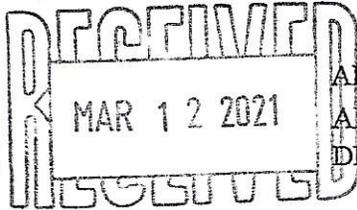


ORIGINAL

ZONING BOARD OF APPEALS
Wallingford, Connecticut
APPLICATION FOR VARIANCE



APPLICATION NO.: 21-006
APPROVED: _____
DENIED: _____

The undersigned Applicant hereby applies to the Wallingford Zoning Board of Appeals for a variance of the Wallingford Zoning Regulations.

- 1.) Street Address or Location of the Property: 361 N. Colony St
- 2.) Zoning District of the Property: C.A-12
- 3.) Indicate the type of variance requested (e.g., lot area, side yard) and the Section of the Zoning Regulations being varied. If more than one variance, list each separately.

Type of Variance	Section of Zoning Regulations	Required by Regulations	Existing	Proposed
<u>USE</u>	<u>4.5</u>	<u>Commercial</u>	<u>ground floor Residential plus Commercial</u>	<u>ground floor Residential plus Commercial</u>

4.) Briefly state the purpose of the proposed variance (e.g., "to build a two-car garage"): Possible to sleep at the office between working

5.) Briefly describe why strict application of regulations would produce an unreasonable hardship: For business needs and public safety

- 6.) If any variances for the Property have previously been requested, please complete the following section.
 - a. Date(s) of ZBA action: _____
 - b. What variance(s) were requested: _____
 - c. What variance(s) were granted: _____

7.) **APPLICANT** (Please list mailing address.)

Name(s): Lawrence HOGAN Signature: Lawrence Hogan

Address: 925 East Center St City: Wallingford State: CT Zip: 06492

Telephone No: 203-631-1400 Interest in Property: Owner: Other: _____

8.) **PROPERTY OWNER(S) OF RECORD** (Please list mailing address. This section must be completed.)

Name(s): Lawrence HOGAN Signature: Lawrence Hogan

Address: 925 East Center St City: Wallingford State: CT Zip: 06492

Telephone No: 203 631 1400

1.) Please list below the names and mailing addresses of all abutting property owners. (Those properties that are directly adjacent or contiguous to yours.)

<u>Name</u>	<u>Mailing Address</u>
1. <u>Demaio Don</u>	<u>48 Beach St North Haven Ct 06473</u>
2. <u>antonio P Saia</u>	<u>9 Cedar St Wallingford Ct 06492</u>
3. <u>antonio P Saia</u>	<u>9 Cedar St Wallingford Ct 06492</u>
4. <u>North Colony Properties LLC</u>	<u>369 North Colony St Wallingford Ct 06492</u>
5. <u>Lawrence Alex ETAL</u>	<u>15 High St Wallingford Ct 06492</u>
6. _____	_____

(Attach additional sheet(s) if necessary)

10.) Please provide directions to the subject property from a well recognized Town road. 361 North Colony
is between Wallace Row and High St

NOTES TO APPLICANT:

1. Please provide eleven copies of a map or plan drawn to scale clearly illustrating the variance(s) requested. (The plan must show the property boundaries, all existing and proposed buildings and dimensions for any setback, size, area or height related variance request.)
2. The Applicant must notify abutters by Certificate of Mailing, 10-15 days prior to the Public Hearing by sending them a copy of the Legal Notice. The Legal Notice will be sent to the Applicant at least 15 days prior to the meeting. Certificates of Mailing must be returned to the Planning & Zoning Office at least five days prior to the meeting.
3. The extent of any variance granted is limited to only that represented on the plan submitted as part of this application.

(FOR ZBA USE ONLY)

DECISION: GRANTED DENIED EFFECTIVE DATE: ____ / ____ / ____

REASON(S) FOR DECISION: _____

CONDITION(S): _____

The extent of any variance granted is limited to only that represented on the plan submitted as part of this application.

SIGNED: _____

TITLE: _____

WALLINGFORD
ZONING BOARD OF APPEALS
Variance Application: Revised May 2008

REM_MBLU_LOT	REM_MBLU_MAP	REM_PRCL_LOGN	MAD_MAIL_ADDR1	MAD_MAIL_CITY	MAD_MAIL_STATE	MAD_MAIL_ZIP	OWN_NAME1
83	104	12 WALLACE ROW	48 BEACH ST	NORTH HAVEN	CT	06473	DEMAIO DON
84	104	8 WALLACE ROW	9 CEDAR ST	WALLINGFORD	CT	06492	SALA ANTONIO P
85	104	347 NORTH COLONY ST	9 CEDAR ST	WALLINGFORD	CT	06492	SALA ANTONIO P
86	104	361 NORTH COLONY ST	P.O. BOX 1972	WALLINGFORD	CT	06492	JC LAURA LLC
87	104	369 NORTH COLONY ST	369 NORTH COLONY ST	WALLINGFORD	CT	06492	NORTH COLONY PROPERTIES LLC
88	104	15 HIGH ST	15 HIGH ST	WALLINGFORD	CT	06492	LAWRENCE ALEX ET AL

RECEIVED

 MAR 12 2021

Commercial Lease Agreement

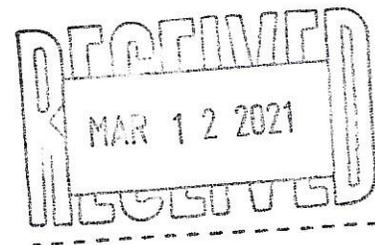
This Lease Agreement is made on 10/31/2020

By and between: Landlord Lawrence Hogan

Address: 361 N Colony st. Wallingford CT 06492

Tenant Jermaines Johnson

Address: 19 Elliott st. New Haven CT 06519



In consideration of the mutual covenants herein contained, the parties agree as follows:

1. Demised Premises.

The premises leased shall consist of commercial space, located at
#C 361 N Colony st. Wallingford CT 06492

2. Agreement to Lease.

Landlord agrees to lease to Tenant and Tenant agrees to lease from Landlord,
The Demised Premises according to the terms and conditions of this Agreement.

