

MANSFIELD ZONING BOARD OF APPEALS – REGULAR MEETING
MINUTES
MARCH 13, 2013

Chairman Accorsi called the meeting to order at 7:00 p.m. in the Council Chamber of the Audrey P. Beck Municipal Building.

Present: Members – Accorsi, Gotch, Hammer, Katz, Welch

Alternates – Aho, Brosseau, Clauson

APPOINTMENT OF PAUL W. AHO AS ZBA ALTERNATE

Paul W. Aho was sworn in as ZBA Alternate.

H-K PROPERTIES LLC – 7:00 P.M.

Atty. Michael Bonanno from Jacobs, Walker, Rice & Barry, LLC represented H-K Properties LLC.

They are appealing the Zoning Agent's issuance of a Certificate of Compliance for Michael's Arts & Crafts Store located on property owned by East Brook F, LLC, East Brook T, LLC and East Brook WF, LLC. The certificate was issued on January 11, 2013 as was authorized at the January 7, 2013 Planning & Zoning meeting. The PZC did not accept comments or objections on behalf of his client who was in attendance at this meeting because they said it was not a public hearing.

In February of 2012, the property owners were granted a Special Permit that allowed them to construct an approximately 14,500 square foot building. No notice of application was sent to his client and they are aggrieved not only as abutters but because they have easement rights that are threatened by the construction. They appealed that Special Permit in October of 2012. In November of 2012, at a temporary injunction hearing, the judge denied the temporary injunction but the owners agreed that they would not claim any prejudice if they were forced to take down or deconstruct anything that was constructed from that point forward. Atty. Weinstein is handling this appeal in Superior Court. They feel it would have been more prudent for the town to await the outcome of the court case before issuing a Certificate of Compliance.

Atty. James Connor from Updike, Kelly & Spellacy, PC, representing Eastbrook Mall, submitted letter regarding owners' objection and motion to dismiss appeal of H-K Properties LLC, dated March 13, 2013. He claims the grounds for the appeal were not listed on the document served on clerk of the commission and the zoning agent and that the appeal was not made within the 30 day time limit, although H-K Properties LLC was well aware the construction was taking place. It is his understanding that the agreement at the injunction hearing referred to the retaining wall only.

Atty. Connor submitted letter of July 24, 2012 from Atty. Leonard Jacobs, to the Town of Mansfield objecting to the failure of notice and a copy of the 1984 deed containing the easement.

Mr. Curt Hirsch, Zoning Agent for the Town of Mansfield, claimed that he acted on the authority of the Planning & Zoning Commission and that no zoning regulation was violated.

Katz moved to end the public hearing and go into a business meeting, seconded by Welch.

BUSINESS MEETING

Welch moved to approve the application of H-K Properties LLC claiming Zoning Agent Error in the issuance of a Certificate of Compliance for Michael's, at 95 Storrs Rd, per Art XI, Sec G.1.a, as shown on submitted plan.

In favor of opposing application: Accorsi, Gotch, Hammer, Katz, Welch

Reasons for voting in opposition to application:

- Litigation has nothing to do with application
- No error was committed by zoning agent in issuing certificate of compliance

Application was denied.

APPROVAL OF MINUTES FROM JANUARY 9, 2013

Katz moved to approve the minutes of January 9, 2013 as presented, seconded by Hammer. All in favor.

ADJOURNMENT

Meeting was adjourned at 8:10 P.M.

Respectfully Submitted,

Richard Brosseau, Secretary