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ZONING BOARD OF APPEALS
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ZONING BOARD OF APPEALS
Minutes
Web-Based Meeting Hosted on ZOOM
March 10, 2022
7:00 p.m.

ROLL CALL:

Chairman Joseph Hanna called the meeting to order at 7:00 p.m. Mr. Hanna explained this is a Web-based meeting hosted on ZOOM. Present by roll call were Rod Moore, Juan Rivas, Michael Sibbitt, and Alternate Peter DeLucia. Staff present were Sean Hearty, Zoning Enforcement Officer, and Mary Larkin, Secretary. Absent were Anthony Rebeiro and Rick Roos

Motion to hear Application Nos. 22-03, 22-04, 22-05, and 22-06 was made by Juan Rivas; seconded by Rod Moore. All in favor with AYES from Rod Moore, Juan Rivas, Michael Sibbitt, Peter DeLucia, and Joseph Hanna.

ACCEPTANCE OF MINUTES: February 24, 2022

Motion to accept was made by Michael Sibbitt; seconded by Rod Moore. All in favor with AYES from Rod Moore, Juan Rivas, Michael Sibbitt, Peter DeLucia, and Joseph Hanna.

The next regular meeting is scheduled for March 24, 2022

PUBLIC HEARINGS:

#22-03: 11 Jeffrey St., Stalowicz, Lori, (H22131), RA-20 Zone, Sec. 4.A.3: (1) Reduce side yard setback from 6' to 3' on east side for proposed detached carport; (2) Reduce side yard setback from 6' to 2.5' on west side for detached carport; (3) Reduce front yard setback from 30' to 2' for detached

carport; (4) Reduce side yard setback from 15' to 14.5' on east side & front yard setback from 30' to 18' for covered porch; (5) Increase maximum building coverage from 20% to 21.4%.

Neil Marcus, Esq., Cohen & Wolf, 158 Deer Hill Avenue, Danbury, CT, appeared on behalf of the applicant, Lori Stalowicz. Attorney Marcus explained the variance is to allow for some renovations for the house that has existed since the 1950s at Lake Waubeeka. It is in the RA-20 Zone and it is a pre-existing, non-conformity. The size of the lot is half of what is now required in the zone, and it was built at a time when the setbacks and side yards did not apply. Mr. Marcus referred to the submitted map by Gail Adams.

Map shows Beverly Klein as the owner, who is Lori Stalowicz's mother. The house is located on the north side of Jeffrey Street on a corner on a curve in the road. Mr. Marcus asked the Board to look at the site plan. Mr. Moore was able to share his screen with the Board and Mr. Marcus. What you see – the numbered circles, 1-4, apply to the renovation area. If you ignore the cross-hatched area you will see the existing house and deck are located very close to the side yard. The front is about 15.9' from the road. (Cross-hatched Section 4.) You have a non-conforming front and side yard and easterly the existing side yard is 16.1' from corner of house to easterly boundary line. In the rear of property there is plenty of room between the deck and house; the shore of Lake Waubeeka is directly behind the house. They are asking for the variances as stated in the application. They are proposing a carport (Circled area #2) and use the existing driveway. The stone wall is not exactly straight. The second variance is for a roof overhang. House is not changing but because the second story will add a new roof, the overhang will be 1.6' from side yard. Moving toward Jeffrey Street, the second carport to be constructed (Circled area #4) is to allow two cars under a carport as opposed to sitting in the exact same space on the street. That carport will be 2.5' from the westerly side yard. That makes 1.6' in the back of the house and now 2.5' in the front of the house. The next variance is to reduce the front yard setback from the current, non-conforming 15.9' (required 30') to 2' for this carport to cover a parking space. Lastly, is to reduce side yard setback from 15' to 14.5' on east side for a porch. The porch is half a foot too close to the side yard. In the front of the house they are at 18' to the porch which is approximately a foot closer than the house is today. Thirty feet is the requirement, which it has never been.

Attorney Marcus explained this sounds like a lot, but it is really a number of very small changes. The house has been non-conforming since the day it was built. They are trying to line up the new construction with existing foundation. Hardship is the size of the property at 9,378 sq. ft., required 20,000 sq. ft. originally constructed in 1952 as a summer cottage, but now is year round use. They wish to add a second story, porch, and adding two carports on the same site. Attorney Marcus explained this is a long narrow lot and a result of up zoning. They have shared the plans with the neighbors and association and have some neighbors' support.

Lake Waubeeka started as little cottages and today it is a fine residential community. This community is now a year-round residential community and much more upscale than when it was started. These homes always require a number of small variances. He thinks this will definitely be in harmony with the neighborhood. Attorney Marcus offered to answer questions.

