September 19, 2011

MINUTES: THE ZONING BOARD OF APPEALS, Town of Hamden, held a Public Hearing and Regular Meeting on Thursday, September 15, 2011, at 7:00 p.m. in the 3rd Floor Conference Room, Hamden Government Center, 2750 Dixwell Avenue, Hamden, CT. and the following actions:

Commissioners in attendance:

Jeff Vita, Chair
Wayne Chorney
Fran Nelson
Bill Reynolds
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
Genovieve Bertolini, 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) **11-6427** 785 Sherman Ave, Requesting a variance of the following: Section 654 to permit outdoor storage in 2 locations of a front yard. M Zone, Bernard Pellegrino, Applicant

Mr. Bernard Pellegrino, Attorney, addressed the Commission and stated that the self storage facility has two buildings, is on 4.75 acres and is located in a manufacturing zone. The applicant has owned the facility for nine years. The rear of the property slopes back and it is unusable. Mr. Pellegrino reviewed with the Commission the two areas where the applicant would like to have outdoor storage. Mr. Pellegrino reviewed the site plan with the Commission. The entire front area is on Sherman Avenue and has a rod iron fence with a gate for access. Mr. Pellegrino reviewed the landscape and plantings on the property. He said the parking is located at the front of the building. Mr. Pellegrino explained that the variance request is because in the M zone, outside storage is not permitted in a front yard and is unable to use the rear yard because of the topography. If the variance is approved a Special Permit and Site Plan approval would be necessary. The hardship is the steep slope at the rear of the property and there is not enough room on the west side of the building and vehicle traffic would be an issue on the south side.

Mr. Vita asked if the proposed storage area would be located behind the fence. Mr. Pellegrino said that the proposed storage would be located behind the fence and the landscaping would screen it from view. The applicant has redeveloped the site and cleaned up the property and the limited outdoor storage would have no impact on the surrounding property owners.

Mr. Nelson asked what the total lot coverage and impervious surface would be. Mr. Pellegrino said he was unsure. The rear yard though unusable would count towards the pervious coverage. Mr. Nelson asked what would be stored. Mr. Bernie stated that there would be containers, but unsure what would be stored in them.

Mr. Joseph Moruzzi, owner of property, addressed the Commission and stated that the current containers on the properties store boats, small trailers, registered cars and trucks. He said that everything is clean and the property is well maintained.

Mr. Nelson asked if the containers and storage areas are used as billboards. Mr. Moruzzi replied that they are similar to pods with signs on them and well maintained.

Mr. Chorney asked if any prior variances had been granted and Mr. Moruzzi said no. Ms. Masi, Zoning Enforcement Officer said that she was unaware of any previous variances for the property. Mr. Tim Lee, Assistant Town Attorney said that an application had been before the Planning & Zoning Commission. Mr. Walsh asked how high the units would be and Mr. Moruzzi replied they would be 7 ½ feet. Mr. Walsh asked how far away from the street would the units be placed and Mr. Moruzzi replied at least 60 feet. Mr. Nelson asked what size the proposed containers would be. Mr. Pellegrino replied one would be 35 feet by 20 feet and the other one would be 60 feet by 40 feet.

Mr. Chorney stated that there are several parking spaces and the question is whether the spaces will be for vehicles or for pods. If they are for vehicles then a variance is not needed because the vehicles are registered and they will be stored in the spaces and if they are just storage pods then a variance is needed. Mr. Chorney said that the applicant must delineate what is going where because if approved as general basis the storage containers can be placed anywhere. Mr. Pellegrino said that the areas are delineated on the plans. Mr. Moruzzi said that there are specific areas being proposed. Mr. Chorney feels if the vehicles are register then a variance is not needed.

Mr. Dan Kops, Assistant Town Planner, said that the storage containers will contain a variety of items and will be outdoor storage. Mr. Chorney said if they are storing registered vehicles, then it is still parking, because you can park a register vehicle in any space that is required. If pod is being added he is not sure if the Building Department would consider a pod a permanent structure. Mr. Moruzzi said that the pods are not a permanent structure. Ms. Masi said that the request is driven by what will be stored at any given time. Mr. Moruzzi said that pods are mobile and do not always stay on the property and part of the mobile storage business. He said that he owns 30 pods and at this time 23 are on the property and 7 are out. He said that there will never be more pods on the premises then what is there now. Ms. Masi said that the request is for a variance because it could have been an enforcement action. The applicant was contacted and has been very responsive and immediately filed an application for a variance to resolve the issue.

