

Danbury Township Board of Zoning Appeals

April 15,

20

The Danbury Township Board of Zoning Appeals was called to order at 6:38 p.m. by the Chair, Joseph Fetzer, at the Danbury Township Hall. The Pledge of Allegiance was recited.

The roll call showed the following members present: Chair, Joseph Fetzer, Vice-Chair, Loretta Grentzer, Ms. Sherry Roberts, Ms. Lisa Bauer and Mr. Clyde Shetler and Alternate, Mr. Gregory Huffman. Alternate Patty Zsigo was excused. Also present was Kathryn Dale, Zoning & Planning Administrator. Visitors present were Mr. Pete Johnson, Mr. William Beckman, Mr. Bill Beatty and Ms. Susan Dress.

Ms. Dale read the rules of order for the meeting proceedings. The meeting is being held via Zoom due to the Covid-19 pandemic. Ms. Dale acknowledge everyone who joined the meeting and explained that prior to speaking, the Chair would call on everyone to give them the opportunity to speak. She asked that if they were not speaking to place themselves on mute so that any background noise was blocked. Ms. Dale explained that at the conclusion of the hearing during the Board's deliberation, the applicant and any members of the public would be placed in the "waiting room" of Zoom. She explained that they should not leave the meeting because the Board will come back and make their decision openly. The Chair asked Mrs. Dale 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. Dale to introduce the first case of the evening.

**Adjudication Hearing
Case BZA #2020-038
198 Leddy Lane
Beckman**

Request for an Area Variance from Section 3.5 and 5.1.7 to allow for a 2-story addition to encroach into the required north, side-yard setback (1' proposed/ 5' required) and exceed the 40% lot coverage (44% proposed).

The Chair asked if there were any Board members who would have a conflict and wished to abstain from this hearing. There were none. Ms. Grentzer moved and Mr. Shetler seconded the motion to open the public hearing. All were in favor and the motion carried.

The Chair asked the Zoning Administrator to give an overview of this application. Ms. Dale shared that the applicant is proposing to construct a new 20' x 36' garage addition with second story living space above. The living space is proposed to cantilever over the garage by 12' and includes a 5' balcony on the rear and 10' deck on the front. The total size of the addition is 20' x 63'. The proposed addition will be 2' from the north, side property line (1' to the roof overhang) where 5' is required. Both the balcony and deck will also encroach into the side-yard setback. The proposed addition will cause the property to exceed the maximum lot coverage at 44%. 40% is the maximum allowed and the property is currently at 24.4%. Refer to highlighted site plan and drawings at the end of this document.

As an observation; the plans do show 2 bedrooms, a rec room and kitchen on the second floor of this proposed addition. Two-family residences are permitted in this zoning district, but different variances would be necessary if it is the intent of the homeowner to create a duplex. This has not been expressed that this is their intent, but the space will not be permitted to be rented out for periods of less than 30 days or occupied by another family. There is nothing in the definitions that states a single-family home cannot have two kitchen settings. The applicant does own a vacant lot to the south of the house, but has expressed they do not wish to construct on that lot to keep their options open for future use of that lot.

Ms. Dale concluded stating the Board would be reviewing the Duncan Standard decision criteria during their deliberations. Ms. Dale also shared that in order to ensure the adjoining property owners had a chance to have a say in this hearing who may not have been able to participate in the Zoom format, she allowed written statements due to the health crises situation. She shared that 3 emails were received from adjoining property owners which would be identified in the file as Beatty Ex. 1 received 04.02.20, Skala Ex. 1 received 04.06.20 and Engler Ex. 1 received 04.14.20. All 3 written responses were supportive of the project. Ms. Dale stated that since Mr. Beatty was present for the Zoom meeting, if he would like to say anything more during the public comment portion, he would be called on and could further comment at the appropriate time.

Mr. Fetzer asked if the homeowner was going to speak or the agent. Mr. Beckman indicated that Mr. Johnson would begin their presentation. Mr. Fetzer said that was fine, but if Mr. Beckman wanted to add anything, that he would then need to be sworn in.

Pete Johnson, Architect/ Agent, 11706 W. Salem Carroll Road, Oak Harbor, was called upon and sworn in. Mr. Johnson reviewed the paperwork via the "shared screen" option from Ms. Dale's computer and stated it was as he submitted.

