



CITY OF DANBURY
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ZONING BOARD OF APPEALS
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ZONING BOARD OF APPEALS
MINUTES
Web-Based Meeting Hosted on ZOOM
January 27, 2022
7:00 p.m.

ROLL CALL:

Chairman Joseph Hanna opened the meeting at 7:00 p.m. Mr. Hanna explained this meeting is being hosted via ZOOM. Present by roll call were Rodney Moore, Juan Rivas, Peter DeLucia, and Richard Roos. Staff present were Zoning Enforcement Officer Sean Hearty and Secretary Mary Larkin. Mr. Hanna explained the procedures for the meeting.

ACCEPTANCE OF MINUTES: January 13, 2022

Motion to accept the minutes of January 13, 2022 was made by Rodney Moore; seconded by Juan Rivas. All in favor with AYES from Rodney Moore, Juan Rivas, Peter DeLucia, Richard Roos, and Joseph Hanna.

The next regular meeting is scheduled for **February 10, 2022**

Motion to open Application No. 22-01, 34 Mill Plain Road, was by Rick Roos; seconded by Rod Moore. All in favor with AYES from Rodney Moore, Juan Rivas, Peter DeLucia, Richard Roos, and Joseph Hanna.

Chairman Hanna seated Alternates Peter DeLucia and Richard Roos for Regular Members Anthony Rebeiro and Michael Sibbitt, respectively.

PUBLIC HEARINGS:

#22-01: 34 Mill Plain Road, 34 Mill Plain Road, LLC, (E15104) CA-80 Zone

Sec. 3.H.1 Requirements for each use (Lots deemed non-conforming shall be limited to one allowed use subject to Sec. 9.B

Mike Mazzucco P.E. office in Danbury, representing 34 Mill Plain Road, LLC, Steve Filapakkos. Mr. Mazzucco explained that the survey presented to the Board hasn't been updated and he explained the work that has taken place recently. This is an existing two-story building on the corner of Kenosia Avenue and Mill Plain Road. This is an oddly-shaped lot for which a variance was received for the side yard when the building was built years ago. A site plan had been approved over the years and they expanded the parking over the property line because it seemed like it was their property because of such a large right of way along Kenosia Avenue. The applicant and the City have a lease agreement for the shaded area, which was shown via screen sharing. Once the lease agreement was in place, they prepared a site plan to formalize the parking, islands, a curb cut, and sidewalk. Parking was added to maximize the potential use of the property. They wish to add medical use via a special exception. Mr. Mazzucco added that making the entire building is a possibility, but they do not have enough parking for the entire building to be medical, nor do they have an elevator to the second floor.

Mr. Hanna questioned if the building was currently used for offices only. Mr. Mazzucco replied that is correct and some of the space is vacant right now. Peter DeLucia asked if they did a parking lot survey and how many spaces do they currently have including the leased spaces? Mr. Mazzucco indicated there are ten spaces on the subject parcel and 11 partially or entirely on the leased parcel. They are proposing 18 spaces on the subject parcel and 11 spaces partially or entirely on the leased parcel for a total of 29 parking spaces. The requirement is 23. Mr. Rivas asked if they were to go entirely medical, what would they need for spaces. Rod Moore answered 2 x 16, Sean Hearty confirmed. Mr. Roos asked how many individual practices would want to use the space downstairs. Mr. Mazzucco answered it is only 2,400 sq. ft. and this might be ideal for a physical therapist or chiropractor. He said it very likely it will be limited to one practice. Mr. DeLucia asked for a breakdown of the length of the lease agreement. Mr. Mazzucco said he did not know exactly; however, it was long enough that the City was okay with us providing that in terms of a site plan approval application.

