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ZONING BOARD OF APPEALS
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ZONING BOARD OF APPEALS
MINUTES
Web-Based Meeting Hosted on ZOOM
July 22, 2021

ROLL CALL:

Acting Chairman Rodney Moore called the meeting to order at 7:00 p.m. Present were Joseph Hanna, Richard Roos, and Michael Sibbitt. Staff present were Zoning Enforcement Officer Sean Hearty and Secretary Mary Larkin. Absent: Richard Jowdy, Peter DeLucia, and Anthony Rebeiro. Juan Rivas joined the meeting shortly after roll call. Mr. Moore explained the procedures of the meeting.

Motion to hear No. 21-30 was made by Joseph Hanna, seconded by Michael Sibbitt. Motion passed with Ayes from Joseph Hanna, Richard Roos, Michael Sibbitt and Rodney Moore.

ACCEPTANCE OF MINUTES: July 8, 2021

Motion to accept the minutes of July 8, 2021 as submitted and revised was made by Michael Sibbitt; seconded by Joseph Hanna. Motion passed with Ayes from Joseph Hanna, Michael Sibbitt, and Rodney Moore.

Let the record reflect Mr. Rivas joined the meeting at 7:06 p.m.

PUBLIC HEARINGS:

#21-30: Cortes, Sarah, 1 Karen Road, (K06035), RA-40 Zone,
Sec. 4.A.3: Reduce side yard setbacks from 15' to 6'.

Vanessa Cortes Maldonado spoke on behalf of her mother for this application. Ms. Maldonado explained that they are requesting the variance in order to place a shed in the side yard. The shed will be used to store tools, lawn, and snow equipment. Ms. Maldonado explained their hardship is two front

yards and two side yards. Mr. Moore further explained that their location on Karen Road circles around the property. Alternate setbacks were discussed. Mr. Roos questioned if this shed would be a permanent structure, and Ms. Maldonado explained that it would be placed on gravel, not a foundation. Mr. Rivas asked about the material of the shed. Ms. Maldonado replied that it is vinyl. Lastly, Mr. Hanna inquired about the location of the septic system. Ms. Maldonado explained that it is in the front, near the three stairs, and sort of opposite the proposed location of the shed.

There being no one present in favor or opposed, and no further questions, a motion to close No. 21-30 was made by Joseph Hanna; seconded by Michael Sibbitt. All in favor with AYES from Messrs. Hanna, Rivas, Roos, Sibbitt, and Moore.

Motion to vote was made by Juan Rivas; seconded by Michael Sibbitt. All in favor with AYES from Messrs. Hanna, Rivas, Roos, Sibbitt, and Moore.

Motion to approve No. 21-30 was made by Joseph Hanna, per plan submitted; seconded by Michael Sibbitt. All in favor with Ayes from Joseph Hanna, Juan Rivas, Richard Roos, Michael Sibbitt, and Juan Rivas.

CONTINUED PUBLIC HEARINGS: None

OLD BUSINESS:

#21-24: Magner, James, 4 Lake Road, (J02031), RA-20 Zone

Sec. 4.A.3 Reduce minimum front yard setback from 30' to 27.8' to roof overhang of proposed covered porch; reduce minimum side yard setback from 15' to 8.2' to proposed porch; reduce minimum side yard setback from 15' to 8.9' to existing balcony. Sec. 8.A.2.b Allow drainage discharge onto the road. Sec. 8.A.2.c.(4) Reduce bottom edge of excavation from minimum of 5' to 0' for proposed and existing retaining walls.

Mr. Moore explained to the Board that the documents they had requested at the last meeting, when this hearing was closed, have been provided by the Planning and Zoning Department. These documents were distributed via email to the Board, and Mr. Moore said they could compare the documents.

Mr. Moore explained that they could approve the application, deny the application outright, or deny without prejudice. The last option would permit Mr. Magner an opportunity to come back with a new plan.

Mr. Moore suggested denying without prejudice because an outright denial would serve no purpose. He presented a hypothetical list of what might be more palatable if and when Mr. Magner comes back. The list is as follows:

1. Retaining wall – already has a vertical crack according to a verbal report by Mr. Rosati, Assistant Zoning Enforcement Officer, after inspection. Mr. Moore confirmed this needs a

- fully engineered design, preferably with a stucco-type façade. Perhaps instead of two walls, one wall that is set back 5' from lot line would be acceptable without a variance.
2. The drainage needs an engineered design for retention of drainage and runoff. With the former green embankment there was some opportunity to slow down the runoff. Mr. Moore would like to see an engineer's best effort to address the drainage.
 3. Mr. Moore commented that there seems to be some confusion within the Homeowners' Association – did they or did they not approve drainage onto the street? If and when Mr. Magner comes back, Mr. Moore would like to see a clear decision from the Homeowners' Association.
 4. If and when Mr. Magner comes back, Mr. Moore would like to see a construction schedule – a binding document determined and agreed upon by the City and Mr. Magner about a reasonable timetable for construction completion.

Again, these are hypothetical suggestions on what the Board would like to see.

Mr. Moore asked the Board member to state their thoughts. Mr. Sibbitt said he did a site visit yesterday and confirmed the vertical crack in the front wall. He also noticed some holes in the concrete blocks in the side-yard wall. He said that for wheelchair access there has to be some way to get wheelchair-bound guests out in the event of a fire. Safety issues need to be addressed.

Mr. Rivas did not see anything different or new in the plans and he still has issues with the side balcony. Mr. Moore brought up on his screen the former plans from 2019 to illustrate the differences. Mr. Moore also noted comments, written in red, about the need for a variance. Mr. Rivas agrees with Mr. Moore's hypothetical suggestions, but he still has questions.

Mr. Hanna said at the last meeting Mr. Magner agreed to move the wall. Mr. Moore also reminded the Board that there was a sense that he would move the side wall between his and the Durkins' lot, and he agreed to a façade on the wall. Mr. Moore also reminded the Board that Mr. Magner offered to install a dry well from Home Depot and eliminate the drainage pipe. The issue of what work was done after the Cease & Desist is still in question. Mr. Moore explained that the date of the Cease & Desist was May 11, 2020 and you have ten days to remedy the issues. Mr. Moore explained that Mr. Magner had a right to do some work during the time, and it only related to point discharge of storm drainage and bottom of edge of excavation or fill is less than 5' from the edge of property line. The Cease & Desist did not address any setback violations. Mr. Hearty, Zoning Enforcement Officer explained the original plans, with notations in red, were the approved plans. Furthermore, Mr. Hearty recommended if any action is taken tonight, the lot needs to be cleared in order to do a proper inspection to look at and assess the cuts Mr. Magner made. An Environmental Officer will have to inspect.

Motion to deny without prejudice was made by Joseph Hanna, seconded by Juan Rivas. All in favor with Ayes from Joseph Hanna, Juan Rivas, Richard Roos, Michael Sibbitt, and Rodney Moore.

NEW BUSINESS: None

CORRESPONDENCE: None

OTHER MATTERS: None

ADJOURNMENT:

Motion to adjourn was made by Juan Rivas; seconded by Joseph Hanna. All in favor with AYES from Joseph Hanna, Juan Rivas, Richard Roos, Michael Sibbitt, and Rodney Moore. Meeting adjourned at 7:40 p.m.

Respectfully submitted,

Mary S. Larkin
Secretary