

**CITY OF NORWALK
ZONING BOARD OF APPEALS
VIA VIDEO AND TELECONFERENCE
OCTOBER 19, 2023**

ATTENDANCE: Andy Conroy, Chair; Lee Levey, Secretary; Thomas Farkas, Steve Ferguson, Ben Hanpeter, Keith Lyon

STAFF: Tammy Maldonado, Planning & Zoning

OTHER: Edward Parker, Atty. Jacqueline Kaufman, Atty. Dan Conant, David Wright, Diane Cece, Ralph Kolb, Atty. Adam Blank

CALL TO ORDER/ ROLL CALL

Mr. Conroy called the meeting to order at 7:30 p.m. and acknowledged those in attendance as listed above.

Mr. Conroy read the instructions of the meeting and listed URL and sites to join and participate in the meeting. He confirmed that the agenda had no additions.

PUBLIC HEARING

I. PUBLIC HEARINGS

- A. 23-1019-01 S. Edward Parker – Appeal of staff determination of number of stories or in the alternative variance of number of stories for a proposed tower/attic space addition at an existing single family residence. Property located at 4 Betts Pl.**

Mr. Conroy announced that he, Mr. Farkas, Mr. Hanpeter, Mr. Ferguson, and Mr. Lyon would be hearing the application.

Mr. Levey read the background of the application and outlined the status of the permit conditions and definitions, and the restrictions and dates as amended. He outlined the height conditions and variance specifics for the determination of the approval.

Mr. Levey stated that while the zoning compliant design is not the property owner's preferred design, the staff was not able to identify a zoning hardship to support the variance request for three stories.

Mr. Conroy then clarified what the definition of story involved. The plate is basically the space between the sidewall and the top floor's slanted roof. There is a two foot limit.

Mr. Parker came forward and displayed a photo of 2 and 4 Betts Place. The house was built in 1920. He indicated where there was an eave at the second story and there is a dormer. The attic itself is only 6 feet from floor to ridge. It is not usable space. After the garage was removed because it was not safe, Mr. Parker would like to expand the bedroom and add a home office space. The tower would be accessed by a spiral staircase and is 175 square feet. He displayed a drawing of the new garage, the expanded bedroom and the tower. The tower is still six feet below the height restrictions.

The second design would actually make the house larger and would be considered a dormer. There are many tower elements in Norwalk but it is not mentioned in the Norwalk Zoning Regulations except for Section 118.810j which deals with the height of a water tank or tower. It is not a cupola and there is no height variance needed.

Mr. Parker then displayed a number of photos showing Queen Anne and Victorian houses with towers in the neighborhood. He said that they do not wish to add a third story to the house, but a simple small space within the height restrictions.

Mr. Levey said that this was an architectural design issue. He said that the thing that was most disturbing for him was the addition of the garage, which is a simple block with a flat roof. He suggested that the office be placed over the garage. This would alleviate the issue of the tower.

Mr. Conroy asked Mr. Parker what the previous Zoning approval was for. Mr. Parker said the previous application would basically raise the room and the tower was incorporated into the space to become a dormer. He explained that the garage was actually detached from the house and they could not put anything on top of it was because the second story is the limit of its expansion. Discussion followed.

Mr. Parker said that the garage was tilting and a demolition permit was issued by the Building Department and it was demolished. The tree that was causing the heaving issue was also removed and the garage will be rebuilt on the original location. There was a four foot separation walkway between the garage and the house, which will remain.

Mr. Conroy explained that the issue was that the applicant does not believe he needs a variance, but the Zoning Department does. However the Zoning Department does not see a hardship. Ms. Maldonado said that the tower presents as a third story per the definition. She reviewed the details with the Board members. The alternative plan does meet the dormer definition, but that required an expansion of the half story or attic space to place the proposed dormer properly. The alternative dormer that was proposed is the same height as the tower. The existing attic would still be used for storage. Discussion followed.

It was pointed out that with the compliant plan, the roof line would be raised. Mr. Parker then displayed the previously Zoning staff approved plans on screen. This dormer plan that was approved is compliant as a half story with an allowed dormer. The tower plan would affect much less of the house.

