

**CITY OF NORWALK
ZONING BOARD OF APPEALS
REGULAR MEETING
OCTOBER 17, 2019 (Approved November 21, 2019)**

ATTENDANCE: Lee Levey, Chair; Andrew Conroy, Chris Gavrielidis, David Heuvelman, Keith Lyon

STAFF: Aline Rochefort, Zoning Inspector; Tammy Maldonado

OTHERS: Louis DeRubeis, property owner; Joseph DeRubeis, property owner Atty. Liz Suchy, Carmody Torrance Sandak & Hennessey LLP; Steven Walton

CALL TO ORDER

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

ROLL CALL

Mr. Levey called the roll a quorum was present. He then read the protocol for the hearings.

PUBLIC HEARING

- 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.**

There was no action on this item. Mr. Levey said that this item would be heard next month.

- B. **19-1017-02 Louis & Joseph DeRubeis/Jose Reyes-Vargas** - Application for Special Exception to change one non-conforming use to another; retail clothing store to barber shop in a D residential zone. **Property located at 14 West Ave.** (AKA 10 West Ave.)

Mr. Conroy read the application.

Mr. Louis DeRubeis came forward and said he and his brother own 14 West Avenue. He stated that I consisted of four residential units and four businesses, and that because it was a non-conforming use, he came for approval.

He stated that he and his brother were good standing members of community who pay their taxes. He said that the new business was a good opportunity for the neighborhood and in line with the SoNo revitalization. He said that it was a minority owned small business.

Mr. DeRubeis stated that the storefront had contained a barbershop for many years, and then when that barber retired, it became a clothing store. He stated that the clothing store moved, and now they wanted to open a new barbershop on the site.

Mr. Levey asked about parking. Mr. DeRubeis said that they'd had issues in the past, but had secured a tow contract, and put up signage throughout the lot. He said they were making improvements to the parking lot and planned to restripe. He said that they were asking employees to park in the City lots across the street to keep spaces for customers. He also said they planned to mark the dumpster area because they'd had issues in the past where the dumpster was blocked, and the trucks couldn't empty it.

Mr. Conroy asked if there was parking in the rear? Mr. DeRubeis said they'd worked with the condominium association, making sure there was enough parking for all.

Mr. Conroy asked Ms. Rochefort if a barbershop had less impact than a retail store? Ms. Rochefort noted that it depended on how it operated, but that in that area there was a lot more foot traffic than vehicular traffic.

Mr. Heuvelman asked if they used both driveways. Mr. DeRubeis said they primarily used the easement that was shared with the condo complex.

Mr. Levey closed the public hearing at 7:48 pm.

C. 19-1017-03 Louis & Joseph DeRubeis/Jose Luis Perea Hernandez -
Application for Special Exception to change one non-conforming use to another;
beauty shop to retail clothing store in a D residential zone. **Property located at**
14 West Ave. (AKA 16 West Ave.)

Mr. Conroy read the application

Mr. Louis DeRubeis came forward and stated that he'd owned the building for 14 years and had come before this board for the first time last year. He said that while his application had been approved, he had been unaware of the procedure and hadn't filed appropriate paperwork. He stated that he now understood what was required of him and said that he was there with the same request as last year. He said that the business they'd applied for had never opened.

Mr. Levey stated that they didn't need to talk about parking since they had spoken

extensively about it in the previous application. He asked if there was anyone present who wanted to speak in favor of the application.

Mr. Joseph DeRubeis came forward and said that the barbershop was needed in the community because there wasn't one close by. He said it would do well in that location.

Mr. Levey asked to confirm if they were switching a retail shop for a barber and a beauty shop for a retail outlet.

Mr. Louis DeRubeis said that the beauty store was still in the building but had moved storefronts.

Mr. Levey asked if there was anyone to speak against the application.

Mr. Steven Walton of 2 West Avenue, Unit 6 came forward. He stated that the condo association had ongoing problems with Mr. DeRubeis. He said his initial objection was that the dumpster was too small, and the overflowing garbage attracted raccoons and rodents. He said he'd sent photos to the City Sanitation department.

He further state that while they welcomed businesses to the neighborhood, he said the building's parking lot did not have the capacity to handle two beauty parlors. He said that they were currently parking three and four deep and were parking in the driveway.

