

ZONING BOARD  
OF  
APPEALS  
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Wilton, Connecticut 06897

**WILTON ZONING BOARD OF APPEALS MINUTES \*  
MAY 21, 2018 – REGULAR MEETING**

**PRESENT:** Joshua Cole, Chairman; Tom Gunther, Secretary; Gary Battaglia; Libby Bufano; Rem Bigosinski, Alternate; Jaclyn Coleman, Alternate; Gerald Holdridge, Alternate

**ABSENT:** Tracy Serpa (notified intended absence)

**A. CALL TO ORDER**

Mr. Cole called the meeting to order at 7:15 P.M. He briefly reviewed the hearing process for applications that come before the Zoning Board of Appeals.

**B. PUBLIC HEARINGS**

**1. #18-05-05 GARBUS/ROB SANDERS ARCHS 180 BELDEN HILL RD**

Mr. Battaglia recused himself due to a conflict of interest and left the meeting room.

Mr. Cole called the Hearing to order at approximately 7:16 P.M., seated members Bufano, Cole, Gunther, Coleman and Holdridge, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Mr. Gunther read the legal notice dated May 1, 2018.

Present was Rob Sanders, on behalf of Peggy Garbus, homeowner.

Mr. Sanders reviewed details of the application, noting that the barn, which is the subject of the application, requires extensive repairs/rehabilitation. He explained that a section of the barn comprising 195 square feet would be removed and the square footage reallocated to another area, thus allowing for a 2-car garage and art studio on the site. He noted further that an existing nonconformity involving a 1.5-foot setback to the side property line would be removed, with the new distance to the setback line increasing to 16 feet,

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and thus removing an eyesore from the street view.

Addressing the issue of hardship, Mr. Sanders cited the pre-existing nonconforming position/unusual siting of the building on the property, as well as the location of the septic.

Mr. Cole asked if anyone wished to speak for or against the application.

There being no further comments, at approximately 7:24 P.M. the public hearing was closed.

**2. #18-05-06 FARINAS 332 BELDEN HILL ROAD**

Mr. Battaglia returned to the meeting room.

Mr. Cole called the Hearing to order at approximately 7:24 P.M., seated members Battaglia, Bufano, Cole, Gunther, and Coleman, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Mr. Gunther read the legal notice dated May 1, 2018.

Present were Maria and Raz Farinas, the appellants.

Addressing the issue of the alleged illegal operation of a commercial kennel/dog daycare business at the property, Ms. Farinas explained that she was in the process of seeking another location for her business, which would likely be an adaptive use property in Town. In response to questions from the Board, Ms. Farinas explained that in addition to their own six dogs, she and her husband foster dogs from two Arkansas dog shelters. She stated that they started the business approximately two years ago, initially starting out as dog care/dog-sitting favors for friends, and then progressing to boarding dogs for several days or a week at a time as well as traveling to customers' homes to take care of and walk dogs during the day. She explained that the business evolved primarily through word of mouth, noting that the maximum number of dogs they have ever had is eighteen, including their own six dogs. She stated that they have two separate yards outside and have recently installed privacy fencing, noting further that the dogs are never left outside unsupervised. She explained that the appeal of their business lies in the fact that the dogs are cared for in a private home setting and are not kept in crates or restricted areas. She stated that the dogs go out in shifts and are physically walked during the day.

Mr. Cole reviewed the four sections of zoning regulations (Sections 29-5.A.2, 29-5.A.3, 29-12.D.1 & 29-12.F.1) cited by the Zoning Enforcement Officer (ZEO) in his Cease and Desist Order and he explained that the Board is limited to determining whether the ZEO's

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Order is in compliance with zoning regulations.

Ms. Farinas asked whether fostering of animals for no charge is allowed under any circumstances in Town and, if so, what number of fostered animals would cross a line in that regard and be considered commercial kenneling.