Chairman Joseph Hanna said there seems to be a frame on the carport on the right hand side and the land behind there is pretty flat there. Can they expand the parking there? Mr. Hanna is speaking of No.2 on the map. Mr. Rivas agreed there is a carport frame on or behind the driveway. Circled No. 4 concrete pad will be removed per Mr. Marcus. Mr. Marcus said not enough room to put two carports on east side of the house. All you would do is be increasing the variance and decrease the view of lake for the neighbors. Mr. Hanna thinks there is more room by #2, but Mr. Marcus thinks it would decrease the view and doesn't think it's fair, and the last thing he wants to do is affect the view of the lake from the neighbor's property. Mr. Rivas has questions: What is the size of carports? What is the size of porch being proposed? Ms. Stalowicz said the carports are intended to be 10 ½' wide and 21 ½' long. The front porch along the front is about 5' front side and about 3' per Mr. Marcus. Ms. Stalowicz thinks 8' long and about 5' deep for the porch. Mr. Rivas stated that carport #2 looks like the frame was already to the rear of driveway. Is the plan to leave it there or bring it back so that it's over the driveway or extend it? Ms. Stalowicz plans to remove the thing that's there to extend the driveway back and put a more permanent structure (carport?). Mr. Rivas asked if the tree to the east of the porch will be removed? Ms. Stalowicz said they haven't addressed it yet.

Mr. Moore said Lake Waubeeka is fraught with non-conforming lots. One of the conditions – for a variance is it needs to be the minimum variance necessary to allow reasonable use of the property. Mr. Moore does not think No. 4 meets that condition. Mr. Hanna agrees. Mr. Marcus said that No. 4 is really a request to be able to pull a car into something that keeps it out of the weather. Would the property be usable without it? “Yes, No. 4 is more of a convenience and a little bit of an esthetic issue too. Mr. Marcus will leave it to the Board. You've cited proper issue as to whether No. 4 is appropriate, said Mr. Marcus.

Juan Rivas said he had some issues with No. 4 but thinks it was adequately expressed by Rod Moore. Mr. Rivas directed his next question to ZEO Sean Hearty and asked about a variance for the back corner on one, that was not stated on the application? Can we continue with the application or continue with an amendment at the end? Mr. Hearty thinks this is a vertical addition, and the existing setback is 1.6', which is why it wasn't stated in the application. Mr. Marcus said they are not required to seek a variance there as the foundation is at 1.6' and the overhang will be 1.6'. Variance 2 is a carport, (circled No. 4), and they are going to 2.5'. Mr. Marcus continued, in their opinion, the overhang, being no closer to the side yard, does not require a variance. Sean Hearty said they have to maintain the setback. Mr. Rivas said he is concerned with proposal No. 4 on the map because it is more of a commodity for the homeowner; he is okay with the one carport and if they wish to push it back. Peter DeLucia agreed with Messrs. Rivas and Moore. Ms. Stalowicz said her understanding is that they can't go back further on the easterly side because of the septic system. Mr. Rivas understands the septic fields, and he would be willing to table the matter for them to get the information. He cannot work with second carport.

Mr. Hanna asked if there was anyone in favor. No response. Any opposition? Dan Lynch, Vice President of Lake Waubeeka Association. The Association opposes No. 4 for the carport: Front setback had previously been reduced from 30' to 15.9'. The elevation change is a couple foot elevation drop, which means altering LWA property to access Carport No. 4. There is an elevation change between said property and property to the west because the retaining wall in between the two properties will be compromised when putting the weight of a car on it. The wall is very old, and also the deed declaration

allows a single-family home and up to a two-car garage. After consulting their attorney, two separate carports do not comply with this. They are concerned about expansion of the impermeable surface of these driveways and the runoff. Is there a drainage plan with this program? Lake Waubeeka Association is opposed. Chairman Hanna asked if they expand the one driveway, are they still opposed? Mr. Lynch said they are still concerned about runoff going into the lake, and it is a growing concern. Another concern is the encroachment on front property lines. Two feet is not acceptable per Mr. Lynch. Board Member Juan Rivas asked if there is a retaining wall on the westerly side? Mr. Marcus said there is a stone wall/retaining wall on the westerly side and they have agreed with the neighbors to locate the wall and repair the wall. Attorney Marcus suggested that could be a condition of the variance. It will be repaired one way or another. In terms of impervious surfaces, they are not changing significantly. Carport No. 2 has been there but is falling down and they do not have a history of that being permitted to start with. The new impervious surface, Carport No. 4, appears to be problematic, and Mr. Marcus is suggesting to Ms. Stalowicz that they withdraw that particular request.

