

Danbury Township Board of Zoning Appeals

May 19,

21

The Danbury Township Board of Zoning Appeals was called to order at 6:00p.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, who were then dismissed since quorum was had. Ms. Kathryn Dale, Zoning & Planning Administrator was excused for her mother-in-law's funeral. Visitors present were Anthony Cesarespada. Anthony Mavrinac, Jim Switzer, Dan Jadwisiak.

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 stated 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 #2021-052 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. (2,196s.f. 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. Roberts moved, and Ms. Grentzer 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 requested this application be postponed from the scheduled April agenda after learning new information about their property. According to the subdivision plat there was a 15' utility easement along the rear property line. However, on April 15, 2021 the owner received confirmation from the Ottawa County Sanitary Engineer's office in a letter, marked as Ex. 3 herein, that a sewer service line was once located in this easement, but was abandoned by the department when utilities were moved to the road right-of-way. Thus, essentially abandoning the need for the easement as well. This information allowed the owner to utilize more of his property for the proposed barn. The property has an existing 24' x 24' (576s.f.) detached garage, which will remain and a 7' x 7' (49s.f.) portable shed, which will be removed upon the completion of the proposed building. Since the existing garage is proposed to remain, they would only be allowed 624s.f. of additional space. The applicant is proposing a 30' x 54' pole barn-style addition onto the existing detached garage, or 1,620s.f. of additional space for a total of 2,196s.f. where 1,200s.f. is the maximum allowed. All other requirements in regard to setbacks, lot coverage and building height will be met. Mr. Fetzer concluded by reviewing the decision criteria the Board would be considering during their deliberations.

Mr. Fetzer called upon the applicant.

Anthony Cesarespada, Owner/ Applicant, 2071 Lattimore, Marblehead was called upon and sworn in. Mr. Cesarespada reviewed the paperwork via the "shared screen" option from Mr. Shelter's computer and stated it was as he had submitted. Mr. Fetzer invited Mr. Cesarespada to provide his testimony.

Mr. Cesarespada stated his testimony would be that the purpose of this is to begin to create a space for my personal items, including my car collection. He said he is moving from a 3,500 square foot home in North Royalton to Danbury, hopefully. Not this summer, but next summer as a permanent residence. The reality is I just don't have space for everything that I have right now. I've got five collectible cars, plus our two personal cars, a boat, and jet skis. This new edition would go on the backside of that two-car garage. The shed and the left pine tree would be removed and essentially would go from the back of the garage, up to about the second pine tree along the back. So that being attached to my existing garage would just make an additional extension, and give me the width and the depth, to house all my collectibles and my personal cars without having to do much demolishing of the existing garage and/or driveway etc. I lost a lot of space without a basement and I have a five-car garage at home now. I've got no basement, so I've got no place to put my stuff. This is becoming a challenge. But, on the other hand, if approved of course, you know, it will be on my property, it will be very locally accessible. As you can see from the property behind me there is an overflow parking lot for

Danbury Township Board of Zoning Appeals

May 19,

21

Emerald Shores, a picnicking area that is their common area and then the swimming pool. That is to the east of me, which should not obstruct anybody's view or concerns. No one, none of the neighbors have mentioned anything. My neighbor's left and a right of course, have expressed no concerns at all. The neighbor to the right, their view of the bay is out their front, they can see right past my front of the house. They are not dissatisfied or unhappy. I showed then what I would like to do. So that is pretty much the bottom line. You know, if we move out there, the whole intent is to carry my, take my possessions with me and then have the space to put them in and not have to go out and rent them off, off my property. A lot is a nice size lot. One of the major reasons we bought it, home is a beautiful home. We are happy to be there.

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

Ms. Bauer asked if the building will be directly behind, so you'll access the additional building through your garage, is that right? Mr. Cesarespada said that was right. If you're looking at site plan, it will open up the entire back of my existing garage. I intend to remove it (the back wall). That will be a complete drive thru opening right into the new garage. The upper or north end, we'll have a separate doorway that'll have a larger door and a higher door for my boat. The lower portion of it or the southern portion of it, will have a doorway for my lawn mower, my jet skis and small workshop, something like that. Ms. Bauer referred to the front elevation drawing asking if that is what the building will look like. Mr. Cesarespada said yes. That the center portion is the existing garage and then the left and the right are backset, they're backset to the back of the garage. Ms. Bauer said she understands now.