Tim Bunting, ZEO for the Town of Wilton, distributed hand-outs to the Board, explaining his normal practice of enforcement which started with a notice of violation to the appellants on February 23, 2018 and ultimately, after receiving no response, prompted him to serve them with a Cease and Desist Order dated April 11, 2018. He cited numerous neighbor complaints regarding noise, traffic, queuing of vehicles on the road and on Town property near Miller Driscoll School. He reviewed several exhibits/Facebook pages indicating operation of a kennel/dog daycare business known as Warrior Walkers on the site. He cited the four regulation sections that the appellants allegedly violated, i.e. Sections 29-5.A.2, 29-5.A.3, 29-12.D.1 & 29-12.F.1 of zoning regulations.

Mr. Cole asked if anyone wished to speak for or against the appellants.

Madeline Louzan, 342 Belden Hill Road, cited numerous issues with traffic and noise, noting that the appellants are definitely operating a business at the site which is disruptive to their family's daily lives. She stated that they cannot open doors or windows due to the level of noise that is created by the dog daycare business.

Debbie Ricketts, 278 Newtown Turnpike, stated that she has used the services of the Farinas and has never seen cars lined up along the road. She felt they should be allowed to foster animals at their home and should be given some lead time to set up their business properly in another location.

Holly Chasin, Little Pink Shelter, stated that Ms. Farinas has been fostering for their non-profit organization over the past couple of years as a way to give back, noting that if there are ever more than two foster dogs on the premises, they are usually puppies, and generally the foster arrangement is short-term. She noted further that her organization's dogs are not nuisance-barkers and she confirmed that the Farinas are not paid for their foster services.

Robin Paradis, 29 Kensett Avenue, attested to the fact that the foster dogs don't stay very long at the Farinas. She stated that in her experience the environment is not crazy or out of control and she urged the Board to give the Farinas a little extra time until they can find another location for their business.

Alex Sologodzew, 148 Belden Hill Road, expressed concern that allowing the business to

continue would set a bad precedent for commercial enterprises operating in residential areas in Town. He felt that ample time was given in the course of the Town's enforcement process, and he felt that rules and regulations must be followed so that the quality of life for residents is not impaired.

Meg Robustelli, 116 Wolfpit Road, stated that she has used the services of the Farinas and expressed surprise to hear about barking issues and traffic concerns given her personal experiences at the site. She felt that the business is a great community resource.

Bob Louzan, 342 Belden Hill Road, stated that the previous speakers lend credence to the assertion that the Farinas are running a business out of the site. He stated that it is very disruptive to his family and their daily activities. He also questioned the safety of having so many dogs on site, both for his children and the students of Miller Driscoll.

Ms. Farinas explained that they just need some time to find another place and to obtain the proper permits. She stated that the dogs pose no danger, noting that they themselves have four children of their own.

There being no further comments, the public hearing was closed at 8:15 P.M.

**3. 18-05-07 WILTON PARTNERS, LLC 213 DANBURY ROAD  
d/b/a THE LEARNING EXPERIENCE**

Mr. Cole called the Hearing to order at approximately 8:15 P.M., seated members Battaglia, Bufano, Cole, Gunther, and Coleman, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Mr. Gunther read the legal notice dated May 1, 2018.

Present was Ed Schenkel, attorney; Alan Brandies, architect; Matt Jarmel, architect; and Joe Canas, Tighe & Bond; on behalf of the applicant.

Mr. Schenkel reviewed the variances sought, noting that the applicant is proposing a 2-story building of approximately 34,600+ square feet and 34 parking spaces on a pre-existing undersized lot. He cited hardships for the site, noting that the property is pre-existing non-conforming and consists of only 0.795 acres, with its usability further reduced by a DOT easement stemming from the Route 7 widening project some years ago. He also noted that the applicant is proposing a reduction in existing nonconformities on the property and he cited case law, which he submitted into the record, supporting the granting of variances in the interest of reducing existing nonconformities on a site. In that regard he noted that the existing two buildings would be reduced to one; the footprint would be reduced approximately 14%; the rear building, which currently extends almost

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to the property line, will now comply with the setback requirement; and a parking setback will be increased from 3+ feet to 14+ feet.

