

Danbury Township Board of Zoning Appeals

Special Meeting – August 18,

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The Danbury Township Board of Zoning Appeals Special Meeting was called to order at 5:09 p.m. by the Chair, Joseph Fetzer. The Pledge of Allegiance was recited.

The roll call showed the following members present: Chair, Joseph Fetzer, Vice-Chair, Loretta Grentzer, Ms. Lisa Bauer, Mr. Clyde Shetler and Alternates, Mr. Gregory Huffman & Patty Zsigo. Ms. Roberts was absent. Ms. Dale state the record will show that Mr. Huffman will be seated in Ms. Roberts place and that Ms. Zsigo was free to leave the meeting. Also present was Kathryn Dale, Zoning & Planning Administrator. Visitors present were Mr. David Parkhurst, Mr. Jim & Mrs. Barbara Rudolph, Mr. Lee Short, and Mr. Nate Schmitt.

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 #2020-130
177 S. Bridge Road
Schmitt**

Request for an Area Variance from Section 3.5 to allow for new 60' x 80' commercial building to encroach in to the east, rear-yard setback (5' proposed/15' required) and south, side-yard setback (4' proposed/ 10' required).

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 Ms. Bauer 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 initially submitted a proposed 40' x 70' commercial building, however they decided they wanted to make the building larger and revised their plans, causing this case to be postponed in July. The applicant is now proposing a 60' x 80' commercial building to be located at the SE corner of the property, 4' (to the overhang) from the south, side property line where 10' is required and 5' from the east, rear property line where 15' is required. Ms. Dale concluded by reviewing the Duncan Standard decision criteria the Board would be considering during their deliberations.

Nate Schmitt, Owner/Applicant, 177 S. Bridge Road, Marblehead, was called upon and sworn in. Mr. Schmitt reviewed the paperwork via the "shared screen" option from Ms. Dale's computer and stated it was as he submitted. Mr. Schmitt said the reason he is requesting the setback variances is because the building that is existing and in order to get a decent sized boat in around that building, I need to slide the overhead garage door all the way over to this south corner. Otherwise I can't make the turn to clear the other building that is already there on the property. Mr. Schmitt said to summarize, the reason he's asking for the south setback is to have easier access. As far as the setback to the east, he said the same reason applies. He said he could have more room to make the turn in, it just makes it a whole lot easier. If the building were closer to the existing building, he wouldn't be able to make the turn off the rear corner of the existing building as easily.

Mr. Fetzer asked if there were any questions from the Board. Ms. Grentzer said her first question is if he will be pulling forward or backing into the buildings. Mr. Schmitt said the Boats will be backed in. Ms. Grentzer said her second question was why he wouldn't have the door closer to the south side of the building. Mr. Schmitt said that it will be but there was a miscommunication with the contractor. He explained that in his refused permit shown as Exhibit 2, the door is shown in the correct location, but on a smaller building. He said when they revised the application to make it a bigger building, the contractor doesn't have the door shown in the correct location, but it will be to the south end of the building when built. Ms. Grentzer said that he has a fairly wide driveway and if the door is on the south side, she doesn't understand why he can't meet the south, side-yard setback. Mr. Schmitt asked Ms. Dale to go back to the aerial photo of the property. He explained that there is a 20' wide drive, but there is also a drainage ditch also along the south property line with a pipe that is only a couple of feet buried. He said he will have to bring these boats in closer to his building so he doesn't crush the pipe and cause drainage issues.

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Ms. Dale asked him to clarify the 20' if that was how far he had from the side of the existing building to the south property line or if that's how wide the drive is. Mr. Schmitt said he has 20' from the south side of his existing building to the south property line. He said the drainage ditch is 3' off the property line with a catch basin. He pointed it out on the aerial where the pipe was visible. Ms. Grentzer said the truck, boat and trailer then all need to stay north of that pipe. Mr. Schmitt said that is correct. Ms. Grentzer said then he is trying to demonstrate that he has a practical difficulty or hardship. Mr. Schmitt said that is correct.

Mr. Shetler clarified that the door should be on the south side of the new building. Mr. Schmitt said yes. Mr. Shetler asked how wide the door would be. Mr. Schmitt said he believes it will be 18' high and 16' wide. Mr. Shetler asked if he would be pulling in off the main road into his front lot and then backing into the rear lot and building. Mr. Schmitt said that is the plan. Mr. Shetler said that by having the door on the south end of the building it then will put him in line with a straight back-up and in-line with the drive leading to the rear as opposed to curving into the building. Mr. Schmitt said that was correct.

