

December 22, 2009

MINUTES: THE ZONING BOARD OF APPEALS, Town of Hamden, held a Public Hearing and Regular Meeting on Thursday, December 17, 2009 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:

Wayne Chorney, Acting Chair
 Elaine Dove
 Bill Reynolds
 Fran Nelson
 Steve Walsh, Alternate sitting for Jeff Vita
 Andrew Houlding, Alternate

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

A. Public Hearing

- 1) **09-6369** 400 Goodrich Street, Requesting a variance of the following: Section 740 to permit 4 spaces where 15 are required for office use. Zone B-2.
 Tri-Con Construction Managers, LLC, Applicant.

The Public Hearing was continued until January 21, 2009 meeting at the request of the applicant.

- 2) **09-6373** 89 Santa Fe Avenue, Requesting a variance of the following: Section 434.b to allow a side yard of 8 feet where 12 feet is require for an addition. Zone R-4.
 Bernard Pellegrino, Applicant

Mr. Greg Gallo, Attorney, addressed the Commission and advised that the plot plan requested at the November 19, 2009 meeting was submitted to the Planning Office. Mr. Tim Lee, Assistant Town Attorney, stated that Mr. Nelson has reviewed the November meeting minutes because he was not in attendance, and asked Mr. Gallo if there were any objections to him sitting for this item. Mr. Gallo said he had no objections to Mr. Nelson sitting for this item. Mr. Gallo reviewed the application and explained that the addition would not have any additional encroachment into the side yard. Mr. Nelson asked if the addition would be staying within the existing footprint of the house with regard to the side yard setbacks. Mr. Gallo stated that the addition would stay within the existing footprint and extended back. Ms. Dove asked what changes were being made to the existing house. Mr. Nelson said it would not encroach further into the 8 foot side yard setback. Mr. Gallo explained that there would be an expansion to the kitchen and dining area space. There will be no major changes because the applicant does not

want to move the stairwell. Mr. Gallo stated that at the last meeting there were letters submitted supporting the expansion. The Commission reviewed and discussed the plot plan with Mr. Gallo.

Ms. Marcella Federico, owner, addressed the Commission and reviewed the existing structure.

Mr. Gallo explained that the addition would extend 21 feet out from the back. Mr. Chorney asked if the lot coverage included the garage. Mr. Gallo said the lot coverage did include the garage. Mr. Chorney said that the plan table does not include it in the table. Mr. Kops stated that the individual items do not need to be shown in the table. Mr. Chorney said that if it is not in the table then it cannot be dimensioned out and you are taking the surveyor's word. Ms. Dove said that the plot plan does not show the size of the garage. Ms. Holly Masi, Zoning Enforcement Officer explained that a licensed surveyor includes everything that is on the lot when determining the lot coverage. Mr. Chorney's main concern is that the plot plan is incomplete and on the right side of the property where the addition will be there is a substantial slope, and asked Ms. Masi if there is a plan to make sure there will be no erosion if an approval is given. The Commission discussed this with Ms. Masi with regard to the existing slope. Ms. Masi explained that she will review with the Town Engineer when a Zoning Permit is submitted. Mr. Chorney explained that he wants to make sure the abutting neighbor is protected because the slope has about a 4 foot elevation.

Mr. Chorney asked for comments in favor or against the application. There were none.

The Public Hearing was closed.

- 3) 09-5374** 118 Bedford Avenue, Requesting a variance of the following: Section 435 to allow an addition with the lot coverage of 28 percent where 25 percent is allowed for an addition.
Zone R-4
Dan Digioia, Applicant

Mr. Dan Digioia, Applicant, addressed the Commission and reviewed the application. He stated that the variance request is for a small addition that would be 20 feet deep and 18 feet wide and would be within the existing footprint. Mr. Nelson asked if the addition would be within the setbacks on both the side and the back. Ms. Masi explained that the addition complies with the zoning requirements for all the setbacks but the applicant would be over for the lot coverage. Mr. Digioia stated that the correct measurement for the addition would be 14 feet by 6 feet. Mr. Nelson asked if the addition was calculated correctly for the lot coverage. Mr. Digioia stated that he had calculated the lot coverage using the correct measurements, which is 14 feet by 6 feet. Mr. Chorney advised the Commission that there is a one car garage with a workshop area located on the property. Ms. Dove discussed the lot coverage with Mr. Kops and Ms. Masi.

