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Town of East Haven  
**Zoning Board of Appeals**

Special Meeting Minutes – August 24, 2023  
East Haven Senior Center, 91 Taylor Avenue

**I. Roll Call and Pledge of Allegiance**

In attendance: John Wobensmith (Vice-Chair), Cindy Sparago, Charles Page, and Bill Carbone (Alternate).

Also in attendance: Joseph Budrow, Planning and Zoning Administrator/ZEO, and Jennifer Coppola, Assistant Town Attorney.

The meeting began at 7:00pm. Mr. Wobensmith led the Pledge of Allegiance and the roll call of the Board. Mr. Carbone was seated for Judy Mison. Mr. Wobensmith explained the meeting procedure.

Mr. Budrow advised that on agenda item 1a. **Application No. 23-12** for 292 Cosey Beach Avenue was withdrawn and on agenda item 2a. **Application No. 23-10** for 198 Beach Avenue, Attorney Fasano submitted a request that the public hearing be continued to the Board's September 21<sup>st</sup> meeting.

**II. Review and Action on Prior Meeting Minutes**

**MOTION:** Mr. Carbone made a motion to approve the meeting minutes of May 18, 2023. Mr. Page seconded the motion. All were in favor. **Motion carried, 4-0.**

**MOTION:** Mr. Carbone made a motion to approve the meeting minutes of June 15, 2023. Mr. Page seconded the motion. All were in favor. **Motion carried, 4-0.**

**III. Public Hearings and Deliberation**

3a. **Application No. 23-18** – on behalf of Fernando Pastor for Andrew Koh, 35 Vernon Street.

Mr. Fernando Pastor requested that this application be delayed until his client arrived. The Board agreed.

4a. **Application No. 23-19** – on behalf of Christen Richard, 61 Henry Street.

Ms. Christen Richard presented. She has lived there since July 2020, and loves the town. She wants her mother to live with her. She said the hardship is that her lot is narrow and the smallest on the street. She said the addition would not be seen from the street and that the shed would be removed. She said the neighbors were in support and then talked about her mother.

Ms. Sparago asked Mr. Budrow about the floor area numbers and shared her concern about the close proximity to the side property line. Mr. Budrow answered that he used the Assessor's floor area numbers. He said there are times when architects or surveyors might calculate things that are not needed to be included as floor area.

Mr. Wobensmith asked Ms. Richard if she would be open to removing the deck and reducing the length of the addition by 3 feet. Ms. Richard agreed with Mr. Wobensmith's requests.

Mr. Budrow shared three letters in support of the application received from neighbors.

There was no public comment.

**MOTION:** Mr. Page made a motion to close the public hearing for **Application No. 23-19**. Mr. Wobensmith seconded the motion. All were in favor. **Motion carried, 4-0.**

**Deliberation on 4a for Application No. 23-19 for 61 Henry Street:**

Mr. Page liked the reductions. Ms. Sparago agrees that this is one of the narrowest lots in the area and the reduction in the length of the addition of three feet is favorable. Mr. Carbone agreed. Mr. Wobensmith supports the reduction in size. Mr. Carbone confirmed the final size of the footprint.

**MOTION:** Mr. Wobensmith made a motion to approve **Application No. 23-19** with conditions that the deck be removed and that 3 feet be removed from the length of the addition. He referenced Zoning Regulation Sections 51.7.3 and 51.7.4 and stated that the hardship is the lot is unique. Mr. Carbone seconded the motion. All were in favor. **Motion carried, 4-0.**

3a. **Application No. 23-18** – on behalf of Fernando Pastor for Andrew Koh, 35 Vernon Street.

Mr. Fernando Pastor presented. He feels they took care of many issues with the application. He described changes that were made. He stated that the tower was no longer in the side setback area. He described the house design. He submitted a letter of support from the neighbors to the south.

Ms. Sparago asked Mr. Budrow if he agrees with the coverage numbers. Mr. Budrow said he feels they reduced the coverage down to 26%. He said the deck was reduced and that the pergola is a structure he does not calculate as lot coverage because it is an open-topped structure.

Mr. Budrow shared that the submitted letter stated that the neighbors did not want the tower further to the rear.

Ms. Sparago said the proposal is impressive. Mr. Koh shared that Mr. Pastor worked with architect, Cesar Pelli.

