

**ZONING BOARD OF APPEALS
SPECIAL VIRTUAL MEETING
Final Minutes
July 14, 2020**

The Special Virtual Meeting was called to order at 7:00 p.m.

Roll Call:

Bill Lyman, Mark Mitsko, James Kading, Jeff Walker, James Stanton (alternate) and Diana Lurie Boersma (alternate). Also present, Zoning Enforcement Officer Candace Palmer. Absent: Raymond Dussault and Nat Trumbull (alternate).

Seated for the meeting were Bill Lyman, Mark Mitsko, James Kading, Jeff Walker and Diana Lurie Boersma (seated for Raymond Dussault).

Commission members and applicants accessed the meeting remotely via Webex by computer or phone.

New Business:

ZBA #20-08 Nancy Bourne Chase – Seeking a variance from ZR 5.1.1 to increase Floor Area Ratio from 15% to 22% and reduce Front Yard setback from 30' to 23' to construct a 310 sq. ft. addition. Property located on 13 Richmond Lane, Mystic. Assessor's Map 161 Block 6 Lot 8; Zone RA-20.

The application was accepted and scheduled for public hearing August 11, 2020.

Public Hearings:

ZBA #20-06 Aaron Castillo & Sydney Davies (Patrick S. Davies) – Seeking a variance from ZR 5.1.1 to reduce Rear Yard setback from 40' to 31' to construct a deck. Property located on 5 Vars Avenue, Pawcatuck. Assessor's Map 11 Block 4 Lot 8A; Zone RA-20.

Mr. Davies presented the application. The applicant stated that their hardship is that the setback prevents them from making reasonable use of their project. The lot is also undersized for its zone RA-20. If the lot was 400 feet smaller it would fall in RA-10 which would not cause them to need a variance. The deck will be along the rear of the home for the length, 12 feet deep with one set of stairs off the side. Mr. Lyman asked the applicant about the rear of the property. There are woods behind them and do not have a neighbor to the rear that they can see. Mr. Walker asked if they are open to a stipulation that they would not enclose the space. The applicant was in agreement. Ms. Boersma stated that a patio could be installed without a variance. The applicant responded that there could be a patio instead, but the home is lacking in storage space and the deck would be preferred.

Mr. Lyman closed the public hearing.

No Public Comment.

Mr. Walker moved to approve the application, seconded by Mr. Kading. Mark stated that this project would not need an application if it were for a patio of any size, but a deck is more user friendly. Ms. Boersma stated that while she is agreeable with the concept she struggles with the hardship and need to have a deck versus a patio which would not require the variance. Mr. Lyman spoke to the lot size and its status as being undersized for the zone which, would not require a variance if properly zoned. The vote was taken 4-1, motion approved. Vote as follows: Kading – approve, Walker – approve, Mitsko – approve, Boersma – oppose, Lyman – approve. The application was approved with one stipulation:

1. Deck is not to be enclosed with screen or roof.

ZBA #20-07 & CAM Richard Bromley, Daryl Dion & Old Stonington Road, LLC (Russell E. Sergeant, AIA-Agent) – Seeking a variance from ZR 5.2.1 to reduce Front Yard setback from 40' to 20' on Old Stonington Road, on two lots being merged, to construct a mixed-use building. Properties located on 26 & 38 Old Stonington Rd., Mystic. Assessor's Map 153 Block 2 Lots 3 & 2; Zone GC-60.

Mr. Sergeant presented the application. The applicant is proposing to merge two lots on the property for construction of a mixed-use building. Merging the lots would make the lot more conforming for the zone and eliminate a side yard setback non-conformity. The site is currently home to an existing oil terminal and retail shop. They plan to purchase the property with the retail shop and construct an office with residential above. The roadway was cut and built in approximately 1969 and created a narrow strip of land with two front yards. Zoning was originally established with a 30' front yard setback in this area, however later on this was raised to 40'. The property is currently on 107' wide at the widest between the two roads. When reviewing the existing buildings, the fire department and Dog Watch Café are about 20' from Old Stonington Road. The applicant is proposing to construct a two-story mixed-use building with a first-floor office and two 2-bedroom apartments above. This would require a single variance of 20' on the Old Stonington Road side, not extending beyond existing buildings. The application received approval from the Architectural Design Review Board.

