

**Borough of Fenwick
Zoning Board of Appeals
Public Hearing and Special Meeting – January 25, 2020
Minutes**

A Special Meeting of the Borough of Fenwick Zoning Board of Appeals was held on Saturday, January 25, 2020, at 9:00 a.m. at 4 Nibang Avenue.

MEMBERS PRESENT: Robert Gay, Martha Staniford, Laurie Goldsmith, Peter Brainard (via phone), Becki Renshaw (Alternate).

MEMBERS ABSENT: Kathy Berluti, Ann Pulver (Alternate).

OTHERS PRESENT: Marilyn Ozols, ZEO; Brooke Girty.

1. Call to Order.

Chairman Gay called the meeting to order at 9:15 a.m. He seated R. Renshaw as and indicated that R. Gay, M. Staniford, R. Renshaw, L. Goldsmith, and P. Brainard would be the voting members for this meeting.

- 2. Public Hearing: ZBA 19-003. 7 Pettipaug Avenue, map 10, lot 28.** Frankel Family Investments, LLC, owner; Brooke Girty, applicant; request for variance of Section 5.1.2 (15% maximum coverage, 15.7% proposed), and 8.2/8.6 (no expansion of non-conformity or nonconforming characteristic; no vertical expansion of nonconforming structure) to permit replacement of existing steps and landing with elevator shaft. Coastal Site Plan Review required.

B. Girty presented. She stated that this is an application to add an elevator to the Frankel's new house. She oriented the Board to the location on the site plan, floor plan, and elevation drawing, and stated that it is a tiny bit bigger than the existing deck and steps; that the coverage is 15.7% existing and proposed because the increase in square footage is too small to change the percentage; that it is tucked in on the side of the house; that it is difficult to see because of the hedge; and that there are no changes to the floor plan. She explained that they had looked for other locations within the house but there were conflicts with the floor plan or duct work, in particular because of the location of the mechanical room. She added that the elevator goes between the first and second floors only and that they have provided only the minimum headroom required for an elevator. She reviewed the photos submitted with the application and noted that the shaft is most visible from the Benner house but it does not stick out any farther than other portions of the house, and that the neighbors had all been notified and no comments were received. She explained that the owner has a difficult time getting from the first to the second floor and there are no bedrooms on the first floor and that ADA creates a dilemma for Zoning because they cannot discriminate in that a disabled person has the same right to enjoy a house as a non-disabled person. She added that Zoning only needs to determine whether the modification is reasonably necessary to accommodate the disability and whether the modification will fundamentally and unreasonably alter the purpose of the zoning regulations. She stated that, in her opinion, this would not alter the purpose of zoning and reiterated that there is no other area within the house to install an elevator and this is the solution that works for them. Finally, she clarified that it is not in the garage because there are several steps from the garage floor to the first floor and the second floor would enter into a bedroom, and that there is access to the house from the outside on the east with a minimum number of steps so if they do need a ramp, it will be small.

No public was present to comment.

R. Gay summarized that the applicants believe this location fills their need, verified that no one else wished to speak, and closed the public hearing.

3. Possible decision: ZBA 19-003, 7 Pettipaug Avenue.

R. Gay stated that the Board needs to determine if there is a legitimate handicap and whether the modification proposed addresses the need and doesn't otherwise violate the zoning laws. He added that he has no reservations that they need an elevator and recalled the accommodation made at the Tenney's for a ramp in the

setback. P. Brainard added that the ZBA should not be in the business of determining a disability but should take the applicant's word for it. R. Gay concurred and, noting that they only need to address the other two criteria, stated that the elevator is de minimis, is replacing a structure that is already there, and is barely visible from the street.

Based on the discussion in and following the hearing, **M. Staniford moved to grant a variance for ZBA19-003, 7 Pettipaug Avenue, of Section 5.1.2 (15% maximum coverage, 15.7% proposed), and 8.2/8.6 (no expansion of non-conformity or nonconforming characteristic; no vertical expansion of nonconforming structure) to permit replacement of the existing steps and landing with an elevator shaft. as shown on the plans submitted. The motion was seconded by L. Goldsmith and approved unanimously.**

The motion carried, 5-0-0

IN FAVOR: Gay, Staniford, Renshaw, Goldsmith, Brainard.

OPPOSED: none

ABSTAINED: none

No issues with the Coastal Site Plan Review were identified during the public hearing.

L. Goldsmith moved to find application ZBA19-003, 7 Pettipaug Avenue, consistent with the goals and policies of the Connecticut Coastal Management Act. The motion was seconded by R. Renshaw and approved unanimously.

The motion carried, 5-0-0.

IN FAVOR: Gay, Staniford, Renshaw, Goldsmith, Brainard.

OPPOSED: none

ABSTAINED: none

The record plans are:

- *Zoning Location Survey Depicting Proposed elevator on Land of Frankel Family Investments, LLC, 7 Pettipaug Avenue* by Annino Survey, LLC dated 12/16/19
- *The Frankel Cottage, 7 Pettipaug Avenue* by Brooke Girty Design
 - *Proposed Plan* (Foundation, First Floor Second Floor), Sheet A1, dated October 7, 2019, revised 11/22/19
 - *Proposed Elevations*, Sheet A2 dated October 7, 2019, revised 11/22/19

4. Approval of Minutes: December 7, 2019.

R. Renshaw moved to approve the minutes of the December 7, 2019 special meeting as submitted. L. Goldsmith seconded the motion and it was approved unanimously.

The motion carried, 5-0-0.

IN FAVOR: Gay, Staniford, Renshaw, Goldsmith, Brainard.

OPPOSED: none

ABSTAINED: none

5. Other Business.

None.

6. Adjournment.

R. Renshaw moved to adjourn the meeting at 9:40 a.m. M. Staniford seconded the motion and it was approved unanimously.

Respectfully submitted,

Marilyn M. Ozols

Acting Recording Secretary