



**CITY OF DANBURY**  
155 DEER HILL AVENUE  
DANBURY, CONNECTICUT 06810

ZONING BOARD OF APPEALS  
www.danbury-ct.gov

(203) 797-4525  
(203) 797-4586 FAX)

***ZONING BOARD OF APPEALS  
MINUTES  
Web-Based Meeting Hosted on ZOOM  
April 28, 2022  
7:00 p.m.***

**ROLL CALL:**

Chairman Joseph Hanna called the web-based meeting, held via ZOOM, to order at 7:00 p.m. Present by roll call were: Peter DeLucia, Rod Moore, Juan Rivas, and Michael Sibbitt. Mr. Hanna seated Mr. DeLucia in place of Anthony Rebeiro. Absent were Anthony Rebeiro and Richard Roos. Staff present were Zoning Enforcement Officer Sean Hearty and Secretary Mary Larkin.

**ACCEPTANCE OF MINUTES:** April 14, 2022

Motion to accept the Minutes of April 14, 2022 was made by Peter DeLucia; seconded by Michael Sibbitt. All in favor by those eligible: Peter DeLucia, Michael Sibbitt, and Joseph Hanna.

The next regular meeting is scheduled for **May 12, 2022**

**PUBLIC HEARINGS:**

Motion to hear Application #22-07, 102 Mill Plain Road, was made by Rod Moore; seconded by Michael Sibbitt. All in favor with Ayes from Peter DeLucia, Rod Moore, Juan Rivas, Michael Sibbitt, and Joseph Hanna.

**#22-07: 102 Mill Plain Rd., CRD, LLC, Thomas Beecher, Esq., Agent, (C14014), CA-80 Zone.** Sec. 8.E.3.a.(3) increase sign size from 75 sq.ft. to 211 sq.ft.. Sec. 8.E.5.b. & 8.E.6.d. permit illuminated LED sign with changing content.

2022 MAY 16 P 2:53

BY: *Kc*

Thomas Beecher, Esq. appeared on behalf of CRD, LLC, Caraluzzi's Markets. Justin Miller, Claris Construction, Project Manager, was also present. Attorney Beecher said his client has markets in Georgetown, Newtown, and Bethel, Connecticut and described them as good corporate citizens who have been in the grocery store business since 1949.

Attorney Beecher explained this a large, 4.5-acre site in the CA-80 arterial zone. The site plan shows the store in the rear of the property, approximately 370' from Mill Plain Road with limited visibility. Mr. Beecher said that many previous variances have been approved where a property is large and the building or buildings are located well away from the road. The proposed sign is on the northeast entrance and exit to the site. There is only one access to the site, and this will be the only free-standing sign because there are no other access points. Mr. Beecher said that they feel the sign is tasteful and the entire upper triangle is contained in the overall size of the sign.

The first variance request is to allow the sign area to be enlarged to a maximum of 211 sq. ft. due to the limited visibility of any wall signs on the building. The bulk of the sign area is 16' to 17' and although they are asking for additional sign area, the entire sign meets the height requirement so it will not look like the giant Starbucks sign at Exit 5. Mr. Beecher reminded the Board that he presented the variance application for the ShopRite Supermarket at the North Street Shopping Center, which was granted. That sign could be up to 228 sq.ft. with a digital changing message. There are other examples of large freestanding signs on large properties such as the Shops at Marcus Dairy, which is a total of 220 sq. ft. Other signs mentioned, for which variances were obtained, were Primark and Sears at the Danbury Fair Mall, and Doctors Express on Mill Plain Road. Also 80-82 Mill Plain Road for a warehouse business that tucked in the back property. Trader Joe's Plaza sign is 182 sq. ft. and Dick's Sporting Goods sign on the front of the mall, which is a very large sign, but that building is set back from the road on a large building on a large site.

Mr. Beecher said that an LED sign is allowed by the regulations, it's just the changing message that causes the request for a second variance. Mr. Beecher stated that the sign at City Hall changes every four to ten seconds, with none of the messages exceeding ten seconds in length. Mr. Beecher said that he has not been distracted nor noticed any other drivers being distracted or mesmerized by these signs to the point where they fail to move forward on a green light, so they are asking for a minimal interval time that's the same as the longest interval on the city's own sign. Their proposed digital sign is 8' x 14' or 112 sq. ft. The Stew Leonard's digital sign is 132 sq. ft. and that is just a screen. They actually have two digital changing message signs along their frontage. Danbury High School has a digital changing sign as does the WestConn Campus on Mill Plain Road.

Mr. Beecher said that an LED sign is allowed by the regulations, it's just the changing message that necessitates the request for a variance. Their exhibit indicates there is also a changing content. The Caraluzzi's sign will not have any animation, no twirling, no pulsating, no rotating. It just changes its messages no less than every ten seconds. The Zoning Regulations do not define flashing. Mr. Beecher offered definitions of flashing from several dictionaries.

