

**CITY OF NORWALK
ZONING BOARD OF APPEALS
REGULAR MEETING
MARCH 17, 2022**

ATTENDANCE: Andy Conroy, Chairman; Marilyn Altman; Lee Levey; Tom Farkas; Danielle Sanchick; Chris Gavrielidis

STAFF: Tammy Maldonado; Michelle Andrzejewski; Steve Kleppin

OTHERS: Alex Etemadfar; Atty. John Vecciolla; Atty. Liz Suchy; Robert Yaffa; Atty. Chris Russo; David Wagman; Cindy Garcia Diego

CALL TO ORDER

Chairman Conroy called the meeting to order at 7:35 P.M. There was a quorum present.

ROLL CALL

Chairman Conroy reviewed the rules of the meeting for those present and then performed the roll call of the members.

PUBLIC HEARINGS

22-0120-03

22 LOWNDES AVE LLC - VARIANCE TO ALLOW DECREASE IN MINIMUM LOT WIDTH REQUIRED FOR PROPOSED LOT A IN C RESIDENCE ZONE. PROPERTY LOCATED AT 22 1/2 LOWNDES AVE.

Ms. Maldonado informed the Board that the applicant planned to withdraw.

Mr. Gavrielidis left the meeting at 7:37 P.M.

**** CHAIRMAN CONROY MOVED TO HAVE ITEM 22-0120-03 WITHDRAWN.**

**** THE MOTION PASSED UNANIMOUSLY.**

22-0217-01

289 REALTY ASSOCIATES, LLC – APPEAL OF ZEO DETERMINATION OF USE AS MOTEL VS. MULTIFAMILY RESIDENCE. IN THE ALTERNATIVE, VARIANCE FOR RESIDENTIAL DENSITY 40 UNIT EXISTING AND PROPOSED; 11 UNITS ALLOWED AND RECREATION AREA 0 SQ. FT. EXISTING AND PROPOSED; 200 SQ. FT. PER UNIT REQUIRED AND VARIANCE FOR REQUIRED PARKING 41+/- SPACES EXISTING AND PROPOSED; 52 SPACES REQUIRED IN BUSINESS NO. 2 ZONE. PROPERTY LOCATED AT 289 MAIN AVE.

Chairman Conroy reviewed the necessity of proper protocol with this item. Ms. Maldonado informed the Board that Atty. Suchy asked for another item to be resolved first before handling this item.

This item was suspended at this moment.

22-0317-01

MARIA EBNER - APPEAL OF ZEO DETERMINATION THAT CURRENT MARKET VALUE CANNOT BE USED AND RATHER MARKET VALUE AT TIME OF INITIAL PERMIT MUST BE APPLIED FOR SUBSTANTIAL IMPROVEMENT TO EXISTING SINGLE FAMILY DWELLING IN A FLOOD HAZARD ZONE. PROPERTY LOCATED AT 21 SABLE ST.

**** CHAIRMAN CONROY MOVED TO POSTPONE ITEM 22-0317-01 FOR ONE MONTH.
** THE MOTION PASSED UNANIMOUSLY.**

22-0217-01 (CONT'D)

289 REALTY ASSOCIATES, LLC – APPEAL OF ZEO DETERMINATION OF USE AS MOTEL VS. MULTIFAMILY RESIDENCE. IN THE ALTERNATIVE, VARIANCE FOR RESIDENTIAL DENSITY 40 UNIT EXISTING AND PROPOSED; 11 UNITS ALLOWED AND RECREATION AREA 0 SQ. FT. EXISTING AND PROPOSED; 200 SQ. FT. PER UNIT REQUIRED AND VARIANCE FOR REQUIRED PARKING 41+/- SPACES EXISTING AND PROPOSED; 52 SPACES REQUIRED IN BUSINESS NO. 2 ZONE. PROPERTY LOCATED AT 289 MAIN AVE

This item was resumed.

Atty. Suchy came forward to discuss this item. She recounted the history and layout of this item for the Board. Photos of the property were provided. She reviewed the documents that she has requested for this application. She made clear that they were applying for an appeal due to the circumstances of the site and she made clear that the site has been an apartment building since 1983 despite being originally constructed as a motel. She recounted what the 1983 variance application had done for the site which had identified it as a multi-family building and not a hotel as well as further instances of it being classified as a multi-family apartment building as opposed to a motel. She felt there were ample records to support it being a multi-family apartment building as opposed to a motel.

Chairman Conroy made it clear they were only dealing with the appeal, not the discussion of variances.

Mr. Levey asked if there had ever been a permit requested for a motel sign on the building.

Atty. Suchy said she had not found a request for one.

Mr. Farkas said it would be difficult to negate what the building is currently being used for.

Ms. Altman asked if all the units had kitchens or kitchenettes.

Atty. Suchy said that they did and were fully functioning apartments.

Ms. Sanchick asked to clarify what had been previously approved regarding the kitchens.

Atty. Suchy responded that the original variance requested had been for the kitchens but had identified the building as an apartment building.

Chairman Conroy said that there had been confusion in the 1983 approval, and it seemed that it had been approved as a motel back then instead of as an apartment building. Ms. Maldonado provided the original document for the Board's review. Discussion followed about if it was considered a motel or apartment and the advantages/disadvantages of both.

Mr. Levey expressed a dislike of how lenient the Board has been in the past with its approval of variances. As a result, he was not surprised at the confusion and it needed to be considered in weighing in on the application.

Chairman Conroy said that the building could not have the advantages of both a hotel/motel and an apartment building, and a change of use needed to be filed.