3. Term of Lease.

The term of this Agreement shall commence on 10/31/2020.
("Commencement Date") and ending at midnight on 12/31/2022
("Termination Date")

4. Rental Terms.

Tenant shall pay to Landlord, from the Commencement date and Throughout the term of this
Agreement, \$1,050, payable on Monthly.
All Rents shall be made payable to Landlord and delivered to the address stated above,
On the first day of every month.

5. Security Deposit.

Tenant shall, at the time of executing this Agreement, deposit with Landlord as a security deposit the sum of \$2,100, which amount shall serve as security for the full Performance of the obligations and covenants of Tenant under this Agreement.

6. Use and Occupancy.

Tenant shall use and occupy the Demised Premises for the commercial purpose of Personal Taxi service Business, and related activities.

7. Sign

Tenant can install a sign acceptable to Landlord on the front of Demised Premises, hereinafter referred to as "Exterior Sign" prior to opening for business.

8. Utility Services.

Commencing on the date on which Landlord delivers possession of the Demised Premises to Tenant, Tenant shall make payments for the Electric.

Landlord will be responsible for making payments for the Water and Trash Removal.

9. Condition.

Tenant accepts the Demised Premises in their current condition and acknowledges that the Demised Premises is in good order and repair, unless otherwise indicated herein.

All maintenance, repairs, or replacements relating to the Demised Premises which are not the obligation of Landlord shall be the obligation of Tenant and shall be made by Tenant at Tenant's Sole cost and expense. Tenant shall keep and maintain the Demised Premises in good repair and order at all times. Tenant shall not paint, remodel, make additions, alterations or structural changes to the interior of the Demised Premises without prior written consent of Landlord.

Hold Harmless:

Tenant expressly release Landlord from any and all liability for any damages or injury to the negligence or unlawful act of Landlord or landlord's agent.

Lead base pain disclosure:

By initialing, tenant acknowledges receipt of disclosure of information on lead based paint and lead based paint hazard.

Landlord has no reports or knowledge of lead pain on the Premises.

Tenant initial here JJ

Fire sprinkler system disclosure:

The unite has an operative sprinkler system yea _____ No X

If yes, date of last inspection _____ and date of last maintenance.

By signing this Lease Agreement, the tenant certifies that He/She has read, understood and agree to comply with all the terms, conditions, rules and regulations of this Lease Agreement.

Tenant's signature Jarmanes Johnson Date: 10.31.2020

Jarmanes Johnson
S.B. L.H.

Landlord signature Lawrence Hogan Date: 10.31.2020

Lawrence Hogan

RECEIVED
MAR 12 2021
POSTOFFICE



1

RECEIVED
MAR 12 2021
RESERVED



PROPOSED ONE BEDROOM UNIT - 740 SQ
 PROPOSED OFFICES - REQUIRED 6
 PROPOSED STORAGE - REQUIRED 1
 ONE BEDROOM APARTMENT - REQUIRED

PARKING DA

369 NORTH CHERRY STREET
 ASSESSOR'S MAP #104 LOT #87
 N/F

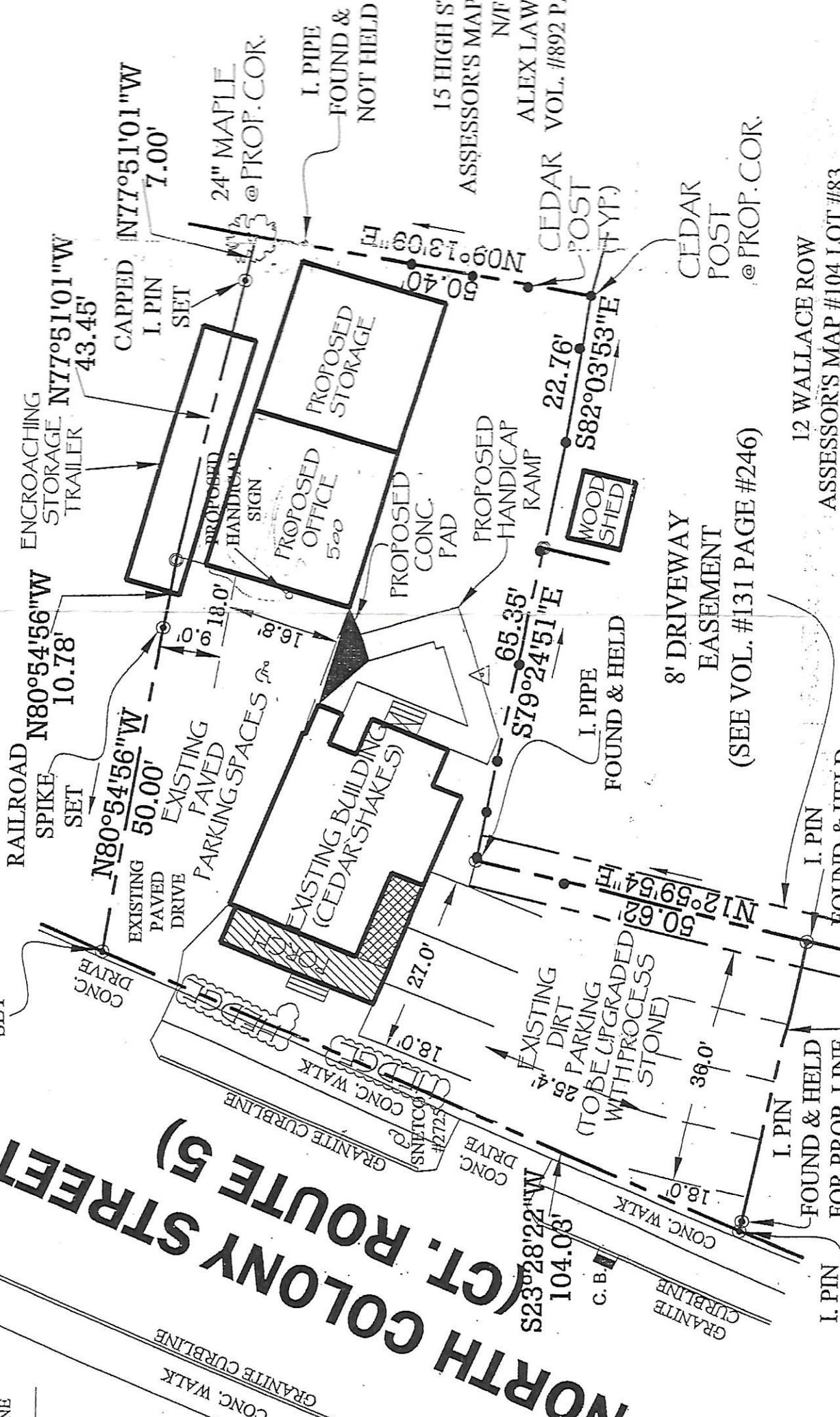
NORTH COLONY PROPERTIES LLC
 VOL. #1293 PAGE #100

