



TOWN OF OLD SAYBROOK
Zoning Board of Appeals

*Charles Gadon, Chairman
Kevin Danby, Vice Chairman
Alfred Wilcox
C. Marston Ladd
Erin Colwell*

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Alternate Members

*Andrew Morosky
Jonathan Miles
Laurie Deneen*

**MINUTES
REGULAR HYBRID MEETING
Wednesday, April 10, 2024 at 6:00 p.m.**

I. CALL TO ORDER

Chairman Gadon called the meeting to order at 6:00 pm

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

Attendant Members

Charles Gadon, Alfred Wilcox, C. Marston Ladd, E. Colwell, Laurie Deneen

Absent Members

Kevin Danby, Andrew Morosky, Jonathan Miles

Attendant Staff

Karen Dooley, Recording Clerk

Laurie Deneen was seated for Kevin Danby

IV. PUBLIC HEARINGS

23/24-17 Jeffrey Roy requests a variance of Par 10.8.2/10.8.3 (non-conforming lot/no changes allowed/changes propose): Par 24.5.1 (streetline setback/25' required/15.1 proposed); Par 24.5.3 (other yard setback/15' required/5' proposed to North and 11' proposed to South); and Par 24.6.2 (structure coverage/20% allowed/20.9% proposed) of the Zoning Regulations to permit a modification to a previously approved variance to reduce the size of the roof line at 105 Middletown Avenue, Map 13/Lot 117, Residence A District, Coastal Area Management Zone.

Attorney Sylvia K. Rutkowska of Arch Law Group and Joe Wren, PE, Engineer of Indigo Civil Engineers and Planners presented for the applicants.

The applicant is requesting a variance for a rooftop deck that will be part of the utility platform. This variance for the rooftop deck was denied previously. Only the utility platform was approved.

J. Wren stated that the hardship is there is a very narrow lot to build on and that they are reducing the nonconformity.

Attorney Rutkowska submitted photos of other rooftop decks in the town and feels that due to the multitude of them, her client's request is reasonable.

Chris Costa and her attorney Ken Slater presented for Chris Costa. Attorney Slater stated the applicant deviated from what was approved previously at the Zoning Board of Appeals meeting. Both Attorney Slater and C. Costa stated that C. Costa does not have the authority to approve any modifications to a variance.

C. Costa stated that the photos of the rooftop decks do not pertain because each property's circumstance is different. Some had variances and some were decorative.

Attorney Rutkowska stated that there was only a minor modification in the Site Plan therefore C. Costa did have the authority to approve it. She also stated that the applicant's request does fit with the town's plan since many other properties have rooftop decks.

C. Gadon opened the public comment.

Attorney Robert Rimmer representing Jeff Dooley of 103 Middletown Avenue spoke against the application.

C. Gadon closed the public comment.

Attorney Rutkowska stated there were several letters of support from the neighbors with the inclusion of the rooftop deck.

MOTION TO DENY THE VARIANCE, 23/24-17 Jeffrey Roy requests a variance of Par 10.8.2/10.8.3 (nonconforming lot/no changes allowed/changes propose): Par 24.5.1 (streetline setback/25' required/15.1 proposed); Par 24.5.3 (other yard setback/15' required/5' proposed to North and 11' proposed to South); and Par 24.6.2 (structure coverage/20% allowed/20.9% proposed) of the Zoning Regulations to permit a modification to a previously approved variance to reduce the size of the roof line at 105 Middletown Avenue, Map 13/Lot 117, Residence A District, Coastal Area Management Zone. The motion to deny the application is, "It is rehashing entirely what was denied the first time, in fact only making it worse against what was denied the first time....In the interval our Zoning Commission has spoken directly to the question of roof decks and it has now said that effective April 15 they are not to be permitted in the town of Old Saybrook. I acknowledge freely that we are not yet at April 15...Does this fit with the general plan of the town? And since now the town has clearly spoken, it seems to me that it is safe for me to think this does not fit with the general plan for the town....That is the basis for my motion." **MADE:** C. Wilcox; **SECONDED:** C. M. Ladd; **VOTING IN FAVOR:** C. Gadon, L. Deneen, A. Wilcox, C. M. Ladd, E. Colwell; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 5-0-0.

23/24-18 Jeffrey Roy, appeal of the Zoning Enforcement Officers decision of December 15, 2023 related to Application for Certificate of Zoning Compliance 25-193 for property located at 105 Middletown Avenue, Map 13/Lot 117, Residence A District.

