

**BRISTOL ZONING BOARD OF APPEALS
MINUTES
REGULAR MEETING OF TUESDAY, JUNE 1, 2021**

CALL TO ORDER:

By: Chairman Rafaniello

Time: 7:00 P.M.

Place: City Hall

ROLL CALL:

Chairman Rafaniello called the meeting to order at 7:03 P.M.

MEMBERS	NAME	PRESENT	ABSENT
REGULAR MEMBERS:	Jerald Rafaniello (Chairman)	X	
	Jeffrey Twombly (Vice Chairman)	X	
	Richard Raymond		x
	Alfred Radke, III	X	
	David Pecevich (Secretary)	X	
ALTERNATE MEMBERS	Rory Ghio	X	
	Tim Adamaitis	X	
	Richard Balsam	X	
	Edward Spyros, Zoning Enforcement Officer	x	
STAFF	Robert M. Flanagan, AICP, City Planner	X	
	Andrew Armstrong, Assistant City Planner	X	

PUBLIC HEARINGS:

1. Application #3765 – Variance of minimum front yard on a state highway for a generator at 780 King Street; Assessor’s Map 48, Lot 112; BG (General Business) zone, HJZ, LLC, applicant.

Chairman Rafaniello designated regular Commissioners Twombly, Radke, Pecevich and Rafaniello to vote on the Application #3765. He also designated alternate Commissioner Ghio to vote on the Application #3765 in place of Commissioner Raymond with his absence this evening.

Attorney James Ziogas, 104 Bellevue Avenue, on behalf of the applicant, explained the property had a prior approval from the Board last year for a driveway grade from 3% to 5%. During construction, two power outages occurred and during COVID-19 for essential services, they determined a generator would improve servicesⁱ. The building proximity to the street and the slope were the hardship for two reasons.

The slope of the property required the utility services to be towards the front of the property including the Eversource gas service and a small generator pad would be towards the front with a vinyl fence enclosure less than 6.5 ft. tall (security and decorative purposes.) The landscaping was started around the generator pad. The hardship was the land contour and utilities only located towards the front of the building. This was the reason for the location of the concrete generator pad. Eversource cannot make the connection to the rear of the property. This was not part of the original design, but was discovered after two power outages.

After inquiries by Board, Attorney Ziogas explained the Eversource gas services were only available in that location. The gas and electrical meters were in front of the building. A gas or diesel generator towards the side or rear of the building required a 500-gallon diesel or gas tank that would only supply a couple of days versus the natural gas which was a better source.

He was unsure of the generator kW. The generator purpose was to run the entire building during power outages as this was a medical office building. Eversource was limited because they were unable to get to the rear of the building because of the 12 ft. slope; the utilities were to the front on the building. Eversource was unable to go under the floor to the rear of the property, so they decided on this location. The Regulation required the generator fence not be any higher than 6.5 ft. in the front yard. There would be an enclosure for security purposes. The setbacks for the generator are 8.5 ft. from the front yard line. There is a requirement that the generator have a separation distance from the building.

The Board commented the CL&P pipe was near the generator pad. The building was constructed and the utilities were in place. They needed to review the property as it was constructed.

No one else spoke in favor of the application.
No one spoke against the application.

The hearing is closed.

By: Twombly

Seconded: Pecevich.

For: Ghio, Radke, Pecevich, Twombly and Rafaniello.
Against: None.
Abstain: None.

The Board commented there were no concerns with the curb line or the fence. The applicant explored a location to the rear of the building, but there were utilities and received information the applicant were unable to go in that direction. This was a hardship and for safety. The applicant tried to set the generator back as well. There was a hardship with the gas line location. There was a steep slope to the rear of the property and it would be difficult to locate the gas utilities to the rear of the property.

MOTION: Move to approve Application #3765 – Variance of minimum front yard on a state highway for a generator at 780 King Street; Assessor’s Map 48, Lot 112; BG (General Business) zone, HJZ, LLC, applicant, in accordance with the plot plan and information submitted.

By: Pecevich

Seconded: Twombly.

For: Ghio, Radke, Pecevich, Twombly and Rafaniello.
Against: None.
Abstain: None.

The application is approved.

- Application #3766 – Variances of: (1) minimum lot area for the General Industrial zone; (2) minimum side yard abutting a Residential zone; (3) minimum front yard for the General Industrial zone at 16 Andrews Street; Assessor’s Map 38, Lot 62-4/62/4A/61-5; R-10 (Single-Family Residential) zone, 16 Andrews Street, LLC, applicant.

Chairman Rafaniello designated regular Commissioners Twombly, Radke, Pecevich and Rafaniello to vote on the Application #3765. He also designated alternate Commissioner Adamaitis to vote on the Application #3765 in place of Commissioner Raymond with his absence this evening.

