

Commissioners in attendance:

Jeff Vita, Chair
 Wayne Chorney
 Fran Nelson
 Elaine Dove, arrived at 7:07 p.m.
 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

January 27, 2011, Revised 3/30/11 per Commission review at the 2/17/11 meeting

MINUTES: THE ZONING BOARD OF APPEALS, Town of Hamden, held a Public Hearing and Regular Meeting on Thursday, January 20, 2011 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:

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

Attorney Steve Rolnick stated that he is acting as special counsel on behalf of the Town for Application 10-6410.

A. Public Hearing

- 1) **10-6410** 2010 Shepard Avenue, Requesting action under Section 861.1, Appeal of Zoning Enforcement Officer's decision dated 11/18/10 to issue a zoning permit for a single family home. R-2 Zone. Robert & Michelle Riccitelli, George and Roberta Melillo, Applicants

Mr. Robert Riccitelli, 2011 Shepard Avenue, addressed the Commission and explained that the previous zoning permit had been revoked on appeal. He is now appealing a second zoning permit recently issued. Approximately 30 years ago the two adjoining properties owned by George Brenner were combined into one lot because a garage addition that is now located on 2004 Shepard Avenue encroached into the setbacks. Mr. Riccitelli said this is the third attempt to stop a house being built on this property.

Mr. Rolnick explained that this application being heard is an appeal of the decision by the Zoning Enforcement Officer. Mr. Riccitelli is the appellant. In the file there exists copies of a Zoning Permit, an Appeal, Legal Ad and Affidavit of Publication.

Mr. Vita asked Mr. Riccitelli what the history of the property is.

Mr. Riccitelli said that Carl Brenner who was the owner of an adjoining property to 2010 Shepard Avenue stopped the construction of a new home being built because it was too close to the property line with 2004. The garage was built too close to the property line and the properties were merged so that it was a legal addition. The existing house that had the garage added was at 2004 Shepard Avenue. This happened approximately 30 years ago. Mr. Riccitelli explained that in 2007 he stopped the construction of a new home on 2010 Shepard Avenue. He explained that he was told that the new zoning regulation allows a house to go up on a non-conforming lot and that this is one lot that has a garage that goes on to the other lot.

Mr. Vita asked Ms. Holly Masi if Mr. Riccitelli was referring to a letter dated in 2006 that was in the file. Ms. Masi explained that Mr. Tom Talbot who was the Zoning Enforcement Officer at the time was unaware that there was a merger clause in the zoning regulations and had issued a zoning permit. She reviewed the history of the properties and the appeals that had taken place. She explained the changes in the zoning regulation that became effective January 1, 2010 and the merger clause was removed.

Mr. Rolnick said that the previous appeal of the ZBA's decision was withdrawn. The legal circumstances have changed because under the prior regulations there was a merger regulation. He said that there are two types of property mergers. One is a common law merger which is to demonstrate the intent to merge the properties. The other is a provision in the regulations which requires two under sized lots that are owned by one owner to merge, and this provision has been removed from the regulations. His opinion is that the lots are no longer merged automatically but it becomes a question of fact as to whether in fact the properties have merged. His understanding is that the properties were separate at one time and then became owned by one person.

Mr. Riccitelli said that the two lots were owned by one person and the original house had no garage. When the garage was added it encroached onto the other lot. The two lots were combined as part of the appeal so that the garage would be within the setback of the two properties.

The Commission discussed if the structure is a legal non conforming structure and the history of the lots with Ms. Masi. Ms. Masi explained that if there has not been a complaint within a three year period the garage becomes a legal non-conforming structure.

Mr. Vita asked Ms. Masi if the person that is trying to develop the lot is the same person that has previously tried to develop the lot, and if he is trying to develop the lot now because of the deletion of the merger clause in the zoning regulations. Ms. Masi advised that it is the same person. Mr. Vita said the Commission needs to look at the facts and circumstances of the property and how it has been historically treated. The Commission discussed with Mr. Rolnick how the property was historically treated.

