



CITY OF DANBURY

155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

ZONING BOARD OF APPEALS
(203) 797-4525
(203) 797-4586 (FAX)

MINUTES JUNE 28, 2012

The meeting was called to order by Chairman Richard S. Jowdy at 7:35 PM.

Present were Joseph Hanna, Herbert Krate, Michael Sibbitt, Richard S. Jowdy and Alternate Richard Roos. Also present was Zoning Enforcement Officer Sean Hearty.

Absent was Rodney Moore.

Chairman Jowdy announced that the following application had been withdrawn:

#12-21 – CONTINUED HEARING of Belimo Air Controls (USA) Inc., Turner Rd. (#A17001), Sec.6.A.3., increase maximum allowed height from 45 ft to 53 ft. for portion of new building (IL-40 Zone). .

The following application will not be heard as it has to be re-advertised due to an error in the legal notice:

#12-26 – Richard Rizzo Agent, 100 Federal Rd. (#K10070), Sec.8.E.3.a.(3)., allow two free-standing signs within 300 ft. of one another on one lot (CG-20 Zone).

NEW BUSINESS:

Mr. Krate made a motion to hear applications #12-22, #12-24 & #12-27. Mr. Roos seconded the motion and it was passed unanimously.

Since no one was present for the first hearing, Chairman Jowdy announced that they would move onto the second hearing.

#12-24 – Armando & Fernanda Loureiro, 10 Cottage St. (#J14096), Sec.4.C.3., reduce front yard setback from 20 ft. to 12.7 ft.; side yard setback from 15 ft. to 12 ft.; and lot width from 75 ft. to 72 ft. for two-family residence (R-3 Zone).

Attorney Peter Scalzo spoke in favor of this application. He said the original structure on this property was built in 1883. In 1978, they pulled the permits to change it to a two-family dwelling. They received their building permit and did the necessary work, but never got their Certificate of Occupancy. Since that time, they have continuously used the house as a two-family dwelling and paid the taxes on a two-family dwelling. When the building permit was issued, the house complied with the Zoning Regulations, but

the Regulations have changed and now they need variances in order to be in compliance. Mr. Krate asked if the footprint has changed. Attorney Scalzo said it has not; it is still the same footprint.

Chairman Jowdy asked if there was anyone to speak in opposition to this and there was no one.

Mr. Krate made a motion to close the public hearing. Mr. Roos seconded the motion and it was passed unanimously.

DECISION

Mr. Krate made a motion to approve this application per plan submitted for the following reasons:

- The hardship is that this house predates all zoning and it has consistently existed with same footprint.

Mr. Hanna seconded the motion and it was passed unanimously. *Said plan titled "Property Survey Map prepared for Armando & Fernanda Loureiro" dated March 15, 2012 by Matthew E. Reynolds, LS, New England Land Surveying, PC.*

#12-27 – Tag I, LLC, Norman Buzaid, 138 Deer Hill Ave. (#115118), Sec.4.D.3.a., reduce minimum lot width for garden apartments from 125 ft. to 81 ft. (RH-3 Zone).

Attorney Paul Jaber said the principal in Tag I is Norman Buzaid and his family. This site is the former family homestead which Mr. Buzaid's father owned for about sixty years. The house is currently vacant and they want to rehab and renovate it. In March of this year, there was a lot width variance granted to permit the construction of two three-family homes on the property. The applicant now has decided that he want to maintain the historic building so his plan is to rehab the existing home into six one-bedroom units. The hardship is the lot configuration because although it has a lot of area, it is a long narrow lot. Additionally, the purposes of the Zoning Regulations will not be served by complying with them. Attorney Jaber said the first floor will contain two apartments, the second floor will have another apartment, the kitchens and the other three bedrooms will be on the third floor. Chairman Jowdy said with this plan, the integrity of the building will stay intact because the front will not change. He added that this plan is more in conformity with the neighborhood than the previous application. Mr. Krate asked if the rear area of the lot is buildable; or will the applicant leave it alone. Attorney Jaber said it is buildable but the applicant does not plan to do anything else other than this structure; he added that they could condition the variance that all he can build is the six units. He then added that he may not put in all the parking that is shown on the plan because it is more than what is required. There were no other questions.

Chairman Jowdy asked if there was anyone to speak in opposition to this and there was no one.

Mr. Krate made a motion to close the public hearing. Mr. Sibbitt seconded the motion and it was passed unanimously.

DECISION

Mr. Krate made a motion to approve this per plan submitted with the following conditions: (1) there is to be no further building in the rear of the lot, (2) the proposed six units are the maximum number of units permitted, and (3) this approval is per plan submitted except for the parking as shown on the plan, all of the required parking for the approved structure is to be provided on the site. The reasons given for approval are:

- This plan is less dense than the previously approved plan and this will be more in keeping with the character of the neighborhood.

Mr. Hanna seconded the motion and it was passed unanimously. *Said plan titled "Zoning Location Survey Existing/Proposed prepared for Tag I, LLC showing property situated at 138 Deer Hill Avenue" dated February 9, 2012 & revised May 22, 2012 by Paul M. Fagan, LS, Surveying Associates, PC.*

Mr. Krate said it is the intention of this Board that this variance with the conditions will go with the property no matter who owns it. Chairman Jowdy said that is always true once it is filed on the land records.