**** MR. FARKAS MOVED TO UPHOLD THE APPEAL OF ITEM 22-0217-01.**

**** MS. ALTMAN SECONDED THE MOTION.**

**** THE MOTION FAILED WITH THREE IN FAVOR (FARKAS; ALTMAN; LEVEY) AND TWO OPPOSED (SANCHICK; CONROY).**

The motion to uphold the appeal failed as four votes are required to grant any application.

Atty. Suchy proceeded to the variances and noted there would be no changes to the existing structure. Instead, they were requesting variances for a recreation area, parking, and residential density. She reviewed the case for the variances for the Commission. It would be impossible to conform to the current regulations without substantial changes to the property. It would be an unnecessary burden and overwhelming hardship to require the building to conform.

Chairman Conroy requested that the requests be organized so they could be better addressed. Further discussion followed.

**** MR. LEVEY MOVED TO APPROVE THE VARIANCE REQUESTS FOR PARKING, RECREATION, AND DENSITY FOR THE SITE AT 289 MAIN AVENUE WITH THE STIPULATION THAT THE OPEN SPACE AT THE WEST SIDE OF THE PROPERTY BE EQUIPPED WITH BENCHES AND LANDSCAPING APPROPRIATE FOR A PASSIVE RECREATIONAL USE.**

There was no public comment at this time.

Ms. Maldonado said that three letters had been submitted from two separate parties from Mr. Louis J. Marino and Mr. James Stewart. She read the letters to the Board. The letters expressed concern over the parking on the property and the density of people living within.

Atty. Suchy rebutted that, any time an issue had been raised to the clients or identified as being created the client had addressed them. She also noted that the nearby liquor store tended to have customers who disposed of bottles on their property. She also said Mr. Stewart had been a former tenant of the property and had submitted an email with reprehensible content to the client.

**** CHAIRMAN CONROY SECONDED THE MOTION.**

**** THE MOTION PASSED UNANIMOUSLY.**

22-0317-02

MARILYN BIVONA – VARIANCE TO ALLOW PARKING WITHIN THE FRONT SETBACK AT EXISTING SINGLE-FAMILY RESIDENCE IN B RESIDENCE ZONE. PROPERTY LOCATED AT 8 SHAW AVE.

Atty. Vecchiolla came forward to discuss this item. A staff memo was provided and read to the Board. The parking spaces were non-compliant and, thusly, a certificate could not be issued. Though the owner was not responsible for altering the garage, it should still be considered a self-created hardship. There is a possibility of creating a compliant parking space by restoring the former garage space or installing a new driveway on the other side of the building. Removal of the existing landscaping would be required for the latter option.

Atty. Vecchiolla provided a map of the site, photographs, and GSI map was provided for the Board. He then reviewed the history of the site and its notices. Discussion followed.

Mr. Levey asked why the applicant was not aware that they had to comply with zoning when they applied for the building permit.

Ms. Bivona said she had believed from her observations of the neighbors that they could do this without the need for a permit. Further discussion followed.

A copy of the zoning permit was provided for the Board.

Mr. Vecchiolla said he did not believe that Ms. Bivona would have seen the permit prior.

Ms. Maldonado said she had spoken to Ms. Bivona previously about this issue and had provided her with information regarding this.

Chairman Conroy asked what the simplest way to become compliant would be.

There was discussion regarding the options of restoring the garage space versus installing driveway on other side of the property. The possibility of postponing the item till next month until a contractor's recommendation could be obtained was raised.

**** CHAIRMAN CONROY MOVED TO POSTPONE ITEM 22-0317-02 FOR A PERIOD OF ONE MONTH.**

**** THE MOTION PASSED UNANIMOUSLY.**

22-0317-03

ALEX ETEMADFAR – VARIANCE OF SETBACKS AND HEIGHT FOR A DETACHED ACCESSORY STRUCTURE UNDER CONSTRUCTION IN B RESIDENCE ZONE. VARIANCE TO ALLOW DWELLING UNIT IN SAME DETACHED ACCESSORY STRUCTURE UNDER CONSTRUCTION (HOWEVER USE VARIANCES ARE EXPRESSLY PROHIBITED). PROPERTY LOCATED AT 4 FRANCE ST.

Cindy Garcia Diego came forward to discuss this item. She said the applicant did know permits were needed but had not obtained them due to family loss. He has been cited three times for violating stop orders on the construction.

Chairman Conroy said he could not ignore what has happened with the property.

Ms. Maldonado said she believed he should remove the structure then seek the permits to build it, so he'd be compliant. Discussion followed on how to make it compliant. There is no hardship. A letter of opposition from Mr. Mike Papp has come in. The letter states the property is pre-existing non-conforming and this would be expanding a non-conformity. The property owner is also considering redistricting to commercial property. Discussion followed. The applicant decided to withdraw the application.

The application was withdrawn.

BOARD ACTION ON: A – E

There was no additional Board Action on the items.

ACTION ON HEARING MINUTES – FEBRUARY 17, 2022

- ** MR. FARKAS MOVED TO APPROVE THE MINIUTES OF FEBRUARY 17, 2022 AS SUBMITTED.**
- ** MS. ALTMAN SECONDED THE MOTION.**
- ** THE MOTION PASSED WITH THREE IN FAVOR (ALTMAN, FARKAS, CONROY) AND TWO ABSTANING (LEVEY, SANCHICK)**

Further discussion followed.

ADJOURNMENT

- ** MR. LEVEY MOVED TO ADJOURN.**
- ** THE MOTION PASSED UNANIMOUSLY.**

The meeting adjourned at 9:39 P.M.