

Medford Mini-Storage Corp. Wins Zoning Case

N.Y. State Supreme Court Finds in Favor of Medford Mini-Storage in zoning dispute with Brookhaven.

Suffolk County, N.Y. January 23, 2009- The N.Y. State Supreme Court found that The Town of Brookhaven's Town Board's Zoning Code exceeded its legal bounds and ordered the Board to reverse its decision on an application by Medford Mini-Storage.

"Under the old code, the Town Board was able to hear and determine issues like area variances, set backs from roads and special use permits. In essence, the Town Board had control of all aspects of commercial site plan review," La Reddola said.

"A Planning Board has an appeal process. A lawsuit is not needed usually to resolve a code issue." "If you lose a Petition for a variance before the Town Board however, you must start a lawsuit under Article 78 of the C.P.L.R. within four months of the decision, or else you will have lost forever". La Reddola said. "No one likes to sue, but by having the variances heard before the Town Board rather than the Planning Board, we had no choice."

The Code has since been changed but this did nothing to help Medford Mini Storage. Their case originated under the previous code but was stuck in the system since 2003. The company's attorney, Robert LaReddola, stated. "We had no choice but to sue."

The Court found that the old Code violated the New York State Town Laws and may have rested too much authority with the Town Board.

In 2003, the company started an application to the Planning Board for variances for some existing conditions. They wanted also wanted to add two new buildings to the site. According to Medford Mini-Storage, the new buildings were compliant with existing zoning laws. The company also sought to move the site's entrance from local streets and relocate the entrance and exit to the Long Island Expressway Service Road. This change was extremely popular with the neighbors. John Koehler said " This change was 100% ready to go last year but construction was stopped by this case."

John Koehler, President of Medford Mini-Storage, stated "The types of buildings we wanted to add to the site are assets to the community and very low impact. Typically, these units are rented by small local businesses that might otherwise be located in the residential areas."

The Town Board's hearing process, according to LaReddola, showed how the Town overstepped its legal bounds. "Medford Mini Storage was asked at the hearing things that should normally have been discussed by the Planning Board. For example, the Town Board questioned us on legal non-conforming set backs on buildings that were in existence for over 20 years," he said. The Town Board denied the company's Application for a Special Use Permit and Variances in May of 2007 and the company

brought the lawsuit to overturn the result. “This issue also required litigation”, La Reddola stated.

The Court noted the length of time the application was pending in its decision. The fact that the application was pending for seven years, and lasted through several Code revisions was certainly an issue considered by the Court.

“Since the hearing, we have worked with the Town to make the improvements to the site a reality. We are working more as partners and less as adversaries,” Koehler said, “We will be happy to close down the entrance to the local streets, hopefully this spring. I’m glad the Town has fixed the Code so that the Town Board no longer hears these types of issues.”

For additional information regarding LaReddola, Lester & Associates, LLP, contact Robert J. LaReddola, attorney at law. The firm specialized in representing the construction industry.

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