

**EAST LYME ZONING BOARD OF APPEALS  
PUBLIC HEARING AND REGULAR MEETING  
Monday, AUGUST 10th, 2009  
MINUTES**

A Public Hearing and Regular Meeting of the East Lyme Zoning Board of Appeals was held on Monday, August 10, 2009 at 7:30 PM at the East Lyme Town Hall, 108 Pennsylvania Avenue, Niantic, CT.

PRESENT: Bill Mountzoures, Chairman, Tom Boguszewski, Secretary,  
Leo Mostowy, Craig Mason, Skip Saunders

ALSO PRESENT: Brian Gaffney, LS, Representing the Applicant  
Frederick & Mary O'Connell, Applicants  
Charles Ambulos, Alternate

ABSENT: Shawn McLaughlin, Alternate

**1. Call Public Hearing to Order**

Chairman Mountzoures called the continued Public Hearing to order at 7:30 PM.

**2. Read Notice of Public Hearing**

Mr. Mountzoures asked Mr. Boguszewski, Secretary to read the Notice of the Public Hearing:

**Case No. 4-2009: Application of Frederick & Mary O'Connell for a variance of Section 7 of the East Lyme Zoning Regulations to allow an addition on property identified in the application as 30 High Street, Niantic, Connecticut. Said parcel appears on the East Lyme Assessor's Map 17.6, Lot 37.**

The Public Hearing notice was sent to the New London Day for publication on 7/15/2009 and 7/23/2009.

Mr. Mountzoures introduced the Board members and polled each for any conflict of interest. Hearing no conflicts of interest, he explained the rules of the meeting and asked that anyone speaking please stick to the subject matter of the application.

Mr. Mountzoures then called for the applicant or their representative to make the presentation.

Brian Gaffney, LS, 28 York Ave. said that he is representing the applicants. He explained that they want to add on a 5' strip to the back of their existing footprint and remove a 6' older section from the back of their house to allow for a better bathroom and to be able to bring the washer and dryer up from the basement to the main floor level. The older 6' section would be demolished and 5' would be added to it to make the new back section which could potentially provide ADA access. They are thinking forward to the eventualities of what they might need in the future as they are aging and want to plan ahead for a better quality of life. He said that he does not think that the addition of 5' will impose on anything. They also have a letter that was submitted with their application from a neighbor, Joanne Babich who has indicated that she has no objection to whatever they want to do in the rear of the house.

Mr. Saunders asked what the variance was that they are asking for.

Mr. Gaffney said that they are looking for an additional 5' to square off beyond the 6' that is being demolished (and eventually rebuilt with the addition of this 5'). He said that they have 3' to the property line on the side and that they would just be going straight back another 5'.

Mr. Boguszewski said that they need a 5' variance of 9' on the side as they are only 3' from the property line and they need 12' to be in compliance with the regulations. As they are pre-existing non-conforming, what they are asking for would be expanding the non-conformity. He asked them if they had looked at another

method of making this work as it appears that they have the room to work to the back and to be within the 12' setback.

Bruce Parks, 29 High St. said that he lives directly across the street from the O'Connell's and that he would be helping them to do this addition. He said that there is a dip in the yard that would not allow it to be at the same height without having to go to the expense of bringing in fill and then grading it. This would add considerably to the cost of the project.

Mr. Saunders said that is a building problem and not a zoning problem and they have to determine what the hardship with the land is.

Mr. Parks said that they would have to move the addition over 9' and if they go back it would be much more expensive as the property slopes in the back.

Mr. Saunders said that as presented, what they are looking for is an intensification of a non-conforming use.

Mr. Boguszewski asked where the hardship is.

Mr. Parks and Mr. Gaffney said that it would cost more if they had to configure it to the back and if they did not level the land to do the addition, then they would have to go uphill to get into the new section.

Mr. Mountzoures called for comments from the public –

Hearing none –

Mr. Mountzoures asked if there were any other questions from the Board members or if the applicants had anything further to add.

Hearing none –

Mr. Mountzoures said that he would now close the Public Hearing.

