



**Town of Hamden**  
**Planning and Zoning Department**

**Hamden Government Center**  
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September 21, 2010

**MINUTES: THE PLANNING & ZONING COMMISSION**, Town of Hamden, held a Public Hearing and Regular Meeting on Tuesday, September 14, 2010, at 7:00 p.m. in the Thornton Wilder Hall, Miller Memorial Library Complex, 2901 Dixwell Avenue, Hamden and the following items were reviewed:

Commissioners in attendance:

Joe McDonagh, Chairman  
 Ann Altman  
 Jon Cesare  
 Bob Roscow  
 Peter Reynolds  
 Ed Sullivan  
 Ralph Marottoli, sitting for Ed Grant

Staff in attendance:

Leslie Creane, Town Planner  
 Dan Kops, Assistant Town Planner  
 Tim Lee, Assistant Town Attorney  
 Stacy Shellard, Clerk  
 Lisa Raccio, Stenographer

Mr. McDonagh called the meeting to order at 7:00 p.m. The clerk read the Public Hearing items into the record. Mr. McDonagh introduced the panel and reviewed the Public Hearing procedures.

**A. Public Hearing:**

**1. Proposed Amendment to the Hamden Zoning Regulations 10-924**

Add text defining Outdoor Wood-Burning Furnaces to Section 830 and change the language in Section 160.c to ban outdoor wood burning furnaces.

File available for review in the Planning Office and the Office of the Town Clerk  
 Hamden Planning & Zoning Commission, Applicant

Mr. Dan Kops, Assistant Town Planner, read his comments and stated that the Planning and Zoning Department recommends approval of the proposed amendment to the Zoning Regulations. Mr. Kops explained that a letter with supporting documentation from Mr. David McDonald, Central Boiler Inc was received this afternoon and emailed to the Commissioners. The letter from Mr. McDonald was distributed to the Commissioners.

Mr. McDonagh reviewed a letter received from Ms. Linda Mordecai.

Mr. Roscow asked Mr. Lee if the Planning & Zoning Commission is the proper body of government to determine if outdoor wood-burning furnaces should be permitted or banned, or should the decision be made by the Legislative Council. Mr. Roscow said that the Commission does not regulate outdoor barbeques and he asked if a restaurant were to place a barbeque outside would the Commission need to determine if it is allowed.

Mr. Tim Lee, Assistant Town Attorney said that outdoor wood-burning furnaces constitute a on a piece of property as well as a use of a piece of property. Therefore this would come within the jurisdiction of the P&Z Commission.

Mr. Roscow asked if the wood-burning furnace could be installed inside a building. Mr. Kops said no it could not be installed inside a building. If it was installed inside a building it would not come under the proposed regulation.

Ms. Altman said that inside furnaces are constructed with more complete combustion and generate 22 times less particulate matter than the outdoor wood-burning furnaces. The interior wood burning furnaces releases particulate that is the same as an exterior furnace. The difference is that exterior furnace particulate matter can penetrate into other homes. Ms. Altman explained that the Town of North Haven has had over 1000 complaints. She said that the use of outdoor wood-burning furnaces can affect the health of an adjacent property owner and it can also lower their property values. Ms. Altman stated that the health issues have been documented. Ms. Altman said that QVHD and the DEP have said that wood-burning furnaces are a health issue. She feels that the job of the P&Z Commission is protect the health and safety of the residents.

Mr. McDonagh stated that an outdoor wood-burning furnace is not an outdoor barbecue or chiminea, but is a furnace that heats a house or building and it is located outside. He explained the size of the outdoor wood-burning furnace is approximately the size of a shed.

