

ZONING BOARD OF APPEALS
WINDHAM, CT

MINUTES

March 4, 2010

The Windham Zoning Board of Appeals held its meeting on March 4, 2010 in the Meeting Room, Town Hall. Chairman Robert Coutu called the meeting to order at 7:05 P.M. Members present were Jose Cruz, Joseph Beaulieu, Robert Coutu, Andrew Gibson, Robert Wolf and Maryann Daley. Voting members are: Jose Cruz, Joseph Beaulieu, Robert Coutu, Robert Wolf and Andrew Gibson. Also present was Code Enforcement Officer Matthew Vertefeuille.

I) New Business

a) Public Hearing – Alfonso Garcia – Daniel Villar for property located at 124-136 Ives Street – seeking a Special Exception for a waiver of the separation requirements of Section 73.1.1 in order to serve liquor in a café within 500 feet of a religious institution used for worship services.

Planner Finger' staff report dated February 25, 2010 explained that the applicants wish to serve liquor in the former Polish Club located at 134-136 Ives Street, Willimantic. This location does not meet the 500-foot separation requirement from a religious institution used for worship services, said Finger. There are two religious institutions: St. Joseph's Church on Jackson Street and another church located on Dunham Street.

Finger said the previous liquor permit expired, and then the zoning permit expired after the abandonment or discontinuance 90 days in accordance with Section 73.4. The Willimantic Police Department will provide additional information for the Board's consideration.

Mr. Alfonso Garcia said he sent certified notices of the public hearing to abutting neighbors and agreed to submit copies to the Planning Office. He said he and his partner would like to operate a café business in this location (former Pulaski Club) and if all goes well tonight he will apply for a liquor license.

Chairman Coutu said the former operator, Jose Aponte, had a liquor license, but let it expire and the business has been closed over a year. Mr. Garcia said they have an agreement with him that if the Board approves the Special Exception we will lease, with intent to buy, the premises from him.

Code Enforcement Officer Matthew Vertefeuille said he issued a Cease & Desist Order on November 16, 2009 to Mr. Aponte and Mr. Diaz because they were the title owners of the property. He said that action was based on an incident that happen at the property on Halloween night (October 31, 2009). My Cease & Desist Order was

to stop serving alcohol at that point because we discovered the liquor license had expired. According to the Liquor Commission it expired on November 6, 2008 and they were operating this club without a liquor permit a little over a year.

Mr. Garcia explained that at that time they did not have control of the club. Board member Al Beaulieu asked who was the property rented from for the Halloween party. Mr. Garcia said it was Mr. Aponte. Al Beaulieu said there are two churches located in close proximity to the club; one at the bottom of the hill and St. Joseph's Church up the street. They are both within 500 feet. He said because the liquor license expired they will have to apply for a new liquor license.

Matt Vertefeuille explained that they are here tonight applying for a Special Exception on the distance requirement. They must be 500' away from a house of worship. If that passes they can go forward with a Zoning Commission Special Permit for the sale of alcohol. They need the Special Exception because the property is within 500 feet of the two churches. Board member Robert Wolf asked Mr. Garcia why it would be okay, in his opinion, to have the club there despite the fact that it is within 500 feet of a religious institution. What is it about this situation that the 500-foot rule can be ignored, he asked. Mr. Garcia said it is a rule of the town. All we want to do is to continue running the club, he said.

Chairman Coutu asked: have you ever operated this club? Mr. Garcia said no he has not. Mr. Aponte owned the club. We wish to take a lease with option to buy. Mr. Aponte was supposed to be here tonight to better explain the circumstances. We see this as a good opportunity. It will provide taxes for the town etc. Chairman Coutu asked if they plan to operate the Club (City Frog Cafe) as a private enterprise. Is it a club for members only, or will it be open to the public. Mr. Garcia it would be open to the public. There is a bar on the lower floor and the upper floor would be a rental hall.

Al Beaulieu referred to Section 73.4 which states that any event or use of the building, or portion thereof, for the sale of alcohol beverages (when a Special Permit has been granted) is abandoned or discontinued for a period of 90 days, (it is well over the 90 days) the Special Permit shall be terminated, and the sale of alcoholic beverages prohibited as though a Special Permit had never been granted. Matt Vertefeuille said that is what his Cease & Desist Order was based on. The application for the Special Exception is in the name Alfonzo Garcia and Daniel Villar.

