

Zoning Board of Appeals

Minutes

(meeting taped)

Monthly meeting: Thursday, March 21, 2013 in the City Hall Aldermanic Chambers.

The meeting was called to order at 6:30 p.m.

Roll call - members present: Mark Zeck, Angelo Dirienzo, Richard Bartholomew, Sam Pollastro Jr. and Harvey Finkel. Earl Robinson was excused. John Kowarik arrived at 6:35 p.m. 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.

Simone Carr reserved time to speak on application 365.

Approval of minutes: Motion made by Angelo Dirienzo and second by Sam Pollastro Jr. Move to accept the minutes of the January 17, 2013 and February 21, 2013 meeting, as written. Motion carried with Harvey Finkel abstaining.

Mr. Kowarik arrived at this time.

Application No. 354 – Applicant: Kevin J. Curseaden, attorney for Mohamad Janaid Awan was unable to attend so his colleague Atty. Leo Carroll attended in his place. Location of affected premises – 10 Rockwell Place, Derby, CT 06418. Appealing decisions of Building Official denying permits for two additions which impinge upon required front yard set back. Appealing Section 195-62 D(3) and C.8(a) by requesting front yard variance of 29.3 feet to allow existing deck and stairs to remain and a side yard variance of 14 feet to allow an existing stockade fence to remain. Appealing Section 195-55 B by requesting a variance allowing required residential parking on an adjacent lot. Mohamad Janaid Awan was also present. Atty. Carroll presented updated affidavits from the neighbors that correct the timeframe inconsistency on previous documents. He explained that the applicant is restrained due to the shape and location of the lot. An easement has been agreed upon by the adjoining property owners and will be executed when the variances receive approval. The property owner purchased the parcel in 2011 and the additions were already in place as was the parking area usage. Per State Statute, any modifications are accepted if they have existed at least three years. The affidavits show that any changes of the building dated before 2007. James DiJon of 8 Rockwell Place was present and affirmed that an agreement has been reached regarding the easement for the roadway and parking and his attorney will complete the transaction upon the decision of this Board.

Members reviewed the documentation for this application.

Affidavit dated December 11, 2012 from Maria Giordano – 7 Rockwell Place stating that the most recent additions and decks were built in approximately 2007.

Affidavit dated December 21, 2012 from Nancy DiJon – 6 Rockwell Place which updated the previous submittal of December 12, 2012 stating that the most recent additions and decks were built in approximately 2007.

Affidavit dated December 21, 2012 from James DiJon – 8 Rockwell Place which updated the previous submittal of December 12, 2012 stating that the most recent additions and decks were built in approximately 2007.

Letter dated 9/26/2012 from James DiJon stating that the driveway location has always been where its current use is.

Easement agreement prepared by Atty. Francis A Teodosio with cover letter dated March 21, 2013 that states that upon granting the variances, he will immediately effect recording of the easement.

Residential Property Record Card with effective DOV of 10/1/2005 showing no decking or additions.

Residential Property Record Card with effective DOV of 10/1/2011 showing decking or additions.

Photographs and Google Earth from 2010 and 2012.

Members and Mr. Kopjanski indicated that the information seems to satisfy the applicant's claim for the three (3) year statute of limitations. Regarding the off-street parking it was noted that neither the drawing nor the easement, define the dimensions of the parking area. Mr. Kopjanski stated that each space must be ten (10) feet by eighteen (18) feet in size and there must be an additional depth of twenty-four (24) feet to provide for the ability to back out of the space and turn. Atty. Carroll indicated that a Mylar map will be prepared once all the information has been clarified. Said map can detail the dimensions. Members noted that the easement letter cites a schedule C to be attached but said schedule is not attached. Atty. Carroll indicated that it is likely referencing the Mylar map, which as indicated before; his client would be having produced once the matter is finalized. It was noted that the owner is exploring his title insurance company's exposure on this matter. Ultimately, the owner's desire is to bring the parcel into a conforming lot. Regarding the easement for the parking spaces, Mr. DiJon indicated that two cars do presently park in the area without difficulty. He did not know the exact dimensions of the area and would have to speak with his attorney regarding language in the easement. It was noted that the easement does describe that the Grantor is held harmless for any damages or injuries within the easement. It was unclear if there was any verbiage addressing the type of vehicles allowed although it was considered that the size would provide some limitation and zoning allowances for residential lots would also speak to allowable usage.

