

**CITY OF NORWALK
ZONING BOARD OF APPEALS
APRIL 2, 2009 (approved May 7, 2009)**

I. CALL TO ORDER

Mr. Strubinger called the meeting to order at 7:00 pm.

II. ROLL CALL

Ms. Rochefort took the roll.

PRESENT: Taylor Strubinger, Chair; Tony Lopez; Dawn DelGreco; Joseph Santo; John Hamlin; Gordon Tully

STAFF: Aline Rochefort

OTHERS: Brian McCann; James Jameson; Drew Friedman; Frank DeMilo; Tod Bryant; Len Agostino; Peter Burr

III. GENERAL DISCUSSION WITH CORPORATION COUNSEL

Mr. McCann stated his support of the use of draft resolutions, pointing out that it allowed for a discussion of the case law of various appeals.

Ms. Rochefort distributed sample copies of approved and denied draft resolutions.

Mr. McCann addressed the details of the resolutions, particularly with regard to appeals of the Zoning Enforcement Officer. He also explained that the resolutions allowed for staff to narrow the issues before being presented to Board. Mr. McCann stated that the ZBA had the rare ability to change the law.

Mr. Hamlin stated that although it was the duty of the Board to determine whether a variance was permissible, the Board itself did not actually vary the law.

Mr. Tully asked who produced the draft resolutions. Mr. McCann said that Ms. Rochefort was responsible for reducing the information to a finding prior to a hearing. He added that the Board did not need to follow a resolution exactly but rather should consider it a guideline.

Mr. Santo pointed out that the Zoning Commission also worked with draft resolutions and that an approval and a denial were provided in every situation. He added that this reduced the likelihood that a Chair would come up with reasons "on the fly."

Mr. McCann also said that the resolutions provided the advantage of allowing staff to present them to Corporation Counsel for guidance prior to the hearings.

Mr. Hamlin stated that the resolutions would allow the Board to have more clarity in its decisions. Mr. McCann agreed, adding that the resolutions would represent a collective decision.

Mr. Santo pointed out that the Zoning Commission had the advantage of discussing resolutions in Committee meetings prior to hearings.

Mr. Santo asked what latitude the Board had on de minimus applications. Mr. McCann emphasized that it had no latitude, but instead was required to find a hardship.

Mr. Hamlin pointed out that an applicant who had a problem with the Zoning regulations themselves could take up their concerns with the Zoning Commission.

IV. PUBLIC HEARING

A. 09-0402-01-Drew Friedman- Variance of aggregate side setback to combine two lots & structures and a variance of lot coverage in East Avenue Village District. Property located at 85 & 87 East Avenue.

Mr. Strubinger opened the public hearing.

Mr. Tully explained that the applicant sought a variance due to practical difficulties concerning the buildings. He said that the application involved combining the separate buildings into one contiguous building. He added that all structures pre-dated current Zoning regulations and that the proposal complied with the East Avenue Village District regulations. Mr. Tully added that the Coastal Area Management application was also on file.

Mr. James Jameson, an architect representing the applicant, presented an exhibit of the property.

Ms. Rochefort stated that the green cards had also been turned in.

Mr. Jameson explained that Mr. Friedman owned both properties. He said that the application would provide handicapped access to both properties without destroying their historical character. He described traffic near the site, as well as ingress and egress. Mr. Jameson added the proposal also sought to demolish one small structure on the site.

Ms. DelGreco asked about the air-conditioning units in the apartments and

finished space. Ms. Rochefort stated that the units would need to comply. Mr. Jameson said that the area was a pre-existing studio and was not equipped with a kitchen, adding that the applicant would need to come before the Board to change it.

Mr. Tully asked if there were any data on the traffic accident rate at the site. Mr. Jameson said no. Ms. DelGreco stated that the parking at #85 was “a mess” and that accidents were likely to occur there.

Mr. Jameson said that unlike the old parking spaces, the new ones all complied with regulations.

Mr. Tully asked how long Mr. Friedman had owned the properties. Mr. Friedman said two to three years.

Mr. Lopez asked about the traffic study. Mr. Jameson said that one would be needed under the new regulations.

Mr. Tully asked the applicant to clarify the hardship and to explain what could be done now concerning the property. Mr. Jameson said that one garage could be torn down to create more parking.

Mr. Tully said that the Board needed evidence that the variance was not being sought merely for aesthetic reasons. He asked the applicant to restate the reason for his appearance before the Board. Mr. Jameson said that the property contained a pre-existing, non-conforming situation, one which pre-dated Zoning regulations.

Mr. Santo asked about an additional rendering of the property. Mr. Jameson presented photographs of the two buildings.

Mr. Tully asked what the dormers served to light. Mr. Jameson said the dormers lit a third-floor walkway.

Mr. Strubinger asked about the sidewalks. Mr. Jameson indicated them on the rendering.

Mr. Jameson reiterated that the applicant needed relief from the aggregate side-yard and that #85 was non-conforming. Ms. Rochefort said that there was an existing non-conforming setback for #85 and that only a coverage variance was needed.

Ms. DelGreco asked what it would mean for future development, if there two buildings were joined. Mr. Jameson discussed parking issues and width issues, adding that the joined buildings would give flexibility to a leaser in need of only one unit. He discussed the importance of interior and exterior changes.

Mr. Strubinger addressed the issue of preserving the historic interiors of the building, pointing out that restrictions on changing the interiors should be a condition of approval.

Mr. Jameson asked what rights the applicant had regarding interior use. Ms. Rochefort said that the applicant would need to provide floor plans to the Zoning Commission, which would review the application as a special permit in compliance with Village District regulations.