Mr. Rivas asked if the applicant could divulge more on the hardship. Mr. Rivas acknowledged that it non-conforming lot, but they already have a single use, which is accepted. Mr. Hanna said eminent domain possibly because the State took the road. Mr. Mazzucco said they were able to get some back in the long-term lease. Mr. Mazzucco said the shape and size of the lot is not allowing additional parking. Mr. Rivas said it seems like a self-imposed hardship and that's why he is looking for a better explanation. Mr. Mazzucco said the building is there, and the medical use, which is permitted under Special Exception, does not impose any adverse effect on the property, Mr. Mazzucco asked why wouldn't it be allowed? Mr. DeLucia asked again how many offices would be there and said he needs precise information in order to vote. Mr. Mazzucco said the parking is not predicated on the number of offices but on square footage. Mr. Hanna asked how much land did the State take and how many spaces they lost? Mr. Mazzucco said you could not put parking there because it's in the front yard and no parking existed there previously. Conversation continued about delineating the parking for medical vs. office. Signage was discussed.

In answer to Mr. DeLucia's questions, there would be three offices upstairs per Mr. Filapakkos. Mr. Rivas said that Section 9 of the Zoning Regulations states that a non-conforming lot is limited to one use, then adding a use will make it more non-conforming. Mr. Mazzuco said that the lot itself will remain the same. They are not asking for a variance to encroach any more into a setback. Discussion continued regarding the hardship.

Mr. Moore said what Juan is saying is are we taking a step back and potentially granting a variance where it makes a lot that is already non-complying, legal but non complying in so many ways or is this so close to the same use that it doesn't really create a new variance in that it doesn't change much of anything? The only thing that could change is the number of trips, which might be the only negative effect of this change. Mr. Roos agreed with Mr. Moore. Mr. Roos understands Mr. Rivas' concerns as well. Mr. Roos said that in the future if the owner wanted it to be full medical, he would have to return to the Zoning Board of Appeals.

The undersigned noted the mailing to Consolidated Rail Corp, adjacent property owner at Mill Plain Road, was returned as undeliverable to a Meadow Street, New Haven, CT address. Rob Winegard, a Conrail representative, was contacted by the undersigned; however, there was no response prior to the meeting.

Motion to close Application No. 22-01 was made by Juan Rivas; seconded by Rick Roos. All in favor with AYES from Rodney Moore, Juan Rivas, Peter DeLucia, Richard Roos and Joseph Hanna.

Motion to go to the voting session was made by Rod Moore; seconded by Peter DeLucia. All in favor with AYES from Rodney Moore, Juan Rivas, Peter DeLucia, Richard Roos, and Joseph Hanna.

Motion to approve by Rod Moore, per plan submitted, including the landscape design, with the stipulation that medical parking in front of the building is designated with signage, as it does not adversely affect the health, welfare, and safety of the neighborhood and it does not change the footprint or any part of the landscape or designs. Even though it is a variance it is still an allowed use, technically, with a public hearing and effectively there is almost invisible change in how that building will be used. Motion seconded by Rick Roos. All in favor with AYES from Rodney Moore, Juan Rivas, Peter DeLucia, Richard Roos and Joseph Hanna.

CONTINUED PUBLIC HEARINGS:

#21-38: 25 Wintergreen Hill Rd., (B12043), Nejame & Sons, Kelly, James, Agent, RA-80 Zone
Sec. 4.A.3 Reduce side yard setback from 30' to 12' for on-ground pool.

Click here for: [Application & Survey](#)

This application was previously tabled until February 10, 2022.

OLD BUSINESS: None

NEW BUSINESS: None

CORRESPONDENCE: Letter from Richard Jowdy

Former Chairman Richard Jowdy requested that his resignation letter, dated September 1, 2021, be read into the record and to include a postscript that he recently added. The undersigned read the letter for the record and a copy is attached.

OTHER MATTERS: None

ADJOURNMENT:

Motion to adjourn was made by Juan Rivas, seconded by Peter DeLucia. Meeting adjourned at 8:05 p.m. All in favor with AYES from Rodney Moore, Juan Rivas, Peter DeLucia, Richard Roos, and Joseph Hanna.

Respectfully submitted,

Mary S. Larkin
Recording Secretary

Attachment