

Court opens door for Cutlers' museum

■ A Superior Court judge overturns a vote by the Zoning Board of Review that had prevented Laurence and Judy Cutler from opening the National Museum of American Illustration.



Cutler

By Joe Baker
Daily News staff

NEWPORT — Laurence and Judy Cutler can open an art museum at their Bellevue Avenue home and unveil their vast collection of works by Norman Rockwell, Maxfield Parrish and others to the public, a Superior Court judge ruled Friday.

Judge Melanie W. Thunberg overturned a June 1999 decision by the city's

Zoning Board of Review, finding fault with the board's criteria for denying the application. That clears the way for the Cutlers to turn the first floor of their home, Vernon Court, into the National Museum of American Illustration. The couple's collection of more than 2,000 paintings includes original works by Rockwell and Parrish along with J.C. Leyendecker, N.C. Wyeth and Charles

Dana Gibson.

"After a review of the entire record, the court finds that the decision of the board constituted an error of law and was not supported by the reliable, probative and substantial evidence of record. Substantial rights of the appellants have been prejudiced. Accordingly, the decision of the board is reversed," Thunberg stated.

Laurence Cutler said he and his wife

hoped to be ready for a preview opening in mid-August. He said the museum plans were delayed because of the court case and a revised proposal recently submitted to the city's zoning board.

"I am very, very pleased," he said Friday.

He was so pleased that when he got back from court he immediately hung

MUSEUM, Page A12

two flags outside the Bellevue Avenue side of his home — one reading "Don't Tread On Me" and the other "I Conquer" — "to show the undemocratic nature of my opposition," he said.

Some residents living near Vernon Court objected to the proposed museum, mainly because they felt it would add an undesirable level of commercialism to the neighborhood. One of those residents, Jonathan Pardee, said Friday he was not sure if he would appeal the court's ruling.

"I'd like to reflect on it over the weekend," Pardee said.

The Cutlers' plan was to turn the first floor of their home into the museum and live on the second floor. In 1998 their plan was unanimously approved by the Historic District Commission and the Planning Board.

But opponents were able to convince two members of the Zoning Board to side with them. Last June the board voted 3 to 2 in favor of the Cutlers' plan. But state law required special use variances be approved by at least a 4-to-1 vote.

In rejecting the Cutlers' museum proposal, the dissenting board members said the Cutlers did not prove the museum would be owned by a tax-exempt institution. They also argued that the zoning ordinance did not allow a museum and a residence to occupy the same building; the proposal violated the city's Comprehensive Plan because it would increase commercialization in a residential district; the plan did not have enough parking; and the width of the entrance did not meet the zoning code.

Thunberg ruled that the Cutlers did have a valid tax-exempt institution; the ordinance said nothing about having a museum and resi-

dence in the same building; there was nothing in the Comprehensive Plan about increasing commercialization in residential zones; the plan did show enough parking; and the planned entrance was wide enough.

Cutler said he considers an agreement he reached with the Bellevue-Ochre Point Neighborhood Association null and void because the association breached the agreement. That pact contained 11 conditions, including a ban on the sale of food and drinks and a guarantee that no buses would park on the property. Members of the association had agreed to speak in support of his application, but never did, Cutler said. The opponents of the plan were actually association members, he said.

"They didn't keep their end of the bargain," Cutler said.

The association's lawyer disagreed. Turner C. Scott said that the judge's decision basically reversed the two negative votes from board members, and since the board's decision included the 11 conditions, he expected the Cutlers to honor them. Additionally, the association submitted a letter saying they had no objection to the plan as long as the conditions were adopted. Without those conditions, the association would have objected to the plan, Scott said.

"If he's not going to honor the conditions ... we would ask the court to clarify whether the conditions apply," Scott said.

Cutler recently submitted a revised museum proposal to the Zoning Board, which had scheduled a hearing Monday night. Cutler said after the court decision that he planned to talk to his advisors before deciding whether to pursue the new proposal.