

**CITY OF NORWALK
ZONING BOARD OF APPEALS
NOVEMBER 21, 2019 *DRAFT***

ATTENDANCE: Lee Levey, Chair; Gregory Brasher; Andrew Conroy, secretary;
Chris Gavrielidis; Taylor Strubinger

STAFF: Aline Rochefort, Zoning Inspector;
Tammy Maldonado, Compliance Officer

I. CALL TO ORDER

Mr. Levey called the meeting to order at 7:30 p.m.

II. ROLL CALL

Mr. Levey called the Roll as indicated above.

III. PUBLIC HEARING

Mr. Levey reviewed the public hearing procedures.

**A. 19-1017-01 FULLIN ASSOCIATES LLC - APPLICATION TO REPLACE
PANEL IN EXISTING NON-CONFORMING GROUND SIGN, AND VARIANCE
OF OFF PREMISE SIGN REGULATION, IDENTIFICATION OF TWO
BUSINESS ON ADJACENT LOT & INCREASE NUMBER OF OFF-PREMISE
SIGNS BY 1 IN BUSINESS #2 ZONE. PROPERTY LOCATED AT 517
WESTPORT AVE.**

Attorney Liz Suchy, representing the owner of Fullin Properties, submitted the green notification cards and reviewed the application. Former tenants were Gateway and Nine West/Jones NY, but the current tenants, the Music Theater of Connecticut and the Valentino Dance Conservatory are located in the rear lot. The client would like to advertise the two tenants, but relief is needed from the regulations. She presented photos of the location. The client lives in Virginia and sent her request for not attending this evening's meeting. She had a pre-planned trip.

Ms. Suchy said this is a problem and they feel this request is the only way to rectify it. A sign cabinet will go into the existing sign. Ms. Rochefort said that the tenants had illegal banners up and this signage will cure that. Ms. Suchy explained that the existing sign has been up for at least 30 years. She said there were a variety of letters submitted in support of this request.

Mr. Levey waived the reading of the letters.

He asked if anyone wished to speak in favor.

Mr. Rob Sciglimpaglia, Board member of the Music Theater of Connecticut spoke in support of the request. He said that because of the signage issues, they are relatively unknown. The existing sign in the back is not visible. In response to Mr. Conroy's question, he said they opened in September 2014.

Ms. Susan Valentine said the ballet school has 110 students. She said the school is hard to find for people dropping off students. In addition, the signage would help attract more students.

Mr. Levey asked if anyone wished to speak in opposition.

Hearing none, he closed the public hearing.

Ms. Suchy said the applicant demonstrated hardship. The letter size in the sign will be compliant and she asked the Zoning Board of Appeals to deem it appropriate to grant this application.

Mr. Conroy clarified that the sign has been in existence for 30 years and this is a request to add the rear tenants to the signage.

**B. 19-1121-01 2600 PARTNERS, LLC- APPEAL FROM DENIAL OF
CERTIFICATE OF ZONING COMPLIANCE FOR NON-COMPLIANCE WITH
FLOOD ZONE. IN THE ALTERNATIVE VARIANCE TO ALLOW HVAC
DUCTWORK BELOW THE BFE. PROPERTY LOCATED AT 2.5 LOGAN
PLACE**

Attorney Adam Blank, representing the property owner, submitted the green cards. He explained the item and said it was a dual application. He said it is an appeal of a denial, but if it is not overturned, they are seeking a variance of the flood zone regulation.

The home is located in Rowayton, in a flood zone. Following the construction of a single family home, Zoning did not issue a certificate of compliance, because of the location of the ductwork. Mr. Blank said it is in compliance with FEMA and State regulations and poses no health or safety issues; however, it does not comply with Zoning regulations.

Mr. Blank explained that they followed what the Building Inspector approved and all sides acted in good faith. Mr. Walker acquired the property in 2016. At that time, the home was in poor shape and he hired Mr. Beinfeld to build him a magnificent house. They did not seek higher elevation. The structure was Zoning compliant.