Mr. Conroy clarified that the Zoning Department staff were following the code. The ZBA Board itself can decide to enforce that or if they feel it is appropriate, permit a waiver. The Board should consider whether there is a hardship involved or there are additional considerations.

Mr. Parker pointed out that putting a new roof on the building was substantially more costly and would change the character of the house. Both of his adjacent neighbors sent letters of support about this.

Mr. Lyons said that the design as presented meets a number of valuable criteria including the smaller size and is in keeping with the character of the neighborhood. However, Mr. Lyons said he was unsure if there was a way to approve it without compromising the Board's role and the criteria.

Mr. Conroy asked if there were other zoning issues that would arise if the presented design was approved. Ms. Maldonado said that there were no other issues.

Mr. Levey read the following letters of support into the record:

To Whom It May Concern:

I met with Ed Parker this past weekend and he shared his plan for his house at 4 Betts Place. I live at 16 Betts Place, right next door. The house design looks wonderful and will definitely enhance our neighborhood. The timing works well with the City's plan to beautify Seaview Avenue and Veterans Park in the works. Thank you.

Susan Arnold, 16 Betts Place

Hello. I met with Ed Parker regarding his plans for 4 Betts Place, Norwalk, Connecticut. I own my home located directly next door at 2 Betts Place. The plan he shared with us looked well designed and does not appear to be intrusive to the style of the neighborhood. I approve of the design and look forward to the improvements he will make to the area. Thank you.

Mary Beth Monahan.

Ms. Maldonado said that there was a member of the public who wished to address the Board at this time.

Ms. Diane Cece greeted the Board members and thanked them for the opportunity to speak. Ms. Cece said that she lives on Olmstead Place in East Norwalk and is the Board President of the East Norwalk Association.

She said that because it was Betts Place, it was important to consider any changes that would increase density and parking issues. Neither of those concerns would be applicable here.

Ms. Cece said that the supporting documents are not included with the posted agendas. She said that she had to search the City website for the documentation. She said that she understood the situation and had similar questions to Mr. Levey's. She did not find the proposed design objectionable at all and it will fit in well with the character of the neighborhood. Requiring the dormer design would impact the height of the roof and not change the height of the tower as proposed. Raising the roof line would be something objectionable.

She said that this was an example of where the existing zoning code did not anticipate this type of situation. Mr. Parker was very creative in coming up with this design. The Zoning Regulations are currently in the process of being updated. She said that she would suggest to Ms. Maldonado and Mr. Kleppin that this be included.

Ms. Cece said that she was unsure what would constitute a bedroom and asked if that would be an issue. She added she had not heard anything that would suggest there was a reason not to grant the application. If he was forced to raise the roof line, the hardship would be on the neighborhood. While she has not reviewed all the plans, but based on what Ms. Cece has seen at the meeting, she expressed her support in granting the request.

Mr. Conroy said that the Charter basically requires the ZBA to follow the code, but they may vary from the code if there is a hardship or a substantial, practical reason not to follow the code. Requiring the roof line to be raised to meet the dormer requirements would be a substantial, practical reason not to follow the code.

Mr. Parker then asked if they would be deciding now or later in the meeting. Mr. Conroy said it would be later in the meeting and Mr. Parker would not be able to give any input at that time.

There was no additional comments from the public.

B. 23-1019-02 Norwalk 508 Real Estate LLC – Variance of frontage requirement and location for a proposed ground sign at an existing commercial property. Property located at 508 Westport Ave.

Mr. Levey read the background of the application and outlined the status of the permit conditions and definitions, and the restrictions and dates as amended. He outlined the variance specifics for the determination of the approval. The staff finds the ground sign to be appropriate for the site.

Mr. Conroy announced that Mr. Farkas, Mr. Hanpeter, Mr. Ferguson, Mr. Levey and Mr. Lyon would be hearing the application.

Atty. Jackie Kaufman, of Carmody Torrance, Sandak and Hennessey, LLP came forward and introduced herself and her associate, Mr. Dan Conant ; the engineer, Brian Bassar and David Wright, a representative from the property owner.