Ms. Grentzer asked that with the door being on the south end, he still can't meet the required setback? Mr. Schmitt said with a big boat it would make it tight for him to make a turn around the corner of the existing building once you take the swing of the truck into consideration. Ms. Grentzer asked what the size of the boats are that he works on. Mr. Schmitt said his goal is to not taking anything larger than 34'. Ms. Grentzer asked what the width is of those sized boats. Mr. Schmitt said they can be up to 12'-13' wide and that includes the trailers, the tires.

There were no further questions from the Board.

Mr. Fetzer asked if there was anyone with standing who wished to testify. Ms. Dale indicated that there was no one else on the Zoom meeting for this case and there were no letters submitted.

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

Ms. Bauer motioned to recess into executive session to deliberate the merits of the case. Mr. Shetler seconded the motion and the roll call vote was as follows: Mr. Shetler – yes; Ms. Grentzer – yes; Ms. Bauer – yes; Mr. Huffman – yes; Mr. Fetzer – yes. The motion carried and the Board recessed at 5:29p.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. Mr. Huffman moved and Ms. Grentzer seconded the motion to reconvene. The roll call vote was as follows: Mr. Shetler – yes; Ms. Grentzer – yes; Ms. Bauer – yes; Mr. Huffman – yes; Mr. Fetzer – yes. The Board reconvened at 5:46p.m.

The Chair asked Mrs. Dale to read the Findings of Fact for BZA Case #2020-130:

With regard to BZA-2020-130 being a request for an Area Variance from Section 3.5 to allow for a new commercial building to encroach in to the east, rear-yard setback (5' proposed/15' required) and south, side-yard setback (5' proposed/ 10' required) for the property located at 177 S. Bridge Road:

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 for any use listed under the "C-2" General Commercial zoning districts permitted uses and there is ample space for additional building(s).
2. The request **is** substantial because there is no true hardship of meeting the requirement, but there is practical difficulty of maneuvering around the existing building into this proposed building based on how the applicant intends to use the new building.
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 due to the large grassy areas that would be behind this structure and there are multiple other large pole-barn styled structures in the area used both commercially and residentially.
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 available to the property.
5. The property owner states they **were** aware of the zoning restrictions at the time they purchased the property.
6. The property owner's predicament **cannot** feasibly be obviated through some method other than a variance because the building is proposed in this location in order to allow easier maneuverability of boats in an out of the building for canvas service.

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7. The spirit and intent behind the zoning requirement **would be** observed and substantial justice done by granting the variance because there is no apparent health safety concerns by allowing the building to be located closer to the property lines and there is a practical difficulty of maneuvering boats into the new building.

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

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

Motion Seconded by Mr. Huffman. Roll Call Vote was as follows: Mr. Shetler – yes; Ms. Grentzer – yes; Ms. Bauer – yes; Mr. Huffman – 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 September 16, 2020.

Ms. Dale explained that the applicant from this case was now free to leave the meeting or they were welcome to stay on to watch the Board complete the rest of their regular business.

The Chair asked Mrs. Dale to introduce the second case of the evening.

**Adjudication Hearing
Case BZA #2020-166
7957 Riedmaier Drive
Rudolph**

Request for an Area Variance from Section 5.1.7 to allow for an addition onto the existing home to encroach into the west, side-yard setback (1.25' proposed/ 5' required).

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 remove an existing attached garage and replace it with a 12.67' x 32.67' master bedroom, bath, laundry and another full bath addition. The existing garage is on the west property line with a 0' setback. The proposed addition will be 3' (1.25' from the overhang) to the west, side property line where 5' is required. The property is part of Holiday Harbor, Plat 1 which was platted in 1962 and pre-dates zoning. While the property to the west is access for the subdivision to East Harbor, it is not dedicated street right-of-way, thus this lot is not considered to be a corner lot. Ms. Dale concluded by reviewing the Duncan Standard decision criteria the Board would be considering during their deliberations.