Mr. Mountzoures closed this Public Hearing at 7:45 PM.

Mr. Mountzoures said that they would now deliberate and possibly make a decision on the application.

Mr. Mountzoures explained that the only comments that they can take now are from the applicant and only if they have technical questions that they need answered. He also informed the applicants that in the event that they wish to contest the decision that they have 15 days to appeal it to the Superior Court.

## **REGULAR MEETING**

Mr. Mountzoures opened the Regular Meeting at 7:46 PM.

**Case No. 4-2009: Application of Frederick & Mary O'Connell for a variance of Section 7 of the East Lyme Zoning Regulations to allow an addition on property identified in the application as 30 High Street, Niantic, Connecticut. Said parcel appears on the East Lyme Assessor's Map 17.6, Lot 37.**

Mr. Mountzoures called for discussion.

Mr. Mason said that he does not see a hardship here except for a personal want to have the variance.

Mr. Saunders said that he agreed with Mr. Mason and that there is no zoning hardship in the land but rather one of economic and personal use. By the same token, he said that the beach communities are all full of instances like this.

Mr. Mostowy said that the letter that they submitted said that they are getting old and as things go when we all get old; things could happen fast and they are looking to plan ahead for that. He said that he could see what it is that they are looking to do and why and that zoning should try to accommodate it in some way.

Mr. Mountzoures said that he felt that eventually zoning would have to take this issue up and provide for some ADA standards within the scope of the regulations. However, at this time, that is not the case and they have to look for the hardship with the land.

Mr. Boguszewski said that they have to have a zoning hardship with the land and that while he can appreciate what they are trying to do and their planning for the future, there are other options and a solution that would allow them to build on their land so there is no hardship. The hardship cannot be economic or personal.

Mr. Mountzoures said that since there is another way to do this that they do not have a hardship. If it was a situation where there was no other way to do this and it was a trade off, they might be able to consider it, but it is not and what they are asking to do is bringing them further into non-conformance and they are expanding upon a non-conformity which is not allowed in zoning.

Mr. Parks asked to speak and made the argument that in going to the back of the lot, they will have to make the addition smaller to accommodate the corner.

Mrs. O'Connell said that they want to stay in the house as it has been in the family for many years and they want to make it accessible.

Mr. Mountzoures said that they have a lot of property in the back that they can put the addition in.

Mr. Boguszewski said that they need a hardship with the land and that their hands are tied by it.

Mr. Mountzoures said that they see many of these types of cases and they have to have a hardship inherent in the land.

Mr. Boguszewski said that he would make a motion.

**\*\*MOTION (1)**

**Mr. Boguszewski moved to DENY the Application of Frederick & Mary O'Connell for a variance of Section 7 of the East Lyme Zoning Regulations to allow an addition on property identified in the application as 30 High Street, Niantic, Connecticut, due to the lack of an inherent hardship in the land. Said parcel appears on the East Lyme Assessor's Map 17.6, Lot 37.**

**Mr. Mason seconded the motion.**

Mr. Mountzoures called for a vote on the motion.

**Vote: 5 – 0 – 0. Motion passed. Variance denied.**

Mr. Mostowy said that they see a lot of these types of things and suggested that they or the applicants go to the zoning commission and ask for changes to the regulations to allow for elderly additions and features to be added to such residences (especially in the beach type areas where the lots are small and the houses are close together). He said that they could present a text amendment to the zoning commission as something has to be done about this as we are an aging population.

Mr. Saunders volunteered to draft something to go before the zoning commission on this and Mr. Mason agreed to work with him on it.

Mr. Mountzoures called for a motion to adjourn.

**ADJOURNMENT**

**\*\*MOTION (2)**

**Mr. Mostowy moved to adjourn Case #4-2009 of the East Lyme Zoning Board of Appeals at 8:05 PM.**

**Mr. Saunders seconded the motion.**

**Vote: 5 – 0 – 0. Motion passed.**

Respectfully submitted,

Karen Zmitruk,  
Recording Secretary