

**EAST LYME ZONING BOARD OF APPEALS
PUBLIC HEARING AND REGULAR MEETING
Monday, August 2nd, 2010
MINUTES**

A Public Hearing and Regular Meeting of the East Lyme Zoning Board of Appeals was held on Monday, August 2, 2010 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: Attorney Theodore Harris, Representing the Applicant
Craig Caulkins, Applicant

ABSENT: John Smith, Alternate, Shawn McLaughlin, Alternate

1. Call Public Hearing to Order

Chairman Mountzoures called the Public Hearing to order at 7:30 PM. He noted that he had seated Charles Ambulos, at the table this evening.

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. 4-2010: Application of Caulkins Design Associates, Inc., for a variance of Section 21.1.6 for property identified in the application as 57 Hope Street, Niantic, CT. Said parcel appears on the East Lyme Assessor's Map 11.2, Lot 127.

The Public Hearing notice was sent to the New London Day for publication on 7/22/2010 and 7/30/2010.

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.

Attorney Theodore Harris, place of business 351 Main Street said that this application concerns an addition to a single family home in the CB zone. Using the 25% calculation, the 515 sq. ft. addition exceeds the calculation by 87 sq. ft. The background on this property is that the home was built around approximately 1956 in what was a residential zone R-3. That was later changed to R-10 and then changed to the current CB zone. The house predated the zoning of the area. He explained that there was a great mix of residential and commercial types on Hope Street ranging from single and multi-family to offices and a lumber yard. The sole parameter that the CB zoning lacks is expansion as under Section 21.1.6. The Corey's have lived in their home for nearly 30 years now and Mrs. Corey needs to be on one floor. He submitted a sketch of the locations of the septic system for the house which was entered as **Exhibit A**. The location of the septic system eliminates the ability to put the addition in the back of the home so they were focused on the only place where they could place it and that is on the corner. The hardship here is the change in the regulations which has caused this. He submitted a copy of the Stillman Case which was entered as **Exhibit B**. In it, the lot was made non-conforming by the changes in the regulations over time and the locations of the well and septic made it such that they needed a variance that they otherwise would not have needed. He also submitted a copy of the Kelly v. Willington case which was entered as **Exhibit C**. In this case, the people

wished to put an addition on the home that required a 19' side yard variance as the regulations placed a hardship on the pre-existing property.

Attorney Harris explained how and why they could not put the addition in the breezeway area as by so doing they would create a loss of use. The regulations have been changed and with the septic and the house already in place, he said that it is the regulation change that has caused the hardship. He added that this is a transitional area between residential and CB and that some of the properties in that area have been changed back to residential. He requested that the minimum variance of 87 sq. ft. that is being requested be granted.

Mr. Mountzoures recalled that the residents in that area had requested that their property be changed back to residential due to the pizza restaurant and issues that would have developed with parking if they were left as CB.

Mr. Boguszewski asked how there is a hardship here and if they could shrink the addition by the 87 sq. ft. as there is no guarantee that people get the addition that they want with any property.

Attorney Harris said that a smaller addition makes it less usable and further it equates to space that would be lost if the addition were to be placed elsewhere and the issue is that the regulations changed and they would have been able to do this if the regulations had not changed.

Mr. Mountzoures noted that the issue of why single family homes are allowed in the CA zone but not in the CB has always bothered him and that he has had conversations about this with the Zoning Official also. Attorney Harris said that the limitation is only because it is a single family home as if it were commercial they would be able to do the addition.

Mr. Mountzoures noted that it does say the 25% calculation.

Attorney Harris noted that they would essentially get the same if it were to be changed the other way.

Mr. Mountzoures asked that they bring this issue to the Zoning Commission regarding the regulation and ask that some changes be made, as that is where they can be made.

Mr. Ambulos suggested a way of changing the garage area to living space.

Attorney Harris said that the garage is not a part of the living space calculation and that there is a need for a garage in New England.

Mr. Ambulos noted that they could ask what is more important to the family the garage or living space. Attorney Harris said that he understands but feels that the case law allows for this and that the impact of the regulations on the lot qualifies it.

Mr. Mostowy asked what is adjacent to this property.

Attorney Harris said that there is residential single family and multi-family.

Mr. Mountzoures noted that there is a dentist office down the street and also a person who was denied a garage in the location that he wanted it and had to place it elsewhere.

Mr. Mountzoures asked if there were any members of the public who wished to speak in favor, against or neutrally on this application –

Gary Smith, 369 Main Street said that his property abuts the applicants' property in the back and that he is in favor of the addition.

Mr. Mountzoures asked if there were any other comments from the Board –
Hearing none –

Mr. Mountzoures closed this Public Hearing at 8:00 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 in which to appeal it to the Superior Court.

REGULAR MEETING

Mr. Mountzoures opened the Regular Meeting at 8:01 PM.

Case No. 4-2010: Application of Caulkins Design Associates, Inc., for a variance of Section 21.1.6 for property identified in the application as 57 Hope Street, Niantic, CT. Said parcel appears on the East Lyme Assessor's Map 11.2, Lot 127.

Mr. Mountzoures called for discussion on the application.

Mr. Mostowy said that there are a couple of houses in the area and that they have some single family and multi-family and they also have the funeral home on the corner across from residential homes. The people have lived there so long that he said he is inclined to grant this especially as the zoning has changed and because there is CB and R-10 near each other.

Mr. Ambulos noted that there was only one person who came for a variance on Hope Street prior to this and that he was denied. But, these people have lived here for nearly 30 years. (Since 1982).

Mr. Boguszewski noted that zoning applies to every lot in that zone and that there is nothing unique about it.

Mr. Mason said that they have to look at each property for uniqueness and that in this case, in his opinion, the location of the septic could be considered unique. He said that he does agree with the cases that were presented and that the change in regulations is a factor here.

Mr. Ambulos said that perhaps the regulation needs to be changed.

Mr. Mountzoures said that the way to do that is to go to Zoning and is not something that they can do here. He asked if they were ready to make a motion,

****MOTION (1)**

Mr. Mostowy moved to APPROVE the Application of Caulkins Design Associates, Inc., for a variance of 87 sq. ft. as per the plans and application (Section 21.1.6) for property identified in the application as 57 Hope Street, Niantic, CT. Said parcel appears on the East Lyme Assessor's Map 11.2, Lot 127. Mr. Mason seconded the motion.

Mr. Mostowy said that the reason for this decision is based upon what is in the area and what has been over time and the length of time that the owners have resided in this house.

Mr. Mountzoures called for a vote on the motion.

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

Mr. Mountzoures reiterated that this regulation still bothers him and asked that Attorney Harris mention it to the Zoning Official and the Zoning Commission as that is where it could be amended.

ADJOURNMENT

Mr. Mountzoures called for a motion to adjourn.

ADJOURNMENT

****MOTION (2)**

Mr. Boguszewski moved to adjourn Case #4-2010 of the East Lyme Zoning Board of Appeals at 8:15 PM.
Mr. Mostowy seconded the motion.
Vote: 5 – 0 – 0. Motion passed.

Respectfully submitted,

Karen Zmitruk,
Recording Secretary