MAG NAIL SET

NORTH COLONY STREET (CT. ROUTE 5)

C.B.

LINE



(SEE VOL. #131 PAGE #246)

12 WALLACE ROW
 ASSESSOR'S MAP #104 LOT #183

I.PIN FOUND & HELD FOR PROP LINE

I.PIN FOUND & HELD

#21-006



Town of Wallingford, Connecticut

CERTIFIED LETTER

#0001-3678-9350

February 21, 2013

Lawrence Hogan
1705 Foxon Road
North Branford, CT 06471

RE: Variance Application #13-004
361 North Colony Street, Wallingford

Dear Mr. Hogan:

Enclosed is a Legal Notice of Action taken by the Wallingford Zoning Board of Appeals at their meeting of Tuesday, February 19, 2013, on the above-referenced application.

Your application for:

A Use Variance for residential use on the first story where residential use is not permitted, to convert the single-family home at 361 North Colony Street into a two-family home

was denied for the following reason:

Applicant has failed to demonstrate that the property cannot be reasonably used without a variance (no hardship shown)

Also enclosed is your Check No. 654 in the amount of \$53.00. This check was submitted as a fee for the filing of an approved variance on the Wallingford Land Records; because your application was denied, the check is being returned to you.

Should you have questions in relation to this matter, please feel free to contact the Wallingford Planning Office at 203-294-2090.

Regards,

Kacie A. Costello
Town Planner

/ss
Enclosures



Town of Wallingford, Connecticut

February 15, 2013

Wallingford Zoning Board of Appeals
Town Hall
45 South Main Street
Wallingford, CT 06492

RE: Staff Comments for the February 19, 2013 ZBA Meeting

Dear Board Members:

1. ~~#12-054 – Variances –~~ ^{wrong heading} MINIMUM FRONT YARD and MINIMUM NUMBER OF PARKING SPACES/Pytel/1224 Old Colony Road/Zone T-30

13-001 Nguyen
The applicant would like to construct a 988 sq. ft. detached garage in addition to the existing 468 sq. ft. garage attached to the house. The lot is large for an RU-40 district (62,546 sq. ft. where 40,000 sq. ft. are required). Given the information provided, this office can not determine that the proposed garage is compliant with the height restrictions in the regulations. This office would like information regarding the height to the peak of each side of the roof and the height to the eave of each roof (top of wall on each side), as well as plans that are accurately to scale. Please make such information, and compliance with the 15 ft. height restrictions, a condition of approval.

2. #13-002 – Variances – MINIMUM FRONT YARD AND TWO (2) MINIMUM SIDE YARDS/Morasetti and Lee/33 Sunrise Circle/R-18

The applicant would like to construct a second story and a front porch onto the existing house. Per the Wallingford Assessor's records, the house was constructed in 1957, prior to zoning; the existing house is non-conforming in regard to the front and both side yards. The lot is also significantly undersized in regard to today's requirements (approximately 9,150 sq. ft. where a minimum of 18,000 sq. ft. is required, in narrows in the rear, making it increasingly difficult to comply with the setback requirements.

3. #13-003 – Variances – MINIMUM FRONT YARD, MINIMUM SIDE YARD, MINIMUM REAR YARD, MINIMUM OPEN SPACE, FRONT YARD LANDSCAPING, AND FRONT SIDEWALKS/M.C. Property, LLC/552 North Colony Road/Zone RF-40

The applicant would like to demolish the existing pizza restaurant and construct a new one, with a different configuration. As is obvious from the survey map, the permitted building area for this lot is extremely limited; the lot is significantly undersized and narrow per current zoning regulations. The existing building, as it exists now, required multiple variances and is quite non-conforming. If the applicant chose to remodel or add onto the existing building, all of the existing non-conformities on the lot would be allowed to remain. As proposed, there would be several variances required, because the building would be an entire re-build; however, several of the non-conformities (front yard, open space, and front landscaped area) would be quite significantly improved, the side yard variance would be decreased (increasing distance from the neighboring building, which is also quite close to the property line), and the maximum coverage would be brought entirely into conformity. The only existing non-conformity that would be increased by the approved variance would be the rear yard setback. Although several variances are required by this proposal, there will be a significant improvement in landscaping and general green space. If the proposed variances are approved, the proposal will also require Site Plan approval from the Planning and Zoning Commission. The Board may want to consider acting on each proposed variance separately. Please see comments from Eloise Hazelwood, Health Director, dated February 11, 2013.

Staff Comments
ZBA Meeting
Tuesday, February 19, 2013
Page 2

4. **#13-004 – Use Variance – Residential Unit on the First Floor/Hogan/361 North Colony Street/Zone CA-12**

Although it appears that the house at 361 North Colony Street may have previously been used as a two-family house, the most recent use of the building was as a single-family home. The applicant would like to convert the building back into a two-family home, and re-install a dwelling unit on the first floor.

