

**SUMMARY MEETING MINUTES**  
**DARIEN ZONING BOARD OF APPEALS (ZBA)**  
**May 20, 2015**

**REGULAR MEETING**

Darien Town Hall - Room 206 – 7:46 to 9:20 PM

ZBA members present: Vic Capellupo, Gary Greene, Jeff Williams, Mike Nedder and Kevin Fullington

Staff Present: Code Compliance Officer Robert Woodside and Recorder Judy Fazekas

**OPENING**

ZBA Vice Chair Vic Capellupo opened the meeting at 7:46 PM. He requested cooperation and explained several procedural steps that would be used to conduct the meeting following the posted Agenda.

**POSTPONEMENTS AND CONTINUATIONS**

Mr. Capellupo announced that the Public Hearing of Calendar No. 25-2015, the application of John & Bethany Lilliquist, 42 Walmsley Road, is postponed to June 17, 2015, at the applicant's request.

**PUBLIC HEARINGS**

The following hearings were held with various plans and submitted application materials reviewed, possible correspondence and public comment considered, questions asked, and comments made by the ZBA members and Staff:

**CALENDAR NO. 26-2015** - the application of Beth Harrington-Howes and Beth Harrington-Howes LLC on behalf of Tucker & Meredith Martin submitted on April 15, 2015 for variances of Section 406 of the Darien Zoning Regulations; to allow the construction of a second story addition and the installation of HVAC equipment; Section 406: 16.0 in lieu of 25.0 minimum feet required Leroy Avenue front yard setback and 37.2 in lieu of 50.0 minimum feet required front yard setback as measured from the center line of Leroy Avenue; 1.0 in lieu of 25.0 minimum feet required Shadbush Lane front yard setback and 31.0 in lieu of 50.0 minimum feet required front yard setback as measured from the center line of Shadbush Lane for the addition; 0.0 in lieu of 25.0

minimum feet required Shadbush Lane front yard setback and 25.0 in lieu of 50.0 minimum feet required front yard setback as measured from the center line of Shadbush Lane for the HVAC equipment; and construction of additional building volume on a lot with 44.25 in lieu of 20.0% maximum allowable building coverage. The property is situated on the southwest corner of the intersection of Shadbush Lane and Leroy Avenue and is shown on Assessor's Map #18 as Lot #15, being 89 Leroy Avenue and located in an R-1/5 (residential) Zone.

Architectural Designer Beth Harrington-Howes and home owner Tucker Martin answered various questions and explained the proposal depicted on the submitted plans and described in the application materials. The Public Hearing was then closed.

**CALENDAR NO. 27-2015** - the application of Jeffrey W. McDougal and William W. Seymour & Associates on behalf of Warrington Homes and M. Campbell & Paget R. MacColl submitted on April 15, 2015 for variances of Section 406 of the Darien Zoning Regulations; to allow the construction of a replacement one story garage and two story additions; Section 406: 22.3 in lieu of 40.0 feet minimum required front yard setback and 34.3 in lieu of 65.0 feet minimum required front yard setback as measured from the centerline of Searles Road. The property is situated on the west side of Searles Road at the southwest corner formed by its intersection with Cross Road and is shown on Assessor's Map #67 as Lot #87, being 22 Searles Road and located in an R-1 (residential) Zone.

Surveyor Jeff McDougal and Builder Bo Malpass answered various questions and explained the proposal depicted on the submitted plans and described in the application materials. The Public Hearing was then closed.

**CALENDAR NO. 28-2015** - the application of Thomas J. Heagney and Heagney, Lennon & Slane LLP on behalf of Elk Homes Partners II LP submitted on April 15, 2015 for an interpretation of Section 385 and a variance of Section 334 of the Darien Zoning Regulations; to allow the construction of a two and one-half story replacement house; Section 385: a determination that the subject lot is a legal nonconforming building lot with 98.18 in lieu of 100.0 feet minimum required lot depth, and 10,006 in lieu of 14,520 minimum required lot area, and can be properly developed with adequate related site improvements; and Section 334: construction on a portion of the lot with 98.18 in lieu of 100.0 feet minimum required lot depth. The property is situated on the west side of Gardiner Street approximately 100 feet north on the intersection with Concord Lane and is shown on Assessor's Map #46 as Lot #38, being 15 Gardiner Street and located in an R-1/3 (residential) Zone.

Attorney Tom Heagney answered various questions and explained the proposal depicted on the submitted plans and described in the application materials. The Public Hearing was then closed.

