



CITY OF DANBURY
155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

ZONING BOARD OF APPEALS
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MINUTES – Draft
Web-Based Meeting Hosted on ZOOM
May 14, 2020
7:00 p.m.

ROLL CALL:

Acting Chairman Rodney Moore called the meeting to order at 7:06 p.m. He asked the public to be patient and respectful of other speakers.

Roll call: Rodney Moore, Peter DeLucia, Juan Rivas, Michael Sibbitt, and Joseph Hanna all present.

Absent: Richard S. Jowdy, Anthony Rebeiro, and Richard Roos.

Motion to hear applications #20-11, #20-12, and #20-13 was made by Joseph Hanna; seconded by Mr. DeLucia. All in favor, motion passed unanimously.

Mr. Moore proceeded to review the procedures of the meeting.

ACCEPTANCE OF MINUTES: April 23, 2020

Motion to approve the minutes was made by Juan Rivas; seconded by Michael Sibbitt. All in favor, motion passed unanimously.

The next regular meeting is scheduled for **May 28, 2020.**

OLD BUSINESS: None

NEW BUSINESS/PUBLIC HEARINGS: Pursuant to Executive Order No.7I Section 19.c., Notice for Items #20-11, #20-12, and #20-13 was delivered electronically to the Town Clerk and posted online.

20-11 Sin, Ratha, Topstone Drive (35), (K14127) RA- 8 Zone

Sec. 4.A.3: Reduce minimum side yard setback from 8' to 6.8' for 2-car garage.

Joseph Mirabelli, of 12 Nashville Road, Bethel, CT, appeared on behalf of Mr. Sin. Mr. Mirabelli described the objective. Mr. Sin originally wanted a 20 x 24 garage. After reviewing the survey they determined they would be encroaching in the setback. They reduced the size of the garage in order to get a permit, but then determined that a smaller size would not work. So, they went back to the larger size to accommodate the original plan to fit two cars in the garage and be able to open the car doors. Mr. Mirabelli said the majority of the encroachment in the setback is the overhang on the front of the garage.

Mr. Moore shared the applicant's map to show the 14" difference. Mr. Mirabelli was asked to explain the hardship. Mr. Moore remarked about the future handicapped ramp and the topography. Mirabelli said the embankment is fairly shallow. He said the rise is probably 3', and there is also the issue of accommodating an eventual handicapped ramp.

Mr. Rivas asked about the permit and what was requested. Joseph Mirabelli said the permit is for an 18 x 24' garage, and they are seeking to increase the size of the garage to 20 x 24. Mr. Hearty indicated that he spoke with the owner, and the owner felt he really needed the couple of inches. Juan Rivas asked Joseph Mirabelli about the overhang, and Mr. Mirabelli indicated that not only the overhang would encroach but also the foundation would intrude; however, the majority of the encroachment is the overhang. There were no other questions. No one in favor or opposed.

Motion to close #20-11 was made by Juan Rivas; seconded by Michael Sibbitt. All in favor, motion passed unanimously.

Motion to go to the voting session was made by Joseph Hanna; seconded by Michael Sibbitt. All in favor, motion passed unanimously.

Motion by Joseph Hanna to approve No. #20-11, per plan submitted, because the majority of the encroachment is from the overhang and because there is a need for handicapped ramp to enter the house, it would be considered a safety issue; seconded by Michael Sibbitt. All in favor, motion passed unanimously.

#20-12 DaSilva, Ivando, Stadley Rough Road (89), (K07033) RA-40 Zone

Sec. 4.A.3: Reduce southerly side yard setback from 25' to 21.6'. Reduce rear yard setback from 20' to 3.6' for detached accessory use. Reduce side yard setback from 15' to 3.8' for detached accessory use.

Ivando DaSilva appeared on behalf of his application. He explained that he put a shed in the corner, needing more space for his daughter, and he has a basement entrance and is seeking approval for these setbacks. Mr. Moore asked if shed exists now? "Yes," said Mr. DaSilva. Mr. Moore asked if he was just trying to get that legalized. Mr. DaSilva agreed. Mr. Moore questioned

the proposed (inaudible) for the HVC. Mr. Moore is seeking the hardships. No questions from the Board

There was no one in favor or opposed.

