TOWN OF HAMDEN

ZONING BOARD OF APPEALS

MINUTES: THE ZONING BOARD OF APPEALS, Town of Hamden, held a Public Hearing and Regular Meeting on Thursday, May 19, 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:

Commissioners in Attendance: Bill Reynolds, Elaine Dove, Wayne Chorney, Jeff Vita, Fran Nelson

Others in Attendance: Tim Lee, Assistant Town Attorney
Dan Kops, Assistant Town Planner
Lisa Raccio, Meeting Recorder
Gerry Tobin, Acting Clerk

Mr. Vita welcomed those in attendance, called the meeting to order at 7:00 p.m. and read the public hearing notice. The panel introduced themselves.

A. Public Hearing

1) 11-6421 130 Welton Street

Requesting variance of the following: Section 600,610 and 650
to permit motor vehicle service & repair where none is allowed. T-3 Zone
Lockwood Realty, LLC, Applicant
Public Hearing continued from May 9, 2011

Applicant Joshua Lockwood said he had submitted a site plan and a statement of use including the proposed number of employees, and hours of operation. Lockwood Realty is the holding company. He spoke to Realtor OR&L and had them do a letter indicating that all those that have applied to use the building have required variances.

OR&L lists the property as an R5 zone, and Mr. Lockwood said the Planning Office told him the property was previously R5. He currently has a business in Branford consisting of 2500 square feet plus two storage trailers, which he will no longer need if he moves into this building. There is a loading dock. Mr. Lockwood would occupy one half of the building. Mr. Kops reported that this property was zoned R-5 and the property across the street was CDD1. Mr. Chorney asked if the property is operating under a variance now and Mr. Kops said or it could be operating as a nonconforming use. Mr. Kops checked the original application and the files, and there is no history of any variance on this property. Mr. Vita asked when the designation was changed from R5 to T3, and Mr. Kops responded 1/1/2010.

Mr. Vita referred to the OR&L letter, and asked if the previous uses would be appropriate for a T3 zone. Mr. Kops said no, but they could continue what was originally there. The building was built in 1955. If the full 10,000 sf were to be used, a variance, site plan and special permit would be required. Mr. Lockwood is here only for the automotive use. Retail is allowed in the zone. He does not need a variance for the retail as long as it is under 10,000 square feet.

Mr. Lockwood said the auction house is diagonally across the street. Frank's Auto Body is on the same side of the street, north of him. Mr. Kops said a place of worship is permissible subject to special permit. Medical offices 10,000 square feet or less would also be allowed subject to special permit.

Mr. Chorney said the criteria for granting a variance is a major question. Some of the objections might be met by restrictions of use on the property. The property has been listed for just under a year., since August of 2010, when new the regulations were in effect, but it was advertised as R5 instead of T3.

There was lengthy discussion on what you could and could not have in the R5 zone and T3 zones.

Mr. Kops said in terms of non residential use, a T3 zone allows a broader range of uses.

Ms. Dove asked what are today's requirements for a buffer between commercial and residential properties. Mr. Kops replied in a T3 zone, the side yard set back is 0. You would need a buffer when up against a residential zone. Mr. Chorney said the distance between the rear of this building and the residential properties, varies from 30' down to 15'.

Mr. Reynolds asked if he needs the applicant needs ZBA approval prior to going for state approval. Mr. Kops replied yes, and he also special permit from P&Z. The applicants state there would be no adverse effect on health safety, or property values.

Mr. Lockwood said he is licensed as general repair. The EPA checks his facility on a regular basis. Waste coolant and oil is stored in drums and those are safely contained. At his current location he keeps his tanks in spill free containers, which is not required, but an additional safety measure. The property currently contains no contamination. It would not be in his best interest to contaminate the property. He has a two-yard dumpster in the rear. He does not do body work. He does no painting, no fiberglass, etc.

There were no further questions.

Mr. Chorney said we should examine the criteria for granting a variance.

Would literal enforcement of the Zoning Regulations result in exceptional or unusual hardship?
Mr. Chorney said the property has only been listed since August, which is a relatively short time and we have been fairly strict on some of this. The property was marketed incorrectly. Some of the possible clients could have taken the space with less intense use.

Has the applicant demonstrated that he pursued all alternatives under the regulations? Mr. Lockwood has been looking for a building for 18 months. He would have preferred to stay in Branford, but was unable to find a suitable location. Has not seen anything comparable in Hamden. This building provides good setup and design for what he is trying to do. He walked away from a Branford property because it required a partner. He has been at his Branford location 4.5 years, and prior to that 4 years in another location. His current location is near Town Fair Tire and LaMonaco's restaurant, and there have been no complaints.