The Board acknowledged receipt of the following items in their electronic packets: an Addendum to Variance Application for 16 Andrews Street LLC Variance Application, undated and one photograph, undated.

A lengthy discussion ensued on the application.

Vlazznim Sadriu, 16 Andrews Street, property owner since 2015, explained he sells and repairs vehicles and wanted to continue this business. He improved the property for his neighbors and for the City. He received a City grant to improve the parking area. But, he was unaware an Inland Wetlands Commission (IW) application was required before he paved the parking lot, which he needed to resolve. He had a plan to make significant improvements to reconfigure the parking area and add new landscaping. No new buildings or structures would be constructed. If the Variances are approved, a Zone Change permit may be applied for which would make the property consistent with the properties across the street. Also, he would apply for the Inland Wetland permits. He wanted to improve the property and the Variances were the first phase to re-zone the property.

Attorney Dwight Merriam, 80 Latimer Lane, Weatogue CT, on behalf of the applicant, explained the applicant received a City grant and improved the parking lot, but received an Inland Wetlands (IW) Notice of Violation. The Variances are needed to allow the applicant to apply for a re-zoning of the property from residential to industrial zone, which would be consistent with the non-conforming use (used vehicle repairs and sales) in a Residential zone. This would make the property conforming and conforming with the two properties across the street; allow for substantial landscaping and parking lot reconfiguration; and resolve the Inland Wetlands violations.

He reviewed the hardships with the property. 100 years ago, the property had a right angle and not a curve. The City gave the owner 160 ft. of property. The plan would allow to apply for a Site Plan and Inland Wetland applications. There is one Variance near the building; and a lot area Variance for 5,998 sq. ft. and a front yard setback.

Regarding the first Variance, the properties across the street and the area variance is small, so this variance would be consistent with the proposed new zone. Regarding the third Variance, the front yard in the I-zone setback is 15 ft., but the front yard as it is currently configured is 10 ft. Their opinion was they were unable to go to the Zoning Commission unless a Variance is granted. Regarding the second Variance, the request was on the north side for 20.16 ft. from the required 25 ft. The existing building is close to the property line. The property is landlocked with a vacant lot north that has a 14 ft. cliff and a multi-family house to the rear, so the property cannot expand on those properties or in that direction.

After inquiries by the Board, Mr. Flanagan explained the Zoning Commission cannot consider a Zone Change because it would not be in their jurisdiction, without the variances the applicant has applied for. If the variance applications are approved, the Zoning Commission would then be able to consider a zone change application.

Attorney Merriam explained the lot existed 8 years before the Zoning Regulations existed, which is a classic case for a Variance. But, the applicant cannot validate a zone change without a Variance for a 19,000 sq. ft. lot.

After inquiries by the Board, Attorney Merriam explained the best plan for the property was to improve it with the I-zone. If it remains in an R-10 zone, there were questions as to what is vested/unvested rights with non-conformities and that makes future development extremely complicated. The applicant cannot go the IW Commission or the Zoning Commission without a site plan because this is a non-conforming uses. There would be positive impacts if the property is improved. The plan envisioned would reduce parking spaces and increase landscape.

There were 45 parking spaces on the submitted plan, increased buffer and decreased surface for Inland Wetland concerns. The stacked parking spaces were to park vehicles for sale. If I-zone is approved, the use would be permitted. If loans are applied for, they will have to tell the lender the site has a non-conforming use. The Zoning Board of Appeals has the right to impose reasonable conditions and including extinguishment of the variances if in 12 months the zone change is not applied for and then the Variances would disappear. They would accept 39 parking spaces if the Board has these concerns.

Mr. Flanagan explained that the Zoning Commission would not be able to vote on the request for a Zone Change without the minimum requirements of the proposed zone being met, so the Variances have to be in place prior to any Zone Change application being filed, because without the Variances in place, the Zoning Commission lacks jurisdiction to render a decision. If the zone change is denied, the Variances would be moot. The Zoning Board of Appeals has the ability to grant these Variances. Staff supports this application. Staff will continue to work with the applicant during the entire process.

The Board noted there were 39 parking spaces on the plan submitted and 45 spaces are proposed. There were a lot more vehicles on the property than previously. The parking lot expansion may have cause the Inland Wetland concerns.

No one else spoke in favor of the application.

The following person spoke against the application: Paul D'Aprile, 126 Frederick St. explained the parking lot was an improvement, but there was no drainage system proposed. There was a fence to screen the vehicles that was part of the approval, but the landscaping would make the vehicles visible. He understood they were trying to sell vehicles. Most of the vehicles would be facing Frederick St., but not Andrews St. When there is snow, the applicant puts the snow on the sidewalk.

