

Danbury Township Board of Zoning Appeals

April 21,

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The Danbury Township Board of Zoning Appeals was called to order at 5:04p.m. by the Chair, Joseph Fetzer. The Pledge of Allegiance was recited.

The roll call showed the following members present: Chair, Mr. Joseph Fetzer, Mr. Clyde Shetler, Ms. Lisa Bauer, Ms. Loretta Grentzer and Ms. Sherry Roberts. Also present were Alternates, Mr. Gregory Huffman and Ms. Patty Zsigo, but were dismissed since quorum was had with the regular members present. Ms. Kathryn Dale, Zoning & Planning Administrator was excused for her father's funeral. Visitors present were Connie Nicholson.

Mr. Fetzer read the rules of order for the meeting proceedings. The meeting is being held via Zoom due to the Covid-19 pandemic. Mr. Fetzer 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. He asked that if they were not speaking to place themselves on mute so that any background noise was blocked. Mr. Fetzer 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. He explained that they should not leave the meeting because the Board will come back and make their decision openly. The Chair states all the documents relating to the case had been received and were in proper order. The Chair was sworn-in to give the reports and acting on behalf of Ms. Dale.

The Chair introduced the first case of the evening.

Adjudication Hearing
Case BZA #2021-039
351 Cedar
Nicholson

Request for an Area Variance to Section 3.5 to allow a porch addition to encroach into the west, front-yard setback (0' proposed/ 5' required), the south, front-yard setback (0.5' proposed/5' required) and to Section 7.12.3.A to allow more square footage than permitted to be added onto a nonconforming structure [58.6% (990s.f.) proposed/ 20% (337.8s.f.) allowed].

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 gave an overview of this application. Mr. Fetzer stated the applicant is proposing to add 2; 2'10" x 9'9" covered, enclosed front-porch additions on either side of the existing porch so that it is the same width as the existing house. The property is a corner lot with two (2) front-yard setback requirements. The north porch addition will encroach into the west, front-yard setback (Cedar Avenue) and is proposed to have a 0' setback where 5' is required. The south porch addition will encroach into the west, front-yard setback (Cedar Avenue) as well as the south, front-yard setback (Fourth Street) and is proposed to have a 0' setback from the west and 0.5' setback from the south where 5' is required for both front-yards. The applicant is also proposing an 18' x 26' 2-story addition onto the rear of the home along with an 8' x 12' 2nd story deck that meets the setback requirements. The existing house contains 1,689s.f. twenty (20%) percent of this would allow for a 337.8s.f addition. The total amount of new sq. ft to be added is 990s.f or 58.6%.

A variance from the Township cannot be obtained for the 1'3" overhang encroachment over the west, front property line (Cedar Avenue) and into the road right-of-way. Permission for that has been granted by the Lakeside Municipal Services Committee who has jurisdiction over the private streets in Lakeside. Accessibility into the 2nd parking space should also be identified and what material it will consist of. Mr. Fetzer concluded by reviewing the decision criteria the Board would be considering during their deliberations.

Mr. Fetzer called upon the applicant.

Connie Nicholson, Owner/ Applicant, 351 Cedar, Marblehead was called upon and sworn in. Ms. Nicholson reviewed the paperwork via the "shared screen" option from Mr. Shelter's computer and stated it was as she had submitted. Let's see. The scope of the work is listed here, states that we are going to add the two-story addition, I would like to also add; in the bottom has "add insulation heating and air conditioning". We are also planning on adding a foundation. Presently our cottage was built in 1920 and we do have some issues. That is partly what we're doing, is trying to make the cottage live another 100 years. Our foundation, which we do not have, our floors we have a big hump in the middle of our living room. We have to cut-off our front door every so often so we can open the close the door, so we know we have issues there. It made sense to do the other things that we really would like to have done for our blended family. My father died in November. We have been living here in the summer's since I was 22 and my sister was 19. It is like our big family cottage and it is like a member of our family. So we're really, everything on here that we're asking for is what we really feel will help. With my dad and my parents now gone, we no longer have their house in Bowling Green. So this is now going to be our home for all of our big celebrations, Christmas, whatever. And there also is a pretty