**CALENDAR NO. 29-2015** - the application of Jacqueline Kaufman and Carmody Torrance Sandak & Hennessey LLP on behalf of Noroton Yacht Club Inc. submitted on April 16, 2015 for variances of Sections 416, 362 and 825 of the Darien Zoning Regulations; to allow the construction of a launch shed, a replacement two and one half story clubhouse, a two story sailing center, and the installation of dumpster enclosure fencing; Section 416: 18.1 in lieu of 30.0 feet minimum required front yard setback and 12.6 in lieu of 25.0 feet minimum required rear yard setback for the clubhouse; 4.6 in lieu of 25.0 feet minimum required rear yard setback for the launch shed; and 5.6 in lieu of 30.0 feet minimum required front yard setback for the sailing center; Section 362: installation of 6 in lieu of 4 feet maximum height fencing for the dumpster enclosure; and Section 825: construction of habitable space and installation of electrical and code required systems at 9.0 in lieu of 15.0 feet minimum required floor elevation. The property is situated on the south/southeast side of Baywater Drive approximately 100 feet east of the intersection with Plymouth Road and is shown on Assessor's Map #55 as Lots #96, 95 & 92, being 23 Baywater Drive and located in the R-NBD (residential) Zone.

Attorney Jackie Kaufman, Engineer Craig Flaherty and Architect Rob Lambert answered various questions and explained the proposal depicted on the submitted plans and described in the application materials. Andrew Black, acting President of the Noroton Bay Association, questioned aspects of the application. The ZBA determined that additional clarification of the project circumstances was necessary. The Public Hearing was then continued to the next ZBA meeting on June 17, 2015.

## **DELIBERATIONS AND DECISIONS**

The following decisions were made after the ZBA members reviewed the public hearing comments, the submitted plans and other application materials, and carefully considered possible stipulations to ensure the best possible project fit among the neighboring properties:

**CALENDAR NO. 26-2015** - The application of Beth Harrington-Howes and Beth Harrington-Howes LLC on behalf of Tucker & Meredith Martin, 89 Leroy Avenue. Upon a motion by Kevin Fullington, seconded by Gary Greene, the ZBA voted 4-1 to GRANT WITH STIPULATIONS the above delineated, requested variances. Those voting in favor were Kevin Fullington, Gary Greene, Mike Nedder and Jeff Williams.

Vic Capellupo was opposed to the motion. State of Connecticut Statutes require 4 affirmative votes out of the 5 voting ZBA members to approve a variance of the Zoning Regulations. Therefore, this request is granted with stipulations.

**CALENDAR NO. 27-2015** - The application of Jeffrey W. McDougal and William W. Seymour & Associates on behalf of Warrington Homes and M. Campbell & Paget R. MacColl, 22 Searles Road. Upon a motion by Mike Nedder, seconded by Jeff Williams, the ZBA voted 5-0 to GRANT the above delineated, requested variances.

**CALENDAR NO. 28-2015** - The application of Thomas J. Heagney and Heagney, Lennon & Slane LLP on behalf of Elk Homes Partners II LP, 15 Gardiner Street. Upon a motion by Jeff Williams, seconded by Mike Nedder, the ZBA voted 5-0 to GRANT the above delineated, requested interpretation and variance.

### **OTHER BUSINESS**

The following additional decisions were made after the ZBA members reviewed the submitted documents, correspondence and/or project plans:

Possible request to approve amended plans for ZBA Calendar No. 32-2014, PR Partnership, LLC dba Giovanni's - Water's Edge, 2748 Boston Post Road. The Public Hearing of this matter was July 16, 2014 and the deliberation concluded September 17, 2014. ZBA staff advised that the site lights have not been adjusted into conformance with the applicable project stipulation, although efforts are underway. ZBA staff also advised that the partially constructed sign does not conform with the approved plans and a plan amendment request may be submitted. Rich Wood and Vic Capellupo were designated to continue work as a subcommittee with staff on these matters.

Discussion of subcommittee work with a Planning and Zoning Commission subcommittee on recommended Zoning Regulation changes. This item was tabled to a future date.

Possible review of structure preservation plans for ZBA Calendar No. 8-2015, Joseph & Rita Maruszewski, 102 Mansfield Avenue. ZBA staff advised that replacement house plans are being prepared for consideration by the ZBA at a future meeting.

Discussion of Verrillo v. Branford ZBA Appellate Court decision. This item was tabled to a future date.

## **ADJOURNMENT**

Upon a motion by Jeff Williams, seconded by Mike Nedder, and a ZBA vote of 5-0, the meeting was adjourned at 9:20 PM.

These Meeting Minutes,  
Respectfully submitted May 27, 2015,  
by Robert Woodside,  
Code Compliance Officer  
ZBA Staff

*These Minutes were reviewed by the attending ZBA members, modified as necessary, and upon a motion by Mike Nedder, seconded by Jeff Williams, approved by a vote of 3-0 at the ZBA meeting on July 22, 2015. Mike Nedder, Jeff Williams and Vic Capellupo voted in favor of the motion.*