

Vernon Court's owner states his case

Dear Editor:

Judy and I were pleased with your objective coverage of our longstanding zoning application (Newport This Week Jan. 6). We currently await the Zoning Board's decision document to move forward with our appeal in the Superior Court. It is baffling to us that our application was voted down given the proposed use and its environment – adjoining the Preservation Society and Salve Regina University – both educational/institutional (museum) uses. There are at least 14 other residences used as museums in our zone and many more used as classrooms or dormitories.

In the meanwhile, disinformation bandied about by the few objectors and their lawyers has intentionally confused facts. This is written to clarify some items in your article:

A). The Negative Misvote Should Not Have Been Allowed: We were stunned to learn that the deciding negative vote was cast by a Zoning Board member after she had moved from Newport. She has subsequently resigned for that reason, but at the time of her vote (June 28, 1999), she was a resident of Jamestown.

SUGGESTION: Given the circumstances, it would be kind after 15 months if the Zoning Board of Review would now entertain a reconsideration of the vote based on this fact alone.

B). Objections Not Articulated Rationally Nor Truthfully:

I). Objector: "Your museum will change the zoning on Bellevue Avenue and I am against any zon-

ing changes whatsoever."

RESPONSE: Our application is totally within the zoning laws and therefore has been recommended by the Planning and Zoning Departments for approval because it complies with the law in every requisite aspect; traffic, setbacks, parking, emergency access, etc. It will neither change the zoning laws nor Bellevue Ave.

II). Objection: Some 28 objections to our proposal were submitted by an opponent's attorney – they were all incorrect and designed to obfuscate the truth. NTW quoted three objections for which I offer the truth below:

1). "The museum plan represents an encroachment of commercial use into a residential area."

RESPONSE: Untrue, the museum use is an allowable use under the code for the R-60 Zone, with a Special Use Permit. It will be an educational/institutional use, and not commercial. Our museum will further culturalism on Bellevue Avenue, not commercialism. It is purely a cultural, educational, and nonprofit use. Our institutional founder is The National Arts Club, a nonprofit, educational institution, the nation's oldest arts club. The Museum will be operated by our foundation, a RI 501 C (3), nonprofit organization, yet it will pay real estate taxes.

2). "The relationship between the museum foundation and the company that owns the property – and the fact that the Cutlers intend to live above the museum – is not within the spirit or intent of the

Newport Zoning Ordinance with respect to museums and museum use."

RESPONSE: The relationship between our foundation and the Museum is structured so that we pay real estate taxes. Otherwise, we could simply gift Vernon Court and Stoneacre properties to our nonprofit, forgo taxes, and deed ourselves and our family life tenancy above the museum floor.

One should not go by an attorney's phrase citing "spirit or intent of the framers of the Newport Zoning laws." One only goes by the law, not by what a lawyer puts forth as what he/she thinks was in someone's mind when the law was written. In fact the intent was to allow museum uses in this district and clearly it has been done for 54 years.

Living above the museum has also been done in Newport since 1946. It is completely allowable under the law as an accessory use.

3). "One of the two driveways into Vernon Court is not wide enough to meet zoning requirements, and the plans do not provide for sufficient parking, based on the Cutler's attendance estimates."

RESPONSE : Untrue, the code does not require two driveways into the property! Only one is required! Both driveways are wide enough and were previously adequate when it was Vernon Court Junior College. The driveways and the parking were approved by the

Planning and the Zoning Department professionals, as well as by traffic consultants and engineers Crossman Engineering Inc. The opponent's traffic consultant admitted under oath that he did not even visit Vernon Court prior to testifying against our plans. This is an example of a lawyer attempting to muddy a clear and honest undertaking. Our parking plan has six more spaces than the attendance and zoning laws require.

C). A Double Standard

In January 1987 and July 1996, zoning applications, worded identically to our own, were submitted for Special Use Permits in the R-60 zone (Bellevue Avenue area). That is to say: "to permit the conversion of the existing residential house to a museum use." Both of those applications passed during the meeting when they were submitted. One application was co-signed by an opponent of ours who now objects to "a residence changed to a museum use." Both of those properties were subsequently taken off the tax rolls while ours will remain a tax-generating property.

Enough said, for I would like to undertake more productive endeavors like building a national cultural asset for Newport. In the end, we will prevail, and Judy and I look forward to welcoming this community and its visitors to Vernon Court soonest.

Laurence S. Cutler, AIA RIBA

Vernon Court
Newport