



CITY OF DANBURY
155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

ZONING BOARD OF APPEALS
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MINUTES – REGULAR MEETING
JUNE 28, 2018
Council Chambers, 155 Deer Hill Avenue
7:00 p.m.

ROLL CALL: Chairman Richard S. Jowdy called the meeting to order at 7:00 p.m. Present were Commissioners Joseph Hanna, Herbert Krate, Michael Sibbitt, and Alternates, Peter DeLucia and Anthony Rebeiro.

Absent were Rodney Moore and Richard Roos.

Mr. Jowdy read the legal notice. Motion to hear Applications Nos. 18-24, 18-25, 18-26, and 18-27 was made by Herb Krate. Seconded by Joseph Hanna. Motion carried unanimously.

ACCEPTANCE OF MINUTES: June 14, 2018

Acceptance of the minutes was postponed until the next meeting on July 12, 2018.

The next regular meeting is scheduled for **July 12, 2018**

NEW BUSINESS:

#18-24 Delaware Commerce Park, LLC, 6-16 Finance Dr., (L11004), IG-80 Zone,
Sec. 6.B.3: Reduce Parcel X side setback from 30' to 20'. Reduce Parcel Y side setback from 30' to 15' for parcel division.

Atty. Tom Beecher, of Collins Hannafin, represented the applicant, Delaware Corporate Park and Mel Powers owns the subject property. The property is located in IG-80, industrial zone. Client wishes to divide the property and sell Parcel X. Both parcels would easily meet the requirements. The buyer is an industrial welder. New England Land Survey indicates the larger building is "L" shaped, built in approximately 1966. The smaller building was built in approximately 1972. Proposed boundary line with requested variances would maintain a 20' side yard setback and on the other side it would maintain a 15' side yard setback at its closest point. Between the two buildings is 40' creating a 20' setback. Hardship is the buildings are pre-existing buildings which are 45 – 52 years old. Still River runs through and comes close to the 100' setback. Properties do not share a driveway. Variance is to make this property into two

separate viable business properties, and if granted, it will produce additional taxes paid to City of Danbury. Variance would not be detrimental to the health, safety, and welfare of the community. Herb Krate was concerned about the change in use. Attorney Beecher said the use is not changing, it is still an industrial use. Herb Krate is concerned about fire equipment access. Attorney Beecher indicated the building locations on the map. The actual space between the buildings is 40'. Herb Krate asked that the area between the boundary line and building remain unobstructed in order to allow clear passage for emergency vehicles. Herb Krate would like to see a hard copy of the plan or we can make a provision that that area remain open at all times. Attorney Beecher said that would be fine, and it could be a condition of the approval. Atty. Beecher said 15' is from the proposed property line. Herb Krate reiterated his concern for emergency vehicle access.

Mr. Jowdy asked if there was anyone in favor or opposed. There being none, *a motion to close No. 18-24 was made by Herb Krate; seconded by Peter DeLucia. Motion carried unanimously.*

#18-25 Herzegovitch, Daedalus Design LLC, agent for Bianconi, Gary & Luann, 69 Ta'agan Point Rd., (I06016), RA-20 Zone, Sec. 4.A.3: Reduce north side yard setback from 15' to 5.4' for proposed front covered porch roof overhang, reduce rear yard setback from 35' to 5.9' for proposed deck extension.

Philip Herzegovitch represented the applicants, Gary and Luann Bianconi. Mr. Herzegovitch presented his model for a whole-house remodel with a 3/4 bump up for a second floor. There will be two bedrooms on the second floor and main floor will have an open plan kitchen, dining room, and living room space. He is requesting a reduction in the rear and side yard setback to accommodate widening of the deck and the porch overhang. Herb Krate asked if the original house is being torn down. It is not. They are using and fortifying the existing foundation. Configuration of land is hardship per Mr. Jowdy. Any questions? Any in favor or opposed? There were none.

Motion to close by Herb Krate; seconded by Anthony Rebeiro. Motion carried unanimously.

#18-26 Hatstat, Daniel, 12 Pleasant Dr. (I07225), RA-20 Zone, Sec. 4.A.3: Reduce rear yard setback from 35' to 24.3' for addition.

