

DRAFT

**MINUTES OF PUBLIC HEARING
HELD BY THE ZONING BOARD OF APPEALS
LINCOLN CENTER HEARING ROOM
FEBRUARY 28, 2024**

MEMBERS PRESENT:

In Person: James R Stevenson
Robert Haley, Vice Chair
Sandra DeCampos, Secretary
Edward Slegeski

ALTERNATES PRESENT:

Electronically: Linda Harris, Sitting
Harun Ahmed

ABSENT:

Kevin Hood
Gailyn Hill

STAFF PRESENT:

In Person: Megan Pilla, Principal Development Planner
Electronically: James Davis, Zoning Enforcement Officer
Nancy Martel, Recording Secretary

The Chair opened the Public Hearing at 7:00 P.M. The Secretary read the legal notice for the application when the call was made.

NAPOLITANO AND SOVERNS DEVELOPERS, LLC – Application #VAR-0061-2023 – Request a variance from Art. II, Sec. 15.01.01 to allow a proposal for a zone change to Central Business District (CBD) for a property with an existing multi-unit residential home (which is not a permitted use in CBD zone) at 12 Pearl Street, Residence B zone.

Attorney Stephen Penny, 202 W. Center Street, introduced himself as representing the applicant. Attorney Penny referred to the Zone District map and described the property and abutters, noting that the property is currently zoned Residence B. The parcel contains an 1851 vintage residence which predates the adoption of zoning in Manchester, and Attorney Penny further detailed the changes to the property since 1949. There is a municipal parking lot across Pearl Street.

The property at 12 Pearl Street and the abutting Main Street property are both owned by the applicant. According to Attorney Penny, the applicant is currently rehabilitating the CBD-zoned Main Street property housing the restaurant, pub, and residences. The house on Pearl Street includes three apartments. The two properties require 12 parking spaces under the regulations. He described the Main Street and municipal lot parking. There is not enough parking to support these uses without constructing another parking lot. The plan for the parking lot in the front yard of the three-family house was described, and Attorney Penny noted that it cannot be built in a

Residence B zone, which necessitates the zone change for the house lot from Residence B to Central Business District. A residential dwelling of the type at 12 Pearl Street is not permitted in the CBD zone and the variance is being requested to protect the house from demolition and prevent the loss of three residential units.

Considerations:

1. From a general community perspective, the Town has supported the investment that the applicant is making in improving the Main Street parking, including the Town having made a grant contribution to the effort and parking space available.
2. Preservation of the three-family home will contribute to the need for affordable housing, preserve an historic structure, and serve as a buffer between the activities on the subject site and the abutting house to the east on Pearl Street.
3. The maintenance of a residential use in the CBD zone does not do that zone an injustice since a residential use, specifically elderly housing development, is a special exception use in that zone.
4. No new uses are being introduced to either the Pearl Street site or the Main Street site.
5. Strict application of the regulations would produce undue hardship. There is inadequate parking currently. Without a variance, the house would be removed to accommodate the proposed change of zone and additional parking.

The hardship is unique and not shared by all properties in the neighborhood because the common residential use of both the RB parcel and the CBD parcel is unusual. The property across the street from the Pearl Street house is a Town-owned parking lot and the Town has devoted 10 spaces for this property, but it is not enough to meet the regulations as there is no room for parking on the CBD-zoned property. The requested variance would not change the character of the neighborhood because the house and commercial building have existed for decades.

Mr. Stevenson inquired what has changed that additional parking is now required. Attorney Penny responded that there was inadequate parking under the regulations to support the use.

Mr. Haley asked about the lighting plan for the parking lot. He inquired whether this would affect the right-of-way between the two properties. Mr. Haley speculated whether this would be affordable housing.

Mr. Chris Soverns, South Windsor, pointed out the nearby streetlight and said that no additional lighting is planned there. He responded that this will not affect the right-of-way due to steps they have taken which result in improved access to the back area. He added that these are market-rate apartments, and the additional apartments improve housing in the area.

Ms. Harris sought clarification that nothing has changed with the properties. She noted that they are only missing two parking spaces.

Mr. Soverns stated that there is a major overhaul in the building at 623 Main Street. The residences are occupied, though the restaurant is not open yet.

Attorney Penny emphasized the fact that the additional parking will bring the use of the two parcels into conformance with the regulatory requirements. The 10 spaces in the municipal lot are intended for commercial use of the restaurant.

After a question from Ms. Harris, it was noted that people were parking in the front yard on the grass.

Attorney Penny reiterated that this is an unusual application as the intent is to save the house. The preference is to maintain the housing, becoming the hardship. They are legal non-conforming uses, i.e., they do not conform to the requirements of the regulations. This is an opportunity to bring them fully into code, including the zoning regulations.

After a question from Mr. Stevenson, Attorney Penny explained that these will remain two parcels but will share the same zone district classification. Mr. Stevenson speculated what could happen years from now, with which Mr. Soverns agreed. Mr. Stevenson suggested joining the two parcels or having a permanent easement at 12 Pearl Street.

