v. Zoning Board of Appeals of the City of Stamford, et al as **Exhibit 4** into the record.

The hearing was continued to 12/11/13.

The hearing adjourned at 8:28 p.m.

Respectfully Submitted,

Janet L. Aiken

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

(ONE (1) digital CD disk was recorded for the 11/13/13 Public Hearing & Regular Meeting and filed with the Town Clerk's Office).

Janet L. Aiken
Janet L. Aiken, Recording Secretary Category I

11/18/2013
Date Submitted