

CIVIC ASSOCIATION OF SHORT BEACH
ZONING BOARD OF APPEALS
P.O. BOX 2012
SHORT BEACH, CONNECTICUT 06405

**MINUTES FROM THE DECEMBER 7, 2020
PUBLIC HEARING AND REGULAR MEETING**

1. **Public Hearing – Application 01-2020**

Meeting held remotely via Google Meeting (<http://meet.google.com/xph-sfed-hqs>) at 7:30 p.m. Called to order by Chairman Walter Kawecki.

2. **Roll Call**

Secretary Andi Hallier called the roll. Present at this meeting were Chairman Walter Kawecki, Secretary, Andi Hallier, and Regular Members, Robert Schwall and Carleen Davis. Regular Member, Thomas Perretta was not in attendance. Also present were Alternate Members, David Steinman and Martin Hallier, Sr. In addition, Applicants, Robert and Patricia Deschamps, their legal counsel, Timothy Lee, Esq., James Pretti, Jr., P.E., L.S., of Criscuolo Engineering, LLC and Tony Thompson of Plans Ahead, LLC, attended.

3. **Conflict of Interest Poll. Alternates**

Chairman Kawecki polled the Board Members to confirm that none has a conflict of interest concerning the pending Application for Variance of certain Zoning Regulations as they pertain to the premises located at 257 Shore Drive, Short Beach, Connecticut, submitted by premises owners, Robert and Patricia Deschamps (Application 01-2020). Each Board Member confirmed that s/he does not have any conflict of interest with respect to the pending Application.

Chairman Kawecki then seated all of the Board Members present at this meeting for purposes of the Public Hearing on Application 01-2020.

4. **Secretary Reads the Notice of Public Hearing into the Record**

Secretary Hallier read the Notice of Public Hearing into the Record. The Applicants seek to vary the Zoning Regulations of Short Beach as they apply to their residence, located at 257 Shore Drive, Short Beach, Connecticut as follows:

Schedule A, Line 4: to vary the Height of the residence from its existing 20.1 feet to 31.8 feet where a maximum of 30 feet is prescribed;

Schedule A, Line 7: to vary the Total Floor Area of the residence from 892 square feet (29.3%) to 2,163 square feet (71.2%) where a maximum of 50% is prescribed; and

Schedule A, Line 9: to vary the Minimum Ground Floor Area from 736 square feet to 536 square feet where a minimum of 600 square feet is required.

5. Certificate of Mailing to Abutting Land Owners Entered into the Record

The Applicants, Robert and Patricia Deschamps, submitted evidence of mailing of Notice of their Application and this Public Hearing, via Certified Mail, Return Receipt Requested, to all abutting land owners. The Secretary accepted this evidence into the Record.

6. Presentation, Statements and Questions

a. Applicants' Presentation

Timothy Lee, Esq. commenced the presentation on behalf of the Applicants, who are the record owners of 257 Shore Drive, Short Beach, Connecticut. He noted that this lot is slightly larger than 3,000 square feet in dimension, while the applicable Zoning Regulations require a lot size no smaller than 4,500 square feet. This is a pre-existing nonconformity. In addition, the residence located on this lot is also non-conforming with respect to front, side and rear setbacks, and it does not meet current FEMA Regulations. Attorney Lee noted that the Town of Branford has already approved the proposed Coastal Management Plan.

Attorney Lee indicated that the Applicants' proposal to relocate the house would increase the side yard setbacks. The existing residence's side yard setbacks are at 4.1 feet where 6 feet is required. The Applicants' propose to increase the existing side yard setbacks to 6.4 feet, which would bring the residence into conformity with the Zoning Regulations.

In addition, Attorney Lee indicated that the Applicants' proposal to relocate the house would increase the rear setbacks from 16.4 feet to 25 feet, where 20 feet is required. This would also bring the residence into conformity with the Zoning Regulations, and would relocate the residence such that it would be 25 feet from Long Island Sound, bringing into conformity with current FEMA Regulations.

Finally, Attorney Lee noted that the Applicants' proposal would increase the front yard setback from the existing 16.4 feet to 20.1 feet, where 20 feet is required. This would also bring the residence into conformity with the Zoning Regulations.

Attorney Lee noted that the current residence is a single story house, and that since it is located in Residence District B, three stories are permitted. The Applicants propose to construct a three-story residence on the lot. In order to comply with current FEMA Regulations, however, the Applicants need to raise the structure, and therefore they are not able to comply with the current Height, Total Floor Area or Minimum Ground Floor Area restrictions contained in the Zoning Regulations. Attorney Lee indicated that the existing residence's nonconformity with current FEMA Regulations, specifically as it pertains to Height, constitutes a hardship.

With regard to the Applicants' request for a variance of the Zoning Regulations' 30 foot-height restriction to 31.8 feet, Attorney Lee indicated that the reason for this request is the slope of the lot, which pitches downward from Shore Drive toward Long Island Sound. He indicated that if the proposed residence were to be measured from the front, along Shore Drive, its height would be conforming with the Zoning Regulations at 30 feet, but that given the slope of the land, the Applicants are seeking a variance from 30 to 31.8 feet in Height.

