

February 25, 2010

MINUTES: THE ZONING BOARD OF APPEALS, Town of Hamden, held a Public Hearing and Regular Meeting on Thursday, February 18, 2010 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
Bill Reynolds
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 called the meeting to order at 7:00 p.m., reviewed the agenda and meeting procedures, and the panel introduced themselves.

A. Public Hearing

- 1) **09-6379** 2335 Dixwell Avenue, Requesting a variance of the following: Section 756.b.1 to permit a total of 3,152.82 square feet of total signage where a maximum of 2,795 square feet is permitted. Section 756.b.3 to permit four additional wall signs. CDD-1 zone, Twenty Three Thirty Five Route 10 Hamden-CT Inc., Applicant

Mr. Vita stated that the application was withdrawn at the request of the applicant.

- 2) **10-6381** 169 Mill Rock Road, Requesting a variance of the following: Section 220 to allow a lot area of 10,000 square feet where 20,000 square feet is required. Section 220 to allow a lot width of 80 feet where a minimum of 100 feet is required. Section 530.5 to allow steep slopes in the minimum lot area calculation. R-3 zone, East Rock Partners, LLC, Applicant

Mr. Carl Porto, Attorney, addressed the Commission and asked that this item be heard later in the meeting because his client had not arrived.

Mr. Porto addressed the Commission and stated that he had met with the Planning Office staff and that the application needs additional information added to it. He asked that the public hearing be continued until the March 18, 2010 meeting.

Mr. Vita stated that this item has been opened and that the public hearing will be continued until the March 18, 2010 meeting.

- 3) **10-6382** 1774 Dixwell Avenue, Requesting a variance of the following: Section 350.3-Table 3.1- Required parking in transect zone to allow 10 parking spaces were 11 is required. T-4 zone
Rosario Valentino, Applicant

Mr. Paul Fioretti, EDIFICIO, LLC, addressed the Commission and stated that he represents the applicant Rosario Valentino. He submitted to the clerk the RWA notification verification, and a picture of the posted sign required by the Zoning Regulations.

Mr. Chorney asked why this application was before the ZBA Commission because the application is asking for parking in a transect zone and his understanding is that the number of parking spaces allowed would be at the discretion of the Planning and Zoning Commission. Mr. Kops, Assistant Town Planner, stated that it would go to the ZBA first then to the P&Z Commission. Mr. Chorney stated that with the new regulations the P&Z Commission has the option to approve the request for parking and he feels that the ZBA Commission should not hear this application. Ms. Masi and Mr. Kops reviewed the zoning regulations with regard to the required parking spaces. Mr. Chorney referred to section 350.2.d. Mr. Kops explained that 350.2.d is for transit-oriented development and this application does not apply. Ms. Masi explained that specific uses are classified and a restaurant is classified as a retail use in a T-zone. The Commission discussed with the Commission the zoning regulations and how they apply to the different zones and different classifications. Ms. Masi explained that this application is for a single site and is site specific.

Mr. Lee, Assistant Town Attorney, asked if this site would be sharing parking. Mr. Fioretti stated that the site was for Giovanni's restaurant only. Mr. Vita asked Mr. Lee if this application should be before the ZBA Commission. Mr. Lee stated that the P&Z Commission has the discretion to waive parking requirements when there is more than one use on a site. Mr. Lee feels that this application is properly before the ZBA Commission. Mr. Chorney referred to table 5.5 and the allowed amount of parking spaces vs. gross leasable area. Ms. Masi explained that table 5.5 is not for a T-zone.

Mr. Fioretti said that the existing building is 1,500 sq feet and would like to add a 1,200 square foot addition which would reduce the amount of the existing parking spaces. The application is requesting the variance to allow parking on the street and allow 10 spaces where 11 spaces are required. Mr. Vita asked what the hardship would be. Mr. Fioretti explained the use of building. He noted it is hard to maintain a business and increasing the dining area to allow for more clientele. Ms. Dove asked what is located behind this business. Mr. Fioretti explained on Red Rock Terrace to the west is residential and to the north are businesses along Dixwell Avenue. Ms. Dove asked if the 10 spaces would be in the parking lot. Mr. Fioretti stated that the new regulations would allow on street parking and reviewed with the Commission where the parking spaces would be located. Mr. Chorney noted that in section 3.1 it does not specifically list restaurant. Ms. Masi explained that a restaurant is classified in a different section of the regulations and is classified as retail. Mr. Chorney stated that this business is located in a T-zone, and is referenced in the 3.1 table. Mr. Chorney said that on Dixwell Avenue the parking space on Dixwell Avenue must be 25 feet from the corner. Mr. Kops stated if there is legal parking it would be allowed if there is a sign posted that allows parking. Mr. Lee asked Mr. Fioretti if there is on street parking on Dixwell Avenue. Mr. Fioretti advised that parking is allowed on Dixwell Avenue.

