

**ZONING BOARD OF APPEALS  
REGULAR MEETING  
Final Minutes**

**December 12, 2017**

Stonington Police Station, 173 South Broad St., Pawcatuck, CT

Present for the meeting were Matthew Berger, Virginia McCormack, Bill Lyman, Russ McDonough, Jeff Walker, Mark Mitsko, Raymond Dussault and Zoning Enforcement Officer Candace Palmer.

Seated for the meeting were Matthew Berger, Virginia McCormack, Bill Lyman, Mark Mitsko, and Russ McDonough.

Public Hearing 7:00 p.m.:

**ZBA #17-10 – William Martuscello (Robert Mercer-Agent)** – Seeking a variance from ZR 5.1.1 to reduce front yard setback from 30' to 22'8" and increase floor area ratio from 20% to 22.7%. Property located on 109 Old North Road, Mystic. Assessor's Map 181 Block 3 Lot 5; Zone RM-15.

Ms. Palmer summarized the application. Ms. Palmer explained that the lot is undersized for the RM-15 zone, it is closer to the RH-10, which if it were held to those standards, there would not be a need for any variances.

Mr. Mercer, project architect presented the application. The applicant is requesting two variances, a front yard setback and an increase to the Gross Floor Area. Mr. Mercer explained they are increasing the height to keep with the footprint of the home, it will only be raised about 3 feet two inches from the ridge. The lot is about 500 square feet over the RH-10 zone, which if had been zone RH-10, the variances would not be needed. Building code requires over 50% of the second floor to be over 7 feet. Approval of the application would allow them to achieve this standard. They are proposing two shed dormers, one in the front and one in the rear. Mr. Berger questioned the legal hardship for the application. Mr. Mercer explained that the zoning was imposed on the property after it was built, creating a pre-existing non-conformity. Mr. Berger explained the limitations of a legal hardship in Connecticut State Statute. Mr. Dussault stated that the current regulations inhibit reasonable use as the entire second floor is only 6'6" in height.

Public Comment in Favor:

Dan Russ, previous neighbor of the property spoke in support of the application and believes it is reasonable and fits with the neighborhood.

Jeannie Grills, neighbor of the property spoke in support of the application and stated that they were granted a similar variance several years ago. Ms. Grills explained that the home is similarly placed to others in the neighborhood. She also explained that it is very difficult to navigate, and does not meet code. It could be an issue in an emergency for egress and evacuating under

smoke in case of a fire. The neighbor next door was also granted a variance for a similar renovation.

Bill Martuscello, property owner stated that as parents they are concerned with the safety and well-being of their children.

Christine Martuscello, property owner stated they would like to bring the home up to code. The property has a long rental history, and it was not modified in this time before the current regulations were imposed and now they are trying to bring it up to modern standards.

#### No Public Comment Against or General Comment

Mr. Walker stated that he believes it will benefit the neighborhood and bring the home up to code and is in favor of the application. Mr. Dussault also stated that it is a reasonable request. Mr. Mercer reviewed the interior pictures of the home and the slants of the roof.

Mr. Berger closed the public hearing.

Mr. Lyman moved to approve the application, seconded by Mr. Mitsko. Mr. Lyman stated that hardship originates in the regulations, zoning was implemented and some smaller properties here and there were put into zones that did not properly match their lot size. Mr. Lyman stated that they are not going beyond the footprint of the home and will make the property safer. There is no detriment to the neighborhood and will benefit it. Mr. Mitsko stated he agrees with Mr. Lyman and that it is a reasonable request. Mr. McDonough and Ms. McCormack stated they agree and see the safety concerns. Mr. Berger raised concern with the legal hardship for the application. Mr. McDonough stated that they are not required to come up to fire code as a residential property. Mr. Lyman reminded the board that a hardship is defined as a peculiar or unique feature that prevents the landowner from making a reasonable use of the property. The vote was taken 4-1, the motion was approved.

Roll Call: Mitsko – approve, Berger – deny, Lyman – approve, McCormack – approve, McDonough – approve.

#### Minutes:

Mr. Lyman moved to approve the November 14, 2017 minutes, seconded by Mr. McDonough, all in favor 5-0, motion approved.

Mr. Berger recused himself, Mr. Lyman was appointed as Chairman. Mr. Dussault was seated for Mr. Berger. Mr. McDonough recused himself and Mr. Walker was seated for Mr. McDonough.

**ZBA #17-11 84 Liberty Street, LLC/Salvatore Ritacco** – Seeking a variance from ZR 6.6.4.6 density area requirement, to convert a two family into a three-family residence. Property located at 84 Liberty Street, Pawcatuck. Assessor's Map 3 Block 17 Lot 6; Zone RH-10.

Ms. Palmer summarized the application. Ms. Palmer noted there are two units and one is an accessory apartment.

Michael Cronin Jr., attorney for the applicant presented the application. The applicant is requesting to convert their property in to a three family dwelling from an existing two family dwelling. The lot is 18,900 square feet and is one of the largest in the neighborhood. Attorney Cronin reviewed the current floor plans for the first, second and third floor. Mr. Ritacco has been using the first floor for his office and the second floor for his living space. He plans to move and relocate his office. Renting the two floors as a single unit would be very difficult and impractical. Attorney Cronin reviewed the history of the property dating back to the Pawcatuck Fire District Zoning. Sal Ritacco took over the property in 2010. The property has been renovated and is in a set up for multiple units and the only thing needed to make it a three unit building would be a stove on the first floor. Attorney Cronin spoke about legal hardships and state statute. Pawcatuck Fire District enacted zoning regulations in 1925 for the Liberty Street area. The proposed three unit property would be permitted under these regulations. Since those regulations, the Town of Stonington enacted zoning regulations and then the Pawcatuck Fire District regulations were abolished. The applicant stated that the three unit building would be the highest and best use for the building. Attorney Cronin stated it would be a benefit to return the property to a fully residential building. Mr. Ritacco stated thirteen of his neighbors signed letters of support for the application. Attorney Cronin stated they have submitted decisions on similar property conversions that were approved. He specifically pointed out a very similar application that was approved in 2012. Attorney Cronin reviewed the goals of the nearby PV-5 zone. Mr. Ritacco submitted current photos of the property. Mr. Ritacco stated it would be impossible to connect the second and third floors as an alternative.

Mr. Walker discussed the size of the units and the parking area. Mr. Walker also discussed considering a prohibition to enclose the porch area. Mr. Lyman stated that this property is already larger than most three unit buildings in the area. The applicant will still be required to get a special use permit from Planning & Zoning if this variance is approved. Mr. Mitsko asked if there were similarly sized lots with three units nearby. Mr. Ritacco stated that there are several with even smaller lots.

#### Public Comment in Favor:

Leslie Ritacco, wife of the property owner stated that they have enjoyed living there but have the opportunity to relocate to a single family house in town, and would like to have the best use of this property.


#### No Public Comment Against or General Comment

Mr. Lyman closed the public hearing.

Mr. Dussault moved to approve application, seconded by Ms. McCormack. Mr. Dussault stated that the lot size exceeds the existing neighboring properties and is in harmony with the neighborhood. Ms. McCormack spoke to the Plan of Conservation and Development and this applications conformance to those goals. Mr. Mitsko and Mr. Lyman spoke their support of the

application as well and the hardship the regulations impose on the existing property. The vote was taken 5-0, motion approved.

Mr. Walker moved to adjourn, seconded by Mr. Mitsko, all in favor 5-0, motion approved. The meeting was adjourned at 9:12 p.m.

  
Virginia McCormack, Secretary