Lee Short, Architect, Agent on Behalf of the Owner, 5605 E. Lakeview, Port Clinton, was called upon and sworn in. Mr. Short reviewed the paperwork via the "shared screen" option from Ms. Dale's computer and stated it was as they submitted. Mr. Short stated what they are requesting this evening is a variance from the west property line from 5' to 1.25'. The foundation of the addition will be 3' from the property line, but they are proposing 21" overhangs to match what is already on the existing house. Mr. Short said they are proposing to remove the existing garage since it is in a fairly poor state. It has pulled away from the house. The garage right now is located on the west property line, or within 1" of the property line. The addition will consist of a master bedroom, laundry, two bathrooms and some closet area. Mr. Short said when he was designing this he tried to squeeze as tight as he could and that's how he came to the 12'8" width. This gives enough room to get the bathrooms in, but they will be fairly tight, a washer & dryer in and a 3' hall to meet building code. He said this is about as tight as he could go and still make the spaces function. The 3' setback, in regards to Ottawa County allows them to build the addition without a firewall and allows them to add some windows. If they had been less than 3' from the property line, then they would have ran into some building code issues. The west property line does taper; they are at about 3' from the south corner and end up further away at the north corner at 3'6". Mr. Short indicated that the Rudolph's do have letters from the Association as well as the 2 adjacent neighbors. He said they are not notarized, so he suggested to the Rudolph's to not turn those in. Mr. Short said it is to his understanding that the association and neighbors are in support of the request.

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Mr. Fetzer asked if there were any questions from the Board.

Ms. Dale asked if Mr. Rudolph would like to add anything more. He indicated he did. Mr. Fetzer advised him he would need to be sworn in.

James Rudolph, Owner/ Applicant, 7957 Riedmaier Drive, Marblehead was sworn in. Mr. Rudolph said the one thing he wanted to add was that this property and the garage has their only bathroom. He said there are 3 steps from the house to get into that bathroom, which had precluded his elderly mother from being able to visit. Mr. Rudolph said the new addition is going to make everything level which will allow them to have someone who is handicap or older visit comfortably. Mr. Rudolph expounded on Mr. Short's comment about the garage pulling away from the house stating that the slab is deteriorating pretty rapidly. He said the cost to repair the foundation to correct that was prohibitive compared to the cost of tearing it out and building this new addition and making the property much more useful.

Ms. Grentzer asked how long they have owned the property. Mr. Rudolph said his grandfather bought the property in 1942. He said his father built the garage in 1964. Prior to that he said they used an outhouse.

There were no further questions from the Board.

Mr. Fetzer asked if there was anyone with standing who wished to testify.

David Parkhurst, 286 Riedmaier, Marblehead was called upon and sworn in. Mr. Parkhurst stated he is the President of the Holiday Harbor neighborhood association. The Rudolph's have submitted all these plans to the association which were reviewed by the President, Vice President and Treasurer and all have approved this addition. He said they also have on file the letters from the adjoining neighbors that also support the addition.

There were no further questions from the Board. Mr. Fetzer if the applicants had anything more to add. They indicated they did not. Ms. Dale stated that there was no one else on the Zoom meeting for this case and there were no letters submitted to the Zoning Department.

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

Mr. Shetler motioned to recess into executive session to deliberate the merits of the case. Mr. Huffman seconded the motion and the roll call vote was as follows: Mr. Shetler – yes; Ms. Grentzer – yes; Ms. Bauer – yes; Mr. Huffman – yes; Mr. Fetzer – yes. The motion carried and the Board recessed at 6:09p.m. Ms. Dale reminded the applicant and attendees 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. Mr. Huffman 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; Mr. Huffman – yes; Mr. Fetzer – yes. The Board reconvened at 6:18 p.m.

The Chair asked Mrs. Dale to read the Findings of Fact for BZA Case #2020-166:

With regard to BZA-2020-166 being a request for an Area Variance from Section 5.1.7 to allow for an addition onto the existing home to encroach into the west, side-yard setback (1.25' proposed/ 5' required) for the property located at 7957 Riedmaier:

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 for a single-family residence.
2. The request **is not** substantial because the proposed addition will be further away from the west property line than the current structure. Additionally, due to the angle of this property line, the rear of the addition will be further away than the front of the addition.
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 be any closer to the property line than the current structure.
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 available to the property.
5. The property owner states they **were** aware of the zoning restrictions at the time they purchased the property.
6. The property owner's predicament **cannot** feasibly be obviated through some method other than a variance because there is little to no room to expand in any other direction.
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 on adjoining properties.

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Mr. Shetler 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) 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 Mr. Huffman. Roll Call Vote was as follows: Mr. Shetler – yes; Ms. Grentzer – yes; Ms. Bauer – yes; Mr. Huffman – 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 September 16, 2020.