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Mr. Johnson commended the Board for being able to handle the meeting in this format. He said something he would like to add is that he & Mr. Beckman did look at trying to get a garage on this north side of the house that would meet the setbacks, but it was not possible to get 2 cars wide. He said that typically 24' is needed but they are at 20' wide and it's going to be tight as it is. Mr. Johnson said that the balcony on the rear also encroaches. He said they looked at putting the balcony to the south end of this addition, but due to the floorplans and where the staircase has to go, there would have been no way to access the balcony. The staircase needs to come up on the left (south) side. He asked Ms. Dale to share the first floor plan on the screens for everyone to see. Mr. Johnson said the plan shows in the highlighted are where the addition is going and how the stairs need to connect to the existing house to access this new second story. But as a result, the top of the stairs end up being on the northwest side of the addition and that is where access to the balcony then needs to be. Mr. Johnson asked Ms. Dale to now share the 2nd floor floorplan. He explained this is why a small encroachment and variance is being requested for the balcony.

Mr. Johnson said that in regards to the new kitchen showed, they admit that it is larger than most people may need, but it's primarily shown this way just to see what could fit in this space. Mr. Johnson said budget is going to dictate whether or not that new kitchen on the second floor actually gets constructed. Mr. Johnson said that it does look like they are adding two bedrooms, but they are actually only adding one more because one bedroom will be lost in the existing house to become an office area.

Mr. Johnson's video feed froze. Meeting was paused to allow him to disconnect and rejoin. Mr. Johnson rejoined and apologized. Ms. Dale reminded him where he left off and asked if there was anything more he'd like to add.

Mr. Johnson said that in regards to the kitchen on the second floor it's primarily shown that way so they could see what could be done, but they really do not need that much kitchen on the second floor because they will still have their full kitchen on the 1st floor of the original house. He said that it may be more of a rec room with a pool table, they're just not sure yet. He said it's a two-bedroom house now, and it appears as though they are adding two bedrooms upstairs in this addition, but again, one of the bedrooms in the original house will be converted into an office space because there will no longer be a window or means of egress.

Mr. Fetzer asked if any Board Members had questions for the applicant. Ms. Grentzer indicated that she did. She asked if this is supposed to be a single-family home and just one one-family. Mr. Johnson said yes, yes it is. Ms. Grentzer asked that since they would possibly have the two kitchens, whether they intend to rent out the proposed addition living space. Mr. Johnson said no. Ms. Grentzer affirmed that this would be just for the Beckman family. She said she's just wondering why they would need two kitchens. Mr. Johnson said for parties or family gatherings. He said the upstairs has a much better view of the water than the downstairs does or will. He said if they have guest or family in and they are watching a game on TV or something, they will have access to the balcony and deck and honestly does not see the downstairs being used all that much for entertainment purposes. Mr. Beckman asked if he could speak to this also.

Mr. Fetzer said he could but he first needed to be sworn in. William Beckman, 198 Leddy Lane, Marblehead, was called upon and sworn in. Mr. Beckman said he'll soon be 72 years old and eventually he doesn't want to have to climb stairs all the time, and as his letter to the Board stated, he plans to move here full-time and the reason for a kitchen is so that he and his family won't have to make so many trips up and down. Mrs. Grentzer said, okay, but just to confirm, this is not to be used as a rental unit. Mr. Beckman said that was correct and he believed his HOA would not allow it anyway.

There were no further questions from the Board. Mr. Fetzer called upon Mr. Bill Beatty if he had anything he would like to say. He was not able to get his audio turned on to where he could speak, but was able to hear the meeting himself. Ms. Dale commented that the Board could rely on his written statement he provided before and he gave a thumbs up that he was in support of that statement.

Mr. Fetzer called upon Ms. Susan Dress if she had anything she would like to say. Ms. Dress indicated that she did not wish to speak. There was no one else with standing who wished to testify.

Ms. Bauer made a motion to close the public comment segment of the hearing, seconded by Ms. Roberts. All were in favor and the motion carried.

Ms. Roberts motioned to recess into executive session to deliberate the merits of the case. Ms. Grentzer seconded the motion and the roll call vote was as follows: Mr. Shetler – yes; Ms. Grentzer – yes; Ms. Bauer – yes; Ms. Roberts – yes; Mr. Fetzer – yes. The motion carried and the Board recessed at 7:11p.m. Ms. Dale reminded the applicant and other non-board members that they would now be placed in the Zoom waiting room and not to disconnect from the meeting.

