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ZONING BOARD OF APPEALS
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ZONING BOARD OF APPEALS
MINUTES
Web-based Meeting held via ZOOM
March 9, 2023
7:00 p.m.

ROLL CALL:

Acting Chairman Juan Rivas called the meeting to order at 7:02 p.m. Present by roll call were Michael Sibbitt, Peter DeLucia, Anthony Rebeiro, and Rick Roos. Mr. Rivas seated Alternate Rick Roos in place of Joseph Hanna, who was absent. Staff present were Zoning Enforcement Officer Sean Hearty and Secretary Mary Larkin.

ACCEPTANCE OF MINUTES: February 9, 2023

Motion to accept the Minutes of February 9, 2023 was made by Michael Sibbitt; seconded by Peter DeLucia. Roll call vote with Yeas from those eligible to vote: Michael Sibbitt, Peter DeLucia, Anthony Rebeiro, and Juan Rivas.

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

PUBLIC HEARINGS:

Motion to open Public Hearings Nos. 23-01, 23-02, 23-03 & 23-04 was made by Peter DeLucia; seconded by Michael Sibbitt. All in favor by roll call vote with Yeas from Michael Sibbitt, Peter DeLucia, Rick Roos, and Anthony Rebeiro. Mr. Rebeiro said that would have to recuse himself from voting on Application No. 23-03, 62 Triangle Street.

#23-01: 9 Charlottes Way, Burgess, David, (H08124), RA-80 Zone. Sec. 4.A.3 Reduce minimum side yard setback from 40' to 25.5' for proposed garage addition.

David Burgess, homeowner, shared his screen with the Board members. He described the front of his house and indicated the existing driveway location and doors. Most homes in the community have three-car garages or oversized two-car garages. The proposed second driveway would skirt the septic

fields and create an entrance to the other side of the house. His variance is to reduce the side yard setback from 40' to 25.5'.

Board Member Michael Sibbitt stated he made two on-site visits and drove in to test the turn-around radius of the existing driveway and had enough room. Mr. Sibbitt questioned the esthetics of another driveway across the front yard and if the proposed garage would have a living space above the garage to match it to the house? Mr. Sibbitt said he has reasonable use of his property and legally they do not have to grant a variance because there is no hardship. Mr. Burgess asked if he can improve his property and with new drivers in the family it would make it easier. Mr. Burgess suggested he could level part of the front yard and make a circle drive there. When asked about living space above the proposed garage, Mr. Burgess indicated conceivably that could be done, however, he does not have a detailed plan. Board Member Rick Roos asked if the existing garage will remain and if the new one is actually a garage? Mr. Burgess replied, "Yes".

Acting Chairman Juan Rivas asked if this is a two-car or single-bay garage? Mr. Burgess said he has not done the detailed plan yet. The architect put in 26' x 36', and Mr. Burgess asked if there was a limitation on that. Mr. Rivas said it is up to us to decide what is reasonable.

There were no further questions from the Board. Mr. DeLucia commented that they really need to see what the plans are and Mr. Roos asked if as they look at the picture of the home, where is the neighbor's home to the left. Mr. Burgess indicated that is the Inigo home, and there is rock ledge behind and between the Burgess and Inigo homes.

Public comment: Mr. Inigo, neighbor at 11 Charlottes Way said he is neither in favor or opposed to the application; however, his concern is they get a huge runoff of water. Currently, they have a mitigation system installed by the previous owner. When there is a heavy downpour, it gets overwhelmed with water. His biggest concern is if the variance gets approved and the project can proceed is how this runoff of water will be dealt with understanding that he (Mr. Burgess) intends to level his front yard and their yard is about 5' to 6' below his.

The undersigned read an email, received from the Michael & Mary Romano, neighbors at Charlottes Way, into the record stating they have no objections and to quote them: "Please advise the ZBA that having reviewed the proposed zoning variance requested by Dave and Alicia Burgess, 9 Charlottes Way, we have no objection to the variance." Dated, Thursday January 19, 2023.

Mr. Rivas continued by asking if there was anyone else in favor or opposed to the application. At that time, Tara Inigo, joined the meeting and concurred with her husband, describing the water flow as Niagara Falls.

There being no one else in favor or opposed, Mr. Rivas commented there is still some work to be done on this application before a vote tonight and suggested tabling for clarification about the living space and runoff.

Motion to continue Application No. 23-01 9 Charlottes Way to May 11, 2023 as requested by the applicant, was made by Michael Sibbitt; seconded by Anthony Rebeiro. All in favor by roll call vote with Yeas from Michael Sibbitt, Peter DeLucia, Rick Roos, and Anthony Rebeiro.

