

**BRISTOL ZONING BOARD OF APPEALS
MINUTES
REGULAR MEETING OF TUESDAY, MARCH 3, 2020**

CALL TO ORDER:

By: Chairman Rafaniello

Time: 7:00 P.M.

Place: City Hall

ROLL CALL:

Chairman Rafaniello called the meeting to order at 7:02 P.M.

MEMBERS	NAME:	PRESENT	ABSENT
REGULAR MEMBERS:	Jerald Rafaniello (Chairman)	X	
	Jeffrey Twombly (Vice Chairman)	X	
	Richard Raymond		X
	Alfred Radke, III	X	
	David Pecevich (Secretary)	X	
ALTERNATE MEMBERS	Rory Ghio	X	
	Tim Adamaitis	X	
STAFF	Robert Flanagan, City Planner	X	
	Edward Spyros	X	

Public Hearings

1. Application #3724 – Variances of 1) finished grades for parking in excess of three percent; 2) building fenestration; 3) off-street parking requirements at west of North Main Street and south of North Street (Route 6); Assessor’s Map 23, Lot 162-164; BD-1 (Downtown Business) zone, Bristol OZ OPCO, LLC c/o Senior Living Development, LLC, applicant.

The Board acknowledged receipt of the following items in their electronic packets: an e-mail dated February 11, 2020, from Attorney Charles Willinger to Attorney James Ziogas, regarding authorization to sign the application on behalf of the applicants and a memorandum dated March 3, 2020, from Nancy Levesque, P.E., City Engineer, regarding the Engineering Departments review of the property.

Chairman Rafaniello designated regular Commissioners Twombly, Radke, Pecevich and Rafaniello to sit on Application #3724. He also designated alternate Commissioner Ghio to sit in place of Commissioner Raymond with his absence this evening.

Attorney James Ziogas, 104 Bellevue Avenue, on behalf of the applicant, explained that this was a vacant property on the corner of North Main Street and North Street. The proposal was to construct a 58,000 sq. ft. building for an assisted living facility to include dementia patients. The property is a small lot with elevation changes.

Attorney Ziogas explained the request was for three variances. The first Variance request was to change the grade for parking in excess of 3%, which was similar to properties in the area and they are requesting no greater that a 5% grade on the property. They received a memorandum from the City Engineer this morning in favor of the proposal.

Commissioner Pecevich read into the record the memorandum dated March 3, 2020.

Regarding the second Variance, Attorney Ziogas explained the request for building fenestration, in the area between 2 feet and 10 feet required fenestration coverage of at least 65%. The North Main Street frontage has proposed fenestration coverage is 63.5% and on North Street it is 43.5%. The applicant tried to have as many windows (fenestration) as possible to meet the spirit of the Regulation. Therefore, the applicant is requesting a Variance for the building fenestration.

Regarding the third Variance, Attorney Ziogas explained that this applied to the North Street entrance area where there is an interior sidewalk adjacent to the building, which is supposed to be 6 ft. wide, but the proposal is 5.5 ft. wide.

There was only 3.5 ft. between the parking spaces to the west and the property line and the applicant has to provide area for a privacy fence. Therefore, the request is for a six-inch Variance on the sidewalk.

There is no area to relocate the parking lot to the west. Attorney Ziogas explained the sidewalk would be against the building; to the west of the sidewalk was a 18 ft. parking space, a 25 ft. way accessway, an 18 ft. wide parking space and a then 3.5 ft. to the property line. Therefore, there was no more area to the west. To the east of the property was an existing building. Therefore, a 5.5 ft. sidewalk was the only solution for the property.

After inquiries by the Board, Attorney Ziogas explained that the building could not be reduced because it was located to the east as far as possible, but the feasibility of the project is based on the number of beds required to make it possible to develop and the property. The parcel size of .93 acres also factored into the decision to request a Variance.

The 43.5% building fenestration on North Street was because the west side of the property slopes down 3 ft. and part of the building will already below grade. Most of the first floor would be for administration services. There is no retail and no commercial sales within the building. The main entrance is to the rear of the building.

