

**ZONING BOARD OF APPEALS**  
**April 26, 2016**  
**PUBLIC HEARING**

Charles Marino called the meeting to order at 6:00 P.M. with the following in attendance:

Charles Marino, Chair	Sue Goggin, ZEO
Arlene Schwartz-Regan, Vice-Chair	Lori Rotella, Assistant ZEO
Basiliza MacCalmon, Secretary - absent	Public - 0
Edward Rachuba	
Kimberly Kenneson	
David Cronin, alternate	

1. Charles Marino took attendance and noted there was a quorum. Dave Cronin was made a regular voting member in place of Basiliza MacCalmon for Appeal #1978 which was continued from the March 29, 2016 meeting.
2. Approval of previous minutes and secretary will sign the minute book.

**VOTED:** Unanimously on a motion by Edward Rachuba and seconded by David Cronin to **ACCEPT** the March 29, 2016 meeting minutes as written.

3. **6:00 P.M. PUBLIC HEARING APPEAL #1978** – Applicant will seek a variance of section 24.1, Schedule B, 5.3 of the Naugatuck Zoning Regulations for a pool at 191 Crestwood Drive, Applicant: Wilfredo & Esmaelen Mercado.

Wilfredo Mercado, 191 Crestwood Drive, summarized for the commission why he is requesting a variance for a pool he purchased. He explained that he could not be present at the meeting last month due to a work commitment. Mrs. Mercado agreed to have a survey done at the last meeting. The Mercado's left for Mexico 2 days after the last meeting and returned the Sunday before this meeting. While on vacation, Mr. Mercado tried to contact several surveyors but was told, due to the short notice, the price of a survey would be around \$2,000. A survey was not done. Mr. Mercado proceeded to explain to the commission that the reason for requesting a variance was for safety reasons. The back of their property has a lot of trees, large rocks and a slope. There is also a housing project behind his house which is located in Waterbury. He has had trouble in the past from people from the housing project coming onto his property. He also stated that a window was broken on his neighbor Susan Giasullo's property located at 199 Crestwood Drive. He feels it would be a safety hazard to have the pool so close to the back of his property instead of on the side of his house. Attorney Michael McVerry, 35 Porter Avenue, Naugatuck, representing Susan Giasullo expressed that the applicant's reason is not sufficient grounds for a variance to be granted. Attorney McVerry submitted, into the record, several pictures he took of the rear of his client's property. He stated the applicant's property could look the same if the lot was cleaned out of all of the trees. He also noted that the applicant's lot is 24,000 square feet which is in excess of the required lot size in an R-15 zone. Attorney McVerry also submitted a copy of a Namco advertisement showing several pools that they sell smaller than the one the

Mercado's purchased. He believes that the applicant's hardship is self-imposed due to purchasing a pool too large for the area. He also submitted, for the record, a copy of a CT Supreme Court Case from 1959 regarding a self-created hardship and a 2008 Appellate Court Case regarding a decision based on an inaccurate mortgage survey. He believes the Mercado's can cut the trees in the back yard and have plenty of room for their pool. Without a survey, he stated you are just guessing at the lot line and the amount of variance being requested. Mr. Mercado stated again that their hardship is safety due to the amount of rocks and trees in the back to get down to the lower part of the yard and the housing project that is located behind his property. He also stated that his young grandchildren and older father-in-law would be using the pool and it would be difficult for them to get down to the lower part of the yard. The commission discussed the possibility of the Mercado's selling the pool and purchasing a smaller one that would fit in the area of the yard where they would like to pool to go. It was also discussed that a survey would still need to be done to verify the property line between 191 Crestwood Drive and 199 Crestwood Drive and to also show what is located on the Mercado's property that is preventing them from putting the pool anywhere else.

Meeting recessed at 6:38 p.m.

Meeting reconvened at 6:41 p.m.

The applicant granted an extension to the public hearing until the May 5, 2016 special public hearing at 6:00 P.M.

4. There were no additional items added to the agenda.
5. **VOTED:** Unanimously on a motion by David Cronin and seconded by Kimberly Kenneson to **ADJOURN** the meeting at 6:44 P.M.

RESPECTFULLY SUBMITTED:

Arlene Schwartz-Regan, Secretary/lr