

**CITY OF NORWICH**  
**ZONING BOARD OF APPEALS**  
**October 8, 2019**  
**Minutes**

The regular meeting of the City of Norwich Zoning Board of Appeals was called to order at 7:03 p.m. Roll call was taken.

PRESENT: Marc Benjamin, Chairman  
Dorothy Travers  
David Martin  
Robert Phoenix  
Gregory Schlough, Alternate

ABSENT: Peter Cuprak

OTHERS: Richard Shuck, Zoning Enforcement Officer, and Katherine Rose,  
Recording Secretary

Marc Benjamin called the meeting to order at 7:02 p.m. Marc Benjamin stated all seated members would be voting on all matters.

**D. COMMUNICATIONS:** None.

**E. ACCEPTANCE OF MINUTES:** Gregory Schlough made a motion to accept the September 10, 2019 minutes with the correct that he also voted in favor of upholding the ZEO's decision. Dorothy Travers seconded. Motion passed unanimously.

Chairman Marc Benjamin wished to clarify that while the minutes correctly state what was discussed at the previous meeting he was incorrect in stating the motion failed as it did carry based on state statute. Marc Benjamin stated he spoke to the City Planner and City Counsel who instructed him the wording on a motion to challenge the ZEO enforcement officer is clear so due to the wording of the motion it did pass due to the lack of a four-to-one majority vote.

**F. OLD BUSINESS:** Robert Phoenix made a motion to move Old Business down in the agenda to Other Matters. Gregory Schlough seconded. The motion passed unanimously.

**G. NEW BUSINESS:**

1. **V# 19 – 06:** V# 19-07: 2 Twins Court. Request for a variance of Sec. 2.1, Commercial Bulk Requirements to reduce the minimum lot size to 8,805 sf. where 10,000 sf. is required. Property of Xial Min Huang; Application of Domenic Carpiolato, Assessors Map #115, Block #2, Lot #10

Richard Shuck read into record Exhibit's A - I.

John Mancini and Matt Putin of 355 Research Parkway, Meriden, CT principals at BL Companies introduced themselves on behalf of the applicant and showcased large scaled drawing of their project to demonstrate where the existing commercial and residential zoning lines sit along New London Turnpike and Route 82. Mr. Mancini

stated they noticed an unnatural barrier is created by the current zoning line which they understand was rezoned to promote commercial business in the area however they felt as though readjusting the zoning line would create a natural border between the zones while also protecting the residential character of dead end streets. Mr. Mancini continued that they already have control of the adjacent properties and wish to not disturb the property in question to assist in creating a buffer as they do not plan to do any development in that area. John Mancini stated the lot and corner are already non-conforming due to their small size. Matt Putin added that they only need to acquire a small portion of the property in question to provide for the development but otherwise acquire a variance for Lot #10 in order to maintain the home and prevent it from being demolished.

Marc Benjamin clarified that as they already have acquired three properties and have lease to do commercial development so their request is to take a portion of the residential property and perform a plot line shift? Joe Mancini responded that is correct and that the property is already non-conforming but will become more non-conforming but it will preserve the neighborhood buffer for the residential homes on that road. Marc asked if the goal can be accomplished without that portion of the residential lot. Mr. Mancini responded that their particular development does need that small portion of land to complete it so the only alternative would be to demolish the home and use the property for parking or another commercial use. Robert Phoenix asked staff when the Twins Court area was zoned commercial to which staff responded he was not sure of the exact date but at least prior to 2007. Marc Benjamin asked what the intended use for the commercial space is. John Mancini stated they have spoken to some restaurants and retailers as the space is large enough for a 100-seat restaurant which again they could accomplish without use of the entire lot in question. Mr. Mancini stated the homeowner is comfortable and prefers to stay on the property with a reduced lot size. Robert Phoenix stated it looks as though the area they are looking to acquire would be used for a dumpster or flow-through traffic. John Mancini stated that was correct and would allow us to maintain the required setback. Gregory Schlough asked what type of physical barrier they had in mind to separate the areas to which Mr. Mancini stated they plan to build a board-on-board privacy fence. David Martin asked if they had thought about presenting before City Council to request a zoning map change opposed to a variance. Mr. Mancini responded they did not as they were unsure of why the zone line goes to point it current does and as the line would be moving to somewhat of a self-serving position they felt their best option was to come to the Board to explain their position. Richard Shuck responded that a zoning map change would not alleviate the need for a variance as the application is requesting the existing non-conforming property become more non-conforming.

