

RECORD OF PROCEEDINGS

Minutes of

Danbury Township Board of Zoning Appeals

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held

May 18,

20 16

The Danbury Township Board of Zoning Appeals was called to order at 6:30 p.m. by Chair, Carol Robertson, at the Danbury Township Hall. The Pledge of Allegiance was recited. The roll call showed the following present: Mrs. Carol Robertson, Mrs. Loretta Grentzer, Mr. Brad Bauer, Mr. John William Smith, and Alternates Joseph Fetzer and Sharon Michael. Ms. Sherry Roberts was excused. Also present were Kathryn Dale, Zoning & Planning Administrator, Cheryl Harmsen, Administrative & Zoning Assistant. Visitors present were Peter Corrado, Dan Fike, Cindy Brundage, Greg Huffman, Fred Kolar, Jeff Kolar, Mary Kolar, Sue Lind, Irvin Smink, Marilyn Harshman, Max Harshman, Robert Sobolewski, Camille Sobolewski, Travis Bonnett, Barry Kwansny, Ed Dunn, Terry Kettel, Dennis and Jamie Bednarski.

Ms. Dale read the rules of order for the meeting proceedings.

Swearing-in of Member

First item on the agenda was the swearing-in of Sharon Michael as a new Alternate Member. Ms. Michael was not seated on the Board right away since it was her first meeting.

The Chair asked Mrs. Harmsen if all the documents relating to the case had been received and were in proper order. She indicated that they were. The Chair swore-in the Zoning and Planning Administrator, Kathryn Dale.

The Chair asked Mrs. Harmsen to introduce the first case of the evening.

Adjudication Hearing

Case BZA #2016-055

56 Woodwinds Way

BZA-2016-055 56 Woodwinds. Request for an Area Variance from Section 3.1.3.D to allow for a new single-family home to encroach into the 35' required front yard setback (26' proposed). Dennis & Jaime Bednarski, Owners/Applicants.

The Chair asked if there were any Board members who would have a conflict and wished to abstain from this hearing, there were none.

Mr. Bauer made a motion to open the public hearing, seconded by Mrs. Grentzer. All were in favor and the motion carried.

The Chair asked Ms. Dale to give an overview of the case. Ms. Dale stated Lot 14 in Woodwinds Subdivision is the Lot that is being discussed this evening. The owners want to construct a new single-family home on this lot. They purchased the property in 2013 and were provided a copy of the original 1990 recorded subdivision plat showing the setbacks for this lot. When preparing this site plan, it was discovered that the setbacks shown for this lot on the recorded plat are not correct and do not meet the zoning requirements because the front yard setback failed to follow the curvature of the cul-de-sac. The County does not require plats to be signed by the Township. This property is zoned R-2 requiring 35' setback in the front and rear and 10' on the sides. The applicant is proposing that the south east garage corner encroaches 8' (9' with the overhang) into the front yard setback along the cul-de-sac, thus being 26' instead of the required 35'. All other requirements are met.

Dennis and Jamie Bednarski came forward and were sworn in. They reviewed the documents and attested that the paperwork the Board received was what they submitted to the Board.

Ms. Bednarski stated if they were to put the house the other way, the terrain of the property would then require a retaining wall for the garage and drive. The basement would start at 13' and put them over the maximum height requirement. A retaining wall would be too costly. Mr. Bednarski stated the property was platted in a rectangle and it wasn't explained to them how the cul-de-sac cuts into the buildable area. Mrs. Bednarski stated this layout allows room for a deck.

Mrs. Grentzer asked for an explanation for why the home could not be moved back further. Mr. Bednarski stated that would have no backyard at all. Mrs. Grentzer stated she saw 48'8" and Mr. Bednarski replied, minus the ten foot deck, that will leave them with 38'. Mrs. Grentzer asked if this affects any part of the home other than the garage. The Bednarski's replied it is just the garage. Ms. Bednarski stated they have noticed other homes in the area that have built into the setback.

There was no one else with standing who wished to testify.

Mr. Smith moved to close the public comment segment portion of the hearing. Seconded by Mr. Fetzer. All were in favor and the motion carried.

