

**BRISTOL ZONING BOARD OF APPEALS
MINUTES
REGULAR MEETING OF MONDAY, APRIL 1, 2025**

By: Chairman Rafaniello

Time: 6:00 P.M.

Place: City Hall
111 North Main Street
Council Chambers
First Floor

MEMBERS		PRESENT	ABSENT
REGULAR MEMBERS:	Jerald Rafaniello (Chairman)	X	
	David Pecevich (Vice Chairman)	X	
	Richard Raymond (Secretary)	X	
	Alfred Radke, III	X	
	Richard Balsam		X
ALTERNATE MEMBERS:	Rory Ghio		X
	Liza Salgado-Sirko	X	
	Jonathan Lukasiewicz		X
STAFF:	Brandon Peate, Zoning Enforcement Officer	X	
	Andrew Armstrong, Assistant City Planner	X	

1. Call to Order

Per the order of Chairman Rafaniello the meeting was called to order at 6:00 P.M.

Chairman Rafaniello reminded the Board the next Regular Meeting of the Zoning Board of Appeals is: Tuesday, May 6, 2025.

Item 2.b. was taken out of order because of the size of the Public Hearing, Item 2.b., Application #3817.

2. Public Hearings

- b. Application #3817 – Request for reduction of required rear yard for a new in-ground swimming pool at 124 Pondview Lane; Assessor's Map 60, Lot 7-13; R-25; Single Family Residential zone; Kenneth Tamborra, applicant.

Chairman Rafaniello designated himself, regular Commissioners Pecevich, Raymond Radke with alternate Commissioner Salgado-Sirko to vote on Application #3817.

The following persons representing the applicant reviewed Application #3817 with the Board: Erika Dailda, 124 Pondview Lane, property owner and Kenneth Tamborra, contractor for the applicant, 300 Carmel Hill Rd., Bethlehem.

Mr. Tamborra explained there would be no side yard impacts for the property but the applicant is requesting a Variance for a rear yard reduction to construct an in-ground swimming pool. The contractor said the 16 ft. X 32 ft. in-ground pool would be placed 11 ft. from the house to provide separation for safety purposes from the foundation and curtain drains. Mr. Tamborra pointed out there were no neighbors to the rear of the property.

Board inquires: Mr. Tamborra indicated the property to the rear of the application was owned by the City of Bristol and was considered an Open Space area. The contractor verified the elevation of the property would not be changed.

Board inquires: Mr. Armstrong noted the Inland Wetlands Commission would review this request on April 7, 2025. The assistant city planner reviewed the setback of the requested Variance in the Regulations for pools, which was half the distance of the rear yard requirement of 40, so 20 feet would be the required rear yard.

Commissioner Pecevich inquired about the pool size. The applicant explained that they tried to limit the pool size from being too big but also needed something appropriate for a family of five people.

The applicant and Commission discussed the grade of the property and slope being challenging.

The applicant and Commission discussed the existing placement of the home on the lot and identified that another person built the home before the applicant purchased it approximately two years ago.

Commissioner Radke noted the lot shape was challenging and narrow, topography, placement of the driveway and home including limited side yards does not leave much space or options and the applicant did the best they could to comply with the regulations.

Commissioner Raymond noted many other similar properties nearby had larger rear yards to work with.

Commissioner Pecevich mentioned the placement of the home was challenging.

Chairman Rafaniello noted the difficulties with topography, placement of the home on the lot and the conservation lot that was created in the rear.

No one else spoke in favor of the application.
No one spoke against the application.

The hearing is closed.

By: Pecevich

Seconded: Raymond.

For: Radke, Pecevich, Salgado-Sirko, Raymond and Rafaniello.
Against: None.
Abstain: None.

MOTION: Move to approve Application #3817 – Request for reduction of required rear yard for a new in-ground swimming pool at 124 Pondview Lane; Assessor's Map 60, Lot 7-13; R-25; Single Family Residential zone; Kenneth Tamborra, applicant, in accordance with the plot plan and information submitted.