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strong possibility that my husband and I actually may just to move to Lakeside, which is another reason why we decided to do a downstairs bedroom. The front porch is in very bad shape. The floorboards are rotted, the ceiling is rotted. It pretty much needs to be torn down anyway. So for that reason, we live on the front porch in the summer, if somebody's in the house, they are on the front porch. It just sort of makes sense to extend it to the width of the house. Just then, rather than pulling out TV trays, we could have a drop leaf table. I mean just for our families to use. Fourth Street is fairly busy. It goes right to Hoover, the Theater and it goes right down to the shuffleboard court. So we have a lot of activities near us that people are always stopping by and so anyway the porch is kind of where we like to hang out. I would say for our family the number one thing our family asked when I asked everybody, they said they wanted air conditioning because we'd have no insulation, and the upstairs gets very hot. Our room is upstairs on the very back and the upstairs does get very hot. The other thing is they want to make it year-round, so we need to add heating and insulation. The third thing that everybody wanted was beds for everyone. Right now, we have people sleeping in our family room upstairs on the floor or on the couch. The fourth thing that everybody wanted was an extra shower. My son, our son comes because he's a professor at UNLV and he's a writer. He spends his summers in Lakeside and his request was to have an open balcony on the back because he wanted to have his coffee and spend that time writing on that balcony. I said "Okay", you know, porches and balconies are all about Lakeside. Those are the main things that everybody wanted.

I personally wanted to have a bigger kitchen, our kitchen presently is very small, we have a tiny refrigerator, a very tiny apartment and it's hard to cook with two families. Our dining room is also pretty small. We can all get in, but if anybody wants to leave, everyone must get out to let that person out. We do on our back porch have a washer and dryer, but if we move here permanently, I wanted to place for that. My other request was to have a little more storage, which is why we added the walk-in closet so that we had a place to put all of our clothes. So that's kind of how that all played out with how we decided what to do. Now, I will say that our living room downstairs looks pretty large. However, we have all of our furniture by the fireplace, because if you look at the front door, the front door is in-line with the back of the house and there are people constantly walking through there. And then we have people walking from the front door to our staircase. So it's like a big walkway. I mean, we really don't have furniture in there because people are walking through it all the time. It's not really set up for comfort or for talking. I will also say that our cottage I believe is the only cottage that I believe is sunken. We are below ground. So if you look at the outside of our south side especially, south exposure of our house, you can see that our south windows, are at ground level. So when you walk in that side door on the original house, there's a landing, and then you turn and there's step down into the living room. Our house is like three feet below ground. That also kind of plays into that. We have a retaining wall all the way along the south side of our house and where the addition is, the new addition, we have a back door which actually was set back so it would be conforming, and it didn't make it the same width. We will be stepping out and there will be the retaining wall in front of us and our house will poke around. I know Kathy mentioned something about having an upstairs family room as bedrooms. For one thing, the roofline will be very low. The upstairs family room is our place where we play games, we do reading, if we would have a TV, that's where we put our TV. It's kind of our gathering place where we normally do things when we are not on the front porch. I'm envisioning, obviously, in the wintertime, we won't be able to be on the front porch. So, the family room upstairs is really our gathering place to do all of our, our games and reading and things that we tend to do as a family gathering.

My sister comes on weekends, and her husband and then she has several kids, so we have a full house, when we're all together. Honestly, our cottage does feel like a member of the family. Our children know no difference. They've been here every summer all their lives. I just personally, when redoing the house, it has old 1920 windows, I am restoring all of those. I don't want to ruin the integrity of this cottage, I want it to feel very much like a 1920's cottage, but workable for our blended family and that we can continue for another 100 years.

