

**CITY OF NORWALK
ZONING BOARD OF APPEALS
MAY 7, 2009 (Approved June 4, 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; Gordon Tully; Joe Santo; Tony Lopez; Dawn DelGreco; Stephen Colarossi

STAFF: Aline Rochefort

OTHERS: Atty. Joseph Ventricelli; Brian Lima; Jules Lange; Steve Calzone; Atty. Frank Zullo; Ted Diesel; Edward J. Musante, Jr.

III. PUBLIC HEARING

a) 09-0507-01—LandTech Consultants Inc.—Frank Bonaddio (F.M. Bonaddio Construction Inc.)—Appeal of Cease & Desist order. Property located at 30 Sheehan Ave.

Mr. Strubinger opened the public hearing. He went over the ground rules of a hearing.

Mr. Tully read a memo from Ms. Rochefort.

Atty. Joseph Ventricelli, representing the applicant, explained that his client had purchased the property, when it was already under long-term contract. He requested a continuance to the next meeting, stating that his applicant could not attend tonight's meeting.

Mr. Strubinger pointed out that no action had been taken on the part of the applicant, even though a Cease and Desist order had been issued in February 2009.

Atty. Ventricelli stated that his client was trying to alleviate the City's concerns with the property and also that he wanted to have another meeting with the Zoning office. He added that the basic issue was that the site was in an approved contractor's zone and was neither a health nor a safety concern. He said that the applicant was not prepared to proceed without its expert present.

Mr. Strubinger said that the Board's position was that the applicant be prepared to proceed tonight.

Mr. Tully pointed out that five conditions had not been corrected, according to the Board's evidence.

Mr. Colarossi asked whether the intention was to attend a May hearing, when the applicant filed on appeal on March 11. He added that materials had presumably been prepared and asked why there were no affidavits from abutting owners or photos of the site.

Atty. Ventricelli said that the applicant was trying to remediate the situation. He said that Mr. Romano was handling the application, due to his detailed knowledge of the property belonging to Mr. Bonaddio.

There was a brief discussion of the deadline for submission of materials.

Mr. Santo asked Ms. Rochefort if Mr. Romano had ever spoken with her. Ms. Rochefort said no. Atty. Ventricelli confirmed that the applicant had spoken with Mr. Wrinn regarding the definition of a contractor's yard.

Atty. Ventricelli agreed to proceed with the hearing tonight. He explained that the applicant had purchased the property in April 2007 from Mr. Junta, who had operated the same type of business on the site. He added that the property had received CAM approval in February 2007, as an established contractor's yard for storing materials. He gave details of the site, stating that the applicant had completed all adjustments. He added that the property was in a heavily industrial zone and that only dirt and stone were stored on the site.

Mr. Tully asked for clarification of what the business on the site was. Atty. Ventricelli explained that the business involved the delivery and removal of soil and rock to building sites. He read aloud the definition of a contractor's storage yard. He described how the applicant had cleaned up the property at his own expense, after illegal dumping had taken place there. He said that the problem was that trucks entered and exited the site during business hours. Atty. Ventricelli added that the applicant had purchased a street sweeper in order to clean the area each night. He also pointed out that the wording in the regulations was too broad, concerning "intensity of use." He emphasized that the activities on the site were within the definition of contractor's yard use. He said that the key legal issue was that the property was being used exactly as allowed by the regulations.

Mr. Tully said that the issue was not that restrictions had been placed on the property in the first place, but rather that those restrictions were not being met. He emphasized that this was the reason for the Cease and Desist order.

There was a brief discussion of the storage limits for equipment.

Mr. Strubinger pointed out the proposed site plan from November 2006, asking if all conditions on the site plan had been met.

Atty. Ventricelli described the landscaping on one side of the property, adding that one storage container had been moved and another would be removed the next day. He also stated that the Board seemed to be applying a parking requirement that was meant for another type of business.

Mr. Santo asked what the problem was with complying with the site plan review. Atty. Ventricelli stated that the interpretation was not reasonable and had not been stated in

the prior approval. Mr. Santo acknowledged the applicant's intention to remove the two storage containers, adding that the Board would be satisfied if the owner would comply.

Mr. Tully said that the parking area was obstructed by vehicles and that an aisle was needed in order for the area to comply with Zoning regulations. Atty. Ventricelli said that he was not aware of parking regulations for a contractor's yard. Mr. Tully said that the requirements were evident on the drawing, adding that the applicant needed to comply.

Atty. Ventricelli reiterated the corrective actions concerning the property.

Ms. Rochefort submitted photographs and detailed the inspections on the site. She emphasized that the problem was in the lack of compliance with the approved plan, particularly with regard to stockpile size, storage containers and parking.

Mr. Brian Lima, 333 & 355 Wilson Avenue, said that the applicant claimed to be unaware of the conditions of the February 2007 approval. He added that there had been a change in the intensity of use, especially with regard to the number and size of the vehicles and the storage area on the site. He added that the applicant had been informed of the non-compliance and needed to comply with the regulations.

Atty. Ventricelli said that the material had been stored properly and that the piles had not exceeded 20 feet, for at least one year.

