

Posted in the City of Danbury Town Clerk's Office on 6-12-23 at 11:38 a.m.



**CITY OF DANBURY**  
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**ZONING BOARD OF APPEALS**  
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***ZONING BOARD OF APPEALS – Special Meeting***  
***MINUTES***

**Web-based Meeting held via ZOOM**

**May 18, 2023**

**7:00 p.m.**

**ROLL CALL:**

Chairman Joseph Hanna called the Web-based, special meeting of the Zoning Board of Appeals, held via zoom, to order at 7:00 p.m. Present by roll call were Peter DeLucia, Michael Sibbitt, Juan Rivas, and Anthony Rebeiro. Richard Roos was absent. Staff members present were Sean P. Hearty, Zoning Enforcement Officer, and Mary Larkin, Secretary.

**ACCEPTANCE OF MINUTES:**

Motion to accept the Minutes of March 9, 2023 was made by Peter DeLucia; seconded by Michael Sibbitt. In favor by those eligible to vote: Peter DeLucia, Michael Sibbitt, and Juan Rivas.

The next regular meeting is scheduled for **June 8, 2023**

Motion to open public hearings Nos. 23-06, 23-07, 23-08, 23-09 and continued public hearing No. 23-01, 9 Charlotte's Way, was made by Juan Rivas; seconded by Michael Sibbitt. All in favor with Ayes from Peter DeLucia, Michael Sibbitt, Juan Rivas, Anthony Rebeiro, and Joseph Hanna.

**PUBLIC HEARINGS:**

#23-06: 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 13.5' for proposed deck. Increase maximum building coverage from 20% to 23%.

Michael Mazzucco, P.E. representing the applicant, reminded the Board that his clients' earlier application was denied without prejudice. Mr. Mazzucco displayed a highlighted plan and stated the garage has not changed. The deck and addition were reduced and the coverage was reduced to 23%. The previous application asked for 24.1%.

Mr. Hanna asked if the garage is behind the house, and Mr. Mazzucco said the driveway remains the same with the garage doors facing south. It is not behind the house. Mr. Sibbitt remarked the application said 12.7' but the survey indicates 12.3'. Mr. Mazzucco explained the architect's map allows for leeway in the area of the overhang and indicated the plan has not changed much just lessened the encroachment toward the neighbor. Mr. Sibbitt asked why such a large building? Mr. Mazzucco explained the area of this lot is more in line with the RA-8 zone, and they are in an RA20 zone. Mr. Hanna questioned the size of the addition. Mr. Mazzucco said it's 24' x 25 ½'. Mr. Rivas questioned the 34' x 32' on the site plan. Mr. Rebeiro said that's probably taking into account the 6 ½' where the doorway is. Mr. Rivas acknowledged. Mr. Hanna asked if the picture window in the house--will that stay? Mr. Mazzucco said it will be reworked, but it will stay.

There were no further questions nor anyone in support or in opposition.

Motion to close No. 23-06, 1 Delta Avenue, was made by Anthony Rebeiro; seconded by Michael Sibbitt. All in favor with AYES from Peter DeLucia, Michael Sibbitt, Juan Rivas, Anthony Rebeiro, and Joseph Hanna.

Motion to open No. 23-06, 1 Delta Avenue, for voting was made by Juan Rivas; seconded by Michael Sibbitt. All in favor with AYES from Peter DeLucia, Michael Sibbitt, Juan Rivas, Anthony Rebeiro, and Joseph Hanna.

There being no further discussion, a motion to approve No. 23-06, per plan submitted, was made by Anthony Rebeiro; seconded by Peter DeLucia. All in favor by roll call with AYES from Michael Sibbitt, Peter DeLucia, Juan Rivas, Anthony Rebeiro, and Joseph Hanna.

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#23-07: 18 Lake Road, Wallenta, Jonathan, Agent for McGrath, Leo & Grace Ann, (J02023), RA-20 Zone. Reduce front yard setback from 30' to 12' and reduce side yard setback from 15' to 9' for proposed deck.

Jon Wallenta, agent/builder, and the homeowner, Leo McGrath, were present on the Zoom meeting. He said they are looking to build a deck overlooking the lake, and the front yard is close to the driveway. They are proposing a small platform to access from the existing house requiring reduction of the front- and side-yard setbacks. The deck will be on the side following the plane of the existing house. It will be a platform with railings. Commissioner Juan Rivas shared his screen. Commissioner Michael Sibbitt asked are they going to do away with existing front porch that is glassed in? Mr. Wallenta responded, "no," as the platform will be free standing, not attached to the house with access from the glassed in area to the platform. Mr. Sibbitt thought it was very close to the road. Leo McGrath, homeowner, said it is a shared "driveway", which has recently been repaved, and the neighbors are in agreement with their proposal. Mr. Rivas asked if it would hinder any emergency services vehicles. Mr.