Amber Yates of 51 Surrey Lane, Norwich introduced herself and wished to speak in opposition of the variance. Ms. Yates stated her property is also zoned commercial however the properties behind and to the side of her will become part of the development. Amber Yates stated she felt it would be difficult to sell her home in the future with frequent construction as well as having commercial property as a neighbor. Ms. Yates stated she would prefer her home also be taken as commercial development opposed to remaining residential with a small lot.

Joe Mancini responded that he was not aware if his developer attempted to purchase

Amber Yates property but he felt in a general commercial zone it would be more appealing to have a neighboring residential property opposed to an extended lot and catch basin.

Marc Benjamin stated again to the representatives of the applicant that it is their wish to revise the lot line from one commercial property to another in turn making one lot non-conforming. Joe Mancini responded that is correct and to also maintain a buffer of residential homes between the developments.

Robert Phoenix made a motion to close the public hearing. Gregory Schlough seconded. The motion passed unanimously.

**2. V# 19-08: 34-36 South A Street.** Request for a variance of Sec. 1.1, Residential Bulk Requirements to reduce the front yard setback from 25 ft. to 13 ft. to construct a 16 ft. x 38 ft. deck and associated stairs. Also request variance of Sec. 1.1 to increase the total lot coverage to 30.66% where 25% is allowed. Property of Brian F. Brennan and Doreen L Brennan, Assessor's Map #47, Block #1, Lot #35

Richard Shuck read into record Exhibit's A-I.

Doreen and Brian Brennan of 36 South A Street, Norwich CT introduced themselves and stated they are looking to put a deck on the rear of their home but with the two adjacent front yard on the property it creates a hardship as if they stay in the 25 foot setback it would force the deck to be placed directly next to the front door. Marc Benjamin asked if there had been a deck there before. Brian Brennan responded there had not been only postural stairways for insurance purposes. Doreen Brennan stated their hardship is that the existing non-conforming lot size and the dual street frontages on the property make it impossible to construct the porch without a variance.

Gregory Schlough made a motion to close the public hearing. Robert Phoenix seconded. The motion passed unanimously.

## **H. DISCUSSION AND POSSIBLE DECISIONS:**

**1. V# 19-07: 2 Twins Court.** Request for a variance of Sec. 2.1, Commercial Bulk Requirements to reduce the minimum lot size to 8,805 sf. where 10,000 sf. is required. Property of Xial Min Huang; Application of Domenic Carpionato, Assessors Map #115, Block #2, Lot #10

Robert Phoenix made a motion to APPROVE the variance as the hardship is the denial of the variance would displace a resident and disrupt the residential character of the neighborhood. Gregory Schlough seconded.

Robert Phoenix stated according to the applicant and hardship state the approved commercial development cannot be achieved without this variance unless they sacrifice the existing home on the lot. Gregory Schlough stated in this situation he feels the best of both worlds by gaining commercial development while maintaining a residential home. Gregory Schlough stated in respects to Ms. Yates the property would be developed regardless of the variance so he also felt

keeping somewhat of a residential buffer would benefit her.

Marc Benjamin stated the difficult part of the variance is the expansion of the non-conforming use on the Twins Court property as it has been stated to never expand a non-forming use which is what the variance is requesting so he questioned if the expansion would be in the best interest of the other residential non-conforming use properties in that area. Marc Benjamin stated from a tax point of view preserving a residential property is not a good idea so in turn expanding a non-conforming use would also not be a positive however for the benefit of the neighborhood he felt it would be so while he generally would not support a variance of this nature he feels for this area and situation it is appropriate.