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

Ms. Grentzer said that in looking at the plans from the top. I see that there is an area where you have an arrow that says the 8' by 12' deck. And then I saw a picture of that deck with the poles coming down, and I wondered, would that infringe on your second parking space that you have there? So you have both parking spaces? Right? Ms. Nicholson said right. No, it will not infringe on the parking space. Ms. Grentzer clarified that it would be a full complete parking space. Ms. Nicholson said that was correct. Ms. Grentzer asked if it will be paved. Ms. Nicholson said no, they plan on keeping grass with the plastic things that fit underneath the grass. We wanted to keep some grass - I don't know what they're called underneath the grass to keep it. Yeah, we wanted to still have the grass.

There were no further questions from the Board.

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

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Jim Switzer, VP of Lakeside Municipal Services, 236 Walnut, Lakeside was called upon and sworn in. Mr. Switzer said what Ms. Nicholson was talking about a grass permeable paver. This is a very interesting project. As you all know, the Historic Preservation Design Review Board scrutinizes these projects with great intensity. They fell in love with the fact that this is remaining an open porch and welcomed the opportunity, hopefully, that it is approved to have an even larger open porch. They prefer to see Lakeside become a more open-porch community. The other piece of this is that the preservation side of HP-DRB is pleased about the effort she's going to put in the windows. It is a challenge with the grade, and it'll likely be altered somewhat to help preserve the windows going forward. We always welcome anyone that can take an aged home another 100 years because of obviously Lakeside, the oldest is 1850. So, it's an ongoing battle for us to preserve and protect the character and style and this project has done a great job of it.

We need to address that MSC has approved or is in support of, the excess of 20% on the addition and Lakeside, I'm representing the board in this, has decided that they fully support that and as I've said, you know, several times in the past, Lakeside lots are smaller, but adding 900 square feet on two stories is 18' x 26'. When you put that in perspective, it is not necessarily as large as you might find in a typical Danbury lot anywhere else in the area, as an example. The other piece that we really welcome is understanding that this has been in a family for a long time. The family has grown and the needs for the cottage have grown. Personally, I can tell you, I did this same thing. I'm completing a 1,300 square foot addition on my house in Lakeside right now. The difference is my house conformed. I was allowed to grow at any size the HP-DRB would allow. At 900-some square feet, this is 400-some square feet less than what I put on a house that conform simply because I could meet three-foot setback in the rear and sides and five-foot front, and I didn't have a corner situation. Having said all that, my final comment is with HP-DRB and the Board of Trustees support this project and look forward to its addition and then completion in improving the longevity of this property for Lakeside.

Mr. Fetzer asked Ms. Nicholson if there was anything more she would like to add. She indicated she did not.

Mr. Fetzer asked if any of the Board Members had any further questions. There were none. 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, written statements would have been accepted due to the health crises situation. There was no written correspondence received from any adjoining neighbors.

Ms. Roberts 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. Shetler motioned to recess into executive session to deliberate the merits of the case. Ms. Roberts seconded the motion and the roll call vote was as follows: Mr. Shetler – yes; Ms. Roberts – yes; Ms. Grentzer – yes; Ms. Bauer – yes; Mr. Fetzer – yes. The motion carried and the Board recessed at 5:30p.m. Mr. Fetzer 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. Grentzer moved and Ms. Roberts seconded the motion to reconvene. The roll call vote was as follows: Mr. Shetler – yes; Ms. Roberts – yes; Ms. Grentzer – yes; Ms. Bauer – yes; Mr. Fetzer – yes. The Board reconvened at 5:47p.m.

The Chair asked Mr. Shetler to read the Findings of Fact for BZA Case #2021-039:

With regard to BZA-2021-039 being a request for an Area Variance from Section 3.5 to allow a porch addition to encroach into the west, front-yard setback (0' proposed/ 5' required), the south, front-yard setback (0.5' proposed/5' required) and to Section 7.12.3.A to allow more square footage that permitted to be added onto a nonconforming structure [58.6% (990s.f.) proposed/ 20% (337.8s.f.) allowed] for the property located at 351 Cedar:

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 regard to the porch extension and setbacks because it will not be any closer to the property lines than the current structure.

