

Zoning Board of Appeals

Minutes

(meeting recorded)

Regular meeting: Thursday, July 18, 2024

The meeting was called to order at 6:30 p.m. in the aldermanic chambers of City Hall.

By roll call, members present: Sam Pollastro Jr., John Kowarik, Earl Robinson, David Reed and Rita Pelaggi. Jeffrey Bell and Ray Bowers were excused.

Alternate David Reed and Rita Pelaggi will be a voting members this evening.

Also present: Corporation Counsel Brian Lema and Zoning Enforcement Officer Kevin White (on ZOOM).

Town Clerk Marc Garofalo served as host for ZOOM.

Additions or deletions and acceptance of the agenda

Motion made by John Kowarik and second by Earl Robinson. Move to accept the agenda, as written. Motion carried unanimously.

Public Portion

No public came forward.

Motion by Rita Pelaggi and second by Earl Robinson. Move to close public portion. Motion carried unanimously.

Approval of minutes

Motion made by John Kowarik and second by Rita Pelaggi. Move to approve the minutes for June 20, 2024, as written. Motion carried unanimously.

Applicant: Driton Sulejmani, 17 Hawthorne Ave., Derby, CT 06418 Location of affected premises: Same. Appealing the Derby Zoning Regulations 195-53 A to allow construction of a 2nd floor attic apartment without off-street parking.

This application was first heard at the May 16, 2024 meeting where there were only four members present. Mr. Sulejmani was advised that four affirmative votes were needed and the applicant can request to continue the application to the next meeting to seek five members present. At the June 20, 2024 meeting the applicant submitted his request to extend the application to the July 18, 2024 meeting.

Driton Sulejmani was present this evening. He explained that existing is the store on the first floor, there is a second floor apartment where he currently resides and there is a third floor attic space. He is seeking to change the attic space into an apartment for his elderly parents. His parents do not have a car, they use his car if they do go anywhere. There is plenty of on-street parking space during the day. It is more congested in the evening but there is more than enough space. As per discussions with the City regarding the need for off-street parking, Mr. Sulejmani approached the AM Club for permission to use parking on their parcel. A letter was received from AM Club giving their approval.



July 1, 2024

To Whom It May Concern:

This enclosed letter is to notify all parties involved that effective immediately, we, the Adriatic Marchegian Club, 30 Hawthorne Avenue, Derby, CT 06418 will allocate two parking spots in our lower parking lot for Yolanda's Bakery, 17 Hawthorne Avenue, Derby, CT 06418. Thank you for your attention in this matter.

Best regards,

Robert Rzepko Jr.
President
Adriatic Marchegian Club

Members reviewed the letter and indicated that a formal legal agreement would be necessary. ZEO Mr. White noted zoning regulations:

§ 195-55. Location of parking

B. In residential zones, parking spaces required for all uses shall be provided on the same lot as the principal use.

Mr. White noted that he gets frequent requests for this similar parking situation. He has approached the Planning and Zoning Commission to consider a possible text change in the regulations to revise this section.

Mr. Sulejmani indicated that in his specific situation there is more than adequate street parking in the vicinity of his property. He has also submitted in May the signed petition of the neighbors voicing their support.

Mr. Pollastro indicated concerns with setting precedent that could then open the exception to everyone seeking on-street parking. Corporation Counsel Lema stated that if the regulation was amended as Mr. White has suggested, then this variance may not be necessary.

Public portion was opened for this application. No one came forward.

Motion by John Kowarik and second by David Reed. Move to close public portion. Motion carried unanimously.

Discussion on the motion. Mr. Robinson referenced the regulation cited by Mr. White and the concern for setting a precedent. Ms. Pelaggi questioned whether a formal agreement would make a difference in this determination. Corporation Counsel noted that the current condition has an apartment without the needed parking but that is a pre-existing grandfathered non-conformity. The application would be expanding that non-conformity.

Motion by John Kowarik and second by David Reed. Move to **DENY** the application appealing the Derby Zoning Regulations 195-53 A to allow construction of a 2nd floor attic apartment without off-street parking due to the Derby Zoning Regulations of 195-55 B – not having adequate parking on the premise. Motion carried unanimously.

Applicant: Barbara Badela, 14 North Ave., Derby, CT 06418 Location of affected premises: Same. Appealing the Derby Zoning Regulations 195-13E (7) for a side yard variance from 8 ft. to 3 ½ ft. on the north (left) side of the house to expand a bathroom

Ms. Badela was present this evening. She is seeking to add a walk-in shower to her existing half bath on the first floor. There is a full bath upstairs but she is seeking to have accessibility to a first floor full bath. She submitted pictures showing that on the opposite side of the house there are many obstacles that it would make it cumbersome to build on that side. Further, the bath plumbing is on the side where she is seeking to construct the shower. The pictures show a stone wall on the affected side and the applicant indicated that there would still be sufficient space should the wall need maintenance.

Public portion was opened for this application. No one came forward.

Motion by Sam Pollastro and second by David Reed. Move to close public portion. Motion carried unanimously.