Robert Phoenix stated he also felt for the benefit of the neighborhood it would be a positive and the complexion of the neighborhood should be considered in their decision. Marc Benjamin noted he was fairly certain the properties in question are tied into sewer connections which may present a future issue. Gregory Schlough stated essential the property will be developed regardless of the decision we make so the only issue is the preservation of the home which I support. Marc Benjamin, Robert Phoenix, Gregory Schlough and Dorothy Travers voted in favor. David Martin voted in opposition. The motion carried.

**2. V# 19-08: 34-36 South A Street.** Request for a variance of Sec. 1.1, Residential Bulk Requirements to reduce the front yard setback from 25 ft. to 13 ft. to construct a 16 ft. x 38 ft. deck and associated stairs. Also request variance of Sec. 1.1 to increase the total lot coverage to 30.66% where 25% is allowed. Property of Brian F. Brennan and Doreen L Brennan, Assessor's Map #47, Block #1, Lot #35

Gregory Schlough made a motion to APPROVE the variance. Dorothy Travers seconded.

Gregory Schlough stated he saw no issues with the request as the homeowner insurance is requesting something be built and the lot is a difficult area to work with. Dorothy Travers agreed and stating the property being on a corner lot creates a lot of difficulty for construction. Marc Benjamin stated he agreed and while the percentage increase requested sounds significant based on the lot size it is less than a 500 square foot difference. David Martin stated he also agreed and considering the home is a duplex with the porch serving two families it will not be an oversized deck and will be more setback than the home itself.

All voted in favor. The motion passed unanimously.

**I. OTHER MATTERS:** Richard Shuck stated Chairman Marc Benjamin had touched based with him regarding the issue of his cease and desist order that was discussed at the previous meeting to which end he found the statute regarding the receipt of

post hearing evidence within the CT Landuse Law for Municipal Landuse Agencies, Boards and Commissions that states that post hearing evidence from applicants, opponents and the general public is prohibited however reports of communication with town staff, commission, attorneys or consultants is warranted so what Chairman Marc Benjamin did in regards to speaking with Attorney Driscoll is within the law. Richard Shuck stated the statute is confusing however regardless of how the motion was made the four votes would not have been achieved to overturn the ZEO decision. Richard Shuck passed along two letters he wrote to Mr. Gaitan in the past month regarding the decision of the motion and the other to assist him in achieving what he dishes to do including acquiring a variance from the Board of Appeals. Richard Shuck stated he spoke to Todd Schilo at the DMB who stated that the property map the DMV has on file is the same as the one on file at the City of Norwich so Mr. Gaitan cannot park any vehicles where the building stood without an updated map which required a variance from the Zoning Board and change from the Commission on City Planning. Discussion ensued. Richard Shuck stated moving forward Deanna Rhoades will act as staff on an appeal of one of his decisions. Marc Benjamin stated he wished to point out that the statute that staff read aloud touches upon the decision that was made on the first application that evening as if he had not continually stated he supports progression in the City he would have leaned towards not allowing the residential property to remain. Marc Benjamin continued to follow up on the previous month's meeting Deanna Rhoades reached out to him a few times to have a meeting with himself and staff, for which he was unavailable, but to discuss what Richard Shuck explained tonight. Marc Benjamin stated while he did not receive an apology and still feels it was a personal attack they are moving forward and he appreciates the Board's support but does not feel as though filing a complaint would be in the Board's best interest.

Robert Phoenix stated he would be unavailable for the November and potentially December meetings. Richard Shuck let the Board know there is a Zoning & Pizza informational public meeting for input on zoning being held the 16<sup>th</sup>.

- J. ADJOURNMENT:** A motion was made by Dorothy Travers to adjourn at 8:18 PM. Gregory Schlough seconded. The motion carried unanimously.

Respectfully submitted,  
Katherine Rose  
Recording Secretary