

**Borough of Fenwick
Zoning Board of Appeals
Public Hearing and Special Meeting – October 27, 2020
Virtual Meeting
Minutes**

A Special Meeting of the Borough of Fenwick Zoning Board of Appeals was held on Tuesday, October 27, 2020 at 5:00 p.m. via the Zoom meeting format.

MEMBERS PRESENT: Robert Gay, Martha Staniford, Peter Brainard, Ann Pulver (Alternate), Frank Gilhool (Alternate).

MEMBERS ABSENT: Laurie Goldsmith, Kathy Berluti, Becki Renshaw (Alternate).

OTHERS PRESENT: Marilyn Ozols, ZEO; Attorney E. Cassella, B. Girty.

1. Call to Order.

Chairman Gay called the meeting to order at 6:04 p.m. He seated alternates A. Pulver and F. Gilhool and indicated that R. Gay, M. Staniford, P. Brainard, A. Pulver, and F. Gilhool would be the voting members for this meeting.

- 2. Public Hearing: ZBA 20-003. 6 Pettipaug Avenue, map 10, lot 39.** Jonathan Gengras, owner, Brooke Girty Design, applicant; request for variance of Section 5.1.2 (15% maximum coverage, 15/7% proposed – reduction from 16%); 5.3.2 (23.5' side yard required, 14.6' proposed to new westerly steps; and 8.2/8.5/8.6 (no extension or expansion of non-conformity) to permit reconfiguration and renovation of existing house. Coastal Site Plan Review required.

Attorney E. Cassella presented on behalf of the applicant. He used share screen to display the site plan and he indicated the areas of change, both additions and removals. He stated that the variances are needed to complete the proposed additions; that the proposal involves a lot line modification between the two Gengras properties that involves a one for one exchange with both properties maintaining the exact same lot area as they currently have; that all of the modifications and variances relate to the Pettipaug Avenue house; that, with the lot line modification, the proposed addition is completely conforming as to setbacks; that the deck, steps, bay window, and patio in the setback will be removed on the east side and one new set of steps will be added to service the new side door; and that this will be a landing and two steps basically the same size as the one that is being removed to the north.

Attorney Cassella stated that two variances are being requested. The first is a side yard variance for steps 14.6' from the side property line where 23.5' is required. He pointed out the setback on the site plan and reminded that Board that four nonconformities are being removed on the east side where this one variance is requested. The second is a coverage variance: the current coverage is 16% and there is a proposed reduction of 85 square feet to 15.7%. He added that the third variance noted in the application is for Sections 8.2/8.5/8.6 which prohibits any extension or expansion of a nonconformity and the new steps would constitute an expansion/extension into the setback. He demonstrated the changes on the elevation drawings, noting that all but the steps are conforming with respect to setback.

Attorney Cassella summarized that the end result of the proposal is that the new structure will be more conforming than the existing structure; that coverage will be reduced from 16% to 15.7%; that the deck, stairs, patio, and bay window will be removed on the east side; that the addition of land on the west side eliminates any nonconformities on the left side of the house; that the proposed structure fits in with the Borough and includes 4 – 5 reductions of nonconformities. With respect to the CAM application, he stated that this property is out of the flood zone and far from any sensitive coastal resources so there are no impacts on those resources.

A. Pulver noted that the proposal is more conforming than the existing structure.

M. Staniford asked the purpose of the land swap. Attorney Cassella responded that it makes the addition conforming as to setback; that both lots remain over 20,000 square feet; and that the land swap can be a condition of approval if the Board so stipulates.

P. Brainard asked whether more land could be added to this property in order to further reduce the coverage. Attorney Cassella responded that the other property is at about 15% coverage so that lot size can't be reduced. B. Girty added that there was a previous lot line modification for construction of that house and reducing the lot size could impact those approvals.

F. Gilhool corrected item #11 in the application to state 23 feet, not yards.

M. Staniford asked if the neighbors had been notified and M. Ozols responded that they had and no comments had been received.

No public was present to comment.

R. Gay verified that no one else wished to speak, and closed the public hearing at 5:27 p.m.

3. Possible decision: ZBA 20-003, 6 Pettipaug Avenue.

F. Gilhool stated that the setback request was diminimus and there was a reduction in the number of setback inconsistencies on that side of the house.

M. Staniford stated that she believed they must stipulate that the land swap be recorded and members agreed.

B. Gay agreed that the intrusion of the steps into the setback is diminimus and added that, while not unique in the Borough, it should be considered in conjunction with eliminating the other intrusions. He also stated that it is consistent with the local zoning philosophy and, with respect to the coverage variance, there is a legal rationale.

Based on the discussion in and following the hearing, **M. Staniford moved to grant a variance of Section 5.1.2 (15% maximum coverage, 15/7% proposed – reduction from 16%); 5.3.2 (23.5' side yard required, 14.6' proposed to new westerly steps; and 8.2/8.5/8.6 (no extension or expansion of non-conformity) to permit reconfiguration and renovation of the existing house as shown on the plans submitted with the stipulation that the land swap be executed and recorded prior to issuance of any permits. The motion was seconded by A. Pulver and approved unanimously.**

The motion carried, 5-0-0

IN FAVOR: Gay, Staniford, Brainard, Pulver, Gilhool

OPPOSED: none

ABSTAINED: none

The Coastal Site Plan was discussed during the hearing. Members agreed that the property is not close to vulnerable coastal resources and there are no impacts.

P. Brainard moved to find application ZBA20-003, 6 Pettipaug Avenue, consistent with the goals and policies of the Connecticut Coastal Management Act. The motion was seconded by M. Staniford and approved unanimously.

The motion carried, 5-0-0.

IN FAVOR: Gay, Staniford, Brainard, Pulver, Gilhool

OPPOSED: none

ABSTAINED: none

The record plans are:

- *Site Development Plan Properties of E. P. Gengras & J. G. Gengreas, 6 Pettipaug Avenue & 19 Agawam Avenue*, by Angus McDonald, Gary Sharpe & Associates, dated August 31, 2020, rev through 10/13/20
- *The Jonathan and Robyn Gengras Residence, 6 Pettipaug Avenue* by Brooke Girty Design
 - *Proposed Elevations* (south & east) dated 6/5/20 rev. 6/29/20, sheet A6

- *Proposed Elevations* (north & west) dated 6/5/20 rev. 6/29/20, sheet A7

4. Approval of Minutes: August 31, 2020.

M. Staniford moved to approve the minutes of the January 25, 2020 special meeting. F. Gilhool seconded the motion and it was approved unanimously.

The motion carried, 5-0-0.

IN FAVOR: Gay, Staniford, Brainard, Pulver, Gilhool

OPPOSED: none

ABSTAINED:

5. Other Business.

M. Staniford inquired about training. M. Ozols stated that Attorney Zizka had been on vacation but she would follow up on setting up a Zoom presentation.

F. Gilhool inquired whether a hearing was necessary for a diminimus intrusion into the setback like in this and the 20 Fenwick Avenue application. M. Ozols stated that state law prohibits issuance of a zoning permit or a P&Z approval if there is any noncompliance with the Regulations, even a minor one.

B. Gay noted that people have learned to reduce a noncompliance in order to obtain a variance. M. Ozols noted that although reducing a noncompliance can justify a variance in the absence of hardship, the Board has to evaluate the reduction proposed, the same way it evaluates a hardship when it is presented to them.

6. Adjournment.

M. Staniford moved to adjourn the meeting at 5:43 p.m. F. Gilhool seconded the motion and it was approved unanimously.

Respectfully submitted,
Marilyn M. Ozols
Acting Recording Secretary