

Wallingford Zoning Board of Appeals

Monday, June 19, 2023

7:00 p.m.

**Robert F. Parisi Council Chambers
Town Hall – 45 South Main Street**

Minutes

Present: Chairman Joseph Rusczeck; Board Members: Thomas Wolfer; Karen Harris; Alternates: Robert Gross; Robert Parisi; Robert Prentice; and Amy Torre, Zoning Enforcement Officer.

Acting Chair Rys called the meeting to order at approximately 7:00 p.m. The Pledge of Allegiance was recited.

Voting members tonight are Wolfer, Harris, Gross, Prentice, and Rusczeck.

Chairman Rusczeck noted that tonight's decisions will be published in the Record-Journal on Friday, June 23, 2023. The effective date of your variance will be Friday, June 23, 2023; the date a certified copy is recorded on the land records. The statutory 15-day appeal period will expire on Sunday, July 9, 2023. If you commence operations and/or construction during the appeal period, you do so at your own risk.

PUBLIC HEARINGS

1. #23-016/Variance Request/Choate Rosemary Hall Foundation Inc./138 North Elm Street

Ms. Harris read the staff notes into the record. The applicant seeks a building coverage of 18.2% where 17.4% exists in order to construct a 3,590 sq. ft. single-story addition to the Main Dining Hall at Choate Rosemary Hall, 138 North Elm Street in an R-18 District. A variance was previously granted in February 2020 for building/lot coverage of 18.7% to renovate and construct an addition to Hill House. In October 2022 Choate proposed and subsequently filed a Lot Merge between 138 North Elm Street and 28 Beaumont Avenue, increasing the lot area from 437,514 sq. ft. to 457,520 sq. ft. (an increase of 19,906 sq. ft.). This ZBA application proposes to also merge 138 North Elm Street with 179 Christian Street and 333 North Main Street, further increasing the total lot area by another 12,962 sq. ft. 138 North Elm Street is proposing an overall reduction in lot coverage (18.2%) than was granted in 2020 (18.7%). Since the lot was reconfigured from what was granted to 138 North Elm Street in 2020, technically the applicant must re-apply for a building coverage variance for the "new" lot even though the net result is less building coverage than previously granted. 138 North Elm Street (including 28 Beaumont Avenue) plus 179 Christian Street plus 333 North Main Street existing building coverage is 17.4%. The proposed dining hall addition will result in 18.2% building coverage as it is requested. The Board should condition any approval on the lot merge being formalized and filed for 179 Christian Street and 333 North Main Street. Correspondence included a letter from Kevin Pagini, Town Planner to Patrick Durban, CFO, dated May 18, 2023; a letter from Amanda Benneh to the Zoning Board of Appeals dated June 12, 2023; a document provided by Phillip Youker regarding the zoning history of 138 North Elm Street received June 13, 2023; and a document entitled "Choate Rosemary Hall – Cafeteria/Servery Renovation with Small Addition Lot Coverage Calculations"; the application; letter from Thandiwe Taylor to Zoning Board of Appeals dated June 19, 2023; and plans entitled Main Dining Hall's Servery Renovation, dated May 19, 2023.

Presenting were Atty. Dennis Ceneviva of Ceneviva Law Firm at 721 Broad Street in Meriden and Patrick Durbin, Chief Financial Officer, Choate Rosemary Hall.

Atty. Ceneviva explained that the property is 10.5 acres with frontage on Christian Street, North Elm Street, Curtis Avenue, and North Main Street. It has 9 distinct buildings, the largest of which is Hill House, which is the focus of this application. In March 2023 Choate merged 28 Beaumont Street into 138 North Elm Street creating a single legal building lot (457,420 sq. ft.). This application is to expand the existing cafeteria by 3,590 sq. ft. to meet the changing needs of students and allow for additional food selections to meet allergy and dietary needs. He stated that the addition will be built on the impervious surface on the south side of the building, so there is no additional lot coverage proposed no impact on stormwater, and no impact on traffic. He noted that in 2020 Choate received a waiver to increase building coverage to improve emergency egress and update ADA accessibility to 18.7%. Tonight they are asking for a smaller building coverage because the originally approved lot was smaller. Since then they merged 20 Beaumont into it increasing the land area of 138 Beaumont. The merger of the two existing non-conforming building lots (333 North Main and 179 Christian) into 138 North Elm, increases the lot size to 10.8 acres. Thus they are asking for a reduction of coverage to 18.2%. He explained their hardship. CT Law and Judge Fuller, the CT expert on Land Use states that a variance is properly granted when the effect is to reduce non-conforming lots. The impact of granting the variance is to reduce the current building coverage ratio and remove two non-conforming lots (undersized) while ensuring students have culturally and allergy-friendly food options.

