

November 25, 2008, *Revised 1/23/09 per Commission review at their meeting on 1/15/09*

MINUTES: THE ZONING BOARD OF APPEALS, Town of Hamden, held a Public Hearing and Regular Meeting on Thursday, November 20, 2008 at 7:00 p.m. in the 3rd Floor Conference Room, Hamden Government Center, 2750 Dixwell Avenue, Hamden, CT. and the following was reviewed:

Commissioners in attendance:

Jeff Vita, Chair
Wayne Chorney
Fran Nelson
Steve Walsh, sitting for Elaine Dove

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, chair called the meeting to order at 7:04 p.m., reviewed the agenda and meeting procedures and the panel introduced themselves.

Mr. Vita advised the applicants and the public that there were only four Commissioners in attendance. To pass a variance the applicant would need 4 favorable votes. The applicant does have the right to request a postponement until the next meeting.

A. Public Hearing

- 1) **08-6344** 39 Goodrich Street, Requesting variances of the following: Section 701d to allow 144 square feet floor area for a temporary accessory apartment where a minimum of 300 square feet is required. Section 701g to allow for the use of the bathroom facilities in 39 Goodrich Street residence where separate sanitary facilities are required. Section 701i to allow for an accessory building (Tiny House project) to be temporarily parked where an accessory building is not allowed to be used or created for the purpose of accommodating an Accessory Apartment. Section 701j to allow an accessory apartment already constructed, mobile and self contained that does not fall under the jurisdiction of the Building Inspector. R-4 Zone
Elizabeth Turnbull, Applicant

Mr. James Van Pelt, owner of the property addressed the Commission and advised the members that Ms. Turnbull was unable to attend the meeting. He stated to the members that Elizabeth Turnbull is a graduate student at Yale and the project is to complete her thesis. Mr. Van Pelt reviewed the application and advised the Commission that public access would be limited to approximately 2 tours a month. He stated to the members that the house is designed to last for 2 years. He reviewed with the members where the house would be located on his property.

The Commission asked how the house would be transported and where it is located now. Mr. Van Pelt advised the members that it sits on an eighteen foot trailer and is located at Yale University. Mr. Chorney advised Mr. Van Pelt that the current regulations do not allow for a trailer or camper to be used or stored on a residential property. Mr. Nelson asked Mr. Tim Lee, Assistant Town Attorney if a limit of time can be placed on a variance. Mr. Lee advised the members there could not be a limit of time for a variance. Mr. Van Pelt asked if a variance for the property is granted could it be removed later. Mr. Lee advised that a variance is difficult to rescind. Mr. Kops, Assistant Town Planner advised the members that they must determine if a hardship has been proven.

Mr. Vita asked for any public comment. There was none.

Public hearing closed at 7:15 p.m.

- 2) 08-6345** 61 Riverside Drive, Requesting variances of the following: Section 434b to allow a side yard of 4 feet 6 inches where 12 feet is required to expand the house and relocate the garage. Section 326 to allow expansion of a non-conforming structure for an addition. Section 320 to allow altering a non conforming structure. R-4 Zone, Michael Guidone, Applicant

Postponed at the request of the applicant

- 3) 08-6346** 82 Costanzo Court, Requesting variances of the following: Section 770.2.1.6 to allow parking for student housing in a required front or side yard where no parking is allowed. Section 770.2.1.5 to demonstrate provisions for off street parking at one space per student. R-4 Zone. Louis Scipione, Applicant

Mr. Louis Scipione, 100 East Orchard Street, Allendale NJ, owner of the property addressed the Commission and reviewed the application. He stated to the members that the property was purchased for an investment and to be used for student housing. There are currently 4 students living on the premises. There is a single car garage and only 1 parking space. Mr. Scipione advised the Commission that the hardship is for the students. His proposal is to allow the students to park on an unpaved area or he would pave to the side of the existing driveway. Ms. Holly Masi, Zoning Enforcement Officer advised the Commission that the request for a variance was to resolve a student housing violation. She advised the members that there is no option for parking at the rear of the house. Mr. Chorney stated he feels the plan is deficient. Mr. Vita asked if there should be dimensions of the parking area. included in the application.

Mr. Chorney reviewed the hardship and advised Mr. Scipione that the regulations state that 1 space per student is required. Mr. Scipione stated to the Commission that he bought the house for investment purposes and was unable to locate the regulations regarding student housing. He advised the members that families have multiple cars. Mr. Kops, Assistant Town Planner advised that the regulations are different with regard to student housing.

