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Patricia D. O'Reilly
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Zoning Board of Appeals Meeting

Monday, May 3, 2021 – 7:00 p.m.
Zoom Meeting

Approved

ATTENDANCE

Board Members Present: Chairman Noah Eisenhandler, Pat Panza, Rudolph Miller, David Crow, and Matt Pickering

Board Members Absent: Gregory Natalino

Staff: Jack Demirjian, Planning and Zoning & Wetlands Officer; Bonny Syat, Public Stenographer; Deborah Satonick, Recording Secretary

Chairman Eisenhandler welcomed everyone to the May 3, 2021 Zoning Board of Appeals meeting and called the meeting to order at 7:20 p.m. He proceeded to introduce the Board members, Mr. Demirjian, Zoning & Wetlands Officer; Ms. Syat, Public Stenographer; and Ms. Satonick, Recording Secretary. Chairman Eisenhandler explained that four positive votes are needed to approve a variance request. All correspondence must be read into the record, and approved variances must be recorded on the land records within one year of approval. Mr. Eisenhandler stated that all present would be given an opportunity to speak, if they so desired. The applicant would present the case, and anyone in favor of the variance would first be allowed to speak. Any opposition would then be heard, and a final rebuttal would be allowed. All five members in attendance would be voting on the petition presented.

1. Review and Approval of Minutes – March 1, 2021

- The Board members reviewed the minutes and made edits as necessary.

Mr. Panza made a motion to approve the amended March 1, 2021 minutes, seconded by Mr. Crow. The vote was recorded as follows: Mr. Miller, aye; Mr. Pickering, aye; Mr. Panza, aye; Mr. Crow, aye; and Chairman Eisenhandler, aye. All were in favor and the motion PASSED.

PUBLIC HEARINGS

Chairman Eisenhandler read the legal notice for May 3, 2021 Zoning Board of Appeals meeting in its entirety.

PETITION #1817, Submitted by Steven and Loretta Brutsche. For property known as 274 Petrose Circle. For the construction of an access staircase to the existing attic in the dwelling. A variance of Section 383-30 C. Setback from Other Property Line is requested.

- Ms. Brutsche spoke on behalf of the application. She explained that the location of the cottage on the property is the hardship, as the cottage is squeezed into the southeastern corner of the property line. They are unable to move the foundation of their home. There is no basement to put the furnace, hot water heater, and other mechanics, so they must be located in the attic.
- Ms. Brutsche proceeded to give a history of the property, noting that the building was originally constructed for farm animals with a cement slab instead of a basement. In the 1950's it was converted into a residential dwelling. Per Federal mandates, access to the Maintenance Room is a requirement and the outside stairway is their only viable option.
- Attorney Hiza, Professional Engineer and Surveyor, also spoke on behalf of the applicant. The original petition request asked for a fifteen foot side yard variance. As the steps have been redesigned and made smaller, the applicant is now requesting only a four foot side yard variance. He reiterated that the hardship is the location of the cottage on the lot. He contended that the applicant has a reasonable right to ask for a four foot variance under these hardship circumstances.
- Chairman Eisenhandler advised that while this matter was originally heard in March, this is a new application and substantial changes have been made to the original request.

Opposition to Petition #1817

- Attorney Stephen Struder, Berchem Moses Law Firm at 75 Broad Street, Milford, CT., spoke on behalf of his clients, Kevin and Marcie Daken, who own 266 Petrose Circle. They are concerned that the landing of this exterior access stairway, which is at the third floor attic level, looks down over their fenced yard and diminishes their privacy and enjoyment of their property.
- Attorney Struder pointed out that there is no legal hardship unique to the land, as is required to grant a variance request. Their hardship, as presented, is unique to the building and is self-created due to poor planning by the property owners. He also provided additional options to be considered for access to the attic Maintenance Room, including an interior stairway and the relocation of the outside stairs. He even suggested that a small addition is a viable option. Attorney Struder suggested that the records from March be added to this meeting, but Chairman Eisenhandler advised that this is a totally new application and new Board members are also in attendance.
- Attorney Struder presented some evidence suggesting that Ms. Brutsche has been disingenuous with the Town Building Department and the Town Zoning Department in the past. Chairman Eisenhandler inquired the need for this discussion and Attorney Struder felt that their previous

dishonest behavior should also be a factor of consideration when the Board votes on the variance request. Attorney Struder concluded his argument by stating that lack of foresight by property owners is a self-inflicted hardship and that there are numerous other options available to the homeowner to accomplish what they need.

- Kevin Daken, owner of 266 Petrose Circle, Orange, spoke against the variance request in Petition #1817. He stated that they worked hard to create a safe, private yard for themselves and guests. They fenced in their yard and planted arborvitae trees but the stairway towers well above the fence and trees, even when they will be full grown. He stated that the stairway is intrusive and an eye sore. He asked the Board members to deny the variance requested. He concluded his comments by noting that three other abutting neighbors submitted written disapproval of this variance request.

Rebuttal

- Ms. Brutsche and Mr. Hiza both spoke a brief rebuttal, with Ms. Brutsche pointing out a typo error on the paperwork she had submitted. She again reiterated that there were no other options available to her, disagreeing with all of Attorney Struder's alternate suggestions to address their access problem.

Mr. Pickering made a motion to close the Public Hearing portion of the meeting, seconded by Mr. Crow. The vote was recorded as follows: Mr. Miller, aye; Mr. Pickering, aye; Mr. Panza, aye; Mr. Crow, aye; and Chairman Eisenhandler, aye. All were in favor and the motion PASSED

- The Board members each spoke on this petition, agreeing that this is a self-created hardship. Mr. Panza inquired why there are two meter boxes on the outside of the house, suggesting that this cottage is being used as an apartment instead of a one family residence. Chairman Eisenhandler pointed out that this is not their concern at this time and Mr. Panza agreed.

Mr. Panza made a motion to approve Petition #1817 as was presented. Mr. Crow seconded the motion. The vote was recorded as follows: Mr. Miller, nay; Mr. Pickering, nay; Mr. Panza, nay; Mr. Crow, nay; and Chairman Eisenhandler, nay. All were in favor and the motion was DENIED.

Mr. Panza made a motion to adjourn the meeting at 8:35 p.m. Mr. Crow seconded the motion and the vote was recorded as follows: Mr. Miller, aye; Mr. Panza, aye; Mr. Crow, aye; Mr. Pickering, aye; and Chairman Eisenhandler, aye. All were in favor and the motion PASSED.

Respectfully Submitted,

Deborah Satonick
Recording Secretary