

**CITY OF NORWALK
ZONING BOARD OF APPEALS
REGULAR MEETING
Minutes MAY 19, 2022**

ATTENDANCE: Chairman Andy Conroy, Lee Levey, Marilyn Altman, Tom Farkas, Danielle Sanchick

STAFF: Steve Kleppin, Director of Planning & Zoning; Tammy Maldonado; Michelle Andrejewski;

OTHER: Atty. John Vecchiolla, Diane McGill, Robert Sedita, Atty. Liz Suchy; Steve Sedita; Maria Ebner; Nora King; Atty. Adam Blank; Georgie Ferrar; Molly Mayeux; John Vecchiolla; Steve Sedita; Marilyn Bivona; Trevor Stanco; Gary Chase

CALL TO ORDER

Chairman Conroy called the meeting to order at 7:33. There was a quorum present.

ROLL CALL

PUBLIC HEARINGS

22-0317-01

**MARIA EBNER - APPEAL OF ZEO DETERMINATION THAT CURRENT MARKET VALUE CANNOT BE USED
AND RATHER MARKET VALUE AT TIME OF INITIAL PERMIT MUST BE APPLIED FOR SUBSTANTIAL
IMPROVEMENT TO EXISTING SINGLE FAMILY DWELLING IN A FLOOD HAZARD ZONE. PROPERTY
LOCATED AT 21 SABLE ST.**

Mr. Levey reviewed the details of the property for the Board. Ms. Maldonado informed the Board that there was a revised version of the staff memo which she reviewed.

Atty. Suchy came forward to discuss this item. Letters have been sent to abutting property owners. The green cards have been returned to staff. She requested confirmation for the responsive memorandum of May 13th. She reviewed the layout of the property. There are two structures that were both constructed prior to the enactment of zoning in 1929. Both are legally non-conforming. She argued that the 1993 value for the property is the value that was established. She reviewed the details of the value of the property. They believe the disagreement in value is due to human error. The appeal was filed on January 18th. The regulations do not appear to contain specific language or reference to an original or prior market tied to a previous permit when establishing market value in relationship to substantial improvements to properties within the coastal zone. FEMA has identified various acceptable estimates of market value which include an independent appraisal or property values established by a local tax assessor. She noted that the applicant's structure has been maintained and not deteriorated. Further review of the market value and related details followed.

Mr. Levey asked what the client's plans for the property were.

Atty. Suchy said that they had ceased with any plans due to the change in the value of the property.

Mr. Levey asked how long the clients had owned the property and expressed a belief that they had not done their due diligence.

Atty. Suchy pointed out that there had been no plans to upgrades or changes to the property at the time of purchase and, thusly, they had no reason to investigate this aspect of the zoning regulations.

Mr. Levey said he knew of people who had purchased property without a proper survey resulting in incomplete information about their property.

Mr. Farkas asked if an underwriter had been involved for insurance in 2016.

Atty. Suchy said she did not have an answer to that question.

Ms. Ebner said that they had done their due diligence and were aware that they were moving into a flood zone district and they were aware of the 50% rule by FEMA. They were not aware of the change in the interpretation of current market value at the time and that it would be based on their permit from 1991. This made it so she could not afford to repair her roof. She also expressed concern over how her taxes would be calculated and which value would be used for them. Further discussion followed. Mr. Levey noted it was the job of the zoning officer to enforce FEMA regulations as they have been presented and slightly modified by each municipality. He felt that the presentation by FEMA was consistent within the municipalities.

It was noted by Ms. Ebner's partner that they had looked into renovating the house earlier this year. They had received an estimation that had later been retracted and changed to reflect the current values. She felt that this meant that they had done their due diligence when buying the property only to have it changed later on. Chairman Conroy voiced concerns over the methods currently being used and suggested that the methods be changed. Mr. Levey said that was the job of the Zoning Commission and not the Zoning Board of Appeals.

Atty. Suchy pointed out that the primary reason for the disagreement was the change in the way the regulation was interpreted. She believed the interpretations had been changed, likely in a staff meeting, with no chance for a public hearing. She felt that the appeal should be upheld as a result. Discussion followed regarding the standards. Chairman Conroy clarified that, though he did not like the code and desired it to be changed, the job of the ZBA was to make sure the code was followed.

Ms. Altman noted that this was a question of policy and she was unsure of why the ZBA was dealing with it. She said that there was, indeed, a discrepancy in how this had been applied. Chairman Conroy said that they were not in a position to fix that. They were only judging if the ZEO had made an error or had not made an error. Further discussion followed. Atty. Suchy noted that, should the appeal be denied, an option would be to submit a draft of an application to the Zoning Commission to redraft the regulations.

Ms. Nora King came forward to speak in favor of this item. She said she had fought, previously, to change this rule due to how restrictive and unfair it was. It has done a lot of destruction to shoreline communities. It would be better to renovate or work with the existing structure to prevent further destruction and maintain the integrity of the shoreline. She also noted a lot of people had been

grandfathered in. To her understanding the housing value was always reset to the current housing value. They did not change the rules without grandfathering in people who had already done things prior.

