

Zoning Board of Appeals

Minutes

(meeting taped)

Special meeting: Thursday, February 1, 2007 in the New City Hall.

Meeting was called to order at 6:05 p.m.

By roll call, members present:

Samuel Rizzitelli, Angelo Dirienzo, Richard Bartholomew, Mark Zeck and John Kowarik. Alternate Walter Nizgorski was also present but will not be a voting member this evening. Alternate David Manley was absent.

Building Official David Kopjanski was also present.

Approval of minutes:

Motion was made by Angelo Dirienzo and second by John Kowarik. Move to accept the minutes of December 21, 2006, as written. Motion carried unanimously.

Applicant: James Corbett – application #258 Appealing determination of Building Official and Zoning Enforcement Officer denying Swimming Pool Permit. Zoning Ordinance being appealed 195-13 E (3).

Mr. Corbett summarized that he is seeking to install an in-ground pool on his property at 12 Garden Place. The pool will be 13 ft by 26 ft and this will cause coverage of his property at 34%. Zoning allows 30%. Without a variance his hardship would be that he would only be able to build a very small, inadequate pool.

Mr. Kopjanski explained that this is the second application. The first application was denied in August 2006. This second application eliminated the need for a variance for setback allowances and also the size of the pool was reduced so that the applicant is seeking a 4% allowance rather than the original 7% being requested as per the regulations for an R-5 zone that requires a maximum coverage of 30%.

Mr. Corbett submitted certified letter receipts from:

Derby Board of Education – mailing address 35 Fifth St., Derby, CT 06418

Mr. & Mrs. William Hession – 19 Garden Place

Dr. W Indocci – 49 Seymour Ave.

Mr. & Mrs. Peter Petrino – 18 Garden Place

Mr. & Mrs. James Petrino – 22 Garden Place

Mrs. Anna Narowski – mailing address 834 Baldwin Rd, Orange, CT 06477

Mr. Rizzitelli questioned the record if there was anyone wishing to speak in favor or against the application. No one came forward.

Mr. Kowarik questioned if there were other pools in the area. Mr. Kopjanski could only recall a pool on Seymour Avenue and he noted that it was a very deep lot. Mr. Kowarik asked if the pool installation would infringe on any easements. Mr. Kopjanski indicated that the property was surveyed and the submitted plan does not detail any easements. It is the responsibility of the surveyor to research any such easements and detail them on any plan submitted.

It was noted that under section B1 of the regulations a property owner is allowed reasonable use of the property. Members discussed whether the hardship is satisfied under the regulations. The regulations are

in place to provide for the Board to apply same standards to everyone. It was noted that many houses have been built prior to zoning regulations and regulations were put in place to provide uniformity. The Board must decide whether there is a legal hardship to allow for a variance. The hardship claimed is that without the variance the property owner can not install a swimming pool. The Chair questioned whether this would be a legal hardship as all property owners must abide by restrictions and the City must fairly and equally enforce the regulations. To waiver in the regulations would open the Board to having to allow all requests for variances. Just the mere fact that zoning laws restrict your ability to do what you want is not grounds for a variance.

Motion was made by Richard Bartholomew and second by Angelo Dirienzo. Move to deny application #258 requesting a variance of the lot coverage requirements of the lot for the purpose of installing a 13 ft by 26 ft swimming pool. Motion carried with John Kowarik opposed.

PUBLIC PORTION:

No public came forward at this time.

Motion was made by Richard Bartholomew and second by Angelo Dirienzo. Move to adjourn the meeting at 6:25 p.m. Motion carried unanimously.

Respectfully prepared,
Karen Kemmesies, secretary