There was no public comment.

**MOTION:** Mr. Page made a motion to close the public hearing for **Application No. 23-18**. Ms. Sparago seconded the motion. All were in favor. **Motion carried, 4-0.**

#### **Deliberation on 3a for Application No. 23-18 for 35 Vernon Street**

The Board was impressed by the changes made. Ms. Sparago said the hardship was the small size of the lot.

**MOTION:** Ms. Sparago made a motion to approve **Application No. 23-18**. She referenced Sections 51.7.1, 51.7.2, 51.7.3 and 51.7.4 of the Zoning Regulations. Mr. Page seconded the motion. All were in favor. **Motion carried, 4-0.**

#### **5a. Application No. 23-20 – on behalf of Ralph Mauro, 8 Morgan Terrace.**

Attorney Leonard Fasano presented. He handed out an Assessor's map. He referred to the South End Development Plan. He described the lot and said the Zoning Regulations state there is a 5-foot-wide buildable area. He described the proposal. The house is 930 square feet (floor area) and the Regulations require a 900 square foot minimum. He described the variances needed and then alluded to houses in the area and their lot coverage. He feels this request is for the minimum variances. He said the proposal is in harmony with the neighborhood and the area. He said this proposal is only focused on the development of the lot. He does not feel that other records of applications need to be combined with this application. This proposal should stand by itself.

Mr. Wobensmith asked if his client was aware that there were only four Board members present.

Mr. Page asked about the denial of the last application and the existing patio. Mr. Budrow stated that in the past, the applicant has said the patio would be removed if a house was approved. Attorney Fasano confirmed it would be removed.

Ms. Sparago asked Attorney Coppola about the history of the last appeals that were filed in court. Attorney Coppola said there were two appeals that were consolidated. One was the appeal of the ZBA decision in 2020. The second was the appeal of the ZEO's decision to approve a zoning permit. Ms. Sparago asked further questions about past motions and court decisions. Attorney Coppola answered her questions, explaining the appeal process, court filings, etc.

Attorney Fasano said this application is different than previous applications. It is not related to previous issues.

Mr. Wobensmith called for public comment. Ms. Stephanie Sudikoff spoke. She appreciated the smaller scale of the proposal. She said there is still a Superior Court decision out there and this application is not much of a change. The property has been put to use during the summer for parties. There is no legal hardship.

Attorney Coppola reminded the Board that there was not a motion made to include the prior records of prior applications in the record of this application and it was up to them to do so.

Attorney Fasano said they shouldn't and reiterated that this proposal is a new proposal.

**MOTION:** Ms. Sparago made a motion to incorporate the records of all prior applications for the property into the record of this proceeding. Mr. Carbone seconded the motion. **Motion carried, 3-1.**

Attorney Coppola pointed out that it was Mr. Wobensmith, Mr. Carbone and Ms. Sparago who were in favor of the motion to incorporate, and Mr. Page who was against the motion.

After being asked, Attorney Fasano confirmed that Mr. Mauro agreed that the four members who were present could proceed to deliberate on the application.

**MOTION:** Ms. Sparago made a motion to close the public hearing for **Application No. 23-20**. Mr. Page seconded the motion. **All were in favor. Motion carried, 4-0.**

**Deliberation on 5a for Application No. 23-20 for 8 Morgan Terrace:**

Mr. Page said he voted against the last application. Here, he referred to the 5-foot-wide buildable area and the 900 square-foot minimum requirement for a dwelling. He could see approving the application with the patio being removed.

Ms. Sparago said she comes back to not one single judge saying the property has a legal unique hardship. She said she cannot overturn those Judge's opinions and is not inclined to vote in favor.

Mr. Carbone said Mr. Mauro is trying his best to maximize his use of the property. He is for the proposal. He feels Mr. Mauro is trying to accommodate the property requirements and the neighborhood.

Mr. Wobensmith feels there is not much more that Mr. Mauro can present regarding changes. He referred to Section 51.7.1 and 51.7.3 of the Zoning Regulations and feels Mr. Mauro met those requirements. He favors an approval if the patio and the accessory structure is removed. He feels the proposal meets the minimum standards.

Ms. Sparago again referred to Judge Blue and the Appellate Court Judges. Mr. Wobensmith said those Judges were looking at a proposal of a grander scale.