Mr. Cesarespada said he will preface one thing to just say, there's plenty of room to move this left to right a foot or so. So rather than 12 feet, I may go to the right 13 feet, which moves the other side over a foot, just because depending on how we center this, once the contractor gets in there, and if approved, the height shows 20 feet, it won't make 20 feet, I just showed that as the maximum allowable, I don't think it's going to be more than 18 feet. Maybe a little less than that. I don't know until that thing finally gets settled down. And it's all scoped out and stuff. But with the roof pitch, it's not going to be that high. Mr. Fetzer clarified that even though it may move the left or right, the size of the building will not change. Mr. Cesarespada said that was correct.

Ms. Roberts asked about the collection of cars. Mr. Cesarespada said all he has left is his uncle's 1958 Olds that he bought brand new that I've had since 73, a 1963 Ford Galaxy 500, a 1970 Cutlass SX 455 convertible, a 1986 I-roc Z and I've got an 1982 Ford conversion van that we call our house van or the mothership. Ms. Grentzer asked if all those cars would be kept on the property. Mr. Cesarespada said yes, and his boat. He said right now they're scattered, he's got three at home because we have five-car garage in my house in North Royalton, but the wife and I park indoors. He said he has one in Marblehead and the Ford van is in a different city. I want to bring that home too, so they'll all be with me.

Mr. Fetzer asked if there was anyone with standing who wished to testify. 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 and no one was present on the Zoom meeting.

Mr. Fetzer asked if any of the Board Members had any further questions. There were none.

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. Bauer 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 6:20p.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. Roberts moved, and Ms. Grentzer 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 6:32p.m.

The Chair asked Mr. Shetler to read the Findings of Fact for BZA Case #2021-052:

With regard to BZA-2021-052 being a 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. (2,196s.f. proposed) for the property located at 2071 Lattimore:

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 has ample space for a detached accessory structure.
2. The request **is** substantial because it is over 996s.f. (83%) more than what is permitted.

Danbury Township Board of Zoning Appeals

May 19,

21

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 property backs up to the adjacent neighborhood's parking lot and swimming pool area. Also, it is well in the back yard away from the decks of the neighboring property to the north and their views down to the Bay.
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 because the property already had a garage on the property, and they had not considered building additional space at the time of purchase.
6. The property owner's predicament **cannot** feasibly be obviated through some method other than a variance because it would be costly to demolish all of the existing garage and the 624s.f of additional space the zoning code would allow just isn't enough to store their personal items and car collection.
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 and the property is of a size that can handle this building and meet all setbacks.

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) (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 Ms. Grentzer. 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 June 16, 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.

Mr. Fetzer said they will take a brief recess since the next hearing was scheduled to start at 7:00p.m.

**Adjudication Hearing
Case BZA #2021-076
237 Elm
Mavrinac & VanRiper**

Request for an Area Variance from Section 3.5 to allow a porch addition to encroach into the west, front-yard setback (1'10" proposed/ 5' required), and to exceed the maximum lot coverage (57.5% proposed/55% required). Also requesting a variance from Section 7.12.3.A to allow more square footage added onto a nonconforming structure than allowed [20% (348.6s.f) allowed/ 159% (2,765s.f.) proposed] and Section 7.12.3.C to allow more than 75% of the floor area contained in the nonconforming structure to be demolished, removed, or structurally altered.

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. Roberts 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 a 2-story addition which includes a new garage, master bedroom & bath, 2; covered porches, kitchen extension and library on the 1st floor and enlargement of 2 rooms upstairs along with 2 new bedrooms, a full back and covered porch on the 2nd floor. The entire north wall and a majority of the east wall of the house will be removed to accommodate this addition.

The property is a corner lot with two (2) front-yard setback requirements and is nonconforming due to encroachment into both front-yard setbacks. The nonconforming, detached garage will be completely removed, and a new garage is proposed to be incorporated into the addition of the house. The applicant is proposing to extend the porch along Elm by 11'8" and continue the same encroachment into the west, front-yard setback as the existing porch. The porch extension is proposed to be 1'10"

Danbury Township Board of Zoning Appeals

May 19,

21

from the west, front property line where 5' is required. No other setback variances are needed. The lot coverage with the proposed addition will be 57.5% where 55% is required.

