

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

**MINUTES FROM MAY 3, 2021 VIRTUAL PUBLIC HEARING AND REGULAR MEETING**

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

**1. Continuation of Public Hearing – 257 Shore Drive Application (No. 01-2021)**

Chairman Kawecki called the Meeting to order. Secretary Hallier called the roll. In addition to Chairman Kawecki and Secretary Hallier, present at this meeting were Regular Board Members, Carleen Davis and Thomas Perretta, and Alternate Members, David Steinman and Martin Hallier, Sr. Although a quorum of Regular Members was present, the Chairman seated Mr. Hallier as a Regular Member for purposes of this meeting, so as to avoid the possibility of a tie vote on Application No. 01-2021. Timothy Lee, Esq., counsel for Applicants, Robert and Patricia Deschamps, waived objection to Alternate Member, David Steinman's participation in discussion of the merits of Application No. 012021; Mr. Steinman did not participate in the vote on said Application.

**2. Presentation/Statements/Questions re: Application No. 01-2021**

The Chairman reconvened the Public Hearing on Application No. 01-2021 that commenced on April 5, 2021. The Applicants' counsel, Timothy Lee, Esq. began by addressing concerns raised by Mr. Hallier at the April 5, 2021 Public Hearing regarding the effects of the proposed construction properties on adjacent parcels and roadways, which are governing by Zoning Regulations 8.5.8 and 8.5.9. Attorney Lee referenced correspondence submitted to the Board via the Chairman dated April 26, 2021, and explained that he had spoken with the project's Engineer, James, Preeti, who confirmed that the Applicants were not proposing any changes to the existing grade of the land or the current drainage patterns, or any excavation or removal of earth that would run afoul of Zoning Regulations 8.5.8 or 8.5.9. Attorney Lee's April 26, 2021 correspondence was entered into the Record on Appeal.

Attorney Lee then provided a brief overview of the requested variances and the reasons for them, and explained how Application No. 01-2021 differs from the Applicants' prior proposal, submitted in 2020. Specifically, the Applicants are no longer seeking a variance of the 30-foot building height restriction, as they had in their prior Application. Attorney Lee also reiterated his argument that the Applicants need not satisfy the traditional hardship analysis, because the reduction of existing non-conformities provides an independent basis for the Board to grant the requested variances.

Upon completion of the Applicants' presentation, the Chairman opened up the Hearing to questions from the Board Members. Mr. Hallier inquired as to whether the Applicants had conducted any research to determine whether there were other, similarly-situated parcels within Short Beach, or whether the claimed hardships (*i.e.*, small lot size and close proximity to Long Island Sound) were in fact unique to the parcel.

Mr. Thompson advised that he was only aware of the hardships pertaining to this particular parcel, and that he had not researched other parcels within Short Beach.

Mr. Steinman inquired as to whether the Applicants were aware of any other new construction projects recently performed within Short Beach on small parcels located in close proximity to Long Island Sound, and whether those projects were completed without varying any of the applicable zoning regulations. Attorney Lee and Mr. Thompson of Plans Ahead advised that they had not conducted any research into whether this particular project could be built without the need to vary the Zoning Regulations. Attorney Lee and Mr. Thompson emphasized that the lot in question is of particularly small size, and that the parcel was created before the Zoning Regulations were enacted. They also noted that the proposed construction would reduce and/or eliminate a number of existing non-conformities, while allowing the Applicants to move the structure back, and out of the FEMA VE Zone, making it safer for its occupants.

Secretary Hallier inquired as to whether the third-floor attic space was intended to be used as living space, or whether it was intended only to house the structure's utilities and for storage. Mr. Thompson explained that "living Space" is defined differently under the Zoning Regulations than under the International Residential Code, and that under the latter, any space with a ceiling height of 7 feet or more is classified as "living space." He went on to explain that the building plans do not call for enclosure of the space where the utilities are to be located, nor do they call for any attic living space.

