

**CITY OF NORWALK
ZONING BOARD OF APPEALS
OCTOBER 1, 2009 (Approved November 5, 2009)**

I. CALL TO ORDER

Mr. Strubinger called the meeting to order at 7:30 pm.

II. ROLL CALL

Ms. Rochefort took the roll call.

PRESENT: Taylor Strubinger, Chair; Joe Santo; Steven Colarossi, Gordon Tully, Tony Lopez

STAFF: Aline Rochefort

OTHERS: Atty. Lynn Adams; Rick Tomecetti

III. PUBLIC HEARING

A. 09-1001-01—Andrew & Lisa Caruso—Appeal of Zoning Inspector's decision. In Neighborhood Business Zone. Property located at 18 Bouton St.

Mr. Tully read a letter from Mr. Mark Grenier, indicating that the applicant had not sent out the green cards on time and was asking for the hearing to be rescheduled.

The Board agreed to schedule the hearing for its next meeting.

B. 09-1001-02—Salvatore G. Sogliuzzi—Appeal of Cease & Desist for conversion of 3 units to 4 units in C Residence Zone. Property located at 227 Ely Avenue.

The item was withdrawn; the applicant will request a variance, not an appeal.

The attorney representing the applicant stated that neighbors had not yet been notified and also that the client did not want to continue with the appeal.

The attorney clarified that he had spoken with Mr. Brian McCann of Corporation Counsel approximately three weeks ago.

C. 09-1001-03—Vernon & Karen Miller—Variance for construction of new structure in Island Conservation Zone. Property located at Cedar Hammock Island.

Mr. Strubinger opened the public hearing. He asked the applicant if there were any objection to the presence of Board member Tony Lopez, as he was acquainted with a member of the audience. The applicant did not object.

Mr. Tully read the details of the application. He read aloud a memo from Mr. Frank Strauch, concerning the removal of trees and the impact of the project on coastal resources. The memo emphasized the importance of protecting Cedar Island.

Mr. Tully also read aloud a memo from Ms. Alexis Cherichetti to Mr. Strauch, pointing out that the property was not in the immediate vicinity of any inland wetland or watercourse. The memo also noted that there was no anchoring plan for the project.

Mr. Tully read aloud a memo from Ms. Rochefort, in which she gave background of work without permits on the property. The memo also noted that the proposed construction would be done on the site of what was currently an accessory structure. Ms. Rochefort said that she had submitted photographs. She indicated the location of Cedar Island on a map.

Atty. Lynn Adams stated that she was "blind-sided" by the CAM memo. She said that she had on hand a copy of the flood plain certification. Atty. Adams presented an aerial photograph of the property. She said that according to the permit, the structure on the site was a shed and had kitchen-like facilities, including a water-pump sink. She pointed out that the kitchen facilities were not installed by her clients. She added that the structure included a composting toilet, as required by the health department. She also indicated an attached deck.

Mr. Strubinger asked when the deck had been built. Atty. Adams said she assumed that it was built in 1973, when the other permit was issued.

Atty. Adams said that according to a survey, the property had been a dwelling at one point. She pointed out a 1932 field card, which had been updated in 1949. She emphasized that her client was trying to make reasonable use of the property, adding that the structure was currently like a recreational shed. She said that according to Section 118-300D of the code, an addition of this sort was allowed. She stated that the property needed to be raised to 17 feet to meet the flood requirements. She discussed the size of the property, stating that it was $\frac{1}{4}$ acre at high tide. Atty. Adams explained that the structure needed to be rebuilt to become more solid. She added that the hardship was that it was impossible to develop on the site, due to the nature of zoning regulations which require setbacks that are 50 ft. from the high tide line. This leaves no conforming space in which to build. She emphasized that the one-story dwelling being proposed would still be the smallest house on any of the islands.

Mr. Tully stated that the Board did not have details of the foundation and could not see how it was attached and he noted it was a proposed two story structure.. He added that the applicant was not showing the Board the same documents that were shown to the Zoning Commission. Atty. Adams said that the applicant had not been before Zoning.

Mr. Tully said that the items before the Board were not the same ones that had been shown to Mr. Strauch.

Mr. Rick Tomecetti, an architect, submitted a document showing the pier. He described the proposed spread-footing and the concrete pier. He added that there was a fresh-water cistern and a breakaway grill on the property.

Atty. Adams distributed a summary sheet of the proposal. She reiterated that based on two sections of the code, the applicant could not put anything on the property. She discussed the topographical hardship.

Mr. Tully said that even if trees were not being removed, it seemed from the photographs that vegetation would be impacted.

Atty. Adams said that the property included mostly rock. She reiterated that the real issue was how to develop and make reasonable use of the property. She said that the current structure needed to be removed, in order for a more sound one, with more solid fastening, to go up.

Mr. Tully asked what zone the property was in. Ms. Rochefort said it was in the Island Conservation Zone, adding that it had changed from a B-zone in 1974.

Mr. Tully asked what was allowed in an Island Conservation Zone. Atty. Adams described allowed uses, including boathouses and playgrounds and single family residences.

Mr. Strubinger asked about the total area of the property. Atty. Adams said it was 1/4 of an acre.

Mr. Colarossi pointed out that the property had been purchased with a storage shed, a deck, and a dock and had been used to an extent that could be supported by those structures.