Mr. Chorney said that there is a pod business and there are a number of pods presently on the site. Mr. Moruzzi reviewed with the Commission the amount of pods on the premises. Mr. Pellegrino said that they need a special permit for the outdoor storage pods to be in two areas.

Mr. Vita said that the Commission is being asked to approve two areas for outside storage in the front yard and cannot store them in the rear because of the slope. He said the issue before the Commission is not what will be stored in them. The Commission had a further discussion with Mr. Pellegrino about the proposed application to have outdoor storage and the storage would be on the site.

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

Mr. Vita closed the Public Hearing.

2) **11-6433** 2560 Dixwell Ave (50 & 64 Sanford Street), Requesting a variance of the following: Section 220, Table 2.1, to permit total impervious surfaces coverage of 60 percent where 30 percent is required. T-4/R-5 Zone, Bernie Pellegrino, Applicant

Mr. Bernard Pellegrino, Attorney, addressed the Commission and stated that property is located at 2560 Dixwell Avenue, aka, 50 & 64 Sanford Street. He said that six months ago a variance was approved for the Sanford Street side of the property to allow a use variance. The Planning & Zoning Commission approved a Special Permit & Site Plan with the condition that the parcels be merged. Mr. Pellegrino reviewed the parking plan. He explained that the home on Sanford Street would be demolished and allow for an 8,250 square foot medical office building with an egress only onto Sanford Street. Mr. Pellegrino stated if the requested variance is approved the proposal for a medical office would not change and the variance is needed to allow for a paper only sub-division to make one parcel into two parcels. He said that Dr. Rollins, owner of the property was approached by a professional who would like to own and develop the medical office building and the remainder of the property will be developed by Dr. Rollins.

Mr. Nelson asked if Mr. Pellegrino is asking the ZBA to change the condition required by the P&Z's approval. Mr. Pellegrino replied that the variance is being requested to allow the lot to be divided and then he would go back to the P&Z Commission to request an amendment to the conditions of approval and re-subdivide the property. Once the property is subdivided there will be a cross easement that would provide access between the two buildings which would not change the intended use as medical buildings, but allow for two separate owners of the buildings. Mr. Pellegrino said that he has met with Planning Staff and the variance is needed to meet the lot size and lot coverage requirements of the section 220 of the zoning regulations. The division of the property and the easements would be permitted subject to an approval of the variance and the property would be developed similar to the approval received in March of 2011. Mr. Pellegrino explained that Attorney Brian Enright had come before the ZBA for the previous variance and Mr. Pellegrino reviewed the variance that received approval. Mr. Pellegrino said that the zone was a CDD-1 zone and changed to a T-4/R-4 zone which created a split zone parcel. The coverage for an R-4 zone is 30 percent. The build out is permitted and it would not alter the previous variance that was approved, but would permit the owner to go to the P&Z and request a subdivision and ask to amend the conditions of approval. Mr. Pellegrino explained that the hardship is the result of the split zone. He reviewed the site plan with the Commission and would not change or alter the prior approval.

Mr. Nelson asked if there would be a deed easement and Mr. Pellegrino said yes it would be a mutual easement that would act in unison. Mr. Pellegrino reviewed the location of separate utility locations and the parking areas. He said that except for the coverage of lot two, all the lots would meet the zoning regulations when the lots are divided.

Mr. Reynolds asked if the hardship is because of the split zone. Mr. Pellegrino said that the hardship is the split zone. Mr. Chorney said that the split zone was already addressed and Mr. Pellegrino replied that it was from a use stand point and coverage is also a hardship. Mr. Chorney said that the hardships were addressed when the properties were combined and the applicant is creating a hardship and as the property exists it is in compliance. Mr. Pellegrino said that the split zone happened during development of the parcel. The original CDD-1 zone would not have created a problem, but when the parcel became a split zone created a hardship from the use standpoint but also from the coverage requirements. Mr. Chorney said that these issues had been covered when the approval of the joining of the two lots were approved. He said that the hardship was created and cannot be financial and it becomes financial because one person wants to buy the parcel. Mr. Pellegrino said that before the split zone it could have been two parcels under the CDD-1 zone. Mr. Chorney asked if it would not be prudent to do a zone change from the R-4 zone to a T-4 zone and then it could be split without a variance. Mr. Pellegrino said that this was addressed when the zoning regulations were being amended. But some of the property owners in the neighborhood did not want it because it would allow all uses of a T-4 and after discussing with the Planning Office staff it was determined that a variance for coverage was a better option for the neighborhood. There was a further discussion with Mr. Pellegrino and Mr. Chorney with regard to T-4/R-4 zone and the hardship.

