

Wallingford Zoning Board of Appeals

Tuesday, February 18, 2020

7:00 p.m.

Robert F. Parisi Council Chambers

Town Hall – 45 South Main Street

DRAFT

Minutes

Present: Acting Chair Ray Rys; Secretary Louis Czerwinski; Commissioners Thomas Wolfer; Samuel Carmody; Alternate: Robert Parisi; Amy Torre, Zoning Enforcement Officer.
Absent: Chairman Joseph Rusczek; Alternate Bruce Conroy.

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

Acting Chair Rys noted that tonight's decisions will be published in the Record-Journal on Friday, February 21, 2020. The effective date of your variance will be Friday, February 21, 2020; the date a certified copy is recorded on the land records. The statutory 15 –day appeal period will expire on Sunday, March 8, 2020. If you commence operations and/or construction during the appeal period, you do so at your own risk.

Voting members were Carmody, Wolfer, Czerwinsky (voting for Rusczek), and Acting Chair Rys.

PUBLIC HEARINGS

1. #19-027 - Variance/Side Yard/Monocchi/ 15 Green Street

Acting Chair Rys asked the applicant to confirm that they have certificates of mailing to notify neighbors. Michaela Gaglientino confirmed and agreed to get them to the office.

Mr. Czerwinsky read the staff notes into the record: "Applicant seeks side yard of 6 ft. where 12 ft. is required and 6 ft. exists to construct a two story addition to dwelling at 15 Green Street in an R-11 District. Subject property sought variance for same in December 2018. Applicant received Survey Waiver for vertical addition to existing structure. Proposed addition per submitted plans referenced an expanded footprint with a vertical addition therefore resulting in withdrawal of Variance Request in February 2019. Applicant received additional Survey Waiver in April 2019 to correlate with 2 story proposed addition plans and subsequently is reapplying for Variance Approval."

Michaela Gaglientino and Joseph Gaglientino explained that the addition is to add a bathroom and bedroom on the second floor and a kitchen and bathroom on the first floor.

Mr. Wolfer asked why they changed the footprint of the dwelling. Ms. Gaglientino stated that the home was bought on foreclosure and needed to add a bedroom and two bathrooms. She confirmed that the original footprint would not have been enough to do what needed to be done. Mr. Wolfer asked if the run off of water to the neighbors due to the disturbance of the land had been considered. Ms.

Gaglentino stated that she was pretty sure the run off of water wouldn't interfere with any of her neighbors

Mr. Czerwinsky asked if the addition is just the vertical increase. Ms. Gaglentino stated that it goes into the backyard as well as up. Mr. Czerwinsky noted that means that the coverage of the lot is increasing. Mr. Gaglentino stated that they are expanding, but not by much, it's mostly vertical.

Public Comment – none

Acting Chair Rys closed the public hearing at 7:08pm and entertained discussion and possible action.

Mr. Czerwinsky: Motion to approve Variance #19-027 Monocchi/15 Green Street Variance request for side yard of 6 ft. where 12 ft. is required and 6 ft. exists to construct a 410 sq. ft. 2 story addition as shown on plans prepared for Francine Monocchi, revision date July 3, 2018 and Survey Waiver granted April 5, 2019.

Mr. Parisi: Second

Vote: Carmody – yes to approve; Wolfer – yes to approve; Czerwinsky – yes to approve; Parisi – yes to approve; Acting Chair Rys – yes to approve.

The applicant was reminded to get the certificates to the office tomorrow.

#2 #19-028 Variance/Use/Protronix Investment Properties/28 Parker Street

Mr. Czerwinsky read the staff notes into the record: "Applicant is returning to ZBA after receiving side yard and rear yard variances in July 2019 in order to build a 990 sq. ft. addition at 28 Parker Street in a CB-40 District. Applicant received Site Plan Approval October 2019 for the proposed addition and associated site improvements. Current use of Manufacturing is a non-conforming use pre-dating zoning. An addition to the building, associated with the non-conforming use also constitutes an expansion of the non-conforming use which requires compliance with current zoning regulations or variance request to expand the non-conforming use. Site Plan Approval was also granted contingent upon applicant securing variance for the expansion of non-conforming use. This office recommends the Board consider waiving the application fee associated with this return to ZBA for variance approval since request was not included as part of the July 2019 variance requests.

