

ZONING BOARD OF APPEALS
May 6, 2019 Meeting Minutes

Board Members Present: Shane O'Connor, Daniel Flanagan, Douglas Glazier,
Christopher Halpin, Mark Horan, Ronald King and Daniel Merrigan

Town Staff Present: Jennifer Rodriguez, Director of Planning and Development
Dan Malo, Enforcement Officer

The meeting was called to order at 7:00 pm

Board roll call was taken.

MINUTES:

Chairman O'Connor referred to the April 1, 2019 meeting minutes and asked for any corrections or changes. There were none. Mr. Glazier moved to approve the April 1, 2019 meeting minutes as published. Mr. King seconded the motion. All were in favor. The vote was 7 – 0, the motion was approved.

BILLS & CORRESPONDENCE:

None

OLD BUSINESS:

None

NEW BUSINESS:

a. DMV Applications

b. Public Hearings

- 1. Public hearing on Application #FY18-19-04, Owner/Applicant: BD Montgomery Mill, LLC for a variance for the property located at 25 Canal Bank Road to locate 4 signs where 1 is permitted, to locate the sign at 98 feet where 12 feet height is permitted and to run the 2 feet sign width vertically where the sign is required to run horizontally.**

Michael Weissbrod of Crosskey Architects addressed the Board and stated that he was representing the applicant that evening. Andrew Clark of Expose Signs and Graphics then addressed the Board and stated that he was also representing the application that evening.

Mr. Weissbrod referred to the plans that he had displayed and stated that they were part of the application packet that each Board member had received. He then stated that they were proposing three additional signs for the building as well as restoring the one existing historical sign on the western most side of the southern building facing Main Street. He went on to say that two of the proposed new signs would be vertically oriented; one facing Main Street and the other facing the river. Mr. Weissbrod noted that the third proposed new sign would be placed facing the entrance to the site. He then noted that the current regulations only allowed for one sign per property. He went on to say that they felt that, given the large size of the building, the four signs would not overpower the building.

Mr. Weissbrod stated that, in addition to the variance which would allow them to have four signs for the property, they were asking for two additional variances pertaining to the actual size and placement of the signs. He noted that the regulations did not allow any signs to be 20 feet above grade. He then stated that, given how far back the building was set from Main Street, if they were to place the signs low enough to meet the regulations they would not be visible from the road.

Mr. Weissbrod stated that the current regulations also did not allow signs above two feet in height. He went on to say that the sign that they were proposing facing the entrance would be 30 inches high and the signs facing Main Street and the river would be much higher than that. Mr. Weissbrod noted that the two signs facing Main Street and the river were also going to be vertically oriented not horizontal. He then pointed out that the lettering would be 2 feet in width and that they felt that that would be in keeping with the spirit of the regulations.

Mr. Weissbrod mentioned that the signs were also being reviewed by the Connecticut State Historic Preservation Office (SHIPO) and the National Park Service. He then noted that they had received approval from SHIPO and that the application had been forwarded to the National Park Service.

Mr. Clark stated that they had gone on the roof and measured the existing sign and had reproduced the original font used on that sign. He went on to say that the finishes were designed to integrate with the original sign. He also noted that the raceway for the signs would be painted the same color as the building so that only the letters would be visible. Mr. Clark commented the all of that had been necessary because of the very unique location of the building as well as the unique entrance to the property. He also noted that the entrance to the property also served as the entrance to the Canal State Park, therefore the signage was needed not only for residents of the property but also the general public looking for the entrance to the park.

Mr. Glazier clarified that there were originally three signs and that the applicant was going to four signs. He then noted that signs were proposed for the south side of the building, the Main Street side and the river side. Mr. Glazier then asked where the

fourth sign would be located. Mr. Weissbrod replied that the fourth sign would be the rooftop sign that had always been on the building. He then noted that for historic purposes that rooftop sign had to be maintained, therefore they would be replicating the original sign as exact to the original as possible.

