



City of Ansonia

253 Main Street
Ansonia, Connecticut 06401

ZONING BOARD OF APPEALS
REGULAR MONTHLY MEETING, MONDAY, June 9, 2014
ALDERMANIC CHAMBERS 7:00 PM

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Elizabeth Lynch
TOWN AND CITY CLERK
ANSONIA, CONNECTICUT

The Ansonia Zoning Board of Appeals held its regular monthly meeting on Monday, June 9, 2014. The meeting began at 7:00 p.m.

Roll Call:

Claudia Degnan	Present
Jeff Gould	Present
Robert Brown	Present
David DiVincenzo	Present
Diana Maurice	Present
Elizabeth Gaudet	Present
David Williams	Present

7 Present, 0 Absent

A quorum was present.

Also present: David Blackwell, ZEO

Mrs. Degnan declared the meeting open at 7:00. The meeting began with the pledge of allegiance to the flag.

Mrs. Degnan entertained motions to approve the minutes. Ms. Maurice stated that she had a correction to the minutes. She stated that she had attended the last meeting and Ms. Gaudette did not. The Secretary apologized and stated that she would note that in the minutes. There were no other corrections. Ms. Maurice made a motion to approve the minutes with the correction. The motion was seconded by Mr. Brown. All were in favor of the motion. Mrs. Degnan then stated that members that are alternates only vote if a regular member is not at the meeting or recuses themselves from voting. All of the members regardless of if they are regular members or alternates can participate in asking questions during the hearing. She asked Mrs. Sardinha to list the Regular members. They are Claudia Degnan, Mr. Gould, Mr. DiVincenzo, Ms. Maurice and Mr. Brown. Mrs. Degnan asked the Secretary to read the application that is being heard this evening.

1. 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.

Atty. John Sponheimer representative for M & L Properties and Mark Tice, the applicant is also present. He stated that Atty. Timothy Lee is also representing M & L Properties. Mrs. Degnan stated that they have a new board. She further stated that they are claiming that they have a hardship. She then requested that Atty. Stamos review what a hardship is. He stated that the hardship issue was briefed in the trial briefs that were filed. He then suggested that the members review that document. Atty. Sponheimer stated that the members should also review the brief that was submitted by the representatives of M & L. Atty. Lee then stated that the hardship really has to do with the imposition of the City Center zoning regulation on Mr. Tice's property. He further stated that the location is a rear lot and not visible from the street. He explained that the City Center Zone was to get commercial traffic, retail traffic. He explained that the hardship is that Mr. Tice doesn't use his property for those types of uses. His lot is a rear lot facing the river. There's no street frontage, no visibility from the major

traffic. Atty. Sponheimer argued that there was a hardship based on the location of the property and the application of the Zoning Regulations. He then provided a copy of his brief to the Chairman. This was copied and distributed to the members.

Atty. Stamos stated that the section dealing with hardship in his brief is on the third page (law and argument) and continues for 2 and half pages. He provided the members with copies of this document. Atty. Stamos stated that his position is that there must be a showing that the property cannot be used for any of the uses permitted in that zone. He then explained that that has not been done. He further stated that if someone would like to use the property in a particular way and were stymied, he doesn't feel that meets the prerequisite required under the case law.

Atty. Lee stated that he believes that it comes down to the board's application of the facts before this case. The facts that were presented to the board a couple of years ago. He further stated that the facts that were presented to the board give rise to a legal hardship. He further stated that the application of the regulations did create a hardship. The reason that the application of the regulations created the hardship is that they prevented his client from making a reasonable use of his property. In the record before the board two years ago, they presented evidence that the property had been vacant and unusable since 1999. He further stated that the City Center zoning regulations were not a perfect match for this property. Planning and Zoning Commission enacted the City Center Zoning regulations less than ten years ago and the purpose was to create retail and commercial traffic along the major thoroughfares. What they did was to create a City Center Overlay District. That overlay contained Mr. Tice's property. That Overlay district prevented him from using the property for nine or ten or so uses, including the use of a shed. They argued before the board that the regulations create a hardship because they prevented Mr. Tice from putting his property to a reasonable use. His property was not conducive to commercial or retail. The night of the hearing, they presented the map that showed the location of the property. You can see that the property is in essence a rear lot. It does not have street frontage. It's not the kind of property that would be conducive to commercial or retail on that property. You wouldn't want to put a store there because people driving down the road would not see the store.

