

**Borough of Fenwick
Zoning Board of Appeals
Public Hearing and Special Meeting – September 12, 2023
Minutes**

A Special Meeting of the Borough of Fenwick Zoning Board of Appeals was held on Tuesday, September 12, 2023 at 5:00 p.m.

MEMBERS PRESENT: Peter Brainard, Kathy Berluti, Laurie Goldsmith, Becki Renshaw (Alternate), Ann Pulver (Alternate).

MEMBERS PRESENT VIA ZOOM: Robert Gay.

MEMBERS ABSENT: Martha Staniford.

OTHERS PRESENT: Marilyn Ozols, ZEO; Attorney Ed Cassella; Stephen and Polly Carta, Kathy Rehm, Bruce Baird.

OTHERS PRESENT VIA ZOOM: JD Rehm, Chris Millard.

1. Call to Order.

Chairman Gay called the meeting to order at 5:00 p.m. and seated B. Renshaw as a voting alternate. A quorum was established (Gay, Brainard, Berluti, Goldsmith, Renshaw)

- 2. Public Hearing: ZBA23-001. 19 Neponset Avenue, map 11, lot 14.** J. D. Rehm, Trustee, owner; E. Cassella, applicant; request for variance of Section 5.1.2 (15% maximum coverage) and Section 8.6 (no enlargement or vertical expansion of nonconforming structure) to permit reconfiguration and additions to existing structure that reduces coverage from 16% to 15.9% and increases height of some components.

K. Berluti indicated that although she is an abutter, she can review the application objectively. The applicant indicated that he had no objection.

Attorney Cassella presented and indicated that the owners were present to answer any questions. He oriented Board members on the site plan and stated that the lot is greater than 20,000 square feet; all structures comply with setback requirements; the existing structures are nonconforming as to coverage, which is currently 16% and is proposed to be reduced to 15.9%, a 42 square foot reduction; they will remove an overhang, deck, and ramp in order to complete the proposed additions, essentially, allowing for a “swap” in coverage; and HDC has approved the design. He reviewed the changes on the elevation drawings and stated that a reduction in coverage is a stand alone basis for granting a variance; it is not required to prove hardship. Relative to the Coastal Site Plan, he identified the coastal resources as Long Island Sound and South Cove and stated that this is an interior lot and the construction will have no adverse impact on either resource; he added that the reduction on coverage will also equate to a reduction in stormwater.

P. Brainard asked again about the reduction in coverage. E. Cassella stated that it reduces from 16% to 15.9%, which is 42 square feet. He indicated that they could legally keep the current coverage but are willing to give up some of it permanently in order to be able to make the modifications proposed.

P. Brainard noted that some of the new coverage includes increased height. E. Cassella stated that all of the height increases are in conforming locations. The application is not about setback, but simply about coverage.

R. Gay requested that the changes be reviewed again on the elevation drawings and the most relevant drawings were reviewed. He noted that it is a de minimis reduction in coverage.

In response to comments, M. Ozols stated that a reduction in nonconformity can be sufficient to allow the Board to grant a variance, but the Board is not required to do so. P. Brainard asked about the new coverage being bulkier than the old coverage. M. Ozols stated that the reduction can be considered in context. E. Cassella added that they are entitled to look at the trade off, but this lot is big enough to support the new construction without impinging on neighbors.

After it was ascertained that there were no additional questions and no public comments, **B. Renshaw moved to close the public hearing on this application. L. Goldsmith seconded the motion and it was approved unanimously.**

The motion carried, 5-0-0.

IN FAVOR: Gay, Brainard, Berluti, Goldsmith, Renshaw

OPPOSED: none

ABSTAINED: none

3. Possible Decision: ZBA23-001, 19 Neponset Avenue.

R. Gay stated that they have granted similar variances for reductions in coverage in the past; this is a de minimis reduction but the design is better.

Members agreed that their questions had been addressed in the public hearing.