Mr. Halpin asked if the telephone number shown on the sign was for property maintenance issues or for the tenants or for leasing information for Beacon Properties. Mr. Weissbrod replied that he believed that telephone number was for the leasing office. Mr. Halpin asked if they handled maintenance issues as well. Mr. Weissbrod replied that they did.

Mr. Flanagan asked if the legends were going to be exactly as they were shown on the plan. Mr. Weissbrod replied that they were. Mr. Flanagan then asked if the signs were going to be illuminated. Mr. Weissbrod replied that the two vertical signs were going to be illuminated. Mr. Cross noted that they were going to be halo lit. He then explained that there would be LED lights within the actual letters that would shine out against the background. He noted that it would be more of a “highlight” and not ambient lighting.

Mr. Glazier commented that he rarely noticed vertical signs when driving because there was no time to look at them. He then questioned the use of the two vertical signs on the building. Mr. Weissbrod agreed, but stated that there was no adequate horizontal space for the signs because of the existing features of the building.

Chairman O’Connor asked Ms. Rodriguez or Mr. Malo to add some clarification/comments on the proposal. Ms. Rodriguez noted that it was an existing site that had taken over a decade to figure out and that the application before the Board that evening was just one of many complexities involved. She went on to say that typically in a downtown area it would be preferred to have something smaller, with a masonry base or just a sign hanging off the front window, but that this particular building/project was unique. Mr. Rodriguez commented that it had been hard enough to figure out the traffic flow in and out of the property and that there really wasn’t any room for a typical sign at the entrance. She also noted that they did not have any actual frontage on Main Street.

Ms. Rodriguez stated that her memorandum dated April 1, 2019 was repetitive of what the applicant had previously stated. She then noted that there were some procedural comments in her memo that she would be happy to go over with the Board at the end of the public hearing.

Chairman O’Connor asked for any further questions from the Board members. There were none.

Chairman O'Connor asked for any public comments in favor of the application. There were none.

Chairman O'Connor asked for any public comments in opposition to the application. There were none.

Chairman O'Connor asked Ms. Rodriguez for any final comments. Ms. Rodriguez referred to her April 1, 2019 memorandum and read the following:

- “2. The applicant has submitted an application including form and sign plan for your reference.
3. The applicant has claimed a hardship for your review.
4. Per CGS the Board will need to consider whether a valid hardship has been determined.
5. Per CGS the board will also need to consider whether or not the result of the requested variance is in harmony with the area in respect to public health, safety, property values and neighbor impact.
6. If the Board finds that both requirements of #4 and #5 are met, and there is a motion made to approve the request, the Board shall enumerate the hardship(s) for the record as part of the motion.”

Ms. Rodriguez then noted that she had enclosed references to the Connecticut General Statutes related to decision making and procedural requirements of the Zoning Board of Appeals to her original memorandum to the Board.

Ms. Rodriguez then continued reading the following from her April 1, 2019 memorandum:

- “If a hardship has been determined and there is a motion to grant the variance request, below are conditions for the Board’s consideration. Should the Board find these conditions appropriate they should be read as part of the motion:
1. The granting of this variance is for the improvements proposed in this application only, permitting a certain exception to the requirements of the sign regulations in the underlying Chapter 6 and the Main Street Overlay Zone Section 418.
 2. The hardship upon which this decision is based is....
 3. Changes to the sign plan may require a return to this Board.
 4. This is not a permit to construct or install. Please see the Building and Land Use Office for permit requirements.”

Chairman O'Connor asked for a motion regarding Application #FY18-19-04. Mr. Glazier moved to approve Application #FY18-19-04, Owner/Applicant: BD Montgomery Mill, LLC for a variance for the property located at 25 Canal Bank Road to locate 4 signs where 1 is permitted, to locate the sign at 98 feet where 12 feet height is permitted and to run the 2 feet sign width vertically where the sign is required to run horizontally. The granting of the variance is for the improvements proposed in the application only permitting a certain exception to

the requirements of sign regulations in Chapter 6. The requested variance is in harmony with respect to public health, safety, property values and neighbor impact. The hardship upon which this decision is based on legal regulations that states hardship occurs when a property owner is denied reasonable use of his property. Changes to the sign plan may require a return to this Board. This is not a permit to construct or install, please see the Building and Land Use Office for permit requirements. Mr. Halpin seconded the motion. All were in favor. The vote was 5 – 0, the motion was approved.

