

Zoning Board of Appeals

Minutes

(meeting taped)

Monthly meeting: Thursday, October 17, 2013 in the City Hall Aldermanic Chambers.

The meeting was opened at 6:35 p.m.

A brief recess was taken to see if the Zoning Enforcement Officer was going to be in attendance. The meeting reconvened at 6:45 p.m.

Roll call - members present: Mark Zeck, Richard Bartholomew, John Kowarik, Sam Pollastro Jr. and Harvey Finkel. Earl Robinson and Angelo Dirienzo were excused. Building Inspector Carlo Sarmiento was not present.

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

Approval of minutes: Motion made by Sam Pollastro Jr. and second by Harvey Finkel. Move to accept the minutes of the June 20, 2013 and September 11, 2013 meetings, as written. Motion carried unanimously.

Application No. 368– Application No. 368– Applicant: Diane Zogal Guillet. Location of affected premises – 106 Harold Ave, Derby, CT 06418. Appealing Section 195-99 – nonconforming due to lot configurations.

Atty. Alan Tyma presented certified receipts to the Chair. Upon reviewed they appeared in order. Atty. Tyma explained that Diane Zogal Guillet is the administrator to the estate. He reviewed the history of the property. He explained that lot 138 was purchased by Michael and Felicia Zogal (parents of the applicant) in July 1954 (recorded in Vol. 133 pages 281-283) and lot 139 was purchased December 1954. Harold Yudkin oversaw the subdivision and filed the maps with the Town Clerk for said subdivision on December 16, 1959. The initial zoning regulations for the City of Derby were effective January 1960. With this map filing, the lots predate zoning regulations and the filed map consistently depicts the lots as having a seventy five (75) foot front yard frontage. There has been no activity on lot 138 since its purchase in 1954 and the applicant maintains that this lot presents with a pre-existing condition and development of said lot should be allowed. He indicated that a house can be constructed on the lot that can conform to current building requirements in terms of setbacks and lot coverage. He explained that the shape of the lot is unique. There is a triangular section owned by the adjoining property owner. Trying to purchase the triangle to enlarge and square off the lot is

impossible as the adjoining property owner has constructed a garage that utilizes said triangle for its setback requirements.

Thus the hardship is that the lot is pre-existing and has become non-conforming by application of subsequent zoning regulations. A variance for lot area (700 square feet) and lot frontage (5 feet) is being requested. Previously conveyed house lot has administratively been combined with adjacent lot per 195-99 of the derby zoning regulations. Existing adjacent lot is in conformity with sized and use of area properties and mirrors lot across the street, upon which a home has been built.

Members reviewed section 195-99 Adjoining nonconforming lots. If one or more adjoining lots of record, one or more of which fails to meet the minimum requirements of these regulations with regard to lot area, shape or frontage and if the lots have continuous frontage, are in single ownership at any time after the application of the provisions of these regulations to such lots, and if taken together would form one or more lots meeting the requirements of the regulations with regard to lot area, shape and frontage; such lots shall be combined so as to no longer be considered nonconforming and must be used in such a fashion so as to be in compliance with the lot area, shape and frontage requirements regardless of subsequent changes of ownership.

Members reviewed the presented sub-division map from 1959 noting the consistency of the lots as having 75 ft. frontage. They questioned how the lots were taxed. Atty. Tyma was not certain but indicated that it would not be contingent on the request. It was noted that if the lots were not in similar ownership that the vacant lot could be built upon without variance due to the pre-existing condition. If approved, the current owner would be allowed to sell lot 138 and said lot would have the ability to have a home constructed upon it with it understood that the house placement and configuration would have to satisfy current setback and lot coverage requirements.

Public portion for application 368: No one came forward and the public portion was closed.

Motion made by John Kowarik and second by Sam Pollastro Jr. Move to approve application #368 for the appeal of section 195-99. Motion carried unanimously.

Motion was made by Harvey Finkel and second by Sam Pollastro Jr. Move to adjourn the meeting at 7:25 p.m. Motion carried unanimously.

Respectfully prepared,
Karen Kemmesies
Karen Kemmesies, secretary

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