

**BRISTOL ZONING BOARD OF APPEALS
MINUTES
REGULAR MEETING OF MONDAY, JULY 5, 2023**

CALL TO ORDER:

By: Chairman Rafaniello

Time: 7:00 P.M.

Place: City Hall West
Meeting Room One
Second Floor**ROLL CALL:**

MEMBERS	NAME	PRESENT	ABSENT
REGULAR MEMBERS:	Jerald Rafaniello (Chairman)	X	
	David Pecevich (Vice Chairman)	X	
	Richard Raymond (Secretary)	X	
	Alfred Radke, III	X	
	Richard Balsam	X	
ALTERNATE MEMBERS:	Christopher Callahan		X
	Michael Gregory Erosenko	X	
STAFF:	Edward Spyros, Zoning Enforcement Officer	X	
	Andrew Armstrong, Assistant City Planner	X	

Chairman Rafaniello called the meeting to order at 7: 02 P.M.

PUBLIC HEARINGS:

1. Application 3799 – Certificate of Approval for a general repairer’s license at 375 Lake Avenue; Assessor’s Map 3, Lot 4; I (Industrial) zone; H&H Equipment, applicant.

Chairman Rafaniello designated regular Commissioners Raymond, Balsam, Radke, Pecevich and Rafaniello to vote on Application #3799.

Chairman Rafaniello explained that the motor vehicle license facility requests have been re-assigned to the Zoning Enforcement Officer by the State of CT.

Chairman Rafaniello read into the record the e-mail dated June 26, 2023, from Attorney James Ziogas regarding the withdrawal of Application #3799 because of the recent Statute passed by the Legislature on July 1, 2023 for Public Act 23-40 and 30 for amended Section 14-54.

MOTION: Move to withdraw Application 3799 – Certificate of Approval for a general repairer’s license at 375 Lake Avenue; Assessor’s Map 3, Lot 4; I (Industrial) zone; H&H Equipment, applicant, as requested by the applicant’s attorney, James Ziogas, in his electronic mail to the Chairman dated June 26, 2023.

By: Raymond

Seconded: Pecevich.

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

Against: None.

Abstain: None.

The application is withdrawn.

2. Application #3800 – Variance of finished grade (in excess of 3% maximum) for the construction of a new townhouse development of 11 units at 15 Haviland Street & corner of Haviland Street & West Street; Assessor’s Map 28, Lot 137 & 137-B; R-15/BT (Single-Family Residential/ Downtown Neighborhood Transition Overlay) zone; COKEL Properties LLC, applicant.
3. Application #3801 – Variance for a front yard setback (minimum of 15 feet) for the construction of a new townhouse development of 11 units at the corner of Haviland Street & West Street; Assessor’s Map 28, Lot 137-B; R-15/BT (Single-Family Residential/ Downtown Neighborhood Transition Overlay) zone; COKEL Properties LLC, applicant.

4. Application #3802 – Variance of fences within front yard setback (fences in residential zones located in the front yard shall have a maximum height of four feet, six inches (4 ½ ft.) and shall be at least 50% open) for the construction of a retaining wall for a new townhouse development of 11 units at the corner of Haviland Street & West Street; Assessor's Map 28, Lot 137-B; R-15/BT (Single-Family Residential/ Downtown Neighborhood Transition Overlay) zone; COKEL Properties LLC, applicant.

Chairman Rafaniello explained that Applications #3800, #3801 and #3802 would be heard concurrently, but voted on separately. He also requested the applicant's representative to describe the applications separate components and hardships to the Board.

Chairman Rafaniello designated regular Commissioners Raymond, Balsam, Radke, Pecevich and Rafaniello to vote on Applications #3800, #3801 and #3802.

The following persons representing the applicant reviewed Applications #3800, #3801 and #3802 with the Board: the applicants attorney, Timothy Furey, 43 Bellevue Avenue; the applicants engineer, Ronald Wolf, P.E., Civil and Structural Engineering, Cornerstone Professional Engineering, 39 Sherman Hill Rd., Woodbury; and the applicant's Planner, Charles Talmadge, President, Development Planning Solutions, 225 North Main St.