- 2. Public hearing on Application #FY18-19-05, Owner/Applicant: Zachary Whittle for a variance for the property located at 2 Ahern Avenue in order to construct a porch with roof to replace existing stoop, 22 feet to the front building line where 32 feet are required.**

Zachary Whittle of 2 Ahern Avenue addressed the Board and stated that he was applying for a variance in order to construct an open porch with a roof over the top. He noted that the roof line would not be connected to the house; it would be its own roof. He went on to say that the reason for constructing the porch was not only to sit out there and enjoy it, but also to keep the front door of his home protected from the weather (rain/snow). Mr. Whittle commented that they had recently had a baby and in the future it would be nice to sit out front while his child played in the front yard.

Mr. Whittle stated that the existing zoning required 40 feet and that he was proposing his porch be around 25 feet to the line (22 feet plus the stairs).

Mr. Whittle presented a photograph of his neighbor's house and stated that his proposed porch would be built pretty similarly to his neighbor's. He went on to say that he currently had three concrete stairs with nothing overhead.

Mr. Glazier referred to the application which stated that it would be 22 feet, but that on the sketch it showed 25 feet. He then clarified that the stairs had originally been taken into account on the application, but had not on the sketch. Mr. Whittle stated that that was correct, the porch would be 25 feet from the line, but when the stairs were added it would put it at 22 feet from the line.

Mr. Flanagan clarified that the existing front stoop was 32 feet from the line. It was agreed that that was correct. Mr. Whittle explained that from the house to the front of the proposed porch would be 8 feet, which would be 5 feet longer than the existing stoop.

Mr. Glazier asked if the applicant was planning on having the shape of his proposed porch similar to that of his neighbor. Mr. Whittle replied that the rough dimensions would be pretty close to what his neighbor had.

Mr. Glazier commented that the Board had approved the variance so that Mr. Whittle's neighbor, Joe Tria, could construct a porch about two years ago.

Chairman O'Connor asked the Board members for any further questions. They had none.

Chairman O'Connor asked Ms. Rodriguez or Mr. Malo if they had any comments. Mr. Malo asked Ms. Rodriguez if the property in question was an existing non-conforming lot. Ms. Rodriguez replied that it was. She then stated that she had summarized the project to be 22 feet to the property line where 32 feet was required. She went on to say that the applicant had noted 40 feet which was what was required for a building, but she then noted that a front porch could encroach 8 feet into that. Ms. Rodriguez commented that in all zones currently the building line was required to be 40 feet therefore there were a lot of properties where the house was 40 feet from the property line and if they could have a veranda that was the 32 feet. She explained that that then allowed really anyone in any zone to have an 8 foot porch.

Ms. Rodriguez encouraged the Board to talk to the applicant about how old the house was, because if it was an older home and obviously the building was allowed to be built closer to the street than most neighborhoods therein you had a more difficult time for someone to have a front porch approved. She went on to say that that really had not been hashed out on the application. Ms. Rodriguez then commented that the hardship claimed on the application really just talked about the existing structure not allowing for the construction which was the situation not necessarily a hardship. She then reiterated that the Board should have that conversation just to make sure that there was a hardship.

Ms. Rodriguez then read the following from her May 6, 2019 memorandum:

- “2. The applicant has submitted an application including form and plot plan for your reference.
3. The applicant has claimed a hardship for your review.
4. Per CGS the board will need to consider whether a valid hardship has been determined.
5. Per CGS the Board will also need to consider whether or not the result of the requested variance is in harmony with the area in respect to public health, safety, property values and neighbor impact.
6. If the Board finds that both requirements of #4 and #5 are met, and there is a motion made to approve the request, the Board shall enumerate the hardship(s) for the record as part of the motion.
7. Enclosed please find references to the Connecticut General Statutes related to decision making and procedural requirements of the Zoning Board of Appeals.”