Mrs. Degnan asked if any of the members wished to have any discussion regarding this matter. Mr. Brown asked what the phantom lines signified on the map. He was told that they are all city easements. He was further told that there currently nothing on the site.

Mrs. Degnan asked Mr. Tice what he is using the property for currently. She was told that he is using it to store his equipment and trucks on the site. He has been using it in that way since he purchased the property. Mr. DiVincenzo asked what kind of trucks were being stored on the site. He was told that there are two "six footers", a tri-axle and another one (couldn't hear what the other one was). Mr. DiVincenzo asked how the trucks got to the site, did they take access through downtown, or do they go the "back way". Mr. Tice stated that he didn't know which way they go. It depends on where the work was that day.

Atty. Lee added that he would like to respond to the Chairwoman's question as to what he is using his property for currently. Mr. Tice stated that he is currently using the property to store his equipment. One of the uses that are prohibited by the City Center's regulation is a contractor's yard. Mr. Tice has been storing his property there since he purchased it. When the City Center plan was created, that use became illegal and was one of the things that caused him to come before the ZBA over the past four or five years is the fact that he was operating a contractors yard in a zone that didn't allow it to be a contractor's yard. He further stated that he doesn't want the board to get the mistaken impression that he's putting the property to a use, because that use is theoretically not legal under the zoning regulations.

Atty. Stamos then stated that what was in the record is what the board needs to consider. They should only be considering the evidence that was presented during the past hearings and had been filed with the courts. Since

many of the members are new, if there are any clarifying questions the attorney's would be able to entertain them. If it is a clarifying question, there is no problem. We don't want to have new evidence submitted that was not a part of the record.

Mr. Williams asked if there is a driveway off of Main Street between the Target entrance and the Ansonia Shopping Center entrance. He was told that was never approved. It is shown on the map but it was never approved. The only access in is through Chestnut Street.

Mr. Gould asked in regard to the flood wall that is located there, does the Army Corp of Engineers involved in that at all. He was told that was going beyond the record and they can't address that at this time. Atty. Stamos reminded the board that this is a referral back from the Court that was trying not to decide the big issue as to whether or not the Board was able to grant use variances and instead wanted to know what the issue was regarding hardships. This is a piece of the puzzle. It's an important one. And that's the issue for tonight.

Mrs. Degnan stated that at this point someone needs to make a motion because as Chairman, she can't. Ms. Maurice made a motion stating that she doesn't find that there is a hardship based on what the guidelines are for the usage of it and based on the code that I was able to read and look up as to what constitutes a hardship. The motion was seconded by Mr. Gould.

Roll Call:

Claudia Degnan	Yes
Jeff Gould	Yes
Robert Brown	Yes
David DiVincenzo	No
Diana Maurice	Yes
Elizabeth Gaudet	Not voting
David Williams	Not voting

The motion was approved that there is no hardship.

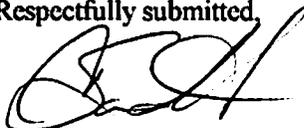
During the voting Mrs. Degnan stated that she doesn't feel that there is sufficient hardship and that they are creating their own hardship.

Mrs. Degnan asked Mr. Blackwell about the property on the corner of Pulaski Highway and Arbor Terrace having the shed on the property line. She would like an update on the situation. Mr. Blackwell stated that he received some correspondence from the owner. It stated that he has to get an A-2 survey, but he doesn't want to spend the money to get one. Mr. Blackwell further stated that he does have wetland in the rear of the property. The owner states that he is 6 feet from the rear of the property. Mr. Blackwell is continuing to work on this problem.

There was no other business to come before the board. Mr. Gould made a motion to adjourn. The motion was seconded by Mr. Williams.

The meeting ended at 7:40

Respectfully submitted,



Carol Sardinha