After inquiries by Mr. Flanagan, Attorney Ziogas explained the 25 ft. access isle would be maintained. There were no compact parking spaces for that area because a revised map was submitted with 18 ft. parking spaces

Attorney Ziogas also noted that a 25 ft. access aisle was more important than a 6 ft. wide sidewalk. His opinion was the hardship was met because of the property topography, the grade from North Main Street to North Street, the size of the property and a six inch Variance was reasonable for the sidewalk.

The plan requires a Special Permit and Site Plan before the Zoning Commission. There is an extensive landscape plan and they worked with the neighbors on the plans and existing storm drainage concerns that would go to the City storm drainage system.

No one else spoke in favor of the application.
No one spoke against the application.

The hearing is closed.

By: Twombly

Seconded: Ghio.

For: Ghio, Pecevich, Radke, Twombly and Rafaniello.

Against: None.

Abstain: None.

The Board commented that the plan was described well. The sidewalk Variance was minimal; the hardship was the topography of North Main Street and North Street. They agreed with the building fenestration based on the property grade and also the 5.5 ft. sidewalks versus reducing the driveway accessway. The applicant has a hardship on all three requests. The parking was not a concern from 3% to 5%, which the City Engineer agreed. The building fenestration was not drastic change because of the property topography. The Board agreed with the design for this gateway property.

Mr. Flanagan explained the application should have stated North Street and not "south of Terryville Avenue (Route 6)" for a correction to the record. After inquiry by the Board, he explained the revised plans of 18 ft. were the revised plans that they were reviewing this evening.

MOTION: Move to approve Application #3724 – Variances of 1) finished grades for parking in excess of three percent; 2) building fenestration; 3) off-street parking requirements at west of North Main Street and south of North Street (Route 6); Assessor’s Map 23, Lot 162-164; BD-1 (Downtown Business) zone, Bristol OZ OPCO, LLC c/o Senior Living Development, LLC, applicant, , in accordance with the plot plan and information submitted.

By: Pecevich

Seconded: Twombly.

For: Ghio, Radke, Twombly, Pecevich and Rafaniello.

Against: None.

Abstain: None.

The application is approved.

- 2. Application #3725 – Variance of maximum building height at 42, 90, 112 & 150 Century Drive; Assessor’s Map 4, Lots 1, 5, 6 & 7; IP-1 (Industrial Park) zone, Bristol Hotel, LLC and Bristol Hotel 2, LLC, applicants.

The Board acknowledged receipt of the following items in their electronic packets: an Exhibit A of the applicant’s representatives and a chart, untitled, regarding the previous Variances on the property (provided to the applicant by Robert Flanagan, City Planner.)

Chairman Rafaniello designated regular Commissioners Twombly, Radke, Pecevich and Rafaniello to sit on Application #3724. He also designated alternate Commissioner Adamaitis to sit in place of Commissioner Raymond with his absence this evening.

Attorney Timothy Furey, 43 Bellevue Avenue, on behalf of the applicant, explained this project was for the existing hotel on Middle Street and Century Drive and three recently purchased lots. The applicant purchased Lots 5, 6 and 7 last year with the goal of constructing a new hotel and conference center. The existing hotel was rehabilitated and redesigned with assistance from ESPN several years ago. The property was 12.7 acres total and a large portion of inland wetlands.

Attorney Furey explained the goal was to construct a four-story suite hotel (16,700 sq. ft. each floor/67,000 sq. ft. total); an 8,800 sq. ft. mezzanine; 32,000 sq. ft. conference center and 5,400 sq. ft. connector. The existing hotel is six stories and the proposed hotel would be four-stories with a two-story conference center. The Regulations have a 40 ft. height limitation. The total height variance requested was to 56.5 ft.

Attorney Furey explained when there are larger events, smaller civic events and smaller weddings that now go to other towns. The applicant has discussed with ESPN, event planners and Lake Compounce that there is an opportunity for larger events and the latter suggested suite hotels for various purposes. Attorney Furey explained the applicant has received a unanimous endorsement from the Planning Commission.

After inquiries by the Board, Attorney Furey explained 81 rooms were proposed. The conference center has a 400-seating capacity. The Double Tree has a 300-seating capacity. The existing and proposed hotel would be connected to a lobby, parking, stairs and an underground connector, but no connecting hallways. The 432 parking spaces complied for the total property and there are 108 underground parking spaces for inclement weather. The existing hotel was 25 ft. higher than the proposed hotel. The request was for a 56.5 ft. height Variance.