B. Renshaw moved to grant a variance of Sections 5.1.2 (15% maximum coverage) and Section 8.6 (no enlargement or vertical expansion of nonconforming structure) to permit reconfiguration and additions to the existing structure that reduce coverage from 16% to 15.9% and increase the height of some components as shown on the plans submitted. P. Brainard seconded the motion.

The motion carried, 5-0-0.

IN FAVOR: Gay, Brainard, Berluti, Goldsmith, Renshaw

OPPOSED: none

ABSTAINED: none

It was noted that the coastal site plan was discussed in the hearing. Based on this, **B. Renshaw moved to find application ZBA23-001, 19 Neponset Avenue, consistent with the goals and policies of the Connecticut Coastal Management Act. The motion was seconded by A. Pulver and approved unanimously.**

The motion carried, 5-0-0.

IN FAVOR: Gay, Brainard, Berluti, Goldsmith, Renshaw

OPPOSED: none

ABSTAINED: none

The record plans are:

- *Site Development Plan, Property of Jack D. Rehm, Trustee, 19 Neponset Avenue, Old Saybrook, Connecticut* by Angus McDonald Gary Sharpe & Associates, Inc. dated August 17, 2023
- *The Rehm residence, 19 Neponset Ave, Fenwick, Old Saybrook, CT*, by Brooke Girty Design
 - Proposed Floor Plans (foundation), Sheet A0 dated April 26, 2023, rev. 6/28/23
 - Proposed Floor Plans (first floor), Sheet A1 dated April 26, 2023, rev. 6/28/23
 - Proposed Floor Plans (second floor), Sheet A2 dated April 26, 2023, rev. 8/15/23
 - Proposed Floor Plans (attic), Sheet A3 dated April 26, 2023, rev. 8/16/23
 - Sections and Elevations, Sheet A4 dated 5/23/23, rev. 7/16/23
 - Sections and Elevations, Sheet A5 dated 5/23/23, rev. 7/16/23
 - Sections and Elevations (west & south), Sheet A6 dated 5/23/23, rev. 7/16/23
 - Sections and Elevations (east & north), Sheet A7 dated 5/23/23, rev. 7/16/23

4. ZBA23-002. 10 Pettipaug Avenue, map 10, lot 38. J. Girty, owner; E. Cassella, applicant; request for variance of Section 5.1.2 (15% maximum coverage) and Section 8.6 (no enlargement or vertical expansion of nonconforming structure) to permit reconfiguration and additions to existing structures that reduce coverage from 16% to 15.9% and increase height of some components.

Attorney Cassella introduced the owners, Stephen and Polly Carta, and presented the application. He oriented the Board on the site plan and stated that this is a nonconforming house on a 20,000 square foot lot, but it is fully complying as to setback; the existing coverage is 16% and the proposal is to reduce it to 15.9%, which is 17 square feet; the most significant change is the removal of the detached garage and the construction of an attached garage which utilizes some of the area of the existing house but extends about 12 feet further out; other changes include removal of a deck and new small additions. He reviewed all the changes on the elevation drawings and stated that the reduction in nonconformity is a permissible basis for granting a variance - no hardship is required; and all

proposed work complies with setback requirements. Relative to the Coastal Site Plan, he stated that the goal is to have no adverse impact on the coastal resources and this is an interior lot; coverage is reduced; a new septic system will be installed; and the house is not in a flood zone.

A. Pulver asked about the location of the new garage relative to the existing garage. E. Cassella used the floor plan and elevation drawings to indicate the area of new construction relative to the existing rear extension of the house and garage location. Members compared the locations and P. Brainard noted that the new construction is significantly more south of Agawam Avenue than the existing garage. E. Cassella stated that the distance from the road to the structure increases from 71 feet to 110 feet.

P. Brainard welcomed the Carta's and noted that the application indicates Jennifer Girty is the owner. E. Cassella stated that was correct at the time of application and that is what was legal noticed; the decision legal notice will be the same, but the Certificate of Variance will identify the current owners in order to be consistent with the land records.