Mr. Lopez asked the applicant if a traffic study had been prepared and what impact the traffic would have on Morgan Ave. Ms. Rochefort stated that a Traffic study could be required by the Zoning Commission as part of their review.

Mr. Santo asked what the applicant's rights were as far as interior use.

Mr. Jameson pointed out that usable space could not be gained off the center hall.

Mr. Santo asked if it were necessary to combine lots to create the bridge. Ms. Rochefort said yes.

Mr. Santo asked about access to the interior space. Mr. Jameson discussed the attorney's office within the building as an example.

Mr. Strubinger asked about parking. Mr. Jameson said that there were currently 14 spaces at one building and 9 at the other, totaling 23 parking spaces. He said that the proposal would create 26 compliant spaces. Mr. Tully pointed out that parking was not a significant issue, since the application did not involve adding office space. Ms. Rochefort stated that there was no need for a parking variance.

Mr. Jameson reiterated that he needed a variance for aggregate coverage and the side-yard. He also clarified that the applicant's impetus for the change was not cost-driven.

Ms. Rochefort distributed packets concerning the property.

Mr. Frank DeMilo, 306 Silvermine Avenue, explained that he owned the abutting property on Morgan Avenue and was concerned about parking at both buildings, #85 and #87. He stated that the proposal would transfer the parking problem to Morgan Avenue and that it also represented a more intense use. He questioned the applicant's hardship and read aloud a regulation concerning knowledgeability of purchaser as to Village District regulations and interior guidelines. He also stated that the character of the buildings would be diminished by the proposal.

Mr. DeMilo also discussed parking at the site.

He distributed a packet detailing building and zoning violations at the property and also addressed the intended use of the property.

Mr. Santo asked the Mr. DeMilo if he was aware of the violations prior to this application. Mr. DeMilo said yes.

Mr. Tully stated his concern over the lack of an existing plan in the packet.

Ms. Rochefort gave background concerning permits for the property, outlining the difference between medical office space and physicians-only space. She said that a Zoning Inspector had made a determination about the use in 1987. She provided a survey with existing conditions.

Mr. Tod Bryant, 23 Morgan Avenue, discussed his concerns with the proposal. He said that the two houses, both of which of part of the Historic District, were "wildly different" buildings, with different styles and constructed 20 years apart. He said that combining the two would be an architectural disaster. He added that the buildings were protected at every level except the local level, as far as historical certification. He said that there was no reason that an elevator could not be added to both buildings, in the back, with little to no impact to the architecture. Mr. Bryant also expressed concern about the possibility of a subsequent owner building something much larger on the combined lots.

Mr. Tully asked if the speaker had looked at the rear of the buildings, with regard to an elevator. Mr. Bryant said yes, indicating that the impact would be minimal, especially if the buildings were center halls.

Mr. Santo asked how long the buildings had been on the National Registry. Mr. Bryant said it was since 1987; he put the nomination in the record.

Mr. Len Agostino, 10 Morgan Avenue, stated his concern about traffic on Morgan Avenue from #87. He said that he was opposed to combining the two lots and that the awkward layout of the lot caused a high possibility of accidents.

Mr. Jameson reiterated that he was not seeking a parking variance and also that the proposal did not involve an architectural review.

Mr. Hamlin asked the applicant to restate the hardship. Mr. Jameson said that the buildings pre-dated Zoning regulations that made them non-conforming and impeded the ability to build on the property. Mr. Hamlin pointed out that the properties were purchased with knowledge of these issues.

Mr. Tully said that the Board did not have an existing layout of the property and also that the hardship appeared to be self-created.

Mr. Strubinger closed the public hearing.

B. #08-0605-02 R.T. Vanderbilt Co. Request for extension of time to obtain building permits (180 days) for 30 Winfield St.

Mr. Peter Burr, the head of human resources for the company, said that business was very slow.

Mr. Strubinger asked if there were any modifications to what had been submitted. Mr. Burr said no.

V. BOARD ACTION ON ITEM A plus request for extension of time to obtain building permits (180 days) for 30 Winfield St./ R.T. Vanderbilt Co.08-0605-02.

ITEM B.

- ** MR. STRUBINGER MADE A MOTION TO APPROVE THE EXTENSION TO R.T. VANDERBILT.**
- ** MR. LOPEZ SECONDED.**
- ** MOTION PASSED UNANIMOUSLY.**

ITEM A.

The Board discussed the application. Mr. Santo said that violations had not been reported, if they did exist.

Mr. Lopez said he failed to see a hardship.

Mr. Hamlin said that he shared concern with regard to granting the variance, but had no hesitation about denying it. He said that there should have been a full report from the applicant.

Mr. Strubinger said that it was strictly an economic hardship and that two elevators could be incorporated into the buildings, albeit more expensively.

- ** MR. STRUBINGER MADE A MOTION TO DENY THE VARIANCE BECAUSE THERE WAS NO HARDSHIP.**
- ** MS. DELGRECO SECONDED.**
- ** MOTION PASSED UNANIMOUSLY.**

VI. ACTION ON HEARING MINUTES February 5, 2009

- ** MR. TULLY MADE A MOTION TO APPROVE THE MINUTES.**
- ** MR. LOPEZ SECONDED.**
- ** MOTION CARRIED (5-0).**

VII. ADJOURNMENT

- ** MR. STRUBINGER MADE A MOTION TO ADJOURN.**
- ** MR. TULLY SECONDED.**
- ** MOTION PASSED UNANIMOUSLY.**

The meeting was adjourned at 9:10 pm.

Respectfully submitted by Charlene Smith.