By: Raymond

Seconded: Radke.

For: Salgado-Sirko, Raymond, Radke, Pecevich and Rafaniello.
Against: None.
Abstain: None.

The application is approved.

- a. Application #3816 – Appeal of the Zoning Enforcement Officer's (ZEO) February 10, 2025, decision at 291 Queen Street; Assessor's Map 30A, Lot 2-6; R-15; Single Family Residential zone; Focus Spaces of Bristol LLC, applicant.

Chairman Rafaniello designated himself, regular Commissioners Pecevich, Raymond Radke with alternate Commissioner Salgado-Sirko to vote on Application #3816.

Zoning Enforcement Officer Brandon Peate introduced himself to the Board.

Mr. Peate (Zoning Enforcement Officer) entered the following items as part of the record:

Staff Report: dated April 1, 2025 (2 pages)

Exhibit A: Withdrawn Zoning Commission application for 291 Queen Street from 1994 (3 pages)

Exhibit B: Notice of Violation & Request for Voluntary Compliance dated November 7, 2024 (1 page)

Exhibit C: Supreme Court case Joseph DiBlasi v. Zoning Board of Appeals Town of Litchfield decided March 2, 1993 (8 pages)

Exhibit D: Notice of Violation & Request for Voluntary Compliance dated February 10, 2025 (1 page)

Brandon Peate, ZEO, gave an overview of the property located at 291 Queen Street and is located in a R-15 zone. On November 4, 2024 the Zoning Office received an application for a tenancy permit which he described is for a change of use without structural work. He believed this request to be coming from the Bristol-Burlington Health District for a nail technician. During the inspection for a tenancy permit, a building inspector mentioned to the ZEO that something may not be right with the uses.

After researching the property, he noticed a violation was issued (Exhibit B) from November 7th. He stated the structure and use pre-existed the current zoning regulations. He reviewed the previous use was multiple medical offices and was retrofitted by the appellant to create what the ZEO described as similar to a "commercial boarding house". Former doctors' offices were leased out to new business owners for uses including "personal service establishments". The ZEO stated the definition of personal service establishments according to the Zoning Regulations:

"Personal Service Establishment: An establishment primarily involved with the provision of personal care or other service directly to the consumer on a one-to-one basis by walk-in or appointment such as beauty shops, barber shops, tailor shops, shops specializing in personal adornment or shoe repair shops."

The ZEO noted previous occupants in the building included eyelash technicians and a nail technician. He noted the tenants may be different today than they were on November 7th and asked the appellant to clarify.

Chairman Rafaniello clarified with the ZEO that the November tenancy permit was only for one tenant. He asked for clarification on what happened between November and April. The ZEO stated that since that time the tenants had operated largely the same. In his most recent visit, he noticed a roofing contractor and construction office. The nail technician was no longer there. In his research he found that Exhibit A determined the medical office at 291 Queen Street was a non-conforming use in 1994. Today, medical office is listed as an allowed use with a special permit in an R-15 zone. He noted that the Zoning Commission in 1994 decided that the property did not need a special permit for a medical office use and instead was deemed to be pre-existing non-conforming. He reiterated that medical office is listed as a special permit use for this zone and that a "personal service establishment" use is not a listed or permitted use in this zone or any other residential zone. He concluded that for those reasons that is why enforcement action was taken. The use going from a listed non-conforming use to use not listed and prohibited increases the non-conformity.

The Chairman and ZEO discussed the turnover of tenants in the building since November. Some businesses had left and others were new since the original inspection. The ZEO confirmed to the Chairman that the only tenancy permit he was notified about throughout the entirety of the process was for a nail technician which was classified as a personal service use. He further stated that the building and Health Departments prioritized the fumes without ventilation from this use as a safety hazard. This tenant has subsequently left the property. He stated this particular tenant and use was the only one discussed with the appellant. He believes the Bristol-Burlington Health Department may have issued a health license for what he believed to be an eyelash technician but was unsure of that and stated it was a separate approval process from Zoning. The ZEO gave an overview of Exhibit C, a court case where a somewhat similar but different case occurred in the Town of Litchfield. In this case, a permitted office use went to a different permitted office use. In that case, it did not require a change of use permit, but this case was different in his view, because the Town in that case had the use as a listed and permitted use within the zone and in this situation was transferring to a not listed a prohibited use. Lastly, he reviewed Exhibit D, an additional notice of violation issued February

10, 2025 as a courtesy to the appellant in order to have the ability to appeal his order to the ZBA. The previous violation letter had expired.

