

CITY OF NORWALK
ZONING BOARD OF APPEALS
Thursday, October 7, 2010 (APPROVED November 4, 2010)

I. CALL TO ORDER

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

II. ROLL CALL

PRESENT: Taylor Strubinger, Chair; Dawn DelGreco; Laurie Fan; Guillermo Arteaga
Nathan Sumpter - Alt.; Peter Andreaoli - Alt.;

STAFF: Aline Rochefort; Vladimir Mariano

OTHERS: Attorney Richard Roina; Anthony J. Smith; Ron Spagnuolo; Barbara Cieslesz Spagnuolo; Attorney Frank Zullo; Robert Cavello; Mark Lebow; Denise Cesareo; Conrad Ambrette; Sally Kellogg

III. PUBLIC HEARINGS

C. 10-1007-03. Rowayton Yacht Club - Variance to reduce rear setback to allow alterations to a non-conforming structure for portion of an existing pier for the Rowayton Yacht Club. **Property Located at 77 Bluff Ave.**

Atty. Richard Roina spoke on behalf of Rowayton Yacht Club and asked for a postponement of this matter until the next meeting in November. Liaison could not attend. There were no objections. Ms. Rochefort mentioned that an additional application fee would have to be charged.

A. 10-1007-01 - Anthony J. Smith - Variance of front setback for 2nd story addition to existing single family & proposed roofed entry. **Property located at 9 Hillwood Place.**

Mr. Strubinger opened the public hearing.

Ms. DelGreco read the legal memo.

Mr. Smith explained the only reason he is before the ZBA is because the house was built with a variance and how he has worked with Ms. Rochefort. Ms. Rochefort explains there are 2 variances, one of which is to go up over the existing footprint and the second variance is for a covered portico out in front.

Mr. Strubinger asked whether it sticks out and whether the regulations permit him to build a second story. Ms. Rochefort explained that since the property was the subject of a variance previously he must come before the ZBA.

No one spoke in support of the application. An e-mail was read into the record in opposition to the application which requested a time limit by which the work should be completed. Mr. Smith stated that there would be a shell for the second floor in the next few weeks. Ms. Rochefort stated the Zoning approval would be good for one year and the building permit is good for one year. There will be periodic inspections.

Mr. Strubinger closed the public hearing.

B. 10-1007-02 Barbara Cielez Spagnuolo - Variance of required zoning front setback for parking. **Property located at 32 George Ave.**

Mr. Strubinger opened the public hearing.

Ms. DelGreco read the legal memo.

Mr. Ron Spagnuolo spoke on behalf of his wife, Barbara Cielez Spagnuolo. He explained how this actually began in 1983 when the garage was turned into a room and made the house 3 bedrooms. From 1983 - 1994 the house was listed with the City of Norwalk as a 3 bedroom house. When the owners at the time wanted to build a deck they realized there had been a garage which was no longer present. In 1994 the owners were told to comply and Mr. Spagnuolo thought the house was in compliance from permit records pulled from City Hall. Although they no longer live in the house, they have been paying taxes on a 3 bedroom house.

Mr. Spagnuolo reviewed a site plan to indicate where he wants the gravel driveway.

No one spoke in support of the application. Ms. Rochefort asked that a letter in opposition be read into the record from the owner of 30 George Ave. The owner was concerned about multiple trucks being parked at the property in question. Mr. Spagnuolo stated that currently there is only one car in the driveway.

Mr. Spagnuolo did turn in the green cards.

Mr. Strubinger closed the public hearing.

D. 10-1007-04 Elderhouse, Inc. – Variances of side setbacks and aggregate side setbacks to allow a second story addition. **Property located at 10 Park Street**

Dawn DelGreco recused herself from the meeting and left the room. Laurie Fan read the legal memo.

Atty. Frank Zullo, representing the applicant, Elderhouse, familiarized the Board with the property by using diagrams. Two letters were sent to each abutting neighbor, one of which was certified and one which was not, to ensure that each neighbor was reached. Of all the certified letters, three were not picked up. Atty. Zullo also gave a background of Elderhouse. Elderhouse is a not-for-profit day care center founded in 1977. Its mission is to serve the frail and elderly. It was the first adult care center in the state. Their needs have changed over the years and they need additional space. In 2005, they submitted an application for additional space on the ground floor. The application requested 8-9 variances which was ultimately denied. Since they still need the space, they have decided to expand up. Administrative offices will move from the ground floor to the second floor and some facilities on the ground floor will meet ADA requirements. In this application, two variances have been requested. The hardship is the configuration which the zoning regulations did not contemplate. They will also need a special permit because they are in the East Avenue Village District.

