



Zoning Board of Adjustment Meeting  
Monday, November 6, 2017 7:00 PM  
City Hall Council Chambers

## MINUTES

(Site visit to 84 Pleasant Street at 6:30 PM)

**Approved 12/4/2017**

### Call to Order by the Chair

Mr. Hurd called the meeting to order and asked for a roll call.

### I. Attendance/Roll Call

**Present & Participating:** Richard Collins, Michael Hurd, Carolyn Towle, James Petrin, Tracy Pope, Patrick Howe

**Absent:** Abigail Kier

**City Staff:** Mike McCrory, City Planner

### II. Minutes of Previous Meeting – October 2, 2017

**Motion:** To accept

**Made by:** Mr. Petrin **Second:** Mrs. Towle

**Vote:** Unanimous in favor

### III. Old Business

- A. (ZO 2017-00021) Berkess Carroll & Carla Prinn, 28 Barnes Street:** Application for a variance from Sect. 22-387 to permit a charitable game room at **84 Pleasant Street**. Tax Map: 120, Lot 98. Zoning District: MU (Cont. from 10/2/17)

Mr. Hurd appointed Mr. Howe to sit in for Mrs. Kier.

Mr. Hurd read the public notice. He then asked Mr. McCrory if he had anything to add to the record.

Mr. McCrory said that the Board had conducted a site visit to 84 Pleasant Street at 6:30 PM ahead of this meeting. He had nothing further to add.

Mr. Hurd asked the applicants if they had anything further to add. Mr. Carroll said he had nothing to add.

Mr. Hurd asked the Board if they had any questions for the applicant.

Mr. Hurd asked if there was anyone who wished to speak for or against the application. No one did.

The Board turned to its deliberations.

Mr. Hurd clarified that this application is for a use variance for a use that does not exist in the use table.

Mrs. Pope pointed out that the variance would not be necessary if the proposed use was an accessory to the restaurant next door.

There were no further comments or questions. Mr. Hurd closed the public hearing.

Mr. Hurd called for a motion on the application.

**Motion:** Approve the Application for a Variance from Section 22-387, Table of Uses in the Mixed-Use District, to permit a charitable game room at 84 Pleasant Street (Tax Map 120, Lot 98) with the following conditions:

1. The proposed use shall be in accordance with the information provided by the applicant in the Application for a Variance for ZBA Case No. ZO 2017-00021 and testimony during the public hearing for said case.
2. This variance shall be recorded in the chain of title.

**Discussion:** Mr. Hurd said this will be a benefit to the public because it is going to donate back to different causes in the community. He said it won't affect anybody's taxes or City services and it is a reasonable use of the property. He said the public will benefit more than the applicant. Mrs. Towle said granting the variance would correct a previous wrong and create a paper trail.

**Made by:** Mr. Howe                      **Second:** Mr. Petrin

**Vote:** Unanimous in favor

#### IV. New Business

- A. (ZO 2017-00022) James & Ellen Feleen, 203 Mulberry Street:** Application for variances to permit construction of an addition to the garage within the front setbacks at **203 Mulberry Street.** Tax Map 143, Lot 33. Zone: R1

Mr. Hurd read the public notice. He asked Mrs. Pope to sit in for Mrs. Kier for this application.

Mr. Hurd asked Mr. Feleen if he had any problems with anyone that was sitting on the board. Mr. Feleen said no.

Mr. McCrory read the abutters roll.

Mr. Hurd asked why the variance was for Mulberry when it appeared to be an issue on Wolcott. Mr. McCrory said this is a unique property in that it has three front yards.

Front yards are those that face a street. There are only front yard setbacks to deal with in this application.

The applicant wishes to expand the existing garage. There is space in the northerly portion of the lot (that wouldn't require a variance), but this is not the applicant's preferred location as it is their yard/garden area. Also, the applicant would like to keep the garage where the existing driveway is.

Mr. McCrory said he has found a fair number of nonconforming structures such as this one in the R1 zoning district. At present, a variance is the only remedy for these structures and lots.

Mr. McCrory took the description of the proposal as best he could and also the description of where Mr. Feleen determined the boundary line to be and made a scaled sketch that he handed out to the Board. The best evidence Mr. Feleen could find was a monument on the other side of the road; he then measured the width of the road and approximated the boundary along Wolcott along the westerly side of the property. A surveyor was not consulted. He did however pass it along to the DPW. DPW has a concern about snow being plowed up against the building. The Director said he was concerned about the proposed building blocking site distances around the Wolcott corner.

Mr. Hurd expressed concern about the accuracy of the property lines and distances shown on the plan.

Mrs. Pope asked when the R1 setbacks had changed. Mr. McCrory said they have not changed since zoning was adopted in 1978.

Mrs. Pope said that if the yard where Mr. Feleen wanted to expand his garage was considered a side yard instead of a front yard, then Mr. Feleen could build his addition without a variance (it would be 1 ft. shorter than proposed). Mr. McCrory said he would disagree with that idea.

There were no other questions for Mr. McCrory.

Mr. Hurd invited Mr. Feleen to present his application.

