

Oct 28 20 11 at 9:55 AM PM

EAST LYME ZONING BOARD OF APPEALS
PUBLIC HEARING AND REGULAR MEETING
MONDAY, October 24th, 2011
MINUTES

Esther B Williams

EAST LYME TOWN CLERK

A Public Hearing and Regular Meeting of the East Lyme Zoning Board of Appeals was held on Monday, October 24, 2011 at 7:30 PM at the East Lyme Town Hall, 108 Pennsylvania Avenue, Niantic, CT.

PRESENT: Bill Mountzoures, Chairman, Tom Boguszewski, Secretary, Craig Mason, Leo Mostowy, Charles Ambulos

ALSO PRESENT: John Smith, Alternate
John Langer, Representing the Applicant Danielle Langer

ABSENT: No One

1. Call Public Hearing to Order

Chairman Mountzoures called the 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:

Mr. Boguszewski, Secretary read the following:

Case No. 2-2011: Application of Jeffrey Langer, for Danielle K. Langer, owner for a variance of Section 4.3.3 for property identified in the application as 5 North Beechwood Road, Niantic, Connecticut. Said parcel appears on the East Lyme Assessor's Map 21.3, Lot 66.

The Public Hearing notice was sent to the New London Day for publication on 10/12/2011 and 10/20/2011.

Mr. Mountzoures 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 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.

Jeffrey Langer, 35 Ridgeview Road, Portland, CT said that he was representing his daughter Danielle K. Langer. He said that the hardship is just as was stated in the letter that came with the application. It is the topography of the land that does not afford any level ground on the lot where they can just put out a chair and enjoy the property. This was caused by the location of the house which was moved far back on the property to accommodate the location of the septic system in the front of the house. They are requesting a rear setback variance from the 20' requirement to 6'9" and a side yard setback variance from the 20' to 10' and are also asking for approval to construct the patio as indicated on the plan as that would afford them use of the property.

Mr. Mountzoures called for any comments from the public, in favor, against or neutral on the application –

Diane Swan, 7 North Beechwood said that she is a neighbor and that she is neutral on this as it is a situation that was created by Mike and Mary Poola and it is also a property that has come before this Board before due to the original situation where the 'i's were not dotted or the t's crossed'.

Laurel Jonason, 10 Foxcroft Rd. said that she and her husband are the abutting property owners and that they were here before for the last hearing in November of last year when Mr. Poola was seeking a variance for the front and back porches as they did not meet the setbacks. At that time she and her husband (who

have lived here for 40 years) issued their concern over water running to their property as 5 North Beechwood used to be forested and would absorb water. When the property was developed it was cleared and the grade was raised and they are located downgrade from that. Their concern is that it is a big house with a small lot and they are downhill from it. They first noticed that something was going on when the boulders that were placed along the property line (which they thought were there to help stop the water from coming to their property) were being moved and a retaining wall with a patio was being put in. They checked to see if a permit was pulled and they were told that no permit had been pulled for the work. The patio, stone wall and the driveway which has been enlarged and compacted and the area regarded increases the amount of impervious surface area and their concern is and has been the water that runs to their property. They have pumped 1200 gallons/hour of water from their basement and have seen it squirting up from the floor. She said that they do not know where the water from the patio will go and their property cannot take it.

Joe Smith, Building Official for the Town of East Lyme said that he is not for or against this but is speaking for a point of clarification. He said that there have been grading changes on the property since the Certificate of Occupancy was issued and they do have to address that after tonight. They will have to provide a grading plan to fix and control the storm water. He said that the boulders were moved and that those issues would also have to be addressed in the storm water plan.

Mr. Langer, 5 North Beechwood, speaking for his daughter said that he is complying with all that the Town is requesting and that they did not know that they needed a permit for the patio. He said that he asked Mr. Smith to meet with the contractor who did the driveway prior to paving it to make sure that it was acceptable.

Mr. Mountzoures asked if there were any further comments from the public or Board –
Hearing none –

Mr. Mountzoures closed this Public Hearing at 7:47 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 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. Mountzoures opened the Regular Meeting at 7:48 PM.

Case No. 2-2011: Application of Jeffrey Langer, for Danielle K. Langer, owner for a variance of Section 4.3.3 for property identified in the application as 5 North Beechwood Road, Niantic, Connecticut. Said parcel appears on the East Lyme Assessor's Map 21.3, Lot 66.

Mr. Mountzoures called for discussion on the application.

Mr. Mason asked the applicant if it is a stone patio.

Mr. Langer said yes.

Mr. Mason asked if the retaining walls are concrete.