Daniel Villar said when Mr. Garcia and I took this over we tried to operate it as a club and bar. We want to lease the property with an option to buy. The party and trouble on Halloween had nothing to do with him. He did not give permission to anyone for the party. Another group made the party. The only thing we want to do is to operate the club like it used to be. Al Beaulieu asked when the party was stopped who was the property owner. Was it leased from Mr. Aponte at that time? Matt Vertefeuille said to the best of his knowledge they leased it from Mr. Aponte. He added that one of the two people arrested in connection with that incident (sale of liquor without a

permit) was Juan Villar. Mr. Garcia said they had nothing to do with that party and he never gave permission for the party.

Jose Aponte, who is the owner of record of the property, said they are asking to use the property as we did before. They want to operate it as a liquor permit location. Board member Robert Wolf asked, why should we ignore the 500-foot distance requirement? Mr. Aponte said the Polish Club was there before the Church and they sold liquor for years. Mr. Wolf said when the liquor license expired that grandfather part goes away and you have to start from square one. Now you have to consider the regulations. Mr. Aponte said they are aware of that. Board member Al Beaulieu said when the Polish Club was there and had the liquor license; we did not have the present regulations in force. We now have to consider these regulations, he added.

Chairman Coutu asked why the liquor license was allowed to expire. Mr. Aponte said he was running other businesses and decided not to continue operating this one because it was too much work for him. They came with the option to lease the building with intention to buy, he said. It has been closed for more than one year. Matt Vertefeulle said the building was closed (approximately one year) before the Cease & Desist Order was issued.

Chairman Coutu asked who owned the building at the time of the party. Mr. Aponte said he was the owner of the building, but he was not aware of the party. That was done without my permission, he said.

Audience comments:

- 1) Ms. Rodriguez, Treasurer of the Church located at 10 Dunham Street, said she was speaking on behalf of the Church. She said the Church is against the idea of having alcohol served right behind them. This defeats the purpose of what we are trying to accomplish. We have young people in the Church and we are opposed to the sale of alcohol especially with the incident that happened. She said they had cans of alcohol strewn over their parking lot. Al Beaulieu asked when the Church has services. She said they have religious services every day and a bible study on Mondays and Wednesdays. Saturday is the only day we do not have services, but we are there doing work in the Church. Chairman Coutu asked about the time of services. Ms. Rodriguez said services in the evening are from 7 PM to 10:00 PM or 11:00 PM. There was a large group from the Church in the audience, but did not make any comments.
- 2) Lisa Marie Bolduc, the Police Chief from the Willimantic Police Dept. said she is not going to speak in favor of this permit. Based on the history we have had with the location, it is not favorable for the neighborhood. She said there are church groups that are trying to turn that neighborhood around and this is not the mix that you need when you are trying to turn the neighborhood around. Historically we have had stabbings, parking lot fights, disruptive incidents, and people using the location without a permit. The Police Dept. does not support this permit. If they are able to acquire a liquor permit, we would require them to have police presence at functions especially when you are talking about college students. We were not

aware they were having this particular incident. We are not in favor of it. I give the Churches credit for showing up because they are making an effort to turn the neighborhood around.

- 3) Ismal Prigo, a member of the Church said we are trying to make the community a safer place. The area has been a drug infested area. There have been fights. The police have a hard time to control the drug dealers. There are plenty of bars in this town. We don't need anymore.

Mr. Garcia said mistakes have been made in the past. We will try to run a club with as much security as possible. Jose Cruz asked when the club will be open. Mr. Garcia said the café would be open 5-6 days a week.

As there were no other comments Al Beaulieu made a motion to close the public hearing and Robert Wolf seconded the motion. The motion carried unanimously.

Al Beaulieu made a motion to approve a Special Exception from Section 73.1.1 for property at 134-136 Ives Street seeking a waiver of the separation requirement in order to serve liquor in a café within 500 feet of a religious institution used for worship services. Robert Wolf seconded the motion. Discussion on the motion: Mr. Wolf said he looked for a reason to give an exception to the 500 foot rule, but I didn't hear anything to convince me. The past doesn't matter since the license has expired and there is community opposition to renewing the license. He added that he is prepared to vote against the Special Exception. Andrew Gibson said there was no justification given as to why the Special Exception should be granted. Al Beaulieu said he is not in favor of it. Voting on the motion: There were no votes in favor of the motion. The vote against the motion was unanimous. Special Exception was not granted.

2) Routine Business

a) Approval of Minutes

The minutes of January 7, 2010 were approved. Motion by Beaulieu and seconded by Wolf. Voting in favor were Beaulieu, Wolf, Gibson and Cruz. Bob Coutu abstained, as he was not present at the meeting.

As there was no further business, the meeting was adjourned at 7:45 P.M. Motion by Beaulieu and seconded by Wolf. So voted.

Respectfully submitted,

Lillian Murray, Clerk