Motion to close #20-12 was made by Michael Sibbitt; Joseph Hanna seconded. All in favor, motion passed unanimously.

Motion to go to the voting session was made by Michael Sibbitt; seconded by Joseph Hanna. All in favor, motion passed unanimously.

Motion to approve #20-12, per plan submitted, was made by Michael Sibbitt; seconded by Joseph Hanna. All in favor, motion passed unanimously.

#20-13 Benderson Development Company, LLC Eagle Road (3); (L11021), CL-10 Zone

Sec 5.D.3.a: Reduce minimum front yard setback from 20' to 11.5'; Sec. 5.H.1.b: Reduce depth of planting strip from 20' to 11.5'; Sec. 5.H.2. Allow parking within the front yard setback.

Matt Oates appeared on behalf of Benderson Development Co. LLC. He began a Power Point presentation to explain the three requested variances all relating to the same portion of the project. Benderson owns the drive lane on the adjacent John Deere property. The adjacent property has parking and an access easement over their property. The proposal is to take the parking field, which exists along Eagle Road, and extend it toward the John Deere building, picking up three spaces along the road and relocating the dumpster. When they developed the property, the setback was only 10' and they would have met code and not needed a variance.

Mr. Oates explained the hardship is unique – this is an older development, and they want to take advantage of their property. The requested setback is consistent with the area and is not setting a precedent in this area.

Mr. Moore said he looked at the map and mentioned there are three more spaces plus 17 spaces in the grayed area. Mr. Oates agreed there would be a total of 17-18 spaces. Mr. Oates showed an aerial map, and Mr. Moore asked about the driveway and property line with John Deere and the parking was discussed. The dumpsters will go behind the existing trees, screened from view.

Mr. Hanna asked if John Deere will have the right to drive over Benderson property? Mr. Oates explained that, yes, they will because there is a parking and an access easement, and no parking will be taken from John Deere. Parking will be increased for the two properties with no loss of use.

Mr. DeLucia asked if emergency vehicles will be able to get by behind the restaurant because there are four parking spaces there. Mr. Oates explained that they are adding a 5' sideway for egress pushing parking 5' away from the building. There is a 24' drive lane all the way around

the building for a fire lane. Mr. Sibbitt asked why the handicapped spots are behind the building and not in front where the doors are? Mr. Oates explained that those spots are being added for the John Deere building to satisfy their ADA requirements, and the existing handicapped parking is staying in front of their building.

No one in favor or opposed.

Motion to close #20-13 was made by Joseph Hanna; seconded by Juan Rivas. All in favor, motion passed unanimously.

Motion to go to the voting session was made by Joseph Hanna; seconded by Michael Sibbitt. All in favor, motion passed unanimously.

Motion to approve #20-13 was made by Joseph Hanna as it does not adversely effect the health, safety, and welfare of the public and will provide more parking and better flow, per plans submitted (both narrative & survey); seconded by Michael Sibbitt. All in favor, motion passed unanimously.

CONTINUATION OF PUBLIC HEARING: None

OTHER MATTERS: Zoning Board of Appeals Bylaws

Mr. Moore informed the Board that he spoke with Mr. Jowdy and he (Mr. Jowdy) would like to review the Bylaws. Mr. Moore asked the Board members to review the Bylaws and submit questions and concerns to Corporation Counsel, Sean Hearty, or Sharon Calitro through staff secretary. Mr. Moore suggested that at the very latest, a vote could take place at the June 11, 2020 meeting.

DECISIONS: Please see decisions after each application above.

CORRESPONDENCE: None

ADJOURNMENT:

Motion to adjourn was made by Joseph Hanna; seconded by Juan Rivas. All in favor, motion passed unanimously at 7:53 p.m.

Respectfully submitted,

Mary S. Larkin
Recording Secretary