

Zoning Board of Appeals

Minutes

(meeting taped)

Monthly meeting: Thursday, December 20, 2012 in the City Hall Aldermanic Chambers.

The meeting was opened at 6:30 p.m. The chair called for a brief recess to await the arrival of members of the board.

The meeting reconvened at 6:35 p.m.

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

Marie Giordano of 7 Rockwell Place stated she was here this evening because she received notice of the meeting by certified mail. Mr. Kopjanski explained that everyone within 150 feet of a parcel that is seeking a variance must be notified as per the charter. She was told that she could speak further when the application is heard.

Public portion was closed.

Approval of minutes: Motion was made by John Kowarik. and second by Richard Bartholomew. Move to accept the minutes of the October 18, 2012 meeting, as written. Motion carried unanimously.

Application No. 363 – Applicant: Lina Lucarelli. Location of affected premises – 285 Roosevelt Drive, Derby, CT 06418. Appealing Section 195-155 A by requesting variance to allow required residential parking in front yard setback

At this time, Angelo Dirienzo recused himself from the application stated that he is related to the applicant.

Fred D'Amico, representing the applicant, requested a continuance until the next meeting to allow time to speak further with some of the adjoining property owners and due to the fact that there would be only four members voting on the application.

Without objection, the board accepted the request for a continuance.

Application No. 354 – Applicant: Kevin J. Curseaden, attorney for Mohamad Janaid Awan. 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.

Atty. Kevin J. Curseaden of 26 Cherry St, Milford and applicant Mohamad Janaid Awan were present. The certified receipts were presented to Mr. Kopjanski and after review he indicated that they appeared in order.

Atty. Curseaden stated that the property was purchased by his client two years ago as it presently exists. The house is located at the end of Rockwell Place. They are requesting off-site parking to the south of the property as a driveway can not be placed on the parcel due to ledge. They are pursuing an easement from the DiJon family, the owners of the parcel where the parking would be located. They anticipate completion of the arrangement in the near future. They stated that the adjoining parcel has always been used as the driveway for the property, to their understanding. Speaking to the setback requests, Atty. Curseaden indicated that as per CT Statute Chapter 124a Sec. 8-13a *“Nonconforming buildings and land uses. (a) When a building is so situated on a lot that it violates a zoning regulation of a municipality which prescribes the location of such a building in relation to the boundaries of the lot or when a building is situated on a lot that violates a zoning regulation of a municipality which prescribes the minimum area of the lot, and when such building has been so situated for three years without the institution of an action to enforce such regulation, such building shall be deemed a nonconforming building in relation to such boundaries or to the area of such lot, as the case may be.”* He submitted notarized affidavits (on file) from James DiJon of 8 Rockwell Place dated December 12, 2012, Nancy DiJon of 6 Rockwell Place dated December 12, 2012 and Marie Giordano of 7 Rockwell Place dated December 11, 2012 that indicate that the house located at 10 Rockwell Place has been in its current state with the decks and additions in the current location, since 2007. James and Nancy DiJon indicate that the additions and decks were built in approximately 2001 and Marie Giordano indicates that it was approximately 2007. The applicant believes that there is no need to seek the variances as their situation is consistent with the state statute and that the parcel is an accepted non-conforming use. Never the less, if the Board’s findings do not support the position, then the applicant is seeking said variances. The existing ledge and other characteristics of the parcel are cited as the hardship for said request as well as the fact that the conditions were pre-existing conditions upon the time of purchase. The house was purchased through foreclosure and was sold as is. The applicant is trying to resolve all zoning issues involving the lot with the intent to sell.

Members discussed the information provided and reviewed pictures and the assessors cards from effective DOV 10/1/2005 and effective DOV 10/11/2011. They questioned why the

inconsistency was not identified during the title search for the sale. Atty. Curseaden suggested that the search likely revealed ownership but it appears that no municipal review was requested. His client was unaware of the zoning issues at time of purchase. Members noted the conflict in dates from the affidavits. They questioned the timeframe for the easement. Atty. Curseaden indicated that the DiJon family is out of state and should be sending signed paperwork shortly. He asked that the Board consider acting on the application with it subject to obtaining the easement. Members were hesitant to do so at this time.

Applicant Mohamad Janaid Awan requested a continuance of his application to next month. Without objection the continuance was accepted.

Public portion:

Marie Giordano was present. She asked if she should speak as she has lived in the neighborhood since 1982, has signed the affidavit and is hoping to maintain the character of her good neighborhood. It was explained to her that she would be given the opportunity to speak in detail at the next meeting, if she so chooses to do so.

No one else came forward and public comment was closed.

Meeting Schedule for 2013:

Motion was made by Angelo Dirienzo and second by John Kowarik. Move that the Zoning Board of Appeals will hold their regular monthly meetings on the third Thursday of each month at 6:30 p.m. at the City Hall for calendar year 2013 and January 2014. Motion carried unanimously.

The Zoning Board of Appeals meeting schedule for the remainder of 2013 calendar year shall be the third Thursday of each month at 6:30 p.m.:

January 17, 2013	July 18, 2013
February 21, 2013	August 15, 2013
March 21, 2013	September 19, 2013
April 18, 2013	October 17, 2013
May 16, 2013	November 21, 2013
June 20, 2013	December 19, 2013
January 16, 2014	

Motion was made by Angelo Dirienzo and second by John Kowarik. Move to adjourn the meeting at 7:23 p.m. Motion carried unanimously.

Respectfully prepared,

Karen Kemmesies, secretary

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