

**CITY OF NORWALK
ZONING BOARD OF APPEALS
JANUARY 21, 2021
VIA TELECONFERENCE**

ATTENDANCE: Lee Levey, Chair; Andrew Conroy, Secretary; Gregory Brasher;
Keith Lyon; Tad Diesel

STAFF: Tammy Maldonado, Zoning Enforcement Officer

I. CALL TO ORDER

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

II. ROLL CALL

Chairman Levey called the roll.

III. PUBLIC HEARINGS

Mr. Conroy read the following application:

A. 20-1217-01 83 East Avenue, LLC. –Variance of required parking previously approved by variance, reduce parking from 116 spaces to 103 spaces. Property located at 83 East Avenue.

Attorney Robert France represented the applicant. He said this is a variance to reduce the required number of parking spaces from 116 to 103 as well as some other configurations. Attorney France shared his screen to show the aerial view of the parking lot. He said it is a 3-story structure built in the mid 60s with a flag-shaped parking lot. He said the parking lot was redone in 2018 and there was a violation issue. A new survey was done to correct the layout and an attempt was made to return to the 1983 layout and it was determined that this was impossible to do. Attorney France said there were a couple of other difficulties as to why the lot could not be returned to the 1983 layout. He said the 1983 variance should remain unchanged.

Attorney France said this is the best that can be done. Mr. Levey asked if there is a difference in lot area. Attorney France said there is no difference.

Mr. Brasher said if this is not approved what will the building owner have to do. Attorney France said he does not know the answer. Modify leases to tenants due to reduction in parking spots. Attorney France said no mention of this in the lease as parking is based on a first come first-served basis.

Ms. Maldonado said since they are in violation this is the only solution. The current layout is most practical and safest.

Mr. Levey asked for any public comment to speak in favor or against the application. Hearing none he turned it back to the applicant. Attorney France said he had nothing further.

Mr. Conroy read the following application:

B. 20-1217-02 26 Stuart Ave, LLC – Special Exception to continue non-conforming commercial use of structure and property. It has not been occupied for over 1 year. Property owner has had difficulty locating a tenant. The property owner did not intend to abandon the property use.

Attorney Liz Suchy represented the property owner. She said Kevin Magner 26 Stuart Avenue, LLC owner of Briggs Tire and Read Auerbach a commercial real estate broker were on the call. She said it is an application for special use.

Attorney Suchy said letters in support have been received. The applicant has request continuation of warehouse and storage. The Building is a 2-story structure with about 6,000 square feet built in 1972 when the zone was Industrial No. 1.

Attorney Suchy said allowing the non-conforming use to continue should be allowed since the intent was never to abandon the use. The warehouse and storage use has been in effect for 35 years. She said Mr. Magner had made attempts to market the property and he would like to continue those efforts.

Mr. Conroy read the letters of support into the record. The first was from Connecticut Associates LLP from Fred O'Neil which abuts the property and said he is aware of Mr. Magner's desire to continue the non-conforming use and has no objection to that request.

The next letter was from Mr. Al Kapuse property owner at 76 Connecticut Avenue. Mr. Kapuse has discussed with Mr. Magner his desire to obtain a special exemption form Board of Appeals and has no objection and supports the request.

The third letter was from Gerald A. Milbauer of 67-89 Connecticut Avenue across the street from the property and he said Mr. Magner advised me of his plan and I have no objections and support his request.

Mr. Conroy asked if original request was to have office and warehouse in the building. Attorney Suchy said that is correct.

She said the property owner has made considerable efforts to find a tenant. Connecticut Avenue is a somewhat desirable location. Attorney Suchy said there have been questions with approval and potential tenants feeling comfortable with continuation of the usage.

Mr. Auerbach said he is a Norwalk native and has served 43 years with the Norwalk Fire Department and is a commercial broker in Norwalk for the last 15 years. He said he has been marketing the property since it was vacated and is getting more interest of late.