MOTION TO DENY THE APPEAL, 23/24-18 Jeffrey Roy, appeal of the Zoning Enforcement Officers decision of December 15, 2023 related to Application for Certificate of Zoning Compliance 25-193 for property located at 105 Middletown Avenue, Map 13/Lot 117, Residence A District. C. Gadon stated, "The same motion will carry for 23/24-18." The motion to deny the application is it is rehashing entirely what was denied the first time, in fact only making it worse against what was denied the first time....In the interval our Zoning Commission has spoken directly to the question of roof decks and it has now said that effective April 15 they are not to be permitted in the town of Old Saybrook. I acknowledge freely that we are not yet at April 15...Does this fit with the general plan of the town? And since now the town has clearly spoken, it seems to me that it is safe for me to think this does not fit with the general plan for the town....That is the basis for my motion."

MADE: C. Wilcox; **SECONDED:** C. M. Ladd; **VOTING IN FAVOR:** C. Gadon, L. Deneen, A. Wilcox, C. M. Ladd, Colwell; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 5-0-0.

23/24-19 South Cove Rental, LLC appeal of the Zoning Enforcement Officer Certificate of Zoning Compliance dated April 28, 2023 for property located at 6 South Street, Map 22/Lot 76, Residence A District, Coastal Area Management Zone.

Attorney Robert Rimmer presented for the applicant. He stated the appellant never received notice of ZEO's decision to approve this as a building lot. Dorrie Patera, property owner and appellant, stated she heard they would be building on the lot behind her property from an abutting neighbor. This is the reason for the length of her appeal being inconsistent with the decision of the Zoning Enforcement Officer.

Attorney Rimmer stated the lot was abandoned by the prior owner, the Mannings, after Hurricane Sandy. This is the reason why it should not be able to be a buildable lot now.

Chris Costa presented that she was unclear at the time whether the lot was abandoned. She consulted with Attorney Ed Cassella, representing the property owner at 6 South Street along with several other experts. The conclusion was abandonment was not found. Attorney Slater, representing C. Costa, stated even though Ms. Manning did not intend to rebuild, it is not the same as officially abandoning the right to do so.

Attorney Peter Geldermen, representing the ZBA, asked C. Costa if the Certificate of Zoning Compliance was just in reference that the property was a building lot or was she approving a building plan. C. Costa confirmed that the Certificate was only for the lot being able to be built on.

Attorney Ed Cassella, represented the current property owner. He presented that in order to rebuild the structure after the damage from Hurricane Sandy, the structure had to be FEMA compliant. Attorney Cassella presented in 2018 the bank took over the property, per the mortgage agreement, since the Mannings left the property and the state. In 2019 the bank's intent, in the demolition permit, was to rebuild. Attorney Cassella stated there was never abandonment so the right to rebuild remains.

C. Gadon opened for public comment.

Dorrie Patera is concerned about the property not being used in the same fashion as it was previously.

Alicia Manchon, neighbor, commented that the Mannings walked away from the property.

Todd Cellura, current property owner at 6 South Street, stated new home is designed to meet all the current FEMA standards.

Amy Ellsworth, neighbor, is speaking in support of South Cove Rentals.

C. Gadon closed the public comment.

MOTION TO DENY THE APPEAL, 23/24-19 South Cove Rental, LLC appeal of the Zoning Enforcement Officer Certificate of Zoning Compliance dated April 28, 2023 for property located at 6 South Street, Map 22/Lot 76, Residence A District, Coastal Area Management Zone. "The evidence that the prior owners, equitable owners, not legal owners had no intention to invest a penny cannot be interpreted as devaluing the title owner's right, the mortgage owners right, to maximize the value of this property any way that they saw fit." **MADE:** C. Wilcox; **SECONDED:** C. M. Ladd; **VOTING IN FAVOR:** C. Gadon, L. Deneen, A. Wilcox, C. M. Ladd, E. Colwell; **OPPOSED:** None **ABSTAINING:** None; **APPROVED:** 5-0-0.

23/24-22C Matthew J. O'Keefe requests a variance of Par 10.7.1/10.7.2 (non-conformity enlargement/change); Par 58.2 & Par 58.6 (Gateway riparian buffer & structure setback/100' required/49.2' proposed); and Par 68.1.2.B.9 (tidal wetland setback/50' required/49.2' proposed) of the Zoning Regulations to permit the construction of a 48 s.f. dormer addition and 220 s.f. covered porch at 44 Willard Avenue, Map 24/Lot 92, Residence A District, Coastal Area Management Zone, CT River Gateway Conservation District.

