

**ZONING BOARD OF APPEALS
ORGANIZATIONAL MEETING, MONDAY, February 13, 2012
ALDERMANIC CHAMBERS 7:00 PM**

The Ansonia Zoning Board of Appeals held its organizational meeting on Monday, February 13, 2012. The meeting began at 7:00 p.m. and the following applications were acted upon.

Roll Call:

Peter Marcinko	Present
Claudia Degnan	Present
Laura Gagnon	Present
Joseph Jaumann	Present
Nicolas Gentile III	Present
John Sanza	Absent
John Erlingheuser	Present

6 Present, 1 Absent
A quorum was present.

Mr. Marcinko declared the meeting open at 7:00.

Mr. Marcinko declared the meeting open at 7:00. The meeting began with the pledge of allegiance.

Mr. Gentile made a motion to approve all of the minutes from February until now. The motion was seconded by Mrs. Gagnon. All were in favor of the motion. The motion was approved.

1. Ansonia M & L Properties, LLC, 1 Chestnut Street, Ansonia, for property located at the same address, seeking relief from the Zoning Regulations, Section 222.06 of the City Center Overlay Zone to allow the construction of a proposed storage shed on said property.

Mr. Marcinko then asked if everyone had received the correspondence from Attny. Greg Stamos. All of the members indicated that they had and that they had been able to review it.

Mr. Marcinko then stated from his interpretation, the Board of Zoning Appeals does not have the ability to grant a variance having to do with the use of the land or to rule on it for that matter.

Attny. Sponheimer stated that he would like to have the opportunity to address the legal opinion. He stated that Mr. Stamos' opinion is a very well written opinion; he just disagrees with one item in the opinion. He stated that he would like to add a case and make it a part of the public record. Mr. Marcinko stated that unfortunately the public session is closed, so technically he can't entertain any more information from you or anyone else. Attny. Sponheimer stated that he is entertaining Mr. Stamos' opinion. He feels that he should at least have the opportunity to address that opinion. Attny. Stamos stated that he would like to clarify one thing. Mr. Marcinko stated that as he is acting as Corporation council, he could proceed. Mr. Stamos stated that in his opinion, the board does have the jurisdiction to rule on the application. On this issue, he is not sure if there is a distinction between a public hearing where you take in evidence and people argue it. You may want to draw that distinction. Mr. Marcinko stated that he will allow Attny. Sponheimer to speak.

Attny. Sponheimer thanked Mr. Marcinko. He then stated in so far as your use restrictions within your zoning ordinance, it is his opinion that this use variance is in fact valid based on court decision

rendered by the State of Connecticut. He then stated that he has an appellate court case Zoning Board vs. Planning and Zoning Commission 27, CT App 297 –(1992) 605 a. 2d 885. He requested that this be made part of the record. He further stated that this “will have to be decided by a board higher than the Ansonia Board of Zoning Appeals whether or not the restriction as embodied within the Zoning Ordinance is in fact a misuse of and misapplication of the law, when in fact you are banning all use variances within the City of Ansonia.” He then submitted a copy of the court decision to be included in the record.

Mr. Marcinko stated that he feels that according to the legal opinion, the board is not allowed to grant the variance. Mr. Jauman stated that he is of the same opinion based on the legal opinion.

Mr. Marcinko stated that he is looking for motions.

Mr. Jauman made a motion to put the tabled variance back on the agenda. The motion was seconded by Ms. Degnan. All were in favor of the motion.

Mr. Marcinko then entertained motions regarding the application at hand. Mr. Jauman made a motion to deny the application based on the correspondence, which was a legal opinion from Attny. Greg Stamos, Acting Corporation Council. The motion was seconded by Ms. Degnan.

Roll Call:

Peter Marcinko	Yes to deny
Claudia Degnan	Yes to deny
Laura Gagnon	Yes to deny
Joseph Jaumann	Yes to deny
Nicolas Gentile III	Yes to deny
John Sanza	Absent
John Erlingheuser	Cannot vote as an alternate.

The variance was not approved.

Mr. Marcinko asked if there was anything else to come before the board. There was nothing else to come before the board. He then entertained motions to adjourn.

Mrs. Degnan made a motion to adjourn. The motion was seconded by Mr. Jauman. All were in favor of the motion.

The meeting ended at 7:12.

Respectfully submitted,

Carol Sardinha
Secretary