Mr. Riccitelli said that there was a sale of the lots as two separate properties in 2006. He reviewed the ownership of the properties.

Ms. Dove asked how the new zoning regulations affect the property. Mr. Rolnick explained that the zoning regulations had a merger provision so that when two lots are owned by the same person and one is undersized they become merged to create a conforming lot. The merger clause does not exist in the current zoning regulations and the merging of two lots is not automatic. The question before the Commission now is a matter of fact as to whether the prior owner who owned the two lots had the intention to merge the two lots. The Commission must look at the facts to make the determination. Mr. Vita asked if the prior owner merged the two lots to make the garage in conformance to the zoning regulations.

Mr. Riccitelli said that the prior owner Carl Brenner had wanted to put up another house for his daughter on lot c and was told the two properties were merged because the garage was over the property line and that the property had become one. The Commission discussed the history of ownership and the merging of the lots with Mr. Riccitelli. The two lots were recently sold as two separate lots to two different people. Mr. Rolnick asked if the garage is over the property line. Mr. Riccitelli said that the garage is encroaching beyond the setback. Mr. Rolnick

said that if the garage has been encroaching into the side yard for more than three years it then comes into compliance.

Ms. Dove asked who did the survey and Mr. Rolnick said he does not know. Ms. Dove said that the survey should be in the Town records and if not it may be an informal subdivision it would not be legal. Mr. Kops, Assistant Town Planner said that it would not be an informal division if done by a licensed surveyor. Mr. Vita said that if the Town issued a permit for a single family home then the Commission must determine if the zoning permit should have been issued.

Mr. Rolnick asked the applicant to address the timeliness of the application. The legal ad was published on November 21, 2010 and the appeal was submitted on December 8, 2010.

Ms. Michelle Riccitelli, 2011 Shepard Avenue, addressed the Commission and stated that she does not get a newspaper and was not aware that a legal ad was being published. She became aware of the ad because her neighbor had advised her of it. She was not aware of any zoning regulation changes that would affect her area.

Mr. Riccitelli said that the lot was a non-conforming lot and that a registered letter should have been sent to them regarding the request.

Ms. Riccitelli said that she had gone to the last appeal and she feels it is unfair that she was notified of the changes or the zoning permit that was approved so that she could make another appeal. Ms. Riccitelli said that she had gone to the Town Clerk to research the properties and was referred to the Assessor's office. There was no field card on record for 2004 or 2010.

Ms. Masi said that she looked for a file showing a file 30 years ago and was unable to find any records. Ms. Riccitelli said that she had seen the merger in the Town records. Ms. Masi said that if it is filed on the Town land records then it is binding.

Mr. Riccitelli said that Carl Brenner had originally filed the complaint and the decision made by the ZBA at the time said that the two lots could not be merged. Ms. Masi said that she would need to know the date of the original complaint and meeting to go back and look at the actions taken by the ZBA. Mr. Riccitelli said it was approximately 25-30 years ago. Ms. Riccitelli said that when she had purchased her house she had contacted the town regarding the property and was told nothing could be built on it. Mr. Rolnick explained that the merger language was in the old zoning regulations and would have been in effect at the time of the action. It is unknown whether the merger was as a result of the intent of the owner or by operation of the merger language in the regulations. Mr. Nelson said that information would be on the deed filed on the land records. Mr. Vita asked for comments from the public.

Mr. George Melillo, 2014 Shepard Avenue, addressed the Commission and stated that in 2006 there was an appeal that they had won and the zoning permits were revoked. He was under the impression that they would receive a registered letter if any work was going to be done on the property, and this understanding was based on the fact that they had won the appeal. Mr. Melillo said that he does not receive the newspaper on a daily basis and did not become aware of any work that was going to be done until heavy equipment started coming onto the property. If you go back to the 2006 appeal that was won the only difference is that to get the lawsuit muted the zoning regulations were changed which allows the two lots to be merged. Mr. Vita said that the new zoning regulations deleted the merger provision. Mr. Riccitelli said that the same situation exists as it did in 2006 and that the appeal had been won. He had a meeting in September of 2007 with the Mayor and Town Attorney to try to work out a variance to accommodate him. Mr. Riccitelli had received a call from the builder and an appointment was made, and the builder never showed up. He feels that everything that happened in 2006 remains the same and no building should be allowed on the lot.

