



**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**  
**City Council Chambers – City Hall**  
**155 Deer Hill Avenue**  
**May 12, 2022**  
**7:00 p.m.**

ROLL CALL:

Chairman Joseph Hanna called the meeting to order at 7:00 p.m. in City Council Chambers Present were: Anthony Rebeiro, Juan Rivas, and Michael Sibbitt. Absent were Peter DeLucia, Rodney Moore, and Richard Roos. Mr. Hanna explained the significance of a four-man board and that the vote would have to be unanimous. Mr. Hanna asked the applicants if they wished to continue with their hearings tonight and each agreed to go forward. Staff present were: Zoning Enforcement Officer Sean Hearty and Secretary Mary Larkin.

ACCEPTANCE OF MINUTES: April 28, 2022

Motion to accept the Minutes of April 28, 2022 was made by Anthony Rebeiro, who indicated that he had watched the video of the meeting; seconded by Michael Sibbitt. All in favor with Ayes from Commissioners Rebeiro, Rivas, Sibbitt, and Hanna.

The next regular meeting is scheduled for May 26, 2022.

Motion to hear Application Nos. 22-08 and 22-07 was made by Anthony Rebeiro; seconded by Juan Rivas. All in favor with Ayes from Commissioners Rebeiro, Rivas, Sibbitt, and Hanna.

PUBLIC HEARINGS:

#22-08: 12 Kingswood Rd., (D05029) RA-40 Zone, Sec. 4.A.3. Reduce front yard setback from 40' to 29.5' for proposed deck

2022 JUN -2 A 11: 38

BY: *KL*

Motion to open Application No. 22-08 was made by Juan Rivas; seconded by Michael Sibbitt. All in favor with Ayes from Commissioners Rebeiro, Rivas, Sibbitt, and Hanna.

Meghan Aldridge and Mark Cordoano were present to explain their application to the Board. They are requesting the front-yard setback be reduced on the Clairann Drive side for a proposed deck. When asked by Mr. Hanna, they stated that the deck will be 23.9' x 12'. They explained this is a new structure, and there is no deck on the property now. Mr. Rivas asked if anything will be underneath the deck? They responded it will just be a deck and yard. No questions. No one in support or opposition.

Motion to close was made by Michael Sibbitt; seconded by Anthony Rebeiro. All in favor with Ayes from Commissioners Rebeiro, Rivas, Sibbitt, and Hanna.

Motion to vote was made by Juan Rivas; seconded by Michael Sibbitt. All in favor with Ayes from Commissioners Rebeiro, Rivas, Sibbitt, and Hanna.

Motion to approve Application No. 22-08, per plan submitted 12 Kingswood Road was made by Anthony Rebeiro; seconded by Michael Sibbitt. All in favor with Ayes from Commissioners Rebeiro, Rivas, Sibbitt, and Hanna.

**#22-10: 4 Hamilton Dr., (G04009), RA-20 Zone**, Sec. 3.G.3.d. Allow pool in front yard. (Prior to the meeting, this application was postponed until May 26, 2022.)

**#22-11: 4 Lake Rd., (J02031), RA-20 Zone**, Sec. 4.A.3 Reduce front yard setback from 30' to 27.8' to roof overhang of proposed covered porch; Reduce side yard setback from 15' to 8.2' to proposed porch; Reduce minimum side yard from 15' to 8.9' to existing balcony. Sec. 8.A.2.c.(4) Allow bottom edge of excavation from a minimum of 5' to 0' for retaining wall. (Prior to the meeting, this application was postponed until May 26, 2022.)

CONTINUED PUBLIC HEARINGS:

**#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.

Motion to open Application No. 22-07 was made by Juan Rivas; seconded by Anthony Rebeiro. All in favor with Ayes from Commissioners Rebeiro, Rivas, Sibbitt, and Hanna.

Thomas Beecher, Esq. was present with Mark Caraluzzi, Managing Member of CRD, LLC. Attorney Beecher recalled at the end of the last meeting he said they would consider changes. Mr. Beecher added that this is a three-store shopping center with a grocery store, liquor store, and bank.

The new sign details show they have reduced the gross square footage from 211 sq.ft. to 174 sq.ft. They also reduced the LED portion of the sign from 112 sq.ft. to 96 sq. ft. The sign design is the same. It is smaller and this is smaller than other sign examples presented with the application. The height limit will be in compliance with Zoning Regulations. In addition to the sign reduction, they

agree to the following suggested changes: Message change intervals shall be no shorter than 30 seconds; the changeover of images changes will fade in and fade out; the LED portion of the sign will be turned off between 11:00 p.m. and 6:00 a.m.; and there will not be any liquor store ads on the LED sign.

In regard to hardship, Attorney Beecher said the building does have a visibility issue as it is setback 370 sq.ft. from the road in accordance with their special exception approval from the Planning Commission. Eastbound it is blocked by the office building at 100 Mill Plain and Duchess Restaurant. Westbound it is blocked by a tree line between the two properties and 98 Mill Plain West. If a property has the right depth, shopping centers are designed and built with parking lots in front such as Berkshire Shopping Center, Plumtrees Plaza, and the North Street Shopping Center.

The Sears sign was approved to be more than double – up to 245 sq. ft. due to the visibility issue because Sears was on the lower level. Shoprite’s sign was also for visibility and due to site location and size.

Regarding the lumens, Attorney Beecher said they cannot provide a specific measurement number but according to their sign supplier, the digital LED display portion on their monument sign will not generate any more brightness at night than a standard backlit sign panel. The LED sign model can be adjusted and dimmed. It will incorporate fading transitions and images to eliminate quick changes and it will be programmed to shut off. It will be nowhere near the brightness of headlights or spotlights. After the last meeting the City of Danbury changed the timing of its messages to 22 and 25 seconds. He said previously they were 4-6 to 10 seconds in frequency. The City’s sign timing is 25 seconds, and they (his client) are agreeing to 30 seconds.

