



ZONING BOARD OF APPEALS
AUGUST 11, 2020
REGULAR MEETING
CITY OF BRIDGEPORT

45 Lyon Terrace
Bridgeport, CT 06604
(203) 576-7217 Phone
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ATTENDANCE: Maria Alves, Acting Chair; John Carolan, Edward McLaine, Robin Shepard, Ira Nachem, (Alternate) Michael Nastu, (observing – not voting).

STAFF: Dennis Buckley, Zoning Official, Nicholas Sampieri, Zoning Inspector; Atty. Russell Liskov

CALL TO ORDER.

Commissioner Alves called the meeting at 6:15 p.m.

This Zoning Board of Appeals meeting complies with Governor Lamont's Executive Order 7b as it relates to a web-based meeting. Therefore, the in-person requirement is eliminated as long as a person can participate by phone or video in real time. Also, the sign postage requirement and the return receipt of notification to property owners has also been eliminated as long as the ZBA agenda has been online complying with the statute's normal earliest publication date in the Connecticut Post.

This agenda was placed on the City website on July 30, 2020, which complied with that requirement. This meeting is being recorded to comply with the Open Meeting Requirements and will be available on the City web page following each meeting.

Commissioner Alves called the roll and announced the names of the Commissioners seated.

Atty. Liskov announced that Mr. Michael Nastu was present. Mr. Nastu had been sworn into office earlier in the day by Atty. Liskov.

Commissioner Alves reviewed the procedures for the public if they wished to participate.

A public hearing of the City of Bridgeport Zoning Board of Appeals will be held via ZOOM video/teleconference, relative to the following:

City of Bridgeport
Zoning Board of Appeals
Regular Meeting
August 11, 2020

**(C-1) 580 North Ave. – Petition of 547 North Ave Bridgeport Realty, LLC –
Appealing under Sec. 14-10 of the Zoning regulations of the City of Bridgeport and
Sec. 8-7 of the CT General Statutes, whereby it is alleged that the Zoning Officer
erred in his decision in the issuance of a Certificate of Occupancy for a gas station
convenience store use while the project was the subject of ongoing litigation.**

Mr. Buckley, the Zoning Official for the City of Bridgeport, said there was a statement made that Mr. Buckley had not received the “as built” survey. Mr. Buckley said that he had received it but did not sign it until after Judge Ratcliff had issued a decision. Once the decision was issued, Mr. Buckley said he signed the Certificate of Zoning Compliance and it has since been given to Atty. Willinger and it is now part of the record. Atty. Willinger will be presenting.

Atty. Willinger introduced himself and said that he was representing Mr. Eddie Jamal, the owner of 547 North Avenue. Atty. Willinger gave a brief overview of the history of the case. He stated that Atty. Green is appealing Mr. Buckley’s issuance of a Zoning Compliance. Mr. Jamal is the sole owner of his gas station while Atty. Green is representing the CITGO gas stations. Atty. Willinger noted that every time that Mr. Jamal had received a favorable decision, Atty. Green would appeal the decision.

Atty. Willinger noted that Mr. Jamal had a meeting with the CEO of CITGO where the CEO made several statements to Mr. Jamal including how they will sell gas at cost and CITGO will drag this out until Mr. Jamal gets sick and tired of this. Atty. Willinger said that this was a clear indication of CITGO’s intention.

Atty. Willinger noted that CITGO had a number of violations in the past including a canopy that was not in compliance, a third unapproved driveway and various other violations.

Atty. Willinger directed everyone’s attention to Atty. Green’s Exhibit 1, which was the original appeal. He noted that Atty. Green never specified the reason for the appeal. Page 2 of Exhibit 1 is a copy of the Certificate of Zoning Compliance and noted that there was a harmless error on the document.

Exhibit 2 is Article 14 of the Zoning Regulations, particularly Section 14-1-1, which defines the requirement for a Certificate of Zoning Compliance. Atty. Willinger then noted that the “as built” plan and the landscaping plan were in the packet and have been filed with the land records.

