



CITY OF DANBURY
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ZONING BOARD OF APPEALS
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ZONING BOARD OF APPEALS
MINUTES

Web-based Meeting held via ZOOM

February 9, 2023

7:00 p.m.

ROLL CALL:

Chairman Joseph Hanna called the meeting to order at 7:00 p.m. Present by roll call: Juan Rivas, Peter DeLucia, Anthony Rebeiro, and Michael Sibbitt. Absent was Richard Roos. Staff present: Sean Hearty, Zoning Enforcement Officer, and Mary Larkin, Secretary.

Motion to open Application 22-29 was made by Juan Rivas; seconded by Antony Rebeiro. All in favor by roll call: Juan Rivas, Peter DeLucia, Anthony Rebeiro, Michael Sibbitt, and Joseph Hanna.

ACCEPTANCE OF MINUTES: January 12, 2023 & January 19, 2023

Acceptance of the Minutes occurred at the end of the meeting. Motions were as follows:

Motion to accept the Minutes of the regular meeting held on January 12, 2023 was made by Anthony Rebeiro; seconded by Peter DeLucia. All in favor by roll call: Juan Rivas, Peter DeLucia, Anthony Rebeiro, Michael Sibbitt, and Joseph Hanna.

Motion to accept the Minutes of the special meeting held on January 19, 2023 was made by Michael Sibbitt; seconded by Juan Rivas. All in favor by roll call and those eligible to vote: Juan Rivas, Peter DeLucia, Michael Sibbitt, and Joseph Hanna.

The next regular meeting is scheduled for **February 23, 2023**

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DANBURY TOWN CLERK

2023 APR -3 A 11: 14

BY: *kc*

PUBLIC HEARINGS:

#22-29: 61 Liberty Street, Ward J. Mazzucco, Esq. & Charles O. Lichtenauer, Esq., Agents for OTROP Investments, LLC, (I14304), RMF-4 Zone. USE Variance: Sec. 4.B.2 in accordance with 9.C.1.a. and 11.B.2.b. Allow change in use from one non-conforming use (club) to another non-conforming use (restaurant serving liquor) in the RMF-4 Zone. Sec. 3.F.2. Allow special permit use in RMF-4 Zone

Ward Mazzucco, Esq. presented this application on behalf of the applicant, Otrop Investments LLC. Atty. Mazzucco explained this property is near the Danbury Ice Arena, bars, and other restaurants in the neighborhood. Historically, this was built as a social club in 1939 for the Sons of Portugal and remained so until 2001. Eventually, it was owned by his client and rented as a religious community center. Atty. Mazzucco described the requested variances as complicated and unusual. A restaurant would not normally be in this zone. Atty. Mazzucco explained the requested variances and Sec. 3.F.2 allows them to apply to the Zoning Commission for a special permit if this variance is granted.

Section 11.B.2.b. Allowing a social club to be replaced by a restaurant with alcoholic beverages. They are seeking this variance as the building has a fully equipped restaurant with plenty of indoor seating and outdoor parking. The non-conforming parking has been in existence for decades. The interior reflects a restaurant. Seating would be upgraded. The staff report states parking would be limited to 64 seats. Mr. Mazzucco indicated this is a highly pedestrian-friendly neighborhood. The kitchen, which was recently renovated, is in perfect condition. In the back there is another service bar.

The upstairs is a place of assembly that the community centers uses. His client does not propose to use the upstairs unless there was a private function upstairs. Still, no more than 64 seats up or down.

Chairman Joseph Hanna asked about the hardship. Atty. Mazzucco said because the property has been functionally a restaurant since 1939 to 2001. There are restrooms on every floor, and a pantry/scullery kitchen on the second floor. Mr. Hanna said the restaurant was used by the club, and if they (the ZBA) voted to use it as a restaurant, parking and alcohol will create too much trouble for the neighborhood.

Vice Chairman Juan Rivas read both the recommendations from the Planning Commission and Zoning Commission into the record. Both gave negative referrals.