Mr. Lee stated that if the zone is changed back to a T-3.5 or T-4 zone the variance would not be needed. Mr. Pellegrino said that requesting the variance would be on paper only and maintain the protective nature of the R-4 zone.

Mr. Vita asked for comments for and against the application and there were none.

Mr. Vita closed the public hearing.

3) **11-6430** 37 Belmont St, Requesting variances of the following: Section 220, Table 2.3 to permit a side yard of 9 feet 6 inches where 12 feet is required, for an addition. Section 220, Table 2.1 to permit lot coverage of 27.5 percent where 25 percent is allowed. R-4 Zone.
Erika Schroth, Applicant

Mr. Jeff Douma, 37 Belmont Street, owner of the property, addressed the Commission and stated that he was representing the applicant and also the owner of the property. He said that they would like to put an addition onto the house and is asking for the variance because on one side of the house the addition would put it 2 ½ feet closer to the property line than what the zoning regulations allow. Mr. Vita asked if the proposed plan is for a two story addition and Mr. Douma replied yes. Mr. Douma explained that there are two plans one is for a two story addition and the other is for a one story addition. He said that they will be building the one story addition.

Mr. Nelson reviewed the side yard encroachment of the existing home and asked if the addition would be within the existing foot print of the house and Mr. Douma said yes.

Mr. Chorney said that there are stairs on the proposed plans and he asked if they were part of the deck. Mr. Douma reviewed the proposed deck area with the Commission. Mr. Chorney asked Mr. Kops if the proposed deck with stairs would make the variance needed 8 feet six inches from the property. Ms. Masi said that the deck already exists. The Commission discussed with Mr. Douma the proposed plan with regard to the deck. Mr. Lee said that the deck could be cut back to bring it closer and the request for a side yard of 9 feet 6 inches. He explained that if the applicant did not want to do this would have to comeback before the Commission so that the legal ad would show the correct request for the side yard.

Ms. Erica Schroth, property owner, addressed the Commission and reviewed the proposed plan with the Commission. Mr. Chorney asked if the stairs count towards the total size of the deck. Ms. Schroth hesitates to call it a deck because it is an entry into the entryway. Ms. Masi reviewed the zoning regulation which states that stairs cannot project more than six feet into any required yard and the proposed plan would be okay. Mr. Chorney asked if the covered back entrance is part of the structure and Ms. Masi said that this is allowed.

Mr. Chorney asked if the lot coverage is within the required amount allowed by the zoning regulations. Ms. Masi said that the applicant has also requested a variance for lot coverage of 27.5 percent. She said that she did do a site visit and that the lot is narrow and limits where the applicant can place an addition.

Mr. Vita asked for comments for and against the application and there were none.

Mr. Vita closed the public hearing.

4) **11-6431** 4 Dallas St, Requesting a variance of the following: Section 220, Table 2.3 to permit a rear yard of 16 feet where 25 feet is required,for a dormer. R-4 Zone.
Lori Werth, Applicant

Mr. Jake Werth, representative for Ms. Lori Werth, addressed the Commission and reviewed the application. He said that they reviewed the options for an addition and it was determined that they would put a shed dormer on the rear of the existing house. It will be set back from the actual footprint of the house and lower than the existing peak of the house. It will not increase the coverage or bring the house closer to the property line. Mr. Werth said that the house was built before the zoning regulations were amended which creates the hardship.

Mr. Vita asked for comments for and against the application and there were none.

Mr. Vita closed the public hearing.