This proposed sign will not distract or pose any risk to health and safety. It will actually change less frequently than the sign at City Hall. The sign will comply with height limit of 20' and the sign will not obstruct line of sight as it complies with the regulations in these respects.

Attorney Beecher suggested that an appropriate condition of approval, in addition to your normal per plan submitted, would be to add the language, other than message changes at intervals of not less than every ten seconds and shall not otherwise flash, rotate, pulsate, move, or be animated.

Mr. Hanna said that the square footage is more than double for that property and asked if there any way you can trim it down. Mr. Hanna said that we do not like the changing the sign and expects the City to change the timing on the sign, and can Mr. Beecher's customer increase the interval timing. Mr. Beecher answered that the Stew Leonard's signs and ShopRite signs are larger and as for the intervals, he thought they might be able to extend the timing for Caraluzzi's Market. Mr. Hanna thinks every ten seconds is too much. Mr. Hanna further asked if Caraluzzi's will be advertising wine and beer on the changing sign? Mr. Beecher presumes so. Mr. Hanna said they do like to see liquor display/advertising there. Could they eliminate that? Mr. Beecher said, "yes, they could." Mr. Hanna returned to the question of the timing and that he would like to see a change in the timing. Mr. Beecher said they could work on that.

Mr. Moore said he looked for a hardship, and the stated hardship of not being able to see the building signs from the road, does not define a hardship. The sign identifies the property as you drive in and you can see the signs on the building. Mr. Moore asked Mr. Beecher to restate the hardship. Mr. Beecher said many variances are granted on the size and configuration of the property. Mr. Beecher said this is a similar hardship that was the basis for granting other sign variances. Mr. Moore said that many of those signs contain strip centers. Mr. Beecher revisited the Stew Leonard's sign. Mr. Moore said that was before his time on the Board and has yet to hear an explanation of the hardship for that sign. As far as the City sign goes, Mr. Moore brought the frequent changes to the attention of the City and for a while it did change, but personnel changes and things change to the point that it is difficult to enforce even if a time is established, which is making him very cautious tonight. Mr. Moore does not see a hardship that rises to a need. If there is a hardship by not being able to read the signs that are on the building, that would go towards an economic hardship, which is not a valid hardship for a variance. Mr. DeLucia has been watching the progress of the building and as a commercial building owner he thinks we need to do something to make this happen. Again, the timing of the intervals was discussed. Mr. DeLucia said he did not find any signs that were 2.5 minutes as conditioned for the ShopRite sign. Mr. Moore asked what the transition between message was? Can there be a slow fade? Mr. Beecher did not think the change of content would be considered animation. Mr. Moore said the intensity of the light could change quickly. Mr. Beecher said the City Hall sign changes from red, white, and blue to the Ukrainian flag of yellow and blue. Mr. Sibbitt said that the ShopRite sign changes about every ten seconds. Mr. Rivas had a few questions. He is concerned and has reservations as Messrs. Hanna and Moore stated. He asked if there will be any shut-off time (hours of operation) if the sign was approved? The Sign Pro pamphlet indicates a maximum continuous power of 11,860 watts, therefore the shut-off question, and what is the lumens being given off of these LED lights on a board of this size? If someone is driving at night, and from his military training, lights to the eyes contribute to a 15-minute duration to reacquire your night vision. He said the State law, as far as the intensity of illumination to the headlights, says there may be no more than four lamps exceeding 300 candle power illuminated at the front at any one time. Section 14-96. He hopes they can provide the answer. Mr. Beecher said he is reasonably certain that the sign company would be in compliance; however, he will obtain further information. Mr. Rivas is also concerned about the potential of liquor advertisement. Mr. Beecher said he will discuss with the Caraluzzis. Mr. Rivas

agrees with Mr. Moore about the lack of hardship. Mr. Hanna asked if one portion of the sign will be a continuous change message. Mr. Beecher said it is 112 sq.ft. which is 100 sq.ft. less than the overall sign. No further questions.

Mr. Hanna asked if anyone from the public is in support? There being none, Mr. Hanna asked if anyone from the public is in opposition.

Mr. Jason Bresnick, Maplewood Drive, Danbury, CT responded that he is opposed the variance. Mr. Bresnick stated that he was initially excited to hear that Caraluzzi's Market was joining the neighborhood and offering another quality grocery option to the area. Mr. Bresnick expects that as a neighbor they should be respectful to the neighborhood and consider their impact on others. Mr. Bresnick said he drives past this location on his way to shop at the stores Caraluzzi's Market is hoping to compete against for his business. In his opinion, erecting a large, bright, changing LED sign does not indicate respect. Mill Plain Road is not the Danbury Fair Mall area nor is it Federal Road. This is a commercial strip among residential areas and is not appropriate for this type of signage.

Mr. Bresnick continued that the brightness of LED signs extends beyond the range of standard signage—neon or spotlights. He believes that the zoning regulations are in place for a purpose and should be maintained if at all reasonable.