With respect to the Applicants' request for a variance of the Zoning Regulations' 50% Total Floor Area maximum, Attorney Lee indicated that the reason for the Applicants' request for a variance to 71.2% (2,163 square feet) is that the dimensions of the lot are already non-conforming at slightly more than 3,000 feet, where 4,500 feet is required, and that the proposed residence will be three stories tall, rather than the existing single-story, in order to comply with FEMA Regulations.

With regard to the Applicants' request to vary the Zoning Regulations' Minimum Ground Floor Area requirement of 600 square feet down to 536 square feet, Attorney Lee indicated that the proposed residence's smaller footprint would bring it into conformity with the Zoning Regulations' side and rear yard setback requirements, while enabling the Applicants to conform with current FEMA Regulations by raising the structure.

Attorney Lee summarized by stating that he believes the Applicants' proposal would resolve some existing non-conformities, build a home that complies with current FEMA Regulations and is livable and would accommodate the owners' house guests, including their children and grandchildren, and would not be out-of-character with other residences in Short Beach.

Tony Thompson, of Plans Ahead, LLC, spoke next on the Applicants' behalf. He indicated that his building proposal is intended to create some harmony in the neighborhood, and that the proposed residence is not extravagant. He explained that the lowest level of the structure must be built above Base Flood Elevation in order to allow water to course below the structure at times of high wind and tidal flow and/or storms. He noted that if the Applicants were to maintain the current side yard setbacks, they would be required to install fireproofing materials, and that reducing the Minimum Ground Floor Area requirement from 600 square feet to 536 square feet would eliminate this Building Code requirement. In addition, Mr. Thompson indicated that the proposed structure has a walk-up attic where the residence's utilities would be placed. He noted that the utilities cannot be placed below the residence pursuant to FEMA Regulations.

Mr. Thompson went on to note that, with respect to the front setback, the current residence affords space for parking of only two cars, while the proposed structure would allow for the four parking spaces the Zoning Regulations require. In addition, by moving the structure farther from Long Island Sound, it would no longer be located in the area designated by FEMA as the VE Zone; instead, the new residence would only be located within the FEMA Flood Plain.

James Pretti, P.E., L.S. of Criscuolo Engineering then discussed the slope of the Applicants' building lot. He noted that the lot slopes downward from Shore Drive, from roughly 9.8 to 9.4 feet on average to 6.6 to 6.5 feet at the rear of the building, to 6 feet at the existing sea wall, resulting in a 3 to 4 foot grade change on average.

Attorney Lee then resumed the presentation on behalf of the Applicants, reiterating his previous statement to the effect that the proposed building would eliminate some of the existing nonconformities and make the new residence livable for the Applicants and their family. With that, he indicated that he, Mr. Thompson and Mr. Pretti would take questions regarding the Application.

The Applicants and their representatives then entertained questions from the Board Members. Discussion focused on the requested variances and the new non-conformities it would create, first with respect to its Height. Attorney Lee explained that although the proposed residence would measure 31.8 feet from the rear, from Shore Drive, it would appear to be only 30 feet tall, which is, as a practical matter, what concerns the general public. Mr. Thompson acknowledged that from the rear, the proposed residence would measure roughly 33.5 feet tall at its highest ridge. It was clarified that the proposed 31.8 feet height is the average, and that the residence would appear to be 30 feet tall from the frontage, along Shore Drive, but 33.4 feet from the rear/water side.

With respect to the request for variance of the Minimum Ground Floor Area requirement, inasmuch as the survey indicates that there are 868 square feet of buildable area on this lot, discussion then centered around the reason why the Applicants proposal does not meet the 50% requirement, and therefore how this presents a hardship.

With respect to hardship, it was clarified that the existing residence is not located within the VE Zone, as defined by FEMA; only the exterior stairs attached to the residence are currently located within the VE Zone.

The question was then posed, since the Applicants' purchase of the existing one-story residence three years ago, knowing about its proximity to Long Island Sound, and given their statement to the effect that they have since decided that it is impractical for them to maintain two households, and they have chosen to relocate to Short Beach permanently, how the existing one-story house's height and proximity to Long Island Sound constitute hardships that are not self-created and/or financial.

Attorney Lee explained that the lot is smaller than what the Zoning Regulations required, and its proximity to Long Island Sound and current FEMA Regulations require the mechanicals/utilities servicing the proposed residence to be relocated to the third floor of the structure. In addition, Attorney Lee indicated that since the proposed structure eliminates the current nonconformities with respect to parking and side, front and rear setbacks, the Board may find that these are hardships and independent bases that justify the granting of the variances of Height, Total Floor Area and Minimum Ground Floor Area that the Applicants have requested.

Mr. Thompson added that new insulation requirements require 12 foot deep rafters, and that the peak of the third floor interior space, which is 7 feet tall, is also required to accommodate the attic stairs and to afford headroom clearance for servicing of the mechanical equipment to be relocated to that space. Attorney Lee also indicated that the attic space cannot be used for human habitation because it would not be tall enough.

