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CITY OF DANBURY
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ZONING BOARD OF APPEALS
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ZONING BOARD OF APPEALS
MINUTES
January 11, 2024
7:00 p.m.

ROLL CALL:

Chairman Joseph Hanna called the meeting to order at 7:01 p.m. Present by roll call were: Juan Rivas, Peter DeLucia, Brandon Botelho, and William Trotta. Chairman Joseph Hanna seated alternate William Trotta for Tony Rebeiro. Absent were Tony Rebeiro and Rick Roos. Staff present were Zoning Enforcement Officer Sean P. Hearty and Secretary Melissa Llera.

ACCEPTANCE OF MINUTES: December 14, 2023

Motion to accept the Minutes of December 14, 2023 was made by Peter DeLucia; seconded by William Trotta. All in favor by those eligible to vote: Commissioners Juan Rivas, Peter DeLucia, Brandon Botelho, William Trotta and Joseph Hanna.

The next regular meeting is scheduled for **January 25, 2024**

PUBLIC HEARING:

Motion to open Application No. 23-24, 31 Old Lantern Road, for Public Hearing was made by Peter DeLucia; seconded by Juan Rivas. All in favor with AYES: Juan Rivas, Peter DeLucia, Brandon Botelho, William Trotta and Joseph Hanna.

#23-24: 31 Old Lantern Rd., Boughton, Mark & Fay, Candace; (K25005), RA-40 Zone. Sec. 4.A.3. Reduce side yard setback from 25' to 15.4' for addition of two car garage and expanded master bedroom

Mark Boughton was present to represent the application. They are requesting to reduce the side yard setback from 25 ft. to 15.4 ft. to expand the current home. The property is a residential home. It

currently has three bedrooms, and would remain a three-bedroom home after the addition. There is a small bathroom upstairs now. The addition would expand the master bedroom and have a master bathroom, along with a two car garage under this addition. The addition would not go beyond the current driveway. They are just looking to add floor space to the small home to make it better for himself and the family to live there. The hardship is due to the well being located in front of the house, and the septic is located in the rear. Therefore, they can't expand in those directions. They have spoken with the abutting property owners, and received a letter that they had no objection.

Mr. Hanna states that he feels this is a fair request to make the bedroom bigger. Mr. Trotta asks if they are close to the neighbor on the side of the expansion. Mr. Boughton replied that due to the topography of the land and wooded area, they are not close to the neighbor. Mr. DeLucia said he visited the property, and agrees with the hardship of the well and septic location. He requests that Mr. Boughton ensures there are carbon monoxide detectors in the home since the addition will be above a garage; Mr. Boughton agrees.

No one was present in support or opposition of the application.

Motion to close public hearing for Application No. 23-24, 31 Old Lantern Rd., was made by Juan Rivas; seconded by Peter DeLucia. All in favor with AYES: Juan Rivas, Peter DeLucia, Brandon Botelho, William Trotta and Joseph Hanna.

Motion to open Application No. 23-24, 31 Old Lantern Rd., for voting session was made by Juan Rivas, seconded by William Trotta. All in favor with AYES: Juan Rivas, Peter DeLucia, Brandon Botelho, William Trotta and Joseph Hanna.

Motion to approve Application No. 23-24, 31 Old Lantern Rd., per plan submitted was made by Juan Rivas; seconded by Peter DeLucia. Mr. Rivas stated he is approving this because it is the minimum variance necessary to allow reasonable use of the property, and it is in harmony with the general purpose and intent of the zoning district and other provisions of the Regulations. The variance will not adversely affect public health, safety, and welfare. All in favor with AYES: Juan Rivas, Peter DeLucia, Brandon Botelho, William Trotta and Joseph Hanna.

Motion to open Application No. 23-25, 12 Mill Plain Road, for Public Hearing was made by Juan Rivas; seconded by Peter DeLucia. All in favor with AYES: Juan Rivas, Peter DeLucia, Brandon Botelho, William Trotta and Joseph Hanna.