Discussion on the motion. Mr. White indicated that there has been no opposition from the abutting neighbors. There is a hardship in that all the plumbing is located on that side with the existing half bath.

Motion by Sam Pollastro and second by John Kowarik. Move to **APPROVE** the application appealing the Derby Zoning Regulations 195-13E (7) for a side yard variance from 8 ft. to 3 ½ ft. on the north (left) side of the house to expand a bathroom. Motion carried unanimously.

Applicant: Laneisha Lewis, 324 Silver Hill Rd., Derby, CT 06418 Location of affected premises: Same. Appealing the Derby Zoning Regulations 195-9E (6) for a side yard variance from 25 ft. to 5 ft. for the construction of a garage

Ms. Laneisha Lewis was present this evening. She explained that her parcel is undersized. There is no garage. The house was built in the 1960's prior to zoning regulations. She purchased the house two months ago. She would like to have a garage as the area is wooded and she feels it is a safety issue. Recently she observed a coyote on the property. The proposed location offers best access to the house and there is an above ground oil tank on the other side of the house.

Public portion was opened for this application. No one came forward.

Motion by John Kowarik and second by Rita Pelaggi. Move to close public portion. Motion carried unanimously.

Discussion on the motion. Mr. White indicated that this parcel is in the R-1 zone which has a minimum of 40,000 sq. feet. This parcel is 8,000 sq. feet so any expansion would be impossible to be within the setbacks. He noted that Ansonia Fountain Lake is the abutter on that side. Ansonia was advised of the application and has not responded.

Motion by John Kowarik and second by Sam Pollastro Jr. Move to **APPROVE** the application appealing the Derby Zoning Regulations 195-9E (6) for a side yard variance from 25 ft. to 5 ft. for the construction of a garage. Motion carried unanimously.

Applicant: Pasquale Civitella, P.O. Box 200, Ansonia, CT 06401 Location of affected premises: 154 New Haven Ave., Derby, CT 06418. Appealing the Derby Zoning Regulations 195-13E (2) to convert a store front/commercial to an apartment.

Mr. Pasquale Civitella of 746 East Broadway, Milford, CT. was present this evening. He stated that this property, the old AutoRest, has been a commercial use on the first floor with two apartment upstairs. There is sufficient parking for the proposed use of three apartments. There is parking for eight cars. It was noted that there is a commercial vehicle on the property now that is being used to store materials and his intent is to remove the truck once it is complete. He stated that the hardship is that it is very difficult to utilize the first floor for commercial use. Per the regulations, his parcel square footage is short by 2,500 sq. feet. The parcel is 12,626.6 sq.

ft. and 15,000 is needed per the regulations. He will not be changing the size of the building, only renovating the interior to accommodate residential use. He noted that the adjacent parcels do not have parking spaces on their parcels, they park on the street.

§ 195-13. Residential - 5 (R-5) Zone.

A. Intent. These zones are primarily residential in nature and consist of areas built up in years past with single-family, two-family and multi-family structures. They constitute part of the urban concentration. An important purpose of the standards applicable in these zones is to recognize the relatively high concentration of dwellings and population already present, while preserving existing development from overcrowding and permitting conversion to, and construction of, dwellings containing one and two families at standards consistent with preservation of the character of the zone. Institutions and similar uses will be necessary and appropriate in these zones but only as special exceptions upon a finding that development will be compatible with the character of the zone.

B. Permitted uses. Permitted uses in the R-5 Zone shall be as follows:

- (1) Single- and two-family dwellings.
- (2) Parks and playgrounds

E. Bulk requirements. Bulk requirements in the R-5 Zone shall be as follows: (1) Each lot shall have an area of 7,500 square feet and a width of at least 75 feet measured at the required front yard setback. (2) Minimum required lot area per family: 5,000 square feet.

Public portion was opened for this application.

Dina Camilini, 148 New Haven Avenue stated that she always recalled the building being a one-family upstairs and the bar on the first floor. Now it will be a three-family? She said her house is owner occupied, her family lives there. She noted that there is no privacy to Mr. Civitella's house. She had asked that the trees that were there be trimmed as they were over her house. Instead, he cut them down. She asked if a fence was a possibility. She indicated that although the application is here tonight, there has been work for many months now.

Mr. Robinson asked if Ms. Camilini would be in favor of a row of arborvitaes by the property boundary. She replied that she did favor the plantings. Mr. Civitella indicated that he was agreeable to planting said trees.

No one else came forward.

Motion by John Kowarik and second by Earl Robinson. Move to close public portion. Motion carried unanimously.

Motion by John Kowarik and second by David Reed. Move to **APPROVE** the application appealing the Derby Zoning Regulations 195-13E (2) to convert a store front/commercial to an apartment with the bulk requirements reduced by 2,500 sq. ft. Motion carried unanimously.

MOTION was made by John Kowarik and second by Earl Robinson. Move to adjourn the meeting at 7:39 p.m. Motion carried unanimously.

Respectfully prepared,

Karen Kemmesies

Karen Kemmesies, secretary

These minutes are subject to Board approval at their next scheduled meeting.