Attorney Franklin Pilicy, 235 Main Street, Watertown, introduced himself to the ZBA as a municipal law attorney for over 50 years and is here to represent the appellant, Focus Spaces, LLC. He reviewed the subject property at 291 Queen Street and submitted a document of zoning meeting minutes from 1959 indicating the zone was changed from residential to specifically allow the building to be built for medical office. The zoning application was granted at that time. He suggested it was possible from what he read in the minutes that the front part of the property could have been changed but not the rear. Attorney Pilicy then submitted into the record the Assessor's property card. Chairman Rafaniello asked what his point was in submitting this item. The attorney stated he wanted to describe the history of the property, some legal arguments and then have his client make some points about the uses. He suggested it was not 100% clear what zone the property was in because of how the property was treated in the past. Chairman Rafaniello asked the Assistant City Planner, Andrew Armstrong what zone the property was in. He replied that it was an R-15 zone according to City records and did not see any other information suggesting otherwise. Mr. Armstrong asked what the Assessor's card just submitted says. Attorney Pilicy replied that it stated it was an R-15 zone. He continued that the Assessor's card has a sketch that states the building was built in 1960. He continued to review most recent use of medical offices and at one time a conversion to a condominium which was later terminated. A contract to purchase the property by the appellant was entered into the record and gives the appellant the right to appeal this decision. The owner of the property is currently Sharif CT, LLC who additionally authorized his consent to file this appeal.

Attorney Pilicy continued that the first tenant for the Focus Space was instructed to go to the zoning office to obtain a permit. At that time they were informed that the use may not conform to the zoning regulations of Bristol. They then had meetings with the ZEO and communicated regarding the issues for about a month to a month and a half. On January 13, 2025 an application was filed with the ZEO to allow the uses described as "personal service" uses and others that are office uses. There was a meeting with the ZEO to review this request. It was clarified to the Chairman that Robert Flanagan was not part of this particular meeting but rather had separate email correspondence. Attorney Pilicy continued that the applicant filed an application to allow for the personal service uses and different types of office uses on January 13, 2025. He reviewed the "makeup" of the building consisting of 4,924 square feet and has 21 separate offices of roughly 150 square feet each and a common area, which he stated was the same layout it has been. He reviewed that the purpose of the zoning application was to seek ZEO approval to permit different types of office uses, either professional, business or medical.

Brandon Peate, ZEO, clarified there was no official application to change a use from a non-conforming use. The approval of a non-conformity has been handled by the ZEO within the building or tenancy permit and in making a determination would make a comment in the permitting system to what extent if any, the proposal would increase a non-conformity. Brandon clarified this request was not an actual application but rather through the building permit system and process to approve uses. There was a discussion about the process to rule on non-conformities and clarify it is under the purview of the ZEO to make the decision and that was the City's process.