Mr. Wobensmith asked if Attorney Coppola had any comments. Attorney Coppola answered that she agrees that this is a different record and is a different application. The proposal is a significant difference in her opinion but the Board can have a different opinion. She referred to Judge Blue's first question at the hearing, indicating that it had to do specifically with the minimum variance necessary. She added that the precedential value of whether or not there is some preclusion here that the Board is seeing on prior issues and decisions by any court is something that is a legal issue. So, depending on the outcome, if there is an appeal either by Mr. Mauro or by a neighbor, then that may be part of a case on appeal. This Board has to rule on what is before them. The legal matters of issue or claim preclusion are not to be argued before this Board, but before a court of law.

**MOTION:** Mr. Page made a motion to approve **Application No. 23-20** conditioned on the patio and accessory structure being removed. Mr. Carbone seconded the motion. **Three members (Messrs. Wobensmith, Page, and Carbone) voted in favor and one member (Ms. Sparago) voted against the motion. Therefore, the motion did not carry.** The application is denied due to not getting the statutorily-required four (4) votes in favor of the requested variances.

**6a. Application No. 23-21 (Coastal Area Management Site Plan Review) - on behalf of Ralph Mauro, 8 Morgan Terrace.**

Mr. Budrow shared a Memorandum from the Town Engineer, Jonathan Bodwell. Attorney Fasano responded and asked the Board approve the application.

There was no public comment.

**MOTION:** Mr. Page made a motion to close the public hearing for **Application No. 23-21**. Mr. Wobensmith seconded the motion. **All were in favor. Motion carried 4-0.**

Mr. Budrow referred to Section 46 of the Zoning Regulations regarding the Findings to be made by the Board on a C.A.M application.

**MOTION:** Mr. Page made a motion to approve **Application No. 23-21**. He referred to Sections 46.5.1, 46.5.2, 46.5.3, and 46.5.4 of the Zoning Regulations. Mr. Wobensmith seconded the motion. **All were in favor. Motion carried 4-0.**

Attorney Coppola confirmed the vote for the record.

7a. **Application No. 23-22** – on behalf of Erik Wilson, 1090 North High Street.

Mr. Erik Wilson presented.

Mr. Wilson said the current structure crosses a boundary line. He said there was discussion to shrink it down and the current proposed location is within two side setbacks. He said they have a hardship from the deep slope in the back, etc. He passed out some photographs of the existing structure. He gave a history of the existing structure and it being used for agriculture.

Mr. Wobensmith confirmed that Mr. Wilson was proposing a new barn for storage. Mr. Wilson answered that the structure will be for preserving items. The current barn has sentimental value and feels the current design is the least offensive. Mr. Budrow asked for clarification as to what will be stored in the building. Mr. Wilson answered that tractors and property maintenance equipment would be stored there. He clarified what the elevation drawings show.

Mr. Budrow recommended that as a potential condition, if approved, that no dwelling be allowed in the building. Mr. Wilson said he lives at 1100 North High Street.

Mr. Page asked how the barn is accessed. Mr. Wilson answered it is accessed from 1100 North High Street.

Ms. Sparago asked why they cannot combine the two properties. Mr. Wilson answered that there was talk of that. He said utility access is why 1090 North High Street is shaped the way it is. Ms. Sparago asked Mr. Budrow if it is difficult to merge properties. He answered that it is not difficult. Mr. Wilson said it will restrict future development of the lot and could lose the potential to subdivide.

Mr. Carbone confirmed that a new house would have to be built at the top of the hill.

Mr. Wobensmith asked if he would consider making the barn 6 feet less wide. Mr. Wilson said the current plan is for 26' x 42'. Maybe he could do 20' x 42'. Mr. Wobensmith corrected himself, he meant 6 feet less in length.

Ms. Sparago is concerned about the height. She asked why 34 feet? Mr. Wobensmith talked about the internal stairs and asked why he needed external stairs. Mr. Wilson said they are going for a New England look and the cupola adds 6 feet. The external stairs and the cupola are not necessary.

Ms. Sparago asked what makes a barn a barn and a garage a garage. Mr. Budrow said the application says "barn." He sees barns as having agricultural uses and there is no agriculture on the property. He added that at the time of the submission of this application, he did not ask what would be stored in it.

