

**Wallingford Zoning Board of Appeals**

**Monday, November 21, 2022**

**7:00 p.m.**

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

**Minutes**

**Present:** Chairman, Joseph Rusczek; Vice-Chair, Ray Rys; Board Members: Bruce Conroy; Thomas Wolfer; Karen Harris; Robert Gross; and Amy Torre, Zoning Enforcement Officer.

Chairman Rusczek called the meeting to order at approximately 7:00 p.m. The Pledge of Allegiance was recited.

Voting members tonight are Conroy, Wolfer, Harris, Rys, and Rusczek.

Chairman Rusczek noted that tonight's decisions will be published in the Record-Journal on Friday, November 25, 2022. The effective date of your variance will be Friday, November 25, 2022; the date a certified copy is recorded on the land records. The statutory 15-day appeal period will expire on Sunday, December 11, 2022. If you commence operations and/or construction during the appeal period, you do so at your own risk.

**PUBLIC HEARINGS**

**1. #22-043 – Variance Request/Testa/242 South Main Street**

Ms. Harris read the staff notes into the record. The applicant proposes an addition to the front porch, expanding forward by 3 ft. necessitating a variance request for a front yard of 15.66 ft. where 18.66 ft. exists and 20 ft. is required. The home pre-dates zoning and is currently non-conforming with respect to the front setback at 242 South Main Street in an R-11 District. In addition, there is an email dated November 7, 2022, from Patrick Bernie and an email dated November 9, 2022, from Warren Krueger.

Michael Cipriani, 58 Fair Street, and Debra Testa, 240-242 South Main Street presented. Mr. Cipriani explained that the original project for a second-story porch expanded when they found rotting floors and the columns needed to be replaced. They had to bring the structure down and dig down the required 42 inches. They need to go out further in case there is a need to make it handicapped accessible at some point.

Chairman Rusczek asked if it is just three more feet. Mr. Cipriani said yes.

Mr. Gross asked about the stairs. Mr. Cipriani replied that the porch and stairs will stay the same height.

Mr. Conroy asked if he has done the piers. Mr. Cipriani replied no, they need to dig them and then bring the roof line out to carry the load down. Mr. Conroy clarified that there is no reason other than that they want 3 feet. Ms. Testa said yes.

Hearing no public comment, Chairman Rusczek closed the public hearing and asked for discussion or possible action.

**Mr. Rys: Motion to approve application #22-043/Testa/242 South Main Street for a Variance Request for a front yard of 15.66 ft. to expand the front porch at 240 (242) South Main Street as shown on Proposed Plot Plan, Land of Debra P. Testa, dated September 15, 2022.**

**Mr. Wolfer: Second**

**Vote: Conroy – no to approve; Wolfer – yes to approve; Harris – yes to approve; Rys - yes to approve, and Chairman Rusczyk – yes to approve.**

The application is approved

**2. #22-045 - Variance Request/Keaney/669 Center Street**

Ms. Harris read the staff notes into the record. The applicant proposes a side yard of 3.7 ft. where 6.7 ft. exists and 6 ft. is required to erect an exterior staircase/landing to the second floor at 669 Center Street in an R-6 District. The property is an office building with no current means of safe egress per the fire code. The applicant is proposing a side yard variance request in order to safely comply with the fire code requirements while not erecting it in parking facilities in a compliant location on the parcel.

James Keaney, 531 Cortland Circle, Cheshire explained the request. He purchased and renovated 669 Center Street a couple of years ago. His business is in there along with two tenants downstairs. When he pulled the building permit to renovate the upstairs, the Fire Marshal determined there needs to be a second means of egress from the second floor. He explained the sketch that shows the addition of a door to the roof with a walkway and a railing. He stated that he originally had it toward the back of the parking lot, but the Fire Marshal disallowed it due to a window too close to the stairs. If there was a fire downstairs it could burn the stairs. So it goes toward Center Street. He added that the first-floor egress is out the rear. There is also a fireplace and a deck that egresses out the back. The front is the entrance for all the tenants. He noted that off the Martin Street side, are the condensing units and meters.

Mr. Conroy asked how far the stairs would be from the window. Mr. Keaney replied that the window is underneath the stairs. Mr. Conroy clarified that the Fire Marshal did not allow it. Mr. Keaney replied yes. He showed the drawing to the Fire Marshal who told him no and directed him to zoning.