Attorney Merriam explained storm water management systems will be on the Site Plan for the Inland Wetlands Commission and Zoning Commission. The landscaped areas would provide an area for snow removal. He explained to the Board the curb cut on Frederick St. was on the A-2 survey, but the plan had four parking spaces that would be removed. If there was an egress, it would be discussed with the Zoning Commission.

The hearing is closed.

By: Twombly

Seconded: Pecevich.

For: Adamaitis, Radke, Pecevich, Twombly and Rafaniello.

Against: None.

Abstain: None.

The Board commented this was challenging to be able to understand the application. If approved, the applicant would be allowed to go to the Zoning Commission. The Board members finally understood both the plan and this was likely the only alternative. The City Planner discussed this with the applicant. If denied for the I-zone, the Variances would disappear.

There were no concerns approving the Variances, but there were more concerns for the applicant getting the property approved as an I-zone. The Board would like the Zoning Commission to review the plan and hopefully it resolves all the concerns expressed at this meeting. Despite earlier objections, they now agree this was an existing property prior to any Regulations and would not disrupt to existing use. They encouraged the City Planner to work with the applicant on the application and the concerns with the curb cut.

MOTION: Move to approve Application #3766 – Variances of: (1) minimum lot area for the General Industrial zone; (2) minimum side yard abutting a Residential zone; (3) minimum front yard for the General Industrial zone at 16 Andrews Street; Assessor’s Map 38, Lot 62-4/62/4A/61-5; R-10 (Single-Family Residential) zone, 16 Andrews Street, LLC, applicant, in accordance with the plot plan and information submitted.

By: Pecevich

Seconded: Twombly.

For: Adamaitis, Radke, Pecevich, Twombly and Rafaniello.

Against: None.

Abstain: None.

The application is approved.

The Board thanked Attorney Merriam for his service to our country.

3. Application #3767 – Certificate of Approval for a used car dealer license at 258 Riverside Avenue; Assessor’s Map 30A, Lot 8; BHC (Route 72 Corridor Business) zone, Vladimir Mirzoian, applicant.

The Board acknowledged receipt of the following items in their electronic packets: an e-mail dated May 20, 2021, regarding the property and eight pages of photographs, undated.

Chairman Rafaniello designated regular Commissioners Twombly, Radke, Pecevich and Rafaniello to vote on the Application #3765. He also designated alternate Commissioner Balsam to vote on the Application #3767 in place of Commissioner Raymond with his absence this evening.

Vladimir Mirzoian, 560 Berlin St. Southington, explained he would like to open a dealership at this location to sell vehicles; also, there would be no repairs. After inquiries by the Board, Mr. Mirzoian understood the restrictions with two vehicles for sale on the property. The vehicles would be stored in front of the building. He would like to do this plan as soon as possible. This was the first step and then he would have to apply for a Department of Motor Vehicle license.

Mr. Flanagan reviewed the applicant’s process in applying to the CT-DMV with a K7 form and the Building Official and the Fire Marshal would sign off on the form, which is sent to the State. The applicant needs the approval this evening from the Board.

The property owner was in attendance this evening and there were previous concerns with excess vehicles, which was not this applicant. There is a letter from the abutting property owner with the site getting out of control. In the future, the City would be empowered to, if the site is not in compliance with the plan, to issue a citation. James Harris, 25 Debra Lane, HRS LLC, property owner, understood the concerns reviewed. He has never received complaints or notices from the Zoning Commission. He would like to stay in compliance because of his investment in the property and to have a good image with Bristol. The Board noted this was the fourth time they have voted on this property in the past several years.

No one else spoke in favor of the application.

No one spoke against the application.

The Board noted for the record the e-mail in the record from Sawe’s Automotive with concerns about past uses on the property. The hearing is closed.

By: Twombly

Seconded: Pecevich.

For: Radke, Balsam, Pecevich, Twombly and Rafaniello.

Against: None.

Abstain: None.

The Board wanted to make sure that the applicant understands the limits on the property. There was a condition imposed on the property from a previous court settlement. The appreciated the specification of the use and location of vehicles, no repairs, and the property owner was aware the City would take action if similar concerns in the past come back.

They hope the applicant works with the property owner and neighbors. They cautioned the applicant and the property owner to comply with the stipulated judgement from the court.

MOTION: Move to approve Application #3767 – Certificate of Approval for a used car dealer license at 258 Riverside Avenue; Assessor’s Map 30A, Lot 8; BHC (Route 72 Corridor Business) zone, Vladimir Mirzoian, applicant, in accordance with the plot plan and information submitted.

By: Pecevich

Seconded: Twombly.

For: Balsam, Radke, Pecevich, Twombly and Rafaniello.

Against: None.