Mr. Budrow said the whole west side of North High Street was subdivided but he did not know when. He asked Mr. Wilson if his property was part of 1100 North High Street. Mr. Wilson answered that he thinks it was split off in the mid-80s. Mr. Budrow asked Attorney Coppola if he should research the property more prior to the Board making a decision. Attorney Coppola referred to Zoning Regulation Section 44.11.4 and shared the ownership history of each lot based on the online Assessor's records. Mr. Wilson said that his family has lived in the area for a long time.

Ms. Sparago read a definition of height. Mr. Budrow said the cupola was counted in the height. When hearing there was another height definition that exempted cupolas, Mr. Budrow said he will look into it.

Ms. Elinor Wilson, 6 Ark Road in Clinton, thinks the proposal will be an improvement. She said the existing structure was a garage and barn. She wants the property line cleaned up but does not want to lose the use of the structure.

**MOTION:** Mr. Page made a motion to close the public hearing for **Application No. 23-22**. Mr. Carbone seconded the motion. **All were in favor. Motion carried, 4-0.**

Ms. Sparago said she would like it shorter, to 25 feet. Attorney Coppola said that they can reopen the public hearing.

**MOTION:** Ms. Sparago made a motion to reopen the public hearing for **Application No. 23-22**. Mr. Carbone seconded the motion. **All were in favor. Motion carried, 4-0.**

Mr. Wilson talked about how height is calculated. Mr. Budrow said that the height was calculated correctly and that the height of the cupola will be removed. The “additional setbacks” are no longer in play.

Ms. Sparago went back to the barn versus garage discussion. Mr. Wilson said farming takes place on the rear of the property. He said reducing the size of the barn will reduce storage capacity. He will look at that. He said this proposal is smaller than his original concept. He said there is an agricultural use and referred to a cornfield.

Mr. Page asked him about specifics for what would be stored in the building. Mr. Wilson said there will be older tractors, tools, agricultural equipment, bikes, and kayaks.

There was discussion related to stories and the high roof line. Ms. Sparago feels that it is too high. Mr. Budrow stated that the Regulations have “garage” language. He said the building is two stories. He said Mr. Wilson can write a statement of use.

**MOTION:** Mr. Wobensmith made a motion to continue the public hearing for **Application No. 23-22** to the Board’s September 21, 2023 meeting so that a statement of use can be submitted. Mr. Page seconded the motion. **All were in favor. Motion carried, 4-0.**

8a. **Application No. 23-23** – on behalf of **Gerald Paprocki, 60 Green Street.**

Mr. Gerald Paprocki presented. He stated that the hardship was the Zoning Regulations.

Ms. Sparago noted the numbers on the site plan do not match Mr. Budrow’s numbers. Mr. Budrow said he trusts his numbers.

Ms. Sparago said the homes in the area are smaller. Mr. Paprocki said he would like a two-car garage and needs more than a 20-foot width. He could build a 26’ x 40’ colonial design.

Mr. Wobensmith asked if he would come back with a colonial design. Mr. Paprocki asked what size house the Board would like. The Board replied with a 24’ width. Mr. Paprocki said the deck could come off the proposal if the proposed dimension stayed the same. Mr. Wobensmith said he would like to see a 24’ x 40 colonial with a 10’ x 10’ deck.

Mr. Budrow said the proposed lot coverage is 30%, matching his original calculations.

Mr. Paprocki asked about a ranch-style home. Ms. Sparago said she doesn’t want a house more than 24 feet wide. Mr. Paprock said he will work on designs. Mr. Budrow said the Board should not be helping him with designs.



Mr. William Surprenant spoke and said he sold the property to Mr. Paprocki. He said the lot should be grandfathered as a building lot. He is in favor of the proposal.

Ms. Pamela Cofrancesco, of 54 Green Street, feels 10 feet from the property line is too close. She wonders if the house will be rented and fears water runoff onto her property.

**MOTION:** Mr. Page made a motion to continue the public hearing for **Application No. 23-23** to the Board's September 21, 2023 meeting. Ms. Sparago seconded the motion. **All were in favor. Motion carried, 4-0.**

#### **IV. Adjournment**

Mr. Page made a motion to adjourn the meeting at 9:45 PM. Mr. Wobensmith seconded the motion. **All were in favor. Motion carried 4-0. The meeting adjourned.**