Christopher Giuliano, Licensed Land Surveyor and Professional Engineer with Giuliano Associates summarized the history of the application. They discovered when they went for Planning and Zoning approval that they needed a Use Variance for the manufacturing use. Today's request is for the Use Variance so they can finalize their approval and Protronix can move forward with the addition.

Public Comment – none

Acting Chair Rys closed the public hearing at 7:12 pm and entertained discussion and possible action.

Mr. Wolfer: Motion to waive the application fee for the variance since the request was not included as part of the July 2019 variance request.

Mr. Parisi: Second

Vote: Carmody – yes to approve; Wolfer – yes to approve; Czerwinsky – yes to approve; Parisi – yes to approve; Acting Chair Rys – yes to approve.

Mr. Czerwinsky: Motion to approve application #19-028 variance request for expansion of non-conforming use where no expansion is permitted to construct a 990 sq. ft. addition to the building, therefore increasing manufacturing area/use, as shown on Improvement Location Survey prepared for Protronix Investment Properties dated April 23, 2019.

Mr. Parisi: Second

Vote: Carmody – yes to approve; Wolfer – yes to approve; Czerwinsky – yes to approve; Parisi – yes to approve; Acting Chair Rys – yes to approve.

3. #20-001 - Variance/Use/Moutinho/52-56 Woodhouse Avenue

Mr. Czerwinsky read the staff notes into the record: "Applicant seeks Use Variance to allow lot line revision reducing area of site from 44,391 sq. ft. to 22,500 sq. ft. at 52-56 Woodhouse Avenue in an R-18 District. Subject site was permitted 3 family use under Zoning Regulations in effect upon construction in 1968 which permitted up to 3 family dwellings provided the minimum lot area conformed to 14,000 sq. ft. per family unit (42,000 sq. ft.). Use Variance is required in order to continue 3 family residential use with proposed reduction in lot size to 22,500 sq. ft. and proposed lot line revision. Applicant also needs to clearly demonstrate any subdivision history to determine whether re-subdivision approval need follow. Applicant sought Variance to divide subject lot in June 2004 and was denied due to lack of demonstrated hardship."

Bob Wiedenmann Jr. Sunwood Development, he is involved because he has a contract to purchase an adjoining property and found abutting property owners interested in selling a portion of their rear property to him for his proposed development. While working with staff, he discovered that the property was allowed to be developed as a three family house back in 1968. There was a regulation in effect at that time that allowed multifamily houses if the lot was increased in size. The minimum size requirement was 14,000 sq. ft. per dwelling unit. The current regulation is an R-18, which requires and 18,000 sq ft. lot. The current lot is over 44,000. The question became could the owner get a lot line revision to give Sunwood Development a portion of the property and retain the smaller portion of 22,500 sq. ft. Mr. Wiedenmann could find no record that the regulation was used at the time was used, since there are several other multifamily homes in the neighborhood, built at the same time with smaller lots. He has found no record of variances for these lots. They are not sure how and why this lot was required to be oversized for a three family and other lots were not. He gave examples of nearby properties. He asked how to he should ask for a variance to a regulation that is no longer in effect. The remaining lot with the three family house will remain in excess of the size required for the current zone. The application is only to move a lot line to make one lot smaller and another larger.

Amy Torre explained the staff perspective. She acknowledged that the regulations have changed. The regulations that were in place when this three family house was constructed were based on a square footage lot of 14,000 sq. ft. per dwelling unit. So the 42,000 sq. ft. was what was required. Today the regulations permit only single family dwellings in the R18 district and require 18,000 sq. ft. She cannot comment on neighboring properties without further research. She stated that the opinion of the staff and the legal department that in order to maintain that three family dwelling, we need to maintain the lot area that was required at that time, or it would be non-conforming with today's R18 regulations. The change in regulations has forced the variance request.

Mr. Czerwinski asked Ms. Torre whether the proposed 22,500 sq ft lot would be acceptable by staff. Ms. Torre responded that it is an acceptable lot area for the R18 zone, however the current zoning regulations only allow single family dwellings. The lot size complies but the other factors of the zone do not.

Mr. Carmody asked Ms. Torre what the current regulations are for three family dwellings. Ms. Torre replied that they are not permitted today. All the residential zones in the town are single family only. The opinion of the office is that the determination at the time should stand or be varied.

Mr. Czerwinski asked Ms. Torre if there were any other instances where something like this has been approved. Ms. Torre replied that each situation is unique and she was not aware of a similar request.