Ms. Jonason submitted pictures of the patio and area depicting the property before and after the construction of the patio and wall.

Mr. Mountzoures entered the pictures into the record as Exhibits A and B.

Mr. Ambulos said that had a permit been obtained from the beginning – and cited the decision from the November 2010 hearing which stated that they could not add variables to the front or back – they would not be here now.

Mr. Mostowy said that he had stated before at the last hearing, the issues.

Mr. Boguszewski said that it is clear that there are to be no additions and in reality there is no proven hardship for a patio. Not having a patio is not a hardship. They cannot add variables to a property already over its limits.

Mr. Mason agreed with what had already been said.

Mr. Mountzoures and Mr. Ambulos said that the hardship was created and had been addressed previously and the decision at that time was forced on them as they needed steps to get out of the house.

Mr. Langer said that he went to the Town website and from reading the information there he felt that it would be fine to put in a patio as it said not more than 2" above grade.

Mr. Mountzoures said that ignorance unfortunately is not acceptable. He said that the previous decision supercedes any of this as it clearly states that there is to be no expansion of what was already built and that decision was only made due to the errors in construction. He asked if they were ready to make a motion.

****MOTION (1)**

Mr. Boguszewski moved to DENY the Application of Jeffrey Langer, for Danielle K. Langer, owner for a variance of Section 4.3.3 (rear and side yard setbacks) for property identified in the application as 5 North Beechwood Road, Niantic, Connecticut. Said parcel appears on the East Lyme Assessor's Map 21.3, Lot 66.

Mr. Mason seconded the motion.

Mr. Boguszewski said that the reason for this decision is that the variance approval from the November 1, 2010 hearing stated clearly that no further expansion was to be made and no hardship has been demonstrated here.

Mr. Mountzoures called for a vote on the motion.

Vote: 5 – 0 – 0. Motion to DENY passed.

Mr. Mountzoures said that it is unfortunate however the area cannot be expanded. He also noted again that they do have a right to appeal the decision to the Superior Court within 15 days from the time that the decision is published.

Mr. Mountzoures noted that he had one other item of business to discuss. He said that he has received a letter of resignation from this Board from Mr. McLaughlin. He thanked him for his service to the Town.

ADJOURNMENT

Mr. Mountzoures called for a motion to adjourn.

****MOTION (2)**

Mr. Mason moved to adjourn Case #2-2011 of the East Lyme Zoning Board of Appeals at 8:12 PM.

Mr. Boguszewski seconded the motion.

Vote: 5 – 0 – 0. Motion passed.

Respectfully submitted,

Karen Zmitruk,
Recording Secretary

Town of



East Lyme

P.O. Drawer 519
Zoning Board of Appeals

108 Pennsylvania Ave
Niantic, Connecticut 06357
(860) 691-4114
Fax (860) 691-0351

November 5, 2010

CERTIFIED MAIL:7006 2150 0001 1271 2892

Mihkel & Mary Poola
12 Darrow's Ridge
East Lyme, CT 06333

Dear Mr. and Mrs. Poola,


At a meeting of the East Lyme Zoning Board of Appeals held November 1, 2010 at 7:30 p.m. at the East Lyme Town Hall, 108 Pennsylvania Avenue, Niantic, Connecticut, and the following decision was rendered:

APPROVED: East Lyme Zoning Board of Appeals Case 5-2010 Application of Mihkel and Mary Poola for a variance of section 4.3.3 for property identified in the application as 5 North Beechwood Road, Niantic, Connecticut with the following conditions: the front Precast stairs are to be 5'w x 5'6" l; the deck and stairs off the rear of the house are to remain at 3.74' w x 12' 11" l and neither the front stairs or the rear deck and stairs are ever to be expanded upon, covered, or enclosed in any way. Said parcel appears on the East Lyme Assessor's map 11.2 lot 127.

By copy of this letter and decision, I am advising the Zoning Official of the Board's action.

William Mountzoures
William Mountzoures
Chairman

Enclosures
CC: East Lyme Zoning

SENDER, COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<input checked="" type="checkbox"/> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. <input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you. <input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature  <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee	
1. Article Addressed to: <i>Mihkel & Mary Poola</i> <i>12 Darrow's Ridge</i> <i>East Lyme CT 06333</i>		B. Received by (Printed Name) <i>M. MIHKEl Poola</i>	
2. Article Number (Transfer from service label)		C. Date of Delivery	
3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.		D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
4. Restricted Delivery? (Extra Fee)		<input type="checkbox"/> Yes	

7006 2150 0001 1271 2892