Mr. Schenkel confirmed that the amounts requested are the minimum needed to accomplish the purpose. Mr. Jarmel explained further that the size of the building proposed is the minimum necessary to comply with licensing requirements for childcare services, referencing in particular classroom sizes, ratios for different age groups, etc. He noted that the building code is also driving the size of the proposed building, referencing in particular the rear entrance canopy which is necessary for safety purposes and weather protection/security.

Mr. Cole asked if anyone wished to speak for or against the application.

Laura Fortin, 37 Orems Lane, advised the Board and the applicant that there is a charming, wonderful residential neighborhood where they live behind the subject site and she expressed hope that the applicant would be a good neighbor, referring in particular to concerns with potential lighting and the rear entrance location.

Mr. Jarmel stated that operating hours are Monday through Friday from 6:30 AM to 6:30 PM, noting that all lights will be extinguished except for any required safety lights or when cleaning crews are on the premises a couple of nights per week. He noted that the facility is not open on weekends.

Mr. Canas noted further that a photometric plan confirming compliance with lighting regulations will be developed in connection with the Planning and Zoning Commission's review of the proposed development.

Dan Fortin, 37 Orems Lane, asked for and received confirmation from Mr. Cole that there will be another opportunity to discuss elements of lighting during the upcoming Planning and Zoning Commission review process.

There being no further comments, the public hearing was closed at 8:40 P.M.

The Board took a break at 8:40 PM and returned from break at approximately 8:44 PM.

### **C. APPLICATIONS READY FOR REVIEW AND ACTION**

Mr. Cole called the Regular Meeting to order at approximately 8:44 P.M., seated members Bufano, Cole, Coleman, Gunther, and Holdridge, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest.

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**1. #18-05-05 GARBUS/ROB SANDERS ARCHS 180 BELDEN HILL RD**

The Board briefly discussed the application. It was the consensus of the Board that adequate hardship was demonstrated given the pre-existing nonconforming nature of the structure and its location which predates Town zoning requirements. The applicant's proposed reduction of nonconformity on the site was also noted by the Board as further justification for the variance. The Board reviewed the four required findings for granting a variance, as defined in Section 29-13.B.6 of zoning regulations, and determined that all four findings were met by the applicant.

**MOTION** was made by Ms. Bufano, amended by Mr. Cole, seconded by Mr. Holdridge, and carried unanimously (5-0) to **grant** the variance of Section 29-5.D to allow a building addition with a 16-foot side yard setback in lieu of the required 40 feet; as per submitted plan Z-1 entitled "Proposed Garage Addition" prepared by Rob Sanders Architects, LLC dated April 5, 2018 and April, 2018; on grounds that ample evidence was submitted into the record regarding hardship in addition to the fact that the application proposes a reduction of an existing nonconformity on the property. The Board also cited the four required findings for granting a variance, including: the special circumstances/conditions applying to the lot/structure cited earlier; the amount proposed is the minimum amount necessary to accomplish the purpose; it is in harmony with the intent of the regulations and the Town's Plan of Development and is not injurious to the neighborhood or to public health, safety and welfare; and it is not based on the nonconformity of neighboring lots or structures.

**2. #18-05-06 FARINAS 332 BELDEN HILL ROAD**

Mr. Holdridge was unseated. Mr. Battaglia was reseated.

Mr. Cole reviewed the function of the Board in connection with the subject appeal, noting that the Board must decide whether to uphold the ZEO's decision. To that end, he explained that the Board is limited to reviewing the ZEO's decision and to determine whether the cease and desist order is in compliance with zoning regulations. He noted further that the Board can't consider emotional aspects or financial considerations but must look only at the letter of the law.

He reviewed in detail the four violations cited in the cease and desist order, referencing Sections 29-5.A.2, 29-5.A.3, 29-12.D.1 and 29-12.F.1 of zoning regulations. Per the aforementioned sections, he supported the ZEO's findings that a commercial kennel/dog daycare business is not permitted in the residential district; that it is also not permitted as a Special Permit use in said district; that a zoning permit was not issued for such use at the site (no evidence of such was submitted into the record); nor was any zoning

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compliance issued for the use (again, no evidence of such was submitted into the record).