Attorney Pilicy reviewed the section of the zoning regulations regarding non-conformities. "Such non-conforming use may be changed to another non-conforming use with the approval of the Zoning Enforcement Officer. In approving such change, the ZEO shall find that the proposed use is equally appropriate or more appropriate to the district in the non-conforming use". A copy of this regulation regarding non-conformities was provided to the ZBA and entered into the record. The Chairman clarified his understanding with Attorney Pilicy that his request was not from one non-conforming use to another non-conforming use, but rather for a non-conforming use to a use that is not listed in the regulations, which was prohibited. Attorney Pilicy responded that the whole idea of a non-conforming use is that it is a use that is allowed but it does not comply or conform to the uses that are listed in the zone and was true for every non-conforming use. Chairman pointed out that this is a non-conforming property, where some uses were allowed by a special permit in this residential zone and that "personal services" are not part of that list. Attorney Pilicy stated that under the zoning regulations the ZEO still had the grounds and authority to approve this if it is more appropriate for this district and that was the case he was trying to make on behalf of his client. He stated he was making a two-part argument that office uses are equal to personal service establishments and he attempted to make his case. He stated the uses were less intense and burdensome than the medical office use. He reviewed he felt the supreme court case from Litchfield that was provided to the ZEO was similar and reviewed the office uses in that case and the office use definitions for Bristol. It was his view that all three office uses were treated the same way and allowed in the same places. His argument was you can get a personal service use through the specific path set forth in the regulations and also that you can use this building for any office not just a medical office. According to the supreme court case there should be a right to any type of office.

Attorney Pilicy explained his position regarding personal service uses and stated he was unsure of the ZEO's position on office uses which was unclear. Further continued to review non-conforming uses and stating State Statute 8-2. Zoning regulations should not prohibit the continuance of any non-conforming use, structure or building existing at the time of the adoption such regulations. Such regulations shall not provide for the termination of a non-conforming use. A non-conforming use is defined as being prohibited by the zoning regulations but permitted of its existence at the time the regulations were adopted. The right to continue a non-conforming use is protected by Statute and constitutional protection.

Chairman Rafaniello stated he did not believe that was an issue as the ZEO did not prevent the continuation of a non-conforming use. Attorney Pilicy replied that the ZEO had interpreted the non-conforming use too narrowly by stating they could only have a medical office use and that the court case provides a clear determination on that particular issue but was also arguing they had a right to personal service uses if they could demonstrate that it is equally or less of an impact from a zoning perspective.

Brandon Peate, ZEO clarified his position that currently enforcement on the property is confined to personal service establishments and was careful in his report not to state whether a professional office should be granted the same non-conformities of a medical office. His enforcement actions have been limited to the personal service establishment uses and did not make a determination between the various office uses discussed. He found that personal service establishment uses would be the least compliant.

Commissioner Pecevich asked for clarification on where the line of distinction is drawn between professional and personal services. The ZEO provided the example of entering a hair salon and posed the question of whether it would be considered an "office" to which he stated it probably would not. He stated an office is more usually where people work on computers and then gave the actual definition of a personal service establishment according to the zoning regulations, "an establishment primarily involved in the provision of personal care or service directly to the consumer on a one-to-one basis by walk-in or appointment such as beauty shops, barber shops, tailor shops, shops specializing in personal adornment and shoe repair shops. He then provided the definition of a business or professional office "offices which include the transaction or provision of financial professional or business services or the operation of service organizations. Office uses include but are not limited to: accounting services, advertising agencies, business consultants, design professionals, investment companies, law firms, non-profit or social work agencies, public relations firms, offices of professional persons, sales agencies, technology professionals, etc. Office uses are characterized by having limited storage consisting of office supplies or the like, but not stock for resale. Brandon stated that it is difficult to imagine that either definition could encapsulate every single use and characteristic but there is some line of distinction and it was his belief that it was now up to the ZBA to determine where that line should be drawn. Attorney raised the question of whether the ZEO will allow other types of offices such as a professional office and stated he guesses that is still part of this appeal. He reviewed that under the regulations non-conformities can be governed and sometimes have the right to increase a non-conformity by 25% although most Towns don't do that. Chairman Rafaniello stated that the scenario he described was different. The current situation is to change the use and the other scenario is to expand a non-conformity. Attorney Pilicy stated that how the City deals with non-conformities is set forth in the zoning regulations. Section 1.7.3.G outlines non-conforming uses that "such non-conforming use may change to another non-conforming use with the approval of the ZEO. In approving such a change, the ZEO shall find that the proposed use is equally or more appropriate to the district than the existing non-conforming use". He hoped the Board by the end of the meeting the Board would agree that personal service uses are sufficiently the same or less intensive than the previous use of medical office. He further asserted that medical office uses cease to exist in today's market because they have been swallowed up by larger hospitals. The subject property was built for 21 medical offices but would not be viable use today and would be less of intense use. Mr. Armstrong corrected Attorney Pilicy that the property was not surrounded by Industrial uses but rather entirely residential. He summarized his presentation and argument that the ZBA has the ability to allow zoning to operate "on an even keel". He felt he could make a case the proposed use is less intense.

