



**TOWN OF WESTBROOK
ZONING BOARD OF APPEALS**

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MINUTES - ZBA PUBLIC HEARING - 27 April 2011

The Westbrook Zoning Board of Appeals met on Wednesday, April 27, 2010, 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 13 April 2011 and 20 April 2011.

Chairman Mark Damiani called the Hearing to order at 7:34 p.m. and introduced Board members to the public in attendance. Members present were John Boehme, George Rehberg, Bonnie Hall, Mark Damiani, Eve Barakos, and Alternate Richard White. Alternate Vincent Neri joined the hearing at 7:45 p.m. Also present were Administrative Secretary Janet L. Aiken.

Chairman Damiani read the procedures to be followed at the Hearing as well as the Legal Notice of the Public Hearing.

No. 11-04 - Appeal of David and Nora Luszczyk, applicant/owner; Thomas Elliott AIA, agent. Property located at 15 Shore Lane. Identified on Assessor's Map 13 as Parcel SF8. HDR Zone. Variance requested from Zoning Regulations Section No. 4.33.06(c) to allow rear setback of 22' where 35' required, Section 4.33.06(b) to allow side yard setback (East) of 4' where 10' required, and Section No. 2.10.06, enlargement of a nonconforming structure. CAM exempt.

Agent for the applicant, Tom Elliott, was present. A statement was read into and made part of the file record from Mr. Elliott wherein requesting and consenting to a 28-day extension until the Board's next meeting of May 25, 2011, the 28 days being part of the 65-day allowable extension. After brief discussion by Board members concerning allowable time frames and extensions as the application has been on the Board's agenda since 2/23/11, the request was granted, the Chair noting the need to be fair and equitable to all those coming before the Board, and the application was extended for hearing to May 25, 2011.

No. 11-05 - Appeal of Scott and Mary Brainard, applicant/owner. Property located at 88 Osprey Circle. Identified on Assessor's Map 188 as Parcel 167, MDR zone. Variance requested from Zoning Regulations Section No. 4.23.06(b) to allow side yard setback of 8' where 15' required, and Section No. 4.23.06(c) to allow rear yard setback of 8' where 35' required, to install 12' x 16' shed. CAM exempt.

At this time, the Chair recused himself from hearing this application citing a conflict of interest, also seating Alternate Richard White for this application, and Vice-Chairman John Boehme proceeded with the hearing.

The property owner presented his application explaining that there was no other place on the property to place a shed due to septic location, the septic reserve area and the proposed location of a future in-ground pool installation. The proposed shed will be on concrete block without a slab, consisting of post and beam construction with clapboard siding. There is no existing shed on the property. The Board inquired as to the height of the structure and the applicant stated it has an interior height of 6', with an approximate overall height of 8-9' exterior height including the peaked roof.

There were no comments for or against the application from the audience.

The public hearing was closed at 7:47 p.m.

Chairman Damiani was reseated.

No. 11-06 - Appeal of Stephen and Barbara Mason, Trustees, applicant/owner; Edward Cassella, Esquire, agent. Property located at 99 Second Avenue. Identified on Assessor's Map 181 as Parcel 127. HDR zone. Variance requested from Zoning Regulations Section No. 4.33.06(b) to allow side yard setback (Northeast) of 3'7" where 10' required, Section No. 4.33.06(b) to allow side yard setback (Southwest) of 3'6" where 10' required, and Section No. 2.10.06, enlargement of a nonconforming structure. CAM approval needed.

Attorney Cassella presented the application to the Board. Review was done of prior variances granted for this property, including one in 1987 and one in 1994 as well as 2006. While the house has been winterized and a back porch has been built, the 2006 variance has not been constructed due to the magnitude of code work necessary to this 1880's era structure. Also at issue are FEMA requirements once a 50% threshold is reached which would then require an 11' flood elevation of the first floor of the existing house, which is now at 8.5'. Also of concern is the viability and soundness of the existing minimal beach stone foundation that has unknown footing and depth, and its ability to withstand a renovated structure being anchored to it. With these questions and unknowns presenting themselves, it was decided to tear down and rebuild the house on a poured concrete foundation capable of successfully anchoring the house, withstanding severe storms. Floor plans, existing and proposed were reviewed. A new code compliance septic had been installed on the beach side/front yard in 2009. To meet FEMA regulations, the proposed house height will be 32'7" slightly higher than the existing 28'7". Storm water issues have yet to be engineered due in part to new regulations taking effect one week ago, but an engineer is onboard to effectuate those plans.

Architect Whitney Huber of Essex described the architecture of the proposed house noting that he has been working with the Mason's at this location for over 20 years so he knows the site very well. He described the current foundation as rubble stone and expressed concern as to its viability to handle building anchorage if a severe storm hit the shoreline. He noted that the 1st floor of the new house would be comparable to what currently exists with the addition of a mechanicals room on the street side of the property, per FEMA regulations. No variance is needed for that 4' addition but lot coverage will increase slightly. The 2nd floor currently has 3 bedrooms and 2 baths, and the proposed house will have the same. The 3rd floor currently has 2 bedrooms and a bath, and that too will remain the same with the exception of some partition

rearranging. The staircases granted by the 2006 variance will be code compliant as to run and rise of the stair treads, and will be wide enough to accommodate a chair lift should one be necessary for the owners. Mr. Huber noted that the ceiling heights in the house on the 2nd and 3rd floors are not currently code compliant, and the new proposed structure while being slightly higher, is within the 35' height limit. As for the CAM application, silt fencing would be utilized and there would be minimal impact on the beach side/front yard as all activity would be toward the street side of the property, on the street side of the new septic system. The Board inquired as to the location of any air compressors. Mr. Huber stated the Masons will be utilizing geothermal technology, to be located in the new foundation. Hardship was expressed as being the requirements of the FEMA regulations, and the existing house foundation condition.

There were no comments from the audience.

Two letters of approval were read into the record from Carol & Harvey Robbin of 100 Second Avenue, and Rosemary Renda of 95 Second Avenue.

One letter in opposition was read into the record from Robert & Debbie Katz whose property is directly adjacent to the Mason's at 101 Second Avenue. The letter also stated they had never received any notice of the pending variance or any plans to review.

Attorney Cassella readdressed the Board, providing proof of mailing and receipt of the application notice to the Katz's. The mailing address was also confirmed as being correct. He also noted that he understood their concerns about any storm water runoff which will be adequately addressed by the engineer in accordance with the new Town regulations.

The Board inquired into the mechanicals issue again, with Mr. Huber stating currently the house has electric baseboards and propane, with no furnace. Knockout panels are proposed for the basement crawlspace.

The public hearing portion of the meeting was closed at 8:23 p.m.

Respectfully Submitted,

Janet L. Aiken

Janet L. Aiken, Administrative Secretary
Westbrook Zoning Board of Appeals

(TWO (2) micro cassette tape was recorded for the 4/27/11 Public Hearing & Regular Meeting and filed with the Town Clerk's Office).

Janet L. Aiken
Janet L. Aiken, Administrative Secretary

4/28/11
Date Submitted