Mr. McDonagh asked if there were comments in favor of the application and there was none. Mr. McDonagh asked for comments against the application:

Mr. Mike Bergman, Woodstock Road, addressed the Commission and stated that he has heated his home with wood for 35 years and uses an outdoor wood-burning furnace. He said that the New Haven Register's article indicated there were no outdoor wood-burning furnaces being used in the Town and that there have been no complaints on record. Mr. Bergman feels that this proposed amendment is a complicated issue and he understands that the particulates and the height of the stack is an issue. He explained that newer furnaces are being manufactured and that the information received from Central Boiler's establishes that there are EPA criteria for outdoor wood-burning furnaces. The new criteria reduces the amount of noxious gases and the burn chamber is designed differently to reduce the amount of gases. Mr. Bergman feels that the information that has been received does not refer to the new furnaces that are on the market. His understanding is that the State regulation's are for the entire State and not by town. Mr. Bergman said that the State regulations have a height regulation and minimum required distance from a neighboring property. He is against banning outdoor wood-burning furnaces and does not feel the data that is available shows the negative impact on the health of his neighbors. Mr. Bergman stated that the particulates released would depend on the type of wood being burned.

Ms. Altman said that even with the development of new and cleaner burning outdoor wood-burning furnaces the number of complaints have increased every year. The State regulations require they be placed a distance of 100 or 200 feet from the adjacent property, but even at 800 feet the particulates hang in the air that affect peoples health and penetrate into homes.

Ms. Altman said that Mr. Bergman understands how to use his wood-burning furnace, his neighbors have not complained and that his unit would be grandfathered if the proposed amendment to the zoning regulation is approved. Ms. Altman feels that the information provided by the DEP states that there is an increased number of complaints and the Commission needs to consider the health and property values of the residents.

Mr. McDonagh asked Mr. Bergman if he had received any complaints from his neighbors. Mr. Bergman said that he has not and he has solicited his neighbors to see if they had any complaints. Mr. McDonagh asked how far from the property line is his wood-burning furnace. Mr. Bergman said that he had gotten a permit from the Town eight years ago and it is located more than 10 feet from the property line. Mr. McDonagh said that the recommendation is to locate the furnace 100 to 200 feet from the property line and asked Mr. Bergman if this would be a problem. Mr. Bergman replied that it would be impossible. He said there are new models that just burn pellets and the release of particulate and unburned gases is reduced. If outdoor wood-burning furnaces are no longer allowed it would eliminate the use of alternative heat. Ms. Altman said that she would agree with Mr. Bergman except that the amount of complaints is increasing and if there were better outdoor furnaces the amount of complaints would decrease.

Mr. McDonagh asked if Mr. Bergman replaced his existing furnace would he be allowed to if the amendment is adopted. Mr. Lee said if the regulation is adopted Mr. Bergman's use would be non-conforming and he would be allowed to modernize a non conforming use, but it would have to fit within the existing footprint. The State regulations are stricter and may prohibit Mr. Bergman from replacing it.

Mr. Richard Jaynes, 13 Broken Arrow Road, addressed the Commission and stated that if the outdoor wood-burning furnaces are banned outright it would not allow for new technology that would make them more efficient. He objects to comments made about all the complaints because there have been no complaints made in Hamden. Mr. Jaynes stated that he agrees with the comments made by Mr. Bergman.

Mr. Drew Kaptain, Ridge Road, addressed the Commission and stated that the article in the New Haven Register had stated that there have been no complaints made in Hamden. He said that 10 years ago diesel engines were an issue and with clean diesel technology it is now embraced. Mr. Kaptain said that he feels there will be new technology for outdoor wood burning furnaces and it will allow them to burn clean.

Mr. Jonathan Crosby, 777 Gaylord Mountain Road, addressed the Commission and stated that he is against banning outdoor wood-burning furnaces. He feels that the State regulations are working because there have been no complaints in Hamden. Mr. Crosby said that he owns an outdoor wood-burning furnace that is efficient and has no more smoke than a wood stove. . He asked if the number of particulates being stated are from new efficient units or older furnace that may be less efficient. Mr. Crosby asked how the particulates compare to a wood stove. He eliminated three wood stoves from his home when he went to the outdoor wood burning furnace. Mr. Crosby has spoken with his neighbors who have said they wish that they had one. He explained that he added a stack to his unit so that the smoke is released higher.