Normand Lolident Jr., also known as "J.R." of 28 Skyline Drive, Middlebury introduced himself as the business owner of Focus Spaces, LLC and handed out and submitted into the record a booklet of his work restoring buildings in other towns. He gave an overview of his personal and business history. He reviewed other projects showing the restoration and success of various other Focus Space locations and processes in other towns and explained the nature and operation of the business including a mix of office and personal service uses and how they function. He showed a sample of the lease agreement indicating permits required must be obtained. The original nail technician told him they would not be doing acrylic nails which turned out to be false. The prohibition of strong or offensive odors is in the lease agreement. Chairman Rafaniello stopped the presentation to state he can tell the business owner does a good job, but he inquired why he did not seek the proper method of zoning approvals in starting this business. He continued that there are no signs for the business and there has been occupancy by various tenants who are in violation of his own rules per the lease and additionally not a permitted use in this zone. He asked the appellant to please get to the point regarding zoning. J.R. continued to explain his business and that it would be apparent through his presentation. He

further reviewed other similar properties in other towns. He stated when he found out he had a violation he invited the various departments to come into the building a few weeks after the first letter estimated to be in November. At that time, they were working to have the nail technician removed. An electrical panel box change was requested during the inspection. That was the only time a permit was required because it was mostly cosmetic. He reviewed the work completed on the property to the roof, trees, lighting, paneling, flooring and other interior work without any structural work. Because of this he explained he did not know there was an issue. He continued to review his presentation of various properties in other Towns and described their process and also business statistics and healthcare trends related to the City of Bristol and Connecticut's rankings.

Mary Buckley, 5 Side Hollow, Watertown, listing agent for the property introduced herself to the Board as a commercial broker. She explained she started working on the property in 2020 when ProHealth was a tenant and again sold in 2022. ProHealth vacated in May 2023 and remained vacant for about a year until JR went under contract with Focus Group. She explained they marketed the property extensively for medical office but had no success. Her opinion was it was low impact, quiet and appropriate.

Brian Godin, 73 Lovely Drive, Watertown, introduced himself as a Partner for a property broker company and has been in the profession for 20 years. He explained medical office buildings are now large corporations and that the chances of filling with a medical office use is highly unlikely for a long time according to the trends. He was complimentary of JR as a property owner.

JR continued his presentation of trends with medical offices. He then reviewed other Town's regulations regarding non-conformities.

Glenda DeJesus introduced herself as the owner of a studio in the building at 291 Queen Street and express her support of the use and business. She explained that this business model supports small business. She reviewed the qualifications of various tenants in comparison to medical office. She further reviewed the uses and provides safe and appropriate uses.

JR summarized his presentation and stated he did not want to walk away from this because he believes in it. He believes medical office uses will not work but he may be stuck with those uses if the appeal does not succeed.

Attorney Pilicy summarized his presentation that Towns are sensitive to the fact that vacant buildings are not easy to fill but there was a path to achieve the desired uses according to his view, through the Zoning Regulations.

Brandon Peate stated that to provide some context, if the Board overturned his decision, it would have an effect on other use determinations throughout the city. He explained that other towns including Bristol allow for a pathway for a non-conforming building use to continue and change use if the use is equally or less intrusive. He explained the Adaptive Reuse of Non-Residential Principal Buildings section of the regulations allows for a special permit in a residential zone. He listed all uses allowed under that section by special permit which included office uses. He felt there were other ways to achieve financial success for the location.