Mr. Levey asked for any member of public to speak in agreement. Attorney Linda Laskey of Green and Gross in Bridgeport who represents the neighbors Victoria and Salvatore Treglia spoke. She said she would like to lend her support. She said an agreement was reached that deals with lighting and parking and that will be recorded in the office of land records. Mr. Levey asked if Ms. Maldonado had seen the agreement. She said she had not and requested that Attorney Suchy provide a copy once it is recorded.

No one spoke in opposition to the application.

Mr. Conroy read the following application:

C. 20-217-03 Cathleen B. Conover Property located at 99 Perry Avenue – A new shed dormer addition and replace the existing dormer. No changes to the footprint are proposed. House was built around 1929 and could be a hardship that house was built before the zoning regulations.

Attorney Liz Suchy represented Ms. Conover and her husband. The zoning front is no longer on Perry Avenue which creates a hardship as the stories will increase from 2 1/2 to 3 stories. The Conover's would like to increase space on the 2nd floor to add an additional bathroom.

Three letters were read into the record. Lucy W. Corwin of 1 Studio Lane adjacent to the property stated she had no objection to the plan.

The second letter was from Inar Vigar Sorensen of 3 Studio Lane and said she had no objections to the plans and supports the request for variance.

The third letter was from Jeanette Mirizio of 5 Studio Lane adjacent to the property. Ms. Mirizio said no objections to her plans and supports her request for variance.

No objections were heard.

D. 20-1217-04 Ioanis & Anastasia Kodonas 154 West Rocks Road. Variance of parking requirements to allow parking in the front setback. To allow the existing circular driveway to stay in the existing condition. In 2005 the driveway was paved. The homeowner tried to do a pool permit this summer and found out the permit was not closed for the garage. Mr. Kodonas said he did not know he had a violation until this summer. He said it would be a hazard to have to back out of the driveway and also for parents dropping kids off at his wife's daycare center.

Mr. Levey asked if anybody has looked at the driveway to see if anything can be done. He said that would help to make a decision. Mr. Levey said you have to prove that you will not be using the driveway for more parking. Mr. Kodonas said in 2004 a contractor did work on the garage. Mr. Levey concluded parking was to be removed and would not have gotten the permit without changing the driveway. Mr. Kodonas said the first time he saw that application was this past summer.

Mr. Levey said the final inspection was not called and therefore there is still an open permit on the garage and now there is a driveway problem. He added if we approve the variance for the driveway there is still a violation since there is no c/o for the project.

Ms. Maldonado said the recommendation was to remove portions of the driveway and then allowing for a turn-key for safe egress.

Mr. Levey asked if there was anyone to speak for or against the application. Nobody came forward.

Mr. Conroy read the following application:

E. 21-0121-01 City of Norwalk – Variance of illumination restriction for athletic field lighting. 288 Highland Avenue. Applicants are seeking a variance for the regulation of the light level on the athletic field at Brien McMahon High School.

Mr. Nick Roberts, Director of Recreation & Parks, was the first speaker. He said 10 properties are impacted by the lighting. The field is being renovated to add lights for the Brien McMahon softball team and youth sports.

Mr. Jeff Olszewski of Stantec was the next speaker. He said the proposal is to change the field to artificial turf and it is the only softball field on the site. The main concentration of noise is by the backstop. He said the poles will be close in such a confined area. He said the second option flips home plate to where center field was and will reduce the noise on Highland and tuck the lights more into the property. He said this is the preferred option.

Mr. Mike Mahoney of Plesco Sports Lighting spoke next. He said we are harnessing the light and pushing it down on to the field. He said they are not accounting for any blockage. Mr. Olszewski said there is a thick planting of evergreens. Mr. Mahoney said we cannot guarantee the plants will be there forever. Mr. Levey asked if those trees planted to screen the neighbors as part of the process to approve the field. Mr. Olszewski said he did not believe so just to vegetate the area. Mr. Levey said if the trees were cut down he expects the neighbors would object.

Mr. Levey asked if Mr. Mahoney had a computer-generated photograph of the site and what it will look like with lights on it. He said this is a visual requirement and he cannot approve it until he sees it and if he cannot see it he is voting no.