Mr. Chorney asked for comments in favor or against the application. There were none.

The Public Hearing was closed.

- 4) 09-5375** 20 & 36 Todd Street, Requesting a variance of the following: Section 736 to allow a managed residential care facility on a road with a width of 24 feet where 30 feet is required.
Section 326 to allow the expansion/continuation of a non-conforming structure. Zone R-2
Bernard Pellegrino, Attorney

Mr. Greg Gallo, Attorney, addressed the commission and reviewed the application to allow a 24 foot roadway where 30 feet is required for a managed care facility. Mr. Gallo explained that AT&T has three poles located on the property at the corner of Todd Street and Whitney Avenue which have a sub-structure with service boxes. The owner of the property has not received permission to move the poles or structures. The proposed design of the intersection was approved by the State Traffic Department. Mr. Gallo submitted a color copy of the site and reviewed it with the Commission. Mr. Gallo explained that the State Traffic Department has said that by making the road more perpendicular to Whitney Avenue, it makes it easier for traffic on Whitney Avenue to make a right hand turn on to Todd Street. The placement of the intersection helps with the sight lines and on the northern side

of Todd Street for the right of way. Ms. Dove asked if the requirement is a 30 feet wide roadway for a managed care facility and if the facility has been built. Mr. Gallo explained that the requirement for a managed care facility is a 30 foot wide roadway and referred questions to Mr. Dean Fiske.

Mr. Dean Fiske, Ravenswood Homes, addressed the Commission and explained that he had received an approval for the managed care facility that is currently under construction. The approval that was received was to have a 30 foot wide roadway. The request is to allow the 24 foot width that exists and reconfigure the entrance from Whitney Avenue to Todd Street which allows for a 90 degree intersection. Mr. Gallo explained the colored plan submitted shows the original plan to widen the road vs. the current plan to relocate the entrance.

Mr. Fiske discussed with the Commission what defines a managed care facility, the services that would be provided, and explained the residents would be 55 years of age and older in the development. Mr. Kops explained that there must be services provided to be determined a managed care facility. Mr. Lee explained to the Commission that the original application was approved by the Planning and Zoning Commission. The applicant had provided evidence that the services they would be providing would allow it to be considered a managed care facility. Mr. Kops stated to the Commission that the facility was approved as a managed care facility and the regulations require a 30 foot roadway width and within and the site to be 1500 feet of public transportation. The entrance will not be very far from Whitney Avenue. Mr. Gallo explained that the entrance is depicted on the schematic provided. Mr. Gallo stated that the project has already been approved as a managed care facility.

Mr. Nelson advised the Commissioners that there are two letters in support of the roadway width remaining at 24 feet. The letters were received from the West Woods Neighborhood Association and Mr. Elwood Hoyt. Mr. Chorney asked what the consequences could be by allowing a 24 foot width roadway for a managed care facility which would make it non-conforming. Mr. Kops explained that the Planning Office has met with the applicant and his representatives, and regardless of the types of service it is considered a managed care facility. Mr. Kops explained that the issue before the ZBA Commission is if there will be an impact if the road width is decreased. The Planning Office feels because of the location, the managed care facility meets the intent of the regulations, and decreasing the width of the road will promote traffic calming and improve the sight line. Mr. Kops advised the Commission that the Planning Office endorses this application.

Mr. Chorney asked if the applicant has received approval from the DOT. Mr. Fiske explained that he had received an email from the DOT, but must go before the DOT to receive their full approval. Mr. Chorney asked if the area to the north of Mr. Fiske's property is part of a retention area. Mr. Fiske explained it was part of an office building site. Mr. Fiske reviewed the area with the Commission. Mr. Gallo reviewed the area that will be deeded as a right-of-away. Mr. Nelson said that currently it is difficult to exit north on to Whitney Avenue. Mr. Gallo stated that the State would like the road to be perpendicular to Whitney Avenue. Mr. Gallo discussed with the Commission the concern of the West Woods Civic Association that if the road is widened there will be an increase in traffic and the speed. Mr. Nelson feels that by keeping the road narrow it will help the traffic and the speed it is traveled at. Mr. Chorney asked if a C.G.S. 8-24 is needed if a portion of the property will be deeded to the town. Mr. Kops explained a C.G.S. 8-24 will be needed to accept the portion of the land and an application would also go to the Planning and Zoning Commission to modify the Special Permit & Site Plan that was approved.

