

May 26, 2010

MINUTES: THE ZONING BOARD OF APPEALS, Town of Hamden, held a Public Hearing and Regular Meeting on Thursday, May 20, 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 arrived at 7:35
Fran Nelson
Elaine Dove
Steve Walsh, alternate sitting for 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 7:05 p.m., reviewed the agenda and meeting procedures, and the panel introduced themselves.

Mr. Vita explained to the applicants that there are four Commissioners in attendance at the meeting and an application would need a unanimous vote to be approved. He advised the applicants that they have the option of not being heard at this meeting.

A. Public Hearing

- 1) **10-6389** 15 Eramo Terrace, Requesting a variance of the following: Section 220, Table 2.3 to allow a front yard of 23 feet where 40 feet is required. R-3 zone, Andrew Curello, Applicant

Mr. Vita stated that he was friends with Buddy Curello who is related to the applicant and that it would not affect his ability to make a decision regarding this application.

Mr. Andrew Curello, Owner, addressed the Commission and reviewed the application and the location of the property. He explained that he would like to retain the street address because of the family name. The property has one house on it, which was built 14 years ago and is located on eight acres of property. Mr. Curello reviewed the map with the Commission and stated that the parcel is 200 feet wide by 2,000 feet long. He reviewed where the property would be split and this does not change the footage to the surrounding properties. The property would have access at the cul-de-sac, but if no one were to build on the proposed lot he would leave the existing driveway as it exist. Mr. Kops explained if the lot is split, the existing accessory structures would need a primary building, and Mr. Curello would need a variance, move or take the structures down. The Commission reviewed the zoning

regulations for a lot located in an R-3 zone and the required front yard and street frontage. Mr. Currello reviewed the area where he would like to obtain an easement to allow both lots to have a shared access driveway.

Mr. Vita continued the Public Hearing until later in the meeting to allow the Planning Office Staff time to research the zoning regulations and determine if the request can be approved as submitted.

Mr. Lee reviewed the zoning regulations that pertain to this application. Mr. Lee said that the correct variance was requested by the applicant and reviewed the request. Mr. Lee said that there is no requirement for the street frontage, but that there is a requirement for a front lot measured at the front yard setback yard. The front yard setback for this application is 200-300 feet long and satisfies the zoning regulations. Mr. Kops said that a variance is needed for the accessory structures or a condition will be needed that requires the structures to have a conforming lot. Mr. Currello asked what is considered a primary structure and Mr. Lee replied a house.

Ms. Dove asked what the hardship is for this application. Mr. Vita said the shape of the lot as it exists, the topography and that there are issues with the lot layout. Mr. Currello said that he would like to access the lot using Gateway which would allow emergency vehicles easier access to the property. The Commission discussed with Mr. Currello changing the proposed lot line. Mr. Lee said that changing the lot line would not change the substance of the variance and changing the lot line could be a condition of approval. Mr. Kops said that a lot line revision would be an administrative change if the two lots have the required area. Mr. Kops discussed with the Commission and Mr. Currello continuing the public hearing so that the variance could be revised to include the accessory structures. Mr. Lee advised Mr. Currello that if the drawing is revised, the engineer needs to sign and put his seal on the plan.

Mr. Kops said that Mr. Currello should grant a 35 day extension to complete the public hearing. Mr. Currello said that he agrees to a 35 day extension to continue the public hearing.

Mr. Vita continued the public hearing until the June 17, 2010 meeting.

- 2) **10-6390** 113 Dunn Road, Requesting variances of the following: Section 220, Table 2.3 to allow a side yard of 15 feet where 20 feet is required for an attached garage. Section 220, Table 2.3 to allow a side yard of 8 feet where 20 feet is required for an above ground pool. R-2 zone, Darren Clark, Applicant

Mr. Darren Clark, Owner, addressed the Commission and reviewed the application for a detached garage. The home was built in 1959 and many of the homes in the neighborhood have added on garages to their homes which have 15 feet side yards. He would also like to put an above ground pool and the placement was determined because of the location of the trees which he does not want to cut down and the septic system. Mr. Clark would like to place the pool between the trees and the septic system. Mr. Clark reviewed the location of the property lines, the location of the neighbor's shed, the hedges, and the fence. He said that the pool will be located fifteen feet from his neighbor's garage, and 15 to 22 feet from his house, He has a deck on his home which is not visible to the neighbor. Mr. Clark has received approval from QVHD and he explained that a secondary plan was required by them. He reviewed where the secondary septic system would be placed if it became necessary. Ms. Holly Masi, Zoning Enforcement Officer advised the Commission that the application submitted is the best possible scenario and would be in keeping with the neighborhood.

Mr. Vita asked if there were any comments in favor or against the application. There were none.

The Public Hearing was closed.

- 3) **10-6391** 18 Bagley Avenue, Requesting a variance of the following: Table 6.1-To allow an automotive dealership where none is permitted. T-4 zone, Allstate Motors, Applicant

Mr. John Richitelli addressed the Commission and stated he is representing the applicant and submitted a letter. He reviewed the application and stated that the property was purchased with the intent to have an automotive dealership. Mr. Richitelli explained that the site was previously used as an automotive dealership. He said that there had been two variances approved by the ZBA for use as an automotive dealership. If the variance is approved it would revitalize the property, increase the tax base and provide employment. Mr. Vita asked why the request is to reinstate the use. Mr. Richitelli explained that due to financial difficulties the applicant had allowed the motor vehicle license to lapse and has been utilizing the property as a home improvement business. Mr. Vita asked if an automotive dealership was previously allowed on the property and Ms. Masi replied yes and that it would need to go before the Planning & Zoning Commission for location approval. Ms. Masi reviewed the historic use of the property. She explained that prior to January 1, 2010 the property was zoned CDD-1 and an automotive dealership was permitted. The zoning regulations were amended on January 1, 2010 and the zone was changed to a T-4 and an automotive dealership is no longer permitted. Ms. Dove asked how an automotive dealership located on a side street would create traffic going to the business.