Mr. Vita advised the members that the Commission received 2 letters regarding this application. Martin and Patricia Salinger submitted a letter opposing the variance. Filomena Furino submitted a letter opposing the variance. He also advised the members that a letter from the RWA dated 11/20/08 stated there was not enough information submitted to review the application.

Mr. Vita asked for public comments in favor of the application and there were none.

Mr. Vita asked for public comments against the application. Mr. Gary Pinedo, 86 Costanzo Court is opposed to the application. He stated to the Commission that additional parking and visitors to the home would be a safety issue. His 2 children and the children in the neighborhood do use the cul-de-sac to play when outdoors.

Ms. Christine Esposito, 1742 Whitney Avenue advised the Commission that she is against the application. She feels the landlord should have been aware of all the rules and regulations.

Mr. Scipione discussed with Ms. Masi the regulations. Ms. Masi advised Mr. Scipione that there must be 1 parking space per student to be in compliance with the parking requirements. Mr. Kops reviewed how the cars could be parked on the property and that the regulation was to avoid lawns from being ruined. Mr. Vita advised Mr. Scipione that the regulations are available to the public and it is his obligation to know that they exist.

Mr. Vita asked for further public comment and there was none.

Public hearing closed at 7:15 p.m.

- 4) 08-6347** 1640 Whitney Avenue, Requesting variances of the following: Section 594 to allow a side yard of 2.9 feet where 10 feet is required to accommodate a vestibule. Section 594 to allow a side yard of .5 feet where 10 feet is required to install a trellis. Zone CDD3/R-4
1640 Whitney Avenue, LLC, Applicant

Mr. Hunter Smith, Architect addressed the Commission and reviewed the application. He advised the members that the variance was to correct conditions that already exist and reviewed the site plans. The Commission asked if the applicant owned the building and he advised yes and one of the owners Mr. Dan Migliore was present. Mr. Kops advised the members that the owner of Paul and Eddy's Pizza spoke with the Town Planner and advised her that they were not against the application. Mr. Smith advised the members that the RWA had no objections. The Commission asked the size of the trellis and if there were footings. Mr. Smith advised there were footings and it would be 6 feet wide. The Commission advised Mr. Smith that the trellis should be on the plot plan. Mr. Kops advised the Commission that the P&Z Commission had approved the plans without the Trellis and vestibule. Mr. Chorney asked if there would be additional parking available off-site for the restaurant. Mr. Migliore, applicant advised the members there would not be off-site parking. Mr. Kops advised the members that if the restaurant were to expand they would need to have additional parking. The vestibule and trellis is not considered an expansion of the restaurant so parking is not relevant to the application. Mr. Vita asked Mr. Lee if approval for a .5 feet for a trellis can be limited for the trellis. Mr. Lee advised the members that the approval is for a side yard of .5 feet and contingent on a limit that it be clarified in the plans presented.

Mr. Vita asked for public comment.

Mr. Daniel McGowan, 17 Central Avenue and Mr. Joe Lillis 21 Central Avenue addressed the Commission and advised the Commission that they are concerned with the parking. Mr. Smith reviewed the site plans with the residents and advised them that the area will be landscaped, and the lighting on the site will be improved.

Ms. Christine Esposito, 1742 Whitney Ave asked what the purpose of the trellis was. Mr. Smith advised it was to create better focus for access to the restaurant.

Mr. Vita asked for further public comment and there was none.

Public hearing closed at 7:52

- 5) 08-6348** 55 West Woods Road, Requesting a variance of the following: Section 645.c to allow excavation on up to five feet of the property boundary on the western side of the property where none is allowed within 20 feet. Section 645.c to allow excavation up to ten feet of the property boundary on the southeastern side of the property, where none is allowed within 20 feet. Zone B-2
West Woods Properties, LLC, Applicant
Withdrawn at the applicants request
- 6) 08-6342** 660 New Road, Requesting variances of the following: Section 721a to allow for a total lot size of 27,333 where 120,000 square feet is required. Section 721b to allow

for a front yard on Mt. Carmel Avenue of 61.1 feet where 100 feet is required and for a front yard on New Road of 33.4 feet where 75 feet is required (Section 312 - Corner lot requires 2 front yard setbacks. Section 721c to allow for a side yard of 18.9 feet where 50 feet is required. Section 721h to permit use of an existing on-site subsurface sewage disposal system where sanitary sewer is required. R-2 Zone
Quinnipiac University, Applicant

Mr. Pellegrino, Attorney for the applicant addressed the Commission. He reviewed the application and advised the members that the building was part of the Albert Schweitzer Institute. He submitted to the Commission a packet that provided information about the institute. He advised the Commission that the variance is necessary to renovate the stairwell and expand the foot print from the first to the second floor and be in code compliance. The site is serviced by an existing septic system and QVHD has done a review Mr. Pellegrino advised the Commission that the parcel is located on a corner lot which has a 2 front yard requirement. He advised the members that the hardship is to bring the building into code compliance with a 63 square foot print addition and improve safety within the building.