Chairman Rusczek asked for clarification of where the addition will be. Mr. Durban showed it on the drawing. Mr. Durban explained that they are expanding the area where students pick up food because they need to offer more options. This is a health and wellness initiative.

Mr. Prentice asked if they applied to Planning & Zoning for a redesign of the property. Atty. Ceneviva replied yes. First, they filed for the merger of 28 Beaumont into 138 North Elm. They also filed with Planning & Zoning to revise an earlier approval. At that time the Planner suggested going back to ZBA to confirm it is okay to reduce the density. Ms. Torre stated that the application is already in front of Planning & Zoning. They can't act until ZBA does.

Mr. Gross asked if this location is across from Moses Y Beach School. Mr. Durban confirmed. Mr. Gross asked if the only way to build on these lots is if they are merged. Ms. Torre replied that they can build on each lot without the merger. By merging, they are making them part of the whole. The overall lot can be developed, but they would have to come back to ZBA unless what they are building is small.

PUBLIC COMMENT

Vincenzo DiNatale, 8 Taylor Lane stated that he graduated from Choate. He explained the importance of the community dining hall and how crowded it always was.

Lorraine Hogan Santa, 238 North Elm Street, a day student at Choate, explained that the dining hall is too small and forces students to skip lunch. This impacts student health. The school community is very diverse with many different dietary restrictions that the server is not equipped to deal with.

Robert Blanchard, Curtis Avenue, stated that he is neither for nor against this proposal. He stated that there is a clear pattern here. This Board has routinely issued variances for this school when there is no hardship. This Board is here to protect the Town. A hardship renders the property valueless. That's not

the case here. The alternative is to rezone the school into a planned district so they don't have to keep coming back. This is a residential district. The Board needs to follow the rules.

Phillip Youker, 29 Curtis Avenue, stated that he is a former Choate Faculty member. He stated that this request is based on convenience, not hardship tied to the land. They are claiming a reduction in non-conformance due to merging properties. Without merging the lots, this is actually an increase. So the vote is for an increase contingent on future lot mergers. He suggested adding 307 North Main Street to the merged properties. There is no legitimate hardship.

Atty. Ceneviva stated that regarding hardship, it would be unusual for this Board to act without hardship. He mentioned the CT Supreme Court case *Vine vs. ZBA of North Branford* and the Fuller Land Use Law. A variance is upheld when it reduces non-conforming lots and does away with the non-conformity. He noted that the basis of hardship is not that the property is made valueless. There is no issue about value here. This is a CT legally recognized hardship to merge non-conforming lots to make it a compliant lot. In 2020 this board voted to increase building coverage to allow the school to make the building ADA-compliant. This plan reduces the density and serves the needs of the student population.

Mr. Gross asked if the resulting coverage is greater than what would normally be acceptable. Atty. Ceneviva stated that it would be less. If they developed to the 15% limit, with the two non-conforming lots plus the Beaumont lot merged into 138 North Elm, the total would be 18.4%. They are asking for 18.2%.

Hearing no further public comment, Acting Chair Rys closed the public hearing and asked for discussion or possible action.

Mr. Wolfer: Motion to approve #23-016/Choate Rosemary Hall Foundation, Inc. 138 North Elm Street for a Variance Request for building coverage of 18.2% where 17.4% exists and a maximum 15% is permitted to construct a 3,590 sq. ft. addition at 138 North Elm Street as shown on Main Dining Hall's Served Renovation plans dated 5/5/2023 and received 5/19/2023 and elevation rendering/plan received 6/12/2023, subject to:

- 1. Completing and filing of lot merger of 138 North Elm Street with 179 Christian Street and 333 North Main Street.**

Ms. Harris: Second

Vote: Gross – no to approve; Wolfer – yes to approve; Harris – yes to approve; Prentice - yes to approve; and Chairman Rusczyk – yes to approve.

The application is approved.

CONSIDERATION OF MINUTES

- 2. May 15, 2023, Regular Meeting**

Mr. Wolfer: Motion to approve May 15, 2023, Zoning Board of Appeals Minutes as submitted.

Ms. Harris: Second

Vote: Unanimous

ADJOURNMENT

Chairman Rusczek: Motion to adjourn the June 19, 2023, regular meeting of the Zoning Board of Appeals at 7:40 pm.

**Mr. Parisi: Second
Vote: Unanimous**

Respectfully submitted,
Cheryl-Ann Tubby
Recording Secretary