

**BRISTOL ZONING BOARD OF APPEALS
MINUTES
REGULAR MEETING OF TUESDAY, MAY 4, 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	
	Robert Flanagan, AICP, City Planner	X	
STAFF	Edward Spyros, Zoning Enforcement Officer	X	
	Andrew Armstrong, Assistant City Planner	X	

Chairman Rafaniello designated regular Commissioners Twombly, Raymond, Radke, Pecevich and Rafaniello to vote on the applications this evening.

PUBLIC HEARINGS:

1. Application #3756 – Variance for finished grades for parking in excess of 3% at 71 Horizon Drive; Assessor’s Map 4, Lot 24; IP-1 (Industrial) zone; D’Amato Construction Company Inc., applicant.

Attorney James Ziogas, 104 Bellevue Avenue, Bristol, CT, on behalf of the applicant, explained this was a request for a grading of a lot in excess of 3%. He explained there are about seven parking spaces in the southeast corner, which they want to grade in excess of 3%. The grades in that small area are 1.1% greater, which is 4.1%. The remaining parking lot is in compliance. There is a large easement and three utility poles of Eversource, which they do not want them grading too close to the poles and they cannot put a retaining wall in to change the grades. The Variance applies to the six to seven limited parking space area. There are many similar properties throughout the City with similar grading.

After inquiries by the Board, Attorney Ziogas explained there would be a total of 123 parking spaces, which would be sufficient for the Amazon trucks. The reason for the application was because they do not want to slope within 25 feet of the Eversource easement and utility poles. The Amazon wants to occupy the property in September.

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

The hearing is closed.

By: Twombly

Seconded: Pecevich.

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

Against: None.

Abstain: None.

The Board commented the hardship was portion of property near the Eversource easement to stay within the requirements and they have to increase that grade. This was not a large request and they were in favor of the request.

MOTION: Move to approve Application #3756 – Variance for finished grades for parking in excess of 3% at 71 Horizon Drive; Assessor’s Map 4, Lot 24; IP-1 (Industrial) zone; D’Amato Construction Company Inc., applicant, in accordance with the plot plan and information submitted.

By: Pecevich

Seconded: Twombly.

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

Against: None.

Abstain: None.

The application is approved.

- Application #3757 – Variances for (1) fence located no closer than three feet from a front lot line and (2) maximum height of 4 ½ feet and 50% open fencing within a front yard setback for a new fence at 114 Cronin Street; Assessor’s Map 2, Lot 17-7; R-15 (Single-Family Residential) zone; Reinaldo Cartagena, applicant.

The Board acknowledged receipt of the following items in their electronic packets: a summary letter undated, from Reinaldo Cartagena to the Zoning Board of Appeals; twelve photographs, undated; a copy of the Administrative Inland Wetlands Permit for the property and approved Inland Wetlands Administrative Application #101907, dated March 30, 2021 (attached stipulations.)

Reinaldo Cartagena, 114 Cronin Street, recent property owner, explained the request was to construct a six ft. fence around the property. The property was a vacant on a corner lot previously and was used as a cut through by a lot of young people and they continue to do so. There are two 25 ft. setbacks and the house was 75 ft. back from Cronin St. They want the fence 3 ft. from the from the property line on Dino Rd. With the Regulations, the fence would have to be potentially up against the house and the servicing of the air conditioning units and propane tanks would be problematic. He requested approval on the application.

The Commission reviewed the Regulation of a fence has to be 3 ft. from the front yard property line; no higher than 4.5 ft. and 50% open. Mr. Cartagena read into the record his summary, undated. The Board and Mr. Flanagan had a lengthy discussion with Mr. Cartagena on the property and the request.

After inquiry by Mr. Flanagan, Mr. Cartagena explained the outer line on the map was the curb line of Dino Road, and there was about 9 ft. of additional land from the property line before his property line. With the 25 ft. setback the fence would be up against the house without enclosing the propane tanks. Therefore, he was requesting 2 ft. from his property line. His property line is 9 ft. from the corner, but gets wider towards the back of the property. The request is for a 23 ft. Variance, which is on the map.

After inquiries by the Board, respectively, Mr. Cartagena explained he will amend the application to 3.0 ft. from the front line. He reviewed a photograph of the site line visibility being sufficient on the corner of Cronin St. The applicant needs a minimum front yard variance and also needs a variance of the 4-1/2 ft. high fence with a 50% open fence Regulation.