Mr. Cameron Moody, 3584 Whitney Avenue, Giant View Café, addressed the Commission and stated that the proposal will allow the shopping center to have more parking spaces and access to the businesses will be easier. He also feels that the traffic flow from Todd Street onto Whitney Avenue will be easier if the road is perpendicular to Whitney Avenue. Mr. Moody said that it will be easier to enter and exit Todd Street.

Mr. Jim Leddy, 36 Todd Street, addressed the Commission and stated that he has talked to many residents in Trailside Village and they do not object to the application. He explained that Todd Street going west is not 24 feet width. If the area at Todd and Whitney Avenue is kept at 24 feet traffic will travel at a slower speed. He feels that the change being requested will improve the intersection and access to the businesses. If the road is increased as originally proposed it would increase the rate of speed the road is traveled at and would be a safety concern for the Farmington Canal crossing.

Mr. Chorney asked for comments against the application. There were none.

The Public Hearing was closed.

- 5) 09-6376** 51 Worth Avenue, Requesting a variance of the following: Section 314.4 to allow a 0 foot side yard where 10 feet is required to place a foundation for the Rectory Barn. Section 326 to allow the expansion/continuation of a non-conforming structure. R-5 zone.
Town of Hamden, Applicant

Mr. Bob Brinton, Town Engineer, addressed the Commission and reviewed the existing location of the barn and explained that it straddles the property line. He noted that the Town has received a grant for a concrete foundation for the barn. The barn is being leased by PLACE. Mr. Brinton explained that the site plan is for a proposal for an addition to be added to the barn in the future. Mr. Brinton reviewed the submitted plans and where the barn will be placed with the Commission and indicated that the Town has a 99 year lease for the property. Mr. Nelson asked why the barn could not be placed off the property line. Mr. Brinton explained that it would be costly. Mr. Chorney stated that he would like to know what the geographic conditions are that would prevent the Town from moving the location. Mr. Brinton explained to the Commission the excavation work that would need to be done if the barn were placed closer to the hill that is located on the Town Property.

Mr. Kops discussed with the Commission the zero lot line on the Hamden side of the property and stated the only variance would be needed on the other side of the property line. Mr. Lee explained to the Commission that the variance is needed on the private side. Mr. Kops discussed with the Commission that the property where the variance is needed is owned by the Hamden Housing Authority, which is a quasi governmental office. Mr. Kops explained that the Hamden Housing Authority has signed off on the application. Mr. Brinton noted that there is a letter attached to the lease stating if the housing authority sells the property, the money would have to go back to the State, but if the property is leased the profit can go back to the Housing Authority. Mr. Lee reviewed with the Commission that the Housing Authority is a quasi municipal agency and the town leased the property for 99 years. Mr. Nelson asked why the Town has a zero lot line. Mr. Kops explained that the Town property is zoned a town green and it has a zero side yard for structures until January 1, 2010 when the new zoning regulations are effective. Mr. Chorney asked about the proposed stage. Mr. Brinton discussed with the Commission that PLACE is the tenant and they have a 25 year lease, and may want to have an addition built on to the barn in the future. Mr. Lee explained that the application is correct and the variance being requested is for the property, it is not for the Housing Authority. Mr. Nelson asked if the request for a variance would be the same for a private resident. Mr. Lee explained to the Commission that if the Housing Authority objected to the barn being placed on its property, it could prevent the proposed placement of the barn. Mr. Chorney asked if the plan presented an A-2. Mr. Brinton explained it was not an A-2, but information was taken from an A-2 survey. The Commission discussed with Mr. Brinton that the variance being requested is for the barn. Mr. Lee discussed with the Commission and Mr. Brinton the placement of the proposed addition. Ms. Dove asked if there would be a basement. Mr. Brinton said that there would be a basement that would be used for storage.

Mr. Chorney asked for comments in favor or against the application. There were none.

The Public Hearing was closed.

The Public Hearing was closed at 7:51 p.m.

B. Regular Meeting

a. Discussion and voting on Public Hearing items.

