



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
September 9, 2021
7:00 p.m.

ROLL CALL:

Acting Chairman Joseph C. Hanna called the meeting to order at 7:00 p.m. Present were Joseph Hanna, Juan Rivas, Michael Sibbitt, and Alternates Peter DeLucia and Anthony Rebeiro. Staff present were Zoning Enforcement Officer Sean Hearty and Secretary Mary Larkin. Absent: Rodney Moore and Rick Roos. Mr. Hanna referenced the letter submitted to Mayor Cavo from Richard Jowdy announcing Mr. Jowdy's retirement. Mr. Hanna then seated Alternate Anthony Rebeiro to the vacant position and seated Alternate Peter DeLucia in Mr. Moore's absence.

Motion to hear Application Nos. 21-31 & 21-32 was made by Anthony Rebeiro; seconded by Peter Delucia. All in favor with AYES from Peter DeLucia, Joseph Hanna, Anthony Rebeiro, Juan Rivas, and Michael Sibbitt.

ACCEPTANCE OF MINUTES: July 22, 2021

Motion to accept the minutes of July 22, 2021 as submitted made by Juan Rivas; seconded by Michael Sibbitt. Motion passed with Ayes from those eligible to vote: Joseph Hanna, Juan Rivas, and Michael Sibbitt.

The next regular meeting is scheduled for **September 23, 2021**

PUBLIC HEARINGS:

#21-31: 83 Old Boston Post Rd., (H22066), Ruffer, Phyllis, RA-20 Zone. Sec. 4.A.3 Reduce side yard setback from 6' to 1.5' to roof overhang of shed.

Phyllis Ruffer, owner of 83 Old Boston Post Road, presented her application. Ms. Ruffer explained that the variance application is to correct the location of the shed in the setback. She described the property as small with a rocky terrain. Prior to the shed installation, she found what she thought were the markers for the boundary and she strung a string between what she thought was the property line knowing that the setback was 6'. She did not find a drill hole in a rock, and when the inspector came she was shocked to be told that the shed is, in fact, in the setback.

She tried to have the shed moved but was told by the manufacturer that the floor could buckle because it is metal, so now she asking for a variance. Ms. Ruffer stated her neighbors do not object and both submitted letters of support. Acting Chairman Joseph Hanna read the letters of support into the record from Michael A. Bick and Frederick Burger.

Peter DeLucia said he noticed four stakes in front of the shed and asked what they were for. Ms. Ruffer explained that originally the surveyor came out to mark the property and then she had him come out again to mark the setback lines. He put rebar on the property line and wooden stakes on the setback lines.

There was no one present in favor or opposed and no other questions from the Board. Zoning Enforcement Officer Sean Hearty said this is a severely undersized 10,000 sq.ft. lot in an RA-20 zone.

Motion to close made by Juan Rivas; seconded by Michael Sibbitt. All in favor with AYES from Peter DeLucia, Joseph Hanna, Anthony Rebeiro, Juan Rivas, and Michael Sibbitt.

Motion to open for voting was made by Juan Rivas; seconded by Michel Sibbitt. All in favor with AYES from Peter DeLucia, Joseph Hanna, Anthony Rebeiro, Juan Rivas, and Michael Sibbitt.

Motion to approve, per plan submitted, was made by Anthony Rebeiro. This will not adversely affect the health, safety, and welfare of the community. Motion seconded by Peter DeLucia. All in favor with AYES from Peter DeLucia, Joseph Hanna, Anthony Rebeiro, Juan Rivas, and Michael Sibbitt.

#21-32: 26 Starrs Plain Rd., (H24026), Todd, John, RA-80 Zone. Sec. 4.A.3 Reduce side yard setbacks from 40' to 22'.

Jerome Mayer, Esq., 19 Church Hill Road, Newtown, CT, represented the applicant, John Todd. Attorney Mayer explained that the variance is necessary because the property was up-zoned after it was subdivided. It was subdivided in 1966, and Nos. 24, 26, and 28 Starrs Plain were created. Side-yard setbacks in the RU-20 were 15'. The property was up-zoned to RA-80, resulting in new setbacks for side yards to 40'. Mr. Mayer stated that the lot is a long, narrow lot and because of the configuration and change in side-yard setbacks, it is extremely difficult to build a house that can comply with these setbacks; therefore, they are requesting a reduction to 22' on each side, which is still greater than 15' originally required.

Mr. Mayer further explained that all houses in the neighborhood tend to have non-conforming setbacks because they were built under the old regulations. For example, Nos. 28 and 24 do not meet side yard requirements. He mentioned there is a small change to lot configuration. The septic at No. 28 is partially on No. 26. An equal property transfer is in the works. It does not affect this request; however, it is shown on the map that accompanied this variance application. Mr. Mayer indicated the configuration of the lot and up-zoning are the hardships.