According to Section 7.12.3.A: *The addition to or enlargement of a nonconforming building or structure shall be permitted provided it contains a permitted use and such addition or enlargement does not exceed twenty (20%) percent of the floor area contained in the original building or structure at the time of the adoption of this Resolution. All other requirements of the District (lot area, yards, etc.) shall be met unless a variance is obtained.* The existing house contains 1,743s.f. Twenty (20%) percent of this would allow for a 348.6 s.f. addition. The total amount of new sq. ft to be added is 2,765 s.f. or 159%.

According to Section 7.12.3.C: *A nonconforming use or structure which has been damaged by fire, explosion, act of God, or the public enemy or demolished, removed, or structurally altered voluntarily, to the extent of seventy-five (75) percent or more of the floor area contained in the building or structure at the time of damage shall not be restored, rebuilt or enlarged except in conformity with the regulations of the district in which it is located.* The existing house contains 1,743s.f. 435s.f. of the existing house would have to remain intact and unchanged. Every space of the house will be remodeled or modified. A variance is needed to allow the applicant to modify more than 75% of the floor area of the house, without entirely tearing it all down and starting over, so that the house can remain as it is situated on the lot without having to conform to all current regulations of the district. Mr. Fetzer shared that the report also included the definition of Floor Area.

Mr. Fetzer concluded by reviewing the decision criteria the Board would be considering during their deliberations.

Mr. Fetzer called upon the applicant.

Anthony Mavrinac, Owner/ Applicant, 237 Elm, Marblehead was called upon and sworn in. Mr. Mavrinac reviewed the paperwork via the "shared screen" option from Mr. Shelter's computer and stated it was as he had submitted. Mr. Fetzer invited Mr. Mavrinac to provide his testimony.

Mr. Mavrinac said I am happy to do so. Mine will be of a more non-technical nature. Although I think I have become fairly well versed in a lot of this over the last few months, I leave the more the technical items to the experts and particularly Jim Switzer, who I'm sure will be able to chime in on some stuff. Please do correct me if anything I say is inaccurate. I think the gist of it here is we very much like this cottage, we like the design of it, we like the look, and we like the nature of it. It has been our attempt to continue, preserve this very look and feel. In fact, arguably, maybe even improve upon it somewhat and not to tear this thing down to build the Taj Mahal. I think if you look at what we're doing in the drawings, I really impressed upon Terry, at the outset, the architect, hey, we like this bungalow look. We've got, I've got five kids, we're a family of seven, and I want to preserve this. I just, I just would like to make it a little larger so we can, we can all sit down at the same table for dinner, effectively, and so we don't bump into each other in the kitchen when making dinner. Oh, so I have five kids in the bathroom getting ready for bed at night, which is working okay, now, but that is not going to last forever.

Mr. Mavrinac continued that Terry did a great job. On the improvement side I would say this, I don't know the exact history of this cottage. It is about 100 years old. I believe that the current shed and bunk house were added on in the 50's. There is a building permit it looks like tacked up there. It is a fine shed. It is a fine bunkhouse. It is just sort of stuck on the back if you will. I don't think it was really tremendously well integrated. When you look at the new drawings, or when I do, and I completely concede bias, but boy, do I think that this looks like a cottage that preserves the aesthetics of the existing cottage and does a much better job of tying-in what is presently this shed and bunk house area. While I'm on the shed in the bunk house, when it comes to square footage, I think, and this may be where I'm wrong, I could technically be wrong here, but I don't think the existing shed and bunk house get added for the current square footage because they're detached. But there may be another rule about that. Effectively, now that we have the garage and the master bedroom that will be integrated, of course they are, so I think that also leads to some of the jump in square footage. But to be clear, yes, I am making this place bigger. That is that is the gist of it. There is a need for it. It's a lovely place for a family with two children who's going to be there all summer. We are planning on spending more and more time here. We spent all of last summer there. It had worked for a few years coming up for weekends, and maybe a week. But as my kids get bigger, and were there more, that's the gist of it and we thought, well, yeah, we've got this double lot and we're going to preserve the aesthetics.