Mr. Feleen said he was pretty confident about his measurements because there is a surveyed lot across the street. He found a surveyor's pin from which to measure. According to DPW records, Wolcott is a 25-ft. road. On the opposite side on Wolcott on both sides of his house there used to be a sidewalk. That was in the right of way. It is assumed that the centerline of the asphalt is the centerline of the right of way. It is assumed that Wolcott was not moved because there had been a sidewalk on other side. That turned out to be consistent with the measurements coming back from behind Mr. Feleen's neighbor's house. He said he was confident that the white line shown on the aerial photo (from the GIS) is not correct. The line is about a foot off the asphalt. He said he thought the southerly boundary line is on the edge of the asphalt.

With regard to the snow removal, the place where the corner would be on the westerly side of the proposed addition would be out of the area where he has ever had street snow go to. The plows are smaller and slower-moving and they don't throw the snow as far.

Mr. Feleen showed Mr. Howe where the addition would be located on a photo of his property that was included in the packet.

Mr. Hurd said there was no description of the proposed garage in the packet. Mr. Feleen said he hasn't designed it yet, but that it would just be a continuation of what's there now. He wants to add a second bay plus a bit more for storage. The roof would pitch slightly from south to north. He said he may have to raise the roof a bit higher to meet current building code, but it would still be the same style as what's there now.

The westerly wall of the new garage would be halfway across the grassed area shown on the photo in the staff report.

Mr. Feleen included a copy of the plan showing the layout of the lots along Wolcott Street from 1922. The plan shows the lengths of the property boundaries, but Mr. Feleen said it would not be fair to call the plan a survey. He has not had his property surveyed. He has owned the property since 1986. He is only the second owner of the property.

No one seemed to think there would be interference with site distances by the addition.

The Board was concerned with the lack of certainty on the location of the property lines and felt a survey was needed.

**Motion:** To continue this to next month and give the applicant a chance to talk with Mike about how he wants to move forward, with the understanding that the Board would like to see the property line for the side of the house that's in question.

**Made by:** Mrs. Pope      **Second:** Mr. Collins

**Discussion:** Mr. Hurd said he would like clarification of the Wolcott boundary lines.

**Vote:** Unanimous in favor

- B. (ZO 2017-00023) Thomas Hutchins, 2 Stewart Avenue:** Application for a variance to permit construction of a garage within the front setback at **2 Stewart Avenue**. Tax Map 159, Lot 10. Zone: RR

Mr. Hurd read the public notice.

Mrs. Towle said she had to recuse herself from this hearing as she is an abutter.

Mr. Hurd appointed Mr. Howe to sit in for Mrs. Towle.

Mr. McCrory read the abutters roll.

Mr. McCrory said the applicant would like to put up a pre-fab garage at the end of his driveway. The lot is in the Rural Residential district. The neighborhood was once a mobile home park that became a subdivision – thus it has a lot of smaller (nonconforming) lots. The minimum lot size in the RR zone is one acre. The subject property is about a half an acre. It is also a corner lot. The front setback is 50 feet. The garage would be in the setback to Case Hill Road. The applicant submitted a drawing of where the building would be located. The only location out of the setback would be in the back of the house on top of the leach field, which isn't really feasible. Putting the garage in front of the house would decimate the front yard. The chosen location seems the most logical one.

If Case Hill Road was not there – if it was just another property line - there would not be any setback issues.

Mr. McCrory said he believed Case Hill Road has a 3-rod right-of-way.

It appears that the neighbor on the north side of the subject property (lot 159-11) has a garage that is very close to the subject property side lot line.

The property line along Case Hill Road is tree-lined, so snow plowing would not be an issue.

Mr. Hutchins said he drew the lot lines on his site sketch based on the original deed description which is based on the stone wall that was there (remnants of which remain on the property). Everything lines up.

Again, the Board said they needed more exact information on the location of the property lines. Mr. Hurd insisted that there has to be a pin. Mr. Hutchins said he searched diligently and couldn't find one. There was much discussion about the Board requiring surveys to accurately portray boundary lines in variance applications.

Mrs. Towle said she would like to see an actual building plan for the garage. She also said she didn't understand what "house, shed, and deck" meant as written on the application under "Proposed % of Lot Coverage". Mr. Hutchins explained that he simply added the total square footages of his shed and his two entryways and added them to the square footage of his house.

Mr. Hutchins said the garage will have a standard roof and will sit on stone – it won't require any substructure.

Mr. McCrory suggested checking with DPW for their layout plans for Stewart Avenue and Case Hill Road. There is also a layout plan for the subdivision from the early 70 on file at the Planning and Development Department.

**Motion:** That we wait for DPW – see if DPW can give us a better idea where the corner of the property is – that we wait – that we continue this and get from DPW and see if we can determine the dimensions of what they really are

**Made by:** Mr. Hurd      **Second:** Mr. Howe

**Vote:** Unanimous in favor

**V. Communications**

**VI. Other Business**

**VII. Adjournment**

**Motion:** To adjourn the meeting

**Made by:** Mrs. Pope **Second:** Mr. Petrin

**Vote:** Unanimous in favor

Respectfully submitted,  
*deForest Bearse*