While this office is pleased that the building has been purchased, and the property is being updated, this office does not believe that dwelling units are an appropriate use on the first floor of a building in CA zones, or on this property in particular. The property is located on Route 5, in a commercial area. While this office is frequently in support of upper-story residential uses in certain commercial zones, as is permitted in the CA and proposed here, commercial use on the first floor is more appropriate. This office is not aware of any reason that this property is different from any other property in a CA zone which creates an unusual hardship in terms of the use of the property.

Regards,



Kacie A. Costello
Town Planner

KAC:

Enclosures

CC: D. Nguyen
L. Morasutti & R. Lee
R. Page, Winterbourne Land Services (for M.C. Property, LLC)
L. Hogan

Zoning Investigation Record - Active

Town of Wallingford
Planning and Zoning Department

2020-029

361 North Colony Street

Complaint Date: 12/1/2020

Zoning District: CA-12

361 North Colony Street

Violation Information

Violation: Dwelling Unit

Section of Zoning Regulation: 4.5

Violation Detail Single story commercial building occupied as r

Violator/Owner Information

First Name: JC Laura, LLC

Larry Hogan

Last Name or Business:

Address: 925 East Center Street

Town or City: Wallingford

cell

State: CT

Zip Code: 06492-

Telephone Number:

203-631-1400

Investigation Record

Inspection History:

Current/Resolving?

12/1/20 referral from FM-Fire inspection yielded evidence of dwelling in commercial building. Prop owner had inquired in past regarding same and was advised no residential 1st floor. Send NOV

*1/12/21 - Larry Hogan in to office - has tenant - signed 2 yr. lease - advised no residential & will need to vacate - progress by 2/16/21
2/16/21 Hogan to office to req. Variance app.*

Contact/Correspondence History

Initial Inquiry/Contact

Cease and Desist:

Bldg Referral:

Notice of Violation

12/1/2020

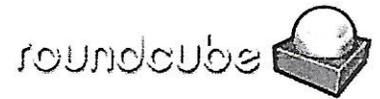
12/23/20

Legal Referral:

2nd Notice

Complaint Closed:

Subject **361 N. Colony St. Unit C**
From Brian Schock <BSchock@wallingfordfd.com>
To amy.torre@wallingfordct.gov <amy.torre@wallingfordct.gov>
Cc j.rossetti@wallingfordct.gov <j.rossetti@wallingfordct.gov>
Date 2020-12-01 12:06



- 361 N. Colony St Unit C.pdf (~431 KB)

Good afternoon Amy & Justin,

This email is a referral regarding the occupancy use of 361 N. Colony St. Unit C. This tenant space was previously used as a business space. During reinspection this morning, this tenant space was being used as an apartment. A large screen TV with chairs were found in the main area. In addition, the kitchen area had dishes next to the sink. Within the room, a bed was found. Larry Hogan, owner, was advised to contact Planning & Zoning regarding the use of this tenant space. I have attached a file for the fire inspection reports for this tenant space. Lastly if you should have any questions, please let me know.

Tenant: Jermaine Johnson, 475-800-3242, Jay Class Services, LLC

Owner: Larry Hogan, 203-631-1400, rita@silkcottonspa@gmail.com, 925 East Center St, Wallingford, CT

Thank you,

Brian Schock
Deputy Fire Marshal
Wallingford Fire Department
Fire Prevention Bureau
75 Masonic Avenue
Wallingford, CT 06492

(203) 294-2766 *Office*
(203) 294-2736 *Fax*
bschock@wallingfordfd.com

This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, or an employee or agent responsible for delivering the message to the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message, including any attachments.



Town of Wallingford, Connecticut

JAMES SEICHTER
CHAIRMAN-PLANNING & ZONING COMMISSION

KACIE A. HAND, A.I.C.P.
TOWN PLANNER

WALLINGFORD TOWN HALL
45 SOUTH MAIN STREET
WALLINGFORD, CT 06492
TELEPHONE (203) 294-2090
FAX (203) 294-2095

Certified Letter

#0001 7693 8871

December 23, 2020

NOTICE OF VIOLATION

JC Laura, LLC
Attn: Larry Hogan
925 East Center Street
Wallingford, CT 06492

RE: 361 North Colony Street
Wallingford, CT 06492

Mr. Hogan:

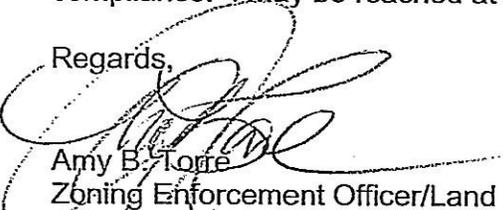
It has come to the attention of this office, per referral from the Wallingford Fire Marshall and confirmation from residential tenant, that there is an occupied, unpermitted residential dwelling at the above referenced parcel in the rear single story commercial building. Your property is in a CA-12 zone which is a commercial zone permitting residential dwelling unit(s) only in *other than* first floor/ground level spaces. The single story, rear building is permitted for commercial use and storage and may only be used for such. This is in violation of Section 4.5 of the Wallingford Zoning Regulations.

You are hereby ordered to correct this violation within 30 days from receipt of this notice.

Failure to do so will result in the issuance of a Cease and Desist Order; if such an action is taken and you fail to comply, the Town may consider legal action, including seeking a court ordered injunction to compel correction of the violations, fines of up to \$100.00 dollars per day for each day such violations continue, and/or a one-time civil penalty of \$2,500.00.

Please contact me at your earliest convenience to discuss this matter and option(s) to bring into compliance. I may be reached at 203-294-2090.

