

# Minutes of East Lyme Zoning Board of Appeals October 16, 2023 Regular Meeting

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**Date and time:** 10/16/2023 7:00 PM to 7:40 PM

**Present:** Jessica Laroco, Recording Secretary, Members Present: Steve, Carpenteri, Chairman, Larry Fitzgerald, Wayne Blair, Kevin Mace, Spencer Clapp (entered 7:30)

**Location:** East Lyme Town Hall, Upper Conf. Room, 108 Pennsylvania Avenue

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## 1. Call to Order & Attendance

Chairman Carpenteri called the October 16, 2023, Regular Meeting of the Zoning Board of Appeals, to order at 7:00PM and noted the members in attendance.

## 2. Public Hearing

Mr. Carpenteri noted the Public Hearing was a continued Public Hearing regarding the East Lyme Zoning Board of Appeals Case 3-2023 Application of Case 3-2023 Application of Yumiko Uemura, Owner, for a variance of the East Lyme Zoning Regulations Section 7.3.3 for Setback and Section 7.3.4 for Lot Coverage for property located at 7 Round Rock Road. Said parcel appears on the East Lyme Assessor Map 22.18 Lot 40.

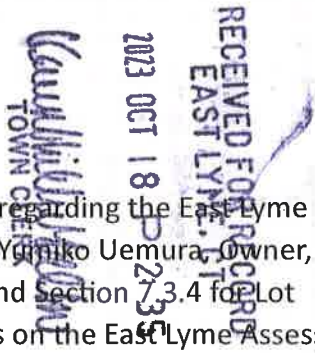
Attorney Jeffrey McNamara represented the applicant and noted he would not reiterate the entire presentation from the previous meeting. He also noted the designer could not be present. Mr. McNamara stated he knew that some of the questions regarding the request for variances concerned the surrounding properties and their setbacks and whether those had variances. Mr. McNamara gave the Members a listing of the surrounding properties and indicated they all appeared to have setback violations, and all appeared to have been built either in 1950 or prior. These properties appear to be preexisting, nonconforming properties. They were constructed prior to the Zoning Regulations.

Mr. McNamara was only able to uncover a variance for 6 Elizabeth St which received a variance in 2004 for a side yard setback. He noted that he did not know if the current nonconforming properties had received variances.

Mr. Carpenteri stated that these properties had nothing to do with the applicant's property and Mr. McNamara agreed.

Mr. Smart (resident at 9 Round Rock Rd) had nothing further to add but restated that he was waiting to hear what the Board would decide. He noted that an addition would not impact the Town or his neighbors in a negative way in his opinion.

Mr. Carpenteri noted that neither the personal desire to expand the existing nonconforming structure to obtain additional more comfortable space nor a desire to modernize that structure constitute a legal hardship under the law. He also stated an additional problem: the applicant does have another option which would not require a variance and that would be to add vertical height (a second story) to the existing home. Mr. Carpenteri stated that the Board is not legally able to grant a variance if a variance is not required. The applicant could apply to the Building and Zoning Departments for a second story.



Mr. Carpenteri stated the Board could not grant a variance if an option existed which would solve the applicant's problem.

Mr. Smart stated that a hardship for him would be the cost of an addition. It would be more expensive to add a second story.

Mr. Carpenteri noted that that was a personal hardship, and that in previous years the Board had tried to help applicants come up with solutions but ultimately it was the Board's job to protect the Regulations. He also noted that 9 Round Rock Rd is already a preexisting nonconforming lot and asking for a variance would expand the nonconformity. The applicant cannot increase the nonconformity.

Mr. Carpenteri asked Mr. Smart if he had been able to determine the size of the addition.

Mr. Smart indicated he did not know the square footage.

Mr. Carpenteri stated the current living space is around 1200 square feet with an additional 300 feet of garage. The patio coverage would be subtracted because of the proposed addition. Mr. Carpenteri guessed, because he did not have the exact square footage of the proposed addition, that the entire coverage (after the addition) would exceed 29%. Mr. McNamara again stated the 29% was a number given by the surveyor and he did not know that number to be accurate or not.

Mr. Carpenteri complimented the proposed addition design but again stated that the Regulations would not allow for it.

Mr. Carpenteri asked if Mr. Smart would consider the rear of the property for an addition. That could potentially be done without a need for a variance and Mr. Smart could go straight to the Zoning Department.

Mr. McNamara asked if the concern was setback or lot coverage, and Mr. Carpenteri indicated it was both, but he still did not know the size of the proposed addition. Mr. Carpenteri suggested taking away a shed or a garage or a deck or a patio to meet the 25% lot coverage.

### **DECISION MOTION 1**

Mr. Blair moved to close the Public Hearing.

Mr. Fitzgerald seconded the motion.

Motion carried 4-0-0

### **3. REGULAR MEETING**

Mr. Blair noted the difficulty that exists when having two (2) frontages and achieving the 30-foot setback and having a corner lot.

Mr. Carpenteri suggested Mr. Smart could try for a Zone Change through the Zoning Department. He did say the proposed addition would be esthetically pleasing but it was not allowed because of the Regulations.

Mr. Clapp was concerned that the intersection of Elizabeth St and Round Rock Rd is not a sharp 90-degree angle, but rather a curve, and does not have a stop sign. He noted the proposed driveway move would be obscured by a line of arborvitae making the sightline dangerous if moved closer to the intersection.

Mr. Carpenteri asked what the speed limit was on the road and Mr. Smart indicated it was around 15 MPH.

Mr. Clapp restated that the desire for a variance does not constitute a hardship.

## **DECISION MOTION 2**

Mr. Mace moved to deny the East Lyme Zoning Board of Appeals Case 3-2023 Application of Case 3-2023 Application of Yumiko Uemura, Owner, for a variance of the East Lyme Zoning Regulations Section 7.3.3 for Setback and Section 7.3.4 for Lot Coverage for property located at 7 Round Rock Road. Said parcel appears on the East Lyme Assessor Map 22.18 Lot 40.

Mr. Clapp seconded the motion.

Motion carried 5-0-0.

## **DECISION MOTION 3**

Mr. Mace moved to adjourn the October 16, 2023, Regular Meeting of the Zoning Board of Appeals at 7:40 PM.

Mr. Clapp seconded the motion.

Motion carried 5-0-0.