Mr. Vita explained that there is confusion with regard to the field cards, property deed and tax information and that would be relevant to this case. Ms. Dove asked if the size of a property in an R-2 zone changed with the new

zoning regulations and Mr. Rolnick said it remained the same. The Commission discussed with Mr. Rolnick the provisions of merging and dividing lots under the old regulations and the new regulations. Mr. Rolnick stated that it is his opinion that the new regulations apply to the zoning permit that was issued and the regulations do not have an automatic provision for merging the lots when the new regulations became effective January 1, 2010. Ms. Dove referred to a similar case that had a lot and a smaller lot that were automatically merged and the owners did not like because the smaller lot was not buildable and now under the new zoning regulations they do not have to be considered merged. Mr. Rolnick discussed with the Commission that they must determine if the fact was that the intent was to treat the lots as one property.

Mr. Dan Kops, Assistant Town Planner explained one example: a family buys two lots and a house is built and the other is left vacant for children to play on. The intent was that they could sell it in the future if additional money was needed. The economy shifts and the family goes to sell the lot and found that there was a merger clause even though they were paying taxes on 2 separate lots.

Ms. Dove asked if a merged lot were separated does it not mean that one lot is buildable and Mr. Rolnick replied they may still be able to build. Mr. Rolnick discussed with the Commission if two lots had common ownership and the zoning regulations allowed a merger because the smaller lot was not buildable without a variance. The Zoning Regulations no longer have a merger clause, but they still have a common law merger if the intent was to treat the property as one. The Commission would need to know if there were separate tax bills, a property description was changed on the deeds, was it expressed that it was intended to be kept as separate properties and sold at a later date. Mr. Rolnick explained that it becomes a question of fact as to whether the owner intended the property to merge. If they did not intend the properties to be merged without the merger clause the smaller lot could be buildable.

Mr. Kops said that the lot area and frontage must meet the regulations that are in effect at the time for a zoning permit to be issued.

Mr. Reynolds asked if there was intent to merge the properties and if it can be found would it be carried over to the new owner and Mr. Rolnick replied yes.

Mr. Riccitelli said that the garage is going over the setback line and with no merger clause it becomes non-compliant.

Mr. Vita would like to table this item and continue the public hearing to allow the Commission to receive additional information.

Ms. Masi asked about the appeal having been filed beyond the 15 day appeal period. Mr. Rolnick said that the timeline of the appeal is a problem. Ms. Riccitelli feels that because they had won the previous appeal then she should have been notified when the zoning permit was being issued. Ms. Masi explained that she is governed by State Statute. Mr. Rolnick said that the ZEO was not required to do so. Mr. Riccitelli said the lot is non-conforming because of the previous appeal won in 2006.

Mr. Chorney asked whether the 2006 judgment is still in place and Mr. Rolnick said that there was no judgment in court because it had been withdrawn. Mr. Riccitelli said that the court action was withdrawn because the laws were changed and the developer was going to win the case because the permits were issued in error.

Mr. Melillo said that there was a zoning permit issued and it was appealed to the ZBA and the appeal was sustained. The applicant of the zoning permit appealed the decision of the ZBA in court and the case was withdrawn and no judgment was made. Ms. Masi said that this appeal is a different application. The previous application was a different zoning permit application that was appealed and the appeal decision stands. Based on the new zoning regulations a new zoning permit was submitted and approved and this application to appeal the decision is new. Mr. Vita feels that additional information is needed before the Commission can make a decision.

The Commission and Ms. Masi discussed with Mr. Rolnick the issue of the appeal being filed within the proper time. Mr. Rolnick said that in his opinion the appeal was not filed in a timely manner. The legal ad was published on November 21, 2010 and the appeal was filed on December 8, 2010. The regulations state that the appeal must be filed within 15 days of the legal ad being published, and the application was submitted 17 days after the ad was published.

