

Zoning Board of Appeals
City of Cortland
Monday, February 8, 2016

A regular meeting of the Zoning Board of Appeals was held on Monday, February 8, 2016 at 5:00 PM in the Mayor’s Conference Room at City Hall.

Present: Chair David Funk, Commissioners Dave Dovi, Juliene Ray, Phyllis McGinley, Scott Steve, and Beau Harbin

Staff: Zoning Officer Bob Rhea; Deputy Chief William Knickerbocker, Secretary Devon Rainbow

The meeting was called to order at 5:00 pm

Item #1 – 21 Reynolds Ave (DelVecchio) – Interpretation – (R2)

- Interpretation of ZEO’s request for an Area Variance.

John DelVecchio (Attorney for DelVecchio Properties) explained that on December 10, 2015, ZEO Bob Rhea determined that 21 Reynolds Ave can only be used as a Single Family residence due to the property lot width not meeting the minimum 75 feet requirement. The lot width is only 57 feet. The square footage is less than what is required. Mr. DelVecchio asked the board to ignore the first ground for appeal in his letter and just address the second one. Mr. DelVecchio refers to **§ 300-120** of the current code. The lot was always nonconforming and always been used as two-family residence. He also referred to the law passed in 1977 with **§ 17-191A** of the City Zoning Ordinance, “all lots existing prior to the adoption of this chapter which do not meet the lot size and width requirements of this chapter shall be considered conforming for the purposes of this chapter. “ Therefor, the lot width has always made this property a pre-existing non-conforming lot. Use and Lot/Structure are two different things. You cannot strip a property’s preexisting nonconforming structure/lot. You cannot apply the grandfathering argument to a preexisting nonconforming structure/lot. If an area variance is requested the property owner has the right to challenge the decision in Supreme Court.

Bob Rhea explained that an Area Variance is needed for use as a two-family residence where the lot area is only 7,300 Sq. Ft. and 7,500 feet is required **§ 300-14 A.**, lot is only 57 feet wide and 75 feet is required **§ 300-14 B.** and front yard setback on Stewart Place is only 7 feet and 25 feet is required. **§ 300-14 C. (2)** Loss of grandfathered status can occur in three ways, involuntary interruption of one year. **§ 300-125**, Voluntary abandonment of six months. **§ 300-126**, Change from a nonconforming use. **§ 300-127**. He has been in contact with Corporation Counsel and with the Department of State regarding this and they agree with his interpretation. When someone leaves a house and does not intend to come back, it becomes vacant and the fire department marks it as a vacant building. There have been 2 other cases recently like this case where the properties lost the current status. The law in 1977 was rewritten and replaced with a new one.

Commissioner Funk explained that the sections that Bob Rhea referred to in the Code references uses not lots/structures. A nonconforming Lot/Structure cannot lose its grandfather status only a use can. Our ordinance overrides the state because it's more specific. Since the lot size never changed, it became conforming. He was in contact with someone from the Department of State that agrees with Mr. DelVecchio's argument. Commissioner Funk explained that it is a long process to change the laws/ordinances.

Commissioner Dovi suggest that maybe the board try to get in touch with Corporation Counsel because of confusion on how the Code is being interpreted.

Commissioner Harbin states that this property has been vacant for 4 years and has lost its nonconforming use.

A motion was made by Comm. Steve to table the item until the next meeting and seconded by Comm. Harbin.

Approve: Ayes – 5
 Nays – 0

Jim Reeners spoke regarding the interpretation. He stated that the decision could effect a lot more in the City. Anything that has to do with use would be in question. The terminology is not clear in the City code. The 3 unrelated and nonconforming lots would be questioned and there would be a rippled effect. This needs to be cleared up, when do the new laws override the old ones? The zoning laws need to be rewritten and made clear. There should be a separate section on preexisting lots.

Due to Christine Place's term ending, a new Vice Chair was voted on.

A motion was made to elect Scott Steve as Vice Chair by Commissioner Funk and was seconded by Commissioner Dovi.

Approved: Ayes – 5
 Apposed – 1 (Scott Steve)

Minutes

Approval of January 11, 2016 minutes as amended, motion by Comm. Steve and seconded by Comm. Harbin

Approved: Ayes – 5
 Nays – 0

New/Old Business

Bob Rhea stated that the map regarding 8 and 10 Snyder Drive has been corrected.

Adjournment

On the motion of Comm. McGinley and Seconded by Comm. Ray, voted and carried to adjourn meeting.

Approved: Ayes – 5
 Nays – 0

**I, DAVID FUNK, MEMBER OF THE ZONING BOARD OF APPEALS FOR THE CITY OF CORTLAND, NY, DO
HEREBY CERTIFY THAT SAID RESOLUTIONS WERE ADOPTED AT A MEETING OF THE ZONING BOARD OF
APPEALS OF THE CITY OF CORTLAND, HELD ON THE 8th DAY OF FEBRUARY IN THE YEAR 2016.**

DAVID FUNK, ZBA MEMBER