Ms. Dove asked where the additional patrons would park if the building is expanded. Mr. Fioretti said that they could park along Dixwell Avenue. Ms. Dove discussed with Mr. Fioretti the location of the Post Office parking lot.

Mr. Vita asked for comments in favor of the application:

Mr. Mike Crocco, 730 Circular Avenue addressed the Commission and reviewed the parking that would be available to the restaurant. He stated that the restaurant is good for the neighborhood and stated that it is a good tenant of the town. He feels that with the tough economy this restaurant is good for the Town's tax base.

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.

09-6382

Mr. Nelson made a motion to approve Application 10-6282. Mr. Reynolds seconded the motion. Mr. Nelson stated that the request is a minor variance to reduce the parking requirement by one parking space. He said the business would be good for the town and allow for the business to remain open. Mr. Chorney discussed the parking requirements and whether the P&Z Commission should have the discretion to approve or disapprove the parking requirement. Mr. Chorney also addressed the parking spaces that would be on Dixwell Avenue and if parking is required to be 25 feet from a corner. Mr. Vita stated that Mr. Kops and Mr. Lee have reviewed the parking regulations and that the application is properly coming before the ZBA Commission. Ms. Masi explained that she has gone through the regulations thoroughly with the applicant and that restaurants are classified as retail. She reviewed the different sections of the regulations that apply to restaurants in a T-zone. Mr. Vita suggested that they go forward with this application and if the applicant is required to go before the P&Z Commission the parking spaces will be addressed.

Mr. Vita, Mr. Reynolds, Ms. Dove and Mr. Nelson voted in favor of the application. Mr. Chorney abstained. The motion passed 4-0-1.

b. Approve Minutes of December 17, 2009

Mr. Reynolds made the motion to accept the minutes of December 17, 2009 as written. Ms. Dove seconded the motion. Mr. Chorney, Ms. Dove, Mr. Reynolds, and Mr. Nelson voted in favor of the motion. The motion passed.

Approve Minutes of January 21, 2010

Mr. Chorney stated that on page 2, 1st paragraph, 6th sentence should read: Mr. Chorney noted the home is located on a corner lot and the porch would be located on the inside yard.

Mr. Chorney made the motion to accept the minutes of January 21, 2010 as amended. Mr. Nelson seconded the motion. Mr. Vita, Mr. Chorney and Mr. Nelson voted in favor of the motion. The motion passed.

c. Old Business

Mr. Nelson asked if Ms. Masi had done a site visit to the Quinnipiac Radio Station and sees the driveway that goes between two properties. Ms. Masi has not done a site visit, but will do before the next meeting and she will also check the zoning regulations. Mr. Lee suggested that the original approvals for the properties be checked to see if the driveway was part of the approval.

d. New Business

Mr. Vita asked Ms. Masi if the digital display on the sign for the orthopedic group located on Whitney Avenue is allowed. Ms. Masi explained that it is allowed because the sign does not flash and does not change. She explained that in the future, the orthopedic group may want to add “walk-ins welcome”. Mr. Vita feels that it is aesthetically poor and that there had been a previous application for a florist that came before the ZBA and the applicant had stated that the streetscape in the area should be old style and that the town should make an effort for businesses in the area to make facades that stay within the character of the neighborhood. Mr. Vita understands why the request was made but feels the orthopedic group sign is out of place with the neighborhood. Ms. Masi said that with Smart Code there is more control within a transect zone because form can be controlled, but it does not control aesthetics. Mr. Vita stated that if every business owner on Whitney Avenue took pride in their property as the florist does, the area would look good. Ms. Masi feels that the new sign for the orthopedic group is better than the original one and it met the zoning regulations.

Mr. Chorney asked where in the zoning regulations parking for restaurants are addressed. Mr. Kops and Ms. Masi reviewed the parking regulations with the Commission.

Mr. Nelson asked that when an application is submitted, a copy of the section of the zoning regulation that applies to the application can be included in the Commissioners packets. Ms. Masi discussed with the Commission what she reviews with the Applicant before the application is submitted.

The Commission questioned the application for 169 Mill Rock Road and the previous application that had been heard by the ZBA Commission for this address. Mr. Kops recommended that a discussion regarding this issue take place at the next meeting when the applicant is present.

e. Adjournment

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

The meeting adjourned at 7:46 p.m

Submitted by: _____
Stacy Shellard, Commission Clerk