The hardship is the property is restricted by Inland Wetlands and the applicant had to reduce the buildings and construct additional stories. Also, there are existing taller area structures in the area and facilities like this it cannot be done without this building scale.

Peter Amara, AIA of Amara Associates, LLC, 199 Park Road, Middlebury, on behalf of the applicant, explained the hotel was a prototypical hotel and there were certain standards that the applicant had to follow, which included the four stories. The team tried to minimize the floor to floor height to minimize the height and work with the various building systems. The roof is 44.7 ft. high and there were decorative parapets that are 56.4 ft. high. The parapets were to hide the various building systems. Regarding the proportion and scale of the building, the buildings were 40 ft. apart. They want the building materials to match, but not exactly, and complement each building.

No one else spoke in favor of the application.

No one spoke against the application.

The hearing is closed.

By: Twombly

Seconded: Radke.

For: Adamaitis, Pecevich, Radke, Twombly and Rafaniello.

Against: None.

Abstain: None.

The Board agreed with the trying to hide the building systems on the roof which contributes to the portion of the raised roofs. The applicant was asked if the original hotel building had a Variance. With the 56.4 ft. roof height and the inland wetlands on site were causing the applicant to construct additional floors of the building, which was the hardship. The hiding of the building systems was good for aesthetics.

MOTION: Move to approve Application #3725 – Variance of maximum building height at 42, 90, 112 & 150 Century Drive; Assessor’s Map 4, Lots 1, 5, 6 & 7; IP-1 (Industrial Park) zone, Bristol Hotel, LLC and Bristol Hotel 2, LLC, applicants , in accordance with the plot plan and information submitted.

By: Pecevich

Seconded: Twombly.

For: Adamaitis, Radke, Pecevich, Twombly and Rafaniello.

Against: None.

Abstain: None.

The application is approved.

3. Application #3726 – Variances of 1) minimum front yard for an accessory structure; 2) maximum building height for an accessory structure at 397 Wolcott Road; Assessor’s Map 7, Lot 47A; R-25 (Single-Family Residential) zone, Kevin Newton, applicant.

The Board acknowledged receipt of the following items in their electronic packets: five photographs, entitled "*Looking North; Looking Southeast; Looking Southeast; Looking East and Looking Southwest*" and a General Cross-Section of the Plan, undated.

Chairman Rafaniello designated regular Commissioners Twombly, Radke, Pecevich and Rafaniello to sit on Application #3724. He also designated alternate Commissioner Ghio to sit in place of Commissioner Raymond with his absence this evening.

Kevin Newton, 397 Wolcott Road, explained his request to construct a two-vehicle garage 26 ft. by 32 ft. The hardship of his property was the topography of the property. He lives near Indian Rock and the only area to place the garage was in the front yard because of the underground propane tank and septic system where he would have normally been able to put an attached garage.

Mr. Newton would have to remove a considerable amount of ledge and earth material to put the garage in the back yard. Regarding the height of the garage, the existing house does not have a full basement and was built on a slab with a crawl space, therefore, there is not a lot of area for storage in the house itself. The height Variance was about 1.5 ft. higher than what the Regulations allow, and would improve his storage capabilities.

Regarding the front yard Variance, the proposed structure was within the 40 ft. property line setback, but there were three Variances previously approved to former owners, which were for a larger garages. The garage would be 36 ft. from the street and 16 ft. from the property line. He would have to excavate for the garage, but the rear yard required would be considerably more excavation and blasting. If an attached garage were constructed, it would block access to the well and the septic system.

After inquiries by the Board, Mr. Newton explained the location to the north side of the property had little area and was a more drastic elevation than the rear yard and the well was on the northeast side of the property.

Mr. Flanagan noted the garage would be at least 50 ft. from the street.

After inquiries by the Board, Mr. Newton explained there was 12 ft. and 14 ft. of area at the heights of the right and left side of the garage, respectively. The only alternative was to construct a three-car garage for storage. The right side of the garage would be a standard door and the left garage door would be a 10 ft. garage door. The ceiling of the garage would be 12 ft. with racks for storage.