In 2017 they began to get approvals from the City. In the summer of 2018, the HVAC subcontractor wrote to the Building Inspector's office regarding the duct work. In response, he was told "sounds fine". The applicant, through his contractors believed they were following the letter of the law when the duct work was built. The duct work is FEMA compliant and poses no health or safety risks.

Mr. Blank said it would be a hardship for Mr. Walker to install new ductwork. If he is required to raise the house, he would have to come back to request a variance.

Mr. Blank read an affidavit submitted by Mr. Joseph DeLallo.

Mr. Blank said they do not intend to place blame on anyone for this. They are asking that the denial be overturned or a variance be granted.

Mr. Levey asked if anyone wished to speak in favor.

Mr. Bruce Beinfeld, architect for the project said he has worked on over 200 projects in Norwalk since 1983. The regulations are only available on line and there are two different sites; however, one of the sites is outdated and does not yield accurate results. Each municipality has different requirements, making it a challenge to know what the applicable codes are.

Mr. Richard Walker, owner of the property said that he has lived in Rowayton since 1984. He bought the house in 2016 and tried to identify a good, solid architect. It came as a surprise that the house was not able to get a Certificate of Occupancy. He said they all acted in good faith.

Mr. Walker said that ripping out the interior or raising the house are not good solutions. The next door neighbor would concur that having another construction project would not be in the best interest of the neighborhood. The ductwork is FEMA compliant. He asked the Board to use their discretion from preventing a very serious hardship; that would be a great value to him and would send a message that Norwalk is fair to its residents.

Mr. Peter Drummond Hay, neighbor said he was here this evening in support of Mr. Walker's application. He said they are happy with the house as it is built and grateful that it isn't higher. He said he would be opposed to it being higher. He said Mr. Walker took great pains to be compliant and asked the Board to look favorably upon his request. The prospect of having more construction is not congenial.

Mr. Joe DeLallo, retired Building Official said that if Zoning had an issue, they should have put a note on the plans and they would have acted on it. The Zoning application did not say anything about the ductwork being in a flood zone. He said if Zoning wants to supersede Building codes, they need to make a note of it. As long as the plans meet

FEMA regulations and Building codes, it will pass. Mr. DeLallo said this was not done on purpose and added that he never saw this in 18 years.

Mr. Levey asked if anyone wished to speak in opposition. Hearing none, he closed the public hearing.

Mr. Blank did not have any further comments and hoped the Board would approve the variance.

Ms. Rochefort said she encouraged the Board to deny the appeal. The Zoning Officer did not make a mistake. The regulations do change all the time, but they are on line and her office is always open for questions. Norwalk is part of a community rating system and they get reduced flood insurance premiums because they enacted stricter codes. She said the codes were enacted in 2014 and read the code.

Mr. Gavrielidis asked how many times the staff inspects properties. Ms. Rochefort said that because they do not have enough staff, they only go out at the end. Mr. Levey asked if any other newly constructed homes since 2014 are in violation. Mr. Rochefort said it was possible. Mr. Levey said that from this point forward, he assumed there would be more cooperation between the Zoning and Building departments. He said he has been advocating for better working relationships and this is a good example of where there should be better cooperation between City departments.

Mr. Blank said the Zoning Office didn't do anything wrong. The Building Inspector signed off on this and the contractor relied on that. Wherever the miscommunication occurred was not the homeowner's fault.

C. 19-1121-02 TAVERN ISLAND HOLDINGS LLC - VARIANCE OF REQUIRED LOT AREA TO DEMOLISH AND RECONSTRUCT A SINGLE-FAMILY RESIDENCE WHERE TWO ARE EXISTING. PROPERTY LOCATED AT TAVERN ISLAND

Attorney Robert Maslin, representing the applicant submitted the green cards. He reviewed the location of the island and the features of the island. The applicant is asking for a variance of the minimum lot size and they are proposing to demolish the main house.

Mr. Maslin explained that the Harbor Management Commission approved the plan. He said also pending is a Special Permit, Site Plan Review and a text amendment to increase the building height to accommodate the flood plain regulation.