Attorney Furey reviewed the overall project, separate requests and hardships. He explained the properties previous past uses. There was a fire and the property was secured and then abandoned for many years. The property was then sold to the applicant. The plan was to construct 11 town house style units, replace the existing wall, and grade the property. There were three Variances being requested. The first Variance was for the setback on the corner of Haviland St. and West St. with two front setbacks. The applicant was unable to comply with both setbacks. The applicant would comply for the setback on the street corner.

The second Variance was for the grade to avoid excessive fill on the property, which Nancy Levesque, P.E., City Engineer, does not object to. This request included removing and replacing the wall that was cracked from vehicle accidents. The wall would be replaced with a structural retaining wall for aesthetics, structural integrity, and to grade for the rear units. There was a question if it needed to be replaced because it was historical. But, because the applicants felt the wall should be replaced, the applicant thought it was appropriate to make the request to the Board. The property has a steep grade and there was a conflict of the Regulations for this property.

Mr. Wolf reviewed the 3% allowable grade for parking. The request was for a 5% grade for the parking area in two areas (between the upper and lower parking lot/and the driveway.) The grade would be a 5 ft. distance in over 100 ft. Haviland St. had a 13% grade, for a grade difference of 28 ft. With the 5% grade, the retaining wall height would be reduced and it was also to meet the 12.5% grade on Haviland St.

Board inquiries, respectively: Mr. Wolf explained the property on the right and left side, respectively, would be cut and filled. The grade near the Haviland St. sidewalk would be matched and the material would remain in that area. The existing wall on West St. was on the property line. The proposed wall would be setback 6 inches from the property line. The retaining walls would be used to have the grades work on the property. He explained how the 13% grade would be maintained toward the street, which included the retaining walls. The final design would also detail the underground drainage system.

No one else spoke in favor of Application #3800.

No one spoke against Application #3800.

The hearing #3800 is closed.

By: Raymond

Seconded: Pecevich.

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

The slopes, grades, and retaining walls were a challenge for the property. There would be a plan with the finished grades to minimize those concerns. There was concern of the sight lines coming down Haviland St. turning right or left. The property topography was a hardship. There is a lower and upper parking lot, but with the 5% grade versus the Haviland St. grade, the applicant was working the best possible plan for the drainage. The Board wanted to understand the overall project and the size and shape of the site.

MOTION: Move to approve Application #3800 – Variance of finished grade (in excess of 3% maximum) for the construction of a new townhouse development of 11 units at 15 Haviland Street & corner of Haviland Street & West Street; Assessor's Map 28, Lot 137 & 137-B; R-15/BT (Single-Family Residential/ Downtown Neighborhood Transition Overlay) zone; COKEL Properties LLC, applicant, in accordance with the plot plan and information submitted.

By: Raymond

Seconded: Pecevich.

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

The Application #3800 is approved.

Chairman Rafaniello requested Attorney Furey to address the hardship on Application #3801.

Attorney Furey next reviewed Application #3801. This Variance pertained to the design elements and drainage. If the application is approved, a Special Permit and Site Plan will be required with the Zoning Commission. Also, a Site Plan Committee review was required for plan signoff.

Mr. Talmadge noted a correction for Application #3801, which should be "a maximum setback of 15 ft." that was not on the agenda and the legal notice. He was one of the principal authors of this Regulation written in 2014/2015 as a design aesthetic for buildings to be at the front of the property and parking in the rear. Corner lots were not fully discussed at that time, but the ZBA reviewed these one-off situations. The competition becomes in the maximum 15 ft. setback with a 25 ft. radius setback on the corner lots. The applicant chose to comply with the 25 ft. setback for safety concerns and sight lines.

Board inquiries, respectively: Mr. Talmadge explained the existing wall was 44 inches, but the proposed wall was significantly less, so the sight line would be improved. The distance for the request was from 15 ft. to 25 ft. The reduced wall height would improve the non-conformity. The proposed wall would be an average of 2 ft. in height. Mr. Wolf reviewed the Regulations for walls on corner properties, and stated the proposed wall would comply. Attorney Furey explained in a subdivision a rear edge of a sidewalk is usually a property line, but in the downtown area it is not the rear property line. So, this would be an improved sight line.