#23-02: 13 Joes's Hill Rd., Cubberly, David, (C13105), RA-40 Zone. Sec. 8.B.1.b.(3) Increase maximum driveway centerline grade from 12% to 16%.

Benjamin Doto, P.E., 248 Main Street, Danbury, CT, representing David Cubberly, applicant. This is a driveway grade variance. Mr. Cubberly resides at 9A Joe's Hill Road. His parents passed and sold their house at No. 9, and he bought No. 13 and wants to build a four-bedroom house.

Mr. Doto shared his screen and explained the steep topography and lot slopes at 30 to 40%. He indicated a flat area that was home to tennis courts years ago, and said that the house will be positioned so that the garage doors open to that area. Mr. Doto indicated that Mr. Cubberly spoke with neighbors on either side and across the street from the site, but he did not speak to any of those neighbors (on Maplewood) because he didn't feel there was any impact to them. Mr. Doto acknowledged the Mr. & Mrs. Valentine's presence on the Zoom meeting.

Mr. Doto described the actual maximum slope of the driveway as 15 on the plan and that allows them to minimize excavation. They will not be asking for any excavation within 5' of property lines. The driveway will be 12' wide, City minimum being 10', with 2' shoulders on both sides to make the driveway save. The first 40' will be at 8%. The flat area at the garage doors will enable pulling in and then coming back out to eliminate any dangerous turns. The well will be located somewhere in the front yard and there will be a septic system at a location Mr. Doto indicated on the screen. Mr. Doto indicated a delineation of dark & light green with the dark green representing portion of the property that will be undisturbed and remain wooded. They will be 338' from the nearest neighbor. The City's minimum rear yard setback is 35'.

To reinforce the idea that this hardship is unique to Joe's Hill Road, Mr. Doto gave examples of other driveways on the road and illustrated same with a GIS map with red check marks, all of which indicated driveways exceeding the 12%. Of the other driveways with less than 10%, marked with a green check, most have homes in the front yard setback.

Mr. Doto offered to answer questions from the Board. Mr. Rivas asked about the driveway— from the start of the drive where does it begin to exceed 8'. About 35'- 40' per Mr. Doto. Mr. Rivas: how many feet of the driveway is above 12% to 16%. Mr. Doto: They are at 15% for about 180' and then it flattens out the last 70' as it approaches the flat area (former tennis court). Mr. Rivas is concerned about fire and emergency personnel accessing the home. Mr. Doto said that an ambulance would absolutely be able to access the driveway and turn around at the top in order to head down the driveway rather than back down.

There being no other questions from the Board, Mr. Rivas asked if there was anyone in favor. There being no response, Mr. Rivas asked if there was anyone opposed. Mr. Drew Valentine, 22 Maplewood Drive acknowledged received the notice of the variance application and expressed his

concern as he had not seen a house design and did not know how far back the driveway would be. Mr. Valentine said that he and his wife wondered how many houses would be built? He indicated that the woods provide a natural thoroughfare for animals and water runoff. He thought that wells at the bottom of the hill would put stress on the wells above as he had to refract his wells twice in the last six years. Mr. Valentine expressed that what was shown tonight is different than what he thought he would be, yet he would like some sort of environmental impact study to see what else comes with putting another house there as there are already a number of homes back on the ridge. He and his neighbors believe it will impact the wildlife and the challenges they are having with water. He said the cutting of trees would increase the noise from the surrounding area. Mrs. Valentine is concerned about the retention pond and losing the natural sound barrier that protects them not only from I-84 but also Mill Plain Road. Mr. Matt Jarboe, 24 Maplewood, also shares the same concerns as the Valentines. His primary concern is the impact to the aquifer. He has had to refract the well, and they are down 600' to 800'. He would like to know what type of mitigation plan is proposed.

Mr. Doto responded that the variance tonight is for the driveway. He assured the neighbors only one, single-family dwelling can be built on this lot based on the property's width and frontage. Mr. Doto said that if the variance is granted tonight, they would still need to go through Building Permits and have Health Department approval. An erosion and sedimentation control bond would also be posted. A drainage system will be designed to accommodate the runoff. Mr. Doto indicated on his screen the location of three catch basins and thinks the City will most likely have them put a catch basin in at the base of the driveway. One well will be installed near the front of the property. Mr. Doto said they will also have a septic system. Mr. Doto indicated he took some measurements of the proximity of the Valentines' house to the location of the proposed Cubberly house. The Cubberly house will be approximately 338 feet from the property line and will sit about 160' below the Valentine house elevation. The Zoning Regulations allow 35' from the rear property line. There is nothing from a drainage standpoint. Mr. Doto reiterated Mr. Cubberly is not a builder and is a lifelong resident of Joe's Hill Road.

