

RECORD OF PROCEEDINGS

Minutes of

Meeting

Danbury Township Board of Zoning Appeals

BEAR GRAPHICS 800-325-8094 FORM NO. 10148

Held

July 21, 20 21

The Danbury Township Board of Zoning Appeals was called to order at 6:30 p.m. by the Chair, Joseph Fetzer, at the Danbury Township Hall. The Pledge of Allegiance was recited.

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

Ms. Dale read the rules of order for the meeting proceedings. 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 #2021-133
583 Columbus Avenue
Lippert**

Request for an Area Variance from Section 5.1.7 to allow for a shed to encroach into the south, front yard setback (12' proposed/ 20' required), east, rear-yard setback (1' proposed/5' required) and north, side-yard setback (1' proposed/5' required). Also, Area Variances from Section 3.5 to allow more lot coverage than permitted (45% proposed/ 40% required) and Section 5.2.1.C.ii to allow the accessory structure to be located closer to the principal structure than allowed (1' 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. Roberts 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 stated the applicant is proposing to install a 12' x 14' shed on the property which will be 12' from the south, front property line where 20' is required, 1' from the east, rear property line where 5' is required and 1' from the north, side property line where 5' is required. The property is currently at 36.9% lot coverage. The addition of the 12' x 14' (168s.f) shed will bring the lot coverage to 45% where 40% (60s.f. more) is the maximum allowed. The applicant is proposing to locate the shed 1' from the principal structure/house (overhang to overhang) where 5' is required. If the applicant were to meet all the requirements, the allowable building envelope would be 5' x 8'. Ms. Dale concluded by reviewing the decision criteria the Board would be considering during their deliberations.

The Chair asked if the Board Members had any questions for Ms. Dale. There were none.

Daniel Lippert, Owner/ Applicant, 583 Columbus Avenue, Marblehead was called upon, came forward and was sworn in. Mr. Lippert reviewed the paperwork and stated it was as he had submitted. The Chair invited Mr. Lippert to provide his testimony.

Mr. Lippert stated he rented in Bay Point for five years, ended up in Lakeside for 1-year and his wife fell in love with Lakeside. In 2019 they bought this house just outside of Lakeside. He said they initially were in love with the idea that this home had a small lot because it's a second home for them. Mr. Lippert said they live primarily in Atlanta, GA and he can mow his yard in 5 minutes. But it wasn't until their first winter when they started to try to pack up things and filled up 3 rooms in the house of exterior items, that they realized they needed a shed. This year they began seriously looking into this when they learned of the zoning requirements. He said he & his wife have never had to go thru zoning before despite owning multiple properties over the years because they've never made any improvements to a property that required a zoning permit. Mr. Lippert said that the shed will fit on the driveway and sit about half-way back on the driveway where he'll still be able to fit 2 cars and not be overhanging into the roadway. He said it will fit nicely, but it is tighter than what the zoning allows. He said they are looking for this size in order to keep their golf cart stored in it and then put the lawnmower, yard rakes, wheelbarrow and tools, patio furniture and grill in there and secured during the winter without having to bring it all into the house. The only other thing he said he wanted to point out was Ex. A & B showing photo's of the neighboring garages in relation to the property lines, which is the fence. The other neighboring properties have buildings that are essentially right at the line. He plans to keep his shed off the property line and fence so he can get in between to be able to maintain. Mr. Lippert said his lot is 33' x 60' and is a corner lot, so he literally has very little options to be able to provide any sort of storage. He said they have rented a storage unit for the time being, but he said it's very inconvenient to have to go back and forth to get what is needed and to put it away.

Ms. Roberts said she had a question, but she said she doesn't really expect an answer because she's really just being funny but asked why Mr. Lippert needs all these tools if he has a yard that takes

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him 5 minutes to maintain. Mr. Lippert responded that he has a wife. Everyone laughed. Mr. Shetler asked if it's going to be a pre-fab shed on skids. Mr. Lippert said yes.

Ms. Dale asked Mr. Lippert to clarify if he's going to be 1' from the property lines cause on one paper in the packet it referred to being 2' from the north property line. Mr. Lippert said yes, but he really doesn't think he'll be that close once it's installed. He said he wanted to request worst case scenario in case he measured wrong somewhere.

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

Mr. Fetzer asked if there was anyone with standing who wished to testify. There were none.

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

Ms. Roberts motioned to recess into executive session to deliberate the merits of the case. Mr. Shetler seconded the motion, and the roll call vote was as follows: Mr. Shetler – yes; Ms. Roberts – yes; Mr. Huffman – yes; Mr. Fetzer – yes. The motion carried and the Board recessed at 6:49p.m.

Mr. Huffman moved, and Mr. Shetler seconded the motion to reconvene. The roll call vote was as follows: Mr. Shetler – yes; Ms. Roberts – yes; Mr. Huffman – yes; Mr. Fetzer – yes. The Board reconvened at 6:56p.m.