Wallenta indicated the deck will be set back from the road. Mr. McGrath offered to pull it back a couple of feet if the Board wants. Mr. Hanna inquired about the size of the deck. Mr. Wallenta said it would be 14' x 15; 14' x 16'. Mr. Rivas asked if they would be open to expanding widthwise rather than lengthwise. McGrath said it easier to pull back from the other side. Jon Wallenta said they were at their limit now, and if they go any closer, the parking space would be lost. Anthony Rebeiro asked if this driveway serves three houses? Mr. McGrath said it actually serves four. Mr. Rebeiro said that if it serves more than three the "driveway" could actually become a road if it was constructed to the town standards. It technically is just a driveway if it only serves three houses or less. Mr. McGrath said there are only two house past his.

Mr. Hanna asked for guidance from Sean Hearty, Zoning Enforcement Officer, regarding what would be required if the Board wants the deck reduced to 14' x14'? Mr. Hearty explained that a you can have a revised map as long as the intrusion isn't increasing the variance. Mr. Hearty said the Board can make it less with a revised plan.

At this time the three emails in support were read into the record by the undersigned. The emails were from Mary Ann Hau of 20 Lake Road, Joanne Calandrino of 16 Lake Road, and Jeanne Groody of 22 Lake Road.

Motion to close No. 23-07, 18 Lake Road, was made by Anthony Rebeiro; seconded by Michael Sibbitt. All in favor with AYES from Peter DeLucia, Michael Sibbitt, Juan Rivas, Anthony Rebeiro, and Joseph Hanna.

Motion to open No. 23-07, 18 Lake Road, for voting was made by Anthony Rebeiro; seconded by Michael Sibbitt. All in favor with AYES from Peter DeLucia, Michael Sibbitt, Juan Rivas, Anthony Rebeiro, and Joseph Hanna.

Motion to approve No. 23-07, 18 Lake Road, per plan submitted, was made by Anthony Rebeiro as the hardship is the shape of lot and shared access; seconded by Peter DeLucia. All in favor by roll call vote with AYES from Michael Sibbitt, Peter DeLucia, Juan Rivas, Anthony Rebeiro, and Joseph Hanna.

#23-08: 21 Marion Street, Cappell, Amy & Sylvain, Caetano Construction, Agent (H22114), RA-20 Zone. Sec. 4.A.3 Reduce rear yard setback from 35' to 19' to enlarge & rebuild deck.

Chairman Joseph Hanna suggested this application be passed as the representative/agent for the applicant had not joined the meeting. This application was revisited one more time, and the representative/agent was still absent from the meeting.

Motion to table Application No. 23-08, 21 Marion Street, until the next regular meeting to be held on June 8, 2023 was made by Juan Rivas; seconded by Michael Sibbitt. All in favor with AYES from Peter DeLucia, Michael Sibbitt, Juan Rivas, Anthony Rebeiro, and Joseph Hanna.

#23-09: 15 Grandview Dr., Araujo, Heber C., (E10058), RA-40 Zone. Sec. 4.A.3 Reduce front yard setback from 40' to 22.1' for front porch and reduce side yard setback from 25' to 6.6' for a two-car garage.

Lucia DeMelo, representing the applicant, was present on the Zoom meeting. Ms. DeMelo said the applicant is requesting a 6' x 30' covered front porch and a reduction of the side yard setback to have a two-car garage with an addition above the garage. Commissioner Michael Sibbitt indicated he visited the site, and asked if they build a two-car garage, will they get rid of the motor home which is unsightly. Ms. DeMelo, said, "yes". Mr. Sibbitt also asked if they are building two stories, will they keep the tall trees between the houses, otherwise they would be looking into their neighbor's yard. Ms. DeMelo guessed yes if they do not interfere with the footprint of the house. Ms. DeMelo quoted the measurements of the proposed garage and said the addition above would likely be the same square footage so as to stay within the footprint of the garage. Mr. Rivas asked if proposed living space above the garage is this okay – not against any regulations. Mr. Hearty said the second story has to be incorporated into the existing dwelling. No separate entrance or exit. Ms. DeMelo said that would be the case. Ms. DeMelo said the number of bedrooms will not change as this new space will be incorporated into an existing bedroom. Mr. Rivas asked if it would be possible to add this addition to the other side of the house. Ms. DeMelo said it would not be possible because they would need a new driveway. This is designed to use the existing driveway, and the neighbor on that side has no objection to the addition.