We got some feedback from Ms. Dale early on saying, hey, you're, you know, you're too much here - pull it back here - let's tighten this up, so we've done that, and we've made I think a pretty good effort at that. And again, I credit Terry, who really was able to do some pretty creative stuff. We tried to pull this back just as much as we could, for some of these, you know, because we're bumping up against some of these limits. I understand there's this 20% rule, which, I mean, effectively, that was one I looked at and said 'whoa'. But, you know, I understand because we're just a bit over on some of the setbacks there, and I'm sure when this house was built, this cottage was built in the 1920's there

Danbury Township Board of Zoning Appeals

May 19,

21

probably was no setback or who knows what it was. But anyway, because of that we fall into this rule, but you know, we did what we could do, so I won't babble on any further but that is I guess, is sort of the history of what we're or the background of what we're trying to do and explains a little bit about it. But again, I think if you'll look at the at the drawings and the proposed drawings, so much of it we tried to take, I would say the best of Danbury-Lakeside, the porches, the open areas, sitting areas and preserve that and the design at the bungalow. I had someone say, 'which is a before, which is the after'. For a second, I thought that's what I want. I want someone to look at it and not say 'oh, this is something different'. This is honestly it's a 100-year-old place. It's fine. My cottage is fine. How much longer is going to be fine, I'm not sure. I would like someone to say oh, this is, what a nice place they have and boy, they've got something that's going to last for the next 100 years. I'm not going to be around for it. 100 years anyway, but I hope my family will be. So that is, I guess my statement.

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

Ms. Grentzer asked Mr. Mavrinac that he mentioned that Kathy, our zoning inspector made some recommendations on tightening things up. Is that correct? Mr. Mavrinac said correct. Ms. Grentzer continued, you were able to with your contract or seek to doing some of those recommendations? Mr. Mavrinac said correct again. Ms. Grentzer clarified that at one time you were asking for a lot more than what we have right here. Is that right? Mr. Mavrinac said yes, there were some painful cuts. We lost we lost a closet here and there; we lost a little tighter entrance way. Some extra square footage and you know how that goes. Sometimes those entranceway square feet can be the most important ones. And oh my gosh you know, 'where am I going to put the lawnmower sort of questions', but we did it and yeah, we did, we tightened that up.

Ms. Grentzer asked how long Mr. Mavrinac has owned this home. Mr. Mavrinac said since 2016 or 2017. Ms. Grentzer confirmed that he hasn't had it a real long time. Mr. Mavrinac said that was correct. Ms. Grentzer asked, when you bought the house, with the size that it is now, you were willing to accept whatever you had, without considering that you were going to have to enlarge it? Mr. Mavrinac said yes but were coming up for weekends. And, you know, maybe a week. My 15, almost 16-year-old was 11 and not quite as wide and tall or bigger than me. So maybe a short foresight on my part. I think the biggest change is our being there for the whole summer. This COVID thing, I will not say- it has been horrible, and I hope we never have to go through this again. If there is one good, it's my wife and I were able to work remotely. It looks like that's going to continue. We were leaning this way, but when this situation came along, I thought boy, this will be nice. A big issue is right now we, with this cottage, I got to tell you, when it comes to the fall, I start watching the weather outlook. When's our first frost? When do I got to get this place closed off? Can we go down there for November? Oh my gosh, I don't need burst pipes. And so, one of the things that we're doing here is, is, bringing this cottage, which is beautiful, but making it - improving it by allowing it to be a year-round place. Right now I'm crawling underneath the cottage and checking the pipes as I turn it on, hoping everything's good. I only had one P-trap that I had to replace this year. But the point of it is that, yeah, we did purchase it knowing the situation. I guess our situation changed and I'd like to say for the better in that we would like to spend more time there and not just - I started by saying that the summers, but in fact we'd like to get down there earlier in the spring be down there in the fall. I hear that Christmas time is wonderful. I have to call Starchers up probably by October and ask them by right around Halloween, to winterize the place for me. Then same thing in reverse in the spring, looking at when can we get there. We spent a lovely Easter a couple years ago, but it gave me heartburn when we had sort of a cold spell because again, I had to turn the water off so it doesn't flood once there's water in the pipes, then, you know, you can get that burst when you get a cold snap. So, sorry for the long answer. But yeah, that's what we did, but like I'd to say our situation changed for the better. I wish my 16-year-old would stop growing.