Mr. Strubinger closed the public hearing.

b) 09-0507-02—Susan & Steven Calzone—Variance of accessory structure setback for in-ground pool. Property located at 29 Covlee Drive.

Mr. Strubinger opened the public hearing.

Mr. Tully read a memo from Ms. Rochefort, indicating that the applicant needed to demonstrate hardship.

Atty. Jules Lane, representing the applicant, explained that the problem had not been discovered until after the pool had been built. He pointed out that the issue at hand was essentially a "seven inch mistake." He said that the pool was considered an accessory structure, although it was built into the house and was surrounded by pillars that supported the house. He described the property, stating that the pool was in a very private area and could not be seen from the street or from the waterway. Atty. Lange added that the applicant's neighbors had submitted letters, indicating that there were no objections to the pool. He also said that a substantial part of the house and the deck would need to be destroyed in order to make a change to the pool itself.

Mr. Tully read a letter regarding the structural integrity of the pool, emphasizing that a minor adjustment would be a major problem.

Mr. Calzone said that he had been surprised to learn of the non-compliance involving the pool.

Mr. Tully pointed out that a de minimus circumstance was not in itself a hardship.

Atty. Lange said that destroying what was there would be a hardship, adding that the pool was not an accessory structure, but rather a part of the house itself. He said that one regulation should be considered for the house.

There was a discussion of the standard deviation involved in an A2 survey.

Mr. Strubinger closed the public hearing.

c) 09-0507-03—Jonathan Clark Farber—Variance to allow reconstruction of nonconforming accessory structure/cottage. Property located at 44 Shorehaven Road.

Mr. Strubinger opened the public hearing. The Board agreed to keep the hearing open.

d) 09-050709-04—PC Richard & Son—Variances for replacement signage from circuit City to PC Richard & Sons. Property located at 444 Connecticut Avenue.

Mr. Strubinger opened the public hearing.

Mr. Tully read the staff memo.

Atty. Frank Zullo submitted a letter to the Board.

Atty. Zullo explained that the site, which once contained Circuit City, would be vacant, if not for PC Richard & Sons. He gave background concerning the application and described the details of the proposal. He added that the existing use would be replaced by the exact same use. He explained that both businesses involved sales of “white elements” (large appliances) and “brown elements” (electronics). He discussed signage at the site, pointing out that the non-conformity would be diminished by the application.

Mr. Tully read a letter from Corporation Counsel, confirming that nothing had changed with regard to use at the site.

Atty. Zullo turned in the certified letters.

Mr. Ted Diesel spoke in support of the application, emphasizing that PC Richard and Son had confidence in the Norwalk area.

Mr. Edward J. Musante, JR., of the Chamber of Commerce, spoke in support of the proposal. He described a conversation with Governor Rell concerning ways to stimulate the economy of Connecticut municipalities.

Atty. Zullo reiterated the benefits of the old Circuit City site being filled by a new business.

Mr. Strubinger closed the public hearing.

- IV. BOARD ACTION ON ITEM A THROUGH D PLUS BOARD ACTION ON 08-0306-01 Avalon Bay Communities—request for 180 day extension of time in which to obtain building permits. Property located at 30 Belden Avenue.**

08-306-01 Avalon Bay Communities

**** MR. STRUBINGER MADE A MOTION TO GRANT THE EXTENSION.
** MR. SANTO SECONDED.
** MOTION PASSED UNANIMOUSLY.**

D. 09-0507-04 PC RICHARD & SON

**** MR. STRUBINGER MADE A MOTION TO APPROVE THE VARIANCES.
** MR. SANTO SECONDED.
** MOTION PASSED UNANIMOUSLY.**

C. 09-0507-03 JOHNATHAN CLARK FARBER

The hearing was kept open.

B. 09-0507-02 SUSAN & STEVEN CALZONE

**** MR. STRUBINGER MADE A MOTION TO GRANT THE VARIANCE, BECAUSE THE APPLICANT SHOWED THE SAME HARDSHIP AS WAS SHOWN IN THE PREVIOUSLY GRANTED HARDSHIP ON THE PROPERTY.
** MR. SANTO SECONDED.
** MOTION PASSED UNANIMOUSLY.**

A. 09-0507-01 FRANK BONADDIO

**** MR. TULLY MADE A MOTION TO DENY THE APPEAL, BECAUSE THE APPLICANT HAD SHOWN NO EVIDENCE OF ACTIVITY TO MAKE CORRECTIONS ON THE PROPERTY.
** MR. STRUBINGER SECONDED.
** MOTION PASSED UNANIMOUSLY.**

V. ACTION ON HEARING MINUTES April 2, 2009

**** MR. SANTO MADE A MOTION TO APPROVE THE MINUTES.
** MR. LOPEZ SECONDED.
** MOTION PASSED UNANIMOUSLY.**

VI. ADJOURNMENT

**** MR. SANTO MADE A MOTION TO ADJOURN.
** MS. DELGRECO SECONDED.
** MOTION PASSED UNANIMOUSLY.**

The meeting was adjourned at 9:25 pm.

Respectfully submitted by Charlene Smith

