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CITY OF DANBURY
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ZONING BOARD OF APPEALS
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ZONING BOARD OF APPEALS
MINUTES
August 10, 2023
7:00 p.m.

ROLL CALL:

Chairman Joseph Hanna called the meeting to order at 7:00 p.m. Present by roll call were: Brandon Botelho, Peter DeLucia, and Juan Rivas. Michael Sibbitt and Anthony Rebeiro were absent. Staff present were Zoning Enforcement Officer Sean P. Hearty and Secretary Melissa Llera. Chairman Hanna seated Alternate Brandon Botelho in place of Michael Sibbitt.

ACCEPTANCE OF MINUTES: June 22, 2023

Motion to accept the Minutes of June 22, 2023 was made by Peter DeLucia; seconded by Juan Rivas. All in favor by those eligible to vote: Commissioners Peter DeLucia, Juan Rivas, and Joseph Hanna.

The next regular meeting is scheduled for **August 24, 2023.**

Chairman Joseph Hanna notified the applicants of a four man board which would require four votes in favor to approve the application. All applicants chose to proceed with a four man board.

Motion to open Public Hearings No. 23-11, 23-12, 23-13, and 23-14 was made by Juan Rivas; seconded by Peter DeLucia. All in favor with AYES from Brandon Botelho, Peter DeLucia, Juan Rivas, and Joseph Hanna.

PUBLIC HEARING:

#23-11: 70 Carol St., Lynch, Dan & Gibson, Melissa; (I22009), RA-20 Zone. Sec 4.A.3, Reduce front-yard setback from 30' to 26'; reduce side-yard setback from 15' to 5' for addition.

Dan Lynch, homeowner, was present to represent application. Mr. Lynch is requesting a variance for setback changes: front-yard setback reduced from 30 ft. to 26 ft. and south side setback reduced from 15 ft. to 5 ft. The reason for the setback is that the house sits on an angle with the property line. They do not want to block the view of the lake for their neighbor. An agreement was made with the neighbor that they would not go farther than the existing screened-in porch to accommodate this. The front-yard setback would allow a 3

ft. roof overhang for the front door, along with a 4 ft. bump-out in the current living room to allow for the construction of a first floor master suite to be utilized by his terminally ill mother-in-law whom will be coming to live with them.

Peter DeLucia commented on the design as very thoughtful for the neighbors. He then questioned if they had received approval from the Environmental Impact Commission. Mr. Lynch stated they had received the approval on Wednesday, August 9th.

Mr. Hanna asked for clarification that the addition was being done to add the first floor bedroom. Mr. Lynch stated that in addition to the bedroom for his mother-in-law on the first floor, there would also be a second floor addition. The second floor addition would provide his and her's office spaces since he and his wife both currently work from home. The office spaces would allow them to regain proper use of their dining room, along with half a bedroom which was currently being used as workspace.

Mr. Hanna read two letters of support into the record: one from Richard Dotz & Katharine Brooks residing at 68 Carol St. and a second from Barbara Courtian residing at 71 Carol St.

There were no further questions or remarks from the commissioners. No one was present in support or opposition of the application.

Motion to close No. 23-11 was made by Juan Rivas; seconded by Peter DeLucia. All in favor by roll call with AYES from Brandon Botelho, Peter DeLucia, Juan Rivas, and Joseph Hanna.

Motion to go to voting session was made by Juan Rivas; seconded by Peter DeLucia. All in favor by roll call with AYES from Brandon Botelho, Peter DeLucia, Juan Rivas, and Joseph Hanna.

Motion to approve Application No. 23-11, 70 Carol St., per plan submitted, as it will allow minimum use of the property based on the hardship with the topography in the RA-20 Zone, was made by Juan Rivas; seconded by Peter DeLucia. All in favor with AYES by roll call: Peter DeLucia, Juan Rivas, Brandon Botelho, and Joseph Hanna.

#23-12: 24 Hillandale Rd., Mazzucco, Ward J., Esq., agent; Castellano, Dennis & Lisann, (F08086), RA-40 Zone. Sec. 4.A.3 Reduce front-yard setback from 40' to 38' and reduce side-yard setback from 25' to 10' for new dwelling.