Is this use reasonable use of the land?

Would granting the variance have an adverse effect on surrounding properties?
Certain restrictions that could be made were discussed previously.

Mr. Chorney mentioned that if they are using less of the building and state same, how do you hold them to that, and how do you determine parking regulations if they are only using only part of the building.

Attorney Lee said if you approve the property for Motor Vehicle use, you could restrict the Motor Vehicle use to a certain square footage of the building. Mr. Lockwood said he does service and performance work, no car radio installation and that type of work.

Speakers in favor
There were no speakers in favor.

Speakers against
Annette Gwardyak of 1681 State Street, Hamden, asked if everyone that was previously in the building had variances as stated in the ORL letter. Mr. Kops said there are no variances on record. Mr. Chorney said for example, if a printing company was originally there, and a less intensive use came in, P&Z probably would approve. Mrs. Gwardyak had asked about emissions, and the outdoor storage of vehicles. A garage that is working on a vehicle can park it outside at night and bring it back in the morning, but there can be no long term outdoor storage. Emissions can be discharged through the roof instead of the side wall as discussed i=in a previous meeting.

Mrs. Gwardyak said the proposed Saturday hours of operation of 12-5 concern her. Mr. Lockwood advised that his mechanic doesn't come in on Saturdays, but that could happen. Mrs. Gwardyak questioned security, lights in the parking lot, etc. Mr. Kops said those issues would be addressed during the Special Permit process. The current regulations allow 0 footcandle of lighting at the property boundary. Mr. Chorney said dumpster pickup can be restricted. Mr. Lockwood said his dumpster is picked up every two weeks in the afternoon.

The Public Hearing was closed at 7:55 p.m.

B. Regular Meeting

1) 11-6421 130 Welton Street
Requesting variance of the following: Section 600,610 and 650
to permit motor vehicle service & repair where none is allowed. T-3 Zone
Lockwood Realty, LLC, Applicant

Mr. Nelson made a motion to approve application 11-6421 with some conditions. Mr. Reynolds seconded the motion.

Ms. Dove said it is clear that Mr. Lockwood will want to grow his business. Ms. Dove said she doesn't feel this application meets the criteria of hardship. Mr. Vita said staying with this motion, lets discuss conditions that might be attached to the motion.

Venting will be through the roof instead of out the door to meet the concern of the neighbors.
Hours of operation will be 10:00 a.m. to 6:00 p.m. weekdays and 9:00 a.m. To 1:00 p.m. on Saturdays.
Work will be performed only on standard automobiles/pickups four wheel vehicles up to 12,000gvw.
Maximum service are will be 10,000 sf and no more than 10,000 sf retail.
There will be no outdoor display of vehicles or sales of vehicles.
There will be no body work or painting.

Mr. Lockwood's work is primarily engine, exhaust, brakes, suspensions, and software installation.

Mr. Reynolds endorsed the listed conditions as the seconder of the motion. The vote was unanimous in favor.

Mr. Kops noted that there is a 15 day appeal period for the variance. If the applicant proceeds prior to the expiration of the appeal period, it will be at his own risk. Mr. Lockwood will apply to Planning & Zoning for a Special Permit.

C. Old Business/New Business

1) Review minutes of May 9, 2011

Throughout minutes – change Vitta to "Vita"
Page 2, 4th line under #2., remove "and a motor vehicle use permit"
Page 2, 4th paragraph from bottom of page, remove reseller and substitute "manufacturer", after strictly automobile(s) add parts and installation.
Page 2, third paragraph up from bottom change another to "an"
Page 3, seven paragraphs from bottom of page, change in favor to "against"
Page 4, second line, change 88% to 45%, next line insert "shipped" before out of state.
Page 4, 8th paragraph from bottom of page, last line change could also include to "would include"
Page 4, last line, after location approval, change to "did not request sales approval."
Page 5, 1st line, changed said that to "asked if"
Page 5, mid page, 8th paragraph from top, second line change is no to "less of a"

Mr. Chorney made a motion to approve the minutes of May 9, 2011 as amended. Mr. Nelson seconded the motion. The vote was unanimous in favor.

D. Adjournment

Mr. Nelson made a motion to adjourn. Mr. Reynolds seconded the motion. The vote was unanimous in favor. The meeting adjourned at 8:20 p.m.

Submitted by: _____
Gerry Tobin, Acting Clerk