The Board discussed the Variance 3 ft. closer to the front property line. The applicant will amend the application to remove the fence Variance from the front property line, which would alleviate one of the requests. The Board was slightly confused on this complex request and with the drawing that was submitted.

Mr. Flanagan explained there was an inaccuracy in the legal notice that required the public hearing to be continued. Mr. Cartagena requested a special meeting. Mr. Flanagan explained that staff is available for a special meeting on May 19, 2021. After inquiry by the Chairman, the Commissioners were available for a special meeting on May 19, 2021.

No one else spoke in favor of the application.

No one spoke against the application.

MOTION: Move to continue Application #3757 – Variances for (1) fence located no closer than three feet from a front lot line and (2) maximum height of 4 ½ feet and 50% open fencing within a front yard setback for a new fence at 114 Cronin Street; Assessor’s Map 2, Lot 17-7; R-15 (Single-Family Residential) zone; Reinaldo Cartagena, applicant, to a special meeting of May 19, 2021 with the revised drawings and the correct number of the Variances.

By: Twombly

Seconded: Pecevich.

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

The application is continued to May 19, 2021 for a special meeting.

Chairman Rafaniello declared a recess at 7:49 P.M.; the meeting resumed at 7:50 P.M.

- 3. Application #3758 – Appeal of the Zoning Enforcement Officer’s (ZEO) March 19, 2021 decision at 51 Prospect Street; Assessor’s Map 30, Lot 197; R-15/BT (Single-Family Residential/BT Downtown/Neighborhood Transition Overlay) zone; Admiralty, LLC, appellant.

The following item was submitted into the record: an e-mail dated April 28, 2021, from Deborah Hudak, of Attorney Alfred Morrocco Jr.’s office, regarding the withdrawal of the Appeal and voluntary compliance. Mr. Flanagan explained the Appeal was withdrawn by the Zoning Enforcement Officer. Commissioner Pecevich read into the record the e-mail dated April 28, 2021, from Attorney Alfred Morrocco Jr.’s office.

The appeal was withdrawn.

- 4. Application #3759 – Variance for minimum lot area for land acquisition to allow intersection improvements at 1 Divinity Street; Assessor’s Map 29, Lot 58/28; BG (General Business) zone; Connecticut Department of Transportation, applicant.

The Board acknowledged receipt of the following items in their electronic packets for Applications #3759 to #3764: a letter dated January 24, 1986, from Pinney, Payne, Van Lenten, Burrell, Wolfe & Dillman, P.C. to George Sullivan, Jr., Chairman of Zoning Board of Appeals, Town of New Milford; a letter dated February 28, 1986 from the State of CT, Office of the Attorney General, Joseph Lieberman to Douglas Hummel, Assistant Property Agent, Office of Right of Way, Department of Transportation, regarding CT Gen. Statute 48-24 (attached CT Gen. Statue 48-24.)

Chairman Rafaniello explained Applications #3759 to #3764 would be heard concurrently, but voted on separately.

Matthew Geanacopoulos, 2800 Berlin Turnpike, Newington, Connecticut Department of Transportation, on behalf of the applicant, gave an overview for Applications #3759 and #3764. He explained the State had a project on the intersection of Rt. 72 and Rt. 69 to realign the intersection to make it safer and more efficient and also a streetscape of reconstructing sidewalks. There is Federal and State funds to reconstruct the sidewalks and the State has to make sure they own a sufficient width of land for ADA compliance. The State compliance width is 5 ft.; the ADA compliance width is 4 ft. The State tries to have 5 ft. for their right of way, but a minimum of 4 ft.

There are partial acquisitions that would make the properties non-compliant with the zone, but all the lots were already existing non-compliant. If one sq. ft. is acquired from these properties, they no longer meet the Zoning minimum. CT Gen. Statute 48-24 states if the condemning authority acquires less than the total lot and does not meet Zoning standards, it must apply for a Variance.

Regarding Application #3759, Mr. Geanacopoulos explained the request was for the reasons stated to reconstruct the sidewalk in front of the property. Divinity Street would be terminated at this location and a stamped concrete area would be constructed. The sidewalk footprint would remain the same as it exists, but the minimum 5 ft. width is not in the State right of way. This is the reason for the request and 137 sq. ft. would be acquired and reduce the lot to 5,962 sq. ft. which is less than the 15,000 sq. ft. required. The Board commented this was a corner building where a market used to be and there was an existing wide sidewalk.