Regards,


Amy B. Torre
Zoning Enforcement Officer/Land Use Specialist

Cc: Brian Schock, Deputy Fire Marshall

ORIGINAL

ZONING BOARD OF APPEALS
Wallingford, Connecticut
APPLICATION FOR VARIANCE

MAR 15 2021

APPLICATION NO.: 21-007

APPROVED: _____

DENIED: _____

The undersigned Applicant hereby applies to the Wallingford Zoning Board of Appeals for a variance of the Wallingford Zoning Regulations.

1.) Street Address or Location of the Property: 66 Cooper Ave. Wallingford, Ct 06492

2.) Zoning District of the Property: R-18

3.) Indicate the type of variance requested (e.g., lot area, side yard) and the Section of the Zoning Regulations being varied. If more than one variance, list each separately.

Type of Variance	Section of Zoning Regulations	Required by Regulations	Existing	Proposed
<u>Bldg Coverage</u>	<u>5.1A</u>	<u>15%</u>	<u>14.7%</u>	<u>18.9%</u>
<u>Side yard setback</u>	<u>5.1A</u>	<u>20'</u>	<u>9'7"</u>	<u>10'2"</u>

4.) Briefly state the purpose of the proposed variance (e.g., "to build a two-car garage"): Install a 12'x20'

prefabricated gazebo, Remove old, rotted deck and build a new deck made of pressure treated material. Pour sidewalk and build retaining wall.

5.) Briefly describe why strict application of regulations would produce an unreasonable hardship: The existing deck is rotten and unstable, needing to be rebuilt. The yard becomes muddy and insect-ridden in the spring and becomes unuseable. The homeowner is getting older, retired and has mobility issues requiring a stable surface to walk on.

6.) If any variances for the Property have previously been requested, please complete the following section.

a. Date(s) of ZBA action: August 17, 2020

b. What variance(s) were requested: sideyard and building coverage

c. What variance(s) were granted: none

7.) **APPLICANT** (Please list mailing address.)

Name(s): Kevin Cavallaro

Signature: Kevin Cavallaro

Address: 61 Sylvan Hills Rd.

City: ETH

State: Ct

Zip: 06513

Telephone No: 203-467-9494

Interest in Property: Owner:

Other:

Contractor

8.) **PROPERTY OWNER(S) OF RECORD** (Please list mailing address. This section must be completed.)

Name(s): Michael Venditto

Signature: Michael Venditto

Address: 66 Cooper Ave.

City: Wallingford

State: Ct

Zip: 06492

Telephone No: 203-460-0932

9.) Please list below the names and mailing addresses of all abutting property owners. (Those properties that are directly adjacent or contiguous to yours.)

<u>Name</u>	<u>Mailing Address</u>
1. Edward + Shirley Ferrier	64 Cooper Ave.
2. Robert + Irene Warner	68 Cooper Ave.
3. Peter + Eileen Anderson	23 Burke Heights Drive
4. _____	_____
5. _____	_____
6. _____	_____

(Attach additional sheet(s) if necessary)

10.) Please provide directions to the subject property from a well recognized Town road. _____

NOTES TO APPLICANT:

1. Please provide eleven copies of a map or plan drawn to scale clearly illustrating the variance(s) requested. (The plan **must** show the property boundaries, **all** existing **and** proposed buildings and dimensions for any setback, size, area or height related variance request.)
2. The Applicant must notify abutters by Certificate of Mailing, 10-15 days prior to the Public Hearing by sending them a copy of the Legal Notice. The Legal Notice will be sent to the Applicant at least 15 days prior to the meeting. Certificates of Mailing must be returned to the Planning & Zoning Office at least five days prior to the meeting.
3. The extent of any variance granted is limited to only that represented on the plan submitted as part of this application.

(FOR ZBA USE ONLY)

DECISION: GRANTED DENIED EFFECTIVE DATE: ____ / ____ / ____

REASON(S) FOR DECISION: _____

CONDITION(S): _____

The extent of any variance granted is limited to only that represented on the plan submitted as part of this application.

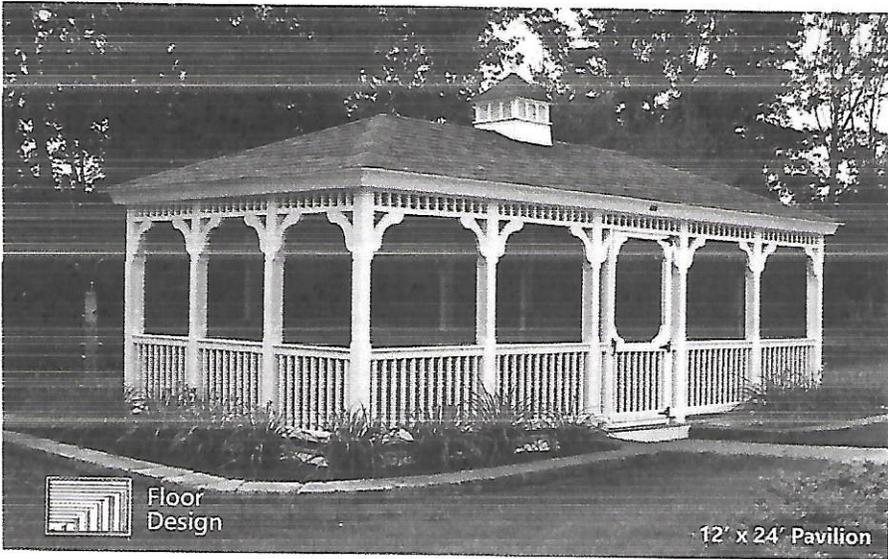
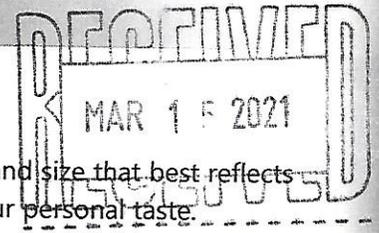
SIGNED: _____

TITLE: _____

WALLINGFORD
ZONING BOARD OF APPEALS
Variance Application: Revised May 2008

Which style is right for you?