#23-25: 12 Mill Plain Rd., Andrews, Ashlea-agent; (E15097), CA-80 Zone. Sec. 8.E.5.a. Place free standing sign 5.8' from front property line

Ashlea Andrews present to represent the application for 12 Mill Plain Rd. They are looking to change the setback from 10 ft. to 5.8 ft. from the property line. There is an existing sign on the site now, but it is too far back from the road, so no one can see it. They are requesting the variance to move a sign closer to the road so people can see it. Mr. Hanna asks if the sign would be 5.8' from the road. Ms. Andrews clarifies it is 5.8' from the property line, and would be about 20 ft. from the curb of the road to the beginning of the sign. Mr. DeLucia expresses concern of the sign affecting sightlines when exiting the property after he visited the site. Dan Lombardo, the fabricator of the proposed sign, responded that there is about 20 ft. between the proposed sign and road, so sightlines would not be affected. You would measure 5 ft. in from the back curblin on the property, and that would be where the sign would start. The feather banners currently there are much closer to the road than the sign

would be. The new sign would be more narrow and tall, and is 6 sq. ft. smaller than the current sign that is on the site. Mr. Botelho questions the measurement of 20 ft. between the sign and the roadway. Mr. Rivas also expresses concern over future snow banks being present which would further hinder sight. Ms. Andrews shares a photo of the current site. The board members question where the sign would be in relation to the shrub depicted in the picture. Mr. Botelho says he did visit the site and measured the plan. He believes they are putting the sign as far back as they can, and would still allow for 6-8 ft. of visibility when exiting. He also points out the existence of other signs in the area that are closer to the road. He doesn't have a problem with the proposal, but doesn't agree with the number of 20 ft.

Mr. DeLucia and Mr. Rivas ask if the area on the bottom where the address is could be moved to the top to allow for visibility under the sign. Mr. Lombardo said they could accommodate that. Mr. Rivas asked for clarification on the record what the maximum height of the sign could be. Mr. Hearty said the maximum height would be 20 ft. since they did not request a height variance. He also clarifies that the board is looking to have the area of the sign with the address depicted in the sign plan vacated to allow further lines of sight; Mr. Rivas confirmed. Mr. Hearty states that when you come in for a sign variance you are supposed to try and make your property compliant. The feather and pin signs on the property are illegal, and they have come in front of the Board with sign violations existing.

Mr. Hanna asks if they are moving the existing sign to a new location or for more explanation on the new sign. Ms. Andrews states the old sign would be removed, and a new sign would be installed. Mr. Lombardo said the current sign is 8 ft. wide and 12 ft. tall and constructed out of wood. The new sign would be non-illuminated and made of brushed aluminum. It would have different sign blanks which can be adjusted when new tenants move in. Bill Sabitini, the owner, wants to take away the feather signs and banners that his tenants put up and that are illegal. By increasing the exposure with this sign, they would have no reason to put any of those up. Mr. Hanna clarifies that all of the illegal signs will be removed prior to installing the new sign. Mr. Lombardo confirms that Mr. Sabitini will speak with all the tenants to remove the illegal signs. Mr. Hanna believes there should be a condition attached, if approved, that the signs in violation are removed prior to installing the new sign. Mr. Hearty points out that it will also be notated in the minutes in regards to the violations, but they could also make a note. The permit would not be approved for the new sign until all violations are cleaned. This is strictly a location variance.

Mr. Rivas reiterates the desire to have the address area moved up top for better sightlines. Mr. Lombardo said he could submit a new drawing that would satisfy that request. They would just like to be able to place a sign in the proposed location. Mr. Botelho says he did measure out the sign location, and doesn't believe it will be a hindrance to the sightlines. He also disagrees that raising the sign up will help, and doesn't believe they need to modify the sign design. Mr. Lombardo offers to stake out the sign on the site to show exact location, and can superimpose the sign on a picture of the sight to show the sightlines. When you are exiting to make a right and looking to the left, you will have two car lengths of sight. The sign will not affect this. Mr. Botelho agrees. Mr. Lombardo could make a new drawing, but wants the original considered if he proves it won't affect the sightlines. Mr. Hanna said they could table the application and come back with the new application on January 25th; Mr. Lombardo understands. Mr. Lombardo states they are looking to put up a new sign in March, so are just looking to get it approved now. Mr. Trotta states that with what they are saying, there should not be a problem, but a visual may help the Board. Ms. Andrews points out the location of the sign again on the survey provided. Mr. Botelho states he feels it is a reasonable request and doesn't see a reason to table it. Mr. Hearty reminds the Board it is a location variance only, and lines of sight would be

protected by the regulations during the permitting process. The sign design would have to comply with the regulations. Mr. Rivas sees the picture with the shrub in the center of the island compared to the site plan, and is more comfortable with the application as-is. He does not feel a new sign design is required.

No one is present in support or opposition of the application.

Motion to close public hearing for Application No. 23-25, 12 Mill Plain Road, was made by Peter DeLucia; seconded by Juan Rivas. All in favor with AYES: Juan Rivas, Peter DeLucia, Brandon Botelho, William Trotta and Joseph Hanna.