Commissioner Roos reminded everyone the applicant is seeking a variance for the driveway, not for a house.

Motion to close Application No. 23-02 was made by Rick Roos; seconded by Peter DeLucia. All in favor by roll call vote with Yeas from Michael Sibbitt, Peter DeLucia, Anthony Rebeiro, and Rick Roos.

Motion to open Application No. 23-02 for voting was made by Anthony Rebeiro; seconded by Rick Roos. All in favor by roll call vote with Yeas from Michael Sibbitt, Peter DeLucia, Anthony Rebeiro, and Rick Roos.

Motion to approve Application No. 23-02, per plan submitted, was made by Rick Roos who stated the hardship is definitely the topography; seconded by Michael Sibbitt. All in favor with Yeas by roll call vote from Michael Sibbitt, Peter DeLucia, Anthony Rebeiro, and Rick Roos.

#23-03: 62 Triangle St., J.A.R. Associates, LLC, (J15225), IL-40 Zone. Sec. 6.A.3: Reduce front yard setback from 30' to 21' on Starr St.; Sec. 6.C.2.b: Reduce front yard planting strip from 20' to 11' on Starr St.

Note: Commissioner Anthony Rebeiro recused himself from voting on this application.

Thomas Beecher, Esq., Collins Hannafin Law Firm, 148 Deer Hill Avenue, Danbury, along with Benjamin Doto, L.P.E., 248 Main Street, Danbury appearing on behalf of JAR Associates, LLC. Mr. Beecher explained this is in the IL-40 Zone, which is an industrial zone. The property is approved for a contractor's yard. Mr. Beecher explained they have applied for variances of Section 6.A.3 and 6.C.2.b of the regulations: Reduce front yard setback from 30' to 21' on Starr St. and reduce front yard planting strip from 20' to 11' on Starr St., which are the exact same variances that this board granted for this property back in 2017, per plan submitted. His client would now like to build contractor's garage on this side of the property and because our plan has changed they are submitting this application for the same variances but with this new plan. There was a taking of a portion of the frontage along Starr Street for road widening and a required sidewalk. His client has since given the City an easement for the sidewalk and a deed for the road widening strip. There are two hardships associated with this request. The first is there are two front yards, and the second, is the fact that the City did take some land along Starr Street for the road widening. Bottom line is that these are the same variances with a different plan that now included the garage, which will be an improvement with equipment and vehicles stored indoors as opposed to a contractor's yard.

Ben Doto, LPE, said they are proposing a 10,800 sq.ft. building at the edge of the current contractor's yard. There will be trees and landscaping and a privacy fence. The driveway entrance will remain unchanged. There will be no garage doors or access directly to Starr Street. If the variances are granted, they will have to go through a revised site plan process. Commissioner Rivas asked the height of the building. Mr. Doto replied the zone allows a height of 45'; this will be 30' high. Mr. Rivas asked for clarification of the 8% building coverage. Mr. Doto confirmed 8% and stated 30% is allowed in the zone.

No further questions, no one in favor or opposed.

Motion to close Application No. 23-03 made by Rick Roos; seconded by Michael Sibbitt. All in favor by roll call vote with Yeas from Michael Sibbitt, Peter DeLucia, Rick Roos, and Juan Rivas.

Motion to open voting was made by Rick Roos; seconded by Michael Sibbitt. All in favor by roll call vote with Yeas from Michael Sibbitt, Peter DeLucia, Rick Roos, and Juan Rivas.

Motion to approve Application No. 23-03, per revised plan submitted, was made by Rick Roos; seconded by Peter DeLucia. All in favor by roll call vote with Yeas from Michael Sibbitt, Peter DeLucia, Rick Roos, and Juan Rivas.

#23-04: 1 Delta Ave., Filippakos, Petros & Andriana, (H16044), RA-20 Zone. Sec. 4.A.3. Reduce front setback from 30' to 12.9' (Park) & reduce front setback from 30' to 12.3' (Delta) for proposed garage; Reduce front setback from 30' to 25.3' (Park); reduce side setback from 15' to 5.9' for proposed addition, Reduce front setback from 30' to 22.2' (Park) & side setback from 15' to 6.9' for proposed deck. Increase maximum building coverage from 20% to 24.1%.

