



**TOWN OF SALISBURY**  
Zoning Board of Appeals Hearing  
Colchester Room @ Town Hall, 5 Beach Rd

**MEETING MINUTES- PUBLIC HEARING**

**Hearing Date: November 27, 2018 @ 7:00 pm**

**Members Present:** Susan Pawlisheck (Chairperson), Derek DePetrillo (Secretary), Kevin Henderson, Linda Tremblay

**Member (s) Absent:** None

**Additional Persons Present:** Scott Vandewalle, Zoning Officer/Building (Inspector)

(Chair) person Pawlisheck called the meeting to order @ 7:05 pm.

(Chair) explains to the applicant that there is only a (4) member board so the decision has to be unanimous. One member has moved out of town and is therefore ineligible to serve.

(Chair) continues to explain that the applicant has the right to wait for a (5) member board.

(Chair) will reach out to the Town Manager to maybe ask a Selectman to sit in on certain meetings.

**Applicant's decision is to go before the Board.**

**1. New Public Hearings**

2. **Case No. 18-26 Petition for Relief- Variance** regarding a cupola that will exceed the 35' height restriction.

**Address:** 137 Atlantic Ave.

**Map 31, Lot 1**

**Applicant:** Shoreline Properties LLC

(Attorney) Clare Burhoe approaches the podium and will be representing Shoreline Properties, LLC. She continues to explain the applicant is not seeking the variance for approval of the structure itself; they are seeking approval to open the cupola to the interior of the building. The basis of the building permit was that the cupola would be enclosed and inaccessible from the interior. Once there is access to the interior it becomes part of the 35 foot height restriction. The height with cupola is 5 feet above the limit at 40 feet.

(Attorney) explains the first 5 feet above ground are unusable to the applicant due to the required pilings. The height on top is 5 feet meeting the pilings measurement. The cupola was supposed to be 7 feet but the applicant changed it to be in compliance. If the cupola is opened, the structure is not changing; it will look the same from the outside.

(Chair) inquires if the cupola was always part of the design?

(Attorney) explains it is more of a sky light. It would be opened for cleaning purposes and a ladder would be needed.

(Mr. Henderson) confirms there is no sitting area to look out the windows.

(Mr. DePetrillo) inquires why this is a special permit?

(Inspector) explains that it exceeds the height variance. Such things as cupolas, spires, flagpoles etc. are exempt from the height calculation and considered decorative. However, it is no longer considered decorative once it is opened up to the interior of the structure. It becomes part of the structure. It is now being used as a part of the house.

(Chair) asks Attorney Burhoe what is creating the hardship.

(Attorney) responds that the lot is in the velocity zone so the structure had to be built on 5 foot pilings. Anyone not in this velocity zone would be able to have access.

(Chair) begins a discussion on whether a variance is required here. The Board discusses whether a Special Permit was needed previously as the both the lot and building were both non-conforming. It seems that none was submitted so the lot did not change nor the building. This should have been done before the building permit.

The Board discusses if a variance is required for the cupola or if the Board agrees it is a non-living area so let the applicant build it.

(Attorney) asks if the Zoning Board can use their discretion that a variance is not even needed.

(Chair) states that no variance is required; it can be built as designed.

**MOTION:** Mr. Henderson made a motion that the applicant does not need a variance for the cupola because it is a decorative element and non-livable space. Mr. DePetrillo seconds the motion.

**VOTES:** Ms. Pawlisheck and Ms. Tremblay vote in favor of the motion. Motion passes unanimously. All members express their vote individually and verbally. (4-0)

(Attorney) wants clarification that a variance is not needed.

(Chair) states that a modification to the cupola to be opened to the inside does not require a variance because it is non-livable space.

#### **A. Minutes**

**None**

**B. Correspondence and Other Board Business**

None

**C. Items Not Reasonably Anticipated by the Chair 48 Hours in Advance of the Meeting**

None

**Motion** for adjournment was made by Mr. DePetrillo, Mr. Henderson seconds and approved by a 4-0 vote. Meeting is adjourned at 7:35 pm.

- The Board reserves the right to consider items on the agenda out of order. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

**Next Scheduled Public Hearing: December 11, 2018**

Respectfully submitted by Teresa Mahoney, Board Secretary and accepted at the December 11, 2018, meeting of the Zoning Board of Appeals.

Accepted as Presented;

A handwritten signature in black ink, reading "Susan M. Pawlisheck". The signature is fluid and cursive, with the first name "Susan" and last name "Pawlisheck" clearly legible.

Chairperson Susan Pawlisheck

Cc: Town Clerk