Mr. Robert Cavello, the architect on the Elderhouse project, was asked by Mr. Strubinger, to show the plot lines. The surveyor showed that later to the Board. Elderhouse asked Mr. Cavello to create a better facility for their clients to minimize the variances that would be required. They wanted to address access to Elderhouse so they created a double wide automatic door entry. The entire first floor then had to be rearranged. They will have to expand bathroom facilities, increase laundry area and create a new nurse's suite. Mr. Strubinger asked whether they were changing the building footprint and Mr. Cavello said it was not changing at all. It would facilitate all 42 clients. The existing multi-purpose room would have a dividing wall and the crafts room would be opened up. The design would also create a quiet area/library. All key personnel that would be needed on the first floor would stay there. The second floor addition would be where the administrative offices would now be located, including accounting, and a large storage area. Mechanical spaces would also be housed in the addition. Although staying within the same footprint, it would feel like a new building.

Mr. Sumpter asked what would happen to the clients during the renovations. Elderhouse would shut down and rent another facility while the renovations were happening. Mr. Strubinger asked whether all clients were brought to Elderhouse by Elderhouse vans. Mr. Cavello stated that some were brought by family members as well as the buses. He also asked if there were going to be any additional parking requirements due to the second floor addition. Atty. Zullo responded to this question by stating that parking was determined by the number of staff, number of vans and the previous variances. Six parking spaces are on site and six are leased from the church next door. They needed one additional space from the church. Zoning regulations require that there be a 25 year lease for any parking space that relates to a use where there is no parking on the property. Although they have reached an agreement with the church next door for the additional space, Atty. Zullo is waiting for the fully signed lease. Mr. Strubinger stated this could be a condition of approval of the application.

Mr. Cavello continues with a description of the outside of the building. The architecture in this area was neo-Classist/Greek Revival. The second story helped in this regard to

allow them to create a 2 story look. The building will have clapboard siding, shutters, and corner posts. It will be in keeping with the other buildings along the street.

Mr. Lebow, the surveyor on the Elderhouse project, stated that this was an unusual shaped property and that he spent a lot of time with Ms. Rochefort and staff to determine what was the front yard, side yard, rear yard etc. Park St. is the front yard and the southerly property line is a side yard. They measured the lot width at the narrowest point that ran through the proposed construction.

Mr. Strubinger asked if an emergency generator exists. Mr. Lebow stated that it is there. Ms. Rochefort stated that the generator can encroach 2 ft. within the required setback. It seemed to be more. Atty. Zullo said that there is a law that if a condition exists relative to the sideyard for more than 5 years without complaints it should be allowed to continue to exist. Ms. Rochefort stated if it has been there for more than 3 years and there is proof of same, than it can stay.

Mr. Strubinger asked whether the addition extended over the existing front. Mr. Lebow said that it did not. The design does not go outside of the existing outline of the first floor.

Atty. Zullo stated that the hardship was created by the zoning regulations themselves. They are not adding to the footprint. At this point, he distributed 2 legal cases, Manzi v. Westport Zoning Board of Appeals and Best Buy v. Norwalk Zoning Board of Appeals which he thought related to this application. He summarized them for the Board. Atty. Zullo read into the record a letter of support from an abutting land owner.

Ms. Rochefort read a memo from Frank Strauch.

Mr. Strubinger asked if there were any requirements for landscaping. Mr. Cavello stated that they would take the existing plantings and re-allocating them around the site and planting some new things because some were overgrown. Mr. Strubinger asked if there was a landscape plan. The plan would be a part of the special permit application.

Denise Cesareo, Executive Director of Elderhouse and Conrad Ambrette, made statements of support.

Sally Kellogg addressed the Board at the point in the meeting at which Mr. Strubinger asked if there were any statements in opposition. She raised concerns about the location of Elderhouse, the local businesses and the river in the area that may be causing pollution which, in turn, would not be beneficial to the health of the clients of Elderhouse, and the interior and exterior designs of the building. She made positive statements about Elderhouse at the conclusion of her remarks.