Mr. Riccitelli stated that in 2004 the garage was encroaching into the setbacks. The sub division allowed in 2004 was not in compliance and asked why he was not notified of the non-conformity and there was no legal ad published. Ms. Masi said that when the zoning regulations are changed it creates properties that are non-conforming and there is not a requirement to notify.

Mr. Riccitelli asked why the decision made in 2004 no longer compliant because there were many issues as to why they did not want the property to be developed. Ms. Riccitelli said that when they won the first appeal they were told that if something was going to change they would be notified by certified mail. Mr. Nelson said that was on the Commission with the decision of the first appeal and he does not recall a notification requirement being made. Ms. Masi explained that abutter notification is sent if there is a variance application filed. All ZBA applications have a requirement to send notification to all abutting properties within 100 feet because it requires a public hearing. Mr. Riccitelli said that if you go back into the records 30 years ago in the Town's records it is one property. Ms. Masi stated that she went back into the Planning & Zoning records and was unable to find any records. Mr. Rolnick said that the ZBA has no jurisdiction because the application to appeal was not filed in a timely manner. Mr. Nelson asked if the land records show that the property was merged and is compliant with the regulations. Mr. Rolnick said that the applicants may have other remedies, but this application to appeal was not done in a timely manner, and there was not a requirement to notify the applicants. He said that the legal ad was published as required by State Statute. The statutes were changed to require the legal ad and an appeal must be submitted within 15 calendar days.

Mr. Melillo stated that he was clearly told by the Planning Office that he had to file his application by the 15th of the month to get on the ZBA calendar for the following month.

Ms. Roberta Melillo, 2014 Shepard Avenue, addressed the Commission and stated that when she went to the Planning Office for the appeal information no one in the office could tell her what paper work she needed. Her husband then went into the office to file the appeal and was not told how many days he had to file the appeal. Mr. Rolnick explained that the laws to file an appeal are in the public record and the applicant is charged with the knowledge of the laws. Ms. Melillo said that the builders file a suit against the town because a permit was filed incorrectly. The mayor at the time tried to get everyone involved to make a deal and nothing else was heard and then the regulations changed. She feels that the Town has done everything in its power against the tax payers.

Mr. Kops explained that Ms. Melillo may be confusing the appeal in 2006 with this current appeal. His understanding is that Ms. Masi explained the 15 day appeal period, and feels that if it was not filed in a timely manner then legally the ZBA does not have the right to act. Mr. Kops said that the implication that a deal was made when the zoning regulations were being changed is wrong. He explained that the changes were made by the Planning & Zoning Department working with the Planning & Zoning Commission. The reason for the changes was based on the number of appeals made over the years by the taxpayers because they had been paying taxes for vacant lots and then could not sell them. Ms. Melillo did not agree with Mr. Kops.

Ms. Dove stated that as a citizen she followed the proposal for the new zoning regulations and one of the reasons for the change was because of a property located near New Haven and not this case. She understands the 15 day rule for appealing, but feels that the applicant should be given the benefit of the doubt because there is pertinent information missing and the ZBA should have all the information before making a decision. Ms. Dove said she understands the applicant has legal issues but the ZBA should do what is right. Ms. Masi said that if a decision is made on the appeal, the developer would have reason to appeal based on the time limit.

Mr. Reynolds asked what other remedies the applicants would have. Mr. Rolnick explained that there are other remedies if a property owner is doing something that is in violation of the zoning regulations. He advised the Commission that the applicants should consult their legal counsel.

Mr. Melillo said that whether the appeal is right or wrong they went through the process and when the check was brought in for the application they should have been told that it was past the time limit. Ms. Melillo said they were never told about the time restraint. Ms. Masi stated that the Town has to follow the State Statutes and that they try to inform the applicants but is not required too. Ms. Masi said that when an applicant is challenging a decision it is the applicant's burden to prove a case. Mr. Rolnick explained that the applicant is charged with the knowledge on the laws and regulations that are on the public regulations.