Board members Battaglia, Bufano and Gunther agreed with Mr. Cole's findings.

Ms. Coleman asked whether the Board could postpone its decision to provide additional time for deliberation on the matter. Mr. Nerney confirmed that a decision did not have to be reached this evening, although other members seated on the application felt that all required evidence had been submitted into the record and no additional benefit would be accrued by postponing the decision, particularly in light of the fact that the ongoing use continues to inflict harm to neighbors.

Mr. Cole clarified that the issue of fostering is not before the Board this evening but rather the Board just needs to address the issue of the commercial kennel/dog daycare business.

Mr. Gunther noted for the record that the appellants acknowledged during the hearing that they had seen the notice of violation letter which was issued in February, 3 months prior, and thus ample time/notice had been provided by the Town.

MOTION was made by Ms. Coleman to postpone a decision on the matter until the next meeting in June. A second to the Motion was not proffered and so the Motion failed.

MOTION was made by Mr. Gunther, seconded by Mr. Battaglia, and carried (4-0-1) to uphold the decision of the Zoning Enforcement Officer pertaining to the operation of an unauthorized commercial kennel/dog daycare business from the subject property, pursuant to Sections 29-5.A.2, 29-5.A.3, 29-12.D.1 and 29-12.F.1 of the Zoning Regulations; on grounds that the use is not permitted in the residential zone; nor is it permitted as a Special Permit use in said zone; no zoning permit was requested by the appellant or issued by the ZEO; nor was a certificate of zoning compliance requested by the appellant or issued by the ZEO. Ms. Coleman abstained.

**3. 18-05-07 WILTON PARTNERS, LLC 213 DANBURY ROAD  
d/b/a THE LEARNING EXPERIENCE**

Mr. Cole felt that the applicant had demonstrated adequate hardship given the undersized nature of the lot and the DOT easement along the front which further encumbers the property. He noted that the applicant demonstrated a proposed reduction in significant nonconforming structures on the property as well as a proposed reduction in an existing parking nonconformity. He also reviewed the four required findings as defined in Section 29-13.B.6 of zoning regulations and he felt that all four findings were met by the

applicant.

Other seated Board members agreed, noting that the application was well thought out and represented a much better use of the space, with safety aspects well considered. The consensus was to grant the variances as proposed.

**MOTION** was made by Mr. Cole, seconded by Ms. Bufano, and carried unanimously (5-0) to **grant** variances of (i) Section 29-6.E.5 to allow a parking setback of 14 feet from the residential zone line in lieu of the 60 feet required and (ii) Section 29-6.E.4 to allow a building setback of 79 feet from the residential zone line for the covered entry to the building entrance in lieu of the 85 feet required; as per Vicinity Map prepared by Ryan and Faulds, dated February 15, 2018, Site Plan prepared by Jarmel Kizel dated April 18, 2018, and Zoning Location Survey, Proposed, prepared by Ryan and Faulds dated February 15, 2018; on grounds that hardship was demonstrated given the undersized nature of the lot and the encumbering DOT easement across the front of the parcel; in addition to the fact that existing nonconformities will be diminished by the proposed demolition of a pre-existing nonconforming building and by redesigning parking to further reduce a parking setback nonconformity. The Board noted further that the amount proposed is the minimum amount necessary for reasonable use of the property; the proposal is in harmony with the intent of the regulations and the Town's Plan of Development; it is not injurious to the neighborhood and in fact benefits health, safety and welfare; nor is it based on the nonconformity of neighboring lots or structures.

**D. OTHER BUSINESS**

**1. Approval of Minutes – April 16, 2018**

**MOTION** was made by Mr. Cole, seconded by Mr. Gunther, and carried (4-0-3) to approve the minutes of April 16, 2018. Board members Bigosinski, Coleman and Holdridge abstained.

**E. ADJOURNMENT**

**MOTION** was made by Mr. Battaglia, seconded by Mr. Cole, and carried unanimously (7-0) to adjourn at approximately 9:20 P.M.

Respectfully submitted,

Lorraine Russo  
Recording Secretary

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