

Zoning Board of Appeals

Minutes

(meeting taped)

Monthly meeting: Thursday, September 16, 2010 in the City Hall Aldermanic Chambers.

The meeting was opened at 6:34 p.m.

Motion made by John Kowarik and second by Angelo Dirienzo. Move to go into recess for ten minutes to allow other members and the applicant's engineer to arrive. Motion carried unanimously.

The meeting was called to order at 6:45 p.m.

By roll call, members present: Mark Zeck, Angelo Dirienzo, Richard Bartholomew and John Kowarik. David Manley, Earl Robinson and Sam Pollastro, Jr. were excused.

Building Official David Kopjanski was present.

The applicant was advised that only four members were present this evening and that it would require all to vote affirmatively for the variance to be granted. The applicant has the right to ask that the matter be tabled until next month. The applicant indicated that he was willing to go forward.

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

Approval of minutes: Motion was made by Angelo Dirienzo and second by John Kowarik. Move to accept the minutes of the August 19, 2010 meeting, as written. Motion carried unanimously.

Application No. 331 - Applicant: Apollo Pizza. Location of affected premises – 235 Roosevelt Drive, Derby, CT 06418. Appealing Section 195-17 (E)(6) of Derby Zoning Regulations. Requesting a rear yard setback variance of 12.6 ft to construct an addition to the existing building within 7.6 ft from the rear property boundary line.

Gus Markos, owner and Fred D'Amico, engineer were present. The certified letter receipts for this application were presented to the Building Official. He indicated that notification of property owners within 150 feet appeared to be in order.

Mr. D'Amico explained that the applicant is seeking to enclose an area behind his building that is currently roofed only. This addition would be used for storage. Because of the character of the parcel this was the only space that would be suitable for this use. Currently, the property owner has this covered area adjoined to his building and he is utilizing a trailer to store paper products and other materials essential for his business. If this enclosure is approved, the trailer would be removed. In speaking with the Health Department, Mr. D'Amico indicated that it was their feeling that the addition would be beneficial. He did not have any written communication to confirm this conversation but was hopeful that he could obtain a letter from them. Mr. Markos noted that the addition would be more aesthetically pleasing than the overhang and trailer. Mr. D'Amico indicated that neighbors have expressed no concerns for the addition.

The history of the roofed area was discussed. It appears that the roof was constructed four or five years ago. Subsequent to that, the owner enclosed the covered area but was advised by the Building Official that the enclosure did not satisfy zoning regulations and the owner removed the side walls of the structure. If he is allowed to put on the requested addition, the structure will be cinderblock and framing with access only from the existing building. The trailer, which attracts animals sometimes in the summer and is on the property line, would be removed.

Mr. Kopjanski noted that the parcel is a corner lot and the setback requirement is twenty (20) feet. The application should be amended to reflect this distance. Mr. Kopjanski explained that the parcel is in the I1 zone and restaurants are neither allowed by zoning or special exception. Regulations state that a non-conforming use at the time the regulations were amended is grandfathered but that it shall not be altered or enlarged in such manner as to increase such non-conformance. This provision shall not apply to any alteration which may be required by order of the Building Official to strengthen or restore a building or structure or any part thereof to a safe condition. The current storage of materials may not be consistent with the Department of Health (a matter requiring documentation) and that could raise the question of safe condition. Structurally, the existing roof can stand by itself. The question arises as to when the roof was constructed. If the roof was added after the regulations were amended, said roof may also be a violation of the regulations.

While the request for variance may appear simple it is actually quite complicated. The parcel is

- 1.) an existing non-conforming
- 2.) a restaurant in the industrial zone (which is not allowed)
- 3.) a corner lot
- 4.) the roof may have been built at a time when it was not allowed

With the points raised this evening, the applicant requested additional time to obtain further information.

Motion made by Angelo Dirienzo and second by John Kowarik. Move to table the application as per the request of the applicant to extend the timeframe of said application. Motion carried unanimously.

Motion was made by Angelo Dirienzo and second by John Kowarik. Move to adjourn the meeting at 7:32 p.m. Motion carried unanimously.

Respectfully prepared,

Karen Kemmesies, secretary

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