Mr. Nolle Pinto, 2004 Shepard Avenue, addressed the Commission and stated that if the appeal had no merit why they were not informed at the beginning of the meeting. Mr. Pinto said that he has just moved to Hamden and was never told he should get New Haven Register so that he would know what was happening in Hamden. Mr. Vita stated that the State Statute state that notices must be published in the local paper. Mr. Rolnick said that there are situations that notices are required by State Statute but this application does not apply to it. Mr. Pinto stated that they should have been told at the beginning of the meeting. Mr. Nelson said that the Commission needed to determine the legal basis. The Commission discussed with the public the need to make a determination of what is the legality of the application and explained that the applicants should address their questions, concerns and any recourse to their own legal counsel.

Mr. Antonio Ciaroeglio, 40 West Todd Street, addressed the Commission and stated his property is located behind the property in question. He is concerned with water runoff. The plan is for two drywells in the plan and he does not feel this is sufficient. He explained that his property is located at the lowest point of the development.

Mr. Vita said that the water runoff is a separate issue and would be a separate issue. If a permit is issued a proper permit and building permit need to be in place. Ms. Masi said that the application that was submitted was reviewed and approved by the Town Engineering Department. Mr. Ciaroeglio said he does not feel the water runoff was taken into consideration. Ms. Masi stated that if Mr. Ciaroeglio is challenging the Town Engineer's ruling then he would have to seek another engineer's opinion. Mr. Kops said that the zoning regulations protect Mr. Ciaroeglio property and there is runoff on to his property, he can file a complaint to the Planning & Zoning Department. Ms. Dove said that the new zoning regulations help the issue of water runoff and Mr. Ciaroeglio should review them. Mr. Rolnick said that the only issue before the ZBA is if it is a valid building lot, other issues need to be addressed separately.

Ms. Barbara Gigliotti, 44 West Todd Street, addressed the Commission and asked if the building permit has been issued. Ms. Masi explained that a zoning permit has been issued, and that the building permit would be issued through the Building Department. She said that the Planning Office can advise and explain the law but cannot make someone understand the law.

Mr. Ciaroeglio said that when he came to the Planning Office he was told his questions were a legal matter. Ms. Masi said that the issues being raised regarding water runoff are a potential issue. If after the house is built the water runoff occurs then the Planning Office can address it. Mr. Rolnick advised Mr. Ciaroeglio that he should check with the Building Department to address the plans when they are submitted.

Mr. Melillo said that it was unreasonable that the Planning Office would take a check for \$130.00 to file an appeal when the fifteen day appeal period was over. Ms. Masi said that she had explained the fifteen day appeal period and had assumed that the application was filed on time. She had told the applicant not to confuse the 15 day appeal period with the 15th day of the month application deadline to be heard at the next month's meeting. Mr. Rolnick said that when an application is filed with a check to the appropriate office it must be accepted and the office cannot make a determination of whether the appeal is valid or not. Mr. Melillo said that if he paid his taxes one day late he would be told he was two days late. Mr. Rolnick said that whether he is told or not his taxes were paid late interest would still need to be paid.

Ms. Melillo said that the ZBA wasted their time having the appeal read because it was not in a timely manner. She stated that she facilitates at board meetings for her employment. If she receives appeals that are beyond the timely filing, she sends out a later stating that it was not filed in a timely manner. Mr. Rolnick stated that the ZBA is obligated to hear an appeal but the issue of the timely filing should have been issued.

Mr. Vita closed the Public Hearing.

Mr. Rolnick asked if a vote could be taken prior to hearing the next application, because he is acting as special counsel for the Town.

