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**ZONING BOARD OF APPEALS
REGULAR MEETING**

Draft Minutes

April 9, 2024

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

The meeting was called to order at 7:00 PM.

Seated for the meeting were Chairman James Kading, James Stanton, Diane Lurie Boersma, Nat Trumbull, and Alternate Mark Bancroft. Candace Palmer, ZEO, was also present. Ray Dussault and Anthony Caporale were not present.

New Business: None

Administrative Review: None

Old Business:

AAP #24-01 St. Edmund of Connecticut, Inc. (Owner), Residents of Masons Island (Appellant), Amy E. Souchuns, Esq. (Agent) - Seeking to appeal the Enders Island CZEO letter dated 2/7/24. Properly located on Enders Island, Mystic. Assessor's Map 178 Block 1 Lot 1-1 thru 9; Zone RC-120. *Public Hearing Scheduled for May 14th*

Public Hearing:

- a. **ZBA #24-02 William & Rebecca Halsey** - Seeking a variance from ZR 7.1.1 to increase Floor Area Ratio from 15% to 20%, reduce Front Yard Setback from 30' to 28.3', and reduce Rear Yard Setback from 40' to 21.75' in order to construct a 1105 sq. ft. second floor addition. Property located on 28 E Forest Road., Mystic, CT. Assessor's Map 179 Block 4 Lot 2; Zone RA-20.

William Halsey, 28 E Forest Rd, discussed the variances that are being requested in this application. An additional letter of support from a neighbor was submitted into the record. Mr. Halsey discussed the degree of non-conformities; they will still be present but lessened. Mr. Halsey discussed the relocation of bedrooms, a bathroom, and the overall square footage change and its effect on the Floor Area Ratio (FAR) which is an issue due to the lot being undersized.

Ms. Palmer offered a staff clarification: the *net* increase of square footage is 640 square feet; thus, it is a 4% variance being requested for FAR, and there are now officially six letters of approval on record from neighbors.

The Board confirmed that all abutting neighbors are in support of this application and a view of the water will be maintained for the neighbor that was at risk of losing it.

Per Mr. Halsey, they and their architect did not see or discuss an option where this project was possible without passing the 15% FAR.

Holly Proctor, Project Architect, reiterated that this is a restrictive FAR for an undersized lot and this project will continue to be non-conforming but the two setback variances will be an improvement while there will be a slight increase of 4% for FAR.

Ms. Palmer read the letter which was submitted at the meeting into the record (from the owner of 24 E. Forest Rd). The neighbor was in support of the application and the 20% FAR as their views will be maintained.

The Board asked for the hardship to be restated by the applicants who clarified that their undersized lot creates restrictions that would not be in place if they were assigned a different zone such as RA-15 which their lot more closely aligns with, per the applicants.

Ms. Palmer confirmed the main difference between RA-15 and RA-20 being the FAR requirement.

Comments in Favor:

Taylor Hollenger from 8 Hickory Ledge commented on the sense of community on Mason's Island and that the Halsey's contribute to that community. He is in approval of the application and believes that all neighbors are as well.

Comments Against: None

The Public Hearing closed at 7:21 PM.

Mr. Stanton made a motion to approve the application, seconded by Ms. Boersma. Mr. Bancroft questioned the hardship and discussed this with the other Board members. Mr. Stanton believes the application is a great use of the property. Ms. Boersma expressed understanding for both sides but believes this request is an improvement to the lot. There was brief discussion regarding whether this lot does or does not differ from neighboring lots. The vote was taken as 4-1; Trumbull - approve, Boersma - approve, Kading - approve, Stanton - approve, Bancroft - deny.

- b. **ZBA #24-03 G Development, LLC (S. Cherenzia)** - Seeking a variance from ZR 8.1 to increase Maximum Building Height from 40ft to 46ft to construct an elevator overrun and install HVAC units with screening parapet walls above the roof. Property located on 32 Broadway Ave., Mystic, CT. Assessor's Map 174 Block 19 Lot 1; Zone LS-5.

Mark Comeau, 6 School St, Design Architect, explained the reasoning for needing a height variance for the elevator and mechanical system. partially due to materials that were available during construction.

The Board questioned why the variance was not requested at the time the applicants realized it would be necessary. Mr. Comeau discussed that there was an exemption under prior regulations and there was confusion as to the regulations that applied to their project. Ms. Palmer clarified that the regulations did change in November 2023 and the applicants could have applied for a special use permit for the increased

height however this was never done. Now the regulations have changed and the work is already completed without being approved. The Board discussed some interior details of the third floor.

Mr. Comeau provided some specifics as to why the old elevator system required less height than the current system. Further, there were no other elevator styles that were found which would meet the flood code.

Mr. Comeau did not offer an alternative for the elevator however the HVAC units do have the potential of being bolted to the side of the building.

The Board confirmed that the Certificate of Occupancy has not been issued and there would have to be an additional approval from the Planning and Zoning Commission.

Per Ms. Palmer, this property was also issued a Notice of Violation for installing a solid roof on a space that was only approved for an open, pergola style roof.

Comments in Favor: None

Comments Against: None

General Comments:

Suzanne Moore, 167 Cove Rd, owner of adjoining property, submitted a picture of the applicant's property into the record. Ms. Moore discussed her relationship with the applicant and a number of options for this project that were considered over the last few years, one of which was a 25-foot fence around the applicant's building which would have covered Ms. Moore's roughly 20-foot building. Ms. Moore was not necessarily against the project but was concerned with the applicant's process and requesting approvals after the fact.

Ben Tamsky, 5 Edgemont St, commented that it is not this Board's job to solve the applicants' problems or to help design their buildings. Mr. Tamsky believes that the approval from Planning and Zoning in 2018 was 'generous' yet now further height approval is being requested.

Ben Philbrick, 43 Wilcox Rd, agrees that there is no hardship and if issues presented themselves during construction due to the lack of materials, then that should have been dealt with then. Mr. Philbrick clarified that he was the Chairman of Planning and Zoning when this was approved and there was much controversy around many of the topics discussed tonight and does not feel that a variance should be offered.

There was no rebuttal from Mr. Comeau.

The Public Hearing closed at 8:06 PM.

Mr. Trumbull made a motion to approve the application, seconded by Mr. Bancroft for the purposes of discussion. Mr. Bancroft reiterated that this is a self-imposed hardship and the applicants did not seek timely advice from Town staff. Ms. Boersma agreed that it is bad practice to be influenced to approve an application due to its completion. The Board reiterated that the window to apply for a special use permit ended in November of 2023 when the regulations changed. The vote was taken as 0-4-1; Bancroft - deny, Kading - deny, Boersma - deny, Trumbull - deny, Stanton - abstain. The motion did not pass due to the hardship being self-imposed.

Correspondence:

a. FOIA - Notice of Meetings for Public Agencies

Review of Minutes:

Mr. Bancroft made a motion to approve the minutes of 1/9/2024, seconded by Ms. Boersma, all in favor, 5-0.

Mr. Bancroft made a motion to adjourn the meeting, seconded by Ms. Boersma, all in favor, 5-0. The meeting was adjourned at 8:14 PM.