### **3. Discussion and Vote on Application No. 01-2021**

Hearing no further questions from the Board, the Chairman closed the Public Hearing, and the Board commenced discussion of the merits of the Application. At the outset, the Chairman noted the Board's mission: to preserve the nature and character of Short Beach while varying the effect of the Zoning Regulations in cases where a parcel owner demonstrates that the parcel is unique, such that the strict application of the Zoning Regulations would pose an undue hardship. The Chairman observed that the Application would eliminate existing nonconformities, and comply with the front, side and rear setbacks, and the Zoning Regulations' 30-foot height restriction. He also acknowledged that the building lot size is quite small, and predates the enactment of the Zoning Regulations, and that any new construction must comply with FEMA's regulations as they pertain to coastal parcels.

Ms. Davis concurred with the Chairman. Ms. Hallier also agreed with the Chairman, and added that in her opinion, the Applicants had established hardship unique to the parcel, which is atypically small and located in close proximity to Long Island Sound and within FEMA's AE and VE Zones. She further pointed out that the proposal would create adequate parking and maintain the 30-foot height restriction.

Mr. Hallier noted his concern regarding the proposed structure's total floor area, which exceeds the maximum prescribed by the Zoning Regulations. He also pointed out that because the proposed project is new construction, the reduction of existing nonconformities is not relevant to the hardship analysis, inasmuch as the Applicants would be required to meet front, rear and side setbacks in any event.

Mr. Perretta echoed the sentiments of the Chairman, Secretary and Ms. Davis. After some further discussion regarding whether the Board should vote on each requested variance individually, or on the

Application as a whole, the Members concurred that the Board should vote on the Application as a whole. The Chairman entertained a Motion to vote upon the Application, and Mr. Hallier so moved. Ms. Davis provided a second, and the Secretary read the requested variances into the record as follows:

“The Applicants seek to vary Schedule A, Line 7, total floor area, from 892 square feet, which is 29.3%, to 2163 square feet, which is 71.2%. They also seek to vary Schedule A, Line 9, minimum ground floor area, from 736 square feet to 536 square feet. Those would be Sections 7.5 and 7.6 of the Zoning Regulations of the Civic Association of Short Beach.”

The Secretary then called the roll, and all five seated Board Members voted to approve Application No. 01-2021. The Secretary confirmed that she would publish Notice of the Board’s decision as required by Statute and would provide the Applicants with a Certificate of Variance for recording on the Branford Town Land Records.

**4. Regular Meeting**

The Chairman then called the Board’s Regular Meeting to order.

**5. Adoption of Minutes from April 5, 2021 Public Hearing**

The Chairman entertained a Motion to approve the Minutes of the April 5, 2021 Public Hearing as submitted by the Secretary. Ms. Davis so moved, and Mr. Hallier provided a second, after which the Minutes were approved as submitted.

**6. Old Business**

The Chairman advised that he has consulted counsel re the propriety of the Civic Association’s appointed Zoning Enforcement Officer speaking in favor of an Application for variance at a Public Hearing, given his apparent conflict of interest, because it is his responsibility to confirm that the structure complies with the Zoning Regulations and to issue a final Certificate of Occupancy upon completion of construction. The Association’s Attorney, Peter Cooper, Esq. intends to provide the Board with an Opinion Letter on this subject in the near future.

**7. Bills and Correspondence**

The Chairman once again noted receipt of Attorney Lee’s April 26, 2021 correspondence, submitted in connection with Application No. 01-2021. The Secretary confirmed that this correspondence has been made a part of the Record on Appeal.

**8. New Business**

The Chairman reminded the Board Members that there is a vacant position on the Board, and requested that they proffer suggestions for suitable members of the community who might be willing to serve.

**9. Adjournment**

The Chairman entertained a Motion to Adjourn. Mr. Hallier so moved, and the Secretary provided a second. Thereafter, the Motion carried unanimously and the Meeting was adjourned.

Respectfully submitted,

Andi Hallier, Secretary  
Short Beach Zoning Board of Appeals