Mr. Czerwinski asked Mr. Wiedenmann to verify that the land would be added to property that he owns or is buying? Mr. Wiedenmann stated that it is land that he has an option to buy. Mr. Czerwinski asked about the intended use of the property Mr. Wiedenmann is buying. Mr. Wiedenmann replied that the 2.5 acre property will be developed for residential. It is approved for affordable housing and he intends 20% of the units to be maintained as affordable. The additional property will allow them to expand from a single three story building to four smaller two story buildings. Without this piece of property, he is uncertain the development would be feasible.

Public Comment

Christopher Guiliano of Guiliano Associates pointed out that there are conditions where multifamily is allowed in residential districts. There are regulations on the books for adaptive reuse to multifamily and conversion to multifamily. So the comment that multifamily is not allowed in the zone is not exactly true. He stated that this is just a use variance and the lot meets zoning. Ms. Torre responded that there are varying circumstances that are unique to each property and she can't speak to them without researching them further.

A member of the public asked for clarification that variances brought to the ZBA need a non-financial hardship to the property. Ms. Torre replied that variances of any time all require a hardship be demonstrated to the land use. The variance is granted to the land not the people.

Mr. Wiedenmann submitted for the record, four properties in the immediate area: 160 Woodhouse Ave, a two unit building on a 10,000 sq ft lot built in 1975; 28 Woodhouse Ave, a two-unit building on a 6,200 sq. ft lot built in 1973; 40 East Main Street, a two-unit building on a 23,000 sq ft lot and 90 Woodhouse Avenue, a five unit building on a 14,000 sq ft lot. He presented documentation of the size of the buildings, when they were built and the size of the lot to the Board. He offered to get a copy for staff tomorrow. He stated that this information shows a pattern of inconsistency in how the regulation was utilized 50 years ago. Mr. Wiedenmann stated that the hardship is that they are being asked (1) to comply to a regulation that no longer exists and (2) to comply to a regulation that was enforced arbitrarily. Why is this property owner treated differently than others in the area. He acknowledged that there is no current regulation governing this issue. He came here uncertain what he was asking for because the request is for a variance that no longer exists. He stated that the lot will continue to exceed the minimum requirement for the zone for a building lot. They are not creating a non-conforming lot. The proposed lot will be in excess of the majority of lots in the neighborhood.

Acting Chair Rys closed the public hearing at 7:30 pm and entertained discussion and possible action.

Mr. Carmody asked staff to explain what it means for re-subdivision approval needed. Mrs. Torre explained that would be the legalities for the lot line revision, would it be classified as another subdivision or a re-subdivision. That would be needed to complete the transaction. The Board is evaluating whether we can reduce the lot but the applicant should be prepared to paint the history of the lot line movements over time. That would be reviewed by Planning and Zoning. She stated that in general people are allowed to slice off a piece of their lot, but in this case there has been a lot of subdividing and re-subdividing and the history is a little murky.

Mr. Czerwinsky asked Mr. Wiedenmann if he was aware if any of those properties had a similar situation or does he know if those are the original sizes. Mr. Wiedenmann clarified that the question is whether any of them were larger lots than they are now. That he doesn't know. He stated that he only has background knowledge of 90 Woodhouse Avenue, the 5 family dwelling, which was built on a much smaller lot than the 3 unit property in question.

Mr. Carmody asked staff why it is considered an expansion of non-conforming use. Ms. Torre replied this came to be as result of regulations at the time. Regulations have since changed. It has been allowed to continue because it predates today's regulations. The density was only allowed as a result of the lot size that was required at the time, so the office recommends that since it was created under those circumstances, those circumstances should continue. Mr. Carmody asked if that is a premise that has been used in prior applications. Ms. Torre replied that they have not had time to research the properties that were submitted and the circumstances or the individual situations. She stated that this application is for 52-56 Woodhouse, not the property to be developed by Mr. Wiedenmann.

Mr. Rys: Motion to approve variance request for expansion of non-conforming use (3 family dwelling/lot area) where no expansion is permitted and to revise property line and reduce lot area at 52-56 Woodhouse Avenue as shown on Property and Topographic Survey Lot Line Revision prepared for Mario and Stella Moutinho dated January 16, 2020.

Mr. Parisi: Second

Vote: Carmody – yes to approve; Wolfer – yes to approve; Czerwinsky – yes to approve; Parisi – yes to approve; Acting Chair Rys – yes to approve.