Kloter Farms gazebos are designed to give a sense of romantic repose. Choose the style and size that best reflects the posture of your surroundings. You be the judge as to which model exactly mirrors your personal taste.



Floor Design

12' x 24' Pavilion



12' x 16' Picnic Pavilion

Pavilion

By eliminating some of the angles traditionally found on a gazebo, the Pavilion offers the largest amount of usable inside space. It's a real party room - large enough for a dance floor or a hot tub! (I)

	P. T.	Vinyl
10x12	5700	8380
10x16	7060	10420
12x14	7160	10230
12x16	7880	11355
12x18	8755	12450

	P. T.	Vinyl
12x20	9525	13620
12x24	11115	15870
14x16	9150	13160
14x20	11245	15945
14x24	13385	18730

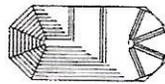
Picnic Pavilion

Not only does our Picnic Pavilion have maintenance-free vinyl, composite decking, and architectural shingles, it's also delivered completely assembled. (TI)

	Vinyl	Vinyl
10x12	8800	13880
10x16	10745	16175
12x14	10420	13105
12x16	11540	15920
12x18	12710	18700

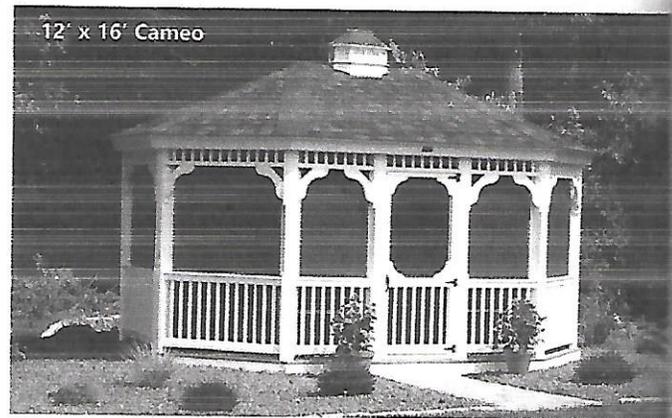
Cameo

The Cameo is often referred to as our best value in terms of space and style. An elongated octagon, it offers unlimited use and a wide range of sizes. (P)

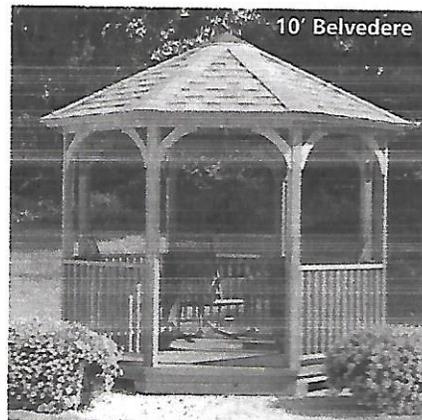


Floor Design

	P. T.	Vinyl
10x16	6875	10110
12x16	7720	11075
12x18	8515	12170
12x20	9310	13275
12x24	10760	15445
14x20	11265	15555
14x24	13250	18240



12' x 16' Cameo



10' Belvedere

Screen and 3-season window enclosures for every gazebo!

See page 61 for pricing.

Written 10-year guarantee!

- Crane required on-site. Additional charge applies, ask for quote.
- ✓ Indicates models that can be made in modular sections and assembled on site.
- ★ Gazebo kit includes standard free delivery and on-site assembly. Site conditions may require upcharge, ask for details.

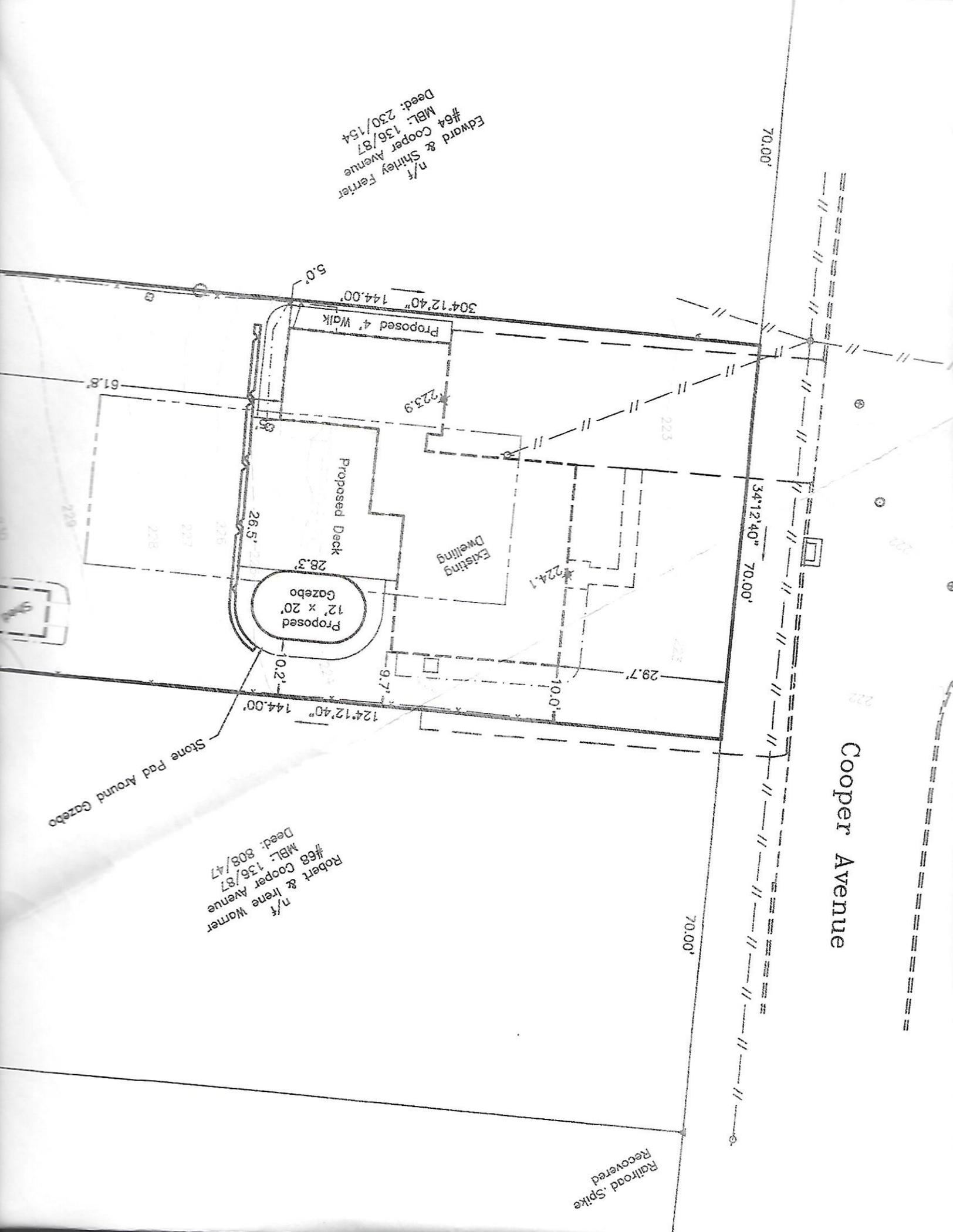
n/f
#64 Cooper Avenue
MBL: 136/87
Deed: 230/154
Edward & Shirley Fether

