

From: Lois Laczko October 22, 2009 10:13:25 AM
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To: SimsburyCT_ZBAMin
Cc:

ADOPTED

ZONING BOARD OF APPEALS
REGULAR MEETING
July 22, 2009

I. CALL TO ORDER

Chairman Peter Stempien called the regular meeting of the Zoning Board of Appeals to order at 7:35 P. M. in the Main Meeting Room of Simsbury Town Hall. The following members were present: Nancy Haase, Sharon Lawson, John McCann, and Katie Martin. Also present were Lynn Charest, Zoning Compliance Officer; Alison Sturgeon, Commission Clerk, and other interested parties.

II. APPOINTMENT OF ALTERNATES

Chairman Stempien appointed Nancy Haase to serve as Secretary.

III. PUBLIC HEARING(s)

Nancy Haase read the call.

1. 09-11 Application of John D. Ritson, R. C. Connectors, LLC, Owner, requesting a Variance to exceed the total square footage of residential use in a B-1 zone from 40% to up to, and including, 91%, pursuant to Article Seven, Section E.3.b of the Simsbury Zoning Regulations on property located at 144 – 150 Hopmeadow Street. (Map F-17, Block 154, Lot 08). B-1 Zone

Chairman Stempien stated that at the last meeting, this application was presented. The application passed 3-2, although 4 votes were needed. Although this Commission is not required to hear this application again, the applicant has requested to further present his case.

Chairman Stempien made a motion to allow this application to be heard in order for Mr. Ritson to present his case. Ms. Haase seconded the

motion, which was unanimously approved.

Mr. Ritson stated that he is the owner of this property; he runs the law practice in the front building and his LLC owns the property. He showed a map to the Board members depicting the site and the abutting properties. He stated that he has been trying to develop the back of this property for several years. Other owners of this property have had applications for development of this site, although they were never built.

Mr. Ritson stated that he needs the residential component for this site. He has received the zone change from the Zoning Commission that he asked for. The B-1 zone change allows him to build this 3-story building. He stated that he has also received approval by the Design Review Board, although they have not yet approved the colors of the building.

Mr. Ritson stated that under the Zoning Regulations, he is allowed to put 40% or 1 ½ floors of apartments above a B-1 use. He stated that originally, he was looking to put in a daycare center as the first floor use. If he receives this variance to get all residential, he will also need to go to Aging and Disability regarding handicapped accessible apartments. If the variance is granted, the Zoning Commission will have ultimate say regarding what is in the building. He stated that many abutting property owners would like this building to be all residential instead of other uses like the daycare.

Mr. Ritson stated that he is seeking a variance to allow a complete second floor of apartments and the first floor of apartments. He would like to develop 8 unit flats on each floor with an elevator. If the variance is granted, he would be willing to have the stipulation that the variance would be conditioned upon him building handicapped accessible apartments, as outlined in the variance, in accordance with the Building Department and the ADA. To the extent that he would not comply with this, he would not get the variance up to 91%. He stated that this variance would allow him to go to the Zoning Commission to ask for all residential.

Regarding the handicapped accessible apartments, Mr. Ritson stated that these apartments would have slide in showers; 3' doors; 6' radius in the bathrooms; lower kitchen and bathroom counters; significant amounts of handrails for grasping; and open areas under counters for wheelchairs. Mr. Ritson stated that there is a need for these kinds of apartments in Simsbury.

Chairman Stempien questioned if the applicant was willing to post a bond to the Town so any expenses incurred by the Town to evict him, if needed, would be covered. Mr. Ritson stated that he would be willing to do this.

Mr. McCann questioned what the Zoning Commission's role would be if Mr. Ritson received this variance. Mr. Ritson stated that he would need the Zoning Commission's approval to make sure he is in accordance with the Zoning Regulations regarding his development. Ms. Charest stated that there are certain uses in the B-1 zones that are allowable and that would require a site plan approval from the Zoning Commission. Mr. Ritson's application would not require a public hearing by the Zoning Commission.

Mr. McCann questioned if the topography of this site and the setback from Route 10 would make this property unsuitable for other uses. Mr. Ritson stated that this development will not have any frontage on Route 10; the building will be set back from Route 10.

Ms. Martin questioned what the use was for the other 9% of the building. Mr. Ritson stated that his law office was the front building on this property.

Mr. LaMontagne stated that the Aging and Disability Commission's charge is to evaluate the needs of persons with disabilities and seniors in the Town of Simsbury. The Commission has a Housing Subcommittee that is charged to look at the housing needs of persons with disabilities and seniors in the Town of Simsbury. He stated that they hold community forums to hear from the public. Family members and organizations have talked about their need for accessible housing in Simsbury. Accessible housing is not only designed for people with disabilities, but also for the aging. He stated that his Commission feels that Mr. Ritson's development is a positive move forward in meeting their needs. Mr. LaMontagne stated that he has also been working with Mr. Peck regarding the Incentive Housing Zone; he is hopeful that this will also result in some housing for people with disabilities.