Abstain: None.

The application is approved.

- 4. Application #3768 – Variance of minimum side yard for a deck at 56 Morris Avenue; Assessor’s Map 48, Lot 48; R-10 (Single-Family Residential) zone, Michelle Passaro, applicant.

Chairman Rafaniello designated regular Commissioners Twombly, Radke, Pecevich and Rafaniello to vote on the Application #3768. He also designated alternate Commissioner Ghio to vote on the Application #3768 in place of Commissioner Raymond with his absence this evening.

The Board acknowledged receipt of the following items in their electronic packets: four pages of photographs, undated.

Attorney Richard Rochlin, 10 North Main St., West Hartford, on behalf of the applicant, explained the houses in this neighborhood were on smaller lots and the house was built in 1940. The existing garage was non-conforming as it encroached over side setback line. The corner of the garage was actually a couple inches on the neighbor’s property.

The request was not for a deck but a small step with a railing for elderly persons to enter the site and the building. Regarding the hardship, the applicant cannot put a door on the side of the property because the lot line tapers and the garage encroached on the neighbor’s property already and you would have to step on the neighbor’s property in order to access the home. They are requesting a Variance for the setback to construct a landing/step down with a railing. They cannot construct it on the front or the back of the garage.

After inquiries by the Board, Attorney Rochlin explained the Building Code required a railing with a step of 14 inches. The railing would turn to the front of the house and face the street. This plan would be right up to the property line. The door cannot be moved to the front of the house because the height would have to be raised on the front of the garage.

After inquiries by the Board, Attorney Rochlin explained the garage had a permit last year, but the C.O. was not issued yet, but ready for inspection when this issue is resolved. The door was needed because it was a living space with a passage way to the house. There was no intention to rent the living space, but the door was for relatives to get into the house from the driveway. The door would make it easier to enter the house. The door was there for the size of the living space. The owner has the right to renovate and improve the space and make the house more functional, but there was no alternative to put the door with the structure. The door was not on that plan and but the applicants were told a door was necessary. The permit was signed by the Building Dept. and the Zoning also, which told them they needed a door.

The Board noted the hardship was the shape of the lot and the proximity of the building to the lot line. The Building Department suggested the door be constructed. The concern was whether they wanted to allow reasonable egress from the old garage that was converted to the living space and allow a step down. No one else spoke in favor of the application.

The following person spoke against the application: Cynthia Delliber, 64 Morris Ave., was concerned about because the applicant alleged it was a 2 ft. elevation drop, but it was only 14-inch drop. Her main concern was if they construct anything it would encroach because the garage already encroached. Mr. Flanagan noted he spoke with Ms. Delliber and the applicant was not constructing anything on the neighbor’s property. The Board cannot relocate the property line or authorize work on someone else’s property. The hearing is closed.

By: Twombly Seconded: Pecevich.

For: Radke, Ghio, Pecevich, Twombly and Rafaniello.

Against: None.

Abstain: None.

The Board commented there is an ingress needed somewhere that may have been in a better location, but it exists. With the house constructed in 1950's it was challenging for the property lines. The Building Dept. required the door for the renovation. The need for the door created the hardship as well as the shape of the lot with the taper and building placement. There would not be any work on the neighbor's property. The home was not being renovated to convert it to a multi-family house. Based on those facts, there were no concerns.

MOTION: Move to approve Application #3768 – Variance of minimum side yard for a deck at 56 Morris Avenue; Assessor's Map 48, Lot 48; R-10 (Single-Family Residential) zone, Michelle Passaro, applicant, in accordance with the plot plan and information submitted.

By: Pecevich

Seconded: Twombly.

For: Ghio, Radke, Pecevich, Twombly and Rafaniello.

Against: None.

Abstain: None.

The application is approved.

MISCELLANEOUS:

5. Approval of Minutes – May 4, 2021

Chairman Rafaniello designated regular Commissioners Twombly, Radke, Pecevich and Rafaniello to vote on the May 4, 2021 regular minutes. He also designated alternate Commissioner Ghio to vote on the May 4, 2021 regular minutes in place of Commissioner Raymond with his absence this evening.

MOTION: Move to approve the minutes of the May 4, 2021, regular meeting.

By: Twombly

Seconded: Ghio.

For: Twombly, Radke, Pecevich, Ghio, and Rafaniello.

Against: None.

Abstain: None.

ADJOURNMENT:

MOTION: Move to adjourn at 9:10 P.M.

By: Twombly

Seconded: Pecevich.

For: Radke, Raymond, Pecevich, Twombly and Rafaniello.

Against: None.

Abstain: None.

Respectfully submitted,

Nancy King
Recording Secretary

Jerald A. Rafaniello, Chairman

David Pecevich, Secretary