Mr. Frank Santora, Hamden Resident, addressed the Commission and stated that the article in the New Haven Register said that there were 241 complaints made in the Town of North Haven and asked if it was all from the same person. He said that in his opinion this amendment would limit the freedom of people. This would be the beginning of stopping all outdoor wood burning. Mr. Santora does not understand why this is an issue in Hamden.

Ms. Linda Morticai, 234 Garvin Road, addressed the Commission and stated that she encourages the Commission to adopt the amendment and she would also like to see fire pits banned. Ms. Mortica read the letter that she had submitted to the Commission.

Ms. Altman stated that fire pits are not considered a structure and does not fall within the zoning regulations. She said that residents are not allow to burn leaves.

Mr. McDonagh stated that a fire pit is not a structure. He said that the burning of leaves would fall under the Legislative Council.

Mr. McDonagh stated that he has not had the time to review the information received by Mr. David McDonald and also do research with regards to the State Regulations.

Mr. Sullivan agreed with Mr. McDonagh that he would like time to read the information from Mr. McDonald and do further research regarding the State regulations. He has not heard of any problems within Hamden regarding outdoor wood-burning furnaces.

Mr. Roscow said that 50 percent of the homes have fire places and many are incorrectly designed and utilized. The carbon footprint that would isolate the outdoor furnace rational would be the same as a front loader vs. a dump truck and the use of diesel fuel and the energy being used when making them. Mr. Roscow said that there are many people in his neighborhood that improperly use fireplaces that produce a lot of particulates.

**Mr. McDonagh continued the public hearing until the September 28, 2010 meeting at 7:00 pm at Thornton Wilder Hall, Miller Memorial Library, 2901 Dixwell Avenue, Hamden.**

## **B. Regular Meeting:**

### **1. Proposed Amendment to the Hamden Zoning Regulations 10-924**

Add text defining Outdoor Wood-Burning Furnaces to Section 830 and change the language in Section 160.c to ban outdoor wood burning furnaces.

File available for review in the Planning Office and the Office of the Town Clerk

Hamden Planning & Zoning Commission, Applicant

*Mr. Roscow made the motion to table this item until the September 28, 2010 meeting. Mr. Sullivan seconded the motion. The motion passed unanimously.*

### **2. Location approval 10-016**

880 Dixwell Avenue, T-4 zone

Used Car Dealer-General Repair

Car Solutions, LLC

Mr. Dan Kops, Assistant Town Planner, read his comments which recommended approval with conditions stated.

*Mr. Sullivan made the motion to approve the application for Location Approval 10-016 as recommended by Mr. Kops, Assistant Town Planner and the following conditions:*

1. All hazardous materials and waste chemicals should be stored on-site on an impervious floor with some form of secondary containment.
2. Waste material should be disposed of by a licensed waste hauler in accordance with all applicable federal, state and local regulations. If stored outside the containers should be within some form of secondary containment and sheltered from precipitation.
3. Waste oil tanks should be stored above ground on a bermed impervious surface capable of containing at least 110% of the volume of the tanks. The tanks should be stored indoors or, if outdoors protected by a roof .
4. Solid waste material should be stored in an appropriately sized, covered solid waste dumpster or other watertight container that is plugged to prevent the release of any liquids.
5. All vehicle washing should be conducted indoors.
6. All servicing of vehicles should be conducted indoors on an impervious surface.
7. There should be absolutely no discharges of motor vehicle fluids or detergent chemicals to the environment.
8. Any vehicles that are leaking automotive fluids should be stored inside the garage or at minimum on an impervious surface where the leaks can be contained and cleaned up.
9. Scrap metal or other parts in contact with lubricant should be stored in a watertight container to prevent the accumulation and contamination of stormwater.
10. Conditions 1-9 should be placed on the survey submitted to the Connecticut department of Motor Vehicles. The survey should also include the name of the proposed business.
11. Prior to the issuance of a Zoning Permit a copy of the revised survey should be submitted to the Planning and Zoning Department for approval by the Town Planner.
12. A Zoning Permit must be obtained prior to the opening the business.