Daniel Hatstat, applicant, presented his application to the Board. They need more space to accommodate their growing family. The hardships are the topography of the land and the layout of the house. The septic system is on the right side of the house. Michael Sibbitt asked the dimensions of the addition. It will be 22" x 30.6". No one in favor or opposed to the application.

Motion to close by Herb Krate; seconded by Anthony Rebeiro. Motion carried unanimously.

#18-27 Andrzejewski, Lisa Esq., agent for Montanari, J., 52 James St., (J12168), R-3 Zone, Sec. 4.C.3: Reduce side yard setback from 15' to 3', reduce front yard setback from 20' to 18.5', Sec. 4.G.3.b(1): allow on-site parking between street & principal buildings; Sec.8.B.1.a(1)(a): reduce required distance between driveway & intersection with another public street from 50' to 33' to convert from single-family to two-family dwelling.

Attorney Lisa Andrzejewski, from Chipman & Mazzucco, appeared on behalf of the applicant. Attorney Mazzucco was before the Zoning Board of Appeals on May 10, 2018. At that time, the Board approved the requested variances, however, due to a technical error in the application, they are back with two additional requests. Attorney Andrzejewski requested that the prior record be part of this record. The Board agreed. Atty. Andrzejewski reviewed the street location stating that 52 James is in an R-3 Zone. It is currently a single-family dwelling. The house is 858 sq. ft. built in 1912. The corner lot creates two front yards. She passed out photographs, introduced at the last meeting, and described the depictions. The neighborhood is primarily R-3. They compared 52 James with 55 other homes in the neighborhood. The neighborhood consists primarily of two- and three-plus family houses. Of all of the houses, 52 James is the smallest even compared with the condo units. The smallest condo unit is 900 sq.ft. Mr. Montanari would like to add an addition to the house. Driveway would be coming from Auburn Street, which is less busy than James Street. New home would be more conforming to the neighborhood.

Variances previously approved dealt with front-yard and side-yard setbacks. Mr Jowdy asked about the fence. Attorney Andrzejewski said the fence is on the adjacent property. Two additional variances. Parking: Sec. 4.G.3.b(1): two front lots makes it impossible Herb Krate asked if within the setback. Yes. 2nd Sec.8.B.1.a(1)(a): - Auburn and James Street intersect. They have only 33'. Herb Krate asked that no plantings be installed that would obstruct line of sight. They feel there are no other variances needed at this time. Coverage requirements are met. Hardships: two front yards, oddly-shaped lot, already non-conforming parking they propose to change. Benefit is safer travel on the less busy street. Joseph Hanna mentioned that the garage will accommodate two cars. Mr. Jowdy asked if anyone was in favor or opposed. There were none.

Motion to close was made by Herb Krate; Peter DeLucia seconded. Motion carried unanimously.

CONTINUATION OF PUBLIC HEARINGS:

#18-14 Guallpa, Luis, 10 Hoyt St., (H13086), R-3 Zone, Sec. 4.C.3. Reduce minimum lot width from 75' to 55.06' & reduce minimum side yard setbacks from 15' to 9.7' & from 15' to 7.5' for existing residential dwelling. Sec. 8.B.1.b.(4) reduce driveway width from 12' to 9'. Variance requested to convert single-family dwelling to two-family dwelling.

Attorney Daniel S. DiBartolomeo appeared on behalf of the applicant in place of Attorney Joseph Romanello. He introduced Dainius Virbickas of Artel Engineering. The house, constructed in 1908, is surrounded by multi-family homes on small size lots. Hardship is homeowner cannot make reasonable use of the property compared to other property owners in the area. Herb Krate said they have reasonable use of the property. He said the one-family house is reasonable use of the property. Chairman Jowdy said that the family already has the one-family house and cannot make it a two-family house for the family to live in. Herb Krate said they have no basis for hardship.