Mr. Conroy said if these poles are anything like the ones around the baseball field then he is going to voted no.

Mr. Mahoney said a picture is no justice if an application is viable or not. He said the only way to tell it is to see the diagrams. Ms. Vanessa Valadares, Principal Engineer, said you want a cut sheet showing the type of light which can be provided. She said the light spread is a little more complicated because sometimes the photo does not really reflect the reality.

Mr. Olszewski said we can pull together some images. Mr. Levey said that is a good beginning for him.

Mr. Mahoney pointed out the baseball field is 15 years old and lighting technology has changed tremendously.

Mr. Lyon said this will be revisited next month. The hearing will be officially continued.

IV. BOARD ACTION ON: A-D

D 154 West Rocks Road

Mr. Conroy said if you are going to use it for Day Care he understood the need for a circular drive. Mr. Levey said with the Evergreen plantings they made a bad situation a little more difficult (with visibility). He said they have two outstanding permits and have done nothing about it. Mr. Levey said he would like to approve the application but want them to close out the permits. Mr. Conroy said it would have to be a tag a long condition.

Mr. Brasher said he has a friend with the same problem of circular driveway. He supports small business but why should they have the driveway when there are alternatives. He said he is not really aligned to saying yes. Mr. Levey said if we approve this how many more circular driveway applications are we going to get.

Mr. Levey said someone had to look at this plan who is professional. He said there is a need to have a definite proposal.

Mr. Diesel said we should give them another opportunity with professional guidance to seek a variance for driveway. He said it is clearly the safest design considering their business and circumstances.

Mr. Brasher said they created their own hardship.

**** MR. LEVEY MADE A MOTION TO DENY THE APPLICATION WITHOUT PREJUDICE AND DIRECTED THE APPLICANT TO ENGAGE A DESIGN PROFESSIONAL TO WORK A DRIVEWAY AND PARKING PLAN THAT DOES NOT REQUIRE A SECOND CURB CUT OR DEMONSTRATE A TRUE AND GENUINE HARDSHIP.**

**** MR. DIESEL MOVED TO SECOND.**

**** MOTION PASSED UNANIMOUSLY.**

C. 99 Perry Avenue

**** MR. BRASHER MADE A MOTION TO APPROVE BASED ON THE FACT THAT THE HOUSE WAS BUILT PRE REGULATIONS AND THE LAND WAS TAKEN BY THE STATE.**

**** MR. LEVEY SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

B. 26 Stuart Avenue, LLC

**** MR. BRASHER MADE A MOTION TO APPROVE THE SPECIAL EXCEPTION BASED ON THE CHALLENGES OF TODAY'S ENVIRONMENT AND THEY HAVE SUPPORT AND PARTNERSHIP OF THE NEIGHBORS.**

**** MR. LYON MOVED TO SECOND.**
**** MOTION WAS APPROVED UNANIMOUSLY.**

A. 83 East Avenue, LLC

Mr. Diesel said they did the best they can for the parking lot issue and submitted a design which is as good as can be expected.

**** MR. CONROY MADE A MOTION TO APPROVE THE VARIANCE FOR THE PARKING SOLUTION AS PRESENTED GIVEN THE ORIGINAL CALCULATIONS WERE NOT OBTAINABLE AND REQUIRE THE EASEMENT BE MAINTAINED.**
**** MR. BRASHER MOVED TO SECOND.**
**** MOTION WAS APPROVED UNANIMOUSLY.**

V. ACTION ON HEARING MINUTES NOVEMBER AND DECEMBER MEETINGS

**** MR. LEVEY MADE A MOTION TO APPROVE THE NOVEMBER AND DECEMBER MINUTES**
**** MR. LYON SECONDED.**
**** MOTION WAS APPROVED 4-0 FOR NOVEMBER (MR. CONROY ABSTAINED) AND 4-0 FOR DECEMBER (MR. DIESEL ABSTAINED)**

VI. ADJOURNMENT

**** MR. LEVEY MADE A MOTION TO ADJOURN.**
**** MR. BRASHER MOVED TO SECOND.**

The meeting ended at 10:45 p.m.