*Mr. Reynolds seconded the motion. The motion passed unanimously.*

### **3. Minor Amendment to Special Permit & Site Plan 89-523/CAM**

2895 State Street (aka 2891 State Street), M zone

Move and reduce size of parking area

State Five Industrial Park, Inc, Applicant

Mr. Hugh Manke, Attorney, addressed the Commission and reviewed the application and stated that the application is to bring the site into compliance. He said the original approval was made in 1989 for 3.1 acres and this request would reduce the site to 1.53 acres. There will be no disturbance involved for the relocation of use.

Mr. Dan Kops, Assistant Town Planner read his comments and stated that the Planning and Zoning Department recommends approval of the proposed amendment with the conditions stated. Mr. Kops stated that on the plan the area in question is listed as parcel to the east of Andreucci's and for the record it is not a parcel. It is an area which is part of leased area that is part of a larger parcel.

Mr. Roscow asked if the request is for trailers that are temporarily being stored. Mr. Manke said being used for overnight storage and for box trucks.

Mr. McDonagh explained that this is a new plan which has trailers listed over all of the property and it is not a subdivision. Mr. McDonagh reviewed the site plan, and said that many of the trailers are in decrepit condition. He asked if the amendment is approved would it allow the owner to place trailers anywhere on the property. Mr. Manke explained that there is a note which states "the plan does not depict the current conditions. He said that there are two trailers and a flat bed located in the center of the property at the sufferance of the property owner, and were placed there by a tenant who was evicted two years ago. Mr. Manke said that he has received a promise from Gene Heider that the two trailers and flat bed, and the majority of vehicles on the site will be removed within two weeks. Mr. Manke stated that he is not claiming that the commission is granting a permit for anything outside the area that is identified in the proposed plan. Mr. McDonagh said that the area is the one that Cardinal was using and the Special Permit was ignored. He said that Parcel "C" is the area of the amendment being requested. The Empire Paving area was to be jersey barriers only and has expanded to construction related equipment. Mr. McDonagh noted that a Recycling Services dumpster located southeast of the Empire Paving property should not be there. Mr. McDonagh noted that all the trailers scattered throughout the site are not in conformance and are not part of the approval being requested. The Commission would be granting the amendment for Andreucci's use of the parcel

***Ms. Altman made the motion to approve the Minor Amendment to Special Permit & Site Plan 89-523 as recommended by Mr. Dan Kops, Assistant Town Planner and the following conditions:***

1. Prior to using the site for outdoor storage the applicant must obtain a Zoning Permit.
2. All work must be completed by September 14, 2015

***Mr. Marottoli seconded the motion. The motion passed unanimously.***

**4. Minor Amendment to Special Permit & Site Plan 01-946**

1908 Whitney Avenue, R-4 zone  
Playground-Spring Glen School  
Mark Albanese, Applicant

Mr. Dan Kops, Assistant Town Planner, read his comments which recommended approval with conditions stated.

***Mr. Marottoli made the motion to approve the Minor Amendment to Special Permit & Site Plan 01-946 as recommended by Mr. Kops, Assistant Town Planner and the following conditions:***

1. Prior to the start of construction the applicant must obtain a Zoning Permit.
2. All work should be completed by September 14, 2015.

***Mr. Sullivan seconded the motion. The motion passed unanimously.***

**5. Site Plan 10-1463/WS**

1533-1551 Dixwell Avenue, T-4 zone

(aka 1535 Dixwell Avenue)  
 Martial Arts School  
 Bashta's Martial Arts, LLC, Applicant

Mr. Dan Kops, Assistant Town Planner, read his comments which recommended approval with conditions stated.

***Mr. Sullivan made the motion to approve the application for Site Plan 10-1463 as recommended by Mr. Kops, Assistant Town Planner and the following conditions:***

1. Prior to the Issuance of a Zoning Permit the applicant must provide the Town Planner with a table that indicates the amount of parking required per use, the total number of parking spaces required and the total of spaces provided.
2. The applicant must obtain a Zoning Permit prior to commencing any work on the premises.
3. All work must be completed by September 14, 2015.