Ms. Dale explained that the applicant from this case was now free to leave the meeting or they were welcome to stay on to watch the Board complete the rest of their regular business.

Mr. Tim Sypherd, Mr. Ralph & Mrs. Rina Oxley, Mr. Jim Switzer and Mr. Gary & Mrs. Carol Pierce joined the meeting.

Adjudication Hearing Case BZA #2020-169 185 Lynn Peirce

Request for an Area Variance from Section 3.5 to allow for a porch addition to be 0.7" from the west, front property line (5' required), 2'6" from the north, side property line (3' required), a hallway addition to be 2'7" from the north, side property line (3' required), and to increase the lot coverage from 46.9% to 69.5% (55% required/ 6.53% new) Also request a variance from Section 7.12.3.C to allow more than a 20% addition onto a nonconforming structure [371.2s.f. allowed/ 1,222s.f. proposed (65.8%); 160s.f. new (8.6% increase)].

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. Shetler moved and Ms. Grentzer 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 remove and rebuild the enclosed front porch in the same location, but also add an additional 6' onto it to match the width of the house for a total of an additional 60s.f. The applicant is also proposing to add a 60s.f. bathroom addition and 40s.f. hall/breezeway addition on the north side of the house. The proposed porch addition will be 2'6" from the north, side property line (3' required) and 7" from the west, front property line (5' required). The hall/breezeway addition will be 2'7" from the north, side property line where 3' is required. The property received a permit in 1993 (Permit #1993-054) for a garage and breezeway addition as well as adding dormers to the attic to allow additional living space. This 1993 addition exceeded the 55% lot coverage (from 46.9% to 62.97%., but the permit was not refused, no variance was applied for or granted. The new proposed additions cause this requirement to be further exceeded, increasing the lot coverage from 62.97% to 69.5% which exceeds the maximum of 55%.

The existing house is nonconforming due to front and side setbacks not being met and lot coverage is exceeded. The original house contained 1,865 s.f. 20% of this would have allowed a 371.2s.f. addition. In 1993, 1,062s.f. (57.2%) was added without a variance. The new additional square footage will contain 160s.f. (8.6%) more for a total of 65.8%.

It is unclear from the applicant's narrative statement if this is still a single-family residence or has been converted into a multi-family dwelling. According to the tax records they are paying single-family residence taxes, but mention that they rent the top two floors of the structure. Short-term rental of bedrooms in Lakeside is permitted, but two or more family units would have required a conditional use review and approval. Ms. Dale concluded by reviewing the Duncan Standard decision criteria the Board would be considering during their deliberations.

Gary & Carol Peirce, Owners/Applicants, 185 Lynn, Lakeside were both called upon and sworn in. Mr. Peirce reviewed the paperwork via the "shared screen" option from Ms. Dale's computer and stated it was as he submitted. Mrs. Peirce said the main reason for them wanting to expand the bathrooms is that as they get older, they would like to focus more of living on the 1st floor. She said the only way to expand those bathrooms is to bump them out to allow them to have wider doors. Mrs. Peirce said they would like to continue to rent out the top floor bedrooms and mainly use the first floor, which

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helps them income-wise as well. She said they would like to make the porch larger to make it a more comfortable living space and more year-round. Mr. Peirce said that the front porch looks rather odd because it doesn't go all the way across with the width of the home. They thought expanding the porch would enhance the look and the look of the neighborhood so it's conforming to everything else in the neighborhood. Mr. Peirce said with the bathrooms right now, they have very narrow bathrooms with like a 30" shower because that's all that can fit in there. He said it makes bending over very difficult. Mr. Peirce said they'd like to put a barrier-free shower in and make an ADA-type quality bathroom.

Mr. Fetzer asked if there were any questions from the Board. Ms. Grentzer asked if they owned the house in 1993. Mrs. Peirce said they did not, they purchased the property in 2003.

Mr. Fetzer asked if there was anyone with standing who wished to testify.

Tim Sypherd, 182 Sycamore, primary holder for Sypherd Cycles, Lakeside was called upon and sworn-in. Mr. Sypherd said that he was the Chair of the Zoning Commission when the Lakeside zoning district was put in place. He said the Commission reviewed a lot of different scenarios. He said the Peirce's are the 3rd owners of the property. He said the Peirce's have not done anything to the property since they owned it and he agrees wholeheartedly on what they are trying to do. He said this request does not go outside the scope of most other projects happening in Lakeside. He said they are taking some concrete out to add some greenspace and basically squaring off the existing house. He said they aren't encroaching into air space beyond what is already in place. Being the neighbor behind them, he has no opposition to what they are doing and being a former zoning member he doesn't have an issue because they aren't exceeding what's been done in the past in other areas of Lakeside.