Chairman Stempien questioned how people with disabilities would go about getting a handicapped accessible apartment from Mr. Ritson. Mr. LaMontagne stated that his Commission would indicate this available housing to people, although they would need to go through the regular rental process with Mr. Ritson. Chairman Stempien questioned if Mr. Ritson could deny any person with a mental disability from renting an apartment. Mr. LaMontagne stated that it is against the law to do so. There was some discussion regarding group homes.

Ms. Lawson stated that if some of the handicapped accessible apartments are filled with people who are not handicapped, how Mr. Ritson would reconcile this with the idea that the variance would be granted based on the hardship of needing to provide handicapped accessible housing. Mr. Ritson stated that the hardship is to build these units so they are

available. He feels that there will not be a problem because disabled people will be in these apartments. The rent will be higher for these apartments and he feels that the cost will deter people without disabilities from renting these units. He stated that he cannot discriminate; he has to rent any unit if it is available.

Chairman Stempien opened the hearing to any public comments or questions.

Brian Smith, President of the Talcott Acres Association, stated that he is not against people with disabilities. He stated his concerns regarding the size of the building relevant to the other buildings in the area. He stated that this 3-story building will block out the sun for some of the residents at Talcott Acres. He stated that another concern is regarding the drainage. The drainage from this property continues through Talcott Acres; he does not want increased runoff from this property.

Bob Hafner, 126 Hopmeadow Street, stated that he is the past president of Talcott Acres. He stated that the back of the proposed building will be 104' away from his bedroom window. He feels that this building is too big. He stated that he is not against anyone with a disability. It was stated that Mr. Ritson would not be taking any State or Federal money, which is admirable, although if he charges a higher rent for the handicapped accessible units, they will not be able to pay for this. Mr. Hafner stated that he is unsure if Mr. Ritson can do this without accepting State money. Mr. LaMontagne stated that these units will be 2-bedroom apartments; roommates can split the cost of the rent. He stated that although Mr. Ritson is not accepting State or Federal money, individuals can receive money from the State to assist them in paying their rent. Families sometimes help assist with income also.

Pat Carbone, Talcott Acres 1-B, stated that she is not sure if two people would be willing to share an apartment unless they were friends. She does not believe that seniors will want to live over a daycare center. She stated her concerns regarding the parking issues and the fact that there will not be any security on the premises for persons with disabilities. She feels that this is very dangerous.

Debbie Bishop, Talcott Acres 6-A, stated that she likes the idea of having a bond to require Mr. Ritson to make 16,000 s.f. of the building handicapped housing. Mr. Ritson stated that his request was for 16,000 s.f.; the variance would be for that unless the need is greater.

Ms. Martin stated that she believes the neighbors would like to see a smaller building that is closer to Hopmeadow Street. This will be less of an impact to them. She stated that whatever the use is for the

building, it will be built on this location on the lot. Mr. Ritson stated that the architect has considered all possibilities. This is where the building needs to go on the lot.

Ms. Martin questioned if the parking would be the best layout for handicapped residents. Mr. Ritson stated that not everyone living at these apartments will be in a wheelchair. He stated that eventually, there will be garages and more handicapped entrances. People who will be living in the rear of the building will be coming through the front of the building; there will also be elevators in the building.

Ms. Lawson questioned if Mr. Ritson would be leaving the wooded area between his property and the abutting neighbors. Mr. Ritson stated that he would not be disturbing this area at all, although it will be up to the Zoning Commission regarding what they want on the site plan.

Chairman Stempien closed the public hearing.

Ms. Martin made a motion to approve the variance for the application of John D. Ritson, R. C. Connectors, LLC, Owner, to increase the residential usage from 40% to 91% residential with the following stipulating: that these units will comply with the Americans with Disability Act (ADA) for accessibility; and a bond will be posted which will be used for non-compliance of ADA accessible housing. This motion is based on the hardship that the location of the building on the land is unsuitable for business uses allowed in a B-1 Zone and because the location of the building on the land for residential use is in harmony with the adjacent AZ (Apartment Zone). Ms. Lawson seconded the motion.

Chairman Stempien stated that the building itself is eligible. Any building built here will have the same problem unless the building is a 2 story building, although this 3-story building is allowed. He stated that the ZBA needs to decide if they should make this all residential or not. He believes that the neighbors will be more objectionable to a business use there. Also, there is a Town need for handicapped accessible apartments because there are currently non available in Simsbury.