***Mr. Cesare seconded the motion. The motion passed unanimously.***

**6. Minor Amendment to Subdivion 08-1359**

466 Putnam Avenue, M Zone  
 Reduce Road Radius  
 Town of Hamden, Applicant

***Withdrawn at the request of the applicant***

**7. C.G.S. 8-24 10-303**

1601 Whitney Avenue  
 Temporary Construction and Permanent Easement  
 for Whitney Avenue Signalization Project  
 Town of Hamden, Applicant

Mr. Dan Kops, Assistant Town Planner, reviewed his comments and recommended that the Commission vote in favor of the temporary construction and permanent easements for the Whitney Avenue Signalization Project, and issue a favorable report to the Legislative Council.

***Mr. Roscow made the motion to refer the C.G.S. 8-24 10-303 for the temporary construction and permanent easement for the Whitney Avenue Signalization Project, with a favorable review to the Legislative Council. Mr. Sullivan seconded the motion. The motion passed unanimously.***

**8. C.G.S. 8-24 10-304**

1670 Whitney Avenue  
 Temporary Construction and Permanent Easement  
 for Whitney Avenue Signalization Project  
 Town of Hamden, Applicant

Mr. Dan Kops, Assistant Town Planner, reviewed his comments and recommended that the Commission vote in favor of the temporary construction and permanent easements for the Whitney Avenue Signalization Project, and issue a favorable report to the Legislative Council.

***Mr. Roscow made the motion to refer the C.G.S. 8-24 10-304 for the temporary construction and permanent easement for the Whitney Avenue Signalization Project, with a favorable review to the Legislative Council. Mr. Sullivan seconded the motion. The motion passed unanimously.***

**9. C.G.S. 8-24 10-305**

1908 Whitney Avenue, R-4 zone

Playground Expansion-Spring Glen School  
Mark Albanese, Applicant

Mr. Dan Kops, Assistant Town Planner, reviewed his comments and recommended that the Commission vote in favor of the playground expansion at the Spring Glen School, and issue a favorable report to the Legislative Council.

***Mr. Roscow made the motion to refer the C.G.S. 8-24 10-305 for the playground expansion at the Spring Glen School, with a favorable review to the Legislative Council. Mr. Sullivan seconded the motion. The motion passed unanimously.***

#### **10.C.G.S. 8-24 10-296-Reapproval**

Temporary Easement at 100 Skiff Street  
for the Construction of the Skiff Street Underpass  
Farmington Canal Greenway  
Town of Hamden, Applicant

Mr. Dan Kops, Assistant Town Planner, reviewed his comments and recommended that the Commission vote in favor of the revised easements for the construction of the Skiff Street Underpass, and issue a favorable report to the Legislative Council.

***Ms. Altman made the motion to refer the C.G.S. 8-24 10-296 for the revised easements for the construction of the Skiff Street Underpass, with a favorable review to the Legislative Council. Mr. Roscow seconded the motion. The motion passed unanimously.***

#### **11.C.G.S. 8-24 10-297-Reapproval**

Easement at 2335 Dixwell Avenue, Rear  
for the Construction of the Skiff Street Underpass  
Farmington Canal Greenway  
Town of Hamden, Applicant

Mr. Dan Kops, Assistant Town Planner, reviewed his comments and recommended that the Commission vote in favor of the revised easements for the construction of the Skiff Street Underpass, and issue a favorable report to the Legislative Council.

***Ms. Altman made the motion to refer the C.G.S. 8-24 10-297 for the revised easements for the construction of the Skiff Street Underpass, with a favorable review to the Legislative Council. Mr. Roscow seconded the motion. The motion passed unanimously.***

#### **12. Special Permit & Site Plan 08-1123**

225 Skiff Street  
Hamden Hall athletic Facility  
Request to release Bond-amount \$475,222.00  
Hamden Hall, Applicant

Mr. McDonagh reviewed the request to release the bond in the amount of \$475,222.00 as recommended by Ms. Holly Masi, Zoning Enforcement Officer.