4. #20-002 – Variance/Height and Lot Coverage/Choate Rosemary Hall Foundation, Inc./138 North Elm Street

Mr. Czerwinski read the correspondence into the record. "Applicant seeks variance for building height of 45ft 8 in. where 45 ft 8 in. exists and a maximum 30 ft is allowed and lot coverage of 18.7% where 18.3% exists and maximum 15% is permitted to renovate and construct additions to fire-damaged Hill House Building at 138 North Elm Street in an R-18 District. Applicant represents the addition of 2000 sq. ft. of building area (increasing lot coverage by 0.4%) is necessary to provide improvements to accessibility, required accommodations, meeting updates to building code/requirements and, as well as better serving the safety and well-being needs of students and staff. Applicant will continue to Planning and Zoning for Special Permit Approval following ZBA determination."

Atty. Dennis Cenevivia summarized the application. The property is a portion of Choate Rosemary Hall campus, which is zoned R18 and is about 10 acres in size. The renovation is a combination of fire and water damage at Hill House and a need and desire to comply with current standards and requirements for accessibility, public safety and compliance with the ADA. Atty. Ceneviva noted that the law

department has indicated that P&Z could allow exceptions to their regulations for accessibility, public safety and ADA items. They decided to apply for a variance anyway. The application is to expand the footprint to accommodate the goals set forth in paragraph 5 of the application. This provides the basis for the hardship. He noted that the height will not be taller than the existing building. The hardship arises in order to provide additional space necessary for improved emergency means of egress, accommodations that comply with all the current codes, provide improved access to egress paths for building occupants and provide conventional straight run stairs replacing spiral stairs. Also to provide additional space to construct an ADA compliant accessible access pathway. Lastly to improve and provide a state of the art HVAC and Plumbing systems that will comply with current energy codes. All the changes arise from new standards. Atty. Ceneviva stated that there is no proposed increase in student body or faculty, nor increase in proposed activities.

Richard Saltz, Chief Financial Officer of Choate Rosemary Hall reviewed the building locations, history and changes. He explained that there was a fire in July of 2019 caused by a lightning strike. Water damage required the whole inside of the building to be gutted. Right now it's an empty shell. There are two small additions: 1800 sq ft addition on the north side, extending the building and on the west side making a corridor that equals the design on the south side, allowing egress from the student center straight through to the library or outside. The addition on the north side allows replacing the spiral staircases to the faculty apartments. Mr. Saltz noted that they are actually decreasing the number of students in the building, due to making the bathrooms bigger. In addition the elevator now goes to the fourth floor to allow ADA access to the apartments. He noted that this addition will make the building symmetrical.

Atty. Ceneviva noted that the request is to increase the lot coverage by 0.4% and the height variance would keep the building at the same height.

Public Comment – none

Acting Chair Rys closed the public hearing at 7:52 pm and entertained discussion and possible action.

Mr. Czerwinski: Motion to approve #20-002 variance request and Lot Coverage for Choate Rosemary Hall Foundation, Inc., 138 North Elm Street

Mr. Carmody: Second

Vote: Carmody – yes to approve; Wolfer – yes to approve; Czerwinsky – yes to approve; Parisi – yes to approve; Acting Chair Rys – yes to approve.

5. #20-003 – Variance/Front Landscaping/Blichfeldt/11 Ives Street

Mr. Czerwinski read the correspondence into the record. "Applicant seeks Variance for front yard landscaping of 25 ft. where 50 ft. is required to establish vehicle storage area associated with approved Dealers and Repairers facility at 11 Ives Road in an RF-40 District. This office has insufficient information to fully review this proposal. Applicant seeks a landscaping variance, yet General Location Survey dated January 8, 2020 includes no such landscaping plan. Additionally, the variance requested and Surveyor's Notes regarding necessary Variances are inconsistent. If no additional materials are submitted and reviewed prior to the February 18, 2020 ZBA meeting, we recommend the application should be continued to March 16, 2020 meeting to enable submission and review of a complete proposal." In addition there is correspondence a map for application #20-003 received February 13, 2020.

Patrick Hughes and Joseph Blichfeldt noted that they complied with all submission instructions and brought the additional plans. Ms. Torre instructed the Board that they have the revised map, so there is nothing outstanding, the staff was satisfied.