Mr. Bresnick indicated that he wanted to fairly consider the hardship. At this time, he offered a PowerPoint presentation showing the Bethel, Georgetown, and Newtown Caraluzzi's Market locations, all of which are marked with traditional, static name signs. Mr. Bresnick questioned if the signage at the three other locations have allowed the chain to be successful, why do they need a massive digital billboard to be successful in Danbury? Mr. Bresnick indicated that the Danbury location has plenty of unobstructed frontage to Mill Plain Road and none of the competitors in the area have anything that begin to approach the size and visual disruption of the proposed sign. The proposed variances are not needed to help potential customers identify the business. Mr. Bresnick said, "These variances are a garish opportunity for in-your-face promotion and advertising. As such, I refute the hardship claim."

Lastly, Mr. Bresnick, stated their request for multiple variances that the zoning laws for signage are in place for and quoted "Health and safety and to avoid driver distraction", and that the proposed sign will not pose any risk to health and safety". Mr. Bresnick believes the opposite to be true, looking at the proposed sign location and the traffic layout. The sign and location may greatly inhibit line of site to all vehicles, and the larger the sign is, the greater chance for a vehicle or pedestrian collision. He asked the applicant to withdraw the request for the variances and if they do not, he asks that the Board deny the application.

An email, received from Keith Henderson, 19 Grove Place, Danbury, CT, was read into the record by the undersigned. It read as follows:

*Here is my opinion: I don't care too much how big the sign is. But PLEASE do not allow them to have a sign that constantly changes messages. I find such signs to be VERY distracting, and therefore dangerous to drive by. I also find it annoying to have a sign change while I'm in the middle of trying to read it!*

*Thank you for your consideration. I am very glad that we have a regulation against signs that "flash, rotate, pulsate, move, or are animated." I hope that you will uphold the rule against distractions and reject this aspect of the proposed variance. Sincerely, Keith Henderson*

Councilman Paul Rotello, representing the Sixth Ward, said that he is a long-time patron of Caraluzzi's Market; however, he is not completely on board with Attorney Beecher's opinion about the hardship. The location of the store was dictated by engineers, not by the City. The hardship is of their own design, and he is in accord with Commissioner Rodney Moore, who thinks the hardship is more economic. Mr. Rotello thinks the Board should discount the hardship. Mr. Rotello said the proposed sign is not appropriate for Mill Plain Road. Mr. Rotello said that judging non-commercial civic announcements in the same basket as commercial ones is probably not fair because there is a different discourse when it comes to civic communication. He is not thrilled about the City Hall sign, but when the high school has a large banner because they are putting on a play or something like that, it's fundamentally different from a commercial enterprise and these variances go with the property. Caraluzzi's Market, as a business/institution, may outlive many businesses in Danbury; however, there may come a time when they are no longer there and we need to be prepared for what might go in its place . . . a bails bondsman, an adult entertainment, a cannabis dispensary, or a pawn shop? They could use the sign for their own purposes, so that's something to consider. Mr. Rotello asked the Board to deny the application and welcome Caraluzzi's Market with a regular sign illuminated in a non-flashing manner of a regular size, and he trusts they will be successful in Danbury, maybe more so than their other locations.

Councilman Ben Chianese, also representing the Sixth Ward, is present to speak in opposition to the sign. He does not feel the reasons given represent a hardship. If you allow the setback of the building as a hardship, then you would be opening the door for other places that could use the same reasoning, such as J.C. Penney at the mall. Would their location give them a right to put an electronic sign on the mall property? Mr. Chianese said the Westconn sign is on State property. Mr. Chianese thinks electronic signs need to go before the Zoning Commission. There are no regulations for intermittent flashing signs. He concluded with stating this application is not worthy of an approval and thanked the Board for its time.

Attorney Thomas Beecher responded that the prudent thing to do is to request that the matter be continued until the next regular meeting scheduled for May 12, 2022 so that he may discuss some of the matters that were raised and come back and address them with, perhaps, a slightly altered plan.

Motion to continue to the May 12<sup>th</sup> meeting or whatever Mr. Beecher needs for his client was made by Rod Moore; seconded by Michael Sibbitt. All in favor with Ayes from Peter DeLucia, Rod Moore, Juan Rivas, Michael Sibbitt, and Joseph Hanna.

CONTINUED PUBLIC HEARINGS: None

OLD BUSINESS: None

NEW BUSINESS: None

CORRESPONDENCE: None

OTHER MATTERS: None

ADJOURNMENT:

Motion to adjourn made by Michael Sibbitt; seconded by Juan Rivas. All in favor with Ayes Peter DeLucia, Rod Moore, Juan Rivas, Michael Sibbitt and Joseph Hanna. Meeting adjourned at 7:52 p.m.

Respectfully submitted,



Mary S. Larkin  
Recording Secretary