The request **is** substantial in regard to the 2-story addition because along with the porch extensions, it is 3 times more than what would be permitted on a nonconforming structure.

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 additions will not be causing any negative impact to surrounding properties or be imposing on another structure and will be no closer to the property lines than the current, existing structure.

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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 existing house is nonconforming and encroaching into the front-yard setbacks already.
7. The spirit and intent behind the zoning requirement **would be** observed and substantial justice done by granting the variance because there is no immediate known negative impact on adjoining properties or onto the visibility of the intersection.

Ms. Roberts 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. Bauer. Roll Call Vote was as follows: Mr. Shetler – yes; Ms. Roberts – yes; Ms. Grentzer – yes; Ms. Bauer – 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 19, 2021.

Mr. Fetzer 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 #2021-052 2071 Lattimore Cesarespada

Request for an Area Variance from Section 5.2.1.A.ii to allow for a garage addition resulting in the cumulative square footage of all accessory structures to exceed the allowable 1,200s.f. (1,957s.f. proposed).

Mr. Fetzer shared that the applicant requested that this case be postponed until next month due to new information learned regarding their property and possible modifications they would like to make to the application as a result.

Approval of March 17, 2021 Board of Zoning Appeals Meeting Minutes

Ms. Grentzer made a motion to approve the March 17, 2021 meeting minutes as presented. Ms. Bauer seconded the motion. Ms. Roberts abstained. All were in favor, 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. Bauer seconded. All were in favor and the motion carried.

- a. **BZA-2021-025 5686 E. Harbor Road, Unit A-1 & A-2 (Safe Harbor Development).** Request for a Major Modification to a previously approved Conditional Use in accordance with Section 3.4 and 7.11 to allow a kennel (doggie daycare). **Samantha Puckett, Applicant/Agent; Safe Harbor Development, Owner.**
- b. **BZA-2021-029 6271 E. Harbor Road (Harbor Haven).** Request for an Area Variance to Section 4.15.2.C to encroach into the required 45' east side-yard setback (0' proposed) and Section 4.15.2.C to allow encroachment into the required 20' buffer (0' proposed on east – See also Sec. 4.15.2.E). **Harbor Haven, LLC, Adam & Willie Steinbrick, Owner/Applicant; BEC Associates, Agent.**
- c. **BZA-2021-030 243 Hamilton.** Request for an Area Variance from Section 3.5 & Section 5.1.7 to allow for a deck to encroach into the north, side-yard setback (2' proposed/ 5' required). **Stacey Streeter, Agent; Owner/ Applicant.**

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- d. **BZA-2021-031 1944 Bayview.** Request for a Conditional Use in accordance with Section 3.4 & 4.11 for a Limited Home-Based Business to allow for a jet ski repair shop. **Russell Veverka, Owner/ Applicant.**

Old Business

There was none.

New Business

There was none.

Other Business

- a. Minor Modification: Permit #2021-046, 9438 E. Bayshore Road – Castaway Campground & Marina New Commercial Bldg. Administratively approved 03.19.21.

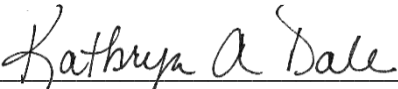
Reports and Communications from Members and Staff

There was none.

Adjournment


Ms. Shetler 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 6:01p.m.



 RECORDING SECRETARY


 dotloop verified
 05/20/21 10:44 AM
 EDT
 AWGP-LGCJ-S6SK-4LJD


 dotloop verified
 05/19/21 8:35 PM EDT
 ZYW2-ZX2C-OKE3-E2YK


 dotloop verified
 05/20/21 8:27 AM EDT
 CZJL-KAOG-TH70-WAF1


 dotloop verified
 05/20/21 7:00 AM EDT
 JLWC-E6UL-9OCK-56TB

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