n/f
#68 Cooper Avenue
MBL: 136/87
Deed: 808/47
Robert & Irene Warner

Stone Pad Around Gazebo

Railroad Spike
Recovered

Cooper Avenue



DRAFT

Wallingford Zoning Board of Appeals

Monday, March 15, 2021

7:00 p.m.

Meeting Conducted Remotely through GoToMeetings

Minutes

Present: Chairman Joseph Rusczek; Vice-Chair Raymond Rys; Secretary Louis Czerwinski; Commissioners Thomas Wolfer; Samuel Carmody; Alternate: Karen Harris; and Amy Torre, Zoning Enforcement Officer.

Chairman Rusczek called the meeting to order at 7:10 p.m. The Pledge of Allegiance was recited. Chairman Rusczek explained how the meeting was to be run.

Chairman Rusczek noted that tonight's decisions will be published in the Record-Journal on Friday, March 19, 2021. The effective date of your variance will be Friday, March 19, 2021; the date a certified copy is recorded on the land records. The statutory 15-day appeal period will expire on Sunday, April 4, 2021. If you commence operations and/or construction during the appeal period, you do so at your own risk.

Voting members are Carmody, Czerwinski, Wolfer, Rys, and Chairman Rusczek.

PUBLIC HEARINGS

1. #20-034 – Special Exception Request (child daycare center), Pumpkin Patch Properties, LLC at 4 Circle Drive

Mr. Czerwinski read the staff notes into the record for application. The applicant is requesting a Child daycare center with an enrollment of 117 and an area of 7,825 sq. ft. to allow a 2nd-floor single residential dwelling unit at 4 Circle Drive in an R-18 District. The property has an existing Special Exception approval for enrollment of 100 at the same site for the entire two-story building of 9,572 sq. ft. The added residential unit requires detailed building and potential site plan elements as residential use require alternate building and fire code compliance. The applicant still has not provided detailed floor plans for both floors and the total of available space. The access to/from (entrance/egress) for each space and between floors is not clearly represented. The Board should consider the logistics of parking, access, use of grounds, and daycare operations at the ground level of a residential unit. The applicant should clearly demonstrate the use of all space within the building and access to a residential unit other than via the daycare operation/space. The proposal does not accurately or clearly define the interconnection of the two uses and spaces. In addition, there is a revised application dated January 25, 2021; Interoffice Memorandum dated February 8, 2021, from Erik Krueger, Water & Sewer to Amy Torre, Zoning Enforcement Officer; correspondence from the Fire Marshal dated February 2, 2021; correspondence from the Building Department dated February 2, 2021; a note from Sairam Simhadry dated January 19, 2021; maps dated November 18, 2020; drawing dated January 28, 2021; correspondence from PGR General Contracting LLC dated January 25, 2021; Information packet from PGR dated February 3, 2021; another information packet from PGR dated February 3, 2021, and a drawing revised February 25, 2021, from Juliano Associates.

Matthew Niski, professional engineer, Juliano Associates, 405 Main Street, and Peter Ranciato, PGR General Contractor, LLC, 109 Montowese Trail presented for the applicant.

Mr. Niski explained that there are no proposed changes on the outside of the building. The site currently has 28 parking spaces and since they are reducing the square footage of the daycare, the parking requirement is 23 spaces. They need two for the housing unit and have planned for 25. They have allowed for more daycare parking on site.

Mr. Ranciato explained that the second floor already has a kitchen and bathroom. The only thing changing is the fire rating and exit signs because they can't go from the residential to the commercial. They will have to go outside the building using an existing staircase. They will be putting walls up to turn it into a residential dwelling. Currently is used as extra space for the daycare. He confirmed that there is a staircase on the outside to access the second floor.

Chairman Rusczek asked about the operation of the daycare. How will they handle the pick-up and drop-off with the tenants upstairs? Mr. Niski stated that he didn't believe it would impact the timing but would need to go back to the owner to ask. Chairman Rusczek verified that no one was present to speak on behalf of the daycare owner or the person running the daycare. Mr. Ranciato noted that the entrance to the residence will be on the right of the building and the daycare entrance on the left, so it shouldn't affect picking up or dropping off children. Chairman Rusczek stated that the Board needs a representative from the daycare to explain how it will affect the daycare hours, drop-off times, etc. There is a playground on the property. What property does the tenant have access to?

Mr. Carmody agreed that he would like to hear about the operations. He proposed postponing the vote.