Ward Mazzucco, agent for the owner, was present, and provided a packet of information to the members of the board; which he then presented. Twenty-four Hillandale is part of the Golden Heights subdivision which was created prior to subdivision regulations being in place in Danbury. The subdivision is now in the RA-40 Zone, which requires lots to have a minimum of 40,000 sq. ft. This lot contains about 10,000 sq. ft; about ¼ of the required space. The Zoning Commission created the setbacks for the RA-40 Zone based on 40,000 sq. ft. If you apply those setbacks to a lot of about 10,000 sq. ft. it does not leave an area to build. This property is 75 ft. wide. If you apply the side yard setbacks of 25 ft. that would only leave 25 ft. to build which is almost impossible to work with. The property is a sloping area. Clapboard Ridge runs parallel to Hillandale Rd. and some-what above. Water flows down from Clapboard Ridge. There is some water in the back corner of the property, along with some wetlands, so it forces the house toward the front of the property.

The owner is looking to building a single family, raised ranch home of about 1,176 sq. ft. This is rather small for a single family dwelling. They are requesting a variance to reduce the front-yard setback from 40 ft. to 38 ft. and the side yard setbacks from 25 ft. to 10 ft. They are also looking for an adjustment in lot coverage from 15 % to 16.1% since they don't have 40,000 sq. ft. There is also a portion of the lot that lays in the road bed for Hillandale Rd. that the City would like deeded to them to complete their ownership of the roadway.

This also reduces the square footage of the lot which again affects the coverage percentage. The hardship is the small lot size, the wetlands in the rear, the fact that the lot was created before the RA-40 Zone was imposed, and a portion of the lot in the road bed.

Neighborhood is densely packed with smaller lots. The property slopes from the left side down towards Hillandale Rd. The size of the lot is consistent with the size of other lots in the neighborhood which is evident on the GIS mapping provided. They are all non-conforming lots. Mr. Mazzucco provides information in the packet of various other larger homes on Hillandale Rd. built on similar lots. He also provides information on multiple properties that received variances on Hillandale Rd. to allow construction of homes. His client is just looking to do what other owners in the neighborhood were allowed to do.

Mr. Mazzucco provides a plot plan showing the proposed home and wetlands. They are respecting the wetlands by moving the house forward. The proposed house with overhangs is 44 ft. by 30 ft. If you take out the overhangs it is a couple feet smaller for the footprint, but the overhangs are required to be shown for zoning setbacks. There is a dotted area depicted as well labeled "Parcel X" which is actually located under the road. The City isn't sure how that happened, but would be resolved.

Hardship wasn't created by the applicant. This is the minimum necessary to make use of the property. A 25 ft. house is not feasible. This was brought to the board previously, but there were questions if the owner had properly addressed drainage. The EIC approval was nearing the end of its lifespan, so they went back to EIC with a plan. The plan presented to and approved by EIC is the same plan presented to ZBA tonight. The EIC determined that construction wouldn't affect the watercourses or wetlands, and found the drainage to be acceptable. There is still water from Clapboard Ridge, but the EIC did not find that this construction would make that worse or they would not have approved it.

Mr. Hanna asked if it was city sewer. Mr. Mazzucco said yes it is city sewer. Peter DeLucia asked if any changes were made to the original plans for EIC when presented to them. Mr. Mazzucco stated the only difference is the overhangs are reflected versus the original which just showed the footprint.

No one present in support of this application. Homeowner for 26 Hillandale Rd. was present in opposition to the application. She sympathizes with the hardship regarding the size of the property. She doesn't believe they understand the volume of water that comes into this property. The small stream is like a "roaring rapid" to the catch basin located on her property which she presented a video to some of the members. She is concerned about taking away additional pervious surface by building a home. Mr. Hanna said that the drainage concerns were to be addressed with the Environment Impact Commission, and that this board is addressing the variances needed to build a house. They are asking for the minimum required to build a house smaller than those on the street. Any complaints with water should be addressed with the City or had been addressed with EIC.