No one else spoke in favor of the application.

No one spoke against the application.

The hearing is closed.

By: Twombly

Seconded: Ghio.

For: Ghio, Radke, Pecevich, Twombly and Rafaniello.

Against: None.

Abstain: None.

The Board commented that the hardship was the location of the well, septic system, ledge in the backyard would be difficult to deal with and that is the hardship. The Board agreed with the hardships. Regarding the height Variance, there were a few Variances approved and with the location of the garage in this neighborhood and it would not be an eyesore. The hardship was the lot contours.

MOTION: Move to approve Application #3726 – Variances of 1) minimum front yard for an accessory structure; 2) maximum building height for an accessory structure at 397 Wolcott Road; Assessor’s Map 7, Lot 47A; R-25 (Single-Family Residential) zone, Kevin Newton, applicant, in accordance with the plot plan and information submitted.

By: Pecevich

Seconded: Twombly.

For: Ghio, Radke, Pecevich, Twombly and Rafaniello.

Against: None.

Abstain: None.

The application is approved.

1. Application #3721 – Appeal of the Zoning Enforcement Officer’s (ZEO) November 12, 2019 decision at 312 Old Wolcott Road; Assessor’s Map 9, Lot 2; R-15 (Single-Family Residential) zone, Anareliz Lebron and Victor Santiago, appellants. (Public Hearing continued from February 4, 2020).

The Board acknowledged receipt of the following items in their electronic packets: a Cease and Desist Order letter dated November 12, 2019, from Edward Spyros, Zoning Enforcement Officer, regarding debris and the horse on the property; a Certificate of Emotional Support Animal Registration, dated November 12, 2019, from Michelle Mirsky, Psy.D.; an e-mail dated December 20, 2019, from Caitlin Marino, a neighbor, to Christopher Schaut, Assistant City Planner, regarding the debris and sufficient area for the horse; a letter dated November 25, 2019, from Edward Spyros, Zoning Enforcement Officer, regarding the Cease and Desist Order for 312 Old Wolcott Road; two photographs, undated, entitled "*Barn Photographs*" and "*Aerial View of 312 Old Wolcott Road (.97 Acres)*"; an e-mail dated November 7, 2019, from Thomas Lozier, Chief Building Official, regarding a blight complaint; an e-mail dated November 7, 2019, from Christopher Schaut to Caitlin Marino and Edward Spyros, regarding the complaint; an e-mail dated November 7, 2019, from Caitlin Marino to Christopher Schaut, regarding a complaint; an Assessment Card dated November 8, 2019; an e-mail dated December 23, 2019, from Victor Santiago, to Christopher Schaut, regarding the Appeal Application #3721 – on January 7, 2020; an e-mail dated January 29, 2020, from Victor Santiago, regarding the request to continue the Appeal to the March 3, 2020; an e-mail dated February 4, 2020, from Robert Flanagan, City Planner to Nancy King, Administrative Assistant, regarding the time line for the Appeal; a letter dated February 5, 2020, from the Robert Flanagan, City Planner to Anareliz Lebron and Victor Santiago, regarding the Zoning Board of Appeals vote to continue the Appeal to the March meeting; a plot plan dated November 27, 1990 and a copy of a portion of the Zoning Regulations (Page 21 to 22.)

Chairman Rafaniello designated regular Commissioners Twombly, Radke, Pecevich and Rafaniello to sit on Application #3721. He also designated alternate Commissioner Adamaitis to sit in place of Commissioner Raymond with his absence this evening.

Mr. Flanagan reviewed the State statutory time line for the Appeal with the Board and the appellants. The appellants have used up their 65 days to extend the public hearing from December until now. This evening the public hearing has to close as there are no further extensions. A letter was to be submitted from a physician, but after this evening, the Board cannot accept any new information. If the letter was not available this evening, he suggested to the Board close the public hearing and possibly vote on the Appeal. He explained Mr. Spyros had written a Cease and Desist Order on November 12, 2019.

Mr. Flanagan read into the record the Cease and Desist Order dated November 12, 2019.

Mr. Flanagan suggested if the Appellants do not have the letter from the physician this evening, the Board would have to go on the record with Mr. Spyros’ Order, which was accurate and valid, in his opinion.