5) **11-6432** 81 Russell St, Requesting a variance of the following: Section 220, Table 2.3 to permit a side yard of 7 feet 9 inches where 12 feet is required, for an addition. R-4 Zone. Chris Widmer, Applicant

Ms. Karen Patriquin, Architect, addressed the Commission and is asking for a variance on the side yard, but will be putting a pervious driveway to correct an impervious coverage that is 37 percent. She reviewed the proposed driveway and said that the driveway will be impervious from the back of the house to the rear of the property will be gravel which will bring it to the required impervious coverage. Mr. Lee asked if the variance is needed for the impervious coverage and Ms. Patriquin replied that the impervious coverage will be at the required 30 percent coverage.

Ms. Patriquin submitted a picture of the required posting of the sign, the required affidavit for the sign, a petition with 15 signatures in favor of the application and the RWA proof of mailing.

Ms. Patriquin reviewed pictures of the house and the proposed addition. She said that the line of the foundation walls is 7 feet 9 inches from the side yard property line. The property owner would like to build the addition with a bathroom and bedroom on the ground floor which would allow her to continue to use the home. Ms. Patriquin reviewed the proposed plan with the Commission.

Mr. Chorney reviewed the proposed ramp and asked if the height is within the proper building code requirements and Ms. Patriquin said yes.

Ms. Carney, property owner, addressed the Commission and asked if a portable ramp could be used. Mr. Chorney said that any ramp must have the proper slopes.

Mr. Nelson asked if the proposed plan is staying within the existing footprint of the house and Ms. Patriquin replied yes.

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

Ms. Linda Katz, 75 Russell Street, addressed the Commission and stated that she lives next door to Ms. Carney and has no objections to the addition.

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

Mr. Vita closed the public hearing.

6) **11-6434** 51 Melrose Ave, Requesting variances of the following: Section 220, Table 2.1 to permit lot coverage of 26.58 percent where 25 percent is allowed and to permit 36 percent impervious surface where 30 percent is allowed, to construct a gazebo. R-4 Zone. Antonio DiCrosta, Applicant

Mr. Antonio DiCrosta, Applicant, addressed the Commission and reviewed the application for a 12 foot by 16 foot gazebo and is requesting the variances for the impervious surface and the lot coverage.

Mr. Nelson asked if the gazebo elevation would be off the ground. Mr. DiCrosta said it would be one step to ground level. Mr. Nelson asked if because it would be off the ground all the way around and if water would run under it would this effect the impervious coverage and Ms. Holly said yes. Mr. Kops explained that it is considered impervious because the water would run off the gazebo. Mr. Nelson said that because the gazebo would be placed off the ground it would create less impact.

Mr. Nelson asked if the gazebo would be adjacent to the existing pool and Mr. DiCrosta said yes.

Mr. Chorney asked where the pump house is located. Mr. DiCrosta reviewed the location of the pump house on the property. Ms. Masi advised the Commission that she had done a site visit to verify that all the structures on the property were shown on the site plan. Ms. Masi said that when the zoning permit is submitted she will want to see more detail on the plans showing the elevations of the proposed gazebo.
Mr. Vita asked for comments for and against the application and there were none.

Mr. Vita closed the public hearing.

7) **11-6435** 39 Windsor Rd, Requesting variances of the following: Section 220, Table 2.3 to allow a side yard of 7 feet 10 inches where 12 feet is required and a side yard of 8 feet three inches where 12 feet is required, for a dormer. R-4 Zone.
Chris & Shauna Johnson, Applicants.
Withdrawn at the request of the Applicant

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

The public hearing was closed.

B. Regular Meeting

a. Discussion and voting on Public Hearing items.

<u>11-6427</u>

Mr. Chorney made the motion to approve Application 11-6427. He noted that some of the areas that the applicant is already using can be used for some of the storage uses that are being used presently and that the applicant must go before the Planning & Zoning Commission for approval. Any screening of the pods or advertisement on the pods can be handled by the Planning & Zoning Commission. ***Mr. Nelson seconded the motion.*** He stated that it is a large parcel and the topography has a major rear slope which limits the use and the property is approximately 190,000 square feet.

Mr. Vita asked for vote.

The motion passed unanimously.

<u>11-6433</u>

Stacy Shellard, clerk of the Commission, advised the Commission that the correct application number is 11-6433.