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The Chair asked for a motion to recess into executive session for the purpose of deliberating the merits of the case. Mr. Bauer made the motion. Mr. Smith seconded the motion and the roll call vote was as follows: Ms. Robertson – yes; Mrs. Grenzter – yes; Mr. Bauer – yes; Mr. Fetzer – yes; Mr. Smith – yes. The motion carried and the Board recessed at 6:46 pm.
Mrs. Grenzter moved and Mr. Smith seconded the motion to reconvene. The roll call vote was as follows: Ms. Robertson – yes; Mrs. Grenzter – yes; Mr. Smith – yes; Mr. Bauer – yes; Mr. Fetzer – yes. The motion carried and the Board reconvened at 7:02 pm.

The Chair asked Mr. Harmsen to read the Findings of Fact for BZA Case # 2016-055.

With regard to Case# BZA-2016-055, being a request for an Area Variance from Section 3.1.3.D to allow for a new single-family home to encroach into the 35' required front yard setback (26' proposed) for property located at 56 Woodwind Way.

1. The property in question will yield a reasonable return or can be used beneficially without the variance because the property can be used for a single-family residence.
2. The variance is not substantial because the major portion of the house will align with the other homes on the street and meet the 35' requirement and the variance only covers the corner of the garage.
3. The essential character of the neighborhood would not be substantially altered by the variance and adjoining properties would not suffer a substantial detriment as a result of the variance because the house will align with the other homes on the street.
4. The variance would not adversely affect the delivery of governmental services (i.e. water, sewer, garbage, etc.)
5. The property owner did purchase the property with knowledge of the zoning restriction but purchased the lot with the understanding that the documents provided to them were correct since they had been recorded.
6. The property owner's predicament can feasibly be obviated through some method other than a variance but the terrain makes the request for a variance a reasonable option.
7. The spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance because the house placement aligns with the rest of the neighborhood and the terrain of the lot makes this a reasonable request.

Mr. Smith moved that the Board adopts and makes the findings of fact as read by the recording secretary and that after considering and weighing these factors, the Board finds that Decision Standards(s) (2) (3) (6) (7) weigh more heavily to show that:
a. Practical difficulty is sufficient to warrant granting the Variance requested.
b. There is a preponderance of reliable, probative and substantial testimony; and
c. There is evidence that supports the applicants request for a variance.

Therefore, the Variance should be accordingly APPROVED.

Motion Seconded by: Mrs. Grenzter.

Roll Call Vote was as follows: Mrs. Grenzter – yes; Mr. Bauer – yes; Mr. Fetzer – yes; Ms. Robertson – yes; Mr. Smith – yes. Motion passed 5-0.
The Chair stated the case has been Approved and the applicants may pick up their permit, following the June 15, 2016 meeting.

The second case of the evening was announced by Mrs. Harmsen.

Adjudication Hearing
Case BZA #2016-057
8620 E. Baysshore

BZA-2016-057 8620 E. Baysshore – South Beach Resort. Request for a Conditional Use to allow for a Temporary Use/Structure in accordance with Section 3.1.10.C.ix. and Section 6.2 for a wedding/special event tent.

The Chair asked if there were any Board members who would have a conflict and wished to abstain from this hearing. Mrs. Grenzter recused herself. Mr. Bauer moved and Mr. Fetzer seconded the motion to open the public hearing. All were in favor and the motion carried.
Ms. Dale stated that Sharon Michael will be seated for this hearing because Mrs. Grenzter has recused herself.

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The Chair asked the Zoning Administrator to give an overview of the application. Ms. Dale stated this application is to install a 40' x 40' (1,600s.f.) temporary tent from April 1, to November 1, 2016 at South Beach Resort for the purpose of holding weddings or other special events. The applicant is asking to allow the tent annually and to permit a 30-day allowance to install it and remove it each season. Temporary building, structure & use is listed as a Conditional Use for the "R-C" Recreational Commercial zoning district, however Article 4 provides no additional use standards for this type of request for tents. The underlying "R-C" site development standards and setbacks would apply and are all satisfied based on what has been submitted. The Boards criteria for deciding the request are the Conditional Use decision standards outlined in Article 6, Section 6.2. Provided in the Staff Report is a list of permits taken out for this property since the late seventies. The applicant is required to provide 123 parking spaces for the Hotel, Marina and Restaurant. There are 103 paved spaces existing and the applicants have used their open field in the past for overflow parking if needed. Each of the cabins have on-site spaces. According to the applicant, it is not their intent to open the tent up to the general public's use and will only be used by guests already staying at the resort for weddings or family reunions. Point being, aside from some outside guests in attendance for the event, many vehicles will already have been on-site. Staff analysis included a review of the Decision Standards and recommended seven conditions for the Board Member's consideration.