Mr. McCann stated that the location of this land makes it unsuitable to be a normal business use. He stated that the building will be of an appropriate size and scale and considering the adjoining zone is apartments, he does not see why this would not be in harmony. Although he understands the neighbors' concerns, he feels that this would be in harmony and that there is a hardship for the applicant.

Ms. Haase stated that people with disabilities are leaving Town now because there is no housing available. She feels that it would be good to provide this for the residents of Simsbury. She feels that this variance would be the best compromise for this site.

Ms. Lawson stated that she is struggling with her decision. She stated that she would like to see the handicapped units be exclusively for people with disabilities. She understands that there is a hardship without the handicapped aspect to this project.

The motion was unanimously approved.

2. 09-12 Application of Christine Bonchick, Owner, requesting a Variance from Article Three, Section A.5 of the Simsbury Zoning Regulations for placement of a shed in front of a dwelling, and a Side Yard Variance pursuant to Article Eight, Section A of the Simsbury Zoning Regulations on property located at 23 Drumlin Road. (Map B-18, Block 504, Lot 061). R-40 Zone

Mr. Bonchick stated that he is requesting a variance for the placement of a storage building on his property. The hardship is that his garage is not big enough to store all of his belongings. He stated that also, the storage building cannot get to his backyard because of the way the property is configured. The company that is delivering the storage building will not take the risk of going over his septic system and there is no way to get this building to the back of the house. The problem is not putting the building in the back of the house; the problem is getting it there. The building comes assembled, except for the roof. The delivery truck will drop the building in place; there is no way to get it passed the house and pool. Mr. Bonchick stated that his abutting neighbors do not have any issues with him getting this variance.

Mr. Bonchick stated that he has already purchased this storage building. It is not a typical shed; it looks like a residence. Mr. Bonchick stated that the storage building is 12' x 18'. The building is top of the line with additional features to make it look even more aesthetically pleasing. He would like to place this storage building as far back into the tree line as possible.

Chairman Stempien stated that the company Mr. Bonchick purchased this building from should find a way to get it into the backyard in order to make this sale. Mr. Bonchick stated that he has talked with several other companies regarding delivery. They all deliver the same way.

Chairman Stempien read several e-mails into the record from Mr. Bonchick's neighbors. The Commission then discussed other locations that would be acceptable for this storage building.

Chairman Stempien questioned if the storage building could be reassembled on the property. Mr. Bonchick stated that he does not know. The storage

building is coming from the Amish; it comes already assembled. He stated that he will be putting the building on gravel; it will take up approximately 3' of the turnaround driveway.

Ms. Charest stated that an accessory structure is not allowed in front of a dwelling. This would be a third variance that is needed. Mr. Bonchick stated that he was not aware that he could not put this structure in the front of the property.

Ms. Haase stated her concerns regarding not having the exact variance that the applicant needed. She stated that the Board needed exact distances.

Chairman Stempien stated that the Board could grant a variance subject to the applicant providing a survey showing the exact location of the storage building, although the applicant will have to abide by this. Ms. Charest stated that the Board tries to be specific when granting variances. Ms. Haase stated that although the applicant would like this Board to consider another variance for the front, she does not feel that there is enough information. Ms. Lawson stated that this is not a complete application without the specific numbers.

Chairman Stempien stated that the Board could table this application so the applicant would not have to reapply. The Board members discussed the possibility of having a special meeting to consider this application prior to the next regularly scheduled meeting. Ms. Charest told the applicant that he would need to have an A-2 survey completed prior to the next meeting.

Mr. McCann stated that one consideration of this Board is that the variance be the least amount they can grant consistent with alleviating the hardship.

Ms. Martin made a motion to table the application of Christine Bonchick. Mr. McCann seconded the motion, which was unanimously approved.

IV. APPROVAL OF MINUTES of June 24, 2009

Mr. McCann made a motion to accept the June 24, 2009 minutes as written. Ms. Martin seconded the motion, which was unanimously approved.

Chairman Stempien stated that although he applauds the Town for trying to save money on postage by sending information via e-mail, this would require that elected officials have a computer at home. He feels that the Town should mail Board members a hard copy of information with enough time to review it.

Ms. Martin stated that she agrees. She likes to have hard copies in hand. Ms. Haase and Ms. Lawson also agreed; they would like to be sent hard copies of information.

Ms. Haase asked that the Board members consider changing the Zoning Board of Appeals meeting time to 7:00 p.m. instead of 7:30 p.m. All of the Board members present agreed to this change.

VI. ADJOURNMENT

Ms. Martin made a motion to adjourn the meeting at 9:40 P. M. Mr. McCann seconded the motion, which was unanimously approved.

Peter Stempien, Chairman