Mr. Carmody asked the applicant to explain the application and the hardship. Mr. Hughes explained that the parcel was broken off a larger parcel back in 1995. The property is triangular and .92 acres. At the time, 25 ft. was required for front landscaping. The way the property is shaped, 50 ft. would take away much of the feasible use of the property. In exchange, on the revised plans, they proposed a significant amount of interior landscaping. He understands that they need 20 ft interior landscaping for each automobile space, which is a total of 2000 feet. The proposal includes far more than that. The shape of the property is causing the hardship with the 50 ft front landscaping requirement.

Mr. Carmody asked for information on the use of the property. Mr. Blichfeldt stated that it is for new vehicle storage for a dealership, not for public use. He stated there wouldn't be much traffic in or out. He noted that currently the property is an eyesore and the prior owner had forgotten about it. It is currently under the investigation process by the current owners because it needed remediation.

Mr. Czerwinski asked for clarification about a repair facility at that location. Mr. Blichfeldt responded that it would be associated with a current car dealership on Rt 5. Mr. Hughes stated that they put that language in there to ensure it couldn't be used as a commuter lot. The lot is only for new or used cars associated with and existing, licensed business. Mr. Czerwinski asked Ms. Torre for comments on the staff notes on insufficient information. Ms. Torre replied that the appropriate map of landscaping (with revisions Feb 10, 2020) has been submitted and noted that this is a landscaping only variance. The applicant will have to go to Planning and Zoning to complete the process. The map demonstrates the excess of interior landscaping that has been offered by the applicant.

Mr. Wolfer asked if there will be a lot of movement on and off the property. Mr. Blichfeldt replied that there should be little movement. He noted that manufacturers are requiring car dealers to stock more and more inventory but they also want dealerships to provide more customer service. So they need more service parking on the dealership property. Dealerships need off site locations for inventory. This lot will be for new cars, as cars get sold, new inventory will be moved from the lot to the dealership. They will not be conducting business on this property.

Mr. Wolfer asked when the landscaping would be done. Mr. Blichfeldt explained that the property is currently under a DEEP investigation process. They will be able to go forward and park cars there during the remediation process. The remediation may take years.

Mr. Wolfer asked for clarification that this was an acceptable lot tied in with the North Colony Road dealership. Ms. Torre confirmed, but stated that they will need approval from Planning and Zoning once all the site elements are done. She noted that because it's storage, as opposed to an operational lot, they can use smaller parking spaces and have more room for greenery and landscaping within the lot. This is strictly a variance for the front landscaping requirement. Mr. Blichfeldt noted that this is Ives Street, not Rt. 5 and that the bank across the street received a similar variance.

Public Comment – none

Acting Chair Rys closed the public hearing at 7: 05 pm and entertained discussion and possible action.

Mr. Czerwinski: Motion to Approve application 20-003 variance / Front Landscaping /Blichfeldt/11 Ives Road

Mr. Carmody: Second

Vote: Carmody – yes to approve; Wolfer – yes to approve; Czerwinsky – yes to approve; Parisi – yes to approve; Acting Chair Rys – yes to approve.

6. #20-004 – Variance/Use/Malton/100 Center Street

Mr. Czerwinski read the correspondence into the record. "Applicant requests Use Variance to allow Office (Medical) to be located ground-level, street-facing where Office Use is not permitted within 50 ft. ground-level, street-facing at 100 Center Street in the TC-District. The 50 Ft. ground-level street-facing setback applies to two sides as this is a corner property fronting on two streets, Center Street and Williams Street. This office had a discussion with the Applicant regarding the uses and requirements of the Town Center Zone, adopted August 2018. Applicant was also advised that rather than seeking a variance, the more appropriate avenue is to propose a Zoning Text Amendment via the Planning and Zoning Commission. The Planning and Zoning Commission has commenced review of the newly-adopted Town Center Regulations. To that end, the PZC held a Special meeting/workshop on Tuesday, February 4, 2020 which included discussion and proposal to eliminate the office 50 ft. setback street-facing ground-level for the secondary street where a property is a corner property, street-facing on two sides. Should this change be adopted, the applicant need only comply with the Center Street 50 ft. street-facing, ground-level requirement for office use and would not require a variance approval for 50 ft. setback on William Street. Applicant was advised to consider compliant means of locating the office use component of 100 Center Street and/or proposing specific plan reducing the scope of requesting variance before occupying the space and commencing interior configuration. There are no dimensions provided, or component uses identified for the site known as 100 Center Street. The accompanying proposal with this application remains unchanged from the first meeting with staff. This office would recommend the Board request a detailed, clearly defined application and consistent proposal before issuing any determination. Should the applicant choose to more for determination without a clear representation then this office cannot support the granting of this variance on the grounds that there is absence of hardship and alternative(s) for compliant or more compliant options exist." He noted that they also have correspondence received February 18, 2020 from Joseph W. Simmons Jr. to the Planning and Zoning Committee and a memorandum dated February 13, 2020 regarding variance application 20-004 issued by the Planning and Zoning Commission

