

ZONING BOARD
OF
APPEALS
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TOWN HALL ANNEX
238 Danbury Road
Wilton, Connecticut 06897

**WILTON ZONING BOARD OF APPEALS MINUTES *
MAY 15, 2017 – REGULAR MEETING**

RECEIVED FOR RECORD
TOWN OF WILTON
2017 MAY 17 A 8:30
BY: R. H. H. H.

PRESENT: Joshua Cole, Chairman; Gary Battaglia, Vice-Chairman; Brian Lilly, Secretary;
Libby Bufano; Ray Tobiassen; Kenny Rhodes, Alternate; Tracy Serpa, Alternate

ABSENT: Jaclyn Coleman

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. #17-05-09 CPS HOLDINGS, LLC 759 DANBURY ROAD

Mr. Rhodes noted for the record that he had coached Mr. Bayer's son many years ago, but he did not feel it would represent a conflict of interest for him.

Mr. Tobiassen stated that he was involved in a legal transaction where Mr. Bayer represented the other side, but he did not feel it would represent a conflict of interest for him.

Mr. Cole called the Hearing to order at approximately 7:16 P.M., seated members Battaglia, Bufano, Cole, Lilly, and Tobiassen, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest. Mr. Lilly read the legal notice dated May 2, 2017 and details of the application and the hardship as described on the application.

Present were Doug Bayer, attorney; and Christopher Santopietro, applicant.

Mr. Bayer reviewed a posted site plan, noting that the General Business (GB)-zoned parcel is bordered on the south by another GB-zoned parcel and on the north by a residentially-zoned property that was approved under the adaptive use regulations for a pet-sitting business. He reviewed the nature of the applicant's business which utilizes highly trained border collies to scare away/control Canadian geese infestations on properties, noting that the applicant has been conducting this business in NY and CT for approximately 20 years.

Mr. Bayer explained that the proposed two-story addition (approximately a 35' x 35' footprint) would consist of open space on the first floor to house dogs during the evening hours, and residential facilities on the upper floor for the dog caretakers. He noted that the existing front building is currently unoccupied although that may change in the future. He also stated for the record that the requested side yard setback of 12.3 feet for the proposed 2-story addition has been revised to a less encroaching 13.3 feet.

Mr. Bayer distributed and entered into the record proposed elevations A-1, A-2, A-3, A-4 and A-5 dated December 30, 2016, prepared by Joseph Chetta.

Mr. Bayer reviewed hardships for the site, noting that the property is pre-existing, consisting of only .417+/- acre; the width of the property is only 75 feet in total, making it impossible to abide by required 85-foot side yard setbacks; and the topography is very steep in the rear, sloping down to Route 7 where it flattens out.

In response to a question as to why parking could not have been located 7 feet farther away from the side yard property line to comply with the required 10-foot parking setback, Mr. Bayer noted that the area is already paved. He noted further that any change to the site configuration as proposed would negatively impact the room needed for dog exercise and roaming.

Mr. Lilly addressed the issue of hardship, noting that the four findings listed in Section 29-13.B.6 of zoning regulations must be satisfied for the Board to approve a variance application. He stated that he was having difficulty justifying that denial of the application would result in denial of reasonable use of the lot or structure to the applicant, and that the variance is the minimum necessary to accomplish the purpose as described. He referenced in particular the fact that the applicant is proposing construction of a two-story structure that never existed before.

Mr. Bayer explained that the purpose of the GB zone is to provide areas for commercial development in the Town. He stated that the proposed business/development of the site meets the general intent of the GB zone, noting that GB regulations actually allow for even greater site and building coverage than what is being proposed. He felt that reasonable use of a site implies development to the greatest extent allowed under zoning regulations, noting in particular that the existing structure is unreasonable from a business perspective in terms of satisfying his client's business needs.

In response to Mr. Lilly's question as to how the application is in harmony with the general intent of the zoning regulations and Plan of Development, Mr. Bayer stated that the underlying intent of the regulations is to provide suitable commercial properties in Wilton. He noted that the Town is not well-served by underdeveloped properties in Town. Overall, Mr. Bayer felt that this is a reasonable use of the property as afforded by

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GB regulations and is really an extension of what already exists, including parking, on the property. He noted further that the neighbor to the north had no objections to the application.