Michael Mazzucco, P.E., Danbury, CT represented his clients, Petros & Andriana Filippakos. Mr. Mazzucco described the proposal for an attached garage, an addition to the rear, and relocation of the deck. He stated this is an undersized lot in the RA-20 Zone. Mr. Mazzucco shared the survey, indicating the RMF-4 Zone is across the street and the IL-40 Zone is to the west. A portion of the existing deck is covered. They originally wanted a garage for storage and explored a detached garage; however, access would be very steep. This property has three front yards on a rectangular lot.

The addition would be in line with the current house on the south side. Mr. Mazzucco displayed view of the elevation. The three front yards require several setbacks, and the side line is impacted. The lot size is 11,811 sq.ft., which typically would be in the RA-8 Zone. Coverage will go from 20% to 24.1%. Mr. Mazzucco displayed GIS mapping, which indicated similarities of the yards and homes in the area.

The impervious area is increased so they put a catch basin near the proposed new garage. Commissioner Rick Roos questioned the circle shown on the survey. Mr. Mazzucco explained is a stock pile of soil. Commissioner Juan Rivas questioned the plan, marked A-1.1 and the addition listed as new storage. Mr. Mazzucco said it is his understanding that it will be for storage and not expansion of living space. This is a semi-retired couple who would like to stay in this home and keep their vehicles inside. Mr. Rivas further questioned the plan, marked A-2.1, depicting storage . . . would that be considered garage space. Are those garage bays or open space areas? Mr. Mazzucco: it depicts open space under the deck. Mr. Mazzucco stated there was to entryway when asked by Mr. Rivas about the area under the deck. Mr. Mazzucco said there was no basement, just frost walls. Mr. Rivas asked the current square footage to proposed square footage of the addition. Mr. Mazzucco asked him to clarify. Mr. Rivas asked if the garage is considered as living space or coverage? Mr. Mazzucco said "building coverage" and Zoning Enforcement Officer concurred.

Mr. Rivas questioned the large proposed storage space, and asked if it is really for storage or living space? Mr. Mazzucco asked the owners, Petros & Andriana Filippakos to answer. Both Mr. and Mrs. Filippakos stated it was for storage. They have accumulated a large quantity of items, and they need a place to store it. Some of the accumulation is items used for church events. They also enjoy entertaining when the weather permits and need the deck. Mr. Sibbitt said he can understand the garage, but the deck and large storage for two people seems like too much. Mr. Rivas stated he understands the hardship of the three front yards, but he thinks the storage is a little excessive. No further questions.

No one spoke in favor of the application; however, the neighbor, Mr. Tallbot is concerned about the side yard and thinks they could move their addition closer to the Park Avenue side. He wonders if there is some other solution to move away from the side yard closest to his house.

There were no further comments.

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Motion to close Application No. 23-04 made by Rick Roos; seconded by Anthony Rebeiro. All in favor by roll call vote with Yeas from Michael Sibbitt, Peter DeLucia, Anthony Rebeiro, and Rick Roos.

Motion to open voting session was made by Rick Roos; seconded by Anthony Rebeiro. All in favor by roll call vote with Yeas from Michael Sibbitt, Peter DeLucia, Anthony Rebeiro, and Rick Roos.

Motion to approve Application No. 23-04, per plan submitted, was made by Rick Roos with stipulation that proposed addition does not permit living space; seconded by Peter DeLucia. Roll call vote: Michael Sibbitt: "Nay;" Peter DeLucia: "Yea;" Anthony Rebeiro: "Yea;" Rick Roos: "Yea;" Juan Rivas: "Nay". Motion failed.

Motion to deny, without prejudice, Application No. 23-04 was made by Anthony Rebeiro; seconded by Michael Sibbitt. All in favor by roll call vote with Yeas from Michael Sibbitt, Peter DeLucia, Anthony Rebeiro, Rick Roos, and Juan Rivas. Motion passes.

CONTINUED PUBLIC HEARINGS: None

OLD BUSINESS: None

NEW BUSINESS: None

CORRESPONDENCE: None

OTHER MATTERS: None

ADJOURNMENT:

Motion to adjourn made by Anthony Rebeiro; seconded by Michael Sibbitt. All in favor by roll call with Yeas from Michael Sibbitt, Peter DeLucia, Anthony Rebeiro, and Rick Roos. Meeting adjourned at 9:02 p.m.

Respectfully submitted,



Mary S. Larkin
Recording Secretary