Both residential properties on the island predate Zoning regulations. Mr. Conroy asked how they approach the non-conformity. Mr. Maslin explained it is a minimum lot size. They can't change the size of it because it is an island. They have a vested right to

continue non conformity. The island is owned by one person. Historically there has been a main house owner, and the Pilot House was for the caretaker. The caretaker has been there for 20 years. The owner needs a special permit to build a single-family structure on the island. Mr. Maslin said there will be more regulatory review on this.

Mr. Levey asked if anyone wished to speak in favor.

Mr. Levey asked if anyone wished to speak in opposition.

Hearing none, he closed the public hearing.

Mr. Maslin said the owner has been in discussions with other island owners and they are all in favor.

D. 19-1121-03 MARK D'ARIANO – VARIANCE TO ALLOW THREE PARKING SPACES WITHIN THE ZONING FRONT SETBACK. PROPERTY LOCATED AT 3 GREGORY COURT

Attorney Liz Suchy, representing the applicant, submitted the green cards and reviewed the item. She presented a survey of Gregory Court and noted the parking field was in existence when the applicant purchased his home. The applicant is requesting a variance for 16 feet.

Ms. Suchy presented photos of neighbors with similar parking fields. There is no on street parking on Gregory Court because the road is narrow and the houses are close together. The parking fields get the cars off the street.

Ms. Suchy said her client is here to legalize a condition that existed when he purchased the dwelling. This is a unique situation. Gregory Court is 12 feet wide. In light of the location and the condition of the neighborhood, she said she felt is appropriate to permit this.

The home was built in 1912 and all of the neighbors have been advised of the plans. The applicant has five letters of support. The applicant is not aware if any additions were made to the house. Ms. Suchy said that the feel of the street is that 3, 5 and 7 Gregory Court have large parking fields in front of their homes and they look like they can accommodate three cars.

Ms. Rochefort noted that the applicant does not have curb cuts. The neighboring properties have curb cuts. Mr. Levey said that 5 and 7 Gregory Court can park three cars across and have done so. He also noted that he is happy the applicant put pavers in instead of gravel. It was noted that Public Works looked at the condition of the catch basin that was filling up with gravel. Mr. Levey said the property owner did a good deed to alleviate a problem.

Mr. D'Ariano said there was gravel when he purchased the property, but it was troublesome and he removed it and replaced it with pavers. He submitted a letter of support. He said that 5 and 7 Gregory Court have two spaces and a garage. He does not have a garage.

Mr. Levey asked if anyone wished to speak in favor.

Mr. Levey asked if anyone wished to speak in opposition.

Hearing none, he closed the public hearing.

Ms. Suchy said the papers identified the hardship and asked the Board to grant the variance.

IV. **BOARD ACTION ON:** D – A

D. 19-1121-03 MARK D'ARIANO – VARIANCE TO ALLOW THREE PARKING SPACES WITHIN THE ZONING FRONT SETBACK. PROPERTY LOCATED AT 3 GREGORY COURT

The Board discussed the item. Mr. Levey noted this is a very tight neighborhood and there is no on street parking. The condition existed for many years. Mr. Conroy said it is impossible to park on the street. Mr. Levey said the applicant will have to comply with a curb cut. Mr. Brasher asked if they should build a garage. Mr. Levey said he did not believe they should.

**** MR. STRUBINGER MOVED TO APPROVE THE VARIANCE TO ALLOW THREE PARKING SPACES WITHIN THE ZONING FRONT SETBACK. PROPERTY LOCATED AT 3 GREGORY COURT WITH THE CONDITION THAT THE OWNER ABIDE BY THE DEPARTMENT OF PUBLIC WORK'S REQUEST THAT WHERE POSSIBLE, ADDITIONAL LANDSCAPE BE PROVIDED**

**** MR. BRASHER SECONDED**

**** MOTION PASSED UNANIMOUSLY**

C. 19-1121-02 TAVERN ISLAND HOLDINGS LLC - VARIANCE OF REQUIRED LOT AREA TO DEMOLISH AND RECONSTRUCT A SINGLE-FAMILY RESIDENCE WHERE TWO ARE EXISTING. PROPERTY LOCATED AT TAVERN ISLAND

The Board discussed the item. Mr. Brasher said he did not see a problem with this. Mr. Levey agreed. He said this is an island and there is no way that the number of residents

will be increased. The island is only accessible to the owner and guests. Mr. Conroy said it makes a lot of sense to approve this.