Attorney continued with his presentation and said in terms of intensity of use, the restaurant with 64 seats would be much less intense than the assembly set up. A PowerPoint presentation included photographs of the current location. Attorney Mazzucco reminded the Board that the other commissions do not have the benefit of a presentation of the information they are afforded.

Attorney Mazzucco reviewed the standards for approval stating this is the minimum necessary to allow a reasonable use of the property. Hardships are the shape and size of the property were defined at the time it was built. Over the years there have been many improvements. Mr. DeLucia asked if there was a second floor sprinkler system, which he then considered may be a question for the Fire Marshal.

Mr. Sousa, the company's owner, said there is an exit on the second floor that is sprinklered. Discussion continued. Mr. Rivas asked Mr. Hearty, ZEO, if this was to pass, would they still need a special permit from the Zoning Commission, and if it passed and the (special) permit was not granted, what does the owner intend to do with the property?

There was no one in support or opposed to the application.

Mr. Rivas commented regarding the intention of the applicant, but being in an RMF-4 Zone, it makes it difficult to help them out in a way that it doesn't negatively affect the POCD plan and allowing a variance that might seem more non-conforming than others. He asked if this does not pass can it be voted down without prejudice. He said he understands the City's position. Mr. Hanna said whoever make a motion, something should be said about the use of the second floor. Peter DeLucia said the second floor has to be in compliance with the Fire Marshal.

Motion to close Application No. 22-29 was made by Anthony Rebeiro; seconded by Peter DeLucia; seconded by Peter DeLucia. All in favor by roll call: Juan Rivas, Peter DeLucia, Anthony Rebeiro, Michael Sibbitt, and Joseph Hanna.

Motion to open voting session was made by Juan Rivas; seconded by Anthony Rebeiro. All in favor Juan Rivas, Peter DeLucia, Anthony Rebeiro, Michael Sibbitt, and Joseph Hanna.

Mr. Rebeiro said there are many places there; however, the difference is this is in a residential zone and it means it will be open every day, serving alcohol, there will be noise issues to whatever time of the night. Mr. Hanna mentioned another location in Danbury where the noise is an issue and there is no parking. Peter DeLucia is concerned about the second floor and clearer language is needed about the number of seats upstairs and downstairs and whether it will be used interchangeably. Michael Sibbitt said he has driven by that building many times over the years, and whenever there is an event going on there, there are always traffic problems. Mr. Sibbitt noted the fire department next door and in emergency the traffic and parking would be an issue. Mr. Sibbitt further agreed with the comment about controlling the use of the second floor as a restaurant

Motion to deny Application No. 22-29, 61 Liberty Street, without prejudice was made by Michael Sibbitt, Ward J. Mazzucco, Esq. & Charles O. Lichtenauer, Esq., Agents for OTROP Investments, LLC, (I14304), RMF-4 Zone. USE Variance: Sec. 4.B.2 in accordance with 9.C.1.a. and 11.B.2.b. Allow change in use from one non-conforming use (club) to another non-conforming use (restaurant serving liquor) in the RMF-4 Zone. Sec. 3.F.2. Allow special permit use in RMF-4 Zone because of the traffic safety, negative referrals from both the Planning Commission and Zoning Commission, we have no way of controlling what the second floor will be used for; seconded by Anthony Rebeiro. All in favor by roll call: Juan Rivas, Peter DeLucia, Anthony Rebeiro, Michael Sibbitt, and Joseph Hanna.

CONTINUED PUBLIC HEARINGS: None

OLD BUSINESS: None

NEW BUSINESS: None

CORRESPONDENCE: None

OTHER MATTERS: None

ADJOURNMENT:

Motion to adjourn was made by Juan Rivas; seconded by Anthony Rebeiro. All in favor: Juan Rivas, Peter DeLucia, Anthony Rebeiro, Michael Sibbitt, and Joseph Hanna. Meeting adjourned at 7:54 p.m.

Respectfully submitted,



Mary S. Larkin
Recording Secretary