Mr. O' Keefe represented himself. He stated that he is allowed to build vertically above an already nonconforming structure per the town's regulations. He wanted to continue to the next meeting to clarify that he was correct with the regulations. A letter of request to continue was submitted at the meeting.

MOTION TO CONTINUE UNTIL THE NEXT REGULARLY SCHEDULED MEETING, 23/24-22C Matthew J. O'Keefe requests a variance of Par 10.7.1/10.7.2 (non-conformity enlargement/change); Par 58.2 & Par 58.6 (Gateway riparian buffer & structure setback/100' required/49.2' proposed); and Par 68.1.2.B.9 (tidal wetland setback/50' required/49.2' proposed) of the Zoning Regulations to permit the construction of a 48 s.f. dormer addition and 220 s.f. covered porch at 44 Willard Avenue, Map 24/Lot 92, Residence A District, Coastal Area Management Zone, CT River Gateway Conservation District. The applicant wanted to continue until the next meeting to clarify zoning regulations. He submitted his letter for this request at the meeting. **MADE:** C. Wilcox; **SECONDED:** E. Colwell; **VOTING IN FAVOR:** C. Gadon, L. Deneen, A. Wilcox, C. M. Ladd, E. Colwell; **OPPOSED:** None **ABSTAINING:** None; **APPROVED:** 5-0-0.

MOTION TO AMEND THE AGENDA ADDING APPLICATION 21/22-22C, 54 VINCENT AVENUE EXTENSION, **MADE:** C. Wilcox; **SECONDED:** C. M. Ladd; **VOTING IN FAVOR:** C. Gadon, L. Deneen, A. Wilcox, C. M. Ladd, E. Colwell; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 5-0-0.

MOTION TO EXTEND THE APPLICATION FOR ONE YEAR FOR 21/22-22C, 54 VINCENT AVENUE, MADE: C. Wilcox; **SECONDED:** C. M. Ladd; **VOTING IN FAVOR:** C. Gadon, L. Deneen, A. Wilcox, C. M. Ladd, E. Colwell; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 5-0-0.

VI. REGULAR MEETING

- A. New Business-** None
- B. Minutes**

MOTION TO APPROVE MINUTES WITH THE FOLLOWING CORRECTION, The motion should have read, “MOTION TO APPROVE WITH THE FOLLOWING CONDITIONS : 23/24-12 Stanislaw Szewczyk requests a variance of Par 63.3.1.B (front landscape area/25’ required/10’ from Boston Post Road and 10’ from Orchard Lane proposed); and Par 68.1.2.B.2 (parking/pedestrian node/10’ behind bldg. required/parking as proposed) of the Zoning Regulations to permit a garden center development with two seasonal greenhouses, shed/outdoor display area and parking on the property at 1560 Boston Post Road, Map 26/Lot 30, Gateway Business B-4 District, Coastal Area Management Zone with the following conditions. Business deliveries must be made before ten am on Monday through Saturday. No deliveries to be made on Sundays. **MADE:** E. Colwell; **SECONDED:** J. Miles; **VOTING IN FAVOR:** E. Colwell, C.M. Ladd, J. Miles, A. Morosky; **OPPOSED:** A. Wilcox; **ABSTAINING:** None; **APPROVED:** 4-1-0.”
MADE: C. Wilcox; **SECONDED:** C. M. Ladd; **VOTING IN FAVOR:** C. Gadon, L. Deneen, A. Wilcox, C. M. Ladd, E. Colwell; **OPPOSED:** None **ABSTAINING:** None; **APPROVED:** 5-0-0.

- C. Correspondence & Announcements-** None
- D. Committee, Representative & Staff Reports-** None

VII. ADJOURNMENT

MOTION to ADJOURN, MADE: C. Wilcox; **SECONDED:** C. M. Ladd; **VOTING IN FAVOR:** C. Gadon, L. Deneen, A. Wilcox, C. M. Ladd, E. Colwell; **OPPOSED:** NONE; **ABSTAINING:** NONE; **Motion Passes:** 5-0-0.

Respectfully submitted,
Karen Dooley, Recording Clerk

NEXT REGULAR MEETING

May 15, 2024 at 6:00 P. M.

Town Hall, 1st Floor Conference Room, 302 Main Street, Old Saybrook, CT

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