Mr. Walton also noted that more tenants would put more strain on the existing dumpster and asked that Mr. DeRubeis get a larger one. He said the current dumpster had been overflowing for three years and reiterated that he personally had reached out to the sanitation department several times and that there had been no change.

Mr. Conroy asked who he'd talked to in the city, Mr. Walton confirmed it was the sanitation department. Mr. Conroy said the onus was on this committee to resolve issues, so it would be helpful to have people referred to Ms. Rochefort.

Mr. Walton reiterated that they current tenants were overflowing the parking lot, and parking in the driveway.

Mr. Levey noted that Mr. DeRubeis had stated that he'd asked employees to park in the city lot. He noted that there were two distinct issues, parking and dumpster, and stated that the owner could be instructed to put in a larger dumpster. He invited Mr. DeRubeis forward for rebuttal.

Mr. DeRubeis stated that the easement was shared, and he had no way of knowing that it was his tenants that were using it to access. He said he didn't think that was an issue for this committee.

Mr. Conroy stated that in order to approve the application, the Board needed to know that the impact was going to be the same or less, for parking and for the trash.

Mr. DeRubeis said that they had daily pickup from 2005-2012, and it was now one day a week. He said that the dumpster size they had had been recommended to them. He said that he'd had a call that the Health Department had a complaint from the condo about garbage overflow. He said that the dumpster hadn't been picked up, he thought it had been due to weather.

Mr. Conroy asked how often trash was picked up and Mr. Levey suggested adding a second pick up each week.

Mr. DeRubeis said that he thought that he'd addressed the issue, that it was a one-time thing. He said that in June he'd had another call about a complaint from a condo owner about garbage overflow, he said it had been addressed within 24 hours of the complaint. He said that he realized that someone had been putting oversized items in his dumpster, that he was exploring bigger dumpsters, and the potential of individual locked bins for each unit. He said that he was taking aggressive steps to be a good neighbor.

Mr. Lyon asked how many times it had come to his attention that the dumpster was overflowing, he said he thought he'd heard three instances which was very much at odds with the homeowner's testimony. He said that he hadn't heard a proposed solution yet.

Mr. DeRubeis said the last conversation he'd had with the city was on June 6th, Mr. Lyon suggested it was better that he inspect his property himself.

Mr. DeRubeis said that he and his brother are on site every Sunday. He said that his goal was to be part of the community.

Mr. Lyon suggested that the frequency of pickups was an issue, and Mr. Conroy agreed that more frequent pickups were a possible solution.

Mr. DeRubeis said that the size of the bins wasn't an issue, that he was working on a solution.

Mr. Conroy said that they could consider making it part of the zoning approval, that they would be non-compliant if there were a garbage issue. That way Sanitation would know to talk to Ms. Rochefort.

Mr. Heuvelman asked Ms. Rochefort if there were four businesses and four apartments, how many spaces a building would need to have. Ms. Rochefort said that residential units now require 1.3 spaces, and retail units and salons would need one space for every 200 square feet of customer area.

Mr. Gavrielidis asked if it was safe to say there was no net increase in the parking impact. Ms. Rochefort said no, but the type of use could lead to a greater impact.

Mr. Lyon asked if parking for residents was separate from retail parking. Ms. Rochefort said that they were not required to have separate parking.

Mr. Heuvelman asked Mr. DeRubeis who controlled the towing. Mr. DeRubeis said that it was him, and that he'd had to tow people six times a year since he started towing.

Mr. Levey asked him about fast driving and asked if Mr. DeRubeis could work with the condo association on it. Mr. DeRubeis said it was a shared easement.

Mr. Levey closed the public hearing at 8:23pm.

D. 19-1017-04 59 CA, LLC/Bob's Discount Furniture – Variances for proposed signage; West elevation; vary letter size & square footage

Mr. Conroy read the application.

Ms. Elizabeth Suchy, of Carmody Torrance Sandak & Hennessey LLP came forward. She said that she was there to discuss substituting signage from Toys R Us to Bob's Furniture. She shared photos taken from different angles, including the Route 7 Connector and on I 95.