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

The hearing is closed.

By: Twombly Seconded: Pecevich.

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

The Board commented the hardship was the size of the initial property in the Regulations, so the taking was a safety issue for the sidewalk and for the project.

MOTION: Move to approve Application #3759 – Variance for minimum lot area for land acquisition to allow intersection improvements at 1 Divinity Street; Assessor’s Map 29, Lot 58/28; BG (General Business) zone; Connecticut Department of Transportation, applicant, in accordance with the plot plan and information submitted.

By: Pecevich

Seconded: Twombly.

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

Against: None.

Abstain: None.

The application is approved.

5. Application #3760 – Variance for minimum lot area for land acquisition to allow intersection improvements at 9 Divinity Street; Assessor’s Map 29, Lot 57/27; BG (General Business) zone; Connecticut Department of Transportation, applicant.

Mr. Geanacopoulos, explained this was a similar situation for acquisition for the front of the property for a sidewalk. The proposed acquisition is 117 sq. ft., which would reduce the property to 5,133 sq. ft. This is below the minimum requirements of 15,000 sq. ft. The purpose of the application is to keep the minimum width for the state right of way.

No one else spoke in favor of the application.

The following person spoke against the application: Cathy Caspanedi, 59 Summer Street, property owner of the LLC, explained the reduction of the sidewalk may be potentially hazardous to the pedestrians (adults and children.) There are a lot of children in the area with the school nearby. During the winter the State plows the areas and they put the snow on the sidewalks and she inquired where the snow would be placed.

Mr. Matthew Geanacopoulos explained to Ms. Caspanedi the sidewalk would not be reduced in size because Divinity St. is ending and Park St. was being shifted to the north. He anticipated there would be less snow on the sidewalk. The travel lane would be 20 ft. off the sidewalk when the plans were finished. Therefore, the snow should be reduced on the sidewalk. The sidewalk width would remain the same, but the acquisition was to have the State right of way.

The hearing is closed.

By: Twombly

Seconded: Pecevich.

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

Against: None.

Abstain: None.

MOTION: Move to approve Application #3760 – Variance for minimum lot area for land acquisition to allow intersection improvements at 9 Divinity Street; Assessor’s Map 29, Lot 57/27; BG (General Business) zone; Connecticut Department of Transportation, applicant, in accordance with the plot plan and information submitted.

The Board commented with the previous discussions the road would be shifted and be a larger distance with from the State property line, road and the curve, which would address the concerns. This seemed to address the concerns of safety.

By: Pecevich

Seconded: Twombly.

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

Against: None.

Abstain: None.

The application is approved.

6. Application #3761 – Variance for minimum lot area for land acquisition to allow intersection improvements at 147 School Street; Assessor’s Map 29, Lot 69; BG (General Business) zone; Connecticut Department of Transportation, applicant.\

Mr. Geanacopoulos explained the property (end of School St.) had to same proposed and was on the opposite side of the intersection, which was at the end of the project. Therefore, it does not go across the frontage of the property, but 35 sq. ft. of the corner would be acquired. For an acquisition of 35 sq. ft. This would reduce the lot to 13,033 sq. ft. which is below the minimum requirements of 15,000 sq. ft. This would be a small acquisition. The sidewalk would stay within the same footprint.

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

The hearing is closed.

By: Pecevich Seconded: Twombly.

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

MOTION: Move to approve Application #3761 – Variance for minimum lot area for land acquisition to allow intersection improvements at 147 School Street; Assessor’s Map 29, Lot 69; BG (General Business) zone; Connecticut Department of Transportation, applicant, in accordance with the plot plan and information submitted.

The Board explained the lots were undersized, so the property was below the Regulation standards. This was for a sidewalk. The property was on the opposite side of West St. The reasons were for safety concerns.

By: Pecevich Seconded: Twombly.

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

The application is approved.

7. Application #3762 – Variance for minimum lot area for land acquisition to allow intersection improvements at 148 School Street; Assessor’s Map 29, Lot 84; BG (General Business) zone; Connecticut Department of Transportation, applicant.

Mr. Geanacopoulos verbally gave Mr. David Haberfield’s opinion from an e-mail he received from him, regarding the plan and the project.