Mr. Fetzer said he has one question, did you consider moving the whole house since you're lifting it up off of the foundation and replacing the foundation, so that it would be conforming instead of putting it right back down in the same spot? Mr. Mavrinac gave an unsure yes. This is not my area of expertise. He said this maybe amalgamation of a couple people, but with these things, you're trying to preserve a lot. I know it looks like from the floor plan stuff that there's some changes. And absolutely, you know, this bedroom, this kitchen, but boy, there's so much about the inside we like and about this place. But anyway, the short of it is, do you want to - your thought of putting a foundation in is, is wonderful if you're going to use it year-round, you got to do that. Otherwise, you can wrap pipes all day long, but you basically got a breezeway underneath your cottage as it is right now. We've been told don't move this thing any more than you have to. I mean, yeah, people can fix this and that and the other thing, but putting this stuff on these, I think they're called cribs, lifting them up, you want to be careful with respect to that and if you don't have to move it, don't move it. I got that. It's a darn shame that we're, whatever it is, 14 inches, 16 inches over, too bad about that, but I can't do anything about that. So that's why we proceeded on the route of, it's such a, - and if I could a turn back the hands of time, and we all went back to 1920's, one of us would say, 'Hey, why don't you just move that back a

Danbury Township Board of Zoning Appeals

May 19,

21

few feet', and we wouldn't have these problems. But the thought of the better course is, well, yes, that's the rule but it's a reasonable request and it just seemed like moving it was going to be costly and risky, you know, risk of having damage, frankly. If you started shuffling things left and right, up and down seemed to be easier than left to right.

Ms. Grentzer said on the drawing, the new portion is put in yellow. When I'm looking at the section west on Elm Avenue, and I see the white, which I'm presuming is the present house and the yellow, which is the addition. I don't know how well this is to scale, but are you doubling another words? That section of the house facing Elm Street or Elm Avenue - you're doubling the frontage. According to this drawing, it looks like you're doubling it. Am I wrong? Mr. Mavrinac said he's not sure of the proportions, but of the front porch their adding not even a 3rd. Ms. Grentzer said she's going to stop him cause she's now seeing that what looks like doubling is actually in the back. Mr. Mavrinac said yes. We tried to put the additional area into the back. I think, you know, if I had sort of the magic wand, you put maybe that master bedroom towards the front with a view of the lake. But the thought was no, the desire is to have, if you're going to do improvements, do it in the back. And someone said 'Tony, you're going to take care of that bunkhouse situation that you don't like anyway'. And so that is where we did that. So yes. We tried to keep the improvements to the front minimal.

Ms. Grentzer said this is quite a bit of an addition though that you are putting on, correct? Mr. Mavrinac said I guess on the plan that's from the south looking north, there you can see the garage and additional area, what I would call is the back, the front of the house is on Elm. If you look at it from Elm Street, this is what I would say is the unfortunate angle. Everything is flattened, and it looks - most of the stuff that you're seeing is actually far in the back past the lawn and patio area. I remember the first time I saw that, and I said, 'Oh, that's not looking so good' but Terry explained you're taking a 3D thing and you're looking at it 2D and everything looks crunched. You have to look at it from each angle. And when you look at it from west Elm, you got to remember that those items that you're looking at are more tucked in the back there. Ms. Grentzer said she realizes this and understands that. She said her first inclination is, and she looked at the house, but this drawing can be a little deceptive.

Jim Switzer, VP of Lakeside Municipal Services, 236 Walnut, Lakeside was called upon and sworn in. Thank you very much. This, particular project took more time than most to get to this point. There's been a tremendous amount of discussion from the Historic Preservation Design Review Board, as well as what it took to get through the Municipal Services Committee. For them to not approve would be a change in zoning. As you know, we clearly recognize you as the zoning authority, when they come to the [Lakeside] boards to do anything that would request a variance on your part, when they vote yes or no, they are saying we support, or we don't support. After a lot of back and forth in the reduction of the original plans, which had additional encroachments as well as additional square footage, we finally landed on a consensus that for this neighborhood, the scope and scale of the project fits. The particular neighborhood has four houses to its north and northwest, that over the last five to eight years have grown in scale that this doesn't dwarf them. The one to the south grew in substantial scale and is also geographically higher. So there's a bit of a dwarfing to this even this scale of house. At max. 28 foot two inches, this is not the biggest roofline in the area. HPD-RB spends a lot of time of course, looking at the entire design, but truly focuses on the facade because their goal on the historic preservation side is to make sure that when you walk past the cottage, and you saw it maybe 40 years ago, you still recognize it as the cottage there today. There is a picture of the cottage even with the extension of the porch to the north, that preserves the porch look. One of the great details of that porch is of the stone being locally quarried, must be matched by as part of the consideration to give a certificate of appropriateness from HPD-RB. And they've agreed to do that. So that stone will continue on to the rest of the porch. That continues to live up to the tradition of Lakeside, and the porch chats, porch talks and porch utilization where you talk to people as they walk down the street. The porch was very favorable to them.