Mr. Rhodes noted that Route 7 is a major corridor, speculating that businesses will likely eventually overtake residential development along this corridor in the Town.

Mr. Bayer noted further that the application would not increase traffic or impact safety in any way on Route 7.

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

Jim Waters, 743 Danbury Road, questioned whether there were other locations available on the site that would not require as much of a variance and/or be a little bit less aggressive/encroaching. He questioned whether the business could be as well-served with a smaller footprint or a smaller-scaled building.

Mr. Bayer explained that the most logical development was to continue the existing building line, especially since the two buildings will be connected, with the added observation that relocating the building southward would cut into the travel lane to the back of the property. He noted further that the applicant feels the development as proposed is necessary for his business.

There being no further comments, at approximately 7:47 P.M. the public hearing was closed.

C. APPLICATIONS READY FOR REVIEW AND ACTION

Mr. Cole called the Regular Meeting to order at 7:47 P.M., seated members Battaglia, Bufano, Cole, Lilly, and Tobiassen, and referred to Connecticut General Statutes, Section 8-11, Conflict of Interest.

The agenda was scrambled to approve minutes of April 17, 2017 prior to discussion of the pending application.

D. OTHER BUSINESS

1. Minutes – April 17, 2017

MOTION was made by Mr. Lilly, seconded by Mr. Cole, and carried (6-0-1) to approve the minutes of April 17, 2017 as written. Ms. Bufano abstained.

Mr. Rhodes left the meeting as he was not seated on the application.

1. #17-05-09 CPS HOLDINGS, LLC 759 DANBURY ROAD

The Board discussed the application. Mr. Cole reviewed the four findings required per Section 29-13.B of the regulations noting that 1) the hardship is clear, given the undersized lot, setback constraints, the pre-existing nonconforming nature of the existing building, and the fact that the addition does not encroach any further into the setbacks than the existing building; 2) the proposed use of the property is reasonable, given its GB zone classification and the fact that the house to the north is being used commercially; and it is reasonable to develop it to the extent that they can given its small size; 3) the proposed development will not be injurious to the neighborhood or otherwise detrimental to the public health, safety and welfare, noting in particular that there are no additional traffic or safety issues involved; 4) it is not based on the nonconformity of neighboring lots or structures. He stated that he was inclined to approve the application. The other Board members agreed.

MOTION was made by Mr. Cole, seconded by Mr. Battaglia, and carried unanimously (5-0) to **grant** variances of Section 29-6.E.(3) to allow a minimum side yard that abuts a residential district of 13.3 feet instead of the required 85 feet, for the proposed two story addition; and to allow a minimum side yard that abuts a residential district of 9.3 feet instead of the required 85 feet for the proposed A/C unit; and variances of Section 29-6.E(5) to allow a 3 foot side yard parking setback in lieu of the required 10 feet; and to allow a 9 foot side yard parking setback that abuts a residential district in lieu of the required 60 feet; as per submitted "Zoning Location Survey" dated January 12, 2017 prepared by Ryan and Faulds; and per submitted elevations A-1, A-2, A-3, A-4 and A-5 prepared by Joseph Chetta dated December 30, 2016; on grounds that sufficient hardship was demonstrated given the undersized lot consisting of 0.417+/- acre in the GB district, the narrow width of the property that does not allow an 85-foot side yard setback anywhere without a variance, and the fact that the proposed site modifications extend no further into the setback than the existing nonconforming structure. It was further noted that the application met all other required findings per Section 29-13.B, as heretofore discussed, including that it is a reasonable use of the lot or structure; it is in harmony with the general intent of the regulations; and it is not based on the nonconformity of neighboring lots.

E. ADJOURNMENT

MOTION was made by Mr. Battaglia, seconded by Mr. Tobiassen, and carried unanimously (6-0) to adjourn at approximately 7:51 P.M.

Respectfully submitted,

Lorraine Russo
Recording Secretary