Victor Santiago, 312 Old Wolcott Road, explained his wife, Anareliz, tried to reach out to her original doctor, but there were no available appointments. They tried to make an appointment with a different doctor, which was why they requested an extension.

When they tried to go to that the doctor, the doctor had to reschedule the appointment. The horse has been on the property about five months and the person that made the complaint has sold her property and has relocated, but there have been no new concerns. Therefore, they should be able to keep the horse and consider this for their vote.

A police officer and the animal control officer were at the property. The only concern they had was the amount of property that they owned. There were horses on the property previously. He appreciated the Boards time and asked them to vote in their favor.

Mr. Spyros offered that he had not realized the neighbor had moved. He received a phone call from the woman that sold the appellants the horse and she told him if necessary, she would take the horse back and refund the money.

The Board explained there were complaints filed for the record. The concern was the Board was waiting for the letter and that has not been received. The certificate was contingent on the letter from a physician. Therefore, they cannot accept the certificate. The Board has given all the time that is allowed under the law to accommodate the Appellant, and the Board is obviously sympathetic with respect to the issues involved with this matter.

No one else spoke in favor of the appeal.
No one spoke against the appeal.

The appeal is closed.

By: Twombly

Seconded: Adamaitis.

For: Adamaitis, Radke, Pecevich, Twombly and Rafaniello.

Against: None.

Abstain: None.

The Board commented that they gave the appellants a reasonable amount of time to justify keeping the horse. The property is only about one acre and two acres was required, which is really only about half an acre with the structures. They do not know how long ago a previous horse was on the property. They had concerns of increased complaints of the animal waste during the summer months. The documents required were not in order or received for the Appeal.

Therefore, the Zoning Enforcement Officer Order was correct with the Zoning Regulations for the acreage to keep the horse on the 0.97-acre property. The actual usage of the property was not one acre, which was too small to support a horse; the horse's well-being and the neighbor's well-being must be considered. They agreed that the Zoning Enforcement Officer's Order was valid.

MOTION: Move to approve Application #3721 – Appeal of the Zoning Enforcement Officer's (ZEO) November 12, 2019 decision at 312 Old Wolcott Road; Assessor's Map 9, Lot 2; R-15 (Single-Family Residential) zone, Anareliz Lebron and Victor Santiago, appellants. (Public Hearing continued from February 4, 2020), in accordance with the plot plan and information submitted.

By: Pecevich

Seconded: Twombly.

Chairman Rafaniello explained the process of the motion to the Board.

For: None.

Against: Adamaitis, Pecevich, Radke, Twombly and Rafaniello.

Abstain: None.

The appeal is denied.

- 4. Application #3723 – Variances of 1) minimum lot area of two acres for a horse; 2) 75 foot setback for any barn, shelter or other building used for housing a horse or for the storage of supplies or waste material at 312 Old Wolcott Road; Assessor’s Map 9, Lot 2; R-15 (Single-Family Residential) zone, Anareliz Lebron and Victor Santiago, applicants. (Public Hearing postponed from February 4, 2020).

The Board acknowledged receipt of the following items in their electronic packets: an e-mail dated February 4, 2020, from Robert Flanagan, City Planner to Nancy King, Administrative Assistant, regarding the time line for Application #3723; an e-mail dated January 29, 2020, from Victor Santiago, regarding the request to keep the public hearing open; a letter dated February 5, 2020, from Robert Flanagan to Anareliz Lebron and Victor Santiago, regarding the Zoning Board of Appeals vote to continue the application to the March meeting; an e-mail from Christopher Schaut, former Assistant City Planner, to Victor Santiago, regarding sending an e-mail if they would like the public hearing postponed; an emotional support animal certification, dated November 12, 2019; a letter dated December 20, 2019, from Nancy O’Dell, regarding a complaint and a letter dated January 3, 2020, from Jeffrey Davis, regarding a complaint.

Chairman Rafaniello designated regular Commissioners Twombly, Radke, Pecevich and Rafaniello to sit on Application #3723. He also designated alternate Commissioner Ghio to sit in place of Commissioner Raymond with his absence this evening.