Atty. Adams said that the interior of the structure resembled a residence and was comparable to a "glorified campsite." She said that no plumbing or utilities had been requested. She reiterated that it needed to be re-built in order to comply with regulations. Atty. Adams also pointed out that there were larger structures on other even smaller islands and that the footprint of the structure would not be greatly increased.

Mr. Tully described the tiny Chatauqua houses on Martha's Vineyard, adding that the structure did not need to be five times larger in order to be habitable.

Ms. Rochefort confirmed that the existing structure was 96 square feet.

Mr. Santo asked how much of the proposed 808 square feet would be living space. Mr. Tully calculated the proposed square footage and it exceeded the what Attny Adams

claimed. Atty. Adams described the details of the proposed structure. She reiterated that the applicant wanted a fortified and safe structure to be constructed. She said that variances based on the same hardships had been granted for other properties. She added that a variance was needed for minimum lot size and for distance from the high water line.

Mr. Tully asked how long the Millers had owned the property. Atty. Adams said they had owned it since September 2008.

Mr. Colarossi asked if any orders had been given by the health department to demolish the structure. Atty. Adams said no.

Ms. Rochefort clarified that the Board needed to make a decision before Zoning or Conservation.

Mr. Lopez asked Atty. Adams to summarize the hardship. Atty. Adams stated that given the setbacks and the topography of the site, any development was impossible.

Mr. Colarossi stated that the topography in itself did not prevent development.

Mr. Tully said that the topography alone did not constitute a hardship.

Mr. Strubinger said that the size of the property and the setback were the only hardships.

Mr. Strubinger closed the public hearing.

IV. BOARD ACTION ON ITEM C AND BOARD ACTION ON #08-0605-02 30 WINFIELD ST. REQUEST FOR EXTENSION OF TIME IN WHICH TO OBTAIN PERMITS.

#09-1001-03—Cedar Hammock Island

Mr. Lopez said that he was inclined to grant the variance, because compliance was offered.

Mr. Colarossi said that the size of the structure seemed too intrusive, although it was an aesthetically pleasing rebuild.

Mr. Tully addressed the complication involved in having no guidelines regarding reasonable use of a property.

Mr. Strubinger pointed out that precedence did not rule in such cases.

Mr. Tully said that the property was fully a parcel, as evidenced by its assessment for \$475,000.

Mr. Colarossi clarified that the Board had no control over the assessment and also that the Board was not ruling out all construction.

Mr. Tully stated that denying the application would be depriving the owners of the use of the land.

Mr. Colarossi reiterated that the reasonable expectation of the property involved the fact that it contained a shed and a dock.

Mr. Strubinger read from the Zoning regulation #118-1450, clarifying that additions of less than 500 square feet were exempt from a special permit.

Ms. Rochefort discussed the importance of the benchmark 50% of the structure's market value. She stated that a variance would be needed for a dwelling unit.

Mr. Strubinger clarified that the owners could by right add 500 square feet to the structure. Mr. Tully said this was not possible because the changes they would have to make on the existing structure would be more than 50% of its value, hence they would need a variance and #118-1450 did not apply.

Mr. Tully emphasized that the proposed construction would become a primary structure, rather than an accessory structure.

Mr. Colarossi pointed out the irrelevance of the assessment of the property, adding that the Board did not consider this factor in evaluating other properties. He also explained that the value in the property was in the dock and in its considerable privacy.

**** MR. STRUBINGER MADE A MOTION TO DENY THE VARIANCE, BECAUSE THE APPLICANT DID NOT SHOW A HARDSHIP.**

**** MR. COLAROSSİ SECONDED.**

**** MOTION DID NOT CARRY (LOPEZ, TULLY, SANTO OPPOSING).**

**** MR. TULLY MADE A MOTION TO GRANT THE VARIANCE, WITH CONDITIONS CONCERNING DETAILS OF THE FOUNDATIONS AND SPREAD-FOOTING; WITH THE CONDITION THAT THE BREAKAWAY CONSTRUCTION BE ANALYZED BY AN INDEPENDENT STRUCTURAL ENGINEER; WITH THE CONDITION THAT DAMAGE TO VEGETATION BE MINIMIZED; AND WITH THE CONDITION THAT EROSION AND SEDIMENTATION CONTROLS BE IMPLEMENTED.**

**** MR. LOPEZ SECONDED.**

**** MOTION DID NOT CARRY (STRUBINGER AND COLAROSSİ OPPOSING).**

08-0605-02--WINFIELD STREET.

**** MR. COLAROSSİ MADE A MOTİON TO APPROVE THE REQUEST
FOR AN EXTENSION OF TIME IN WHICH TO OBTAIN PERMITS.**

**** MR. STRUBİNGER SECONDED.**

**** MOTİON PASSED UNANİMOUSLY.**

V. ACTION ON HEARING MINUTES, September 3, 2009

**** MR. COLAROSSİ MADE A MOTİON TO APPROVE THE MINUTES.**

**** MR. SANTO SECONDED.**

**** MOTİON PASSED UNANİMOUSLY.**

VI. ADJOURNMENT

**** MR. COLAROSSİ MADE A MOTİON TO ADJOURN.**

**** MR. SANTO SECONDED.**

**** MOTİON PASSED UNANİMOUSLY.**

The meeting was adjourned at 9:20 pm.

Respectfully submitted by Charlene Smith.