Mr. Conant then displayed a PowerPoint slide Deck, which Atty. Kaufman narrated for the Board. The owner purchased the property in 2007. There is a very narrow driveway leading to the site, which is behind another building. There has always been signage in the location to direct

customers and clients to the building. When the previous tenant vacated, the property owner replaced the existing sign with a For Lease sign. When they went to reinstall the sign, it was discovered that there was no record for any signage permits for the property on file. When the property was purchased, there was signage there and the property owner did not intend to abandon the signage.

Atty. Kaufman requested the Board for permission to re-install the signage in the exact location. The proposed signage is completely conforming in height and size to the regulations. It will assist with wayfinding. A photo of the previous sign was displayed. The current street frontage is only 30 feet and this is a pre-existing condition dating back before 1972. Atty. Kaufman showed a photo of the other surrounding signs when the property was purchased in 2007.

The one story building is located towards the rear of the property and it is difficult to see the building from Westport Avenue. The site plan was displayed. The sign is set back 15 feet from the actual roadway. The sign is 2 feet from the neighboring property, but there is nowhere else for it to be place.

Atty. Kaufman displayed an illustration of what the proposed sign would look like and reviewed the dimensions of the sign. Discussion followed about the specific measurements.

The following two slides contained letters of recommendation from a variety of individuals.

Atty. Kaufman then displayed a map showing the existing signage on Westport Avenue. The property owner has not received the final design yet. The discussion moved to the neighboring properties and their signage. Atty. Kaufman said that the hardship was the undersized frontage.

Mr. Levey said that he was aware of the physical hardships but wished to know if one of the neighboring properties had the right to use the driveway at 508 Westport Avenue to exit their property. Mr. Wright, the property owner's representative, said that the property owner also had an affiliation and interest in 506. The tenant at 506 has appropriate signage with good visibility. There is a recorded, shared easement for the driveway. 508 actually owns the driveway, but 506 has the easement for usage. Discussion followed about using the signage for both 506 and 508.

Mr. Farkas said that he frequently drives this area and there is a great deal of difficulty in negotiation where the actual driveway are. Signage is critically important and he applauds the improvement in signage.

There was no one from the public that wished to comment on this application.

Ms. Maldonado said that there were letters displayed in the presentation. Atty. Kaufman said that the letters were from Mr. David Wright, the representative for the property owner and an additional letter that was sent out earlier in the day from another property owner.

There were no additional questions about the application.

II. BOARD ACTION ON: A-B and request for extension of time for 86 Bluff Ave Variance #23-0216-03 and request for extension of time for 473 Connecticut Ave Variance #23-0615-04

A. 23-1019-01 S. Edward Parker – Appeal of staff determination of number of stories or in the alternative variance of number of stories for a proposed tower/attic space addition at an existing single family residence. Property located at 4 Betts Pl.

Mr. Conroy announced that he, Mr. Farkas, Mr. Hanpeter, Mr. Ferguson, and Mr. Lyon had heard the application.

Mr. Conroy said that a practical difficulty exists because in order to accommodate the Zoning Code, the applicant would be required to do something that appeared to be ridiculous. While the staff is required to follow the code, but this would not be practical. Mr. Hanpeter agreed.

Mr. Levey said that normally, they don't consider cost or financial issues, but this is beyond a financial hardship. It is a practical hardship to require the applicant to perform substantial additional work to the residence to achieve his goal. Discussion followed.

Mr. Farkas said he thought it fits in with the character of the neighborhood. Mr. Conroy said that this would be complimenting the neighborhood.

Mr. Conroy said that if the appeal was granted, it would overturn what the zoning staff had determined, but in this case he was happy to do so because they were pushed into an impossible place by the zoning code itself. If the appeal is upheld there is no need for a variance. Mr. Conroy reiterated that the staff did not make an error.