Mr. Geanacopoulos explained the property was across the street and was the same situation with an acquisition across the front of the property. They were unable to get 5 ft., but 4 ft. because they did not want to affect the building steps, which would be the minimum 4.0 ft. to 4.5 ft. of the ADA requirements. The sidewalk was within the right of way. He explained he received an e-mail from David Haberfield, which is the property owner of this property and 153 School St. He explained Mr. Haberfield stated he was in favor of this Variance and in favor of the project. The acquisition was 36 sq. ft. that would reduce the lot to 2,276 sq. ft., which is below the required 15,000 sq. ft. required.

After inquiries by the Board, Mr. Geanacopoulos explained the ConnDOT has a 5.0 ft. width standard and the ADA standard is 4.0 ft. width that they tried to get, but did not want to affect the steps. Between the brick pavers and the steps was about 4 ft. They have the authority to vary the width of the sidewalk. The grades would not work with one less step.

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

The hearing is closed.

By: Twombly Seconded: Pecevich.

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

MOTION: Move to approve Application #3762 – Variance for minimum lot area for land acquisition to allow intersection improvements at 148 School Street; Assessor’s Map 29, Lot 84; BG (General Business) zone; Connecticut Department of Transportation, applicant, in accordance with the plot plan and information submitted.

By: Pecevich

Seconded: Twombly.

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

Against: None.

Abstain: None.

The application is approved.

8. Application #3763 – Variance for minimum lot area for land acquisition to allow intersection improvements at 153 School Street; Assessor’s Map 29, Lot 68; BG (General Business) zone; Connecticut Department of Transportation, applicant.

Mr. Geanacopoulos verbally gave Mr. David Haberfield’s opinion from an e-mail he received from him, regarding the plan and the project. Mr. Geanacopoulos, explained the property was across the street and this was the same situation with the sidewalk and they want the standard 5 ft. sidewalk width for the State property line. He explained Mr. Haberfield was the property owner and he stated he was in favor of the Variance and the project. The acquisition was 61 sq. ft. that would reduce the property to 6,473 sq. ft., which was below the 15,000 sq. ft. required by the Zoning Regulations.

No one else spoke in favor of the application.

No one spoke against the application.

The hearing is closed.

By: Twombly

Seconded: Pecevich.

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

Against: None.

Abstain: None.

The Board commented this was the same situation and it was a small acquisition. There were no concerns with the request.

MOTION: Move to approve Application #3763 – Variance for minimum lot area for land acquisition to allow intersection improvements at 153 School Street; Assessor’s Map 29, Lot 68; BG (General Business) zone; Connecticut Department of Transportation, applicant, in accordance with the plot plan and information submitted.

By: Pecevich

Seconded: Twombly.

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

Against: None.

Abstain: None.

The application is approved.

9. Application #3764 – Variance for minimum lot area for land acquisition to allow intersection improvements at 156 School Street; Assessor’s Map 29, Lot 86; BG (General Business) zone; Connecticut Department of Transportation, applicant.

Mr. Geanacopoulos explained this property was across the street and they wanted the minimum width. The reconstruction would be within the same footprint. The west end of the property is where the road would start to be shifted, so the roadway would start to be a little closer to this building and then straighten out by a couple of feet. The acquisition is 129 sq. ft. for the purpose of the sidewalk that would reduce the property to 2,920 sq. ft., which was less than the 15,000 sq. ft. required for the Zoning Regulations. He thanked the Board and Staff for their efforts with him on all the applications.

No one else spoke in favor of the application.

No one spoke against the application.

The hearing is closed.

By: Twombly

Seconded: Pecevich.

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

MOTION: Move to approve Application #3764 – Variance for minimum lot area for land acquisition to allow intersection improvements at 156 School Street; Assessor’s Map 29, Lot 86; BG (General Business) zone; Connecticut Department of Transportation, applicant, in accordance with the plot plan and information submitted.

The Board commented the lot was undersized and this was a sidewalk taking for the project. They were in favor of this application.

By: Pecevich

Seconded: Twombly.

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

The application is approved.

MISCELLANEOUS:

10. Approval of Minutes – April 6, 2021

Chairman Rafaniello noted a correction to the April 6, 2021 minutes on Page 2, in the last paragraph, the “West Club” should state the “West End Club.” The Board mentioned they requested an update of the West End project at the March meeting.

MOTION: Move to approve the minutes of the April 6, 2021, regular meeting, as amended.

By: Twombly

Seconded: Pecevich.

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

The minutes were approved as amended.

ADJOURNMENT:

MOTION: Move to adjourn at 8:30 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