Mr. Gross asked if this is commercial or residential. Mr. Keaney replied commercial.

**PUBLIC COMMENT**

Pierce Lindsay, co-owner of 665 Center Street stated that he is in the private residence next door and stated that the second-floor egress would end inches from his property line. There seems to be available outdoor area at the rear of the building. The structure would look unsightly to him and passersby. He also commented on the new lighting that would be feet from the bedrooms of his home. He noted that there would be a strong possibility that the stairway would be struck by a snowplow or a car. He stated the guidelines were put into effect for a reason. There is no hardship here. If he removes the soffit, he will have 4 feet beyond the window to build the stairwell.

Carolyn Schillo, 15 Martin Avenue stated that she lives behind this property. She stated that when concrete was poured at this site, concrete got on her vinyl fence. She stated that a lot of stuff goes on there and that complaints have been made to the city, but it falls on deaf ears. There is no privacy because the parking lot was raised above her fence. With the new stairwell, she will have even more people looking in her yard.

Allen G. Faticone, 665 Center Street, stated that he is totally against this monster structure for egress. He stated that it is too close to his house. People will be able to look into our bedroom windows.

Mr. Keaney stated that closing up a window is possible, but it's still the same stairwell and the same distance from the property line. In the back parking lot, trees were added there that would have to be removed. The trees were added to provide privacy. Due to the height to get down from the 2<sup>nd</sup> floor, there is no room in the back. He noted that the neighbor's driveway is actually on his property by three feet.

Ms. Torre noted that the map shows that the setback is actually 3.7 feet from the property line and the neighbor's driveway does encroach.

Hearing no further public comment, Chairman Rusczek closed the public hearing and asked for discussion or possible action.

**Mr. Rys: Motion to approve application #22-045/Keaney/669 Center Street, a Variance Request for a side yard of 3.7 ft. to construct an exterior second-floor staircase at 669 Center Street as shown on Property Survey/Site Plan, 669 Center Street, prepared for James Keaney, dated October 5, 2022, and submitted plan received October 12, 2022.**

**Mr. Wolfer: Second**

**Vote: Conroy – no to approve; Wolfer – no to approve; Harris – yes to approve; Rys - no to approve, and Chairman Rusczek – no to approve.**

The application is denied

### **3. #22-046 - Variance Requests/Desjardins/31 Tennessee Avenue**

Ms. Harris read the staff notes into the record. The applicant requests a front yard of 43.3 ft. where 49.3 ft. exists and 50 ft. is required and building coverage of 18% where 13% exists and a maximum of 10% is permitted to construct a 324 sq. ft. covered front porch and a 336 sq. ft. covered rear patio at 31 Tennessee Avenue in an RU-40 District. The parcel was originally developed as part of a subdivision in 1956 predating current zoning and subdivision regulations where the lot area required in an RU-40 district was 18,000 sq. ft. minimum. Since the inception of zoning in 1958, the bulk standard for lot area in an RU-40 zone is 40,000 sq. ft. The applicant would not require a front yard setback variance at all and a building coverage request would be lessened if the bulk standards were for the same as lots of 18,000 sq. ft. (i.e. R-18 Zone). The Board should discern whether the building coverage request may be lessened by the removal of any outbuilding and if so, condition any approval accordingly.

Jacques and Tamara Desjardins, 31 Tennessee Avenue, presented their application. Mr. Desjardins stated that they have changed their application since it was submitted. They only need the covered patio in the back as Mrs. Desjardin's disabled father will be moving in with them. They no longer need the front covered porch.

Chairman Rusczek clarified they are only doing an addition on the back. Ms. Torre noted that it doesn't matter from a zoning perspective if the cover has sides as long as it's the same dimensions. She confirmed that they are eliminating the front yard variance request. Mrs. Desjardins replied yes, the dimensions are the same. Mr. Desjardins noted that this takes 2% off the building coverage variance

request. Ms. Torre confirmed that the building coverage request will now be 16% but it's still over the maximum for the zone.

Ms. Harris asked if they could reduce their coverage if they disposed of an outbuilding. Mr. Desjardins replied that there is only one shed and the garage. If need be, he could get rid of the shed. Ms. Torre noted that it wouldn't eliminate the variance for building coverage as it wouldn't be enough.

