

HOUSING CODE BOARD OF APPEALS
REGULAR MEETING MINUTES
July 16, 2019
Town Hall – First Floor Conference Room
33 East Main Street, Portland, CT

Present: Amanda Herzog, Chairperson; Raymond Sajdak, Fire Marshal/Burning Official;
Russell Melmed, Director, Chatham Health District

Others Present: Lincoln White, Building Official; Richard Pleindas, Houston Mcinvale,
Attorney Barry Pontolillo, Attorney Joe Szerejko, Murtha Cullina LLP,

1. FIRST SELECTWOMAN CALL SPECIAL MEETING TO ORDER

Chairperson Amanda Herzog called the meeting to order at 6:06 p.m. in the First Floor Conference Room at the Town Hall, located at 33 East Main Street, Portland, Connecticut.

2. INTRODUCTION OF MEMBERS

The members introduced themselves.

3. APPEAL HEARING CONTINUED FROM JULY 9, 2019 SPECIAL MEETING:

144 Airline Avenue, Portland, CT Application and property of Houston Mcinvale. Assessor's Map 11 Lot 26.

Russell Melmed introduced discussion about the housing code and under what circumstances a variance should be granted. He asked if the town is liable if a variance is issued and an injury or death occurs. What obligation does the town have?

Attorney Joe Szerejko stated that, under certain circumstances, the town could be held liable. However, he noted, in cases where tenant sues a landlord, the person or party acting on behalf of the town is generally not held liable.

Lincoln White introduced discussion about the need for smoke alarms, sprinkler systems, illuminated hallways, etc. Mr. Melmed raised the question whether it was incumbent upon the HCBA to mandate the requirements before recommending a variance. Attorney Szerejko stated that the HCBA should determine the variance parameters.

Mr. Melmed stated that is it reasonable to require property owners to raise ceiling heights in order to comply with state building codes. Attorney Pontolillo noted that there is no retroactive effect of the building code. Mr. Melmed stated that the discussion was about the housing code rather than the building code and there was no specific language regarding retroactive effect.

Attorney Joe Szerejko stated that there would have to be a demonstrated hardship on the property owner in order to obtain the variance. Attorney Pontolillo stated that the hardship is there is no practical way to bring the building up to code.

Lincoln White asked what the variance language would be. Raymond Sajdak stated that, at a minimum, it would need interconnected fire alert system (e.g., hard-wired smoke detection). Each level must have a monitor and they must be interconnected.

Mr. Melmed suggested that a list of disclosures for the property be on file to inform the tenants. Attorney Pontolillo stated that it would be part of the lease agreement. Mr. Melmed stated that it needs to be easy for the tenant to access the information. Raymond Sajdak stated that the fire

alert system must be maintained by the landlord.

Mr. Melmed suggested that upon change of property ownership that terms of the variance must be complied by new owner. Notification of new ownership must be given prior to new owner taking possession of property.

Attorney Joe Szerejko reminded the group to keep in mind that it is a complaint-driven system so if tenant has a concern/complaint, that would trigger an inspection/investigation. Notice is required for withdrawal or modification.

Houston Mcinvale stated that he felt Lincoln White wanted the property for himself and was offered money by Mr. White for the property. Lincoln White disputed the assertion and asked that it be noted for the record.

4. APPROVAL OF JULY 9, 2019 SPECIAL MEETING MINUTES

Chairperson Herzog entertained a motion to approve the minutes from the July 9, 2019 special meeting. A motion to approve the minutes was made by Mr. Melmed, seconded by Raymond Sajdak. Vote unanimous, motion passed.

Chairperson Herzog asked if the owner would be able to include information/disclosures in the rental agreement addendum. Houston Mcinvale answered that he would.

Attorney Szerejko stated that a copy of written conditions is required and noted the property owner has the right to appeal.

Mr. Sajdak suggested that language regarding the to landlord's responsibility to maintain smoke alarms. should be included in the variance. Mr. Mcinvale stated that the tenant has the responsibility of keeping a battery in the smoke detector, noting that tenants sometimes remove the batteries for use elsewhere. He stated that he changes batteries and inspects to assure the interconnected alarm system is in working condition.

Mr. Melmed made a motion to add an agenda item for public comment. Second by Chairperson Herzog. Motion passed, No public comment.

5. DECISION ON THE APPEAL OF 144 AIRLINE AVENUE

Chairperson Herzog entertained a motion to to grant the variance to Mr. Meinvale, pending town attorney review of specific conditions and approval. Second by Mr. Sajdak. Motion passed.

6. SET MEETING DATES FOR CALENDAR YEAR 2019

In accordance with Portland Code of Ordinance Chapter 10, Article XI, Section 10-245: *"The board shall adopt rules for its procedure and meet every six months..."*

After discussion, it was decided that the meetings will be held as needed, but not less than every six months. Attorney Szerejko noted that proper/timely notice must be provided regarding meeting dates.

The next meeting will be Monday, July 29, at 6:00 p.m.

Subsequent meeting dates will be determined.

7. ADJOURNMENT

Chairperson Herzog entertained a motion to adjourn. A motion to adjourn the meeting was made by Russ, seconded by Ray. Vote unanimous. The meeting adjourned at 6:57 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jon D'Arpino". The signature is written in a cursive style with a large initial "J" and "D".

Jon D'Arpino, Board Clerk
July 18, 2019