***Ms. Altman made the motion to release the bond in the amount of \$475,222.00 as recommended by Ms. Holly Masi, Zoning Enforcement Officer. Mr. Sullivan seconded the motion. The motion passed unanimously.***

#### **13. Special Permit & Site Plan 05-1064**

1349 Dixwell Avenue

Request to release Bond-amount \$15,700.00  
Beans Realty, Applicant

Mr. McDonagh reviewed the request to release the bond in the amount of \$15,700.00 as recommended by Ms. Holly Masi, Zoning Enforcement Officer.

***Mr. Sullivan made the motion to release the bond in the amount of \$15,700.00 as recommended by Ms. Holly Masi, Zoning Enforcement Officer. Mr. Marottoli seconded the motion. The motion passed unanimously.***

### **C. Old Business/ New Business**

#### **1. Discussion-Acceptable forms of performance bonds**

Mr. McDonagh explained that the Commission was asked for alternatives to providing a bond.

Ms. Leslie Creane, Town Planner, stated that a developer who has done work in Hamden had asked that it be considered that a Letter of Credit be allowed to secure bonds instead of Cash and Surety bonds.

Ms. Kathleen Etkin, Director of Finance, Town of Hamden, addressed the Commission and stated that she prepared a memo regarding the use of letters of credit to secure different obligations. Ms. Etkin reviewed her memo with the Commission and stated that a letter of credit, a Surety and Cash bonds are viable and acceptable ways to secure obligations, and it should be done on by a case by case basis.

Ms. Altman asked if a Letter of Credit is the same as collateral. Ms. Etkin said that her experience with a Letter of Credit is that the person purchases it from the bank and the price that would be paid is based on the person's risk. Mr. Sullivan stated that a Letter of Credit is like an insurance policy and would make the bank responsible. Mr. Lee said it is the bank that would be responsible.

Ms. Altman feels that a Letter of Credit is only as good as the bank and in the past if the bank failed it has been difficult to deal with the FDIC. Ms. Altman asked if the Town could have some say as to which banks they would accept a Letter of Credit from. Ms. Etkin explained that the Town can set the conditions of how they would want a Letter of Credit to operate. Ms. Altman asked who has the authority to issue a bond. Mr. McDonagh said that it is the Commission who would be responsible to set the terms on which a Letter of Credit will be accepted.

The Commission further discussed with Ms. Etkin how a Letter of Credit would be established with a bank and the problems that the Commission has had in the past.

Mr. Lee said he would review the process used when a bond needs to be called because a project has not been completed. The Commission would like to receive information with regards to other towns that accept letters of credit and the need to have a form that a bank would need to use for a letter of credit.

The Commission determined that they would like additional information with regards to using a Letter of Credit and the need for this item to be placed on the agenda to advise the public.

Mr. McDonagh said that the issue of accepting a Letter of Credit in place of a bond will be placed on the September 28, 2010 Meeting.

#### **2. Review minutes of July 27, 2010**

***Mr. Sullivan made the motion to approve the minutes as written. Mr. Marottoli seconded the motion. Mr. McDonagh, Mr. Sullivan, Ms. Altman, Mr. Reynolds and Mr. Marottoli and Mr. Roscow voted in favor of the motion. The motion passed 6-0-0.***

3. Review minutes of August 4, 2010(special meeting)

*Mr. Sullivan made the motion to approve the minutes as written. Mr. Marottoli seconded the motion. Mr. McDonagh, Mr. Sullivan, Ms. Altman, Mr. Reynolds and Mr. Marottoli and Mr. Cesare voted in favor of the motion. The motion passed 6-0-0.*

4. Minor Amendment to Special Permit 87-833: 3300 Whitney Avenue

This item was tabled until the September 28, 2010 meeting.

#### **D. Adjournment**

*Mr. Sullivan made the motion to adjourn. Mr. Roscow seconded the motion. There was no further discussion. The motion passed unanimously.*

The meeting adjourned at 8:43 p.m

Submitted by: \_\_\_\_\_  
Stacy Shellard, Clerk of Commissions