Atty. Zullo re-butted with the letter from Frank Strauch in order to address Ms. Kellogg's concerns about the river. He realized that she had concerns but there are not many options for the location of Elderhouse especially since they are a not-for-profit

organization. Ms. Kellogg did indicate that she felt the zoning issues were resolved so Atty. Zullo hoped that the Board would agree since this meeting was for zoning issues only.

Mr. Strubinger asked for clarification on the parking spaces and whether there would be one for each employee. Atty. Zullo explained Elderhouse currently had 12 spaces, 6 of which are rented on their site and 6 leased from the church. The church has leased another spaced to them so they will have 13 parking spaces.

Mr. Strubinger closed the public hearing.

IV. BOARD ACTION ON A thru D

D. 10-1007-04 - Elderhouse, Inc. - Property located at 10 Park Street

Mr. Strubinger asked for brief comments from the Board. Mr. Sumpter said that it seemed like they had a complete application. It appeared to be a good design with a lot of thought in it. It was needed in the area. Mr. Arteaga stated that it seemed to be a good project. He was disappointed that no clients of Elderhouse were at the meeting. Mr. Strubinger's concerns were about the parking and landscaping. He would make them conditions for approval.

**** MR. STRUBINGER MADE A MOTION TO GRANT THE VARIANCES BECAUSE, DUE TO THE CONFIGURATION OF THE LOT, IT REPRESENTS A HARDSHIP TO ACHIEVE WHAT THE APPLICANT IS TRYING TO DO WITH THE ARCHITECTURAL DESIGN AND CONSTRUCTION. THE APPROVAL HAS THE FOLLOWING CONDITIONS: (1) THE AGREEMENT FOR THE RENTAL OF THE SEVENTH PARKING SPACE SHALL BE PRESENTED TO THE PLANNING AND ZONING COMMISSION; (2) THE LANDSCAPING PLAN SHOULD BE SUBMITTED FOR APPROVAL TO THE PLANNING AND ZONING COMMISSION; AND, (3) THE ARCHITECTURAL PLANS SHOULD BE APPROVED AS PART OF THE NORMAL PROCESS OF GETTING PERMITS THROUGH THE LOCAL VILLAGE DISTRICT DESIGN GUIDELINES.**

**** MR. SUMPTER SECONDED.**

**** MOTION CARRIED UNANIMOUSLY, 5-0 (FAN, ARTEGA, ANDREOLI) (DELGRECO RECUSED).**

EFFECTIVE ON OCTOBER 15, 2010

B. 10-1007-02 - Barbara Cielez Spagnuolo - Property located at 32 George Ave.

Ms. DelGreco returned to the room.

Mr. Strubinger thought this was a self created hardship. There was some debate about the difficulty of parking on the street. Ms. DelGreco thought if this variance was granted,

the Board would receive other applications from others that lived on the street. Many people in Norwalk park in their front yard.

**** MR. STRUBINGER MADE A MOTION TO DENY BECAUSE THE APPLICANT HAS FAILED TO SHOW A HARDSHIP OTHER THAN AN ECONOMIC HARDSHIP.**

**** MR. ARTEAGA SECONDED.**

**** MOTION PASSED UNANIMOUSLY 5-0 (DELGRECO, FAN, SUMPTER)**

DENIAL IS EFFECTIVE IMMEDIATELY.

A. 10-1007-01 - Anthony J. Smith - Property located at 9 Hillwood Place.

**** MR. STRUBINGER MADE A MOTION THAT THE APPLICATION BE APPROVED BECAUSE THE HARDSHIP WAS CREATED BY THE FAULTY CONSTRUCTION LOCATION BY THE PRIOR OWNER/CONTRACTOR (1940's) THAT THE ORIGINAL OWNER HIRED, WITH THE CONDITION: (1) THE EXISTING ROCKS AND DEBRIS IN THE YARD BE REMOVED; AND, (2) THE SHED THAT ENCROACHES ON THE SETBACK LINE MUST ALSO BE REMOVED.**

**** MR. SUMPTER SECONDED.**

**** MOTION PASSED UNANIMOUSLY. 5-0 (DELGRECO, FAN, ARTEGA)**

V. ACTION ON HEARING MINUTES – September 2, 2010

**** MR. STRUBINGER MADE A MOTION TO ACCEPT THE MINUTES AS REVISED.**

**** MS. FAN SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

VI. ADJOURNMENT

**** MR. SUMPTER MADE A MOTION TO ADJOURN.**

**** MR. STRUBINGER SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

The meeting was adjourned at 9:26 p.m.

Respectfully submitted,

Diana Palmentiero