Fredrick Kolar, 8620 E. Bayshore Road came forward and was sworn in. He stated they have family reunions and a handful of weddings each year and they want to provide some shelter. Ms. Robertson asked how many weddings a year. Mr. Kolar responded that the number varies, but the average is about twelve a year. Mr. Smith asked how many people attend the weddings. Mr. Kolar stated the tent will only be used by people who are staying at the hotel. As small as six people and it is only going to be available to guests staying at the hotel. Mr. Smith asked if weddings will be held in the tent. Mr. Kolar stated they have weddings at different locations on the property and the tent could be used for weddings and receptions. Ms. Robertson asked how many attend the weddings. Mr. Kolar answered twenty, twenty four people. Ms. Michael asked how many weddings were held there last year. Mr. Kolar answered twelve. Mr. Smith asked when the most weddings are scheduled. Mr. Kolar answered Spring and Fall and less in the Summer. Mr. Smith clarified that Mr. Kolar was asking for six months and that is roughly a wedding every other week. Mr. Kolar stated there are also family reunions with fifteen to twenty-five people attending, though the reunions are sometimes held at people's cottages. Ms. Michael asked where the overflow of people go because the cottages are close together. Mr. Kohler stated they have eight and a half acres and the distance between cottages is from thirty to seventy-five feet apart. There is also a conference room in the hotel but Mr. Kolar stated they discourage using it because it is right next to the first floor rooms and disturbing to those guests. Ms. Robertson asked if the bands disturb the guests. Mr. Kolar stated they usually don't have a band. Mr. Smith stated the tent will hold one hundred and fifty people. Mr. Kolar stated he didn't think it would hold that much, more like twenty-five to thirty people. Mr. Smith stated that is one hundred square feet per person and asked why they choose a forty by forty tent. Mr. Kolar stated it just seemed like a decent size. It was either going to be ten meters or twelve meters.

Jeff Kolar came forward and was sworn in. He stated that you can search tent websites on the internet and for a 1,600 square foot tent, the maximum occupancy is sixty people for that size of a tent. The hotel has fifty-five rooms, therefore, maybe one hundred people attending the reception. There are times when we have two to three weddings in one weekend, but they are still small weddings. The hotel fills every weekend in the Summer. The idea is to get more people into the hotel. We don't make money on the tent rental. Ms. Robertson asked if weddings are held in the conference room. Jeff Kohlar replied that the conference room is also 1,600 square feet, the same size as the tent. Mr. Smith searched the internet with his phone and stated he was able to enter 1,600 square foot tent accommodates one hundred and sixty people. Jeff Kolar stated all the sites for tents that he looked at indicated 1,600 square feet will hold sixty people.

Dan Fike, 2549 Knobhill, came forward and was sworn in. Mr. Fike stated he lives on the next street and owns a party rental business that specialize in tent rentals. The applicant is asking to put up this tent for six to nine months a year. Mr. Fike stated he feels the issue is that there needs to be a wind rating on the tent. In Cleveland, it is seventy miles an hour with a ninety mile an hour, three second gust rate. If those standards are met then he would approve. He stated they can put up to one hundred and sixty people in a 40' x 40' tent. The Fire Code states that you need fifteen square feet per person which drops the number down to 106 total people. If the tent is going to be up more than three months, he would recommend that fire suppression be installed. Living in the area, noise is the biggest concern. Also, when the rain comes off the tent, where is the water going to be diverted to? There should be a three month trial period because we have concerns about the number of people in the tent, the size, how sturdy the tent is and how secure it is because we are right next door. Ms. Dale asked where he got the wind rating numbers. Mr. Fike replied the City of Cleveland and Parma. Ms.

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Dale stated, that local rating requirements could be different and is determined by the building department, not zoning. Mr. Fike stated that would be correct.

Ms. Robertson asked if the applicants wanted to reply now or wait until everyone has spoken.

