

Zoning Board of Appeals

Minutes

(meeting taped)

Monthly meeting: Thursday, October 18, 2012 in the City Hall Aldermanic Chambers.

The meeting was opened at 6:30 p.m. The chair called for a brief recess to await the arrival of members of the board.

Motion made by John Kowarik and second by Richard Bartholomew. Move to go into recess for fifteen minutes to await the arrival of the fourth member. Motion carried unanimously.

The meeting reconvened at 6:42 p.m.

By roll call, members present: Mark Zeck, Richard Bartholomew, John Kowarik and Sam Pollastro Jr. Angelo Dirienzo, Earl Robinson and Joseph DiMartino were excused. Building Inspector David Kopjanski was also present.

Public portion: This public portion is to satisfy section 101 of the Charter of the City of Derby. No one came forward.

At this time the chair advised the applicant that they had the option of requesting to table the application until the next meeting as there are only four members present. He explained that the four members present would have to unanimously vote to approve the application as the regulations require four approval votes. The applicant agreed to go forward.

Public portion was closed.

Approval of minutes: Motion was made by Richard Bartholomew and second by John Kowarik. Move to accept the minutes of the July 19, 2012 and August 2, 2012 meeting, as written. Motion carried unanimously.

Application No. 360 – Applicant: Theresa Porcu. Location of affected premises – 34 Grandview Blvd, Derby, CT 06418. Appealing Section 195-11 E.2 and E.6 of the Derby Zoning Regulation. Requesting a side yard setback variance of 7.6 feet and lot coverage variance of 4.8% in order to construct an attached deck.

John Porcu, 39 Grandview Blvd, was present to speak on behalf of his mother Theresa Porcu who was also present. He explained that the deck is 90% complete as he did not realize that a permit was required to replace an existing structure. He explained that the size increased slightly to accommodate the placement of the structure on the new footings and to provide

efficient use of the structure. Mr. Porcu presented the certified letter receipts to Mr. Kopjanski. Mr. Kopjanski confirmed that there were slips for notification to properties that are within 150 ft of the subject's property. Mr. Porcu continued. He stated that the deck is practically complete with only the railings and the stairs yet to be completed. A zoning location survey dated 9/29/12 prepared by Lewis Associates detailed the plan. He presented pictures showing the construction and the new footings with the appearance of the previous footings. The stairs will be located by the entrance to the pool area. He explained the hardship being that the property is very wet and unable to be used. Replacing and minimally expanding the deck makes for better outdoor use of the area. In regards to the lot coverage, the lot is a pre-existing non-conforming 10,000 sq. foot lot where the zoning now requires 15,000 sq. foot minimum.

Mr. Bartholomew questioned whether there is a permit for the original deck. The original deck was built more than 30 years ago and there is no record of a permit. Mr. Kopjanski submitted a copy of the 2011 assessor's card that detailed a wooden deck to the rear of the house and a concrete patio to the side of the house. The house was built in 1971. Zoning regulations went into effect in 1969 with revision in 2000.

Mr. Porcu explained that the new footings were only moved a foot from the concrete patio, as shown in the pictures and the deck structure extends an additional foot. He reiterated that this was rebuilding of the existing deck and the hardship is due to the chronic high water table resulting in constant moistness of the yard.

Public portion:

Fred D'Amico of 9 Park Rd, Oxford, licensed engineer, stated that he is representing the neighbors Mr. and Mrs. DiPaulo. He asked when the old deck was removed. He submitted Google mapping that detailed an overhead view of the subject property taken in 2010/2011 timeframe. He indicated that the deck does not appear on the side of the house in the mapping. He stated that his clients are claiming that in the past 30 years there never was a deck to the side of the house. They contend that the expansion into the side yard setback will devalue their property and interfere with their privacy. Mr. D'Amico pointed out that the swimming pool covers much of the rear of the property. He indicated that the land is not classified as wetlands. The subject property owner could have expanded the deck to the rear of the property while maintaining the side yard setback.

The chair asked the applicant when the deck was removed. Mr. Porcu stated that the deck was dismantled two days prior to the reconstruction process being undertaken.

Members compared the Google mapping with the assessor's card and indicated that the mapping appeared consistent with the card. The mapping does detail shaded areas that could represent decking.

Dorothy DiPaulo of 412 Hilltop Rd, Orange, CT and owner of 38 Grandview Blvd. for more than 50 years stated that the deck never extended to the side of the house nor over the concrete patio. She felt the new structure was too close to the property boundary.

Domenic DiPaulo of 412 Hilltop Rd., Orange, CT stated that they lived at 38 Grandview Blvd. for 30 years and the deck never extended into the side yard. He opposes the application stating that it is too close and the construction devalues his property and is an invasion of his privacy.

No one else came forward and public comment was closed.

Members deliberated on all the information presented. They questioned whether granting a variance for an expansion of a non-conforming use was appropriate. They indicated that the onus is on the property owner to go through the proper permitting process. The fact that the construction is well underway may not be a factor in the decision. Mr. Pollastro indicated that he is familiar with the neighborhood and while not speaking to the subject property, he could confirm that the area does have springs that impact the surface conditions resulting in wet areas.

Mr. Kopjanski indicated that the regulations do allow for reconstruction of an existing non-conforming use. Any change in what is existing does require a variance of the non-conformity. He indicated that he provided a permit to the property owner to allow for replacement of a deck as defined on the assessor card.

Motion made by John Kowarik and second by Sam Pollastro Jr. Move to deny application #360 Applicant: Theresa Porcu. Location of affected premises – 34 Grandview Blvd, Derby, CT 06418. Appealing Section 195-11 E.2 and E.6 of the Derby Zoning Regulation. Requesting a side yard setback variance of 7.6 feet and lot coverage variance of 4.8% in order to construct an attached deck.

Roll call:

Mark Zeck	aye	Richard Bartholomew	aye
John Kowarik	aye	Sam Pollastro Jr.	aye

Motion carried unanimously

Motion was made by Richard Bartholomew and second by John Kowarik. Move to adjourn the meeting at 7:42 p.m. Motion carried unanimously.

Respectfully prepared,

Karen Kemmesies, secretary

These minutes are subject to Board approval at their next scheduled meeting.