**** MR. BRASHER MOVED TO APPROVE VARIANCE OF REQUIRED LOT AREA TO DEMOLISH AND RECONSTRUCT A SINGLE-FAMILY RESIDENCE WHERE TWO ARE EXISTING. PROPERTY LOCATED AT TAVERN ISLAND BASED ON THE HARDSHIP OF THE NON-CONFORMING PROPERTY THAT EXISTED FOR A NUMBER OF DECADES**

**** MR. CONROY SECONDED**

**** MOTION PASSED UNANIMOUSLY**

B. 19-1121-01 2600 PARTNERS, LLC- APPEAL FROM DENIAL OF CERTIFICATE OF ZONING COMPLIANCE FOR NON-COMPLIANCE WITH FLOOD ZONE. IN THE ALTERNATIVE VARIANCE TO ALLOW HVAC DUCTWORK BELOW THE BFE. PROPERTY LOCATED AT 2.5 LOGAN PLACE

The Board discussed the item. Mr. Brasher said he did not feel this was malicious.

**** MR. LEVEY MOVED TO DENY THE APPEAL FROM DENIAL OF CERTIFICATE OF ZONING COMPLIANCE FOR NON-COMPLIANCE WITH FLOOD ZONE.**

**** MR. CONROY SECONDED**

**** MOTION PASSED UNANIMOUSLY**

**** MR. LEVEY MOVED TO APPROVE THE VARIANCE TO ALLOW HVAC DUCTWORK BELOW THE BFE WHERE IT EXISTS IN COMPLIANCE WITH THE BUILDING CODE AND FEMA REGULATIONS. PROPERTY LOCATED AT 2.5 LOGAN PLACE**

**** MR. BRASHER SECONDED**

**** MOTION PASSED UNANIMOUSLY**

A. 19-1017-01 FULLIN ASSOCIATES LLC - APPLICATION TO REPLACE PANEL IN EXISTING NON-CONFORMING GROUND SIGN, AND VARIANCE OF OFF PREMISE SIGN REGULATION, IDENTIFICATION OF TWO BUSINESS ON ADJACENT LOT & INCREASE NUMBER OF OFF-PREMISE SIGNS BY 1 IN BUSINESS #2 ZONE. PROPERTY LOCATED AT 517 WESTPORT AVE.

The Board discussed the item. Mr. Brasher said he did not find a problem with this and added that it would help the tenants. It would be obtrusive to add another sign.

- ** MR. BRASHER MOVED TO APPROVE THE APPLICATION TO
REPLACE PANEL IN EXISTING NON-CONFORMING GROUND SIGN,
AND VARIANCE OF OFF PREMISE SIGN REGULATION,
IDENTIFICATION OF TWO BUSINESS ON ADJACENT LOT &
INCREASE NUMBER OF OFF-PREMISE SIGNS BY 1 IN BUSINESS #2
ZONE. PROPERTY LOCATED AT 517 WESTPORT AVE.
** MR. GAVRIELIDIS SECONDED
** MOTION PASSED UNANIMOUSLY**

V. ACTION ON HEARING MINUTES – OCTOBER 17, 2019

- ** MR. LEVEY MOVED TO ACCEPT THE MINUTES AS SUBMITTED
** MR. BRASHER SECONDED
** MOTION PASSED WITH ONE (1) ABSTENTION (MR. STRUBINGER)**

BOARD ELECTION

Mr. Levey thanked the two senior Board members for their help.

- ** MR. LEVEY NOMINATED MR. CONROY AS SECRETARY
** MR. BRASHER SECONDED
** MOTION PASSED UNANIMOUSLY**

VI. ADJOURNMENT

- ** MR. LEVEY MOVED TO ADJOURN
** MR. BRASHER SECONDED
** MOTION PASSED UNANIMOUSLY**

There was no further business and the meeting was unanimously adjourned at 9:33 p.m.

Respectfully submitted,

Rosemarie Lombardi
Telesco Secretarial Services