They chose to wait until after everyone had spoken.

Cindy Brundage, 2378 Knobhill came forward and was sworn in. Ms. Brundage stated this request should be rejected because daily they will have an unsightly view looking at this enormous tent. She stated she will see it from the bedroom window, the office and when she walks out her front door. She stated she is deeply concerned about the safety of her property and her neighbor's properties. There is no mention of the ending time of events held in this tent. She believes the Resort holds a Class D liquor license. There are many classifications of liquor licenses that allow liquor consumption up until two-thirty a.m. She said she is aware of the Danbury Noise Ordinance, but that doesn't help her return to sleep after she's been woken up. Ms. Brundage stated she is a nurse, works weekends and holidays and is a full time resident. She said she's been awoken by the resort's guests enjoying their campfires. The nightly campfire is located very close to the proposed tent site. From the resort's website, it states for indoor weddings and events, there is a 1,400 square foot conference room many other smaller conference rooms and the accommodations are perfect for a large gathering. There has already been testimony regarding the square footage requirements and if that is the case, why do you need such a large tent? Mr. Brundage stated she doesn't understand why the Kolars can't use the inside facilities that they already have. She repeated that Mr. Kolar said it disturbs the other guests; so don't bother their guests and take it out on the neighborhood, she doesn't appreciate that. On page 2 of the Staff Report, it states the negative impact this will have to the adjacent and surrounding property values will be addressed, the applicant has not addressed these concerns. After discussing this situation with some realtors, they said the presence of a tent seven to nine months out of the year would definitely devalue their properties. She asked the Board to refer to the Danbury Zoning Resolution 6.2.D under General Requirements. "The Board of Zoning Appeals shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence that such use in the proposed location; and "D" will not be detrimental to property in the immediate vicinity or to the community as a whole."

Ms. Dale stated the written statement Ms. Brundage was reading from will be entered into the record as Brundage Exhibit #1, the South Beach Resort web site reference will be Brundage Exhibit #2, and the print out of square footage and how many people can fit in a tent this size will be Brundage Exhibit #3.

Greg Huffman, 2378 Knobhill came forward and was sworn in. Mr. Huffman per the Zoning code 4.2 number 6, the buffering, is there any plan to install additional buffering? Mr. Huffman gave the Board members a photo to view, taken over the weekend. Ms. Dale stated this will be Huffman Exhibit #1. Mr. Huffman stated this is a photo taken from his property at 2378 Knob Hill. The view is from the east picturing the applicant's property, taken May 14th. The photo shows no buffering or blocking of the view as the applicants have stated on item C of their application for a Conditional Use. There is no buffering or buildings blocking the view of the tent. Ms. Dale stated that what Mr. Huffman is referring to are regulations that are not yet in effect and not applicable to this application. These are new regulations that will be in effect May 27th. Mr. Huffman stated, he clearly disagreed with the terminology on the application. He provided information from a tent rental company out of Fremont, Ohio for the Board to review showing a 40' x 40' tent and the second page that shows a tent of this size can fit 160 people, the third page is the tent rental name and contact information. The tent would be an eyesore. The tent structure is fabric and has no insulation. There will be music, noise and a party atmosphere. There may be multiple parties per day. Over the weekend he said they noticed an odor, only to discover that it was coming from a pile of grass clippings, directly behind his property on the applicant's property and the odor will just get worse. Mr. Huffman respectfully ask that the Board not allow this tent to be installed. Please protect our quality of life.

Ms. Dale stated the three page document, which includes a picture of a 40' x 40' tent will be Huffman Exhibit #2 and the two photographs of the grass clippings will be Exhibit #3. Marilyn and Max Harshman, 2468 Knobhill, came forward and were sworn in. Ms. Dale stated the written statement Ms. Harshman will be reading from will be labeled Harshman Exhibit #1. Ms. Harshman read the statement saying they would like to see this application rejected. The applicant states in section D of his application that this is primarily a tourist oriented area, but Knobhill Drive, the adjacent street, is not zoned R-C. This street has four permanent homes that are occupied year-round and all other cottages on this street are utilized by the owners and not rented by tourists. They are concerned that their property values will decline. This resort holds a Class D liquor license. Will alcohol be permitted and who will manage the alcohol use? If there are problems, do they call the Police? Noise travels and there are times that they have been disturbed by the noise from the guests. If the application is approved, they would like to propose a 10:00 p.m. curfew for those that have jobs so they are not disturbed. It is a regular occurrence that people walk past their

