

**ZONING BOARD OF APPEALS**  
**REGULAR MEETING**  
**Final Minutes**  
**April 14, 2015**

Seated for the meeting were Russell McDonough, Bill Lyman, Virginia McCormack, David Rezendes, and Chairman Matthew Berger. Commissioner Lynn Conway was absent.

Chairman Matthew Berger read the call to order at 7:05pm.

Dave Rezendes was seated for Lynn Conway.

Public Hearing:

**ZBA #15-04 Donald Vail** – Seeking a variance from ZR 5.1.1 bulk requirements to increase the FAR to 31.5% (6,722 s.f.) for a 208 s.f. addition. Property located at 64 Washington St., Mystic. Assessor's Map 174 Block 15 Lot 8; Zone RH-10.

Ms. Palmer summarized the application; the applicant received an approval for the addition to his kitchen in the 1990s, a zoning amendment made in 2006 effectively changed the measured height by increasing the amount of square footage that was counted towards GFAR.

Ms. Palmer stated that there was a letter from neighbor in favor of the applicant. The applicant explained the history of the renovations and additions to the home. They were unable to complete construction at the time and since the amendment was made they are required to obtain a variance. The applicant met with former ZEO Mr. Larkin and was assured the original permit would be acceptable after the change to the zoning regulations.

No Public Comment

Mr. Rezendes moved to approve the application, Ms. McCormack seconded, Mr. Lyman and Mr. Berger discussed permit expiration dates, all in favor 5-0, motion approved.

**ZBA #15-05 David Brown & Scott Lane** – Seeking a variance from ZR 5.1.1 bulk requirements to reduce the front yard setback from 50' to 40'5" for an entry addition. Property located at 67 Collins Rd., Assessor's Map 125 Block 1 Lot 18; Zone RR-80.

Ms. Palmer summarized the application, small addition to accommodate a new compliant stairwell.

Bob Mercer spoke representing David Brown and Scott Lane. Mr. Mercer explained that the addition to the entry would allow for the new compliant stairwell landing. The entrance would allow for better handicap accessibility as well. Ms. Palmer explained they did not originally realize that they would need a variance prior to constructing the stairs but discovered the requirement after they had installed the new stairway and realized that the area was within the front yard set back.

No Public Comment

Mr. McDonough moved to approve the application, seconded by Mr. Lyman, all in favor 5-0, motion approved.

**ZBA #15-06&CAM David P. Madasci** – Seeking a variance from ZR 5.2.1 bulk requirements to reduce the front yard setback from 50' to 28.8'; reduce side yard from 25' to 18'; increase height from 20' to 38.5', and ZR 7.7.8.3.1 to reduce distance from the Coastal Jurisdiction Line from 100' to 50' and ZR 7.3.5 to increase Coastal Height Limitation from 24' to 37.2' for demolition and reconstruction of a single family residence. Property located at 53 Roseleah Dr., Mystic. Assessor's Map 175 Block 1 Lot 17; Zone MC-80.

Ms. Palmer summarized the application, noting they are eligible for relief with zoning regulation 2.9 allowing for their undersized lot to be held to a more compatible residential zone requiring less variances, but did the applicant did not wish to move forward under the residential zoning regulation. Ms. Palmer read correspondence from the Town Engineer regarding the FEMA requirements and comments from CTDEEP. Three additional letters in favor were received by the planning department from the community.

Mr. Kepple, attorney for Mr. Madasci, explained the application and the decision to apply for these variances rather than using the relief. He further explained the hardships of the application, including topographic issues, it is in a flood plain, there are high winds, and its unique configuration which is susceptible to storms. Due to the damage sustained from Hurricane Irene and Superstorm Sandy, Mr. Madasci sustained damage more than 50% the value of his home therefore; Mr. Madasci must comply with FEMA requirements and new building code when making any further modifications. Mr. Madasci is currently living in the home. Mr. Kepple explained that Mr. Madasci is only left with the option to tear down and rebuild due to the current condition of the home. Mr. Kepple described the current home as a danger to Mr. Madasci. Due to the storms Mr. Madasci is no longer able to make additions to his home and would like to still take advantage of the 3,375 s.f. he is allowed for his zone using the MC-80 zone. Mr. Kepple presented the plan drawings exhibit #2 made in 2013 that represented a 12' height off the ground per regulations that were since raised to 14'. Mr. Kepple then presented exhibit #3 plan drawings for the desired structure. The applicant has decided to raise the structure another 3.5' higher than the towns regulations require in order to accommodate a 500 year flood elevation level. Mr. Kepple presented another drawing depicting the current height of the house when raised to minimum levels compared to the 500 year flood elevation level. The current building is unable to be raised in its condition. Mr. Kepple presented several documents supporting the decision to raise the house to the 500 year flood elevation level. Mr. Kepple explained the funds received from FEMA that are more than 50% of the home's value. Mr. Kepple spoke on the history of the Coastal Height Limitation and that neighboring towns do not have this regulation and was designed by an individual many years ago and feels it is out of date due to current climate conditions. Mr. Rezendes questioned the need for 13.2' above the Coastal Height Limitation when they are only adding 3.5' to allow for the 500 year flood elevation level. Mr. Kepple explained the applicant would like to have two story home as he does currently. Mr. Kepple went on to explain the additional variances requested, the front yard setback, the side yard setback and the Coastal Jurisdiction Line. Mr. Berger asked if the home was presently occupied, Mr. Kepple answered affirmatively.