Mr. Robert Richitelli, Owner, 649 Middletown Avenue, North Haven, addressed the Commission and stated that the majority of the sales will be done using the internet. Any business conducted on the premises will be done by appointment only. Mr. John Richitelli explained that cars will be kept inside. Ms. Dove asked where they conduct their business now. Mr. Robert Richitelli stated that they have been conducting their business at the Annex Used Cars located in New Haven. Ms. Dove asked who his business partner would be. Mr. Robert Richitelli stated his business partner would be Mr. DiBiaso.

Mr. Walsh stated that he remembered A&M Auto being at this location and asked what the name of the next business was.

Mr. Dominic DiBiaso, 55 Upper State Street, addressed the Commission and stated that Auto Tech was the business on the property at the time they had purchased the property. Ms. Masi reviewed the historical use of the property as automotive uses. There was a previous variance for a side yard and a variance for a location approval.

Ms. Dove said that she had gone to the site and stated that having an automotive use and then a home improvement business on the site is confusing. Mr. DiBiaso said that the home improvement business will be moving to West Haven.

Ms. Masi asked if there was ever any intent to abandon automotive use on the property and Mr. DiBiaso replied no. Mr. Walsh asked if there would be automotive or body work done on the premises and Mr. DiBiaso replied no. Mr. Nelson asked Mr. DiBiaso if a licensed mechanic was required for his license from the MVD and Mr. DiBiaso replied no. Ms. Masi said if the ZBA were to grant the variance, there may be additional requirements imposed by the P&Z Commission.

Ms. Masi reviewed with Mr. Dan Kops, Assistant Town Planner, and Mr. Tim Lee, Assistant Town Attorney the historical and proposed use of the property and what the current zoning regulations allow. Mr. Lee explained that the State Statutes require a location approval from the Planning and Zoning Commission. Mr. Kops explained that the applicant would also need to go before the P&Z Commission for a Special Permit approval.

Mr. Vita asked if there were any comments in favor or against the application. There were none.

The Public Hearing was closed.

A. Regular Meeting

a. Discussion and voting on Public Hearing items.

10-6390

Mr. Nelson made the motion to approve Application 10-6390. Ms. Dove seconded the motion. Mr. Nelson said that the hardship is the location of the septic system and that the garage fits the neighborhood. *Mr. Nelson, Mr. Walsh, Mr. Vita and Ms. Dove voted in favor of the motion. Mr. Chorney abstained. The motion passed 4-0-1.*

10-6391

Mr. Nelson made the motion to approve Application 10-6391. Mr. Walsh seconded the motion. Mr. Nelson stated that the location was previously used as a dealership. The zone was previously a CDD-1 and then was changed to a T-4 zone which does not allow an automotive dealership. Ms. Dove stated that she disagrees with the motion because the new regulations were put in place for a reason and they fit this application. She feels that allowing this variance would change the look of a neighborhood that has residential homes. Mr. Nelson said that the area has been a mixed-use area and that there are existing businesses. Ms. Dove stated that the owners of the property have several businesses in different towns and are aware of the zoning regulations. Mr. Nelson said that the owners had purchased the property with the intent to have an automotive dealership. Ms. Dove does not feel a hardship exists. Mr. Nelson said that the new zoning regulations do not fit all areas. Mr. Vita said that this use was allowed when the property was purchased and the problem is the change in the zoning regulations that were effective January 1, 2010. The Commission discussed the change to the zoning regulations and the historical use of this property. The Commission discussed approving the application with conditions.

Ms. Masi stated that if the variance is granted the applicant would still need to go to the Planning & Zoning Commission for Location Approval and a Special Permit. The applicant would also need to get approval from the MVD.

Mr. Nelson amended the motion to include the conditions: 1) Inside car sales only. 2) No repair service on premises. Mr. Walsh seconded the motion as amended. Mr. Nelson, Mr. Walsh, Mr. Vita and Ms. Dove voted in favor of the motion. Mr. Chorney abstained. The motion passed 4-0-1.

b. Approve Minutes of April 15, 2010

Mr. Chorney said that on page 5, second paragraph, 6th sentence, should read: "stated he was told that the Police Department and Public Works do not take action against Quinnipiac University students during snowstorm parking ban's."

Mr. Chorney made a motion to approve the minutes as amended. Mr. Nelson seconded the motion. Mr. Chorney, Mr. Nelson and Mr. Vita voted in favor of the motion. The motion passed.

c. Old Business

There was none

d. New Business

Election of new officers

Mr. Nelson made the motion to nominate Jeff Vita as chair. Ms. Dove seconded the motion. The motion passed unanimously.

Mr. Nelson made the motion to nominate Mr. Chorney as vice-chair. Ms. Dove seconded the motion. The motion passed unanimously.

Mr. Chorney advised Ms. Masi that there were signs on the telephone poles for Urban Miners. Ms. Holly said that she would investigate.

Mr. Vita asked if there were any applications for the Toys R Us location. Ms. Holly advised she has not received any.

The Commission discussed IHOP moving to Applebee's previous location. Ms. Masi advised the Commission that IHOP and Applebee's are owned by the same company. The Commission discussed with Mr. Kops where IHOP is currently located is owned by Mr. Anthony Cuomo and he owns the IHOP property and the Krauser property. Mr. Kops explained that if IHOP is used with the Krauser location it would be a more valuable piece of real estate.

e. Adjournment

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

The meeting adjourned at 8:00 p.m

Submitted by: _____
Stacy Shellard, Commission Clerk