

Zoning Board of Appeals

Minutes

(meeting taped)

Special meeting: Thursday, September 20, 2007 in the New City Hall.

Meeting was called to order at 6:08 p.m.

By roll call, members present: Samuel Rizzitelli, Angelo Dirienzo and John Kowarik. Richard Bartholomew and Mark Zeck were excused. Alternates Walter Nizgorski and David Manley were present with both sitting in as voting members this evening.

Building Official David Kopjanski was also present.

Public portion: The Chair noted that there would be a public portion for each application. This public portion is to satisfy section 101 of the Charter of the City of Derby. No one came forward to speak.

A letter from Delia Lucarelli Fortier dated September 20, 2007 addressed to the Zoning Board of Appeals was read into the record.

To Whom It May Concern:

I am unable to attend this meeting due to a prior commitment. However, as a resident of Talmadge Street, Derby, I wish to make two recommendations.

First, I wish Roseland's Apizzeria continued success and best wishes.

Recommendation #1: I would like to have signs put up on Talmadge Street stating "RESIDENTIAL PARKING ONLY" as this is a small dead end street.

Recommendation #2: I also would like to have a lighted area by the hedges in the Roseland parking lot near Talmadge Street that stays lit after closing time until dawn. This will prevent loitering and vandalism. At the present, cars come after closing hours and park in the lot. Some of the occupants of these cars are noisy. A light will hopefully prevent any possible future disturbances. Perhaps CL&P or UI could put up the pole with Roseland Apizzeria paying for the electric.

Thank you very much for your attention to this matter. Again, I wish Roseland Apizzeria the best of luck as the new building will be an asset to the Hawthorne Avenue area.

Application No. 271 –Applicant: EDIFICIO LLC, 17 Hamden Park Dr., Hamden, CT 06517.

Owner of property – Lina, Gary and John Lucarelli. Location of affected premises – Roseland Pizza, 350 Hawthorne Ave, Derby, CT 06418. Appealing determination of Building Official and Zoning Enforcement Officer. Appealing Sections 195-12 E4, 195-87A, 195-54, 195-39D (II) and 195-25 E1 of the City of Derby Zoning Regulations. Requesting variances for permission to construct an addition to the south and east side of the existing building.

Angelo Dirienzo recused himself from this application as he is related to the applicant and stepped down from the table.

Paul Fioretti of EDIFICIO Inc., agent for the applicant came forward and presented the certified letter receipts to the Building Official. He stated that variances are being sought for this landmark restaurant, a continual family restaurant since 1935, located in the R-4 zone. It continues to operate as a non-conforming use in a residential zone. The existing establishment wishes to improve upon the facility for its customer and residential community. There is a lack of waiting area and the patrons have to wait outside in all types of weather frustrating the patrons as well as the residents of the neighborhood. It is hopeful that this addition will solve much of the problems. The restaurant is open from 4:00 p.m. to 10:00 p.m. each day excluding Mondays.

Utilizing the plans prepared by EDIFICIO Inc. Architecture and Design dated September 19, 2007; project #0702 – Roseland Pizza, Mr. Fioretti described each of the designs and the reasons for the variances.

1.) Section 195-12 E4. The front yard variance is seeking an eighteen foot three inch (18'3") variance to allow for a six foot nine inch (6'9") setback where twenty-five feet (25') is required. The lot is odd shaped and the existing building is non-conforming with the current bump-out only nine feet (9') from the boundary.

2.) Section 195-87A. The non-conforming use variance is seeking to improve the function of the restaurant. The addition will allow for improvements and upgrading of the bathroom and kitchen areas to satisfy handicapped needs and mechanical needs as well as providing additional seating. Approximately 1,000 square feet of construction is proposed.

3,4&5) Section 195-54 and 195-39D (II) and 195-25 E1. The parking spaces, design standards and buffer variances are seeking to allow 44 spaces where 67 is required as per the expanded restaurant and apartment uses of the lot and to allow for the reduction in buffer areas. Currently, there are 23 spaces where 51 are needed to satisfy the current requirements of the existing buildings. The plan is actually an increase in the percentage of spaces; the current spaces satisfy only 45% of the requirements whereas, the proposal will satisfy 66% of the required spaces.

Three parking areas are designed, Parking lot "A" (17 spaces) to the east side of the building, Parking lot "B" (6 spaces) to the west of the building and Parking lot "C" (19 spaces) to the rear of the building. There are two spaces existing in the existing garage. Buffer areas of twenty-five feet (25') with landscaping are required. It is apparent in the existing parking that there are no buffers. To make lot "C" work, the plan seeks seven foot (7') buffers on the sides and ten foot (10') on the rear of this area. Lot "B" seeks a five foot six inch (5'6") buffer and lot "A" seeks a five foot (5') buffer.