- 2) 10-6411** 190 Pine Rock Avenue, Requesting variances of the following: Section 380.1, Table 6.1 to permit a Multi-Unit Student Housing building in an M zone. Section 652.1.a, Table 6.3, to permit a Multi-Unit Student Housing building on the property pursuant to Section 670.4. M Zone.
Sound Development Group, LLC, Applicant

Mr. Bernard Pellegrino, Attorney, addressed the Commission and submitted information prepared by the applicant Sound Development Group, LLC and reviewed the work that the company has done. He explained that the Sound Development Group is under contract to purchase the property. He submitted to the Commission a larger view of the site and reviewed the property. He reviewed an aerial photo of the property and explained that it abuts a property with a six story dormitory located on it. Mr. Pellegrino explained that Southern Connecticut State University (SCSU) is above their capacity for housing students and that they are in favor of this project. He said that the property was last used for sand and gravel and has been vacant and on the market for many years. The property has been re-zoned three times over the last ten years. It was previously zoned an R-4 Zone, a CDD-1 zone and now is an M zone. Mr. Pellegrino feels that the site needs revitalization and needs to be developed. He stated that the hardship is due the changes of the zone they have been unable to generate a buyer who could develop the property. Mr. Pellegrino said that student housing would be ideal for the site because it would meet the needs for students attending SCSU. The proposed project would potentially take 120 students back onto campus from Hamden residential neighborhoods and has the approval of the SCSU administration. Mr. Pellegrino stated that the hardship supports the granting of the variance. He reviewed the site plan with the Commission. He explained that there would be parking for every student housed. He reviewed the parking plan and stated that the apartments would be fully furnished. There would be security for the site and it would be increased on the weekends. Mr. Pellegrino reviewed the proposed elevations. He stated that the proposed building would be similar to what has been built by the Sound Development Group both in Danbury and in Old Lyme. The Sound Development Group has met with the SCSU staff and they are in favor of the proposal. The proposal is the ideal use for the site because it is within walking distance of the campus. It will have 30 apartments which will be used by upper classmen. Mr. Pellegrino reviewed the variance requests for the use and the use as a multi family building.

Mr. Nelson asked if it is a request for a site use change and Ms. Masi advised it is and application for a use variance. Ms. Masi stated that there is a standard for issuing a use variance listed in the zoning regulations and can be permitted if the use is deemed appropriate.

Mr. Kops read the zoning regulation for determining the criteria needed to approve a use variance. Mr. Pellegrino said the POCD is silent in this area because the zoning classification in the area is relatively new. The area is newly zoned manufacturing and there has not been new manufacturing looking to relocate to Hamden. Ms. Dove asked if the proposed use would have qualified under the previous CDD-1 zone. Mr. Pellegrino said that a variance would have been needed because it would have been 300 feet from the allowable zone. Mr. Chorney said that the need for a variance is because it would be student housing. Mr. Kops said the request is for multi-family housing and if the request was for student housing there would be additional criteria. Ms. Dove asked if there was a regulation for four unrelated individuals. Mr. Tim Lee, Assistant Town Attorney said that four or more units constitute multi-family housing and the zoning regulations allow for four unrelated individuals in any type of housing. Ms. Dove asked how this application would differ from what they have asked Quinnipiac University.

Mr. Kops said that the proposal is by a private developer and the application is requesting to build multi-family housing and the applicant has explained that the target population will be students. Mr. Pellegrino stated that all student regulations will be adhered to. Ms. Dove said that the applicant is an individual corporation that wants to build multi-family housing and they are hoping students will rent the apartments. She asked what the new regulations were for multi-family housing. Mr. Lee said there is greater density allowed for multi-family housing than student housing, and there is a stricter requirement for parking when it is student housing. Mr. Chorney said that the request is for multi-family housing but it will be student housing. The Commission discussed the criteria for student housing and parking requirements. Mr. Chorney asked if there will be an on-site security office.

Mr. Ralph Lewis addressed the Commission and explained that they have a site in Bridgeport near Sacred Heart University and they have hired off-duty probation officers and he reviewed the hours of the security office and security systems used on the premises.

Mr. Raymond Rizzio addressed the Commission and explained that they will either have a small community room that would house the security office and may have an outdoor booth. He said that they house 176 students in Bridgeport and have never had to use the Bridgeport Police because the site is a controlled environment. Mr. Lewis explained that it is beneficial to market the units to parents. He explained the security that is available for the students when the students are commuting.

