

Yorktown ZBA Reserves Decision on Sober Home

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Rick Pezzullo

The Yorktown Zoning Board of Appeals last week reserved a crucial decision regarding the interpretation of the town code that could pave the way for a sober living residence on Underhill Avenue.

The ZBA closed a public hearing that featured final arguments from attorneys for the applicants, Tom McCrossan and Mark McGoldrick, a/k/a Compass Westchester, and two neighbors, Linda Girona and Al French, over a written opinion by Building Inspector John Winter that the proposed facility for recovering alcohol and substance abuse addicts falls under the definition of a “convalescent home.”

“I think we’ve thoroughly exhausted this issue,” said ZBA Vice Chairman Gregg Bucci.

Michael Sirignano, attorney for Girona and French, and town officials, reiterated his argument that the sober home does not fit the criteria of either a convalescent home or a nursing home, which are treated the same in the town’s Zoning Code. Therefore, it should not be allowed to be considered for a three-year special permit by the Town Board.

“This sober living residence in the real world has nothing to do with a nursing home or a convalescent home,” Sirignano contended. “You have to look at the facts. My position is it’s not a permitted use and that it’s prohibited.”

Al Capellini and Bob Davis, attorneys for Compass Westchester, argued otherwise, maintaining Winter was correct in identifying the sober home residence with a convalescent home since it meets the criteria of having three or more people who suffer from any disease, affliction or ailment and are habitually kept or bordered.

“I don’t see how you would have any reasonable cause to set aside the interpretation of the building inspector,” Davis said.

The terms convalescent and nursing home were added to Yorktown’s Zoning Code in 1969 and special permits for such uses were issued by the ZBA. That was amended in 1997 and the special permit authority was transferred to the Town Board.

Dr. Arnold Washton, Ph.D., who has specialized in the treatment of addiction for nearly 40 years and is working with Compass Westchester, said sober homes fall into the “modern day definition” of convalescent homes.

“Recovery from addiction quite easily falls into the definition,” Washton said. “There’s no question that addiction is a disease. A sober residence is not merely a transient house. In many ways, a sober living residence is a weigh station.”

Meanwhile, ZBA member William Gregory addressed Sirignano’s claim last month that he helped Winter write his memo about the code and should recuse himself from the deliberations over the appeal of the code.

Last month, Town Attorney Jeannette Koster said she assisted Winter draft the memo.

“I did not see the building inspector’s memo until I read it,” Gregory said. “I did not participate in any way,

nor did I assist in crafting the memo. I don't see any reason to recuse himself."

The ZBA's next meeting is June 26. The Town Board has so far opted not to continue its public hearing on the sober home until the ZBA rules on Winter's memo.