All participants were removed from the waiting room and brought back into the meeting. Ms. Roberts moved and Ms. Bauer seconded the motion to reconvene. The roll call vote was as follows: Mr. Shetler – yes; Ms. Grentzer – yes; Ms. Bauer – yes; Ms. Roberts – yes; Mr. Fetzer – yes. The Board reconvened at 7:24 p.m.

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The Chair asked Mrs. Dale to read the Findings of Fact for BZA Case #2020-038:

With regard to BZA-2020-038 being a request for an Area Variance from Section 3.5 and 5.1.7 to allow for a 2-story addition to encroach into the required north, side-yard setback (1' proposed/ 5' required) and exceed the 40% lot coverage (44% proposed) for the property located at 198 Leddy Lane:

1. The property in question **will** yield a reasonable return and **can** be used beneficially without the variance because the property can continue to be used as a single-family residence and there is space to accommodate 17' or an oversized 1-car garage or tandem-styled garage.
2. The request **is** substantial because the building will be 1' from the north property line, the deck and balcony will be 2' and the cantilever portion of the second story addition further causes the lot coverage to be exceed per the zoning definitions even though it is elevated.
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 proposed addition will not infringe on light or air of a neighboring residence and many of the homes are close in this neighborhood. The new addition would be approximately 6' from the neighbor's garage.
4. There is **no** indication the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage, etc.) because all utilities are existing.
5. The property owner did not indicate if they were aware the Township had zoning restrictions.
6. The property owner's predicament **can** feasibly be obviated through some method other than a variance by reducing the size of this addition or utilizing the additional lot they own.
7. The spirit and intent behind the zoning requirement **would** be observed and substantial justice done by granting the variance because there is no negative impact to the public health, safety or general welfare of the surrounding properties as it relates to light or air.

Mr. Shelter 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) (3) (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 **does support** the applicants request for a variance.

Therefore, the Variance should be accordingly **APPROVED**.

Motion Seconded by Ms. Roberts. Roll Call Vote was as follows: Mr. Shetler – yes; Ms. Grentzer – yes; Ms. Bauer – yes; Ms. Roberts – yes; Mr. Fetzer – yes. Vote 5-0 the motion passed. The Chair stated that the application has been approved and the applicant can pick up permits following the Board's next meeting which is May 20, 2020.

Ms. Dale explained that the non-board members were now free to leave the meeting or they were welcome to stay on to watch the Board complete the rest of their regular business.

Approval of March 18, 2020 Board of Zoning Appeals Meeting Minutes

Ms. Grentzer made a motion to approve the March 18, 2020 meeting minutes, Ms. Roberts seconded. All were in favor and the motion carried.

Ms. Roberts stated that she would send the minutes around to everyone to sign via DocuSign and that Ms. Dale would end up with the final copy for the official records.

Signing of Decision Sheets

There were none.

Old Business

There was none.

New Business

There was none.

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Other Business

Ms. Dale shared that the next deadline for applications is April 24, 2020 for the May 20th meeting. She shared that she has a running list of potential cases, which at this point is 7. She did not expect all 7 to actually file. The notifications do not need to be sent out until May 4, so at that point we should have a better idea on the Governor’s orders and whether the “Stay-at-Home” orders will be extended again. She thought using the Zoom platform went about as well as expected and that if they have too in May, they will conduct the meeting this way again. She did suggest that if we receive more than 2 applications, we may want to consider setting specific times for each case, just to help with the flow and cut-down on any interruptions. It was also discussed with the Board that if the Governor’s orders are lifted and meeting can go back to being in-person that some members may want to join in remotely due to compromised immune systems. Ms. Dale expressed that if this happens, then we may want to consider doing specific time allotments for cases to keep attendance in the meeting room to a minimal amount. Ms. Dale expressed that there are many unknowns at this time, but come May 1st we should know more and she was sure that the State would keep local government abreast of how meetings will have to be held.

Reports and Communications from Members and Staff

There were none.

Adjournment

Ms. Bauer moved to adjourn the meeting and Ms. Roberts seconded the motion. All in attendance were in favor and the motion carried.

The meeting was adjourned at 7:41p.m.

Kathryn A Dale
RECORDING SECRETARY

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Phyllis Sheehan
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DocuSigned by:
Joseph Fetzner
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DocuSigned by:
Loretta Grentzer
4C9EDC6295604F6...
DocuSigned by:
Lisa Bauer
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Sherry Roberts
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BOARD OF ZONING APPEALS