Ms. Rodriguez stated that the bottom portion of her memorandum listed several suggested conditions of approval. Mr. Glazier asked if those conditions were different than those for the previous application. Ms. Rodriguez replied only in that they refer to Section 220, Obstruction in Yards. She explained that Section 220 stated that you could encroach into the 40 feet another 8 feet to put a veranda, but that you still had to be 32 feet from the front property line. Ms. Rodriguez then stated that the remaining items from her memorandum were identical to that of the previous public hearing since they were purely procedural.

Chairman O'Connor asked Mr. Whittle how old his house was. Mr. Whittle replied that his house had been built in 1967. A brief discussion took place and it was noted that it may have been built in 1952. Ms. Rodriguez noted that that was before the Town had zoning regulations. Ms. Rodriguez stated that she would try to look it up.

Mr. Flanagan asked if the home was currently 40 feet from the line. Ms. Rodriguez replied that the sketch showed that the house was 33 feet from the line. She then noted that the sketch was not a survey. She also pointed out that the plan that had been printed from GIS where one inch equaled 20 feet showed the house to not even be 20 feet from the line. After looking up the house thru Vision on the Town's website, it was determined that the house had been built in 1950. Ms. Rodriguez again stated that that was before the Town had zoning regulations.

Chairman O'Connor asked for any public comments in favor of the application. Joe Tria of 4 Ahern Avenue addressed the Board and stated that the applicant was asking to do almost exactly what he himself had done with almost identical dimensions. He went on to say that the addition of his own porch had added much more curb appeal in a neighborhood that was deteriorating. He then commented that anything that they could do to improve that situation would be an asset. Mr. Tria stated that he did not understand the questioning since the houses were not 40 feet from the line to begin with which was a hardship.

Chairman O'Connor asked for any public comments in opposition to the application. There were none,

Chairman O'Connor asked the Board members for any further questions or a motion regarding Application #FY18-19-05. Ms. Rodriguez commented that a member of the public had just asked why the questioning. She then explained that the objective of questioning was to determine if there was a hardship and that knowing that a property was legal nonconforming could potentially lead to that hardship discussion. Mr. O'Connor asked Mr. Tria if had heard Ms. Rodriguez' remarks. Mr. Tria replied that he kind of didn't. Mr. O'Connor then restated Ms. Rodriguez' remarks for Mr. Tria. Mr. Glazier referred to the picture of Mr. Tria's porch and commented that it had really added a lot to the aesthetics of building. Mr. O'Connor noted that the parcel was nonconforming

and the house had been built prior to the Town having any zoning regulations. Mr. Glazier moved to approve Application #FY18-19-05, Owner/Applicant: Zachary Whittle for a variance for the property located at 2 Ahern Avenue in order to construct a porch with roof to replace existing stoop, 22 feet to the front building line where 32 feet are required. The granting of this variance is for the improvements proposed in this application only, permitting a certain exception to the requirements of Section 220, Obstructions in Yards. The requested variance is in harmony with the area with respect to public health, safety, property values and neighbor impact. The hardship upon which this decision is based is on legal regulations that states hardship occurs when a property owner is denied reasonable use of their property. Changes to the sign plan may require a return to this Board. This is not a permit to construct or install. Please see the Building and Land Use Office for permit requirements. Mr. Flanagan seconded the motion. All were in favor. The vote was 5 – 0, the motion was approved.

Mr. Glazier moved to adjourn the meeting. Mr. King seconded the motion. All were in favor. The vote was 4 – 0, the meeting was adjourned at 7:40 pm

Respectfully submitted,

Diane Ferrari
Recording Secretary

THIS IS A DRAFT

Please check the following month's meeting minutes for official approval of these minutes and any amendments or corrections that were made.