Chairman Conroy suggested she draft and submit a letter with her ideas on how to remedy the regulations.

Atty. Blank came forward to speak in favor of this item. He noted that this issue came up frequently with clients. Discussion followed on if it was appropriate to display the regulations for the Board. He noted that Norwalk used very specific and defined terms for start of construction. He reviewed this and how it affects the market value of the house. Discussion followed.

Ms. Ferrar came forward to speak in favor of this item. She said it was currently affecting her and she would love to see a change in how the market value was applied. She felt that the rule was very limiting. She desired to see the code changed as it wasn't current or fair; especially since she is in a flood zone as well. It can have a large impact on the resale value of the house.

Atty. Suchy clarified that the decision to apply prior market value was not a decision made or suggested by Ms. Maldonado. The determination had been made at a point following Superstorm Sandy. It had been a staff decision. She feels it should be the current market values as has been applied in the past. She also felt that there was a disconnect and disparity to the detriment of property owners.

Chairman Conroy reviewed the ways in which the regulation could be changed. Further discussion followed. Ms. Maldonado pointed out that regulations designated the initial market value and not the current one. Discussion followed on the dates.

**** MR. LEVEY MOVED TO DENY APPLICATION 22-0317-01 MARIA EBNER - APPEAL OF ZEO DETERMINATION THAT CURRENT MARKET VALUE CANNOT BE USED AND RATHER MARKET VALUE AT TIME OF INITIAL PERMIT MUST BE APPLIED FOR SUBSTANTIAL IMPROVEMENT TO EXISTING SINGLE FAMILY DWELLING IN A FLOOD HAZARD ZONE. PROPERTY LOCATED AT 21 SABLE ST. FOR APPEAL AND ADVISE THE APPLICANT THAT THEY WORK WITH THE PLANNING & ZONING COMMISSION TO CHANGE THE REGULATIONS.**

**** CHAIRMAN CONROY ADDED THE AMENDMENT THAT THE BOARD MAKE A RECOMMENDATION THAT THIS SECTION OF THE CODE BE UPDATED AND PARTICULAR ATTENTION PAID TO THE DATE THAT IS APPLICABLE TO THE MARKET VALUE WITH EVALUATION.**

**** THE MOTION PASSED UNANIMOUSLY.**

(CONTINUED FROM APRIL 21, 2022) 22-0317-02
MARILYN BIVONA – VARIANCE TO ALLOW PARKING WITHIN THE FRONT SETBACK AT EXISTING SINGLE-FAMILY RESIDENCE. PROPERTY LOCATED AT 8 SHAW AVE.

Atty. Vecchiolla came forward to discuss this item. A paving company has visited the property. There were concerns that the area was not feasible for the implementation of a new driveway. He reviewed the layout of the property and provided images for the Board. He noted that there was someone opposed to the driveway being located on that side of the property. He said that this was a non-

conforming use, had been present for more than 82 years, the driveway location is impacted by the sewer line topography, a stone wall that is not as stable as it should be, and opposition from a neighbor.

Mr. Levey asked if the garage had been converted to living space without a permit.

Atty. Vecchiolla confirmed this.

Mr. Levey asked if there had been any steps to legalize.

Atty. Vecchiolla said they hadn't but hadn't been aware of it until after the final inspections. They will be willing to file for a permit and pay the application fee. Discussion followed. He felt that the need for a variance was supported by the need for the relocation of the driveway but because the area had been developed prior to existing zoning regulations. Mr. Levey said it did not predate zoning. Atty. Vecchiolla said that the regulation in question had been adopted in 2005. Chairman Conroy said that the use of the garage as a living space was not allowed regardless and there would need to be conditions regarding it if approved. Discussion followed. Atty. Vecchiolla said that he had not seen a parking problem on the street on prior visits.

No one wished to speak in favor of this item.

No one wished to speak in opposition to this item.

22-0519-01

SEDITA FAMILY II, LLC ET AL – VARIANCE TO ALLOW: PARKING WITHIN THE FRONT SETBACK, COMPACT SIZE IN LIEU OF STANDARD SIZE PARKING SPACES AND RELIEF FROM REQUIRED BACK UP AISLE DIMENSION AT SINGLE FAMILY RESIDENCE. PROPERTY LOCATED AT 8 YARMOUTH RD.

Atty. Suchy came forward to discuss this item. Notification of the hearing has been mailed to abutting property owners and green cards submitted and copies of letters for green cards not yet received. She provided photos of the site for review. She reviewed the details of the property for the Board. They hope the new parking spaces will help relieve congestion. The lot is undersized. There are also dramatic elevation changes. There is no off-street parking for the property. There are multiple properties in the area that lack off-street parking spaces. She provided the plans for an alternate configuration. One query from a neighbor was received and the map shared with them. There are concerns that they may need to cut into the historic stone wall if an alternate parking plan is taken.

Mr. Levey asked what would prohibit an owner from buying a large car and causing issues with the traffic as a result.

Atty. Suchy pointed out that people could do that currently and the residents were vigilant about this matter.