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properties to get to the waterfront, and they don't want the porta potties that add to the noise with the slamming of the doors. This structure would be up nine months a year which she doesn't understand, because it can be winter-like weather in the spring and fall. She would like to ask if any of the Board members would like a tent and porta pots in their neighborhood. Regulations are changing at the end of the month and this would become a permitted use and she would like the Board to reconsider that change, because she doesn't want to see party tents popping up in the neighborhoods.

Travis Bonnett, 2453 Knobhill came forward and was sworn in. Ms. Dale stated that the written statement he is reading from will be entered into the record as Bonnett Exhibit #1. Mr. Bonnett stated in 2013 he purchased the property at 2453 Knob Hill and shares the property line with South Beach Resorts. He stated they have not had any issues with South Beach Resorts. His main concern with the proposal is the noise. When he went to college, he DJ'd at weddings and knows that the dancing and noise will not be contained by a fabric tent. Base sounds are louder and carry farther on the low end of the audio spectrum and you can feel them more than you hear them. Intuitively, he is concerned they will hear this weekend after weekend, Spring, Summer and Fall. If this is granted it will be a disruption to the tranquility at the lake. He offered the following suggestions; the tent should have solid walls on the west and south sides to help reduce the noise for the adjacent property owners. The band or DJ should not be allowed to play after eleven p.m. A resort contact phone number should be provided to be able to call during events in the tent if there becomes an issue, rather than get local law enforcement involved. Additionally, the Board provide a one season permit, and reapply annually for a permit to see if there are any issues. The permit expires if there is a change in ownership. Also, restroom facilities be provided to keep people from relieving themselves in the field. Install a privacy fence and landscaping to screen the tent from adjacent property owners. Consider requiring a security guard be present while the tent is being used. Restrict times of use so this doesn't become a happy hour place for guests of the resort. If the application is approved, assuming there will be some growing pains, we can amicable work with the owners to insure South Beach Resort continues to be a good neighbor in Danbury Township. Mr. Bonnet asked for a clarification on the number of rooms at the resort. Ms. Roberts replied fifty-five rooms, one hundred and ten guests, this number does not include the cottages.

Barry Kwasny, 2408 Knobhill came forward and was sworn in. Mr. Kwasny stated he agrees with most of the testimony given by his neighbors, however his concern is if the Board members would approve of an open ended agreement he wants to express his concern that this be an annually approved event.

Ed Dunn, 2398 Knobhill came forward and was sworn in. Mr. Dunn stated his concern is the noise all day long on weekends and that would be detrimental to their quality of life. A wall concealing the porta potties will not take care of the stench and the noise. Since there is no fencing, there is nothing to prevent the guests from wandering the entire property. We would be policing our streets constantly and it's a quality of life issue.

Terry Kettel, 2408 Knobhill came forward and was sworn in. The noise is going to be a big issue. This tent would be two hundred and thirty feet from his front door and he will be able to see and hear it from his living room and he's not looking forward to hearing the music every weekend. If they have a band or DJ, this is what they are going to be subjected to when he comes here to get away from that. He stated they have a nice quiet street and he just wants to keep it that way.

No one else with standing wished to testify.

Jeff Kolar came forward and the Chair stated she had forgotten to ask him to verify the documentation was what they submitted. He reviewed the packet and attested that the paperwork the Board received was what they submitted. He pointed out that the Exhibits that the neighbors presented does not allow space for a dance floor, buffet tables, beverage tables or other size tables. Ms. Dale stated what he was referring to is Huffman Exhibit #2. Mr. Kolar referred the Board members to www.thepartycenter.com, to demonstrate when buffet tables, beverage tables and other tables are added to the calculation, a tent of this size can only hold sixty to eighty people. Fred Kolar stated he just saw the grass clippings the other day and will contact the landscaper about dumping the grass clippings. Mr. Kolar stated the landscaper has never done that before. Jeff Kolar stated for wind requirements, the Ottawa County Building Department has requirements related to wind sustainability. There was another letter submitted by Mr. Bonnett. Ms. Dale stated that was labeled Bonnett Exhibit #1. Mr. Kolar stated that there was one person who testified who said they have had no issues since they lived there in 2013. Jeff Kolar said the Board can check the records at the Police Department, thier management is very good and they don't have problems at theri resort. Porta potties were brought up, they actually have seven public restrooms in the hotel. The tent is going to be very close to the hotel so he doesn't think they are going to have outdoor restrooms because the tent will be very close to the hotel's front door. Ms. Dale asked if the Health District is going to require more public restrooms. Mr. Kolar replied that only guests of the hotel will be attending the wedding. Ms. Dale stated they need to contact the Health District to find out if more restroom facilities are required,

