



ZONING BOARD OF APPEALS
TOWN OF NEWINGTON
Thursday, September 1, 2016
Conference Room L101
7:00 P.M.
Regular Meeting Minutes

I. Call to Order

The meeting was called to order by Chairman Califano at 7:03pm. The Chairman explained how ZBA meetings are conducted and that a minimum of 4 affirmative votes would be needed to approve the application.

II. ROLL CALL

Louis Califano-	present
Paul Plavcan-	absent
Willard Bechter-	present
John Richter-	excused
Audra Ekstrom-	present
Judith Igielski-	present
Nicole Pane-	present
Timothy Hutvagner-	excused

III. PUBLIC HEARINGS

151 Kitts Lane- BriAry Hair Studio, LLC.

Judy Igielski read the legal notice into the record:

Petition 00-16-10 BriAry Hair Studio LLC of 151 Kitts Lane is requesting a Variance of 10ft from the required 10ft of Newington Zoning Regulations Section 4.5 concerning side yard setbacks for primary buildings in the B-BT Zone to facilitate the demolition and expansion of the existing building. 151 Kitts Lane is located on the West side of the street, directly North of Ann St.

Jim Cassidy, of Hallisey, Pearson and Cassidy (35 Cold Spring Rd, Rocky Hill CT) began the presentation on behalf of the applicants. Mr. Cassidy gave a brief orientation of the property as it relates to other properties in the area.

He went on to explain that the application was begun requested so the applicants could demolish the existing one story building, rebuild the first floor and then add a second story. The renovation would take place within the existing footprint and utilize the existing foundation. He explained that the existing building was built on the property line with a 0' 0" setback. Because the applicants would like to add a second story they are effectively doubling the amount of square feet of building within the setback which is what requires the variance.

The applicant outlines 3 specific hardships. The first was that the existing building was already directly on the property line. Secondly in the past an oil tank had been on site (underground) and had caused environmental contamination. While the levels were not high enough to require removal of the soil, if that area were to be disturbed by the construction of a building it would have to be removed at that time. Thirdly, if the applicant were to move the building into a conforming side yard setback location there would not be adequate space for vehicle aisle width or parking stall size so additional variances would be required.

Kurt Bostwick of Bostwick Architects, LLC (56 Arbor St, Hartford CT) presented further regarding the architectural elements of the building, configuration of the interior and the State Fire Code requirement that the wall parallel to the Floors Now building be "noncombustible" to prevent any fire from spreading to the adjacent building.

Jim Cassidy provided a letter from "Floors Now" which gave permission for the applicant to use the Floors Now property for the purposes of construction along the property line which they shared.

Louis Califano asked the applicant to confirm that the foundation would remain in place. He went on to ask if the existing foundation could support the addition of a second story, which a Structural Engineer confirmed it would. He also asked if the wall along the property line met the Fire Code. The applicant said it was code compliant. The applicant also confirmed that the parking regulations were met.

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2016 SEP -8 PM 12:09

Jan D'Amico

Nicole Pane asked the applicant to explain location hardship and what the unique hardship of the property was. The applicant explained the location of the building and the further environment contamination of the site. She asked the applicant to provide the letter from Floors Now to the Board, which he did and it was reviewed by each member.

Willard Bechter asked what the contamination in the ground was caused from. The applicants indicated it was from a home heating oil tank that had leaked.

Audra Ekstrom asked the applicant show the Board where the contamination had occurred.

Judith Igielski asked the applicant about parking and employees.

Louis Califano asked the Town to present its report on the application. The staff report was included as part of the application packet. The Town explained the existing non-conformity and that the lot was crated legally in the 1950's. Staff explained that they had originally requested the building be moved, but when the applicant felt that was not feasible, it was determined a variance was needed.

Judith Igielski asked them to reiterate the hardships on the property.

Nicole Pane asked about the nature of the non-conformity if the building was demolished and their legal ability to rebuild the building if they abandon the non-conformity. She went on to ask if the ZBA's decision had anything to do with parking or landscaping. Staff indicated the only item for consideration was the side yard setback variance. Staff went on to explain that the "waiver" provisions had been removed from the Zoning Regulations which used to allow TPZ to waive certain requirements.

Willard Bechter asked the applicant if they had considered a 5' setback variance rather than a 10' setback. Mr. Cassidy indicated he would have to speak to his client.

III. PUBLIC PARTICIPATION

Carla Juvencio of (24 Valley View Drive, Newington CT) spoke in favor of the application and mentioned how long this property had been vacant and that such a development would be good for the Town.

Motion made by W. Bechter to close public hearing. Second by J. Igielski. All in favor. **Motion Passes.**

IV. WORK SESSION

Louis Califano reiterated the application for the Board to open the Work Session. He asked the Board to discuss if they felt the statement of hardship was legitimate.

Nicole Pane stated she did not feel they had a sufficient hardship for what they were trying to accomplish.

Willard Bechter felt that it would create a problem in the future for neighboring properties by having the structure so close to the property line.

Nicole Pane felt the hardships were not unique to the property and that a variance request for aisle width or parking stall size would be more appropriate.

Motion by N. Pane to deny variance application based on reasons stated during the work session, including lack of hardship. Second by Willard Bechter.

Judith Igielski stated she could not support the motion as stated, and she felt this was an improvement to the property.

A Roll Call vote was made:

Louis Califano-	yea
Willard Bechter-	yea
Audra Ekstrom-	yea
Judith Igielski-	nay
Nicole Pane-	yea

Motion Passed. Application for variance was denied.

Judith Igielski made a motion to close to work session, second by Willard Bechter. All in Favor.

V. MINUTES OF PREVIOUS MEETINGS

Nicole Pane presented a number of changes to the Board that she suggested be made to the Aug. 4, 2016 minutes. The Board agreed that she would provide those minutes to staff and the changes would be made and ready for approval and the subsequent ZBA meeting.

VI. COMMUNICATIONS AND REPORTS

Staff explained that the Town Attorney, Ben Ancona was working on a presentation/workshop for the ZBA members regarding what legally constitutes a hardship and an all-around legal update of case law that as it pertains to the ZBA. When that presentation was completed it would be given to the members at a future ZBA meeting.

VII. NEW BUSINESS

NONE

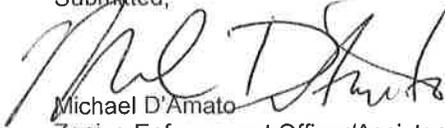
VIII. OLD BUSINESS

NONE

IX. ADJOURNMENT

Audra Ekstrom made a motion to adjourn, second by Nicole Pane. All in Favor. The meeting was adjourned at 7:24pm.

Submitted,



Michael D'Amato
Zoning Enforcement Officer/Assistant Town Planner

MINUTES ARE NOT OFFICIAL UNTIL APPROVED AT A SUBSEQUENT MEETING