Mr. Fetzer asked if the Peirce's had any response to Mr. Sypherd's comments. They indicated they did not.

Mr. Jim Switzer, 526 Elm, Lakeside, Sr. VP of Lakeside Services indicated he would like to speak and was sworn-in. Mr. Switzer stated the Historic Preservation Design Review Board in Lakeside has approved the Certificate of Appropriateness on the 14th of July. The Municipal Services Committee has given its nod in favor of the project. Mr. Switzer said he just wanted to point out with this being a corner lot and 5' setbacks along both street frontages is a challenge when there is a good-sized house on a small-sized lot. He stated that one of the reasons 55% is a good number for Lakeside on lot coverage is that the lots are smaller than normal. He said this property is up against a 40' wide street instead of a 50' wide street, so it looks compressed, but after careful consideration by Lakeside's Boards they are very much in favor of what they are doing. Mr. Switzer said it is their belief that it not only enhances the property, but the use. He said he thinks it's important to point out that this is now their current, primary residence.

Ms. Dale indicated that there was no one else on the Zoom meeting for this case and there were no letters submitted.

Mr. Huffman made a motion to close the public comment segment of the hearing, seconded by Mr. Shetler. All were in favor and the motion carried.

Mr. Huffman motioned to recess into executive session to deliberate the merits of the case. Ms. Bauer seconded the motion and the roll call vote was as follows: Mr. Shetler – yes; Ms. Grentzer – yes; Ms. Bauer – yes; Mr. Huffman – yes; Mr. Fetzer – yes. The motion carried and the Board recessed at 6:50p.m. Ms. Dale reminded the applicant and attendees 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. Mr. Huffman 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; Mr. Huffman – yes; Mr. Fetzer – yes. The Board reconvened at 6:59p.m.

The Chair asked Mrs. Dale to read the Findings of Fact for BZA Case #2020-169:

With regard to BZA-2020-169 being a request for an Area Variance from Section 3.5 to allow for a porch addition to be 0.7' from the west, front property line (5' required), 2'6" from the north, side property line (3' required), a hallway addition to be 2'7" from the north, side property line (3' required), and to increase the lot coverage from 46.9% to 69.5% (55% required/ 6.53% new) Also request a variance from Section 7.12.3.C to allow more than a 20% addition onto a nonconforming structure [371.2s.f. allowed/ 1,222s.f. proposed (65.8%); 160s.f. new (8.6% increase)] for the property located at 185 Lynn:

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 for a single-family residence.
2. The request **is not** substantial in regards to the setbacks because the additions are no closer to the property lines than that of the house that currently exists. The increase to the 20% addition

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limitation and lot coverage is also not substantial because 160 square feet of additional space is minimal.

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 additions will be no closer to the street or property lines than the existing house, additionally the 60s.f. bathroom addition and 40s.f. hall/breezeway addition on the north side of the house will not be visible to anyone other than the house on the north side as most of it is tucked behind the existing house.
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 available to the property.
5. The property owner states they **were not** aware of the zoning restrictions at the time they purchased the property.
6. The property owner's predicament **can** feasibly be obviated through some method other than a variance by working with what is already in place and figuring out an interior remodel that meets their goals. However, on the other hand, the variance cannot feasibly be obviated through some method in part due to the errors made in 1993.
7. The spirit and intent behind the zoning requirement **would be** observed and substantial justice done by granting the variance because the proposed additions will be no more impactful than the current structure.

Mr. Shetler 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) (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 Mr. Huffman. Roll Call Vote was as follows: Mr. Shetler – yes; Ms. Grentzer – yes; Ms. Bauer – yes; Mr. Huffman – 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 September 16, 2020.

Ms. Dale explained that the applicant from this case was now free to leave the meeting or they were welcome to stay on to watch the Board complete the rest of their regular business.

Adjudication Hearing
Case BZA #2020-171
163 Vine
Oxley

Request for an Area Variance from Section 5.2.1.C.ii to allow for a shed to encroach into the south, side-yard setback and east, rear-yard setback (0' proposed/ 5' required).

