



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

MEETING MINUTES- PUBLIC HEARING

Hearing Date: February 26, 2019 @ 7:00 pm

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

Member (s) Absent: None

Additional Persons Present: None (Building Inspector not present)

(Chair) person Pawlisheck called the meeting to order @ 7:04 pm.

(Chair) explains to applicants that there is only a (4) member board so the decision has to be unanimous.

1. New Public Hearings

Case No. 19-03 Petition for Relief- Variance regarding a cupola and chimney exceeding the 35' height limit; the applicant seeks a variance for both.

Address: 137 Atlantic Ave.

Map 31, Lot 1

Applicant(s): Wayne P. Capolupo

(Attorney) Claire Burhoe is representing the client and approaches the podium explaining that her client is requesting a variance for relief from the 35 foot height limit for both a 5 foot cupola and a 2 foot chimney. The **(Attorney)** explains her client was previously before the Board for a building permit for the entire structure. The applicant was requesting a variance or a determination to see if a variance was required, to open the cupola up into the interior. At that meeting, it was decided that a variance was not required. She explained that since then, the applicant received notification from the Building Inspector that the cupola does require a variance under the zoning code. **(Attorney)** explained the chimney was added also as it exceeds the height limit.

(Attorney) explains the applicant is asking for the variance on the same grounds as before; that there is a substantial hardship as it located in the velocity zone so it has to be built on 5 foot

piles; and therefore there is a loss of 5 feet of living space. This is consistent with variances that the Board has granted in the past. Also, Mr. Capolupo has already made considerable design decisions or sacrifices based on his earlier thought that he was in compliance with the 35 foot height limit; he lowered his ceilings and also the pitches of the roof.

(Chair) states she wants to clarify that the reason the applicant is before the Board again is because the Building Inspector determined that a variance is needed to have a cupola that is 5 feet over the 35 feet; making it 40 feet with the cupola. **(Attorney)** confirms this is correct.

(Chair) states the Board had determined it as non-livable space so it did not require a variance. **(Attorney)** explains the Building Inspector had already issued a building permit under the belief that there was an exception in the local zoning code for decorative structures. He looked at the code again but explained it only pertained explicitly to the new Beach Overlay District so it was his interpretation that it does not apply in this case. **(Attorney)** states there are exceptions in the state building code that allows for these types of structures that do not add living space over the height limit.

(Chair) looks for zoning regulations concerning chimneys. It has been her understanding that chimneys do not need a variance; that they are excluded from the 35 foot height requirement. The functionality of the chimney excludes it from requiring a variance. Information cannot be found at the moment.

(Attorney) offers to withdraw that part; **(Chair)** wants to confirm before it is withdrawn, so the applicant does not have to return.

(Attorney) states the Building Inspector did not address the chimney in the notice to her client. **(Chair)** states because it is probably excluded from the height.

(Chair) cannot find that part of the bylaws and decides to proceed.

MOTION: Mr. Henderson made a motion to grant the variance for the chimney and cupola based on the topography. Mr. DePetrillo seconds the motion.

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

A. Minutes

January 8, 2019 meeting minutes needed to be approved and then signed by the **(Chair)**.

Mr. Henderson makes a motion to accept the minutes; Ms. Tremblay seconds. Minutes approved by all Board Members.

January 22, 2019 meeting minutes needed to be approved and then signed by the (Chair).

Mr. Henderson makes a motion to accept the minutes; Mr. DePetrillo seconds. Minutes approved by all Board Members.

B. Correspondence and Other Board Business

(Chair) makes a point of clarification concerning future meetings. (Chair) explains there are not any cases for March 12th, so there is no meeting. Currently we have not scheduled anything for March 26th because there is only a (3) member board. That meeting is cancelled also and the next meeting will be in April.

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

None

6. Adjournment

- 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.

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

Next Scheduled Public Hearing: April 9, 2019

Respectfully submitted by Teresa Mahoney, Board Secretary and accepted at the April 9, 2019, meeting of the Zoning Board of Appeals.

Accepted as Presented;



Chairperson Susan Pawlischeck

Cc: Town Clerk