#### PUBLIC COMMENT

Chris Trussaco, 35 Tennessee Avenue, stated that he is their neighbor and has no objections.

Hearing no further public comment, Chairman Rusczek closed the public hearing and asked for discussion or possible action.

**Mr. Rys: Motion to approve application #22-046/Desjardins/31 Tennessee Avenue for a Variance Request for Building coverage of 16% to construct a covered rear patio at 31 Tennessee Avenue as shown on Proposed Plot Plan, Land of Jacques and Tamara Desjardins, 31 Tennessee Avenue, dated September 21, 2017, and submitted plan received October 12, 2022.**

**Mr. Wolfer: Second**

**Vote: Conroy – yes to approve; Wolfer – yes to approve; Harris – yes to approve; Rys - yes to approve, and Chairman Rusczek – yes to approve.**

The application is approved.

#### **4. #22-047 - Variance Request/Archer Signs/893 North Colony Road**

Ms. Harris read the staff notes into the record. The applicant seeks total signage of 45.14 sq. ft. where 27.7 sq. ft. exists and a maximum of 30.5 sq. ft. is permitted to replace wall signage at 893 North Colony Road in an RF-40 District. The applicant represents one business/unit in a five-unit building on the same parcel. The building was constructed in 2016 and the business/unit had valid sign permits in 2016 and 2017 as did the other four units on the parcel. The multi-tenant plaza currently is in compliance with all zoning regulations both per unit and as one site. The sign regulations permit additional signage of limited size when the unit or building is a corner unit and/or has an alternate entrance or faces an adjacent parking area other than the main entrance side. This office has concerns that permitting excess signage to this applicant could also open the door to more businesses in the plaza requesting the same and the site becoming exponentially covered in signage. The site has no visual obstructions to the existing signage and businesses and therefore questionable hardship preventing compliance. In addition, there are two sign permits, one issued on October 17, 2016, and a second issued on January 13, 2017.

Brian Vassar, Archer Signs, 316 Boston Post Road, Milford shared photos of signage at adjacent businesses. He noted that a lot of them have free-standing signs and that this building doesn't have that opportunity. That is the hardship. He's not asking for a lot and other businesses have more. They are asking for a relatively small logo on the front and a sign on the side.

Chairman Rusczek clarified that they are looking to increase by about 15 sq. ft. Mr. Archer agreed. Chairman Rusczek noted that they will put a bigger sign on south facing wall and a bigger sign on the

front. Mr. Archer stated that with respect to the size of the façade, it doesn't seem like a lot of coverage. He explained that the hardship is that since they can't have a pylon sign, they don't have a lot of exposure. It restricts them compared to adjacent businesses. Chairman Rusczek stated that he understands part of it but the permit was issued only 5 years ago. Why are they asking for a change now? These are the regulations they came in on, so he doesn't see the hardship. Mr. Archer stated that he represents the group that represents Starbucks, so he doesn't know. He added that the lack of a pylon sign puts all the businesses at a disadvantage.

Mr. Rys stated that the business seems pretty busy, so he doesn't see the hardship. Mr. Archer stated that the hardship is that the plaza isn't allowed a multi-tenant pylon.

Mr. Gross asked if they took the side sign down, could the one in the front be larger. Ms. Torre replied that the sign regulations allow 1 sq. ft. per linear foot of frontage. If there was a pylon sign it would deduct from the total signage available. They have 29.5 sq. ft. to work with in total. It would have to be consistent with all the tenants in the building. She noted that this plaza is the newest on Rt. 5 in Wallingford.

At Mr. Archer's request, Ms. Torre read out the sizes of the three existing wall advertising signs. She noted that they are allowed 2 sq. ft. at an alternate entrance without being charged, so if they are less than 2 sq. ft. the drive-through directional signs don't count. She stated that they are asking for 45.14 sq. ft. of wall signage when they have 27.7 sq. ft. available.

Hearing no public comment, Chairman Rusczek closed the public hearing and asked for discussion or possible action.

**Mr. Rys: Motion to approve application #22-047, Archer Signs, 893 North Colony Road, a Variance Request for 45.14 sq. ft. of total signage where a maximum of 30.5 sq. ft. is permitted to install two new wall signs for Starbucks (Unit 1) at 893 North Colony Road as shown on Submitted plans, Starbucks #27435, 893 North Colony Road, #22-59373 dated February 1, 2022, revision dated September 9, 2022, received October 13, 2022.**

**Mr. Wolfer: Second**

**Vote: Conroy – no to approve; Wolfer – no to approve; Harris – no to approve; Rys - no to approve, and Chairman Rusczek – no to approve.**

The application is denied.