Motion to open Application No. 23-25, 12 Mill Plain Road, for voting session was made by Juan Rivas; seconded by William Trotta. All in favor with AYES: Juan Rivas, Peter DeLucia, Brandon Botelho, William Trotta and Joseph Hanna.

Peter DeLucia asks for clarification if the back curb is the front property line. It is clarified via the survey that the front property line is in the area of the shrub depicted in the pictures. Mr. Hanna suggests a condition be added that the property owner remove all violations before the sign goes up.

Motion to approve Application No. 23-25, 12 Mill Plain Rd., with a condition, per plan submitted was made by Juan Rivas; seconded by Peter DeLucia. A condition is as follows: all existing free standing signs, along with all prohibited or non-permitted signs, on the property must be removed prior to the installation of the new freestanding sign. Mr. Rivas stated he is approving this because it is the minimum variance necessary to allow reasonable use of the property. The variance will not adversely affect public health, safety, and welfare. All in favor with AYES: Juan Rivas, Peter DeLucia, Brandon Botelho, William Trotta and Joseph Hanna.

Motion to open Application 23-26, 15 Barnum Road, for public hearing was made by Juan Rivas; seconded by William Trotta. All in favor with AYES: Juan Rivas, Peter DeLucia, Brandon Botelho, William Trotta and Joseph Hanna.

#23-26: 15 Barnum Rd., Cedar Gables Preschool; (G06021), RA-40 Zone. Sec. 4.A.5.e.(2) eliminate requirement for municipal sewer and water facilities, Sec. 4.A.5.e.(7) and 8.C.1.c.(2) to allow front yard parking for a handicap parking space, Sec.4.A.5.e.(10)(a) Reduce front yard setback from 50' to 26', Sec. 4.A.5.e.(10)(b) Reduce side yard setback for daycare center from 50' to 36.2' on northside and 27.2' on southside, and 8.A.2.c.(4) to allow bottom edge of excavation to be within 5' of adjoining property line

Neil Marcus, attorney, present to represent the application, and was joined by Doug & Tara Kennedy, proprietors for Cedar Gables Preschool. The application refers to a non-conforming structure that started as a house, then went to a house and a nursery school, and is now a preschool. The pre-existing non-conformity of the property with front and side yard setbacks provides the hardship. They will not be changing the structure, but they would do interior renovations. The applicant is looking to change the first floor residence, which is not currently being used, to become part of the preschool to service about 30 more kids and 8-10 more staff. Since they are renovating, the structure now must meet the setback requirements which is why they need the setback variances. They also have to revise the site plan, so they will be making the parking and driveway conforming. Both the parking and driveway are currently non-conforming.

The site operates on well and septic, and there is no city sewer or water available close to the site. This pertains to the main variances they are requesting. There are currently two septic systems: one for the lower level daycare and one for the upstairs. If they begin to service kids on the second floor, the septic would be put into use, but it is not currently being used. They have had no failures of the septic or problems with the well as long as the nursey school and daycare have operated. The site gets inspected by the State regularly. The well reports have been good, and they maintain the septic regularly. They will be doing a B100 septic plan to satisfy the Planning Commission's requirement for the special exception use. This will show if there is room for a backup system, and is required as part of the process. If they do have room for a backup, the Health Department will allow them to use the current system according to Attorney Marcus.

The current structure sits 26 ft. from the road. The required setback is 50 ft., so that requires a variance. They also want to add a handicap parking space by the front door to have ADA compliance which doesn't currently exist. The parking space will be in the front yard which requires a separate variance. Since the house was placed, setbacks have changed, so they need a side yard variance on the south side for the current placement of the building. Also a requirement of the City of Danbury is that you need a variance to excavate within 5 ft. of a boundary/ property line. This would be required to expand the parking and driveway and allow proper grading for that process.

They also did a traffic assessment. They did a traffic study light at this time which covers all topics, but an in-depth full traffic report would be done for the site plan for the Planning Commission. The ZBA is concerned with public safety, so they did look at the site lines for the property. The required site line would be 390 ft. based on the speed of traffic. According to the report, they have 650 ft. to the north and 550 ft. to the south. It is noted in the report that this will not affect the general health and safety of the neighborhood.

Attorney Marcus continues that the State of Connecticut has determined there is a lack of daycare based on published numbers by the CDC. They state the City of Danbury has 66% of daycare necessary to serve the current population. Due to this, the State will provide grant money if this project is completed in 2024. Mrs. Kennedy added the lack of childcare is in part due to repercussions from the pandemic. Kindercare, which served about 100 kids, closed during the pandemic. Currently Cedar Gables turns away one or more people daily who are inquiring about child care. They are already set to be full for next school year.