Exhibit 3 is the application for the Certificate of Zoning Compliance. Atty. Green is claiming that the application has an incorrect date on it from 2018. Atty. Willinger noted

that every time there was a change in the plan, the Certificate of Zoning Compliance was amended to reflect that change.

Exhibit 8 is Mr. Buckley's letter to Mr. Jamal that verifies that the ZBA had approved the application in November.

Atty. Willinger said that Section 11-1-1 does not apply, but Section 12-1-1 does apply. He referred to the landscaping plan, which show the three driveways, each of which are 30 feet. He indicated where the planting was on the plan along with the grass pavers, and the location of the pumps. There was a question regarding whether there needed to be a width of 12 feet at the end of the pumps. The current travel way is 11 1/2 feet.

Atty. Willinger said that there was a question as to whether trucks would be able to enter and exit the site safely. He reminded everyone that the Commissioners that they had received a turning radius diagram.

Other issues were about the lack of landscaping and the number and location of the parking spaces on site, the vehicle and delivery truck maneuvering space. Atty. Willinger noted that the CT DOT approved the plan, along with the City Engineer.

The second page of Exhibit 8 included a memo from Mr. Buckley regarding variations from an engineering standpoint. It is not the Engineer's Report and was issued a month and a half after the decision. The same seven concerns stated on the first page were raised on this document.

The Planning and Zoning Commission approved the plans and Mr. Buckley issued his Certificate of Zoning Compliance.

Exhibit 10 addresses the size of the parking spaces, which is 9 feet by 18 feet. Atty. Willinger said that in his Exhibit booklet, under tab J. He reviewed the various parking spacing requirements listed on the exhibits.

Atty. Willinger then reviewed Exhibit 11 and Table 11-13-1 with the Commissioners. [Loss of audio, and then of call].

Atty. Willinger directed everyone to Exhibit 12 which focuses on the types of plant materials. He noted that Mr. Buckley had not required dogwood trees because of the sight lines. Mr. Buckley suggested Japanese maples that would be maintained at 4 feet for better visibility. This would be appropriate for the site and would not obstruct buildings or sidewalks. The landscaping must be consistent with the neighborhood. There is no other business that has as much landscaping as Mr. Jamal.

Exhibits 13 and 14 are photos of the site, including the permeable pavers. There is no grass because they have just been installed.

Atty. Willinger noted that Atty. Green had pointed out that the canopy was not sufficient because some portion of the cars may not be covered by the canopy. He noted that this was actually an ordinance, and the ordinance requires that the fire suppression system be covered, which it is.

Atty. Willinger indicated that the last point in Atty. Green's exhibit noted was that the landscape pavers were inappropriate. Atty. Willinger said that the pavers can sustain much more weight than asphalt. The pavers were approved by Mr. Buckley, Mr. Popp, the City's Environmental consultant, and other officials. Grass is considered a shrub.

Atty. Willinger said that he felt that the Board was correct in approving application and Mr. Buckley for issuing the Certificate of Zoning Compliance.

Atty. Willinger then briefly reviewed his exhibits, including the approval from the DOT for the curb cuts and driveways, Taco Bell's turning areas, and a variety of approvals. He said that Mr. Buckley was present and could correct him on anything where he might have misspoken. He noted that while Atty. Green may rebut his points, but Atty. Green cannot bring up any new issues.

Atty. Green greeted the Commissioners and said that he was representing the appellant. He said that the first half of Atty. Willinger's presentation was focused on the history, but the main problem was the issuance of the Certificate of Zoning Compliance because they are over-using the site. The written Zoning regulations are what needs to be adhered to. He said that his client has prevailed in two of the three appeals and felt that his client would prevail in the current appeal.

Atty. Green said that driveways must be 12 feet wide. Atty. Green then displayed the landscaping plan and noted that the driveway is 11 1/2 feet wide, which does not meet the regulations.

Atty. Green said that Atty. Willinger misquoted the Zoning Regulations Section 11. He said that the screening must be continuous screen that is 95% opaque. He spoke about having the landscaping on the interior. It is not right to drive through landscaped areas. They should be fully protected. There are no driveway that are using permeable pavers as a driveway material.