At 7:20 PM, Chairman Jowdy noted that Attorney Marcus was present so they would now hear application #12-21.

#12-22 – Neil R. Marcus, Esq., 114 Triangle St. (#K14119, #K14120, & #J14268), Secs.4.B.2. & 11.B.2.(b), to grant use variance to allow "metal recycling and scrap yard" in an RMF-4 Zoning District.

Chairman Jowdy asked Zoning Enforcement Officer Sean Hearty to give the Board a brief history of this application.

Mr. Hearty said this is an application for a use variance to allow a "metal recycling and scrap yard" in the RMF-4 Zone. He added that this use is not presently permitted in this zone or any other zone in the City. There was a similar use variance application for the same parcels submitted last fall which was withdrawn at the public hearing on October 27, 2011. Mr. Hearty asked that the hearing record from this previous application be made part of the hearing record for the application they are hearing tonight. He then said the Regulations require use variances to be referred to both the Planning Commission and the Zoning Commission for a report and recommendation. Both of these Commissions have given this application a negative recommendation. He said Deputy Planning Director Sharon Calitro had prepared a Staff Report for this

application. He then distributed copies of the two Commission recommendations and the Staff Report to all of the Board members.

Chairman Jowdy said they had received thirteen letters in opposition to this application. He added that since most of them were the same form letter, he would read the two letters that were different. The first one was from the Lions Condominium Association Board of Directors and the second was from Kenneth Gucker, Vice-Chairman of the "Danbury Dems". The other letters in opposition were from the following people:

1. Ellen Sackal Sturges, Lions Condominium, Unit A-13
2. Oseas F. Mello, 126 Triangle St., Unit A-31
3. Linda Orris, 131 Triangle St., 1st fl.
4. Koryne Etemi Garcia, 131 Triangle St.
5. Randolph Garcia, 131 Triangle St.
6. Kim Bertram, 131 Triangle St., 2nd fl.
7. Gary Lessard, 131 Triangle St., 1st fl.
8. Dave Thomas, 51 Stetson Place
9. Yibo Xu, 126 Triangle St., Unit 42B
10. Ruth A. Dengler, 26 Briarwood Dr.
11. Wayne W. Dengler, 26 Briarwood Dr.

Attorney Neil Marcus came forward to speak in favor of this application and Chairman Jowdy asked him if he is asking for the variance on all three lots? Chairman Jowdy rephrased the question and asked if it is correct that all three lots be included on this application? Attorney Marcus said if you look at the map submitted with the application, there is a 40,427 sq.ft. lot with the existing property line that is not part of this variance. The right-of-way to the rear lot is included in that square footage which has been used for residential purposes. Mr. Krate asked if this application includes the residential property. Attorney Marcus said the frame shed on the residential property has been used as a tire shop. Chairman Jowdy asked Attorney Marcus if his presentation will include the residential property shown on the map; if the house lot part of the presentation. Chairman Jowdy said this was advertised as one whole piece so they can't go forward if the house lot is not part of the application.

Attorney Marcus said the right-of-way that serves the rear portion of the property is located on the house lot. The proposal is to put up an evergreen screen which will clearly fence off the part of the lot that contains the house. Chairman Jowdy said that is not how this was advertised; if they are not including the three lots than it was advertised incorrectly. Attorney Marcus said all three lots use the same address, so the advertisement is correct. He added that he is not sure how he would change it because the front lot contains the driveway used to access the rear lot so the front lot is connected. Mr. Krate said the front lot should not be included if it is not part of the variance. Attorney Marcus said maybe this could have been noticed as partially using the front lot. He added that the secretary does not check with him when she does the legal notice for his applications. He said in this case only four-fifths of the advertised property is being used for the variance. He said normally in these situations, the application is continued to the next meeting in order to re-advertise it correctly. Mr. Hearty said he would suggest re-advertising although the application itself clearly lists the three lots.

Attorney Tom Beecher came forward and said the application clearly applies to all three lots. Mr. Krate said the applicant does not need a variance to pass and repass the front lot and the application clearly lists the three lots. Chairman Jowdy said if the requested variance does not include all three lots, it is wrong and it needs to be re-advertised.

Attorney Beecher again said this application applies to all three lots; they can't segregate it because if it is granted per plan submitted, the plan shows all three lots. Attorney Marcus said this is not the first time there has been a problem with the legal ad for one of his applications. Chairman Jowdy said they have to be sure this is done right. Mr. Hearty again recommended they continue this hearing in order to get an opinion from Corporation Counsel's office.

Attorney Marcus asked that this hearing be continued until they can get an opinion from Corporation Counsel.

Mr. Krate made a motion to continue the public hearing until July 24, 2012. Mr. Hanna seconded the motion and it was passed unanimously.

Mr. Hanna made a motion to accept the March 8, 2012 minutes. Mr. Roos seconded the motion and it was passed unanimously. Mr. Hanna made a motion to accept the May 24, 2012 minutes. Mr. Krate seconded the motion and it was passed unanimously.

At 7:55 PM, Mr. Sibbitt made a motion to adjourn. Mr. Roos seconded the motion and it was passed unanimously.