She said that rather than talking through what had been approved in the past, she had built a chart that depicted changes in 1994, 2011 and today. She distributed it to the Board and noted that Dave LaPont and Tom Gillespie of Bob's were with her, if they had questions.

She said the building was constructed in 1994 and a past Board had found that there were practical difficulties and unnecessary hardships so variances indicated in 1994 for western elevation parking lot as well as letter size, sign area, and height to the top of the sign. She noted that at the time the sign included Geoffrey the giraffe. She said that the there was no signage proposal for eastern elevation, facing route 7. She said there was also signage on the Connecticut Avenue side of the property and that it was compliant.

Ms. Suchy said that in 2011 they made changes to the signage to combine Babies R Us with Toys R Us, so they came back before the board. She said that since there had been a previous finding of hardship and difficulty the board found the same in 2011. She said letter size stayed the same on the western elevation. She said that the south elevation, facing I95, the size of the letters stayed the same. The height of the sign decreased slightly because they removed Geoffrey.

She said that today they were looking for relief again on the western elevation facing the parking lot, and the southern elevation facing 95. She said rather than have signage on the Connecticut Avenue side, they would like to have a sign on the eastern façade facing Rte. 7. She referred to her chart and noted that the letter size would remain the same, the sign area would be a slight decrease from what was approved in 2011. She said that on the south elevation facing 95, there would be a slight decrease in size and square footage, but the height would remain the same. She said the new variance would be for the eastern façade. She noted that they would remove the sign on Connecticut Avenue in part because it didn't do much to identify the building, but also because the lights off the sign were intrusive to neighbors.

Mr. Levey asked what the total square footage was currently and what was proposed for all the signs.

Ms. Suchy said they were calculated differently. She said the building was allowed two signs calculated at 1.5 square feet per frontage. So, 201 square feet on Connecticut Avenue, and 302 square feet total that could be divided on two sides. She said that if you then looked at the Stuart Avenue side was allowed a sign calculated at one square foot for every two feet of frontage. She said the total would be approximately 370 square feet. She said it was currently slightly over what they were requesting.

Mr. Conroy asked about the rationale for the third sign. Ms. Suchy said they were entitled to a third sign because they face a second street, Stuart Avenue. There is a driveway there, she showed a picture.

Mr. Levey asked is there any possibility of losing the billboard over the building. Ms. Suchy noted that billboards were held and maintained with great strength by the people that own them, and she didn't anticipate it coming down. Ms. Rochefort said that the Zoning Board had reduced the number of off premise signs they allow, so it is one of the few in town, she said as long as it was maintained in good condition it could remain.

Mr. Conroy asked Ms. Rochefort if the third sign would be compliant. She said it would be allowed and that they'd calculated the square footage, which was about 400 sq. feet.

Ms. Suchy said that this board had always determined that I 95 is not a street, so they were entitled to three.

Mr. Levey asked if they'd be removing the ivy on the 95 side. Ms. Suchy said that it was required to hide the superstructure underneath.

Mr. Heuvelman asked Ms. Rochefort if there was a ground sign there now. She said there wasn't one there now, but they would be allowed to put one up.

Mr. Levey asked if there was anyone who wanted to comment in favor of the project. There was none, he asked if anyone wanted to speak against it. There was none and he closed the public hearing at 8:42 pm.

BOARD ACTION ON: A—D

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.

There was no action on this item

19-1017-02 Louis & Joseph DeRubeis/Jose Reyes-Vargas - Application for Special Exception to change one non-conforming use to another; retail clothing store to barber shop in a D residential zone. Property located at 14 West Ave. (AKA 10 West Ave.)

Mr. Levey said that if the representative from the condo hadn't spoken, he would have said it was a slam dunk for approval, that they were exchanging use for use. But there were issues regarding traffic and the dumpster that needed to be addressed.

Mr. Conroy said they needed to create a mechanism for action if the situation persisted.

Mr. Gavrielidis asked how they knew it wasn't the condos causing the problem, he said they had every right to rent their stores.

Mr. Conroy noted that they had to look at the impact.