Ken Gucker was present in opposition of this application. He states that a public hearing was not held for this project with the Environmental Impact Commission. Many of these issues were brought before this board the last time this application was heard. Many of the neighbors were going to come to the previous ZBA meeting, but were not able to come tonight. Mr. Gucker addressed 22 Hillandale Rd. storm drainage concerns. He also stated the road flooded on July 16th which required the City to come clean out pipes. He stated the water in this area goes to catch basins which then discharge into ravine across the street. He is concerned that putting a home on this property will cause flooding downstream. Mr. Hanna reiterates that storm drainage is to be addressed with the Environmental Impact Commission and not this board. This board is only ruling variances needed to build a house and relieving them of hardships. Ken Gucker states he understands the lot size, but this area is overdeveloped. This doesn't work in today's standards since it was approved in 1958 according to Mr. Gucker.

Mr. Hanna reads a letter of opposition from Jessica Hidalgo of 22 Hillandale Rd into the record. He states again in response to the letter that the concerns of the letter should have been brought to the environmental board.

Juan Rivas requests that Ward Mazzucco is provided an opportunity for a rebuttal to the opposition. Mr. Mazzucco understands their concerns and drainage problems in the neighborhood. His client has the last unbuilt lot in the neighborhood, and wants the opportunity like everyone else. The two neighbors in opposition had both received variances to build their home, and they are just looking for the same variances. He also stated that the EIC provides a public agenda, accepts requests for public hearings, and advertises the decisions in the newspaper to offer an opportunity for appeal. They are not trying to conceal their decisions. Mr. Mazzucco asks the board to focus on their request for the variances.

Motion to close No. 23-12 was made by Juan Rivas; seconded by Peter DeLucia. All in favor by roll call with AYES from Brandon Botelho, Peter DeLucia, Juan Rivas, and Joseph Hanna.

Motion to go to voting session was made by Juan Rivas; seconded by Brandon Botelho. All in favor by roll call with AYES from Brandon Botelho, Peter DeLucia, Juan Rivas, and Joseph Hanna.

Peter DeLucia stated this was a very difficult application. The commission needs to remember what they are voting on, and can't account for the environmental issues brought up which were handled by the Environmental Impact Commission. Mr. Hanna reiterated that this board does not handle the environmental aspect. The owner deserves use of the property since it is a legal lot, and is proposing a smaller home than others in the neighborhood.

Motion to approve Application No. 23-12, 24 Hillandale Rd., per plan submitted, was made by Peter DeLucia; seconded by Juan Rivas. All in favor with AYES by roll call: Peter DeLucia, Juan Rivas, Brandon Botelho, and Joseph Hanna.

#23-13: 45 Alan Rd., Adams Gail G.; (H23024), RA-20 Zone. Sec. 4.A.3 Reduce side-yard setback from 15' to 12.4' for addition and 15' to 10.5' for front porch.

Gail Adams, homeowner, was present to represent application. Gail is requesting side yard variances to build a great room on the rear of her house. Her hardships are the same as many others in Lake Wabeeka. Lake Wabeeka is a community of about 250 houses that are part of a subdivision created in the 1950s with lots that are a quarter or third of an acre. The community is now in a RA-20 zone, so many lots don't meet today's regulations. When she purchased the home, it came close to meeting the setback requirements. She would like to build on the south side where the setbacks would not be met. The first part of the addition is for the extension of an existing porch with an overhang. The second area would be the addition of a great room with storage and a small area for a deck in the rear.

Gail Adams stated she has a pre-existing non-conforming lot with pre-existing non-conforming setbacks already. She is not asking to change the coverage requirements or front-yard setbacks. She stated that part of the hardship is also where on the property the house was originally built. If they had moved the home more north then these variances wouldn't be required, but this is not something that she can now change. She is basically closing in the "L" shape of the house in the rear.