The only new impervious surface will be No. 4. Attorney Marcus indicated that Lori Stalowicz is listening on ZOOM, and he'll see if she agrees to withdraw Section/variance #2. Ms. Stalowicz agrees but has a question about what she can do with the second car. For simplicity 2.5' to front and side yard setback. (Section 4 variance #2) They will come back at a later point to possibly redesign Carport #4.

Cheryl Dresner and Seth Bressman own the home at 13 Jeffrey Street to the west. Ms. Dresner stated there are a lot of issues and withdrawing the carport is great, but she doesn't understand the 1.6' to the property line in the back. Their side is so dark, with no air or light, and no privacy. She wonders about the variance in 1982 when they remodeled the house and extended the kitchen. She wants the variance researched before she agrees. Ms. Dresner thinks the renovated house was not built properly because if there's no variance, it never should have been built. She wants the research before they start talking about a second floor. She said building a second floor is really building a third story because in the back the property is low and the basements are a walkout. Once again, it's only 1.6' from the property line. It's dark; it's wet all the time. Don't they have to figure that out? Mr. Hearty said that when you have structure built in the 80's with no action taken, it would take on a non-conforming aspect. A pre-existing, non-conforming structure that has been established, can be intensified, i.e. it can go up.

Ms. Dresner stated the house is owned by Beverly Klein, not by Lori Stalowicz. Ms. Dresner asked if she (Lori Stalowicz) has the authority to renovate? Ms. Dresner referred to Danbury Planning and Zoning Regulations, Sec. 11.B.1., and stated the applicant does not have a hardship and Lori's property (#11 Jeffrey) is not unique to the neighborhood. Ms. Dresner said that on their street there is one garage and one carport, and if it is the standard not to have any of that, then her (Lori's, #11) property is not unique to the neighborhood. Ms. Dresner is concerned about a second story built right next to her house.

Chairman Hanna said that Mr. Marcus offered to withdraw the variance circled #4 carport. Mr. Hanna said a new plan will be needed and maybe it should be tabled until next time. Board Member Michael Sibbitt said the coverage percentage will have to be changed if they disallow carport area No. 4. Mr. Rivas agrees with Mr. Hanna about the withdrawal of carport area No. 4 and wonders about the integrity of the wall on the westerly side and maybe they could find out any effect to the wall and the construction. Mr. Rivas would also like an accurate measurement of the porch.

Attorney Marcus asked for a continuance to the next meeting, March 24, 2022. He will get exact dimensions, and he will go to the Building Department for fire rebuild and reconfigure the coverage without the second carport. These are reasonable requests and should be able to be accomplished in the next couple of weeks. So that when they vote they can be comfortable that they have all the questions answered.

Motion to table Application No. 22-03 until the next regular meeting on March 24, 2022 was made by Rod Moore; seconded by Peter DeLucia. All in favor with AYES from Rod Moore, Juan Rivas, Michael Sibbitt, Peter DeLucia, and Joseph Hanna.

#22-04: 67 Ta'Agan Pt. Rd., Perdrizet, Rob & Lisa, (I06017), RA-20 Zone, Sec. 4.A.3:
Reduce rear yard setback from 35' to 27.2' for proposed overhang.

Motion to open Application No. 22-04 was made by Juan Rivas; seconded by Peter DeLucia. All in favor with AYES from Rod Moore, Juan Rivas, Michael Sibbitt, Peter DeLucia, and Joseph Hanna.

Calvin Blackwell, Suma Designs, representing Rob & Lisa Perdrizet. Mr. Blackwell explained they are doing a small addition to increase the existing dining room, but they want to include a roof overhang to create a shedding of water that was an increasing amount of water coming in but because of the location there was no drains underneath. They designed a roof overhang that (westerly side) is a sheer wall and water coming into the foundation, and they could not find any other way because the water was under an existing deck that they could not access. They thought if they could bring the water out further and enhance the side of the house and be energy conservative, this would be an adequate approach for them. Chairman Hanna asked if the deck is old or new. Mr. Blackwell said it is existing. Mr. Hanna suggested the flashing might not be adequate. Mr. Blackwell said they have two stories of wall going down and the existing deck is (inaudible). They are trying to create not only an esthetic solution but also beneficial. Also the addition that is part of this application is for the roof overhang, and the addition they are hoping to add. Mr. Hanna asked if the existing deck is behind the 440 line. Mr. Blackwell answered yes. Mr. Rivas had questions regarding square footage of dining room. Discussion continued regarding measurements. Per Sean Hearty, the architectural addition would be the overhang that comes off the addition, and the addition does require a variance. The addition is projecting into the 35' setback by 32.4' even if the existing house was in the setback a little bit, the further increase would require a variance anyway. Mr. Hearty said it is a fluid roof to wrap around.