No one else spoke in favor of Application #3801.
No one spoke against Application #3801.

The hearing #3801 is closed.

By: Raymond

Seconded: Pecevich.

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

The Board noted the conflicting Regulation as discussed so this was the best plan for the property. This would also improve the sight line to the intersection traffic light for vehicles. There was not much that may be done with the property otherwise. The Chair noted this was not a conflicting Regulation but a Regulation to do two separate things. The Board agreed with the safety component of the plan. The Regulation was just on this application with this property.

MOTION: Move to approve Application #3801 – Variance for a front yard setback (minimum of 15 feet) for the construction of a new townhouse development of 11 units at the corner of Haviland Street & West Street; Assessor's Map 28, Lot 137-B; R-15/BT (Single-Family Residential/ Downtown Neighborhood Transition Overlay) zone; COKE Properties LLC, applicant, in accordance with the plot plan and information submitted.

By: Raymond

Seconded: Pecevich.

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

The Application #3801 is approved.

Attorney Furey next reviewed Application #3802. He explained the existing wall was about 4 ft. in height and portions of it were damaged. He explained because the applicant wants to replace the wall this should be a request with the additional Variances. The wall would be about 6 inches near Haviland St. and near the pizza restaurant would be about 4.3 ft. The wall would be less enclosed and provide an improved sight line. The wall would be under the applicant control and would be able to meet the structural requirements. The Regulation required a 50% open wall, but the applicant cannot comply with that requirement.

Board inquiries, respectively: Attorney Furey explained the existing wall did not have structural integrity. The final design of the wall would be requested by the Building Dept. and various City Departments, which require City approval for the Site Plan. The wall plans provided were only examples of standard details. Mr. Wolf explained the existing wall had cracks, which did not have the structural integrity to retain the 12% grade for the Site Plan. There is also the proximity of the building to the south and the wall that turns the corner that has to be a structural wall. He was unsure of the wall footing. He reviewed the similar design of the proposed wall with the existing wall. He reviewed the difference of a decorative wall versus the structural design of the wall with geogrids and a drainage system. The grades would be 6 inches from the top of the wall. Mr. Talmadge noted no fence would be at the top of the wall.

No one else spoke in favor of Application #3802.

The following persons spoke against the application: Daniel Micari, 29 Melinda Lane; Jill Fitzsimons-Buli, 96 Haviland St.; and Paul Bula, 96 Haviland St.

Mr. Micari had concerns on Application #3802, but had comments on the next stages and general comments of opposition. He explained he and his niece lived in this neighborhood. His concerns were this would not fit in with the neighborhood with mainly single-family houses. His main concern was the increased traffic of 20 vehicles on Haviland St., West St., and the surrounding streets. Also, the removal of a landmark historical wall that was on the property of the Brightwood Estate and Rockwell Trust which has been on West St. for over a century. He requested his concerns be considered as the City deliberated the application.

Ms. Fitzsimons-Buli had concerns of increased traffic. Her concern was that 96 Haviland St. had a blind spot near the corner of Terry Rd. There was a bad accident in area this past year. There are no stop signs in this area although she has requested them from the City. There is not a lot of on-street parking on Haviland St. She inquired if there would be an increase of on-street parking. Also, she inquired about the number of parking spaces and if there would be an increase of traffic on Haviland St. and how the safety would be addressed.

Mr. Bula also had concerns of the previous neighbor's comments. He inquired of the elevations on the walls near the driveway on Haviland St. Regarding Center St., Haviland St. and West St., his view was the sight line begins at the top of the hill on Haviland St., which would be blocked with this project. The sight line would also be blocked for both the buildings. The traffic light pattern was changed, but did not resolve the speeding and the stop sign response concerns. Without this plan there was time to react to the stop sign. He had concerns of the height of the retaining wall near the buildings. Also, on weekends on-street parking is worse than during the week for visitors. This plan does not fit in with the neighborhood. He inquired of the elevation of the retaining wall, the building offset, and what the neighborhood would look like after the construction.