After a question from Mr. Stevenson, Mr. Davis stated that, in earlier conversations with Town Staff, he felt the best option is to merge the properties. He noted that 623 Main Street is conforming.

Attorney Penny inquired whether that holds true for the residential use in addition to the commercial. Mr. Davis responded that the residence is in the Residence B zone and added that there are other Main Street buildings with residential units above the first floor that have access to downtown Main Street parking.

Mr. Davis noted that there are permanent easements in other locations in town. It may be cleaner to merge the properties.

Mr. Soverns stated that they support whichever way the Town decides, but added that merging makes the most sense.

Mr. Haley noted that there is currently no approved parking on the Pearl Street property. He acknowledged that the front lawn has been used for years for parking.

Mr. Soverns noted that there is some space in the back and part of the front lawn had gravel added.

Ms. Pilla reported that there were no comments from Staff on the variance request to permit the zone change. There were a couple of technical comments on the proposed parking lot layout, which were addressed, to ensure that the widths of the ingress, egress, and drive aisle were

appropriate. Staff seeks to know how the applicant will prevent users of the parking lot from parking in the driveway that shares the curb cut for the adjacent house.

Attorney Penny explained that the plan includes a white vinyl fence along the boundary line.

Mr. Haley speculated, if the Pearl Street property needed more spots for their current residence, whether they would be allowed to build a parking lot in the front. Mr. Davis reported that there has always been a clear demarcation of the parking lot, whether bituminous or gravel.

Ms. Kayleigh Livermore, 18 Pearl Street, remarked that her property is directly adjacent to the proposed parking lot. She is deeply concerned about the proposed zone change that will impact the character and integrity of the neighborhood as well as traffic concerns. In her opinion, this would set a dangerous precedent for future developments in the area.

Attorney Penny clarified that this Board does not have the authority to change the zone. The applicant proposes to save the three-family house. He offered mitigating circumstances:

- Across the street is the municipal lot, which has not had a substantially deleterious effect on the neighborhood.
- By preserving the three-family house, they are buffering Ms. Livermore's house in a much better fashion than if that house were taken down.

Mr. Prause sought clarification that this would be just tenant parking, not restaurant parking. Attorney Penny noted that there will be assigned spots for the tenants and no workers or customers would be allowed to park there. In addition to the signage, Mr. Soverns stated that towing would be utilized if necessary.

Ms. Pilla confirmed that the public hearing sign was posted on February 23 and mail communication was sent to the abutters.

Mr. Haley reported that when he looked at the property, the sign had been knocked down by the dumpster and he reinstalled it.

AYAZ ENTERPRISES LLC – Application #VAR-0001-2024 – Request a variance from Art. II, Sec. 23.03 for a proposed canopy over fueling dispensers 5.3 feet from the front property line (25 feet required) at 220 Spruce Street, Neighborhood Business zone.

Mr. Ken Coomes, 708 Washington Street, Middletown, introduced himself. The location has been a gas service station and a convenience store, which likely pre-dated zoning regulations.

According to Mr. Coomes, the applicant would like to add a canopy to add protection for the customers, as well as for the gas pump electronics. He noted that it would not interfere with sightlines. They are planning an aesthetically pleasing design.

Mr. Haley asked whether there will be signage on it. He inquired whether it will be illuminated downward to the dispensers. Mr. Haley inquired if there are plans to store items under the canopy.

Mr. Coomes confirmed that there will be no signs and detailed the proposal. There are plans for four equally spaced down lights and he reported that there will be no supplies stored under the canopy.

Mr. Slegeski noted that, on many canopies, there is fire suppression up within the canopy itself. Mr. Coomes stated that, in his experience, fire suppression is at the discretion of the Fire Marshal, and they will comply with the code.

Mr. Stevenson inquired about the height of the canopy, which Mr. Coomes provided and detailed.

Mr. Coomes stated that the hardship is not economic, and the canopy would afford the customers and equipment protection from the elements.

Mr. Mustafa Ayaz introduced himself. He reiterated that they want to install the canopy for customers' convenience. Because of new technologies, the pump electronics should be covered.

Ms. Pilla explained that this property is also in the Design Overlay zone, which means, if the variance is approved, the structure design will be reviewed and approved administratively by the Planning Director and the PZC Chairman. Regarding fire suppression, if the variance is approved, when permits are pulled the Fire Marshal's office will review that. The only Staff comments are regarding the survey map, putting it on Town controls and adding coordinate points per Town standards. She suggested using the modification described in her memo dated February 20, 2024.

There were no members of the public to speak.

I certify these minutes were adopted on the following date:

The Public Hearing was closed at 8:00 P.M.

Date

James Stevenson, Chair

NOTICE: A DIGITAL RECORDING OF THIS PUBLIC HEARING CAN BE HEARD IN THE PLANNING DEPARTMENT.