

Town of Chester, Connecticut
Regular Meeting
Zoning Board of Appeals
Monday, May 21, 2018
Chester Town Hall
203 Middlesex Ave.
Chester, Connecticut

CALL TO ORDER/SEATING OF MEMBERS

Chairman Borton called the meeting to order at 7:30 p.m. In attendance included Eric Anderson, Bob Blair, Alex Stein, John DeLaura, and approximately 25 audience members and Attorney Harris, representing the applicant, Attorney Kraveske, representing a coalition of neighbors, and Attorney Rutkowska representing the CZO.

APPROVAL OF MINUTES

Motion by Stein, second by Blair, to approve the November 20, 2017 minutes as written. Approved with DeLaura and Anderson abstaining.

OLD BUSINESS – None.

NEW BUSINESS

- (1) Robert A. Landino (applicant and owner) appealing a Decision of the Zoning Compliance Officer issuing a Cease & Desist Order for illegal use of a single family dwelling as a transient short-term rental property, at 18 E. Liberty Street, Chester, CT (Map 14, Lot 1, Zone R1).

Mr. Borton reported that legal notice of this evening's meeting was published on 5/7/18. A request was received from the applicant to open the application and move to continue the item at the June ZBA meeting.

Attorney Harris, representing the applicant, reported that the continuance was requested since P&Z may be changing the regulations that would allow the intended use of the 18 E. Liberty Street property. Attorney Rutkowska clarified that the ZCO did not request the continuance but does not oppose it. Attorney Harris also reported that Mr. Landino, who was unavailable this evening, would like the opportunity to address the ZBA.

After extensive discussion, ZBA members agreed that they would take comments from all parties in attendance at this evening's meeting.

ATTORNEY COMMENTS

Attorney Kraveske, representing neighboring property owners (Exhibit D - Clients – Lois and Martin Nadel, Karli and Paul Spinella, Joel Severance, Margaret Breslin, Carol, Connor and Finn Riordan, Christine Palm, James Baker, Lee Foster, Mahady Makrianes, Sean Hart) opposed the request for a continuance to the June ZBA meeting.

He explained the process and appeal timeline. Attorney Kraveske reported that the property is currently in violation and has been issued a Cease & Desist (C&D) order by the ZCO. The applicant has had ample

time to address the C&D and the neighbors wish to provide comments to the ZBA relative to the C&D order. Said neighbors experience safety issues, excessive traffic, noise, decline in property values and trespassing on their property. Also, there is no manager on site at the property and the property is not owner occupied. Attorney Krayeske reported that the various websites advertise short term rentals, a commercial activity, of 18 E. Liberty Street. The Air BnB website contains a copy of the rental agreement and states that the property “shall be only and exclusively for the purpose of a transient short-term/vacation rental”.

Attorney Harris, reported that the appeal of the C&D order is based on an assertion that short term rental of a single-family home is not permitted. He disputed that assertion and reported there is no case law in Connecticut regarding Air BnB. He continued that they have modified their leases to include a minimum of a one week rental. Their position is that under the current Chester regulations, they are legally renting as a single family property and not as transient.

Attorney Rutkowska, attorney for the ZCO, reported that despite the modifications to the lease, the position is still that the property is being used well beyond the customary single-family definition. The property is being used solely as a transient, commercial rental, less than 30 days. The applicant had an opportunity to comply and did not. In addition to transient use, the property has also been used for large special events, i.e. weddings, firework displays, large catering events with 75 to 100 people in attendance and as a movie set.

Attorney Krayeske provided photographs from last 4th of July showing approximately 45 cars at the property (Exhibit A), and a 2018 calendar indicating days rented (Exhibit B) and a timeline of events after the C&D order was issued, (Exhibit C). This evidence shows continual transient use.

Attorney Krayeske reported that the use of the property is in clear violation of the current Zoning regulations and he urged the ZBA to uphold the CZO’s C&D order.

AUDIENCE OF CITIZENS

Chairman Borton requested comments from audience members speaking in favor of the applicant. No comments were received.

Individuals not represented by Attorney Krayeske were given an opportunity to speak.

Rick Holloway, 110 Oakwood Trail - commented that ZBA should not be used to avoid compliance. The C&D order was very clear.

Marjory Warner, 64 Winthrop Rd. – expressed concern that Memorial Day is approaching and this property is clearly in violation. It is reasonable for neighbors to ask ZBA to enforce the C&D order immediately. The local airport and factory are better neighbors.

Ruth Mowry, 4 School Lane – expressed concern that there are regulations on the books that are not enforced. Property values will be diminished if nothing is enforced.

Pam Scargon – Cherry Hill (former New York resident) - thought landlord/tenant issues of this type would not be in Chester. Action is needed now.

Robert Bibbiani, 82 Middlesex Ave. – the C&D order should be enforced immediately. The request for a continuation in the event that there may be a remedy via P&Z is not reasonable. If C&D is not enforced, the applicant will continue to rent the property.

Individuals represented by Attorney Krayske were invited to speak and concerns/comments include:

- Unfamiliar cars in driveways during all hours (including overnight)
- Excessive noise (boom box)
- No responsible party on site for complaints, etc.
- Property not being used as a single family home
- Large parties and events at property
- Excessive use of alcohol
- Unsupervised, unpermitted use of fireworks – fear of injury and fire hazard (antique home) – (Exhibit E – photo of antique home and letter from homeowner)
- Concerns regarding the lack of enforcement of current regulations – law abiding residents are being ignored
- Traffic and safety concerns related to same; potential for the risk to pets
- Strangers in the neighborhood
- Public Safety concerns due to the volume of cars and traffic; including accessibility to the neighborhood for emergency vehicles
- Septic issues with the amount of individuals using the property
- Declining property values
- Inability of neighbors to feel safe and secure in their homes

Chairman Borton closed the Audience of Citizens.

The meeting recessed at 9:02 p.m.

The meeting resumed at 9:07 p.m.

ZBA members again entertained comments from all attorneys.

Attorney Harris submitted documentation relative to cases heard in the State of New York (Exhibits I and J). He offered a definition of “family” and requested that the application be continued to the June ZBA meeting.

Attorney Rutkowska reported that the definition of “family” is broad; however, the crux of this case is the transient use of the property. This property is clearly being used as a transient property; the owner never resides in this home and at no time is this property being used as a single family use. The current way this property is being used is prohibited in the current regulations.

Attorney Krayske reported that the applicant has requested a continuance because he was unable to be present at this meeting to provide testimony. Attorney Krayske questioned what testimony Mr. Landino could provide since he is never at the site to observe what goes on at the property. He continued that this is a continuing violation, does not meet the use or Zoning regulations and the C&D order should be upheld.

Mr. Borton made a motion to close public hearing at 9:21 p.m. Mr. DeLaura seconded the motion. The motion passed unanimously.

The ZBA deliberated on the application and comments/evidence received from all attorneys and audience members.

ZBA members agreed that the 18 E. Liberty Street property is currently being used commercially as a transient rental property, not a single family home.

Regular session resumed at 9:26 p.m.

Motion by DeLaura, second by Anderson, to uphold the ZCO's Cease & Desist order, effective immediately, based on evidence presented by Attorney Krayeske, Attorney Rutkowska, Attorney Harris and area residents, issued to Robert A. Landino (applicant and owner) for illegal use of a single family dwelling as a transient short-term rental property at 18 E. Liberty Street, Chester, CT (Map 14, Lot 1, Zone R1). Unanimously approved.

Motion by Borton, second by Blair, to adjourn at 9:29 PM. Unanimously Approved.

Respectfully Submitted,

Suzanne Helchowski
Recording Secretary