

**EAST LYME ZONING BOARD OF APPEALS  
PUBLIC HEARING II AND REGULAR MEETING  
MONDAY, MARCH 2nd, 2020  
MINUTES**

A Public Hearing and Regular Meeting of the East Lyme Zoning Board of Appeals was held on Monday, March 2, 2020 at 6:30 PM at the East Lyme Town Hall, 108 Pennsylvania Avenue, Niantic, CT. The Hearing was opened at 7:24 PM immediately following the Hearing and Regular Meeting on Case 2-2020.

**PRESENT:** Steve Carpenteri, Chairman, John Smith, Secretary, Mike Foley,  
Debbie Jett Harris, Kevin Mace

**ALSO PRESENT:** Attorney Theodore Harris, Representing the Applicant  
Robert Fulton, Applicant

FILED

**ABSENT:** No One

Mar 5 2020 AT 10:00 AM/PM  
Kaun Miller  
EAST LYME TOWN CLERK

**1. Call Regular Meeting to Order**

Chairman Carpenteri called the Regular Meeting to order at: 7:24 PM immediately following the previous Hearing and Regular Meeting on Case 2-2020.

**2. Read Notice of Public Hearing**

Mr. Carpenteri asked Mr. Smith, Secretary, to read the Agenda call of Case #3-2020 of the Regular Meeting.

Mr. Smith, Secretary read the following:

**Case No. 3-2020: Application of Robert E. Fulton, Jr, and Nadine D. Fulton, for a variance of Section 7.3.3 Setback and Section 7.3.4 Lot coverage, for property identified as 12 Morton Street, East Lyme, Connecticut to demolish and reconstruct a larger garage, Said parcel appears on the East Lyme Assessor's Map 17.3, Lot 152.**

The Public Hearing notice was sent to the New London Day for publication on 2/19/2020 and 2/27/2020.

Mr. Carpenteri introduced the Board members and polled each for any conflict of interest. Hearing no conflicts of interest from the members, he explained the rules of the meeting, noted that notices had been sent to abutters and asked that anyone speaking please stick to the subject matter of the application.

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

Attorney Theodore Harris, place of business 251 Main Street, representing the applicant explained that this is a pre-existing non-conforming R-10 lot. The garage is old and was built in the mid 1930's and has been added to over time. The lot is undersized by 2800 sq. ft.; if it met the required lot size then this would have been allowed. He said that the purpose is to tear down and rebuild the existing garage, which is insufficient in size to house today's vehicles. They are seeking to square off an existing garage area and lengthen the garage to accommodate modern vehicles. The current location of the garage is non-conforming as to rear and side setbacks. Lot coverage would increase by 1.4%, bringing the lot coverage to 31.3%. He noted that he had provided them with a summary of the variance request. (Copy attached). He cited the Judelson vs. Madison Board of Appeals of 2006 where they wanted to add an AC pad and porch addition and the Court upheld it denying the appeal of an adjoining neighbor. He noted that what they are requesting here is in line with what appears in the neighborhood.

Mr. Carpenteri said that reasonable use regarding the variance would lie predominantly with the house and you can still live in this house without a larger garage.

Mr. Foley said that the size of the lot creates its own hardship. He asked the current lot coverage.

Mr. Harris said that the lot coverage is already at 29%.

Mr. Carpenteri asked if there were any comments from the public –  
Hearing none –

He asked if the Board members had any further questions.

Hearing none –

Mr. Carpenteri closed this Public Hearing at 7:30 PM.

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

Mr. Carpenteri 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 applicant that in the event that they wish to contest the decision that they have 15 days in which to appeal it to the Superior Court.

## **REGULAR MEETING**

Mr. Carpenteri opened the Regular Meeting at 7:30 PM.

**Case No. 3-2020: Application of Robert E. Fulton, Jr, and Nadine D. Fulton, for a variance of Section 7.3.3 Setback and Section 7.3.4 Lot coverage, for property identified as 12 Morton Street, East Lyme, Connecticut to demolish and reconstruct a larger garage, Said parcel appears on the East Lyme Assessor's Map 17.3, Lot 152.**

Mr. Carpenteri called for discussion on the application.

Mr. Foley said that he could see this both ways and that the size of the lot makes it unusually restrictive.

Mr. Mace agreed.

Mr. Carpenteri said that while he sympathizes with this, under zoning it clearly states that non-conforming uses should be abolished and that while this seems small – what do you do when others want more and you have set precedent. There are numerous pre-existing non-conforming properties in the Town of East Lyme. He noted the standards for ZBA and land use with regard to not expanding upon non-conformities.

Ms. Jett-Harris said that she is leaning towards keeping it the size that it is and not making it larger.

Mr. Carpenteri said that they could probably use another option – they could eliminate the shed on the property in place of the garage becoming a bit larger and keep the same lot coverage. It was noted that the shed covers 144 sq. ft.

Mr. Foley agreed that creates a plausible option.

Mr. Carpenteri asked if they were ready to make a motion.

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

**Mr. Foley moved to DENY WITHOUT PREJUDICE the Application of Robert E. Fulton, Jr, and Nadine D. Fulton, for a variance of Section 7.3.3 Setback and Section 7.3.4 Lot coverage, for property identified as 12 Morton Street, East Lyme, Connecticut to demolish and reconstruct a larger garage, Said parcel appears on the East Lyme Assessor's Map 17.3, Lot 152.**

**Ms. Harris seconded the motion.**

**Mr. Carpenteri said that they could come back with a plan re-design as suggested above with the shed removed. The reason for denial is the further expansion of the non-conformity.**

**Vote: 4 – 1 – 0. Motion passed.**

**Against: Mr. Mace**

## **ADJOURNMENT**

Mr. Carpenteri called for a motion to adjourn.

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

**Mr. Smith moved to adjourn Case #3-2020 of the East Lyme Zoning Board of Appeals at 7:38 PM.**

**Mr. Mace seconded the motion.  
Vote: 5 – 0 – 0. Motion passed.**

Respectfully submitted,

Karen Zmitruk,  
Recording Secretary

## Summary of variance request

<b>Side yard:</b>	<b>Proposed</b>	<b>4.1'</b>	<b>Variance</b>	<b>7.9'</b>
<b>Rear yard</b>	<b>Proposed</b>	<b>2.1'</b>	<b>Variance</b>	<b>9.9'</b>
<b>Coverage</b>	<b>Proposed</b>	<b>31.3%</b>	<b>Variance</b>	<b>1.4%</b>

*Attachment ZBA 3/2/20 Case # 3-2020*