Mr. Flanagan explained that this was the Variance filed for the property. The application was accepted at the January meeting and a request was made to postpone the public hearing until the February meeting and then another request was made to postpone to the March meeting.

He corrected an earlier statement of the number of days for the extension and today was day 56 of the 65 days to open the hearing. The Board does not have to close the public hearing or make a decision this evening but does need to open the public hearing. The next meeting on April 7, 2020 would be the 35th day of the public hearing, so an extension the keep the public hearing open or close the public hearing will have to take place at that meeting. He explained that they can receive any documentation and statements from the applicants this evening.

After inquiry by the Board, Victor Santiago, 312 Old Wolcott Road, explained he understood the timelines associated with the application and they would like to proceed with the public hearing this evening.

Mr. Santiago explained his understanding from the former Assistant City Planner who explained that the Board may have deny the Appeal because the Board was not questioning Mr. Spyros’ decision on the property as to not having the correct amount of acreage to have a horse. Mr. Santiago explained he was confused because if they cannot keep the horse then the Variance was not necessary.

Mr. Flanagan explained the horse was for emotional support, but if there is not a letter and certificate from a physician to support the claim of an emotional support animal, then the application may be amended so that a letter from the medical professional would not be needed. The applicant could state a different hardship on the application for the Board to consider, which may be done prior to next month’s meeting.

Mr. Flanagan offered to provide some guidance to the applicants in order to complete a revision to the variance application. Mr. Santiago expressed his thanks to Mr. Flanagan and said he would avail himself of the offer.

Mr. Santiago agreed to amend the application for the April meeting and discuss it in a meeting with Mr. Flanagan.

MOTION: Move to continue Application #3723 – Variances of 1) minimum lot area of two acres for a horse; 2) 75 foot setback for any barn, shelter or other building used for housing a horse or for the storage of supplies or waste material at 312 Old Wolcott Road; Assessor’s Map 9, Lot 2; R-15 (Single-Family Residential) zone, Anareliz Lebron and Victor Santiago, applicants, to the April 7, 2020 regular meeting of the Board.

By: Twombly

Seconded: Ghio.

For: Ghio, Pecevich, Radke, Twombly and Rafaniello.

Against: None.

Abstain: None.

The application is continued.

Miscellaneous

5. Approval of Minutes of February 4, 2020

Chairman Rafaniello designated regular Commissioners Twombly, Radke, Pecevich and Rafaniello to sit on Application #3723. He also designated alternate Commissioner Ghio to sit in place of Commissioner Raymond with his absence this evening. He also designated alternate Commissioner Adamaitis to sit in place of Commissioner Radke with his absence at the February 4, 2020, regular meeting.

Chairman Rafaniello explained there was a correction to his name, which was corrected by Staff prior to the meeting.

MOTION: Move to approve the minutes of the February 4, 2020, regular meeting, as amended.

By: Twombly Seconded: Ghio.

For: Pecevich, Twombly and Rafaniello, Adamaitis and Ghio,
Against: None.
Abstain: None.

6. Chairman Rafaniello explained there was a ruling on the Ortiz appeal that was just decided in the Superior Court. Chairman Rafaniello read into the record the letter from Corporation Counsel to Chairman Rafaniello, regarding Brian Ortiz.

Chairman Rafaniello explained this decision was a good example of why the Board encourages members to ask questions from the during meetings and build a good record. He thanked the Board for continuing to do a good job with the applications and appeals.

Mr. Flanagan also thanked the Board, and in his professional opinion, they always do a very good job with each application because some Zoning Boards of Appeals in Connecticut do not. The training they have received, the questions they ask and their politeness towards all who come before the Board was reflected in the record. He was proud to serve as Staff to them.

ADJOURNMENT

Chairman Rafaniello designated Commissioner Adamaitis to sit on the adjournment in place of Commissioner Raymond with his absence this evening.

MOTION: Move to adjourn at 8:53 P.M.

By: Twombly Seconded: Pecevich.

For: Adamaitis, Twombly, Radke, Pecevich and Rafaniello.
Against: None.
Abstain: None.

Respectfully submitted,

Nancy King
Recording Secretary

Jerald A. Rafaniello, Chairman

David Pecevich, Secretary