Peter DeLucia asked about the exchange – does the exchange affect the side yard? It will not per Mr. Mayer. Juan Rivas asked about the driveway on the left side of the plan and asked about the “paved drive” notation on the right. Is that part of the exchange or something added in? Mr. Mayer said his understanding is it is an existing improvement that the neighbor had – nothing to do with the variance and not part of the proposed house, nor will it affect the construction.

Mr. Hanna asked if anyone present was in favor? No one. Opposed? Mr. Junior Rosa, neighbor at No. 28 is partly in opposition to a couple of issues that may affect him directly. Rosa asked if the Board could clarify his understanding about the RA-80 zone in this area. He asked if this zoning is due to the wetlands and is that designation normal for a rural area? Mr. Hanna stated that in 1966, this property was in an RA-20 zone, and the setback lines were different, now it is an RA-80, with larger setbacks. Mr. Hanna explained that people had an approved lot before it was an RA-80, and now they have a hardship and have to ask for a variance. The lots were made for RA-20 Zoning. Mr. Rosa asked again if it was about the wetlands, and Mr. Hanna explained that this variance is not about the wetlands, and building is not allowed in the wetlands. Mr. Rosa suggested if the construction is granted, could something else be done to minimize . . . Joe Hanna said the applicant would be advised by the Building department as to how the building must be done. They cannot have runoff in the street, they might need silt fences, etc. Mr. Rosa asked about a privacy buffer. Mr. Hanna asked Mr. Rosa how far his house is from the property line? Mr. Rosa said it is about 20/25'. Mr. Hanna said he could ask for greenery. Mr. Rosa said that would be helpful. Attorney Mayer stated that owner would be willing to discuss plantings with Mr. Rosa as it would be beneficial to both parties. Mr. Rosa asked if the house could be moved toward the road and be less visible. Mr. Hanna said we cannot ask them to move the house because of the consideration for well and/or septic. Mr. DeLucia said the septic is in the front and also one in the back. Moving the house is up to the applicant per Mr. Hanna. Mr. Mayer said the problem is the septic, which is in the front. Moving it back would be too close to Mr. Rosa's septic. Mr. Mayer said the proposed house is situated to be least obtrusive to Mr. Rosa.

Catherine & Dave Cadigan, 24 Starrs Plain Road, were in attendance and had questions. They understand about the setbacks and echo the desire for a green buffer – they are on the driveway side, and it will be right up against the edge of their property. They would like some privacy space on that side and would welcome a conversation with the owner regarding a green buffer. Mr. Cadigan asked the end design of the structure. How tall is the structure? Is it a multi-level home with basement? Attorney Mayer said Mr. Todd would have the answer and offered to call Mr. Todd and respond to the Cadigans. Mr. Mayer said John Todd tends to build two-story houses. Mr. Mayer will recommend planting buffers on both sides, and they would speak with the Cadigans and Mr. Rosa about what kind of planting that would be, but he does not know what type of house he is building. Mr. Cadigan asked about the square footage.

Mr. Mayer said Mr. Todd would not be building a giant McMansion, and the house will be in character with the neighborhood. He will not overbuild. No other opposition.

Anthony Rebeiro informed the Cadigans there is a square foot ratio with a maximum allowable coverage. Zoning Enforcement Officer Sean Hearty said Mr. Todd started this proposal before Covid. The proposal was for a 1,400 sq. ft., two-story home. Mr. Hearty said it definitely looks like a two-story. Mr. Hearty can provide the plans. Mr. Rebeiro further stated they would have to come back before the Board if they exceeded the percentage. Mr. DeLucia agreed with Mr. Rebeiro and Mr. Hearty and that they would still be limited because of the well and septic. Mr. Rebeiro asked about a stipulation for greenery on both sides. Attorney Mayer agreed it was acceptable.

Motion to close this application was made by Juan Rivas; second by Anthony Rebeiro. All in favor with AYES from Peter DeLucia, Joseph Hanna, Anthony Rebeiro, Juan Rivas, and Michael Sibbitt.

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

Motion to approve per plan submitted with stipulation for green buffer on both sides or fencing-- whatever they work out with neighbors, was made by Juan Rivas. The hardship is this is a non-conforming lot due to an upgrade in zoning. This will not adversely affect the health, safety, and welfare of the community. Seconded by Peter DeLucia. All in favor with AYES from Peter DeLucia, Joseph Hanna, Anthony Rebeiro, Juan Rivas, and Michael Sibbitt.

CONTINUED PUBLIC HEARINGS: None

OLD BUSINESS:

NEW BUSINESS: None

CORRESPONDENCE: RSJ letter

OTHER MATTERS: None

ADJOURNMENT:

Motion to adjourn was made by Anthony Rebeiro; seconded by Michael Sibbitt. All in favor with AYES from Peter DeLucia, Joseph Hanna, Anthony Rebeiro, Juan Rivas, and Michael Sibbitt. Meeting adjourned at 7:43 p.m.

Respectfully submitted,

Mary S. Larkin
Secretary