Attorney Beecher distributed an outline to show revisions downward. They are asking for approval of variance for a gross sign area up to a maximum of 174 sq. ft. and approve an illuminated LED sign with changing message content with the following conditions of approval:

1. The LED portion of the sign shall not exceed 96 s.f.;
2. Message change intervals shall be no shorter than 30 seconds;
3. Message changes shall fade in and fade out;
4. The LED portion of the sign shall be turned off between 11:00 p.m. and 6:00 a.m.
5. There shall be no Liquor Store ads on the LED sign; 6. Other than message changes at intervals of not less than every 30 seconds, the sign shall not otherwise flash, rotate, pulsate, move, or be animated.

Attorney Beecher stated there are no health safety or welfare issues with this particular sign if the conditions are agreed to.

Michael Sibbitt said, “If you can drive by there and not notice the big grocery store, you shouldn’t be driving. It’s a big store you do not need a big flashing sign to know there is a big store there.” Mr. Sibbitt disagrees about the statement concerning visibility. Attorney Beecher still believes visibility is an issue.

Juan Rivas asked about the bank. Will the bank require sign placement on this proposed sign? Mr. Beecher responded that if it does it will be within the 174 sq. ft. of the proposed sign. On the bottom rung with Caraluzzi's wine store.

Tony Rebeiro asked with all of the conditions how enforceable is all this? Sean Hearty said you can see ShopRite is not at 2.5 minutes, more like 30 seconds. Mr. Hearty said they have to rely on trust and when it was brought to our attention; he has called ShopRite twice and they immediately changed the timing.

Mr. Hanna asked if anyone had questions and if there was anyone in favor or anyone opposed.

Jason Bresnick, Maplewood Drive, Danbury, CT was present to oppose the application. He acknowledged the steps by the applicant to address the concerns; however, he feels they do not go far enough. The LED portion was reduced by about 10 percent. The total sign will be multiple times larger than the regulation. Mr. Bresnick said that Caraluzzis planned this site and now claims that is laid out in a way that creates a hardship and asked why but they created the plan and why didn't they lay the lot differently. Allowing the exception to Caraluzzis gives them a competitive advantage over other Mill Plain grocery stores who now will have legitimate hardships to request their own LED signs. Granting this will open the door for further exceptions to be requested by other entities on this road and others in the town. Mr. Bresnick asked at what point is this regulation even still viable if we continue to allow exceptions to the rule? Mr. Bresnick asked the Board to deny the application, and, in addition he asked them to amend the definition of flashing to include digitally programmed content changing signs, even though he knew this was not the purview of the appeals and would like this to be on the record for the greater regulating body.

No other comments.

Motion to close Application No. 22-07, 102 Mill Plain Road, was made by Anthony Rebeiro; seconded by Michael Sibbitt. All in favor with Ayes from Commissioners Hanna, Rebeiro, Rivas, and Sibbitt.

Motion to open to discuss and/or vote was made by Juan Rivas; seconded by Anthony Rebeiro. All in favor with Ayes from Commissioners Hanna, Rebeiro, Rivas, and Sibbitt. Mr. Rivas commended the applicant that they returned with conditions of approval which include something better and made strides to accommodate their timing request, and he hopes the City can enforce the timing. Mr. Hanna thought there were improvements to the sign and hopes they will keep to the 30-second timing. Mr. Sibbitt disagrees with the hardship—there is no hardship. He said, "You can see the store from the road and once people start going there, they will know where to go." He is not objecting to the sign; he is objecting to the flashing sign. Mr. Sibbitt asked Mr. Hanna what the hardship is. Mr. Hanna said they need to have a sign, "flashing, everyone is doing it". Mr. Sibbitt disagrees with the LED and stated Caraluzzis' other stores do not have LED signs. Mr. Sibbitt commented that soon everything on Mill Plain Road will have a flashing sign, and we'll have a mini Las Vegas. Mr. Hanna said the applicant wants some exposure in the front, and they have reduced the size.

Motion to approve Application No. 20-07, Sec. 8.E.3.a.(3) increase sign size from 75 sq.ft. to 174 sq.ft.. Sec. 8.E.5.b. & 8.E.6.d. permit illuminated LED sign with changing content was made by Juan Rivas, per plans submitted including the six conditions of approval as discussed and as follows:

1. The LED portion of the sign shall not exceed 96 s.f.;
2. Message change intervals shall be no shorter than 30 seconds;
3. Message changes shall fade in and fade out;
4. The LED portion of the sign shall be turned off between 11:00 p.m. and 6:00 a.m.
5. There shall be no Liquor Store ads on the LED sign; 6. Other than message changes at intervals of not less than every 30 seconds, the sign shall not otherwise flash, rotate, pulsate, move, or be animated.

Anthony Rebeiro seconded the motion. All in favor with Ayes from Commissioners Hanna, Rebeiro, Rivas, and Sibbitt.

OLD BUSINESS: None

NEW BUSINESS: None

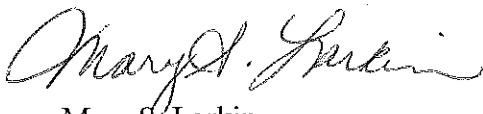
CORRESPONDENCE: None

OTHER MATTERS: None

ADJOURNMENT:

Motion to adjourn was made by Anthony Rebeiro; seconded by Michael Sibbitt. All in favor with Ayes from Commissioners Hanna, Rebeiro, Rivas, and Sibbitt. Meeting adjourned at 7:32 p.m.

Respectfully submitted,



Mary S. Larkin  
Recording Secretary