Dr. Tracy Malton of 167 Stonehedge Lane in Guilford explained that her request is to move her chiropractic office and open a wellness center. The building is the old Wallingford Bank & Trust. The request is to be allowed to include many practitioners in the space that may be considered medical. She acknowledged that her business is classified as medical. She pointed out the unique characteristics of the building that was built in 1890, with an addition in 1963. She noted that a dentist occupied part of the building at one point. Dr. Malton explained that the hardship the building presents is that it is not designed as a retail space. It does not have any storefront presence like the other buildings along Center Street. The street facing windows are small and very high off the ground, so you can't see inside from the street. One window on the corner of Williams and Center has more visibility, but is obscured by a stairway. An additional hardship is that the building has a large vault in the back of the building which makes putting her practice in the back difficult. The other unique hardship of the building is its historic value. The older section of the building has a magnificent plasterwork ceiling. In addition the newer portion of the building has a higher ceiling than the older section. The difference is 2.5 feet. She would

like to divide the building lengthwise and preserve and restore the ceiling. She proposed having a yoga studio on the left and her practice on the right. She explained that if they had to split the building horizontally the space wouldn't be as desirable for the yoga studio because of the current office structure breaking up the space. She noted that Yoga and massage are currently acceptable uses. She explained that her business is currently one block away and sees between 75 and 100 patients per day. She explained that she doesn't schedule patients and that they often visit local shops while waiting. She stated that the new building would allow her to expand and add another chiropractor. She stated that her customers are excited about her new location and the other shops in the area. She believes her business will bring foot traffic. She shared a petition that she had posted in her office of residents and non residents in favor of her move. She noted that putting her business on the second floor would make it difficult for her patients with mobility issues. Also that there is little second floor space. She admitted that she looked up the regulations before she purchased the building, but only found the prior regulations that would have allowed her business. So she assumed, since her current business was a block away, that the use would be acceptable and bought the building. She explained that she would have additional health and wellness tenants, possibly including reiki, massage, occupational therapists, naturopaths, and homeopaths. She stated that she was willing to accommodate some of the needs of the town. She noted that her allotted 25 parking spaces would be available to area restaurants after her business hours. She stated that the 50 foot setback gives approximately 2591 sq. ft of usable space. If allowed to divide the building lengthwise, as they have proposed, she would be willing to stipulate that that amount of square footage would be dedicated to acceptable uses, as per the current regulations. The division lengthwise is also safer and gives secondary egresses in case of emergency. She closed by stating this building is unique on Center Street and that it's hardship is that it doesn't conform to the needs of a storefront or retail property. It honors the spirit of the regulation in bringing people to the downtown.

Steve Lazarus of Lazarus and Sergeant Architects of Wallingford thanked staff for helping to focus the project. Should the Board decide that you want us to come as close as possible to complying with the regulation as it stands, we would be able to take roughly 900 square feet of space in the setback area and provide that in the area behind the setback. He stated that assuming the 50 foot side street setback is eliminated; they could put all medical behind the 50 foot line. He explained how they tried to take as little space in front of the 50 foot line as medical and have 904 square feet. They can put it behind the 50 foot line, and leave only approved uses to the front. He proposed leaving the medical in front to contribute to preserving the ceilings. They would put retail in front of it along Center Street. This would meet the spirit of the regulation. The variance request is to use medical office everywhere. At the least, to start the project in the right direction they need a variance granting relief from the 50 foot side street set back and a variance allowing 904 sq ft in the front 50 ft setback elsewhere on the first floor.