Mr. Fioretti referenced the "Graphic of Parking Area Planting Area Percentage" dated September 19, 2007. Whereas, current conditions have no buffers, the plan would provide for twenty-two

(22) percent of the lot coverage being buffers with landscaping if the buffer strips are allowed to be reduced.

Members questioned the access to lot "C". The width past the house is nineteen feet (19') with a five foot (5') buffer on the side. Customarily road widths are twenty-two feet (22') or more. It was questioned whether a fence could provide a buffer rather than the plantings and the buffer could possibly be reduced thus allowing for vehicles to travel more safely in both directions. It was noted that the current three family house is conforming as to its location on the lot but not to its use and the garage is conforming as to its location and use. It was also questioned if the access will allow for emergency vehicles and it was thought that the access was sufficient. Mr. Kopjanski noted that the Planning and Zoning Commission will have to review and determine the details of the site plan should this Board approve the variances.

Atty. Richard Volo, representing the applicant, stated that this building was resurrected by Mrs. Lucarelli father after a fire in the mid-thirties. He did not enlarge the structure, rather he rebuilt on the existing foundation. Nothing has changed over the years. When the adult community, Stygar Terrace was built in the 1960's, the current Roseland Pizza was existing. The lot itself is a "L" shaped lot. The configuration is as it is and the client is trying to utilize this unique layout. None of the variance requests are financial in nature, all of the concerns are to improve the structure in terms of safety and handicap concerns. The hardship in dealing with this unique topography, this unique layout, is causing the applicant to come before the Board seeking the variances to ask permission to make these changes. The Board is specifically empowered by section 195-80 C(2) to grant permission for this enlargement provided that the cost does not exceed fifty percent (50%) of the appraised value. The estimated cost of this expansion is approximately \$150,000 whereas the current appraised value of the property is approximately \$650,000 so the plan is far under exceeding the 50% allowed cost of expansion. In terms of the other requirements of section 195-80 B, the front setback of the lot is required due to its unique configuration. There is nothing else the applicant can do under these conditions. It has been that way historically since the structure was built. Ultimately, the use predates the implementation of the zoning regulations. The need for these changes is to make the property appropriate it for all users of all ages and needs and to accept the uniqueness of the property. The design changes are to satisfy handicap concerns, to make it safer, more accessible and practical. The "L" configuration of the lot itself is unique as all other lots in the vicinity are smaller and square. It abuts the Stygar Terrace complex and Osbornedale State Park.

Public portion was opened on the application.

Angelo Dirienzo of 650 Hawthorne Avenue stated that this particular business enhances the neighborhood. The restaurant has received national publicity. He is in favor of the application.

The chair asked if anyone else desired to speak for or against this application. No one came forward and the public portion was closed.

Members deliberated on the application. Five variances are being sought but if the buffer allowance is modified, then section 195-39D (II) would become moot and can be eliminated. The unique lot is constricted in size and dimension and the use predates 1967 when the zoning regulations were enacted. The cost estimations for the addition are less than 25% of the appraised value. One purpose of the design is to reduce off-street parking which will be a benefit to the neighborhood. The lot's use is currently non-conforming and this design will reduce that non-conformity. The rear lot is unsuitable for parking if the buffer requirements are enforced.

Motion was made by David Manley and second by John Kowarik. Move that application 271 - **Applicant: EDIFICIO LLC, 17 Hamden Park Dr., Hamden, CT 06517**. Owner of property – Lina, Gary and John Lucarelli. Location of affected premises – Roseland Pizza, 350 Hawthorne Ave, Derby, CT 06418 be approved with the variances to

Section 195-12 E4 – allow an eighteen foot three inch (18'3") variance to allow for a six foot nine inch (6'9") setback to the front of the building

Section 195-87A. – allow for the non-conforming use

Article 7 195-54 - allow 44 spaces where 67 is required

Section 195-25 E1 - lot "C", allow seven foot (7') buffers on the sides and ten foot (10') on the rear of this area, Lot "B" allow a five foot six inch (5'6") buffer and lot "A" allow a five foot (5') buffer

Discussion on the motion. Members discussed the access to lot "C" from lot "B", the area with 19 ft width. An amendment to the motion was made that the buffer allowance be reduced to two foot six inch (2'6") to provide the applicant the ability to widen this section of driveway as defined as lot "B" in the "Graphic of Parking Area Planting Area Percentage".

With the amendment accepted the motion carried unanimously.

Motion was made by Samuel Rizzitelli and second by David Manley. Move to deny the variance for section 195-39D (II) – design standard, as the need is moot. Motion carried unanimously.

Discussion of fee schedule: Without objection, the matter was tabled.

Without objection the meeting adjourned to 7:07 p.m.

Respectfully prepared,
Karen Kemmesies, secretary

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