**5. #22-048 – Variance Request/Trinity Health of New England Urgent Care/790 North Colony Road**

Ms. Harris read the staff notes into the record. The applicant proposes a ground sign of 88.96 sq. ft. where a maximum of 64 sq. ft. is permitted to add a panel to the existing ground sign at 790 North Colony Road in an RF-40 District. The Parcel contains two buildings/businesses on a single site. Sign regulations permit one ground sign per parcel of a maximum of 64 sq. ft. size. Building/business #1 (Tractor Supply) was approved in April 2018. At that time, building/business #2 was anticipated for future development on the site. The initial proposal for Tractor Supply included a shared ground sign of 64 sq. ft. With a sign panel designated for each business. When the sign permit was sought for business #1, there was no business #2 and all 64 sq. ft. of ground sign was allotted to business #1. The applicant is seeking greater than 64 sq. ft. of ground sign to allow a panel for the new building/business that was

approved in April 2022. Signage allowances for the parcel would be compliant by adhering to the representation made in the original 2018 site plan and reducing Tractor Supply's ground sign panel to half of the available ground sign maximum thus accommodating the business on a shared site. The parcel is unique in that it is a corner lot with obscured views yet additional ground sign(s) or larger ground sign than exists would not be permitted without Variance Approval. In addition, there is correspondence from the Economic Development Commission dated September 2, 2022, and the original sign permit dated August 30, 2018.

Jim Cassidy, of Hallisey, Pearson & Cassidy, Land Surveyors, at 630 Main Street, Cromwell, and Mark D'Addabbo, property owner, presented their request for an additional sign panel. Mr. Cassidy explained that the second building has been constructed and the tenant is Trinity Health. Unbeknownst to the property owner, the first business tenant, Tractor Supply took all the allocated sign space. He reminded the Board that the site has no access to North Colony Road and that the pylon sign is significantly off the roadway down the side street on Beaumont Road and access is also on Beaumont. This is a unique property and it is difficult to see the businesses. They are concerned with safety as this new tenant is an urgent care, and medical facility and the sign is difficult to see. They want to add a 25 sq. ft. panel beneath the existing sign.

Chairman Rusczek stated that he understands the property, but the hardship is self-inflicted. This can easily be remedied by sharing the sign. Tractor Supply knew of the plans for another business. Mr. Cassidy replied that with the weird location and driveway placement, a sign would help make the business successful.

Mr. D'Addabbo stated that the problem arose because the sign application did not require the signature of the owner. Planning and Zoning approved the sign permit. It is a problem to go back to the tenant to negotiate the sign. That is the hardship.

Ms. Harris stated that she understands the location of the property. She asked if both buildings had been built at the same time, would they have applied for a larger sign? Mr. Cassidy replied yes.

Ms. Torre stated that the ground sign is limited to 64 ft, but if they add to the sign they would not be over their allowed total signage for the site. She noted that they were thorough in their site application. They are not asking for excess signage, just an oversized ground sign.

Hearing no public comment, Chairman Rusczek closed the public hearing and asked for discussion or possible action.

**Mr. Rys: Motion to waive the reapplication fees for application #22-048, Trinity Health of New England Urgent Care, 790 North Colony Road.**

**Mr. Wolfer: Second**

**Vote: Conroy – yes to approve; Wolfer – yes to approve; Harris – yes to approve; Rys - yes to approve, and Chairman Rusczek – yes to approve.**

**Mr. Rys: Motion to approve application #22-048, Trinity Health of New England Urgent Care, 790 North Colony Road for a Variance Request for a ground sign of 88.96 sq. ft. where 64 sq. ft. maximum is permitted to add a panel to the existing ground sign for a new business/**

building at 790 North Colony Road as shown on the submitted plan, Tractor Supply Company, Proposed Pylon Sign, dated July 23, 2022, received October 13, 2022.