Dainius Virbickas approached the Board, stating this is basically this is for an in-law apartment . . . the hardship is basically for sanity. Mr. Virbickas said it is not dissimilar to anything others have requested. Herb Krate said there is nothing we can do to with anything. Mr. Virbickas said if the property was spun around they would have the frontage. Mr. Krate said they have a home on it and that constitutes reasonable use of the property. Mr. Krate said it would raise the density, and they do not have the useable land. This does not meet criteria for hardship per Mr. Krate. Attorney DiBartolomeo is asking for any equitable powers that the Board may have. Mr. Jowdy asked how long the current resident has owned the house. They have owned the home for five years. Mr. Hanna reviewed the zoning requirements, and Mr. Krate said he would not approve it. Attorney DiBartolomeo said it would only be for their own family. Mr. Krate said the regulations were made to make the city less dense and stressed the reasonable use. Zoning Enforcement Officer Sean Hearty said they discovered the illegal kitchen two years ago during an inspection. Mr. Virbickas said the zoning amendments that increased the width on two- and three-family homes was to end the practice of putting multi-family homes on long narrow properties. Mr. Krate said he interprets it to decreasing density.

Attorney DiBartolomeo concluded that this is for the family; it will not change the characteristic of the area. Mr. Krate said once granted it is there forever.

Herb Krate said we cannot base variance on an economic hardship. Chairman Jowdy & Mr. Krate said if they want to withdraw and come back or continue it and come back with something different, they will listen.

Motion to close was made by Herb Krate; seconded by Joseph Hanna. Motion carried unanimously.

#18-22 Romero, Luis & Jovita, 187 Franklin St. Ext. (F11060), RA-40 Zone

Sec. 4.A.3 Reduce side yard setback from 25' to 12.7' for proposed addition.

No one represented the applicant; however Zoning Enforcement Officer Sean Hearty said he has been in contact with the applicant, and the violations are currently being cleared up including poultry and an extra person living in a trailer in the back yard. Sean Hearty asked the Board to continue the application to July 12, 2018.

Motion to continue to the next regular meeting on July 12, 2018 made by Herb Krate; seconded by Michael Sibbitt. Motion carried unanimously.

#18-16 Roy Estate, LLC (owner) & Dorothy Day Hospitality House, Inc. (tenant), 8 & 11-13 Spring St., (H14288 & H14312), RH-3 Zone, for grocery market, office space, emergency homeless shelter, & soup kitchen:

Sec. 4.D.3.a: Reduce front yard setback from 20' to 0.6', reduce side yard setback from 20' to 1.8', reduce rear yard setback from 25' to 1.8';

Sec. 4.D.5.e.(1): Reduce minimum sq. ft. from 20,000 sq .ft. to 13,118 sq. ft.;

Sec. 8.B.1.b.(4): Reduce driveway width from 24' to 8';

Secs. 8.C.4.c.(10) & (11), 8.C.4.f.(4), and 8.C.4.f.(6): Reduce total parking spaces to 16 and waive Sections 4.D.5.e.(2) corner lot requirement; Sec. 4.G.4.a.(1) lot screening;

4.G.4.a.(2) landscaping; 8.C.1.a parking on same lot; and 8.C.2.b. parking space dimensions.

Public Hearing continued to July 12, 2018.

OLD BUSINESS:

#18-13 Watras, Barbara, 4 Sage Rd., (H22103), RA-20 Zone

Sec. 4.A.3. Reduce front yard setback from 30' to 0.5', reduce side yard setback from 15' to 0.5' & reduce rear yard setback from 35' to 4.8' to allow temporary carport.

Zoning Enforcement Sean Hearty reminded the Board that they are simply to discuss and vote. Herb Krate asked if there were questions. Peter DeLucia said he visited the area and speed limit is very slow. Herb Krate said if variance is granted for temporary parking structure, but they can't grant it that way, they can put up a permanent building, and he thinks it is dangerous to put a permanent structure 8' to 10' off the roadway.

#18-19 Haddad, Theodore J., Sr., Executor of the Estate of Jeanette Haddad and The Reserve Realty, LLC, The Reserve, Phase 11 (Parcel 15), Woodland Road, (B16003) re Site Plan PND SP01-03/11

To appeal for correction of an alleged error in a decision of the Planning Department/Planning Director, who on 3/23/18 or thereabouts, did grant Toll Brothers and/or Toll CT III Limited Partnership for site plan approval of an application pertaining to the above-described property in the Reserve.