Juan Rivas asked for clarification on the two side-yard setback variances. Gail Adams clarified that the reduction to 12.4 ft. would allow for the construction of the great room. Mr. Hanna stated that the plan shows the septic and pump chamber in the area of the porch addition. Gail clarified that the porch is in the front of the home and the septic is in the rear of the home, but the septic would be moved as noted on the plan to allow for the addition. She has estimates, and has confirmed this work is doable. Gail also confirmed that she has spoken with her neighbors, and they are in support of this work.

There were no further questions or remarks from the commissioners. No one was present in support or opposition for this application.

Motion to close No. 23-13 was made by Juan Rivas; seconded by Brandon Botelho. All in favor by roll call with AYES from Brandon Botelho, Peter DeLucia, Juan Rivas, and Joseph Hanna.

Motion to go to voting session was made by Juan Rivas; seconded by Peter DeLucia. All in favor by roll call with AYES from Brandon Botelho, Peter DeLucia, Juan Rivas, and Joseph Hanna.

Motion to approve Application No. 23-13, 45 Alan Rd., per plan submitted, as it keeps with the symmetry of the neighborhood and allows reasonable use of the property with a minimal variance, was made by Juan Rivas; seconded by Peter DeLucia. All in favor with AYES by roll call: Peter DeLucia, Juan Rivas, Brandon Botelho, and Joseph Hanna.

#23-14: 9 Long Ridge Rd., Henvy, Elisabeth & Daniel; (J19013), RA-80 Zone. Sec. 3.G.3.C, Extend accessory structure 352 sq. ft. above current allowance for barn overhang.

Daniel Henvy, homeowner, was present to represent the application. Mr. Henvy stated he purchased the lot 10-12 years ago as an approved three lot subdivision. He was not interested in the use as a subdivision, so he combined the lots back together for the use as a single family residence. He then designed and built a home which he and his wife have now lived in for about two years. They have the approval to build a barn which is currently being completed. They are requesting a variance for the coverage percentage to allow for an open air barn overhang. They would be exceeding 50% of the primary structure footprint with the desired overhang. They have 8 acres of property, so their building coverage is not a problem. You can't see their home or the barn from the street. If they built a bigger home or did an addition on their home, they would not require a variance for the accessory structure; this was not something they are interested in though or something he understood as a problem when building the primary residence given the amount of land.

Sean Hearty, Zoning Enforcement Officer, confirmed the property could be zoned as a farm due to the size. The accessory coverage is a technicality that could not be approved which is why a variance is required for the overhang.

Mr. Hanna clarified that they are currently building the barn, and questioned why they needed the large overhang. Mr. Henvy said it would be used for storage, along with drying lumber which is a hobby of his. Mr. Henvy also stated that they may consider horses in future, so the overhang would be useful; although this is not a current plan. They are looking to do the construction once to make their forever home. Mr. Hanna asked for confirmation that they are not looking to close-in the overhang. Mr. Henvy stated it would not have a frost wall, and they have no intentions of closing it in.

There were no further questions or remarks from the commissioners. No one was present in support or opposition of the application.

Motion to close No. 23-14 was made by Juan Rivas; seconded by Brandon Botelho. All in favor by roll call with AYES from Brandon Botelho, Peter DeLucia, Juan Rivas, and Joseph Hanna.

Motion to go to voting session was made by Juan Rivas; seconded by Brandon Botelho. All in favor by roll call with AYES from Brandon Botelho, Peter DeLucia, Juan Rivas, and Joseph Hanna.

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Motion to approve Application No. 23-14, 9 Long Ridge Rd., per plan submitted, was made by Peter DeLucia; seconded by Juan Rivas. All in favor with AYES by roll call: Peter DeLucia, Juan Rivas, Brandon Botelho, and Joseph Hanna.

ADJOURNMENT:

Motion to adjourn was made by Juan Rivas; seconded by Peter DeLucia. All in favor with AYES from: Peter DeLucia, Juan Rivas, Brandon Botelho, and Joseph Hanna. Meeting adjourned at 8:17 p.m.

Respectfully submitted,

Melissa Llera
Recording Secretary