Mr. Rizzio explained that manufacturers do not want to be located near where students are housed. A dorm already exists and a manufacturing zone does not fit. Manufacturing creates noise and they would get complaints. Mr. Pellegrino said that the proposed use of the property is in a section that houses SCSU students. Mr. Chorney said that student housing has had problems with parties, large crowds and traffic. Mr. Rizzio said that Sacred Heart University has found that their housing is part of the solution and not the problem because security is provided. Ms. Masi said she has been getting complaints from the Southern part of Town regarding students that are not Quinnipiac Students, but SCSU students living in residential neighborhoods.

Mr. Chorney said that there have been problems in the past in the SCSU area. He said that what happens on a site is a concern of ZBA. Mr. Rizzio said that as a landlord they are concerned with what happens on the property and the site will be monitored. There will be a janitorial crew to keep the building clean. Mr. Rizzio reviewed the properties they own and the projects they have completed. He also stated that they are being given property by Old Lyme Academy when they receive the necessary approvals to build. Ms. Dove asked what the closest cross street is to this location. Mr. Pellegrino said that the property is located 300 feet from Arch Street.

The Commission discussed the student housing regulations and the regulations for multi-family with Mr. Kops. Mr. Vita asked for comments in favor of the application:

Ms. Linda Romagnoli, 35 Conden Drive, Ansonia, addressed the Commission and stated she was born and raised in Hamden. She feels that the proposed plan is a good one and that the property would be put to good use with students and be a good asset to Hamden and beautify the area.

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

Mr. Chorney asked Mr. Pellegrino to review the hardship. Mr. Pellegrino reviewed the zoning regulations and explained that the owner of the property has been unable to sell it because it is zoned for manufacturing use. He reviewed the history of the property. The underlying zoning has caused a hardship on the site, because it is a parcel that does not fit for the use and the location. The property has suffered hardship because it has been prevented from redevelopment and revitalization. Mr. Chorney asked Mr. Pellegrino if he could explain why it does not reflect spot zoning. Mr. Pellegrino said that the site proposal not represent spot zoning it is a use variance request. He reviewed the area and said that the proposal is in harmony of the existing surroundings.

B. Regular Meeting

a. **Discussion and voting on Public Hearing items.**

10-6510

Mr. Nelson made the motion to deny the Application 10-6510 for an appeal. Mr. Reynolds seconded the motion. Mr. Nelson stated that the applicant was over the 15 days appeal period and the application was filed on the seventeenth day. The motion passed unanimously.

10-6411

*Mr. Chorney made the motion to approve the Application 10-6411. Mr. Nelson seconded the motion. Mr. Chorney stated that the application meets the criteria of the regulation to act under and that it goes along with the Plan of Conservation and Development. He said that the location of the property is not in an area that would support manufacturing because the lot is small in size. Mr. Chorney feels that the proximity of the property is to similar housing and there is a need for it. Ms. Dove stated that the property would remain taxable. **The motion passed unanimously.***

b. **Approve Minutes of November 18, 2010**

Mr. Nelson made the motion to approve the minutes of the November 18, 2010 meeting as written. Mr. Reynolds seconded the motion. Mr. Chorney, Mr. Nelson and Mr. Reynolds voted in favor of the motion. The motion passed unanimously.

c. **Old Business**

Ms. Dove said that there are two lots on Underhill Road for sale, and her understanding was that one is not a buildable lot. Mr. Kops reviewed the history of the lots and the current zoning regulations. He stated that under the new zoning regulations both lots are buildable.

d. **New Business**

The Commission discussed with Ms. Masi the procedures that were discussed with the applicants with regards to the appeal application for 2010 Shepard Avenue. Mr. Vita stated that it was an unfortunate situation.

e. **Adjournment**

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

The meeting adjourned at 8:58 p.m

Submitted by: _____
Stacy Shellard, Commission Clerk