Mr. Gavrielidis said that the dumpster problem was an easy fix, more frequent pickups would solve it. Mr. Levey said they could make a recommendation but that he wasn't sure how it would be enforced. Mr. Conroy said they could add a condition, and if someone complained it would be checked out and they would go from there.

Mr. Levey noted that the other complaint was the rapid speed on the driveway. He said that should be assessed on both property owners, that they were both at fault. He said they would need to tell both parties to work out a solution. Mr. Conroy said that he didn't think they could do that.

Mr. Heuvelman said that the dumpster issue stood out because Mr. DeRubeis had mentioned it in his presentation. He said it opened the door to put a condition on the trash but noted that there was no net increase in use of traffic.

There was general discussion of the proper wording of the condition they would apply.

**** MR. HEUVELMAN MOVED TO APPROVE APPLICATION 19-1017-02 LOUIS & JOSEPH DERUBEIS/JOSE REYES-VARGAS - APPLICATION FOR SPECIAL EXCEPTION TO CHANGE ONE NON-CONFORMING USE TO ANOTHER; RETAIL CLOTHING STORE TO BARBER SHOP IN A D RESIDENTIAL ZONE. PROPERTY LOCATED AT 14 WEST AVE. (AKA 10 WEST AVE.) WITH THE CONDITION THAT THE APPLICANTS WORK WITH STAFF TO RESOLVE PARKING AND DUMPSTER ISSUES.**

**** MR. LYON SECONDED.**

**** THE MOTION PASSED UNANIMOUSLY.**

19-1017-03 Louis & Joseph DeRubeis/Jose Luis Perea Hernandez - Application for Special Exception to change one non-conforming use to another; beauty shop to retail clothing store in a D residential zone. Property located at 14 West Ave. (AKA 16 West Ave.)

**** MR. HEUVELMAN MOVED TO ACCEPT APPLICATION 19-1017-03 LOUIS & JOSEPH DERUBEIS/JOSE LUIS PEREA HERNANDEZ - APPLICATION FOR SPECIAL EXCEPTION TO CHANGE ONE NON-CONFORMING USE TO ANOTHER; BEAUTY SHOP TO RETAIL CLOTHING STORE IN A D RESIDENTIAL ZONE. PROPERTY LOCATED AT 14 WEST AVE. (AKA 16 WEST AVE.) WITH THE CONDITION THAT THE APPLICANTS WORK WITH STAFF TO RESOLVE PARKING AND DUMPSTER ISSUES.**

**** MR. GAVRIELIDIS SECONDED.**

**** THE MOTION PASSED UNANIMOUSLY.**

19-1017-04 59 CA, LLC/Bob's Discount Furniture – Variances for proposed signage; West elevation; vary letter size & square footage

Mr. Levey said he had no objections, that everything seemed to be in order. Mr. Conroy said that given its location, on a hill, at a turn, it was a difficult site.

Mr. Heuvelman said that coming down the Rte. 7, now with the LED screens on the mall, he was concerned about another sign on the other side.

Mr. Levey said it was a blur on the left, as you merge on to 95. The focus isn't on the screens.

**** MR. CONROY MOVED TO ACCEPT APPLICATION 1017-04 59 CA, LLC/BOB'S DISCOUNT FURNITURE – VARIANCES FOR PROPOSED SIGNAGE; WEST ELEVATION; VARY LETTER SIZE & SQUARE FOOTAGE**

**** MR. HEUVELMAN SECONDED.**
**** THE MOTION PASSED UNANIMOUSLY.**

ACTION ON HEARING MINUTES

• September 19, 2019

**** MR. LEVEY MOVED TO APPROVE THE MINUTES OF SEPTEMBER 19, 2019 AS SUBMITTED.**

**** MR. HEUVELMAN SECONDED.**

**** THE MOTION PASSED WITH FOUR (4) IN FAVOR (LEVEY, CONROY GAVRIELIDIS AND HEUVELMAN) AND ONE (1) ABSTAINING (LYON).**

ADJOURNMENT

**** MR. LEVEY MOVED TO ADJOURN.**

**** MR. LYON SECONDED.**

**** THE MOTION PASSED UNANIMOUSLY.**

The meeting adjourned at 9:00 p.m.

Respectfully submitted,

L. Grassilli
Telesco Secretarial Services