No opposition; no one in support.

Motion to close Application No. 22-04 was made by Michael Sibbitt; seconded by Rod Moore. All in favor with AYES from Rod Moore, Juan Rivas, Michael Sibbitt, Peter DeLucia, and Joseph Hanna.

Motion to go to voting was made by Juan Rivas; seconded by Michael Sibbitt. All in favor with AYES from Rod Moore, Juan Rivas, Michael Sibbitt, Peter DeLucia, and Joseph Hanna.

Motion to approve No. 22-04 was made by Michael Sibbitt less than the existing deck so there is no excess infringement in the side yard, it helps weatherproof the house, and it does not adversely affect the safety of the neighborhood; seconded by Peter DeLucia. All in favor with AYES from Rod Moore, Juan Rivas, Michael Sibbitt, Peter DeLucia, and Joseph Hanna.

#22-05: 11 Old Stadley Rough Rd., Michalek, Brandon & Vicki, (J03124), RA-20 Zone,
Sec. 4.A.3: Reduce rear yard setback from 35' to 8.5' for addition.

Motion to open Application No. 22-05 was made by Peter DeLucia.

Mr. Brad Michalek, the homeowner, is presenting this application. Mr. Michalek said that there is an existing deck where the addition will be. Part of the house currently expands further than where they are proposing the addition. The 440 line is where they have the 35' issue. The new space will be for a bedroom and working-from-home office space. The second floor will be for the office space.

Mr. Rivas asked what 440 line the applicant was using as the map showed two 440 lines. Mr. Michalek said he doesn't know which one is correct. Mr. Michalek said he used the 8 1/2' when they got the survey a few weeks ago. He does not know which one is correct. Mr. Rivas said he saw the stakes and asked if they were using the ones closest to the house and Mr. Michalek indicated he believed so. Mr. Rivas then asked Sean Hearty if the accurate 440 line is the furthest to the back, would there be an issue with the setback? Sean Hearty said the surveyor was super conservative even referring to the TIE line. Mr. Hearty thinks if they grant the variance using the 8.5' you would be rest assured that you're branding the proper variance. Mr. Rivas also asked about the overhang with an entrance. Where exactly is the proposed addition going in comparison to where the house is and deck? Mr. Michalek said that area is staying as it is and has nothing to do with the addition; just squaring off the back section of the house. No further questions, no opposition.

Motion to close Application No. 22-05 was made by Peter DeLucia; seconded by Michael Sibbitt. All in favor with AYES from Rod Moore, Juan Rivas, Michael Sibbitt, Peter DeLucia, and Joseph Hanna. Motion to go to voting was made by Michael Sibbitt; seconded by Rod Moore. All in favor with AYES from Rod Moore, Juan Rivas, Michael Sibbitt, Peter DeLucia, and Joseph Hanna.

Motion to approve was made by Peter DeLucia, per plan submitted; seconded by Rod Moore. All in favor with AYES from Rod Moore, Juan Rivas, Michael Sibbitt, Peter DeLucia, and Joseph Hanna.

#22-06: 33 Crosby St., 33 Crosby LLC, (I13048), C-CBD Zone, Sec.8.C.1.b.(2) & 8.C.4.c.(10) Reduce parking requirement of retail from 1 space per 250 sq. ft. of usable gross floor area to 1 space per 500 sq. ft. of usable gross floor area. Proposed use: small Indian food market.

Motion to open No. 22-06 was made by Michael Sibbitt; seconded by Peter DeLucia and Rod Moore simultaneously. All in favor with AYES from Rod Moore, Juan Rivas, Michael Sibbitt, Peter DeLucia, and Joseph Hanna.

Steve Sullivan P.E. CCA, LLC joined by Dan Bertram, applicant, and Joe Balskus, P.E., traffic engineer with VHB. Mr. Sullivan shared his screen corner of Crosby and Lee Hartell Drive on .44 acres in C-CBD Zone. There is existing mixed use building on the property: the top floor has two apartments, the bottom or main level has commercial retail and two restaurants, and a vacant space that was formerly a dance studio. The vacant space is the subject of this variance for a small Indian food market – grocery store use, and they are looking for the parking variance for a supermarket – which was the only type of calculation they could use for this type of tenant.

