

**VILLAGE OF MONROE
ZONING BOARD OF APPEALS
PUBLIC HEARING
December 13, 2022**

PRESENT: Members Zuckerman, Gilstrap, Margotta, Alternate Member Doherty, Board Attorney Naughton, and Assistant Building Inspector Proulx

Absent: Chairman Baum, Member Czerwinski

Deputy Chairman Zuckerman called the meeting to order at 8:10 pm with the Pledge of Allegiance.

Applications:

The continuation of the application of Ziad Abou El Ardat, for an area variance from the Table of District Use and Bulk Regulations, SR-20 Zoning District, to add a 15' two-story addition to a single-family house which will have less than the required minimum side yard setback of 20' (14.5' is proposed). The property which is the subject of action by the Board is located in SR-20 district and is identified as Section: 230 Block: 2 Lot: 3 on the Tax Map of the Village of Monroe and is known as 97 Fredrick Drive.

The applicant, Mr. El Ardat, was present. Deputy Chairman Zuckerman stated Mr. Ardat told the Board at the October 11, 2022 meeting that he was going to provide documentation and/or drawings. Mr. Ardat provided the documentation and it was distributed to the Board members.

Mr. Ardat stated when he started this project he didn't want to spend the money on an architect but as this is important to him and his family he has gotten an architects and has provided the documents to the Board.

Board Member Doherty stated we just found out that the fifth Board member, Member Czerwinski, will not be present tonight.

Deputy Chairman Zuckerman advised Mr. Ardat that there needs to be three positive votes to approve his request. Deputy Chairman Zuckerman further advised Mr. El Ardat that since there were only four Board members present, if the vote is split two-votes to two-votes, the vote will default to a negative vote. Deputy Chairman Zuckerman stated Mr. Ardat has the option to proceed or to come back in January and hopefully there will be a full board present. Mr. Ardat stated he would wait till January for the hearing to continue.

On a motion from Member Margotta and seconded by Member Gilstrap it was resolved: **to adjourn this application and public hearing till January 10, 2023.**

Aye – 4

Nay – 0

Absent: Chairman Baum and Member Czerwinski

129 Spring Street Apartments:

Deputy Chairman Zuckerman stated Chairman Baum was not present and Deputy Chairman Zuckerman was recusing himself from this application. This would leave only three voting members of the Board to vote on this matter. Deputy Chairman Zuckerman stated he would have to appoint an Acting Deputy Chairman. Deputy Chairman Zuckerman asked Planning Board Attorney Elizabeth Cassidy how she felt about this.

Elizabeth Cassidy, Attorney for the Planning Board, suggested opening the hearing so the Board can hear what will be presented and the Board can make comments but hold the hearing opened till January 10, 2023 when the Board will vote.

Deputy Chairman Zuckerman stated that Attorney Daniel Richmond, who represents Lipa Deutsch, a facilitator, for 129 Spring Street, was present and wanted to move to adjourn the hearing. Mr. Richmond stated Mr. Deutsch is not the owner of the property and has not been in contact with the owner. Mr. Richmond stated that the owner of the property has not been properly notified. Mr. Richmond stated that neither Mr. Deutsch or himself can stand in for or take service for the owner of the property. Therefore, the hearing should be adjourned until the owner has been properly notified, so the owner's rights are not infringed upon.

Deputy Chairman Zuckerman asked Mr. Richmond to wait till an Acting Deputy Chairman was appointed before getting into any facts of the application. Deputy Chairman Zuckerman appointed Member Gilstrap to be Acting Deputy Chairman for this application.

Acting Deputy Chairman Gilstrap asked Mr. Richmond for a copy of the statement he just read. He stated the Board would feel a lot better about this matter if the owner was present. Acting Deputy Chairman Gilstrap asked Planning Board Attorney Cassidy if the owner has been notified. Ms. Cassidy stated every attempt was made to notify the owner. Acting Deputy Chairman Gilstrap stated he thought this item should be adjourned until January as he is hopeful by then the owner would be given the opportunity to attend the meeting.

Member Margotta stated this item can be re-noticed as the item has not been heard yet. This will allow more time for the owner to be notified.

Acting Deputy Chairman Gilstrap asked Ms. Cassidy if she wanted to make a statement about why the Board should be hearing this item tonight.

Ms. Cassidy stated this project went before the Planning Board as a different entity. The original owner and the original owners attorney were notified using the contact information and addresses that the Planning Board had on file. During that process of notifying the owner, we found out that the project had been sold to a different LLC. The new owners LLC is called Spring Hill Apartments. The Planning Board made every effort to identify the LLC of record. That included going into the assessment records as well as Orange County land records. The Planning Board mailed all correspondence to the prior owner as well as the present owner. Also, in addition to that, the notice for tonight's meeting as required by law, was sent to the address for Spring Hill Apartment LLC and the attorney on file with the Department of State

for process. In addition, when the Planning Board learned Mr. Deutsch was associated with the project, the Board provided him with the notice of this hearing as well as correspondence that was previously circulated in regards to this matter, so he was aware of this action. Ms. Cassidy stated she cannot physically make an LLC show up, and every effort that the Planning Board could possibly think of was used. The property was sold after the conditional site plan was approved. Notice was provided to the current owner, which is a different owner than was part of the Planning Board discussions on this project.

Member Margotta asked when Mr. Deutsch was notified. Ms. Cassidy stated she would have to get back to him with the exact date but it was more than two weeks ago. Ms. Cassidy stated she understood that Mr. Richmond is not authorized to accept service of this item but Mr. Deutsch was sent all correspondence as a courtesy in an effort to find the current owner. It is virtually impossible to identify members of an LLC. The Spring Hill LLC listed their address, for the two lots involved in this project, as the same address which is the address of the building, 129 Spring Street. 129 Spring Street is a construction site so there is no way of knowing if the mail is getting to the correct person or people. Acting Deputy Chairman Gilstrap stated there is a state law about identifying owners an LLC. Ms. Cassidy stated yes, there is a state law for real estate transactions, but when Ms. Cassidy did a public land search there was no information for the new owner. Ms. Cassidy stated she is not implying an improper filing, just that it is a document she is not able to access as a member of the public.

Acting Deputy Chairman Gilstrap stated this item should be adjourned till next month to provide more time to identify the owner. Ms. Cassidy stated she was fine with that and will provide all documentation in regards to notifying the owner.

Mr. Richmond asked for a copy of the application which he was given.

On a motion by Acting Deputy Chairman Gilstrap and seconded by Member Margotta it was resolved: **To adjourn this item till the January 10, 2023 meeting and that it be required to be re-noticed.**

Aye – 3

Nay – 0

Recused: Member Zuckerman

Absent: Chairman Baum and Member Czerwinski

Approval of Minutes:

The approval of the November 13, 2022 meeting minutes was tabled for lack of a quorum.

On a motion from Member Margotta and seconded by Member Gilstrap it was resolved: **to close the meeting.**

Aye – 4

Nay – 0

Absent: Chairman Baum and Member Czerwinski