Mr. Hanna asked if they have an approval for septic for a four-bedroom house. Ms. DeMelo explained it will remain a three-bedroom home. Mr. Hanna asked how many square feet is the house now? Ms. DeMelo explained that she did not have access to that information at the moment. Mr. Hanna said the Board needs more information. Ms. DeMelo said the hardship is the fact that there were only two of them when they bought the house and now there are four and the prices of larger homes are a concern. Mr. Hanna also want to know how the space in the home will be used. Mr. Hanna wants to see a floor plan as it is not clear to him. They can provide an architectural plan or just a sketch. An architectural plan is not a requirement for a residence, per Mr. Hearty.

Motion to table No. 23-09, 15 Grandview Avenue, until the next regular meeting on June 8, 2023 for more information, was made by Juan Rivas; seconded by Michael Sibbitt. All in favor with AYES from Peter DeLucia, Michael Sibbitt, Juan Rivas, Anthony Rebeiro, and Joseph Hanna.

CONTINUED PUBLIC HEARINGS:

#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.

Stephanie Fox, Architect for the project, was present and shared her screen. Mr. Dave Burgess, homeowner, reminded the Board this is a continuance from two months ago. Mr. Burgess said this was formerly the Pine Ledge subdivision, Lot 4, and showed the driveway to the existing two car garage with the steep sloping ledge. Ms. Fox understood they wanted to know the layout of the new addition and provided the plan, explaining same, adding the existing shed will be removed to construct the garage.

She offered a general sketch of what the house will look like--ground level garage with one story addition on first floor of the home which will be a master suite. Mr. Hanna asked the square footage of the existing home. Mr. Burgess said, roughly 3,200 sq.ft. Addition will be 936 sq. ft according to Ms. Fox.

Mr. Sibbitt inquired about the hardships. Ms. Fox said development is limited based on topography with ledge to the rear. Expanding over existing driveway area would create a greater nonconformity. The first floor suite is intended to accommodate aging-in-place. Intent of master suite will provide first level living space for the future and provide handicapped accessibility. Mr. Sibbitt suggested a home elevator. Ms. Fox said they are only requesting a side-yard variance. Mr. Sibbitt said the applicant currently has reasonable use of his property. It was noted the neighbors are in support of this application. Mr. Sibbitt said the applicant was only asking for a garage. Mr. Burgess said that was an excellent point and said at the last meeting the Board asked for more detail and he went through time and expense to provide the detail. After engaging Ms. Fox and it was suggested that a great improvement to the house would be a main-floor master bedroom. They considered that as a good idea. Mr. DeLucia asked about how they are going to improve the drainage. Michael Sibbitt mentioned the letter from Ralph Gallagher. Mr. Burgess indicated an existing curtain drain with catch basin & storm drain in the cul de sac. With the Indigos, their neighbors, and Mr. Burgess, Ralph Gallagher designed the system and his thoughts were most of the water was being collected and not very much going into the Indigo property. A plan was designed with cooperation from all parties so that each would benefit. Mr. Burgess offered a video of recent rain storms; however, no one chose to view it at this time.

There were no other questions and no one present in favor or in opposition.

Motion to close No. 23-01, 9 Charlotte's Way, was made by Anthony Rebeiro; seconded by Peter DeLucia. All in favor with AYES from Peter DeLucia, Michael Sibbitt, Juan Rivas, Anthony Rebeiro, and Joseph Hanna.

Motion to open No. 23-01, 9 Charlotte's Way, for voting was made by Anthony Rebeiro, seconded by Michael Sibbitt. All in favor with AYES from Peter DeLucia, Michael Sibbitt, Juan Rivas, Anthony Rebeiro, and Joseph Hanna.

Discussion: Commissioner Michael Sibbitt said he had spent two hours researching materials from a recent training session and stated legally Mr. Burgess does not qualify for a hardship because he has use of his property; however, the Connecticut Commission on Human Rights and Opportunities states we (the ZBA) have to approve reasonable accommodations because his wife has MS and will require specific health accommodations in the future. Mr. Sibbitt said he was citing from a case that was denied (by a ZBA) and later taken to court and lost.

Motion to approve, No. 23-01, 9 Charlotte's Way, per plan submitted, was made by Michael Sibbitt. The hardship is the applicant has taken the necessary safety issues into concern not only for his family but also his neighbors; seconded by Anthony Rebeiro. All in favor by roll call vote with AYES from Michael Sibbitt, Peter DeLucia, Juan Rivas, Anthony Rebeiro, and Joseph Hanna.

OLD BUSINESS: None

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NEW BUSINESS: None

CORRESPONDENCE: None

OTHER MATTERS: None

ADJOURNMENT:

Motion to adjourn was made by Juan Rivas; seconded by Anthony Rebeiro. All in favor with AYES from Peter DeLucia, Michael Sibbitt, Juan Rivas, Anthony Rebeiro, and Joseph Hanna. Meeting adjourned at 8:27 pm.

Respectfully submitted,

Mary S. Larkin  
Recording Secretary