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. Huffman moved and Ms. Grentzer 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 install either an 8' x 12' rectangular shed or irregular shaped 10' x 10' corner shed in the SE corner of the property. The proposed shed will be 6" or essentially 0' from the south, side property line and east, rear property line where 3' is required. There existing house is approximately 16.3' from the rear property line. If a 3' rear setback were met and the 5' building separation, there would be enough room in the rear yard to accommodate an 8' shed. However, this is area is a very nice patio space and is fenced in from all sides. Ms. Dale concluded by reviewing the Duncan Standard decision criteria the Board would be considering during their deliberations.

Ralph & Rina Oxley, Owners/Applicants, 163 Vine, Lakeside were both called upon and sworn in. Mr. Oxley reviewed the paperwork via the "shared screen" option from Ms. Dale's computer and stated it was as he submitted. Mr. Oxley said they have no garage, no basement and they would very much like to have a shed. Mr. Oxley said with the setback on a very small back yard would take away

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60s.f. of unusable property for them. They would very much like to have a 0' setback. Mrs. Oxley said she had nothing more to ask.

Mr. Fetzer asked if there were any questions from the Board. Ms. Grentzer said she was curious as to why they wanted the shed. Mrs. Oxley said they do intend to move here permanently and they have a garage at their home now and they just don't know where they would put all their yard tools. She said they put the patio furniture from this house inside the house for the winter, but if they move here, they won't be able to do that and would like to have the shed for that purpose also.

There were no further questions from the Board.

Mr. Fetzer asked if there was anyone with standing who wished to testify.

Mr. Jim Switzer, 526 Elm, Marblehead, Sr. VP of Lakeside Services indicated he would like to speak and was sworn-in. Mr. Switzer stated that it's been a good trend of people wanting to move into their Lakeside homes permanently, but when you get to the north side of the community, garages are rare or non-existent. Sheds are a necessity when there is little room for any storage. Mr. Switzer said the Oxley's have a beautiful backyard and the placement of this structure is probably the most logical and ideal. Mr. Switzer said it was a bit of a challenge from their perspective because we weren't clear about what they were planning to do, but the HP-DRB did issue a Certificate of Appropriateness (COA) on July 14th. When this application went before the Municipal Services Committee regarding the encroachment, we don't have the authority to approve that of course, but we tend to look at it and review it and weigh-in as to whether we are in favor of it or not. In this case the Municipal Services Committee left the decision to the HP-DRB whose language specifically said "the shed should comply with Danbury Zoning". Mr. Switzer explained that if the BZA approves this application, it would meet the conditions of the COA because we respect the process and wish the Oxley's all the best.

Ms. Dale indicated that there was no one else on the Zoom meeting for this case and there were no letters submitted.

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

Mr. Huffman motioned to recess into executive session to deliberate the merits of the case. Mr. Shetler seconded the motion and the roll call vote was as follows: Mr. Shetler – yes; Ms. Grentzer – yes; Ms. Bauer – yes; Mr. Huffman – yes; Mr. Fetzer – yes. The motion carried and the Board recessed at 7:19p.m. Ms. Dale reminded the applicant and attendees 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. Mr. Huffman moved and Mr. Shetler seconded the motion to reconvene. The roll call vote was as follows: Mr. Shetler – yes; Ms. Grentzer – yes; Ms. Bauer – yes; Mr. Huffman – yes; Mr. Fetzer – yes. The Board reconvened at 7:32 p.m.

The Chair asked Mrs. Dale to read the Findings of Fact for BZA Case #2020-171:

With regard to BZA-2020-171 being a request for an Area Variance from Section 5.2.2. to allow for a new shed to encroach into the south, side-yard setback and east, rear-yard setback (0' proposed/ 3' required) for the property located at 163 Vine:

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 for a single-family residence and there is room for an accessory structure on the property.
2. The request **is** substantial because a 100% reduction in the requirement is being requested.
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 there is a fence defining the properties and other similar sheds nearby.
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 available to the property.
5. The property owner states they **were** aware of the zoning restrictions at the time they purchased the property.
6. The property owner's predicament **can** feasibly be obviated through some method other than a variance by locating the shed within the parameters required, but aligning it at the end of the patio makes it easier to access than if it were in the middle of the small backyard and allows the owners to continue to enjoy their patio and ease of access in and out of the house.
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 on adjoining properties.