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because Danbury Zoning does not regulate them and she doesn't want them to have to come back for a hearing because other things need to be approved. The Chair stated that it's conceivable not all guests will be staying at their hotel, the Kohlar's agreed. Mr. Smith asked if they were required to have more restrooms available, would they consider trailer contained restroom facilities that would be much more suitable for a wedding party as part of the Conditional Use. Jeff Kolar stated they would definitely be able to do that if it was a requirement. He reiterated that records show there have not been complaints and everyone needs to be reminded, it is a commercial property.

Ms. Dale stated there were a number of concerns about noise. Jeff Kolar stated the Ordinance states the music has to be turned off at 11:00 p.m. on weekends and 10:00 p.m. on the week nights. He doesn't see a problem with that. Fred Kolar stated when the restaurant and bar was fully running, in the past they cut everything off at 11:00 p.m. The hotels rooms are right there. Jeff Kolar stated the closest homes are seventy or more feet away. There are no homes close to this tent site.

The Chair asked if anyone had any concerns that were not addressed adequately. An attendee that was previously sworn in stated there is no shrubbery for buffering. Fred Kolar stated it is spring and the tree line has not grown in yet.

Ms. Dale stated one of the other questions that was raised was whether or not they would provide a contact number to the residents. Jeff Kolar stated the contact is the front desk. Ms. Robertson asked if they have decision making authority. Jeff Kolar stated they are the front desk. Ms. Robertson stated that their concern was they would not receive a reply until the next day. Jeff Kolar stated the problem is he or his dad might be sleeping, but the front desk person can come and knock on their door.

Ms. Dale stated for clarification, they desire to put this tent up as soon as possible if it is approved, and keep it up until November 1st. Then after November 1st, they would have thirty days to remove it. Jeff Kolar stated it would be put up around August because we have not purchased it yet. We only have one event in September scheduled for the tent. Ms. Dale asked if they would be willing to accept a one-year approval, after one year the Board could review the call and complaints, if any, then they could consider granting it for a longer period of time. She asked the Kohlar's if they would be agreeable to that. Fred Kolar stated they would not build it if it was a temporary approval, we have a temporary tent now but we just don't use it.

The Chair asked if there were any other concerns. Ms. Brundage stated on page two, the second paragraph of the Staff Report, it states that the applicants shall prove the potential negative impact will be adequately addressed. The Chair stated that no one with that professional capacity has been here to testify, therefore it is just hearsay and not part of the testimony and cannot be taken into consideration.

One person that was previously sworn in stated in the Staff recommendations, it was to keep the November 30th date, plus then thirty days to take it down. Now you're talking about New Year's Eve parties. Jeff Kolar responded they could use the tent up to November 1st, then 30 days to take it down. That means no parties after November 1st. Fred Kolar stated all the weddings have been in May, September, October and sometimes in June.

Ms. Michael asked why the existing tent was not being used. Fred Kolar stated too many people have used it and he can't even guess what it looks like. Jeff Kolar stated its old and not in usable condition. Ms. Michael asked if the people would be contained inside the tent and not wander off. Jeff Kolar replied that the property is a resort and when the guests stay at the resort, they can walk the entire property. Hotel guests can go to the marina, pool and tennis court. Ms. Michael stated people like to be outside when the weather is nice. This is where the noise can be a problem.