Mr. Levey asked if they had tested the configuration to see if it was workable. He also asked if there had been consideration for doing parallel spaces.

Atty. Suchy said that this would eliminate a portion of the landscaped area. She reviewed the issues for the Board. She did not believe that her clients would be adverse to this. Further discussion followed regarding the parking issues on the street. Atty. Suchy suggested that they place a condition that the spaces only be used for the purpose for which the variance was sought. Further discussion followed regarding parking concerns, plans, and details. It was suggested that they work with staff to come up with alternate configurations that the Board would be comfortable with.

**** CHAIRMAN CONROY MOVED THAT THEY LEAVE THE HEARING OPEN FOR ITEM 22-0519-01 SEDITA FAMILY II, LLC ET AL – VARIANCE TO ALLOW: PARKING WITHIN THE FRONT SETBACK, COMPACT SIZE IN LIEU OF STANDARD SIZE PARKING SPACES AND RELIEF FROM REQUIRED BACK UP AISLE DIMENSION AT SINGLE FAMILY RESIDENCE. PROPERTY LOCATED AT 8 YARMOUTH RD. OPEN AND GIVE THE APPLICANTS TIME TO CONSIDER OTHER SET-UPS.**

**** THE MOTION PASSED UNANIMOUSLY.**

22-0519-02

TREVOR AND HANNAH STANCO – VARIANCE FOR NUMBER OF STORIES; 3½ STORIES PROPOSED, 2 ½ STORIES MAXIMUM ALLOWED FOR SINGLE FAMILY DWELLING PROPOSED TO BE RAISED TO MAKE FLOOD COMPLIANT. PROPERTY LOCATED AT 74 ROTON AVE.

The Board agreed to hear this item despite it being 9:30 P.M.

Mr. Chase came forward to discuss this item. Mr. and Ms. Stanco have resided in the house for appx. 5 years. He provided and reviewed the plans of the house for the Board.

Ms. Altman asked for clarification as to the height of the building which was answered to her satisfaction.

No one wished to speak in favor of this application.

No one wished to speak in opposition to the application.

BOARD ACTION ON: A – D

(CONTINUED FROM APRIL 21, 2022) 22-0317-02

MARILYN BIVONA – VARIANCE TO ALLOW PARKING WITHIN THE FRONT SETBACK AT EXISTING SINGLE-FAMILY RESIDENCE. PROPERTY LOCATED AT 8 SHAW AVE.

**** MR. LEVEY MOVED TO APPROVE THE VARIANCE REQUEST FOR ITEM 22-0317-02 MARILYN BIVONA – VARIANCE TO ALLOW PARKING WITHIN THE FRONT SETBACK AT EXISTING SINGLE-FAMILY RESIDENCE. PROPERTY LOCATED AT 8 SHAW AVE. IF AND WHEN THE APPLICANT FILES FOR A BUILDING PERMIT FOR THE FINISHING OF THE GARAGE TO HABITABLE SPACE AND PAYS THE PERMIT FEE.**

Mr. Levey added the following condition:

- THERE BE NO CREEPING FORWARD TOWARD THE ROAD OF THE BUILDING.

**** THE MOTION TO APPROVE AS AMENDED PASSED UNANIMOUSLY.**

22-0519-02

TREVOR AND HANNAH STANCO – VARIANCE FOR NUMBER OF STORIES; 3½ STORIES PROPOSED, 2 ½ STORIES MAXIMUM ALLOWED FOR SINGLE FAMILY DWELLING PROPOSED TO BE RAISED TO MAKE FLOOD COMPLIANT. PROPERTY LOCATED AT 74 ROTON AVE.

**** MS. ALTMAN MOVED TO APPROVE ITEM 22-0519-02 TREVOR AND HANNAH STANCO – VARIANCE FOR NUMBER OF STORIES; 3½ STORIES PROPOSED, 2 ½ STORIES MAXIMUM ALLOWED FOR SINGLE FAMILY DWELLING PROPOSED TO BE RAISED TO MAKE FLOOD COMPLIANT. PROPERTY LOCATED AT 74 ROTON AVE.**

**** MR. LEVEY SECONDED THE MOTION.**

**** THE MOTION PASSED UNANIMOUSLY.**

ACTION ON HEARING MINUTES – APRIL 21, 2022

**** MR. LEVEY MOVED TO APPROVE THE MINUTES OF APRIL 21, 2022 AS SUBMITTED.**

**** MR. FARKAS SECONDED THE MOTION.**

**** THE MOTION PASSED UNANIMOUSLY.**

Chairman Conroy suggested that they change 'Action on Hearing Minutes' to 'Administrative Actions' with 'Sub A: Action on Hearing Minutes' and 'Sub B: Status of Training' and 'Sub C: Other Administrative Actions'.

ADJOURNMENT

**** MR. LEVEY MOVED TO ADJOURN.**

**** MR. FARKAS SECONDED THE MOTION.**

**** THE MOTION PASSED UNANIMOUSLY.**

The meeting adjourned at 10:01 P.M.