Attorney Marcus shares that they have been working on this project for about six months. The Kennedy's have met with the Health Department, Planning Department and staff for ZBA. This is the first stop to find out if they could operate without city sewer and city water. If they achieve the variance, they will go to Planning to further work out the issues on the site plan. The Kennedy's personally notified the whole neighborhood of their plan, and they received favorable responses from the neighbors.

Mr. Hanna asks how many students and classrooms there are and would there be after expansion. Mrs. Kennedy responded they currently have 36 students in 3 classes, and they would expand to 71 students in 6 classes. Mr. Hanna then asked about the number of workers and the associated parking required. Mrs. Kennedy said they currently have 8 teachers, and would increase to about 17 teachers with the expansion. They have provided a parking plan from an engineer to meet the City guidelines for the required parking.

Mr. Hanna asks Mr. Hearty if the daycare use is allowed. Mr. Hearty responds that the daycare use is allowed in the zone with conditions. The use isn't the issue, but they need some of the conditions waived or varied. Mr. Hearty states there is no city sewer or water available in the area, and this is the biggest condition they are looking to have waived. He states that himself and the City Planning staff

were concerned about not having an approved septic plan in place prior to submitting the application for the variance. Mr. Hanna asks Attorney Marcus if they are working on a septic approval. Attorney Marcus states that the Health Department has approved the septic system for the lower area which services the 36 kids and 8 adults. They believe the system for the second floor is the correct size to service the expanded area, but they are doing a B100 which is required by the Health Department for the project to move forward. The feedback from the Health Department has been positive. They were hoping to have a decision about the variance prior to paying to do the B100 because if the variance isn't approved then the B100 wouldn't be needed. He continued that there isn't a huge demand on the septic because the adults are not showering or doing laundry, and 30% of the kids on site currently don't use the bathroom. Attorney Marcus suggests conditioning the variance approval on City and State approval for the well and septic. Mr. Rivas is concerned with that suggestion because the variance is applied to the land records, and would then allow possible future owners these options as well if the variance is granted. Mr. Hanna asks if they have, or could get, a letter from the Health Department certifying they are OK with the system. Mrs. Kennedy says they do have a current inspection from the Health Department stating they are in compliance currently. The Health Department wants a permit open and testing completed prior to issuing anything pertaining to the septic with the renovation/ expansion. Attorney Marcus states they should have the results of the B100 next week, so at that point they could get a letter from the Health Department. He suggests continuing the public hearing so they can provide this information to the Board. Mr. Hanna and Mr. Rivas agree they would like to see an engineered design for the septic system. Attorney Marcus again brings up the financial expense of designing the system which wouldn't be necessary if the variance isn't granted. Mr. Rivas then asks if they have a linen service since Attorney Marcus said there was no laundry done. Attorney Marcus corrects his previous statement and clarifies there is minimal amount of laundry done of the children's sheets, towels, etc. Multiple Commissioners agree that they need proof the septic would be able to handle the increased amount of people. They are in agreement that, since once they approve it per plans submitted they can't take it back, they need more information. They feel having the B100 and septic approval in writing, they would provide a more informed decision on the variance application. Attorney Marcus understands and asks for a 30-day continuance to have the B100 completed.

Mr. Rivas then asks for clarification on the variance request for excavation within 5 ft. of the property line. Attorney Marcus states that the curbs for the new parking area would require this. Mr. Rivas then points out that new parking spaces are over concrete galleries for septic system; Attorney Marcus then confirms this is allowed. Mr. Rivas states his concern about the parking spaces in the area of the wetlands on the property. Mrs. Kennedy states they have a soil scientist coming out within two weeks to test the soil, so they could provide that report as well. Attorney Marcus also states they have permission from Pembroke School to go on their property during the soil testing so they can achieve the proper area.

Motion to continue Public Hearing for Application No. 23-26, 15 Barnum Rd., for 30 days for more information was made by Juan Rivas; seconded by Peter DeLucia. All in favor with AYES: Juan Rivas, Peter DeLucia, Brandon Botelho, William Trotta and Joseph Hanna.

ADJOURNMENT:

Motion to adjourn was made by Juan Rivas; seconded by Peter DeLucia. All in favor with AYES from: Juan Rivas, Peter DeLucia, Brandon Botelho, William Trotta and Joseph Hanna.

Meeting adjourned at 8:34 p.m.

Respectfully submitted,

Melissa Llera
Recording Secretary