The Chair asked Ms. Dale to read the Findings of Fact for BZA Case #2021-133:

With regard to BZA-2021-133 being a request for an Area Variance from Section 5.1.7 to allow for a shed to encroach into the south, front yard setback (12' proposed/ 20' required), east, rear-yard setback (1' proposed/5' required) and north, side-yard setback (1' proposed/5' required). Also, Area Variances from Section 3.5 to allow more lot coverage than permitted (45% proposed/ 40% required) and Section 5.2.1.C.ii to allow the accessory structure to be located closer to the principal structure than allowed (1' proposed/5' required) for the property located at 583 Columbus 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 as a single-family residence, however, due to the small lot size, there are minimum opportunities for on-site storage.
2. The request **is not** substantial because the shed will be located at the rear of the subject property's home as well as neighboring homes.
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 shed should have no visual impact on the neighboring homes and there are other detached accessory buildings in the area that sit close to the property lines.
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 **cannot** feasibly be obviated through some method other than a variance because there are no other options for on-site storage due to the small lot size.
7. The spirit and intent behind the zoning requirement **would be** observed and substantial justice done by granting the variance because the shed would not negatively impact surrounding 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) (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. Shetler. Roll Call Vote was as follows: Mr. Shetler – yes; Ms. Roberts – yes; Mr. Huffman – yes; Mr. Fetzer – yes. Vote 4-0 the motion passed. The Chair stated that the application has been approved, the Board has decided to sign the decision sheet this evening yet, so the applicant can pick up permits anytime tomorrow or thereafter.

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Approval of June 16, 2021, Board of Zoning Appeals Meeting Minutes

Ms. Roberts made a motion to approve the June 16, 2021, meeting minutes as presented. Mr. Shetler seconded the motion. 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 cases. Mr. Shetler motioned for approval of the decision sheets as presented. Ms. Roberts seconded. All were in favor and the motion carried.

- a. **BZA-2021-110 2494 Port Pleasant.** Request for an Area Variance from Section 5.1.7 to allow for a covered patio awning to encroach into the front yard setback (17' proposed/ 20' required). **Loretta Grentzer, Owner/ Applicant.**
- b. **BZA-2021-111 538 Plum.** Request for multiple Area Variances, from Sec. 3.5 to allow a porch addition to encroach into the east, front-yard setback (0.5' proposed/ 5' required), Sec. 7.12.3.A to allow more square footage than allowed on a nonconforming structure [20% (331s.f.) allowed/ 153% (2,169s.f.) proposed], Sec. 7.12.3.C to allow more than 75% of the floor area of the nonconforming structure to be altered. Also requesting a Conditional Use in accordance with Sec. 3.4 to allow the property to be used as a two-family. **Scott Luebcke, Owner/Applicant.**
- c. **BZA-2021-112 2048 Robert.** Request for an Area Variance from Section 5.12.1.B to allow a pool/spa to encroach into the west, rear-yard setback (0' proposed/ 5' required). **Andrew Lukso, Owner/ Applicant; Wm. Foster, Contractor/Agent.**
- d. **BZA-2021-133 583 Columbus Avenue.** Request for an Area Variance from Section 5.1.7 to allow for a shed to encroach into the south, front yard setback (12' proposed/ 20' required), east, rear-yard setback (1' proposed/5' required) and north, side-yard setback (1' proposed/5' required). Also, Area Variances from Section 3.5 to allow more lot coverage than permitted (45% proposed/ 40% required) and Section 5.2.1.C.ii to allow the accessory structure to be located closer to the principal structure than allowed (2' proposed/5' required). **Daniel Lippert, Owner/Applicant.**

Old Business

There was none.

New Business

There was none.

Other Business

- a. **1-Year Extension Request (Set to Expire 08.18.21):**
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.**

Ms. Roberts made a motion to approve a one-year extension for the approval of this project which will now expire August 18, 2022. Mr. Shetler seconded the motion. All were in favor, motion carried.

Reports and Communications from Members and Staff

Ms. Dale shared that there will be an Open House this Saturday, July 24, 2021 from 9a.m.-11a.m. to share the recommendations of a Rezoning Study the Zoning Commission has been working on. She explained why the study was being done and that anyone is welcome to attend.

There was discussion about enforcement procedures. Ms. Dale shared that there are 5 properties currently under investigation for the possibility of demolition. She shared that at the beginning of the year the Trustees modified the Township's policy to allow her to be more proactive on tall grass and that if similar violations are occurring near a property a complaint is received on, then those are presented to the Trustees to determine if violation letters should go out. Ms. Roberts asked if the 500' complaint limit is still in place. Ms. Dale said that it is.

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Adjournment

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

The meeting was adjourned at 7:19p.m.

Kathryn A Dale
RECORDING SECRETARY

Joseph R. Fitz

Sherry Roberts

Wayne Huffman

BOARD OF ZONING APPEALS