

September 20, 2010, revised 11/1/10 per Commission review at the October 21, 2010 meeting

MINUTES: THE ZONING BOARD OF APPEALS, Town of Hamden, held a Public Hearing and Regular Meeting on Thursday, September 16, 2010 at 7:00 p.m. in the 3rd Floor Conference Room, Hamden Government Center, 2750 Dixwell Avenue, Hamden, CT. and the following items were reviewed:

Commissioners in attendance:

Jeff Vita, Chair
Wayne Chorney
Fran Nelson
Elaine Dove
Bill Reynolds

Staff in attendance:

Dan Kops, Assistant Town Planner
Holly Masi, Zoning Enforcement Officer
Tim Lee, Assistant Town Attorney
Stacy Shellard, Commission Clerk
Lisa Raccio, Stenographer

Mr. Vita called the meeting to order at 7:03 p.m., reviewed the agenda and meeting procedures, and the panel introduced themselves.

A. Public Hearing

- 1) **10-6398** 216 Shepard Avenue, Requesting variances of the following: Section 220, Table 2.3 to allow a side yard of 11 feet where 15 feet is required for the construction of a mud room. Section 570 & Section 830 to permit a fence 8 feet high where no more than 6 feet is permitted. R-3 zone, Mihaela Aslan, Applicant

Ms. Mihaela Aslan, Applicant addressed the Commission and reviewed the application. Ms. Aslan stated that she would like to extend the existing mud room for additional storage, and it would allow for a direct and safe access to the rear yard. She is also requesting a variance for an 8 foot fence because the rear of the property is elevated higher and to screen them from the house located behind them.

Mr. Vita asked what height was the fence that was installed at the side yards and Ms. Aslan stated the remaining fence that was installed was 6 feet in height.

Mr. Chorney stated that he went to the site and it appears that the fence located on the left side of the property appears to be 7 feet in height, and the fence located on the right side of the property has the bad side facing the neighbor.

Ms. Aslan explained that the fence on the right side of the property is going to be removed and a vinyl fence will replace it. Mr. Chorney reviewed where timber was placed and if a 6 foot fence is place on top, it would place the

fence at approximately 8 feet. Ms. Aslan explained that the elevation is higher where the timber has been placed and the fence will only be 6 feet in height.

Mr. Chorney asked how the height of a fence is measured. Mr. Tim Lee, Assistant Town Attorney said that a fence is measured from its top to the bottom. Ms. Alslan stated that the gate for the driveway needed to be raised because they would not be able to open and close it due to the slope of the driveway and the play area was built up so that it would be level. The Commission further discussed how a fence is to be measured. Mr. Lee suggested that Ms. Holly Masi, Zoning Enforcement Officer, go out to the sight and take fence measurements. Mr. Vita asked if the variance is approved would it allow the 8 foot fence at the rear of the property and Mr. Lee replied that it would.

Mr. Chorney questioned if there is a restriction for the amount of impervious pavers that can be used. Mr. Dan Kops, Assistant Town Planner explained that pavers are treated as pervious surface. Ms. Masi explained that there is no provision in the regulations that pervious pavers has to be calculated with the impervious surface.

Ms. Dove asked Ms. Masi when she had done the site visit. Ms. Masi stated that she went to the site when the pervious pavers were being put in. Ms. Dove said she would like Ms. Masi to do a site visit to determine the height of the fencing being placed on the property and that the property is in zoning compliance.

Mr. Nelson feels that the applicant should not raise the grade of the property because this could cause a water problem to the neighboring properties and would also increase the pitch of the property.

The Commission further discussed the work that has been done to date on the property and how to determine the height of the existing fence and the placement of the 8 foot fence. Ms. Masi stated that if the variance request is approved she will do a site visit to confirm the height of the rear fence for 8 foot and side fence for 6 foot.

Mr. Vita asked if there were comments in favor or against and there were none.

The Public Hearing was closed

2) 10-6400 168 Anns Farm Road, Requesting a variance of the following: Section 220, Table 2.3 to allow a side yard of 7 feet where 12 feet is required for the construction of a garage. R-4 zone, Monica Zavala & Horacio Perez, Applicants

Mr. Horacio Perez, Applicant, addressed the Commission and reviewed the Application. He explained that he is requesting the variance so that there is safe access from the house to the garage and his need for a storage area.