Mr. Switzer continued, that the consideration for Municipal Services, of course, was to the lot coverage and the variance needed for the size of the project. One of the things we have in our own rules and you know it's not something that necessarily you would need to consider, but we have it, is because of the closeness of proximity of cottages and because of the nature of design review and historic preservation; One of our rules actually stipulates that we should not cause any undue burden on a homeowner who's making application. One of the issues we had here is we asked the same question, if you're going to pick it up, why not move it into conformance? Once you put it in conformance, tonight's meeting wouldn't happen. It's a 75-foot-deep lot, we'll be coming to you with another applicant in another month with a 99-foot-deep lot, brand new construction, never built on before. And they want to come with a variance for greater than 55%. I will be hard pressed to see our board actually support that. However, in this case, with a 75-foot-deep lot and a double wide lot, we don't find in our scope and scale for the neighborhood that the two and a half percent additional lot coverage is of great concern. So that portion from the MSC is supported in tonight's request. We also note and give a lot of credence to the fact that the bunkhouse, which if somebody were to just plumb [put in plumbing], it

Danbury Township Board of Zoning Appeals

May 19,

21

would be basically a second living unit on the same property, would be grandfathered in, and not something we desire. We're not into the multi-family environment here. The full removal of that, which is also not conforming, then the replacement of that with the new structure is kind of a trade-off. So, we've accepted that as a reasonable request in totality, when you look at the big picture.

Mr. Switzer said, the next thing we looked at is the usage of the cottage. And we recognize clearly that Tony and Yvette have a family of five, and they have family that visit. We all know that Lakeside cottages were quaint, charming and small. You know, back in the day there, the space that everybody argued for was for where the horse would be parked. Right now, the concern is more for where all the people can be parked because Lakeside is as much about its character and charm as it is about people experiencing the four pillars and everything else that Lakeside is about. When it comes to wanting to fulfill the needs of the family, with the porch, the addition, the size, and the scope and scale that's needed for a family of seven, plus extended family to come to visit, we get that. Tony didn't mention something that he told us - maybe he can nod in agreement if that's true. But they haven't committed but plan perhaps to retire here someday. So, the family will get bigger as the children get married and have grandkids. One of the keys to the process is we ask for feedback from every neighbor that touches the property in view. And we have had nothing but positive feedback from every neighborhood surrounding them. With all that said, I would say that representing the Board of Trustees of Lakeside, Ohio, from a Municipal Services Committee standpoint, we support all of the requests. From the Historic Preservation Design Review Board, although a lot of deliberation, especially to the scope and scale, came to the conclusion and a very favorable vote amongst the board that it is, is in alignment with Historic Preservation needs and overall design. So, we are offering a very favorable and hopeful evening for tonight for Tony to move forward and to be able to move forward with this project.

Mr. Fetzer asked Mr. Mavrinac if he wished to refute anything Mr. Switzer just testified to. Mr. Mavrinac said no.

Mr. Fetzer asked if any Board Members had any further questions. Ms. Grentzer indicated she did for Mr. Switzer. I know that you have presented before the board many times when we've had requests from Lakeside, and my question would be – well, in your deliberations, with your committee, and you talk about design review, and presentation, and preservation, etc. So do the Danbury zoning requirements come up in your discussions as to how you go about saying yes or no or is it not relevant to what you're looking at. Mr. Switzer said they are relevant. Our current rules actually reference the "L" district rules and repeat some of them. But when we go through these, one of my job's is to advocate for Danbury as far as what in the zoning is going to be tested in these applications. I do the same for Municipal Services Committee. They're probably just as much or more sticklers when it comes to those, because there's precedent that they don't want to set. Certainly, they don't want to have everybody think well, you could just do whatever you want because look at this house, look at that house. So, they keep an eye on that. Now, if this house were in a different neighborhood in Lakeside, they would have reacted a bit differently. But because of the neighborhood it's in, has actually been some would say gentrified but rebuilt to a better and larger scale for the lot sizes here, I mean, it's just, we, are going through a rule change process right now that will allow us to even more focus on targeted neighborhoods. So closer to the lake or close to homes closer together, 120 years old, plus, we'll have to follow the rules more stringently. In this case, we're all the way to the second-to-last street to the east. Differences start to appear rapidly as you start here and go up the hill. So, they do look differently on some of these versus others. But this one with the 75-foot depth added this challenge. Again, it was pointed out had this been in conformance we wouldn't need to be meeting on this. But that front end being over the setback is really the challenge that's presented for all of us.