With respect to the proposed Height variance, the question was raised as to its perceived effect on the view of neighbors residing on the opposite side of Shore Drive; it was noted that the proposed residence will appear to be 30 feet tall from the street, but taller from Long Island Sound, due to the slope downward toward the Sound.

Mr. Thompson suggested that the Board "adjust its sensibilities" and permit the elevation of houses in "dangerous" locations such as the one at issue here, to make them safe for the occupants. He stated that elevation in accord with FEMA's current Regulations is "essential," "to provide for life and safety issues," and further that he did his best to plan this house such that it would be harmonious with others in Short Beach. He stated that he would consider it "foolhardy" for the Board not to vary the Zoning Regulations as the Applicants' have requested, which he considers reasonable and "not too much to ask." He noted that he had "worked very

hard” to “skinny” the height of the proposed structure, proposing an 8-foot floor-to-ceiling height on the first story, and reducing the floor-to-ceiling height on the second story to 7.75 feet.

A question was then raised as to the slope of the lot when compared to the abutting parcel located at 259 Shore Drive, where the newly-built residence exceeds the Zoning Regulations’ 30-foot Height restriction. Mr. Thompson noted the presence of a substantial retaining wall located between the two parcels, and indicated that it would be difficult to gauge visually, but he opined that while initially the slope of the two parcels is roughly the same, the pitch of the Applicants’ parcel becomes steeper as one approaches Long Island Sound. In follow-up, it was inquired as to whether the Applicants could level the area around the perimeter of the proposed residence, and thereby conform to the Zoning Regulations’ 30-foot Height restriction. Mr. Thompson agreed that this was a feasible alternative to the proposed construction of the residence at its existing slope, and that he would prefer to plan construction of the ground floor levels of water facing structures such as the proposed residence “as close to grade as possible.” He acknowledged the challenges of providing occupants with “safe and easy access,” given the current FEMA Regulations and the Town of Branford’s Building Code. Mr. Thompson explained that when planning this residence, he was working with the existing grade of the parcel, and he also noted that the first floor ground level is higher than he would prefer.

Another question was raised with respect to floor-to-ceiling height of the third story. The specific inquiry was as to the Applicants’ request for a variance of the Zoning Regulations’ 30’ Height restriction, and the utilities/mechanical devices that the Applicants propose to install on the third-story. Mr. Thompson explained that the Branford Building Code requires six feet of standing height in order to service any mechanicals, and 6’ 8” of clearance in front of any such device with a circuit board. Mr. Thompson also noted that it would be ill-advised to tuck mechanicals, such as furnaces, into corners of the attic. Rather, it would be prudent to locate them close to the head of the stairs at the top of the third-story.

In closing, Mr. Deschamps noted that he has personally noticed rising tides and increased frequency of tidal storms, with water now coming up under his rear porch, where it did not before. He stated that he believed his proposal would make the property safer for occupancy, and create a FEMA-compliant residence for his family. Attorney Lee thanked the Board for its time and the opportunity to present the Application. He enumerated the legal hardships which the Applicants have run with the property, including lot size and proximity to Long Island Sound, and stated that the Applicants’ plan to eliminate existing Zoning non-conformities and to comply with FEMA Regulations was sufficient to justify granting the requested variances.

b. Public Statements

No members of the public submitted any statements or questions concerning Application 01-2020.

c. Relevant Communications Made and Received Made Part of the Record

Aside from the previously mentioned proof of certified mailing of notice of the hearing on Application 01-2020, no other communications concerning this Application were received or entered into the Record.

7. Public Hearing Recess/Adjournment

Hearing no further questions from the Board Members, and no communications from the public, Chairman Kawecky entertained a Motion to Adjourn the Public Hearing portion of this Meeting, advising the Applicants

that he would reach out to them if any additional questions arose. Secretary Hallier moved to adjourn, and Ms. Davis seconded the Motion which carried unanimously thereafter.

8. Regular Meeting

9. Minutes of November 2, 2020 Annual Meeting

Secretary Hallier advised that delivery of the Minutes from the November 2, 2020 Annual Meeting was delayed as a consequence of a unforeseen computer failure. She further indicated that she was circulate them among the Board Members for their review and comment electronically, so they may be approved at the Board's next Meeting.

10. Old Business

Previous discussions regarding amendment of the Board's Manner of Filing and/or coordination of revision of the Civic Association's Zoning Application to bring them into conformity was tabled due to the late hour.

11. Bills and Correspondence

None.

12. New Business

The Board held a brief Executive Session to discuss the status of the two prior pending lawsuits brought in connection with Applications regarding 53 Beckett Avenue and 63 Little Bay Lane.

13. Adjournment

The Chairman entertained a Motion to adjourn, and Mr. Hallier so moved. Secretary Hallier provided a second, after which the Motion carried unanimously.

Respectfully submitted,

**Andi Hallier
Secretary**