The meeting recessed at 9:02pm and reconvened at 9:10pm.

Mr. Kepple offered to move the home away from the side yard setback, but it will put the home closer to the coastal buffer. Mr. Lyman questioned where the zones lie in the neighborhood. Mr. Lyman questioned why the applicant did not take the undersize lot relief. Ms. McCormack questioned the increase in the area of the house creating the need for additional variances. The commission discussed the reasoning for building a larger home. Mr. Berger questioned the hardship statement concerning the regulations. Mr. Madasci stated that there is a brick wall surrounding the home and it is physical a part of the property and part of the footprint in his opinion, therefore they planned to build to that footprint and build in accordance with the 3,375 s.f. they are allowed in the zone.

Public comment in favor:

Tom Norris, resident of the neighborhood, stated he was in favor of the application due to the visual aspect it brings to the community and the incoming threat of the climate changing. Dennis Regan, resident of the neighborhood, believes Mr. Madasci is taking the correct precautions for the current climate. Mr. Regan also believes many homes in the neighborhood will have to follow suit. He believes it is in sync with current changes happening in the neighborhood.

Don Evans, resident of the neighborhood, explained the nature of the neighborhood and the damage to Mr. Madasci's home. He believes the plan is sound and will improve the neighborhood.

Tom Blumie, owns property on Roseleah Drive, reiterated the comments of the previous speakers and does not believe the addition to the floor area of the home is out of line.

No public comment against or general public comment.

Mr. Kepple reiterated that the wall is a significant part of the structure with decks attached and are using this footprint for the plans of the new home.

Mr. Berger closed the public hearing.

Mr. Rezendes expressed his issue with the larger footprint of the home as well as the additional height of the home. Mr. McDonough also expressed the issue with the expansion of the home. Mr. Berger expressed that the coastal regulations may be behind the times and could be referred to Planning and Zoning Commission, however the regulations exist currently. Mr. Berger also expressed that the applicant does not need to rebuild but would like to in preparation for the next storm, there is no hardship in the existing regulations. Mr. Lyman expressed that if the applicant took the ZR 2.9 relief, that there would be many other suitable options for the home that would not require variances. Mr. Lyman and Mr. Berger are concerned about setting a precedent for the neighborhood to go outside of regulations. Ms. McCormack brought up the point of the home needing to be replaced. Mr. Berger explained that the applicant has had the funds for 26 months and not moved forward therefore showing it is not time sensitive.

Mr. Rezendes moved to deny the application, seconded by Mr. McDonough, all in favor 5-0, motion approved.

**New Business:**

**ZBA #15-07 Jennifer Herbst & Kevin Detwiler** – Seeking a variance from ZR 5.1.1 bulk requirements to decrease the required front yard setback from 30' to 27' for the construction of new covered front door steps. Property located at 14 Covese Court Mystic, Assessor's Map 161 Block 8 Lot 2; Zone RA-20.

The application was accepted by the Board and scheduled for the next regular meeting.

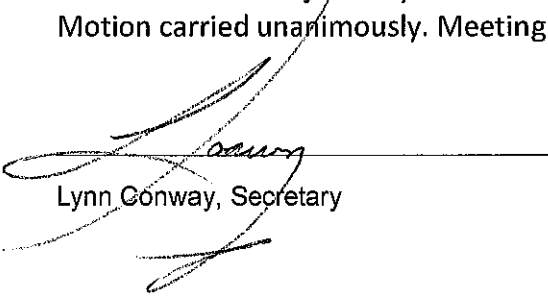
9:40 pm - The Board entered Executive Session.

10:05 pm – The Board came out of Executive Session

A motion was made by Mr. Lyman and seconded by Mr. McDonough to approve the Draft Settlement as presented. Motion carried unanimously. Mr. Berger stated that the settlement would now be scheduled for a hearing at the Connecticut Superior Court at which point the public may comment on the proposed settlement should the proposed settlement be accepted by the Court.

A motion was made by Mr. McDonough and seconded by Mr. Lyman to accept the March 10, 2015 minutes as submitted. The motion carried unanimously.

Motion made to adjourn by Mr. McDonough and seconded by Dave Rezendes to adjourn. Motion carried unanimously. Meeting adjourned at 10:20pm.



Lynn Conway, Secretary