Mr. Sergeant addressed a letter from Peter Gardner and spoke to the Plan of Conservation and Development. This is a commercial zone not off of an arterial highway and will be a reasonable development of an underutilized area. Mixed use opportunities are also encouraged. Mr. Sergeant spoke about the tidal wetlands off site and flood zone and the plan conforming with the requirements of the zone and goals of the coastal area management and plan of conservation and development. The lot is unique for the zone that it has four times the minimum frontage but is only 107' deep making it difficult to build on within the building envelope. Mr. Sergeant explained that they will be reducing a number of non-conformities on the property although the building will be larger than the current retail shop.

Mr. Kading clarified that the entry is from Old Stonington Road but the entry to the building faces Route 1. Mr. Walker asked about the opposing neighbor's proximity. They are the first home on Latimer Point Road. Mr. Walker asked about the landscaping plan. There will be trees remaining on the site. For the new building and there are woods on the Route 1 right of way.

The applicant is agreeable to providing screening to Route 1 where they can. Mr. Walker asked for the materials of the façade. Mr. Sergeant showed the elevations and landscaping. Mr. Mitsko stated that the building is attractive and will be a better view down Route 1. Ms. Boersma asked if the apartments will be affordable housing. Mr. Sergeant stated this is a small project so they aren't a good candidate. Mr. Lyman asked who will be occupying the office space. Densmore Oil will occupy about two-thirds of the first floor and then there will be rental area available. Mr. Stanton stated that he is in favor of the application and it is an improvement to the property. He feels that Mr. Gardner's property will not have significant impact to its view.

Public Comment in Favor:

None.

Public Comment Against:

Peter Gardner, 8 Latimer Point Road, neighboring property owner spoke against the application. Mr. Gardner is a licensed land surveyor and spoke about the land survey not being signed and sealed. Mr. Gardner said that when the state took the land to create Route 1 in this area the property owner was compensated at the time. Mr. Gardner stated that the financial advantage to the applicant is not a basis for a variance. He is able to see the existing building from his property and would be able to see the new building. He does not see the hardship seeing that there has been use of the property for many years through the existing building. He feels that the survey has not been done properly and the landscaping is not guaranteed due to a significant amount being on state property. Mr. Gardner stated that there is not a lawful reason to grant the variance.

General Comment:

None.

Rebuttal:

Mr. Sergeant stated that they are not asking for a site plan approval in this application, they are asking for the variance so they can move forward with hiring a landscape architect and surveyor. They are willing to work with Mr. Gardner to provide adequate screening if they are given the ability to move forward. They did present a building that would fit in the building envelope; however, it would be unfitting with the area as determined by the Architectural Design Review Board.

Mr. Walker asked whether they have oversight on landscaping. Ms. Palmer explained that comes under the planning and zoning approval.

Mr. Lyman closed the public hearing.

Mr. Kading moved to approve the application, seconded by Mr. Walker. Mr. Kading stated that he feels the plan is appropriate for the property and that the building would match up with the other buildings on the nearby property. Mr. Walker stated he is in favor of the plan but hopes

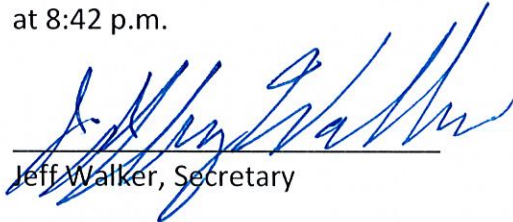
to see proper landscaping and survey for their future application. Mr. Mitsko stated that the shape and orientation of the lot is a hardship and the plan fits with the plan of conservation and development. Ms. Boersma expressed her support. Mr. Lyman spoke about the hardship of unique geometry of the lot and the zoning regulations that were overlaid in this area that has created a series of non-conformities. Mr. Mitsko reiterated that variances are granted on a case by case basis. The vote was taken all in favor 5-0, motion approved. Vote as follows: Kading – approve, Walker – approve, Mitsko – approve, Boersma – approve, Lyman – approve.

Mr. Kading moved to approve the CAM Application, seconded by Mr. Mitsko, all in favor 5-0, motion approved.

Minutes:

Mr. Mitsko moved to approve the minutes of the June 9, 2020 meeting, seconded by Mr. Walker, all in favor 5-0, motion approved.

Mr. Mitsko moved to adjourn, seconded by Mr. Kading, all in favor 5-0, the meeting adjourned at 8:42 p.m.



Jeff Walker, Secretary