There were no other questions from the Board and no other public comments or persons in attendance.

Mr. Shetler 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. Grentzer 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. Roberts – yes; Ms. Grentzer – yes; Ms. Bauer – yes; Mr. Fetzer – yes. The motion carried and the Board recessed at 7:32p.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. Bauer 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 7:58p.m.

Danbury Township Board of Zoning Appeals

May 19,

21

The Chair asked Mr. Shetler to read the Findings of Fact for BZA Case #2021-076:

With regard to BZA-2021-076 being a request for an Area Variance to Section 3.5 to allow a porch addition to encroach into the west, front-yard setback (1'10" proposed/ 5' required), and to exceed the maximum lot coverage (57.5% proposed/ 55% required). Also requesting a variance from Section 7.12.3.A to allow more square footage added onto a nonconforming structure than allowed [20% (348.6s.f) allowed/ 159% (2,765s.f.) proposed] and Section 7.12.3.C to allow more than 75% of the floor area contained in the nonconforming structure to be demolished, removed, or structurally altered for the property located at 237 Elm Avenue:

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 whether remodeled or removed and rebuilt in conformity.
2. The request **is not** substantial in regards to the setback because the porch addition is no closer to the property lines than that of the house that currently exists, and the lot coverage is 119s.f. over the allowed amount, which is minimal.

AND

The variance request **is** substantial in regards to exceeding the lot coverage because it is a minimum standard that could be met with this new construction.

AND

The variance request **is** substantial in regards to exceeding the 20% addition limitation onto a nonconforming structure because it is nearly eight (8) times more than what is allowed. Had the lot coverage been met, to exceed this requirement may have been less substantial since the property consists of a double lot and would have otherwise met all other minimum requirements.

AND

The request **is** substantial in regards to modifying more than 75% of the floor area of the home because 435s.f. of the home could be preserved as is, eliminating the need for this variance and remodeled in another phase after this initial construction.

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, with the exception of the porch extension, otherwise meet or exceed the setback requirements. Furthermore, the porch extension will be no closer to Elm Avenue than the current porch.
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 moving the existing house into conformance at the same time they go thru the expense of lifting the house and prepare a new foundation for the house and proposed addition(s).
7. The spirit and intent behind the zoning requirement **would not be** observed and substantial justice done by granting the variance because the applicant has not proven or shown a practical difficulty of meeting the 55% lot coverage requirement or why they cannot preserve 435s.f. of the existing home. The variances being requested are not the minimum variances needed to accomplish reasonable use of the land or building.

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) (2) (6) (7) weigh more heavily to show that:

- a. Practical difficulty **is not** sufficient to warrant granting the Variance requested.
- b. There **is not** a preponderance of reliable, probative and substantial testimony; and
- c. There is evidence that **does not** support the applicants request for a variance.

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

Motion Seconded by Mr. Shetler. Roll Call Vote was as follows: Mr. Shetler – yes; Ms. Roberts – yes; Ms. Grentzer – yes; Ms. Bauer – no; Mr. Fetzer – no. Vote 3-2 the motion passed. The Chair stated that

Danbury Township Board of Zoning Appeals

May 19,

21

the application has been denied and asked that Mr. Mavrinac contact Ms. Dale next week when she returns.

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 #2021-087
5601 E. Bayshore
Jadwisiak

Request for an Area Variance from Section 5.2.1.A.ii to allow for a pole barn resulting in the cumulative square footage of all accessory structures to exceed the allowable 1,200s.f. (1,596s.f. 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. Roberts moved, and Ms. Grentzer 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 a 30' x 50' (1,500s.f.) detached pole barn accessory building to the west of his existing house. The building is proposed to be approximately 167' off of the road. There is currently a small 8' x 12' (96s.f.) shed on the property which will remain.

In 2019 the owner had the property surrounding his home rezoned (ZC-2019-030) from "A" Agricultural to "R-3" High Density Residential for the purpose of converting the house located at 5677 E. Bayshore into a duplex. However, now the owner is in the process of removing that house and garage onto a parcel of its own and giving himself the remaining and majority of the land. This lot split and consolidation has not officially been approved or recorded, but once it is, the issue will still be that there are 2 different zoning districts on his property, which the "R-3" zoning district where he wants to locate the pole barn, restricts the size of an accessory structure(s) to 1,200s.f. The property will also end up consisting of over 6 acres total. Mr. Fetzer concluded by reviewing the decision criteria the Board would be considering during their deliberations.