Ms. Torre noted the Board needs to focus on what the application says. The application is not for a wellness center or a combination of items. The application is for office use to not be within the 50 foot setback. If there is something other than that, then perhaps the applicant needs to go to the Planning and Zoning Commission for a determination of the type of use. If the application is different from what was submitted, the application needs to change. Based on the regulations the medical office component needs to be 50 feet off the street-facing ground-level, in this case on two sides. The application focuses on this. She noted that she has not had a chance to review the most current revised plans. She recommended the Board review it thoroughly and understand what the compensatory change is and be mindful of the Planning and Zoning report that was issued. They welcomed a new application but could not support the application due to self-imposed hardship as proposed prior to this evening. She reminded the Board that the application we are discussing is for office use and if there are other

components, which are permitted uses, then those components be located accordingly. Or she suggested waiting for the regulation amendment.

Mr. Lazarus asked Ms Torre for clarification of the "office space" she referred to in the application. He noted that the application is for medical office space. Thus if the application is granted, an insurance office couldn't move into the space, it would be medical office only. Ms. Torre stated that regulations refer to office use and medical office use having the same setback. Mr. Lazarus asked, if the variance is granted, can it be limited to medical office use only. Ms. Torre replied the Board may consider conditions of any sort, because any office use would be interchangeable. A permitted use is allowed and not limited to a specific permitted use. The variance follows the land. Mr. Lazarus stated that they would welcome a limitation to medical office use as they believe office use would not be a good use of this building.

Mr. Carmody asked about the setback of the 900 sq ft area in blue on the map. Mr. Lazarus pointed out that it is about 12 to 14 feet from the front wall. He noted that you can't see in the windows from the street. Mr. Lazarus stated that it shouldn't matter where the allowed uses are as long as the quantity of allowed uses are there. He agreed that the allowed uses generate the most traffic. He indicated that the green and yellow on the map are allowed uses by the zoning regulations. Mr. Carmody also asked what was in the front 12 foot section. Mr. Lazarus pointed out a staircase and the sales display area. He noted that they moved the treatment space away from the windows to ensure privacy of patients.

Mr. Czerwinsky asked for the square footage of the retail display area. Mr. Lazarus replied that it is about 200 square feet and that people would be walking through the area. He noted that the regulation doesn't take into account the stairway that limits the usable space in the front 50 feet of this building. He noted that they will probably use the safe for their patient files.

Mr. Parisi asked if this is the plan that Planning and Zoning saw. Mr. Lazarus stated that they have not seen this plan. He offered to provide copies to the office. Mr. Parisi noted a concern that planning and zoning asked to see any modifications, so he asked why they didn't honor that request and go back to Planning and Zoning. Mr. Lazarus replied that the original application was for the whole building to have a variance, so they didn't submit plans. That's the application before the Board. Since receiving comments from staff they created this current plan to be more in compliance with the regs. This plan hasn't been submitted to Planning and Zoning yet because it was just completed. Now they are only asking for compensatory space. Mr. Parisi asked why they wouldn't go back to Planning and Zoning with the new plan. Mr. Lazarus replied that a possible scenario is that the Board continue this hearing to the next meeting and they bring the application back to staff for comments. He feels they've done everything they can to comply with the spirit of the regs. Mr. Parisi stated he still didn't understand why they don't just go back to Planning and Zoning. Mr. Lazarus agreed to take it back to Planning and Zoning and suggested continuing this hearing to the next meeting. He noted his disagreement with the definition of Medical office and equating it with general office. He stated that they wanted to find a way to get this approved so they can save the spectacular space. Mr. Lazarus stated that what was presented tonight seemed like the best path. He is not trying to change Planning and Zoning regulations. He wants this project to proceed and thinks this is the best path. He agreed to take another month and get comments from staff on the plan. Mr. Lazarus stated they would welcome a continuation of the hearing.

Ms. Torre stated that staff would concur that they need time to evaluate the modification to the application and the Board needs time to look at it. She was in favor of a continuance.

Mr. Wolfer: Motion to continue the hearing of application #20-004 to the March 16, 2020 meeting.

Mr. Parisi: Second

Vote: Carmody – yes to approve; Wolfer – yes to approve; Czerwinsky – yes to approve; Parisi – yes to approve; Acting Chair Rys – yes to approve.

Mr. Czerwinski: Motion to approve the minutes from the November 18, 2019 meeting.

Mr. Wolfer: Second

Vote: Unanimous to approve.

Mr. Parisi: Motion to Adjourn at 8:50 pm.

Mr. Wolfer: Second

Vote: Unanimous to approve

Respectfully submitted,
Cheryl-Ann Tubby
Recording Secretary