Mr. Vita asked what the hardship would be. Mr. Perez explained that the rear of the property is sloped. Mr. Vita asked Mr. Perez if his lot is narrower than other lots in the area. Mr. Perez stated that his lot is larger than the other lots in the area.

Ms. Masi explained that there is not a garage located on the property, but that the house matches the other homes in the neighborhood. Mr. Perez submitted pictures of his property and neighboring properties and reviewed them with the Commission. Mr. Nelson stated that the request would fit the characteristic of other homes in the neighborhood.

Mr. Vita asked if the dimensions of the garage would be 22 feet x 22 feet. Ms. Dove asked if the garage would have only one garage door. Mr. Perez said that the garage would be 22 x22 feet with one door and would be a two car garage. The Commission further discussed the size of the garage.

Ms. Dove asked if the garage should be bigger than 22 feet x 22 feet. Mr. Lee stated that if it is decided that the applicant will go with a bigger garage then the variance request would need to be re-advertised. Mr. Chorney said that the lot is shallow and the garage could not be detached and placed in the rear yard. The Commission discussed

the size of the lot and the location of the garage. Ms. Masi explained if it is a detached structure it would need to be placed 10 feet from the primary structure. The location that the applicant is proposing would not require a curb cut. If the applicant were to place on the other side of the yard a tree and the curb would need to be cut.

Ms. Dove said the hardship is the tree. Mr. Chorney said that the tree and the slope of the rear yard creates a hardship. Ms. Dove asked if the neighbors were made aware of the application for a garage. Ms. Masi said the public hearing sign was posted.

Mr. Vita asked if there were comments in favor of the application:

Mr. Michael Koff, 52 Clearview Drive, Wallingford, addressed the Commission and explained that Ken Cave, Bond Built Garages, came out to the property and it was recommended that the size of the garage be 22 feet x 22 feet and recommended the location being proposed. Mr. Koff said that Mr. Cave's proposal would be in the character of the neighborhood and with other projects he had done in the area.

Mr. Vita asked for comments against the application and there were none.

The Public Hearing was closed.

B. Regular Meeting

a. Discussion and voting on Public Hearing items.

10-6398

Mr. Chorney made the motion to approve the Application 10-6798 with the condition: Subject to an inspection of the site by the ZEO to the approval of the 8 foot fence to the rear yard only. Mr. Vita asked if the motion should include confirmation that the additional fencing is 6 feet high. Mr. Chorney said that the 6 foot fence is not part of the application, but Ms. Masi should confirm that the 8 foot fence is not over 8 feet. Ms. Masi should confirm that the side yard fence is not over 6 feet. *Ms. Dove seconded the motion.*

Mr. Kops asked the Commission if the motion includes the proposed addition to the mudroom. *Mr. Chorney said the motion is amended to include the approval of the mudroom and that it is a continuance of the existing side yard and a small addition allowing better access to the rear yard. The amended motion passed unanimously.*

10-6400

Mr. Nelson made the motion to approve the Application 10-6400. Mr. Reynolds seconded the motion. Mr. Nelson said that the hardship is the narrow lot. The applicant does not want to remove the tree and there is a slope in the rear yard. Mr. Nelson said that the proposed plan is consistent with the neighborhood. *The motion passed unanimously.*

b. Approve Minutes of July 15, 2010

Mr. Chorney made the motion to approve the minutes of June 17, 2010. Mr. Nelson seconded the motion. The motion passed unanimously.

c. Old Business

Mr. Chorney advised Ms. Masi that the home on Dixwell Avenue is having tag sales again. Ms. Masi said that the owner is 83 years old and had promised he would stop. Ms. Masi will do a site visit.

Ms. Masi advised the Commission that the Connecticut Orthopedic sign is being addressed and she was told that the flashing sign will be discontinued.

d. New Business

Ms. Dove said that the property next to Mount Carmel Optical has cars that are for sale being left on the vacant strip of property. Ms. Masi advised the Commission she will do a site visit.

Mr. Chorney stated that Linda's Nails which is across from The Home Depot is building something in the rear side yard. Ms. Masi advised the Commission she would do a site visit.

Mr. Chorney asked about the outdoor patio at Ibiza's on Dixwell Avenue. Ms. Masi said the patio was approved but he has not posted the bond.

e. Adjournment

Mr. Nelson made a motion to adjourn. The motion was seconded by Mr. Chorney. The motion passed unanimously.

The meeting adjourned at 7:38 p.m

Submitted by: _____
Stacy Shellard, Commission Clerk