Atty. Green said that Atty. Willinger misstated the driveway requirement. He referred to 11-1-10 and the amount of maneuverable space needed for perpendicular parking and displayed Table 11A.

The canopy does not comply because it does not cover the entire parking area. Landscaping trees are required, and the suggested trees do not meet the regulations. The trees have not yet been planted.

He urged the Commissioners to ask Mr. Buckley whether the site complies with the Zoning requirements. It requires an L2 plan and the parking maneuverable space is insufficient. Atty. Green said that he would be happy to answer questions.

Atty. Liskov said that the Commissioners had received all the evidence.

Commissioner Alves asked each of the Commissioners if they had any questions. Each of the Commissioners stated that they did not have any questions.

Commissioner McLaine asked to move to question.

**** COMMISSIONER MCLAINE MOVED TO DENY AGENDA ITEM: C-1 RE: 580 NORTH AVENUE – APPEALING UNDER SEC. 14-10 OF THE ZONING REGULATIONS OF THE CITY OF BRIDGEPORT AND SEC. 8-7 OF THE CT GENERAL STATUTES, WHEREBY IT IS ALLEGED THAT THE ZONING OFFICER ERRED IN HIS DECISION IN THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY FOR A GAS STATION CONVENIENCE STORE USE WHILE THE PROJECT WAS THE SUBJECT OF ONGOING LITIGATION FOR THE FOLLOWING REASONS:**

- 1. THE PLANNING & ZONING COMMISSION APPROVED A SPECIAL PERMIT AND SITE PLAN REVIEW WITH CONDITIONS ON NOVEMBER 25, 2019.**
- 2. BRUCE NELSON, BUILDING OFFICIAL, ISSUED A CERTIFICATE OF OCCUPANCY ON FEBRUARY 14, 2020.**
- 3. JON URQUIDI, CITY ENGINEER SIGNED OFF ON THE AS-BUILT SURVEY ON MARCH 3, 2020.**
- 4. PAUL BOUCHER, ASSISTANT ZONING OFFICIAL, SIGNED OFF ON THE LANDSCAPING PLAN ON MARCH 5, 2020.**
- 5. DENNIS BUCKLEY, ZONING OFFICIAL, SIGNED OFF ON THE AS-BUILT SURVEY ON MARCH 5, 2020.**
- 6. ATTORNEY JOEL GREEN FAILED TO MEET THE TEST OF SECTION 8-7 OF THE CT GENERAL STATUTES.**
- 7. SUBJECT PREMISES HAS BEEN A GAS STATION AND MOTOR VEHICLE USE FOR OVER 70-YEARS.**
- 8. NO SAFETY ISSUES OR HARDSHIP ESTABLISHED.**
- 9. DENNIS BUCKLEY ACTED PROPERLY IN THE ISSUANCE OF THE CERTIFICATE OF ZONING COMPLIANCE.**

**** COMMISSIONER CAROLAN SECONDED.**

Commissioner McLaine stated that on November 25, 2019, The Planning & Zoning Commission approved a special permit and site plan review with conditions. Bruce Nelson, Building Official, issued a Certificate of Occupancy on February 14, 2020. Jon Urquidi, City Engineer signed off on the as-built survey on March 3, 2020. Paul Boucher, Assistant Zoning Official, signed off on the landscaping plan on March 5, 2020. Dennis Buckley, Zoning Official, signed off on the as-built survey on March 5, 2020.

Commissioner McLaine asked Atty. Liskov if Atty. Green met the requirements for the CT Statute 8-7. Atty. Liskov said that he did not think Atty. Green had met the requirements for the CT Statute 8-7.

Commissioner Nachem said that this site has been a gas station for almost 70 years and did not see any hardships for the applicant. He said that he did not see any safety

Atty. Liskov asked Commissioner Nachem if he felt that Mr. Buckley had carried out his duties. Commissioner Nachem said that Mr. Buckley had carried out his duties. Atty. Liskov noted that the denial of the appeal was the equivalent to a dismissal of the appeal.