Mr. Vita advised the Commission that in their packets there is a letter from Nathan Jacobson dated 11/7/08, QVHD 11/13/08 and 11/22/08. The Commission asked if the second floor has been in use as part of the institute. Mr. Pellegrino advised the members that it had not and was previously used as a residence. The Commission asked if there were bathrooms on the second floor. Mr. Tripp Wyatt advised that there is a bathroom on the second floor. Mr. Howard Pfofmer, advised if the septic system fails, it could be upgraded. Mr. Kops advised the members that the regulations governing school/colleges assumes that the property is located on a large campus and is 1 parcel. When a second parcel is separated by streets as part of a functional integrated school/college the regulations force an unnecessary hardship. The sanitary sewer is not explained in the application and hooking into the existing sewer line located at the end of the street would be cost prohibitive.

Mr. Vita asked for public comment.

Mr. Franz Douskey, 50 Ives Street addressed the Commission and read a statement. He stated to the members his concern is continuing use of a septic system instead of the sewer system. He does not feel the threshold of hardship has been stated. He reviewed the QVHD letters regarding the perk tests.

Mr. Pellegrino advised the Commission that the hardship as written under the regulations is the requirement of sewers for dormitories with 3000 students. This site is legally separated by a road and has separate use for an office building, and the concerns for the volume of sewage under existing regulations does not apply. He advised the members that the septic system is pre-existing and meets the QVHD approval. If the system reaches capacity and fails, a code compliant system can be built.

Mr. Douskey asked for proof that QVHD was on site when the perk test were done. Ms. Masi, Zoning Enforcement Officer reviewed the QVHD letter and the perk test of 10/2/08 was witnessed by John Laudano of QVHD.

Public hearing closed at 8:22

B. Regular Meeting

a. Discussion and voting on Public Hearing items

08-6344

Mr. Chorney made a motion to deny the request for a variance. No hardship was proven. Mr. Nelson seconded the motion. The motion passed unanimously.

08-6346

Mr. Nelson made a motion to deny the request for a variance. He stated that the hardship is a self created one and the owner should have determined the proper regulations before the residence was used for student housing. Mr. Nelson asked what the next step would be. Ms. Masi advised the Commission she would to proceed with enforcement. Mr. Chorney seconded the motion. The motion passed unanimously.

08-6347

Mr. Nelson made the motion to approve the request for variance of section 594 to allow a side yard of .5 feet where 10 feet is required to install a trellis only as shown on a site plan which must be submitted to the Zoning Enforcement Officer prior to taking effect. The request for a variance of section 594 to allow a side yard of 2.9 feet where 10 feet is required to accommodate a vestibule as depicted on the plan submitted 11/6/08. Mr. Chorney seconded the motion. The Commission discussed the need for the trellis. The rear entrance is not easily visible and there is a safety factor. The motion passed unanimously.

08-6342

Mr. Nelson made the motion to approve the request for the variances based on the hardship that the zoning regulation applies to a university setting and not buildings located at different sites. If the existing septic fails there is a provision for a new system in the plans. Mr. Walsh seconded the motion. Mr. Kops advised the members that an additional permit would be needed from QVHD if a new system is needed and is noted on the plan as reserved. Ms. Masi advised the members that the approval of a zoning permit is contingent on QVHD signing off. Mr. Kops advised that there is a request for a special permit on the December agenda for Planning and Zoning and it would also be contingent on QVHD signing off. The motion passed unanimously.

b. Approve Minutes of October 16, 2008

Mr. Vita noted that he was in attendance for the October meeting and acting chair should be removed from Mr. Chorney's name.

Mr Nelson made the motion to approve the minutes as amended. Mr. Walsh seconded the motion. The motion passed unanimously.

c. Old Business

Ms. Masi advised the Commission that she is speaking with the property owner Vinny Ingengro regarding violations at 549 West Woods Road.

**d. New Business
Approval of Meeting Schedule for 2009**

Mr. Nelson made a motion to accept the Meeting Schedule for 2009. Mr. Walsh seconded the motion. The motion passed unanimously.

e. Adjournment

Mr. Nelson made a motion to adjourn. Mr. Walsh seconded the motion. The motion passed unanimously.

The meeting adjourned at 8:35 p.m.

Submitted by: _____
Stacy Shellard, Commission Clerk