Public portion for application 354:

No public comment was presented.

Motion made by Sam Pollastro Jr. and second by John Kowarik. Move to grant the requested variances as stated in application 354 with it understood that the applicant has satisfactorily shown the deck, stairs and stockade fence, as shown in documentation have been in existence for the three year period of limitations and further that the parking is subject to contingency on easement which shall define the parking spaces on 8 Rockwell Place to be sufficient area totaling at least twenty (20) feet by forty-two (42) feet to provide for two parking spaces and allowance for turning and said easement and Mylar mapping shall be filed with the City. Motion carried unanimously.

Application No. 366– Applicant: Father McKenna’s St Vincent DePaul of Shelton. Location of affected premises – 1 Park Avenue, Derby, CT 06418. Appealing Section 195-17 (E) Reduction in lot area and Section 195-26 (A) Reduction of Lots. Requesting a variance to reduce the area of a lot from 14,505 ftsq to 7,005 ftsq in the I-1 zone.

Atty. Thomas Welch was present representing the application as well as stating that he is on the Board of Directors of Father McKenna’s St Vincent DePaul of Shelton. Also, Board Member James Guerrara was present. Atty. Welch indicated that both the parcels shown are currently pre-existing non-conforming lots. The intent is to purchase from Manion Realty a portion of the property and provide shared parking thus decreasing the non-conformity on at 237 Roosevelt Drive.

Mr. Kopjanski stated that the request will increase the non-conformity on 1 Park Ave. He also noted that the plans do not detail the dimensions for the parking spaces. There will be additional variances needed for side yard setbacks.

Atty. Welch requested that an extension to the next meeting be granted for this application so as to have time to resolve details of this application.

Motion made by Angelo Dirienzo and second by John Kowarik. Move to grant the requested extension for application #366. Motion carried unanimously.

Application No. 365– Applicant: William and Lisa Rooney. Location of affected premises – 49 Ida Avenue, Derby, CT 06418. Appealing Section 195-26 (O) of the Derby Zoning Regulations. Requesting a height variance of six (6) feet, in order to construct a twelve (12) foot high rear yard property boundary fence.

The applicants were present this evening. Mr. Rooney presented the certified letters to Mr. Kopjanski. He stated that he moved into the house in May 2012. Due to the topography of the lot and due to his wife’s disability they are seeking additional measures for privacy. They have constructed a stockade fence around the rear and side perimeters of the lot and they are seeking to extend the height by an additional six feet.

Chairman Zeck indicated that the Board would need additional time to properly review the application so as to address the presented disability. The City's Corporation Counsel will be approached for consult.

Public portion for application 365:

Simone Carr of 55 Ida Ave. stated that she and her husband are directly next to the parcel. They purchased their home in October 2008 and at that time 49 Ida Avenue was in disrepair. She noted that the neighborhood consists of small lots and it is densely populated. Last summer the applicants did construct the stockade fence and then placed metal poles up that draped tarps around the parcel. There was no diplomacy or interaction with the neighborhood prior to placing the tarps. She considered pursuing the issue but being that the owners of 49 Ida Ave. were new in the neighborhood, she took no action. There has been a decline in property values and to allow such a tall structure would certainly have a negative impact. The fence would be ten (10) feet from her driveway.

Lorraine Rydzy questioned the location of the extension. It was explained that it is over the existing stockade fence which is in the rear portion of the lot.

A letter from Wilson and Maria Rivera of 43 Ida Ave dated March 18, 2013 was presented into the record with it stating that the did not condone said variance.

Bill Bosko of 52 Ida Ave was concerned with the aesthetics as well as the safety issues of securing the fence addition from wind damage.

Josh Izzo was opposed to this application and felt it would hurt property values in the neighborhood.

Paula Kling of 50 Harold Ave. was opposed to the application and while she respected a homeowner's desire for privacy, she felt that the existing fence was sufficient.

Motion made by Angelo Dirienzo and second by John Kowarik. Move to table action on application 365 and refer it to Corporation Counsel for his recommendations. Motion carried unanimously.

Motion was made by Richard Bartholomew and second by Sam Pollastro Jr. Move to adjourn the meeting at 8:00 p.m. Motion carried unanimously.

Respectfully prepared,

Karen Kemmesies, secretary

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