Mr. Smith asked why they chose the location that they did. Jeff Kolar responded, they want to have it ten feet off the pavement. Mr. Smith stated that would be closer to one hundred feet from the property line. Jeff Kolar replied, that is correct. Mr. Smith asked if they would suggest a number other than seventy feet they show on the plan. Why not move it further away from the property line. Jeff Kolar stated they wanted it about ten feet off the pavement, it's supposed to be close to the pavement. Additionally he stated they wanted it to be ten to fifteen feet off the tennis court. Mr. Smith stated, assuming the scale is correct, the plan shows they are almost forty feet off the pavement. The Kohlar's agreed.

Ms. Dale asked that the Board members look at the survey in their packet, it shows one hundred and ten feet from the western property line to the tennis court. Fred Kolar stated then they are ninety feet from the property line. Jeff Kolar stated he thinks they can make it one hundred feet but without measuring it is hard to give a firm answer.

Ms. Dale stated the survey states it will be one hundred and ten. They are saying they can go further than that and she believed it was submitted to show general location of the tent because the side setback requirement is only 10' from the property line and any of the numbers 70', 100', 110' more than satisfy the setback requirement.

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The Chair stated only one more question. One person that was previously sworn in stated, there seems to be a hang-up on the number of people that the tent can accommodate. It's not the number of people, it's how loud the DJ or band plays the music.

Mr. Bauer made a motion to close the public comment segment of the hearing. Seconded by Mr. Smith.

Mr. Smith motioned to recess into executive session for the purpose of deliberating the merits of the case. Mr. Bauer seconded the motion and the roll call vote was as follows: Ms. Robertson – yes; Ms. Michael – yes; Mr. Bauer – yes; Mr. Fetzer – yes; Mr. Smith – yes. The motion carried and the Board recessed at 8:22 p.m.

Mr. Smith moved and Mr. Bauer seconded the motion to reconvene. The roll call vote was as follows: Ms. Robertson – yes; Mrs. Grentzer – yes; Mr. Bauer – yes; Ms. Michael – yes; Mr. Smith – yes; Mr. Fetzer – yes. The motion carried and the Board reconvened at 9:17 p.m.

The Chair asked Mrs. Harmsen read the Findings of Fact for BZA Case #2016-057:

With regard to Case # BZA-2016-057, being a request for a Conditional Use to allow for a Temporary Use/Structure in accordance with Section 3.1.10.C.ix. and Section 6.2 for a 40' x 40' wedding/special event tent for the property located at 8620 E. Bayshore Road, South Beach Resort:

1. The Conditional Use **will** be harmonious with and in accordance with the **general** objectives of the Danbury Township land use plan because it does call for the property to be used in a commercial capacity, which is how it currently operates.
2. The Conditional Use **will** be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity but, such a use **will** change the essential character of the same area.
3. The Conditional Use **will** be hazardous or disturbing to existing or future neighboring uses because of the disruption potential from the gathering(s).
4. The Conditional Use **will** be detrimental to property in the immediate vicinity.
5. The Conditional Use **will** be served adequately by essential public facility and services because public utilities are available to the site and will be required to install any extensions to current industry standards of the Sanitary Engineer, Health Department and Building Department.
6. The Conditional Use **will** have vehicular approaches to the property which **will** be designated so as **not to create** an interference with traffic on surrounding public/private streets or roads because the property has existing vehicular approaches and parking adequate to servicing the site.
7. The authorization of the Conditional Use **will not** impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas, or in any way impair the public health, safety, or general welfare of the inhabitants of the Township, so as long as additional conditions are put into place.

Mr. Bauer moved that the Board adopts the findings of fact as read by the Recording Secretary and further moved that the Board has given due regard to the influence of the request on adjacent properties, neighborhood and community, uses specifically mentioned in the "R-C" Recreational Commercial zoning district, the Conditional Use criteria of Section 6.2.2 of the Danbury Township Zoning Resolution, and after considering and weighing these factors, the Board finds that Decision Standards(s) (3) (4) weigh more heavily to show that:

- a. The request is consistent with the Conditional Uses specifically mentioned in the "R-C" Recreational Commercial Zoning District and the intent and purpose of the zoning resolution.
- b. There is a preponderance of reliable, probative and substantial testimony and evidence that **does not support** the applicants request for the Conditional Use;

Therefore, the requests should be accordingly **DENIED**.

Motion Seconded by: Ms. Michael.