P. Brainard referred to the requested variance of Section 8.6 and noted that the areas of the current deck and rear lean to section of the house will increase in height. M. Ozols stated that this can be considered relative to how the increase contributes to the nonconforming coverage, but the new construction is conforming as to setback.

After it was ascertained that there were no additional questions and no public comments, **B. Renshaw moved to close the public hearing on this application. L. Goldsmith seconded the motion and it was approved unanimously.**

The motion carried, 5-0-0.

IN FAVOR: Gay, Brainard, Berluti, Goldsmith, Renshaw

OPPOSED: none

ABSTAINED: none

5. Possible Decision: ZBA23-002, 10 Pettipaug Avenue.

Members agreed that they had fully discussed this application during the hearing. Based on that discussion, **L. Goldsmith moved to grant a variance of Sections 5.1.2 (15% maximum coverage) and Section 8.6 (no enlargement or vertical expansion of nonconforming structure) to permit reconfiguration and additions to the existing structures that reduce coverage from 16% to 15.9% and increase the height of some components as shown on the plans submitted. P. Brainard seconded the motion and it was approved unanimously.**

The motion carried, 5-0-0.

IN FAVOR: Gay, Brainard, Berluti, Goldsmith, Renshaw

OPPOSED: none

ABSTAINED: none

It was noted that the coastal site plan was discussed in the hearing. Based on this, **B. Renshaw moved to find application ZBA23-002, 10 Pettipaug Avenue, consistent with the goals and policies of the Connecticut Coastal Management Act. The motion was seconded by K. Berluti and approved unanimously.**

The motion carried, 5-0-0.

IN FAVOR: Gay, Brainard, Berluti, Goldsmith, Renshaw

OPPOSED: none

ABSTAINED: none

The record plans are:

- *Site Development Plan Property of Jennifer W. Girty, 10 Pettipaug Avenue, Borough of Fenwick, Old Saybrook, CT* by Angus McDonald Gary Sharpe & Associates, dated August 15, 2023.
- *The Carta Cottage, 10 Pettipaug Avenue, Fenwick, Old Saybrook, CT* by Brooke Girty Design
 - Proposed Floor Plans (first floor), sheet A1, dated August 15, 2023
 - Proposed Floor Plans (second floor, tower), sheet A2, dated August 15, 2023
 - Proposed Elevations (south & east), sheet A3, dated August 15, 2023
 - Proposed Elevations (north & west), sheet A4, dated August 15, 2023
 - Existing Floor Plans (first floor), sheet Ex1a, dated July 14, 2023, rev. 8/17/23

- Existing Floor Plans (first floor), sheet Ex1b, dated July 14, 2023, rev. 8/17/23
- Existing Floor Plans (second floor), sheet Ex2, dated July 14, 2023, rev. 8/17/23
- Existing Elevations (south & east), sheet Ex3, dated July 14, 2023, rev. 8/17/23
- Existing Elevations (north & west) sheet Ex4, dated July 14, 2023, rev. 8/17/23

6. Election of Officers.

Members agreed to table the election of officers until all members could be present.

B. Renshaw moved to table the election of officers to the next meeting. P. Brainard seconded the motion and it was approved unanimously.

The motion carried, 5-0-0.

IN FAVOR: Gay, Brainard, Berluti, Goldsmith, Renshaw

OPPOSED: none

ABSTAINED: none

7. Approval of Minutes: June 2, 2021.

P. Brainard moved to approve the minutes of the June 2, 2021 special meeting as written. L. Goldsmith seconded the motion and it was approved unanimously.

The motion carried, 5-0-0.

IN FAVOR: Gay, Brainard, Berluti, Goldsmith, Renshaw

OPPOSED: none

ABSTAINED: none

8. Other Business.

Members were reminded about the new requirement in state statutes for four hours of training for all land use board members. The municipal official training scheduled for September 21 will fulfill three hours of that training requirement.

9. Adjournment.

P. Brainard moved to adjourn the meeting at 5:49 p.m. L. Goldsmith seconded the motion and it was approved unanimously.

Respectfully submitted,
Marilyn M. Ozols
Acting Recording Secretary