Attorney Furey explained most of these concerns were for the Zoning Commission applications. The overlay zone was designed to increase the density, increase traffic and for people to support the downtown area. He noted the Boys and Girls Club had no traffic study for traffic coming down the hill. But, the Zoning Commission may require a traffic study. There are 19 parking spaces required and 28 spaces are being provided (included 6 visitor spaces.) The proposed wall would improve the situation, but it needed work. The grades dictated the plans for the site. He noted the wall from Haviland St. would be 6 inches and the higher wall height would be more towards the units.

Mr. Wolf reviewed the Haviland St. east wall height of 6 ft. 3 inches and the west wall height was 5 ft. 7 inches. He noted the design of the intersection and the 25 ft. radius were considerations for safety.

The following person spoke again against the application: Mr. Micari had concerns of the turn near Haviland St. to sometimes being satisfactory, but there are always near miss accidents. The general public considers it a right turn on red from Center St. up Haviland St., but it is not a right turn on red. The additional traffic in this area would make the traffic worse.

Mr. Micari inquiries: Mr. Wolf reviewed the definition of a wall that may be 6 inches. He reviewed the wall elevations in various heights proposed on the property.

Chairman Rafaniello noted the Board and the representatives wanted to be respectful of the neighbors. This was the first step in the process. A Special Permit and Site Plan with the Zoning Commission would be required for the property.

The hearing #3802 is closed.

By: Raymond

Seconded: Pecevich.

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

Against: None.

Abstain: None.

The Board commented besides aesthetics, the sad loss of the historic wall, single-family area concerns, and the drainage concerns, the Board would like to review the drainage system. The applicant reviewed the items brought before the Board. The wall height was reviewed. The sight lines would be improved and the grade was on the inside of the property. The retaining wall was not on the property and would be put into compliance with the plan. The concerns would be addressed in the upcoming applications. The applicant did as much as they could with the property. The hardship was the property to be able to construct the buildings. With the topography some type of retaining wall was needed. The loss of the wall was a sad issue, but the wall was damaged and the proposed wall would have style. Chairman Rafaniello considered the wall an existing structure and to demolish the wall to construct a new wall requiring a Variance was a self-created hardship. He understood the presentation, but he was not convinced the wall had to be demolished.

MOTION: Move to approve Application #3802 – Variance of fences within front yard setback (fences in residential zones located in the front yard shall have a maximum height of four feet, six inches (4 ½ ft.) and shall be at least 50% open) for the construction of a retaining wall for a new townhouse development of 11 units at the corner of Haviland Street & West Street; Assessor's Map 28, Lot 137-B; R-15/BT (Single-Family Residential/ Downtown Neighborhood Transition Overlay) zone; COKE Properties LLC, applicant, in accordance with the plot plan and information submitted.

By: Raymond

Seconded: Pecevich.

For: Balsam, Radke, Pecevich and Raymond.

Against: Rafaniello.

Abstain: None.

The Application #3802 is approved.

MISCELLANEOUS

5. Approval of Minutes – 6/6/23

Chairman Rafaniello designated regular Commissioners Pecevich, Raymond, Radke, Balsam and Rafaniello to vote on the June 6, 2023, regular minutes.

MOTION: Move to approve the minutes of the June 6, 2023, regular meeting.

By: Raymond

Seconded: Pecevich.

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

Against: None.

Abstain: None.

ADJOURNMENT:

Chairman Rafaniello designated regular Commissioners Pecevich, Raymond, Radke, Balsam and Rafaniello to vote on the June 6, 2023, regular minutes.

MOTION: Move to adjourn at 8:17 P.M.

By: Raymond

Seconded: Pecevich.

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

Against: None.

Abstain: None.

Respectfully submitted,

Nancy King
Recording Secretary

Jerald A. Rafaniello, Chairman

Richard Raymond, Secretary