09-6373

Mr. Nelson made the motion to approve the request for a variance. Mr. Reynolds seconded the motion. Mr. Nelson stated that the addition would be within the footprint of the existing house and would not encroach into the side yard. Mr. Chorney asked Ms. Masi if she would make sure that the Commission's concerns for the neighboring property would be addressed. Ms. Masi advised the Commission that the plans submitted for Zoning Permit would be reviewed to address their concerns and she will also have the Town Engineer review the plans. ***The motion passed unanimously.***

09-5374

Mr. Nelson made the motion to approve the request for a variance. Mr. Reynolds seconded the motion. Mr. Nelson stated that the yard is small and the applicant is asking for three percent extra for the lot coverage and they need 28 percent where 25 percent coverage is needed. Mr. Nelson feels that this a minor request for a variance. ***The motion passed unanimously.***

09-5375

Mr. Nelson made the motion to approve the request for the variances. Mr. Reynolds seconded the motion. Mr. Nelson stated that the applicant went to the State DOT for the approval of the design to change the road configuration to Whitney Avenue. It fits the neighborhood to keep the road width at 24 feet instead of 30 foot width for the traffic and the neighbors feel it a better configuration for the area. ***The motion passed unanimously.***

09-6376

Ms. Dove made the motion to approve the request for the variances. Mr. Reynolds seconded the motion. Ms. Dove stated that the quasi-town land is a moot issue and the housing authority is part of the town. It adds to the benefit to have the rectory because it adds value to the Town. Ms. Dove does not see a negative to approving the variance. Ms. Dove stated that she would have a problem with granting the variance if it were private property. Mr. Nelson said that the Town should be held to the same standards as a private resident. Mr. Chorney said that to locate it totally on Town property would be a hardship because of the rock formation and elevation. Ms. Dove stated that it would be a hardship because of the rock and debris underneath the town property. Mr. Nelson stated that the Towns people should not be held to a different standard. Mr. Lee asked that the Town be held to the same standard as the residents. The Commission discussed the 99 year lease and noted a resident could also hold a 99 year lease. ***The motion passed unanimously.***

Mr. Chorney congratulated Mr. Brinton on his input on the new zoning regulations.

b. Approve Minutes of November 19, 2009

Mr. Chorney stated that on page 2, the first sentence, replace "Mr." with "Dr" and add the next sentence which should read: Mr. Chorney stated that the location of the sign was relevant and should be located and dimensioned on the plan being submitted. The last sentence of the first paragraph should read: Mr. Chorney inquired about the ratio of the existing sign vs. the new sign, if the existing sign is over the allowable size, and could this sign if over the allowable square footage be credited(or grandfathered) to a new sign. The last sentence of the second paragraph should read: The Commission reviewed the location of the sign for the Shell Gas Station, and referred this to the Zoning Enforcement Officer. On the third page, 13th sentence, the last word "projects" should read "fence". Ms. Dove stated that on page four, Item 5, "Sante" should be spelled "Santa", and the second paragraph "Ms. Elaine Marcella Federico" should be Ms. Marcella Federico.

Ms. Dove made the motion to accept the minutes as revised. Mr. Reynolds seconded the motion. Mr. Nelson abstained. The motion passed unanimously.

c. Old Business

Mr. Lee advised the Commission that Video Liquidators located at 2259 State Street has been evicted from the property. Ms. Masi explained that the owner of the property has passed away and the property is now in probate court.

Mr. Lee advised the Commission that Modern Materials and Empire Paving have brought their property into compliance following the Commission's decision to uphold the ZEO's Cease & Desist orders. The appeals will be withdrawn and the Zoning Enforcement Officer has been advised.

d. New Business

Mr. Chorney stated that the Proposed Zoning Regulations have been adopted with an effective date of January 1, 2010. Mr. Chorney spoke with Mr. McDonagh, Chairman of the Planning and Zoning Commission and Mr. McDonagh would like to come before the ZBA Commission to discuss the new regulations, and there be cooperation between the two commissions with regard to recommendations. Mr. McDonagh will speak about properties that could become non conforming with the new regulations. Mr. Chorney also spoke with Mr. Kops and the idea is to bring the properties that are non-conforming into conformity.

e. Adjournment

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

The meeting adjourned at 8:13 p.m.

Submitted by: _____
Stacy Shellard, Commission Clerk