**Mr. Wolfer: Second**

**Vote: Conroy – yes to approve; Wolfer – yes to approve; Harris – yes to approve; Rys - yes to approve, and Chairman Rusczyk – yes to approve.**

**6. 22-049 – Variance Request/Ferti Management Corp./155 East Street**

Ms. Harris read the staff notes into the record. The applicant requests a parking Variance Approval for 127 spaces where 147 is required and 176 exist in order to allow for the temporary outdoor storage of finished material prior to shipping. The applicant is proposing storage along 49 existing parking spaces as alternate locations on the site are located in a FEMA Flood Zone as well as wetlands Upland Review Area. The comment from the Fire Marshal identifies five of the parking/storage spaces that are not compliant with the applicable Fire Code and Accessibility and therefore cannot be included in the proposal. Should the applicant seek more than a 20-space reduction in parking requirement or alternately locate the proposed storage area, this application should be continued or resubmitted pending submission of the modified application and plans. The Board cannot approve the application as submitted with the five spaces identified by the Fire Marshal as not being permitted. The Board may consider approval of the submitted proposal with the condition that the five identified spaces are not included in any approval. In this event, the Board would be approving a lesser variance (132 spaces where 147 are required) which would not require modifications to the published Legal Notice. In addition, there is an Inspection Report from the Wallingford Fire Department dated November 9, 2022, correspondence from Linden Landscape Architects, dated October 14, 2022, and internal correspondence from Linden Landscape Architects, dated September 21, 2022.

Tom Linden, Linden Landscape Architects, 39 Parkview Drive, Wethersfield, and Frank DeRosa, Special Project Manager for Ferti Management Corporation presented their application to allow temporary storage of finished bagged material on pallets on the East Side of their site. Mr. Linden explained that they currently have 176 parking spaces, they are required to have 147 and are asking to use 49 for temporary storage between December and May. He noted that the Fire Marshal is requiring them to preserve the spaces in front of the sprinkler connector and sidewalks from egress doors. This will reduce their request to 44 spaces leaving them with 132 spaces which are only 15 below the required number. He highlighted the spaces on a diagram. He showed where the FEMA Flood Zone line and the 50 ft. Upland Reviews are on the property. The only portion of the site out of that regulated area is this East Side parking area. He explained how they make the product year-round and store it until spring when they can ship it. They store as much inside as possible. He reported that they will be going to Planning & Zoning next month for permission to store some products at the adjacent business site inside an existing building and on the pavement. The east side of their building would be the last resort for storage. Starting in February, they will ship the outside material first. He recapped that they are requesting a variance to the parking requirement that is based on the size of the building. They only have 31 employees.

Mr. Gross asked if this storage would affect the flow of traffic. Mr. DeRosa replied that they are only using parking spaces, so the roadway around the building is still open. The current width of the roadway will not be changed. He stated that employees currently park in the back of the building.

Hearing no public comment, Chairman Rusczek closed the public hearing and asked for discussion or possible action.

**Mr. Rys: Motion to approve application #22-049/Ferti Management Corp./155 East Street for a Variance Request for 132 Parking Spaces where 147 Parking Spaces are required to construct temporary outdoor storage at 155 East Street as shown on the Overall Site Plan, Ferti Management Company, 155 East Street, Wallingford, dated October 14, 2022, and Existing Conditions Survey, prepared for Ferti Management Corp., dated October 25, 2021, and submitted plans received October 14, 2022, subject to the following condition:**

- 1. Reduction of requested Variance for 127 spaces in order to remove parking spaces 112, 126, 127, 130, and 131 from the proposed outside storage area and retain as available parking per Fire Marshal comments received November 9, 2022.**

**Mr. Wolfer: Second**

**Vote: Conroy – yes to approve; Wolfer – yes to approve; Harris – yes to approve; Rys - yes to approve, and Chairman Rusczek – yes to approve.**

#### **CONSIDERATION OF MINUTES**

**7. October 17, 2022**

**Mr. Wolfer: Motion to approve October 17, 2022, Zoning Board of Appeals Minutes as submitted.**

**Mr. Rys: Second**

**Vote: Unanimous to approve**

#### **2023 MEETING SCHEDULE**

**Mr. Conroy: Motion to approve the 2023 meeting schedule as presented.**

**Mr. Rys: Second**

**Vote: Unanimous to approve**

#### **ADJOURNMENT**

**Ms. Rys: Motion to adjourn at 8:20 pm.**

**Ms. Harris: Second**

**Vote: Unanimous to approve**

Respectfully submitted,  
Cheryl-Ann Tubby  
Recording Secretary