Mr. Fetzer called upon the applicant.

Daniel Jadwisiak, Owner/ Applicant, 5601 E. Bayshore Road, Marblehead was called upon and sworn in. Mr. Jadwisiak reviewed the paperwork via the "shared screen" option from Mr. Shelter's computer and stated it was as he had submitted. Mr. Fetzer invited Mr. Jadwisiak to provide his testimony.

Mr. Jadwisiak said he just received yesterday the new legal description for both the properties as well as the everything with the description in red, he just has to have it recorded. Mr. Fetzer asked if Ms. Dale has received a copy of this information. Mr. Jadwisiak said not since he just got it himself yesterday. Mr. Fetzer said why don't we do this - Why don't we accept that as evidence and if you could send Ms. Dale a copy of that either by scanning it and sending it through an email or taking a copy into the office. Mr. Jadwisiak said he would take a copy into the office. Mr. Fetzer said he would say probably wait until next week as she is out of town for a funeral. But we will accept that as Exhibit A. I'm sure she numbered the other ones. So, Exhibit A would be the new description of the lot. We will add that into your evidence packet of documentation. If you would please proceed and present any testimony or evidence that you would like to share with us about this project.

Mr. Jadwisiak said basically, he just wanted to build a pole barn to store his farm equipment, lawn equipment, snowblowers and stuff.

Mr. Fetzer asked if any Board Members had any questions for Mr. Jadwisiak. Ms. Grentzer indicated that she did. When I look at your answers and you've answered all of the questions that were given to you. One of them was, did you know of or were you aware of the zoning restrictions at the time that property was purchased? Well, the name 'Jadwisiak' is on a lot of the papers that I have on my house that was built 20 years ago, and I know who your mother was, Josephine was your mother? Mr. Jadwisiak said that was correct. Ms. Grentzer said many, many years because we've been here 16 years. Jadwisiak was involved with zoning. So how could you have not been aware of the zoning restrictions? Mr. Jadwisiak said he was just going by the information that Kathy Dale had originally given him when he talked to her, and we were discussing this. Mr. Fetzer said, so you're saying that when you bought the property originally, you did not? You were not aware of the zoning codes. But since you've gone through different zoning things, you are more aware in a general sense of what the zoning requirements are now but when you originally bought the property you were not aware? Mr. Jadwisiak said that was correct.

Ms. Grentzer asked Mr. Jadwisiak when he bought the property. Mr. Jadwisiak asked which parcel. Ms. Grentzer said the one currently up for discussion. Mr. Jadwisiak said 3 years ago. Ms. Grentzer asked about the other parcels. Mr. Jadwisiak said 2000.

Danbury Township Board of Zoning Appeals

May 19,

21

There were no other questions from the Board. Mr. Fetzer asked if there was anyone with standing who wished to testify. 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 and no one was present on the Zoom meeting.

Mr. Shetler 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. Bauer 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 8:17p.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. Roberts moved, and Ms. Bauer 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 8:28p.m.

The Chair asked Mr. Shetler to read the Findings of Fact for BZA Case #2021-087:

With regard to BZA-2021-087 being a request for an Area Variance from Section 5.2.1.A.ii to allow for a pole barn resulting in the cumulative square footage of all accessory structures to exceed the allowable 1,200s.f. (1,596s.f. proposed) for the property located at 5601 E. Bayshore 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 as a single-family residence and the owner is permitted to have an accessory structure.
2. The request **is not** substantial because the property contains over 6 acres and has ample space for a building of this size. Furthermore, if the property had remained “A” Agricultural, the owner would have been permitted to have up to 2,000s.f. of accessory building space.
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 are other similar buildings in the area and directly to the west of this property is commercial property where much larger structures will be permitted.
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 and any extensions will have to conform to those regulating, utility agency requirements.
5. The property owner states they **were not** aware of the zoning restrictions at the time they purchased the property but do have a general knowledge of the zoning restrictions having been thru various permit and rezoning applications.
6. The property owner’s predicament **cannot** feasibly be obviated through some method other than a variance because placing it behind the house would obstruct their view of the pond and use of the property for a plane-flying hobby. Furthermore, the barn will be used for items to help maintain the property and some classic cars 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 on adjoining properties.

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) (2) (3) 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. 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 June 16, 2021.

Danbury Township Board of Zoning Appeals

May 19,

21

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