The roll call vote was as follows: Mr. Bauer – yes; Ms. Robertson – yes; Mr. Smith – yes; Mr. Fetzer – No; Ms. Michael – Yes. Vote 4-1 request is denied.

Held

May 18,
20 16

The Chair stated the case has been denied and the applicant may be in touch with staff on what other options they may have.

Signing of Decision Sheets

Mrs. Robertson asked if there were any corrections or modifications to the decision sheets. Mrs. Dale reviewed the corrections.

a. **BZA-2016-011 5401 Maritime Shoreway.** Request for a Conditional Use to allow for a 32 unit Condominium Development in accordance with Section 3.1.10.C.iii and Section 4.3. West Harbor Marina, LLC (William Brown), Owner, Bree Brown, Agent.

Mrs. Dale reviewed that the audio tape of the meeting stated item #6 of the decision sheet read as follows:
6. The Conditional Use will have vehicular approaches to the property which will not be designated so as not to create an interference with traffic on surrounding public/private streets or roads.

Mrs. Dale asked the Board members who decided on the case if they meant one of the following instead:

6. The Conditional Use will have vehicular approaches to the property which will (remove not) be designated so as not to create an interference with traffic on surrounding public/private streets or roads.

Or

6. The Conditional Use will have vehicular approaches to the property which will not be designated so as (remove not) to create an interference with traffic on surrounding public/private streets or roads.

Mrs. Robertson motioned to approve the decision sheet as amended in the first option so as to read:

6. The Conditional Use will have vehicular approaches to the property which will (remove not) be designated so as not to create an interference with traffic on surrounding public/private streets or roads.

Mrs. Grenzter seconded. Voice Vote: All in favor, Ms. Roberts is not present, Mr. Smith and Mr. Fetzer abstaining. None opposed.

b. **BZA-2016-034 8098 Rolite.** Request for Area Variance from Section 3.5.7 to allow a storage shed addition onto the existing house to encroach into the west, 5' required side-yard setback (10' proposed). Peter & Linda Neura, Appellant/Owner.

Mrs. Dale reviewed that the audio tape of the meeting stated item #2 of the decision sheet read as follows:
2. The variance is substantial however it is over 80% of the requirement of 5' is because the storage room does not run the length of the entire house (just a portion of the garage), so there will remain some separation from neighboring property and structure. The storage room is lower than the existing garage.

Mrs. Dale asked the Board members who decided on the case if they meant the following instead:
2. The variance is substantial because it is over 80% of the required 5' setback, however because the storage room does not run the length of the entire house (just a portion of the garage), there will remain some separation from the neighboring property and structure, and the storage room is lower than the existing garage.

Mr. Bauer motioned to approve as amended. Mr. Smith seconded. Voice Vote: All in favor, none opposed.

c. **BZA-2016-035 9198 E. Baysshore.** Request for a Conditional Use to convert an existing commercial building to allow for a Bed & Breakfast or Two-Family in accordance with Section 3.1.10.C.iii, and Section 4.5.

Mrs. Grenzter motioned to approve. Mr. Smith seconded. Voice Vote: All in favor, none opposed.

RECORD OF PROCEEDINGS
Danbury Township Board of Zoning Appeals

Minutes of

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held _____ May 18, _____ 2016 _____

Approval of the April 20, 2016 Minutes

Mr. Bauer made a motion to approve the April 20, 2016 Meeting Minutes, Mr. Smith seconded. All were in favor none opposed the motion carried.

Old Business

There was none.

New Business

There was none.

Other Business

There was none.

Reports and Communications from Members and Staff

Ms. Dale explained to the Board Members that per legal counsel they are not to call in to the conference call on June 2, 2016 regarding the Wahlers case.

Adjournment

Mr. Bauer moved to adjourn the meeting and Mr. Smith seconded the motion. All in attendance were in favor and the motion carried. The meeting was adjourned at 9:33 p.m.

Cheryl Harmsen
RECORDING SECRETARY

Carol Robertson

Loetta Greiner

Paul Bauer

Joy R. Fitz

S. I. Milad
BOARD OF ZONING APPEALS

RECORD OF PROCEEDINGS
Danbury Township Board of Zoning Appeals

Meeting

Minutes of

Held

May 18,

20 16

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