**** MR. LYONS MOVED TO GRANT THE APPEAL FROM S. EDWARD PARKER REGARDING THE STAFF DETERMINATION OF NUMBER OF STORIES OR IN THE ALTERNATIVE VARIANCE OF NUMBER OF STORIES FOR A PROPOSED TOWER/ATTIC SPACE ADDITION AT AN EXISTING SINGLE FAMILY RESIDENCE FOR THE PROPERTY LOCATED AT 4 BETTS PL.**

**** MR. CONROY SECONDED.**

**** THE MOTION PASSED UNANIMOUSLY.**

B. 23-1019-02 Norwalk 508 Real Estate LLC – Variance of frontage requirement and location for a proposed ground sign at an existing commercial property. Property located at 508 Westport Ave.

Mr. Conroy announced that Mr. Farkas, Mr. Hanpeter, Mr. Ferguson, Mr. Levey and Mr. Lyon had heard the application.

Mr. Levey said that there was a practical difficulty due to the property being a flag lot or rear lot. The property is surrounded by larger buildings. The location of the sign is the only place that it can be placed. Mr. Farkas agreed.

Mr. Levey said that the applicant might have considered adding some text indicating that the building is in the rear with an indicator arrow. Discussion followed about making this a condition of approval.

Ms. Maldonado said that the requirements for a ground sign includes four inch street numbers. She clarified whether Mr. Conroy wished to have the number 508 reduced in size in order to include text stating the building was “in the rear”. More discussion followed.

**** MR. LEVEY MOVED TO APPROVE APPLICATION 23-1019-02 NORWALK 508 REAL ESTATE LLC – VARIANCE OF FRONTAGE REQUIREMENT AND LOCATION FOR A PROPOSED GROUND SIGN AT AN EXISTING COMMERCIAL PROPERTY LOCATED AT 508 WESTPORT AVE. WITH THE FOLLOWING CONDITIONS:**

- **THE SIGN BE IN THE LOCATION AS SUBMITTED**
- **AND THE WORDS “BUILDING IN REAR” BE ADDED ALONG WITH A DIRECTIONAL ARROW ON THE SIGN PANEL.**

**** MR. FARKAS SECONDED.**

**** THE MOTION PASSED UNANIMOUSLY.**

- **Request for extension of time for 86 Bluff Ave Variance #23-0216-03.**

Mr. Levey read the request for the Board members. Mr. Conroy said that this was the applicant’s first request for an extension. Mr. Conroy announced that Mr. Farkas, Mr. Hanpeter, Mr. Ferguson, Mr. Levey and Mr. Lyon would be voting on this request.

**** THE MOTION PASSED UNANIMOUSLY.**

- **Request for extension of time for 473 Connecticut Ave Variance #23-0615-04**

Mr. Levey read the six month extension request for the Board members. Mr. Conroy announced that he, Mr. Farkas, Mr. Hanpeter, Mr. Ferguson, and Mr. Lyon would be voting on this request.

Mr. Conroy said he would support an extension but wondered why they had not dealt with the issues. Mr. Levey agreed.

**** MR. CONROY MOVED TO GRANT A ONE TIME, SIX MONTH EXTENSION FOR 473 CONNECTICUT AVE VARIANCE #23-0615-04.**

**** Mr. HANPETER SECONDED.**

**** THE MOTION PASSED UNANIMOUSLY.**

III. ADMINISTRATIVE ACTIONS

A. Action on Hearing Minutes – September 21, 2023

Mr. Hanpeter indicated there was a second with a “trailing e” on one of the earlier pages.

**** MR. CONROY MOVED TO APPROVE THE MINUTES OF THE SEPTEMBER 21, 2023 MEETING AS CORRECTED.**

**** MR. LEVEY SECONDED.**

**** THE MOTION PASSED UNANIMOUSLY.**

B. Status of Training – Board members serving as of January 1, 2023 must complete initial land use training by January 1, 2024

Ms. Maldonado said they were waiting for clarification from the Corporation Counsel on this. She said she had only received four certificates. Mr. Levey said he was clearing out his office and would send it in when he found it. Discussion followed about the conflict between the appointment law and the required training law.

The next meeting will be November 16th.

ADJOURNMENT

Mr. Conroy adjourned the meeting at 9:10 p.m.

Respectfully submitted,

Telesco Secretarial Services.