Mr. Sullivan said they are looking for a variance, as stated, to change to 1 space per 500 sq. ft. of usable gross floor area. He read the submitted narrative and hardship. There are eight, on-street parking spaces, they could be used for this property, but they are not included in the parking calculations because they are considered off-site. Mr. Sullivan spoke about the previous variance, granted about 12 years ago, that allowed employee parking at the Patriot Garage. The usable gross floor area would be 3,315 sq. ft. and the tenant would need 13 spaces. With the proposed variance they would need seven spaces. If the proposed variance is granted, the site would meet the total parking required, which is 23 spaces.

Joe Balskus, P.E. State of Connecticut, presented the parking analysis. The City's regulation is based upon a much a larger market. There is not a lot of demand. He said the memo outlines specialized grocery stores. The parking onsite justifies the variance. They looked at other locations for comparison. They feel this market has no need for full zoning parking requirements.

Mr. Sullivan asked if anyone had questions. Peter DeLucia asked if there is any provision for a buffet, stools, or sit-down tables. Answer, no. Juan Rivas asked about the traffic report and mentioned the morning peak hours, is there any information for Friday through Sunday? Mr. Balskus said they look at Monday through Friday for grocery stores, and they look at Friday through Sunday for shopping center retail, but they do not look for that for grocery stores. This was also in consult with city traffic chair. Mr. Rivas asked if the News-Times building traffic was included in the projection? Traffic study for New-Times building was included in the study submitted per Joe Balskus. There will be no served food per Dan Bertram; however, they might have a food prep area. Mr. Rivas asked if it would be safe to say with a stipulation, that if it goes out of business or relocates, that another business would have to come back to ZBA if it was more intense or different than what was is currently proposed--would that be agreed to by the applicant? Mr. Hearty agreed that Mr. Rivas' concern is real. Mr. Bertram thought the dance studio was a larger parking generator, and he has no issue with a stipulation. He said they have a good relationship with Omaha Beef that allows them to park after their employees leave. He has no issue with a stipulation. Rod Moore asked what if a convenience store went in there someday, can we specifically say this variance is for an ethnic food market. Mr. Bertram said they are here tonight in an effort to help this business stay downtown. Mr. Moore asked if the food market would require two dumpsters? Where would they go on this property? Bertram said there might be dumpsters there but they would not be visible from Crosby or Lee Hartell. He could accommodate having no new dumpsters. Mr. Moore is concerned about the parking demands, but you're saying in total how many spaces? Mr. Steve Sullivan replied that the restaurant would require ten spaces plus three for employees; however, the employees would be parking offsite at the Patriot Garage, and the requirement onsite is 23 parking spaces. Mr. Moore mentioned the two apartments. Mr. Sullivan said they have three spaces, and the third tenant, Papa Johns, gets three spaces and three for employees who park at Patriot. The market

would be seven spaces. Mr. Moore said he was still leery and not totally convinced, but we want to keep downtown business. Mr. DeLucia thought the parking would be okay, and Mr. Rivas is okay with a stipulation.

Prior to voting, Mr. Hearty, ZEO, asked Mr. Bertram if he agreed that any specialty market would be permitted based on this variance, and any further change of use would require another variance. Mr. Bertram and Mr. Rivas agreed.

No one in favor or opposed.

Motion to close Application No. 22-05 was made by Juan Rivas; seconded by Rod Moore. All in favor with AYES from Rod Moore, Juan Rivas, Michael Sibbitt, Peter DeLucia, and Joseph Hanna.

Motion to go to voting was made by Juan Rivas; seconded by Michael Sibbitt. All in favor with AYES from Rod Moore, Juan Rivas, Michael Sibbitt, Peter DeLucia, and Joseph Hanna.

Motion to approve was made by Juan Rivas, per plan submitted with stipulation that this variance will be granted on the condition it is for only a specialty market and any other use variance would have to return to Zoning Board of Appeals; seconded by Michael Sibbitt. All in favor with AYES from Rod Moore, Juan Rivas, Michael Sibbitt, Peter DeLucia, and Joseph Hanna.

CONTINUED PUBLIC HEARINGS: None

OLD BUSINESS: None

NEW BUSINESS: None

CORRESPONDENCE: None

OTHER MATTERS: None

ADJOURNMENT:

Motion to adjourn was made by Michael Sibbitt; seconded by Rodney Moore. All in favor with AYES from Rod Moore, Juan Rivas, Michael Sibbitt, Peter DeLucia, and Joseph Hanna. Meeting adjourned at 8:48 p.m.

Respectfully submitted,



Mary S. Larkin
Recording Secretary