Mr. Nelson made the motion to approve Application 11-6433. Mr. Reynolds seconded the motion. Mr. Nelson said that the applicant is almost creating his own hardship, but that he is in favor of granting the application because it is a deeded right of way and in the future, the property will have to stay the same. It will be continued to be used as medical offices and past variances were granted as medical use only. There will be two different owners but will basically be the same piece of property. Mr. Vita said that hardship was explained by the applicant that under the old zoning, the split would have been able to create two parcels. Under the new zoning regulations the split zone created the hardship. The Commission further discussed the hardship under the old zoning and new zoning regulations, and the condition of approval made by the Planning & Zoning Commission. Mr. Nelson said that the request of the application will not impact the property.

Mr. Vita asked for a vote.

Mr. Chorney abstained. Mr. Vita, Mr. Walsh, Mr. Nelson and Mr. Reynolds voted in favor of the motion. Therefore the motion passed.

11-6430

Mr. Nelson made the motion to approve Application 11-6430. Mr. Chorney seconded the motion. Mr. Nelson said that the proposed addition is within the foot print of the existing house and is going off the rear and side to continue the same line and will not be encroaching any further and are just extending. The stairs can go up to 6 feet for a set of steps to access the entrance and Mr. Chorney included that it is allowed by regulations and why it is not included as part of the side yard.

Mr. Vita called for a vote.

The motion passed unanimously.

11-6431

Mr. Nelson made the motion to approve Application 11-6431. Mr. Reynolds seconded the motion. Mr. Nelson said the proposed addition is going up and not into the side or rear yard for the dormer. It is staying closer than the existing house is from the side yard. Mr. Vita stated that the lot is irregular and is a narrow lot.

Mr. Vita called for a vote.

The motion passed unanimously.

11-6432

Mr. Chorney made a motion to approve Application 11-6432. Mr. Nelson seconded the motion. Mr. Chorney stated that the proposed addition plan is staying within the pre-established side line. Mr. Vita stated that the applicant said that the request for the impervious surface coverage was not necessary.

Mr. Vita called for a vote.

The motion passed unanimously.

11-6424

Mr. Chorney made the motion to approve Application 11-6424. Mr. Reynolds seconded the motion. Mr. Chorney said that the variances requested are minor. The applicant was advised that the drawings must be redone prior to zoning approval. Mr. Vita said that Mr. Nelson had identified that the impervious surface improves somewhat because of the grass underneath the structure.

Mr. Vita called for a vote.

The motion passed unanimously.

b. Approve Minutes of July 21, 2011

Mr. Chorney made the motion to approve the minutes of the July 21, 2011 meeting as written. Mr. Nelson seconded the motion. The motion passed unanimously.

c. **Old Business**

Mr. Chorney asked about the signs at the Home Depot Plaza. Ms. Masi stated that the new sign zoning permit was issued and once the work is completed she will follow up to make sure that the temporary signs are removed. She also explained that she has sent out letters of possible violations for signage throughout the Town.

d. New Business

Mr. Chorney said that the business Scarpo's is parking cars on the sidewalk and other business are now placing vehicles on the sidewalks. Ms. Masi said that for enforcement the Police Department must take action. Mr. Chorney asked that for the record a letter be sent to the Police Department advising them that cars are being left within the Town right of way and they can send a letter to the owners regarding the violation.

Mr. Reynolds advised that the hockey rink is advertising for skating lessons with signs being placed at different town fields throughout the town. Ms. Masi stated if they are being placed on Town property she will remove them.

Mr. Reynolds asked when Ibizza's Restaurant was approved he thought that the approval was for temporary outside structures and they put in concrete walls. Mr. Kops explained that there can be permanent structures for outdoors and is recommended by the Police Department so that cars do not come off the road and plow into patrons. Mr. Kops said that outside areas cannot be used year round.

Mr. Chorney said that at the Playright Restaurant deck was originally approved as a smoking area and they have put up canopies and are advertising outside dining. Mr. Lee said that he remembers the smoking area approved. Mr. Chorney said that it was approved for a smoking area and is being used. Ms. Masi stated that it was researched and was given prior approval.

e. Adjournment

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

The meeting adjourned at 7:26 p.m

Submitted by: _____
Stacy Shellard, Clerk of the Commission