

**ZONING BOARD OF APPEALS**  
**WINDHAM, CT**

**MINUTES**

**July 3, 2008**

The Zoning Board of Appeals held its meeting on July 3, 2008 in the Meeting Room Town Hall. Chairman Bob Coutu called the meeting to order at 7:02 P.M. Members present were Jerry Hart, Susan Fiegel-Rapp, Bob Coutu, Al Beaulieu, Jose Cruz and Steven Edelman. Also present was Town Planner James Finger.

**1) Public Hearing – Gina DeVivo-Brasser, 194 South Park Street, Willimantic** – Special Exception to establish an in-law dwelling in the accessory building adjacent to house.

Planner James Finger's staff report dated June 27, 2008 explained that the accessory building had been established more than fifty years ago and had been used as a barbershop by a previous owner. He said staff has no objection to granting the request provided that the owner keeps the lots together for the property as a single family dwelling with the in-law apartment, unless the Board approves something different.

Mr. Brasser explained that the building in question is the old barber shop located at 198 South Park Street with the little grocery store right next to it. He said when they purchased the house; the barbershop came with it. It is considered one property because the utilities are all joined through the basement. It is considered one unit even though they are separated above ground. He said we plan to live in the house and turn the barbershop into a 1-bedroom in-law apartment for my parents. There is sufficient parking; 8 parking spaces behind the old barber shop, he added. Al Beaulieu asked if the driveway shown on the plan is the driveway that the applicant will use to get to his house. Mr. Brasser said he shares the driveway with the landlord next door. Jerry Hart inquired about a hardship. Planner Finger said this is a request for a special use so it doesn't require a hardship. The board is authorized to approve special uses of this type, he added. It sounds as though it was a commercial use at one time, said Hart. Yes, it was a barbershop, said Brasser, but the property was abandoned for more than a year. He said he had a hard time getting a mortgage because the property was listed on the Assessor's records as a commercial property. Planner Finger said he had to write a letter explaining the history of the property and Mr. Brasser finally got the mortgage.

Steven Edelman said we are dealing with an abandonment of a non-conforming pre-existing commercial use. Planner Finger said it is not exactly an abandonment of the commercial use so much as a default situation. The previous owner

defaulted on the loan and the bank was stuck with it. They want to unload it. They don't care about the condition of the property and they do not plan on fixing it, he said. The property was in a deteriorated state until Mr. Brassier bought it. He added that as a result of this application Mr. Brassier is intentionally abandoning the non-conforming commercial use of the property. Mr. Edelman asked what if he wants to change it back to a commercial use, will he have to come back to the board. Planner Finger explained that when the owner occupies the building he could operate a home occupation, like a barbershop because that use is specifically listed among permitted home occupation uses. This is a unique case because it was already established as a barbershop, so I would have no problem signing off on them opening up a barbershop, because it wasn't that long ago that it was a barbershop. A previous owner had a nail shop there. But, if he were to create a new building, a separate building, then it might require ZBA approval. Mr. Edelman said the opportunity does exist that he could open a barbershop as a home occupation. Would a video store also fall under that category, asked Edelman? Planner Finger said it would not. That use would generate more traffic than a home occupation would be allowed to have. He would have to go before the Zoning Commission and seek their approval for a video store, he added. He could establish a new home occupation as long as it didn't generate a lot of traffic. Susan Fiegel-Rapp asked if the property is sold could the in-law apartment be converted to a regular rental apartment. Planner Finger said only if they came back to this board and got permission. As part of the process, assuming the board is favorable inclined the Chairman has to sign a Notice of Action which stipulates what has been approved, specifically the in-law apartment. You could add further conditions that it shall be restricted to an in-law apartment until such time that they want to change it, and then they would have to come back to the board for approval for another use. Mr. Brassier asked, if my parents don't come out for several years, could we rent it out to another family member. Planner Finger said yes.

As there was no one in the audience to speak for or against the request and since there were no other questions or comments from board members, the public hearing was closed. Al Beaulieu made a motion to approve the Special Exception to establish an in-law apartment at 194 South Park Street in the accessory building adjacent to the house with the following conditions: 1) the owner is restricted to keep the lots together for the property as a single family dwelling with the in-law apartment, 2) the in-law apartment shall be restricted to an in-law apartment until such time that they want to change it then they would have to come back to the board for approval of another use. Susan Fiegel-Rapp seconded the motion. Planner Finger said since the accessory building had been established more than 50 years ago, and had been used as a barbershop by a previous owner, staff has no objections to granting the request with the above listed conditions of approval. The motion carried unanimously.

## 2) Routine Business

- a) The minutes of June 5, 2008 were approved. Motion by Al Beaulieu and seconded by Jerry Hart. Voting in favor of the motion were Beaulieu, Fiegel-Rapp, Hart, Edelman. Abstained: Bob Coutu and Jose Cruz. So voted.
- b) The secretary read into the record a letter from the DMV regarding the procedure for signing off on DMV applications.

As there was no other business to come before the board the meeting was adjourned at 7:30 P.M. Motion by Beaulieu and seconded by Fiegel-Rapp. So voted.

Respectfully submitted,

Lillian Murray, Clerk