Mr. Wolfer agreed and asked if the parents using the daycare were aware that people would be coming and going while their children were there.

Ms. Harris asked whether these changes are being requested solely to facilitate the sale of the property. She noticed that it is listed for sale with an approved two-bedroom apartment upstairs and that the daycare space would accommodate 117 children. Mr. Ranciato stated that he didn't know it was listed for sale.

Mr. Czerwinski agreed that parents would need to know about the tenant's access to the property. He questioned whether background checks for the tenants would be required.

Mr. Rys asked why they need the apartment. It doesn't seem reasonable for a daycare.

Mrs. Torre stated that it was generous of the Board to allow the continuation from last month when they weren't ready. She noted that the property owner refused to provide information on the operation of the daycare. She stated the application is about the operation of the daycare, and how the two uses will be intertwined, not the construction of the apartment on the second floor. The Board has the discretion to make sure this is an appropriate added use. She noted that they were increasing the number of children from 100 to 117 using less space. She questioned how that would affect traffic and hours of operation. She stated that the property owner was notified several times that they needed to be present to speak to these items. The application is for an exception to the daycare use, not just the construction. She stated that this is an insufficient application. She noted that the applicant originally attempted to get 4 apartment units approved before coming to zoning. She suggested conditions that only a single-family dwelling be allowed on the second floor and that they get appropriate licensing coinciding with the reduced area and increased enrollment capacity.

Hearing no other public comment, Chairman Rusczek closed the public hearing and noted that this is an incomplete application with no one to represent it and recommended going to a vote.

Mr. Rys: Motion to approve application #20-034 – Special Exception Request, Child Day Care for enrollment of 117 and area of 7825 Sq. Ft. as shown on Limited Property/Boundary Survey, Land of Pumpkin Patch Properties, LLC, dated 10/12/2020, revised and received 1/25/2021 and conceptual plans received January 25, 2021, January 27, 2021, and February 3, 2021, subject to:

Condition(s):

1. Comments from Fire Marshal received February 2, 2021;
2. Comments from the Building Department received February 2, 2021; and
3. Comments of Water & Sewer Department dated February 8, 2021.

Mr. Czerwinski: Second

Vote: Carmody – no to approve; Wolfer – no to approve; Czerwinski – no to approve; Rys – yes to approve and Chairman Rusczek – yes to approve.

The application is denied.

2. #21-001 Variance Requests Andrade at 26 Beechwood Drive

Mr. Czerwinski read the staff notes into the record for application. The applicant requests a side yard setback of 8 ft. where 8 ft. and 19.8 ft. exist and 20 ft. is required and a front yard of 28.5 ft. where 33.5 ft. exists and 40 ft. is required to construct an addition, full vertical addition, and 5 ft. x.10 ft. covered front porch/entryway. The new two-story addition proposed for the southeast side of the dwelling is compliant with regard to the Southeast side setback. The addition to the southeast will eliminate the existing non-conformity with regard to that setback. Dwelling is currently non-conforming with regard to northwest side setback (8 ft.) and front setback (33.5 ft.). Variances are required to expand the existing dwelling vertically. The proposal to add a 5 x 10 ft. single-story front porch/entryway expands the existing non-conformity by 5 ft., reducing the front yard from 33.5 ft. to 28.5 ft. Despite the undersized lot, the proposal is compliant with respect to the building coverage requirement of 15% maximum. In addition, there is a drawing from Dario Andrade dated February 11, 2021, and an Interoffice Memorandum from Water & Sewer Departments dated March 11, 2021.

Daniel Lyon, architect, 4 Simpson Avenue, presented for Dario Andrade. Mr. Lyon explained the variance is to build a two-story addition on the side and then raise the roof of the cape and add a 1-foot second-story garrison overhang on the front. This is in keeping with the nearby residences. The difference from the prior application is the elimination of the front and side porch. This eliminated the request for a variance to the percentage of coverage and changed the variance for the front yard. The current request is only for the front and side yard variances.

Chairman Rusczek noted that the porch is smaller and they eliminated one variance on the side.

Robert Biancur, 24 Beechwood Drive stated that he has no objection to the application and he lives next door.

Hearing no other public comment, Chairman Rusczek closed the public hearing and called for motions for the two variances.

Mr. Rys: Motion to approve application #21-001 Variance request for side yard setback of 8 ft. to construct a two-story addition as shown on Plot Plan Proposed addition Dario Andrade dated 10/8/2020 revised to 2/9/2021 and rendering received 2/11/2021, subject to:

Condition(s):

1. **Comments from Water & Sewer Departments, dated March 1, 2021.**

Mr. Czerwinski: Second

Vote: Carmody – yes to approve; Wolfer – yes to approve; Czerwinski – yes to approve; Rys – yes to approve and Chairman Rusczek – yes to approve.

The variance is approved.

Mr. Rys: Motion to approve application #21-001 Variance request for front yard setback of 28.5 ft. to construct a two-story addition and 5 ft. x 10 ft. single-story covered front entry as shown on Plot Plan Proposed addition Dario Andrade dated 10/8/2020 revised to 2/9/2021 and rendering received 2/11/2021, subject to:

1. **Comments from Water & Sewer Departments, dated March 1, 2021.**

Mr. Czerwinski: Second

Vote: Carmody – yes to approve; Wolfer – yes to approve; Czerwinski – yes to approve; Rys – yes to approve and Chairman Rusczek – yes to approve.

The variance is approved.

CONSIDERATION OF MINUTES

Mr. Wolfer: Motion to accept the minutes of the Tuesday, February 16, 2021, regular meeting as submitted.

Mr. Carmody: Second

Vote: Unanimous to approve

ADJOURNMENT

Mr. Czerwinski: Motion to adjourn the March 15, 2021 meeting of the Zoning Board of Appeals at 7:45 pm.

Mr. Rys: Second

Vote: Unanimous to approve.

Respectfully Submitted,

Cheryl-Ann Tubby

Recording Secretary