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Mr. Shetler 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. Grentzer. Roll Call Vote was as follows: Mr. Shetler – yes; Ms. Grentzer – yes; Ms. Bauer – yes; Mr. Huffman – 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 September 16, 2020.

Ms. Dale explained that the applicant from this case was 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 July 14, 2020 and July 15, 2020 Board of Zoning Appeals Meeting Minutes

Mr. Shetler made a motion to approve both meeting minutes as presented, Ms. Bauer seconded. All were in favor and the motion carried.

Signing of Decision Sheets

The Chair asked if the Board had the opportunity to review the Decision Sheets presented for the following case. Mr. Shetler motioned for approval of the decision sheet as presented. Ms. Grentzer seconded. All were in favor and the motion carried.

- a. **BZA-2020-111 186 Sunnydale.** Request for an Area Variance to Section 3.5 to allow for a new deck to encroach into the east, front-yard setback (28' proposed/ 35' required). **Jeanne Pruitt, Owner/ Applicant.**
- b. **BZA-2020-117 7618 E. Bayshore Road #26 (Maplewood Cove).** Request for an Area Variance from Section 7.12 and Section 4.16 to allow for the removal and replacement of a nonconforming resort unit (RV Camper) to encroach into the required 55' rear-yard setback (20' proposed). **Beverly Kuenzli, Owner/Applicant.**
- c. **BZA-2020-126 341 Willowdale.** Request for an Area Variance from Section 5.2.1.C.ii to allow for a garage addition to encroach into the west, rear-yard setback (2' proposed/ 5' required). **River Roubaix, Owner/Applicant.**
- d. **BZA-2020-127 327 Shrock.** Request for an Area Variance from Section 5.2.1.C.ii to allow for a shed to encroach into the south, side-yard setback and east, rear-yard setback (0' proposed/ 5' required). **Dennis & Diane Pamer, Owners/Applicants.**
- e. **BZA-2020-128 255 Hamilton.** Request for an Area Variance from Section 5.1.7 to allow for a deck to encroach into the north, front-yard setback (7.05' proposed/ 20' required). **Cerny Family Association, Owner/Applicants; Kevin Clere, Agent.**
- f. **BZA-2020-129 443 Walnut.** Request for an Area Variance to Section 7.12.3.A to allow more square footage onto a nonconforming structure than permitted [325s.f. (29%) proposed/ 223.8 (20%) allowed) and to Section 5.5.8 to allow a 6' high fence in the side-yard (4' high permitted). **Eugene & Nancy Jacob, Owner/ Applicant.**
- g. **BZA-2020-137 9440 Northern Avenue.** Request for an Area Variance to Section 7.12.3.A to allow more square footage onto a nonconforming structure than permitted [2,008s.f. (115%) proposed/ 348s.f. (20%) allowed). **Clay & Becki Tice, Owners/Applicants; Pete Johnson, Agent.**
- h. **BZA-2020-138 432 E. 2nd Street.** Request to for an Area Variance to Section 3.5 to allow for a front porch addition to encroach into the west, side-yard setback (0' proposed/ 3' required), east, side-yard setback (1'6" proposed/ 3' required), and to exceed the allowable lot coverage (58% proposed/ 55% required). Also requesting an Area Variance from Section 7.12.3.A to exceed the allowable addition square footage onto a nonconforming structure (705.04 s.f.; 38% proposed/ 394.2 s.f.; 20% required). **David & Meredith Workman, Owners/Applicant; John Feick, Agent.**

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Old Business

There was none.

New Business

There was none.

Other Business

The Board asked if there has been any word from the Trustees if we would be going back to normal any time soon and being able to meet in person. Ms. Dale said she has been told that the Township Hall will be closed to the public until further notice. She said they could hold their meetings in person, but when we've been having as many cases as we have and the amount of people participating, it makes the social distancing aspect difficult.

Ms. Dale shared that they may have 3 cases for September, but there is still 1½ week until the deadline and a lot can happen by then. She said if they have over 4 cases, then there would be 2 meetings again.

Reports and Communications from Members and Staff

There were none.

Adjournment

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

The meeting was adjourned at 7:46p.m.

Kathryn A Dale
RECORDING SECRETARY

DocuSigned by:
Phyllis Skolka
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DocuSigned by:
Gregory Huffman
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DocuSigned by:
Joseph Fetzger
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DocuSigned by:
Lisa Bauer
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DocuSigned by:
Loretta Grentzer
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BOARD OF ZONING APPEALS