

**CITY OF NORWALK
ZONING BOARD OF APPEALS
NOVEMBER 5, 2009**

I. CALL TO ORDER

Mr. Strubinger called the meeting to order at 7:30 pm.

II. ROLL CALL

Ms. Rochefort took the roll call.

PRESENT: Taylor Strubinger, Chair; Tony Lopez; Dawn DelGreco; Gordon Tully; Joe Santo

STAFF: Aline Rochefort; Mike Wrinn; Adam Carsen

OTHERS: Atty. Mark Grenier; Atty. Edwin Camacho

III. PUBLIC HEARING

- a. 09-1001-01—Andrew & Linda Caruso—Appeal of deputy zoning inspectors decision In Neighborhood Business Zone. Property located at 18 Bouton St.**

Mr. Strubinger opened the public hearing.

Atty. Grenier, representing the Carusos, turned in the green cards and presented the Cease and Desist order from June 5, as well as several emails and correspondences with the Zoning office.

Mr. Tully asked Atty. Grenier to state the grounds for the appeal. Atty. Grenier discussed the contradictions between statements made by Mr. Brian McCann, confirming an upcoming meeting with the applicant, and statements made by the Zoning department indicating that it had not been contacted about the application. Atty. Grenier described the issues addressed at his July 15 meeting, including the prior fire at the site and the status of zoning and building permits needed for work done on the site. He stated that Ms. Rochefort had not responded to two email requests for updates in August. He added that when he asked on October 5 about what could be done concerning the property, he was told that it could not be discussed as the item was under appeal. Atty. Grenier emphasized that his client was not told what to do about the property and that he was also being penalized for not wanting the appeal. He said that the applicant did not know how to come into compliance.

Mr. Tully again asked what the grounds were for the appeal. Atty. Grenier said that the applicant was appealing the Cease and Desist order.

Mr. Santo asked what work had been done prior to June 5, the date of the Cease and Desist order. Atty. Grenier said that on April 17, the builder had met with Mr. Carsen and been told he would get a Cease and Desist.

Mr. Santo asked why the owner did not get permits prior to that. Atty. Grenier said that there had been a fire at the site and that work on the property was more recent than that. He said that the owner had submitted plans in April 2009.

Mr. Strubinger asked why the applicant had not been able to get the permits, if he had submitted plans and paid the fee. Atty. Grenier said that he did not know the reason and that the applicant wanted the item to be continued so that the owner could come into compliance.

Mr. Strubinger closed the public hearing.

b. 09-1105-02—88 Washington St. LLC—Appeal of Assistant Director's letter. Property located at 94 Washington St. AKA 88 Washington St. (Rouge)

Mr. Strubinger opened the public hearing.

Mr. Tully read the memo and explained that the applicant was appealing a letter from Mr. Wrinn. Mr. Tully explained that a Cease and Desist order had been issued on June 12, because plans had been changed without authorization. He added that the modifications had been made to a CAM application and that the appeal was invalid because it had not been issued by the Zoning officer or the Deputy zoning officer.

Atty. Edwin Camacho explained that the applicant was appealing the interpretation of the application requirement to provide fee-in-lieu parking. He described the newly added active area and its relation to the application.

The Board asked Atty. Camacho to reiterate what exactly was being appealed. Mr. Santo pointed out that the applicant was incorrectly viewing Mr. Wrinn's letter as a mandate.

Mr. Strubinger reiterated that the Board needed to determine whether the letter was an appeal or a letter for informational purposes.

Mr. Tully said that perhaps the applicant thought it was prudent to appeal the item, since the letter had contained the language of requirement.

There was a discussion of fee-in-lieu parking at the site.

Mr. Tully asked the applicant what authoritative body had indicated that a new fee-in-lieu must be paid. He suggested that the item be taken up with the Zoning Commission.

Mr. Wrinn discussed the nature of a Cease and Desist letter, adding that it would be disingenuous for the author of the letter to omit any discussion of a fee-in-lieu requirement.

Atty. Camacho distributed letters, which included the revised floor plan that he said had been discussed with Mr. Wrinn. He described the proposed L-shaped bench and the active space as indicated on the new floor plans.

Mr. Strubinger closed the public hearing.

IV. BOARD ACTION ON ITEM A thru B and board action on 08-0306-01 Avalon Bay Community – Signage - request for extension of time in which to obtain permits.

08-306-01 Avalon Bay Community

**** MR. STRUBINGER MADE A MOTION TO APPROVE THE EXTENSION UNTIL APRIL 17, 2010.**

**** MS. DELGRECO SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

B. 089-1105-02 88 Washington St. LLC—Appeal of Assistant Director's letter.

**** MR. STRUBINGER MOVED: RESOLVED that application 09-1105-02—88 Washington St. LLC, 94 Washington Street (aka 88 Washington Street), an Appeal of Assistant Director's letter dated 8/27/09 requesting that additional information be provided. Property located in the Washington Street Design District at 94 Washington Street (aka 88 Washington Street). District 2, Block 43, Lot 3, Coastal Area Management be DENIED, for the following reasons:**

- 1. That this letter of 8/27/09 signed by the Assistant Director of Planning and Zoning does NOT constitute an order, requirement or decision of the Zoning Inspector, as per Section 116-9C of the City Code; and**
- 2. That this letter of 8/27/09 was not written by the Assistant Director in a capacity as a Zoning Officer or Deputy Zoning Officer but in a capacity as staff to the Zoning Commission; and**

3. That this letter was a request for information on behalf of the Zoning Commission, needed in order for the Zoning Commission to properly evaluate the unauthorized modifications made to the previously approved Coastal Area Management application, as mentioned numerous times in the letter of 8/27/09; and
4. That no determination was made as to the requirements of any revised parking calculations, active floor area or possible fee-in-lieu payments was made in this letter of 8/27/09; this letter only requested that this information be provided for Zoning Commission review.

**** MR. SANTO SECONDED.**
**** MOTION PASSED UNANIMOUSLY.**

- A. 09-1001-01—Andrew & Linda Caruso—Appeal of Zoning Inspector's decision. In Neighborhood Business Zone. Property located at 18 Bouton St.**

**** MR. STRUBINGER MOVED: RESOLVED that the application be DENIED, because no evidence was submitted within 15 days to determine what decision was being appealed; and because the applicant failed to prove the zoning inspector issued an order or decision; and because all statements of the zoning inspector are found to be correct.**

**** MR. STRUBINGER SECONDED.**
**** MOTION PASSED UNANIMOUSLY.**

V. ANNUAL ELECTION

**** MR. SANTO MADE A MOTION TO POSTPONE THE ELECTION.****
MR. STRUBINGER SECONDED.
**** MOTION PASSED UNANIMOUSLY,**

VI. ACTION ON HEARING MINUTES October 1, 2009

**** MR. STRUBINGER MADE A MOTION TO APPROVE THE MINUTES.**
**** MR. LOPEZ SECONDED.**
**** MOTION CARRIED (4-1, DELGRECO ABSTAINING).**

VII. ADJOURNMENT

**** MR. STRUBINGER MADE A MOTION TO ADJOURN.**
**** MR. LOPEZ SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

The meeting was adjourned at 8:40 pm.

Respectfully submitted by Charlene Smith.