Hearing was closed awaiting advice from counsel.

DECISIONS:

A motion to close the public hearing and go the voting session was made by Herb Krate, seconded by (inaudible). Motion carried.

#18-24 Delaware Commerce Park, LLC, 6-16 Finance Dr., (L11004), IG-80 Zone,

Sec. 6.B.3: Reduce Parcel X side setback from 30' to 20'. Reduce Parcel Y side setback from 30' to 15' for parcel division.

Motion to approve 18-24 by Herb Krate Delaware Commerce Park, LLC, 6-16 Finance Dr. setback reduction. Reduce Parcel X side setback from 30' to 20'. Reduce Parcel Y side setback from 30' to 15' for parcel division .for the separation of a single lot into two lots with the provision that the space between the two buildings shall not, under any circumstances, be encumbered or blocked as to permit open access for fire, police, or any emergency service to pass. Motion seconded by Michael Sibbitt and Peter DeLucia. Motion carried unanimously.

#18-25 Herzegovitch, Daedalus Design LLC, agent for Bianconi, Gary & Luann, 69 Ta'agan Point Rd., (I06016), RA-20 Zone,

Sec. 4.A.3: Reduce north side yard setback from 15' to 5.4' for proposed front covered porch roof overhang, reduce rear yard setback from 35' to 5.9' for proposed deck extension.

Motion to approve, per plan submitted, by Joseph Hanna; seconded by Anthony Rebeiro. House is non-conforming now and variance does not adversely affect the health, safety, or welfare of the community. Motion carried unanimously.

#18-26 Hatstat, Daniel, 12 Pleasant Dr. (I07225), RA-20 Zone,

Sec. 4.A.3: Reduce rear yard setback from 35' to 24.3' for addition.

Herb Krate made a motion to approve No. 18-26 per plan submitted. Motion seconded by Anthony Rebeiro. Motion carried unanimously.

#18-27 Andrzejewski, Lisa Esq., agent for Montanari, J., 52 James St., (J12168), R-3 Zone,

Sec. 4.C.3: Reduce side yard setback from 15' to 3', reduce front yard setback from 20' to 18.5', Sec. 4.G.3.b(1): allow on-site parking between street & principal buildings; Sec.8.B.1.a(1)(a): reduce required distance between driveway & intersection with another public street from 50' to 33' to convert from single-family to two-family dwelling.

Motion to approve, per plan submitted, by Joseph Hanna with the condition that no planting will be done at the property line between the driveway and intersection, which would obstruct line of sight. Seconded by Michael Sibbitt. Motion carried unanimously.

#18-13 Watras, Barbara, 4 Sage Rd., (H22103), RA-20 Zone

Sec. 4.A.3. Reduce front yard setback from 30' to 0.5', reduce side yard setback from 15' to 0.5' & reduce rear yard setback from 35' to 4.8' to allow temporary carport.

Motion to deny No. 18-13 by Herb Krate, Watras, Barbara, 4 Sage Rd., to allow for temporary carport within .5' from setback. The reason is concern for the health, safety, and welfare of the community. There is no way for the Board to restrict it to a temporary structure. Motion seconded by Michael Sibbitt. Motion carried unanimously

#18-14 Gualpa, Luis, 10 Hoyt St., (H13086), R-3 Zone

Sec. 4.C.3. Reduce minimum lot width from 75' to 55.06' & reduce minimum side yard setbacks from 15' to 9.7' & from 15' to 7.5' for existing residential dwelling.
Sec. 8.B.1.b.(4) reduce driveway width from 12' to 9'. Variance requested to convert single-family dwelling to two-family dwelling

Motion by Herb Krate to deny 18-14 because they failed to show hardship. It is a pre-existing area, and the new regulations were in effect prior to the purchase of property; seconded by Joseph Hanna. Motion carried unanimously.

OTHER MATTERS: None

CORRESPONDENCE: None

ADJOURNMENT:

Motion to adjourn made by Herb Krate; seconded by Anthony Rebeiro. Motion carried unanimously at 8:17 p.m.

Respectfully submitted,

Mary S. Larkin
Secretary
Planning & Zoning Department