Commissioner Raymond explained he wants this business to do as well as anyone. He felt that the applicant could possibly sit down with staff and explore other options but that he had to side with the ZEO based on the regulations.

Attorney Pilicy again stated the Regulations provide a path and nobody in Bristol will ever regret that decision because it would be beneficial to the community and a good fit in the neighborhood.

No one else spoke in favor of the application.
No one spoke against the application.

The hearing is closed.

By: Raymond

Seconded: Radke.

For: Salgado-Sirko, Raymond, Radke, Pecevich and Rafaniello.

Against: None.

Abstain: None.

Chairman Rafaniello explained the Board's decision tonight is based upon whether the ZEO has correctly applied the regulations based on his determination of use. Other points made such as being business friendly or anything else does not have anything to do with this decision. It is solely about correctly interpreting the ZEO's decision against the regulations. There is no question that the business owner, JR, does a good job.

Commissioner Salgado-Sirko stated the City does want to support businesses and asked for a moment to gather her thoughts but felt that the decision was applied correctly.

Commissioner Raymond explained he really does want this business owner, JR, to do well and it would be a benefit to not just his business but the entire town. He felt perhaps another solution could be reached with staff to come up with another solution. Though, as far as tonight's decision, it is based strictly on the ZEO's decision of applying the regulations and felt that he did the correct thing.

Commissioner Radke stated after review and testimony he supported the ZEO's decision and felt he applied the regulations and interpreted the uses correctly. He explained he heard multiple different uses and activities including removing a nail salon and that the ZEO had to make decision on what is more intense use and it could set a precedent for future uses including potentially changing uses on a "whim" where it may not be suitable or more or less intense in various ways. Tenants have been changing constantly since November and does not know which uses are there. He supports the ZEO's decision.

Commissioner Pecevich stated he was torn on the decision. He reviewed the history of the property for medical use and the effects of the new Bristol Hospital downtown and felt it would be difficult to fill. He felt the ZEO and the Board had their own opinion and interpretation.

Commissioner Rafaniello stated the issue here is that the request in question is to change from a non-conforming use to a not listed and prohibited use in a residential zone. Personal service uses are allowed in other zones just not residential zones.

He encouraged the appellant to meet with staff and explore other alternate solutions.

MOTION: Move to deny Application #3816 – Appeal of the Zoning Enforcement Officer's (ZEO) February 10, 2025, decision at 291 Queen Street; Assessor's Map 30A, Lot 2-6; R-15; Single Family Residential zone; Focus Spaces of Bristol LLC, applicant.

By: Rafaniello

Seconded: Salgado-Sirko.

For: Salgado-Sirko, Raymond, Radke, and Rafaniello.

Against: Pecevich.

Abstain: None.

The appeal is denied.

The Zoning Enforcement Officer's decision was upheld.

3. Approval of Minutes

a. Regular Meeting - February 4, 2025

Chairman Rafaniello noted a correction on Pg. 1, Paragraph 2, Attorney stated the “hardships sand” should be corrected to “hardships and.”

MOTION: Move to approve the minutes of the February 4, 2025, regular meeting, as amended.

By: Raymond

Seconded: Pecevich.

For: Salgado-Sirko, Raymond, Radke, Pecevich and Rafaniello.

Against: None.

Abstain: None.

4. Communications

None.

a. New Alternate Member - Lukasiewicz

Mr. Armstrong explained that we have a new Commissioner but because of prior commitments could not attend tonight’s meeting.

5. Adjournment

Chairman Rafaniello designated himself, regular Commissioners Pecevich, Raymond and Radke with alternate Commissioner Salgado-Sirko to vote on the adjournment.

MOTION: Move to adjourn at 8:32 P.M.

By: Raymond

Seconded: Pecevich.

For: Salgado-Sirko, Radke, Raymond, Pecevich and Rafaniello.

Against: None.

Abstain: None.

This meeting was recorded.

Respectfully submitted,

Andrew Armstrong
Assistant City Planner

Jerald A. Rafaniello, Chairman

Richard Raymond, Secretary