**** THE MOTION TO DENY PASSED UNANIMOUSLY.**

Commissioner Alves announced that the Public Hearing was closed.

(end of public hearing)

OTHER MATTERS THAT MAY PROPERLY COME BEFORE THE BOARD

APPROVAL OF MINUTES

Approval of ZBA Minutes for March 10, 2020 – Present: Acting Chairperson: Maria Alves. Commissioners: John Carolan, Edward McLaine, and Robin Shepard. Staff: Dennis Buckley, Zoning Clerk, Nicholas Sampieri, Zoning Inspector. Office of City Attorney: Russell Liskov.

Commissioner McLaine said that the corrections he had previously requested had not been made. It was discovered that the corrected version of the minutes had not been sent out to the Commissioners.

Approval of ZBA Minutes for April 21, 2020 (rescheduled from April 14 due to no quorum) – Present: Acting Chairperson: Maria Alves. Commissioners: Robin Shepard.

Alternate Commissioners: Michael Jacques and Ira Nachem. Staff: Dennis Buckley, Zoning Clerk, and Nicholas Sampieri, Zoning Inspector. Russell Liskov, City Attorney

The following corrections were noted:

Page 4, 1st complete paragraph, second sentence, please change the following from:

“Ms. Henry said that she was seeking a change of use of the property. She said the main house will be used as a professional office and the second room will be a seven-room day care center. She said that it contained two...”

to: “Ms. Henry said that she was seeking a change of use of the property. She said the main house will be used as a professional office and the second floor will be a seven-room day care center. She said that it will contain two...”

Page 5, MOTION, please change the following from:

**** COMMISSIONER JACQUES MADE A MOTION TO DENY THE PETITION.**

**** COMMISSIONER SHEPARD MOVED TO SECOND TO DENY THE PETITION.**

**** THE PETITION WAS DENIED TWO TO TWO, WITH TWO AGAINST (ALVES AND NACHEM) AND TWO TO DENY (SHEPARD AND JACQUES).**

TO:

**** COMMISSIONER JACQUES MADE A MOTION TO DENY THE PETITION.**

**** COMMISSIONER SHEPARD MOVED TO SECOND TO DENY THE PETITION.**

**** THE PETITION WAS DENIED TWO TO TWO, WITH TWO IN FAVOR (ALVES AND NACHEM) AND TWO OPPOSED (SHEPARD AND JACQUES).**

Page 6, please change the following: “Petition was denied due to lack of deny.”

To: “Petition was denied due to a lack of a unanimous vote.”

Page 6, under 91 Albion Street, where it says “Commissioner Alves had a few questions” please include the questions and answers in the minutes.

**** COMMISSIONER NACHEM MOVED TO APPROVE THE MINTUES OF April 21, 2020 SUBJECT TO THE CHANGES.**

**** COMMISSIONER JACQUES SECONDED.**

**** THE MOTION TO APPROVE THE MINTUES OF April 21, 2020 SUBJECT TO THE CHANGES PASSED UNANIMOUSLY.**

Approval of ZBA Minutes for July 14, 2020 – Present: Acting Chairperson: Maria Alves. Commissioners: John Carolan, Edward McLaine and Robin Shepard. Alternate Commissioner: Ira Nachem. Staff: Dennis Buckley, Zoning Clerk, Nicholas Sampieri, Zoning Inspector. Office of City Attorney: Russell Liskov.

**** COMMISSIONER SHEPARD MOVED THE MINUTES FOR JULY 14, 2020.**

**** COMMISSIONER MCLAINE SECONDED.**

**** THE MOTION TO APPROVE THE MINUTES OF JULY 14, 2020 AS SUBMITTED PASSED UNANIMOUSLY.**

ADJOURNMENT.

**** COMMISSIONER CAROLAN MOVED TO ADJOURN.**

**** COMMISSIONER MCLAINE SECONDED.**

**** THE MOTION PASSED UNANIMOUSLY.**

The meeting adjourned at 7:51 p.m.

Respectfully submitted

Telesco Secretarial Services