

December 21, 2011, revised 12/27/11

**MINUTES: THE ZONING BOARD OF APPEALS**, Town of Hamden, held a Public Hearing and Regular Meeting on Thursday, December 15, 2011 at 7:00 p.m. in the 3<sup>rd</sup> Floor Conference Room, Hamden Government Center, 2750 Dixwell Avenue, Hamden, CT. and the following items were reviewed:

***Commissioners in attendance:***

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

***Staff in attendance:***

Leslie Creane, Town Planner  
 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 7:05 p.m., reviewed the agenda and meeting procedures, and the panel introduced themselves.

Mr. Vita stated that Application 11-6449 would be heard first.

**A. Public Hearing**

- 3) 11-6449** 135-145 Sanford Street, Requesting variances of the following: Section 652.1, Table 6.3 to permit a 33 unit multi-family housing where none are allowed; Table 3.4 (Zone T-4 Form-Based Code Graphics) to allow 14.5 percent principal building frontage buildout where a minimum of 60 percent is required; Section 652.1.o to allow a minimum of 500 square feet where 600 square feet is required or a 1 bedroom unit; T-4 Zone, New Haven Home Recovery, Inc., Applicant

Mr. Greg Burton, Attorney, addressed the Commission and reviewed the previous application that was denied by the ZBA at the October 20, 2011. He explained that this application has been modified and submitted under the Connecticut State Statute 8-30g, Affordable Housing Act. Mr. Burton said that the current application addresses the previous concerns with regard to removing the two bedroom units and moving the building so it will be outside the flood zone. A traffic study was submitted and also a legal memorandum which addresses the applicant's position with respect to the review of the application under the C.G.S. 8-30g. Mr. Burton stated that the application is under the affordable housing act and 100 percent of the units will be governmental assisted units. The units will be available to residents that are at 60 percent of the area median income. He further stated that if the ZBA is

inclined to deny the variance there is a second part of the analysis that requires the board to identify sufficient evidence that a specific substantial public interest outweighs the need for affordable housing. Property values are not a substantial interest. Nor is density and it comes down to health and safety.

Mr. Vita asked if property values are not a substantial interest, does it assume that this criteria alone is not a substantial interest or is it cumulative with other factors. Mr. Burton replied that according to the courts it is not an interest that is appropriate for consideration under the 8-30g analysis and it is his opinion that it cannot be cumulative. The first part of the consideration should be substantial evidence of a substantial harm to specific public interest and the denial is necessary to protect this interest. Also, the interest must outweigh the need for affordable housing and the interest that cannot be protective by any reasonable changes. Mr. Burton stated that the applicant is willing to consider any changes suggested by the ZBA. If the application is denied C.G.S. 8-30g requires that the ZBA state the reasons formally and specifically on the record. Mr. Burton and the applicant believe that the proposed project would be valuable to Hamden and meets a critical need.

Ms. Kellyann Day, Executive Director, New Haven Home Recovery, addressed the board and read a statement that included the applicant's mission and how its mission is achieved. She reviewed the projects that New Haven Home Recovery have done and the services that they have provided to Hamden and other communities. Ms. Day said that letters of support have been submitted to the ZBA. She said that CHAFA has funding available for new and affordable housing units. The applicant likes the Sanford Street location because it is a nice neighborhood. It is near commercial property and public transportation. Ms. Day stated that the maximum household income will be approximately \$48,000.00 and support services will be available to the tenants. She said that preference will be given to Hamden residents. A professional property management company will be used and the property will be well maintained. Ms. Day stated there is a significant need for affordable housing and the project will hopefully have a positive impact on the neighbors and community of Hamden.

Mr. Burton stated that the affordable housing level in Hamden is currently 6.9 percent and there is an indication that this will go up. The Hamden 2010-2014 Consolidating Housing Plan which was submitted for the record shows a total increase of 400 overall units, making 8 percent affordable housing. At this level the Town still needs 477 affordable housing units to get to 10 percent which is the mark that the State has set. Mr. Burton reviewed several excerpts from the affordable housing plan.

Mr. Paul Bailey, Architect, addressed the Commission and reviewed the site plan which has been slightly modified from the previous application. He explained that there is a large pond on the site and a proposed 33 unit building with 50 parking spaces. The building will be angled and will help break the mass of the building down that will fit with the neighborhood. Mr. Bailey reviewed the elevations of the building, the architectural plan and an aerial view of the site. He reviewed the variances being requested. Mr. Bailey stated that the area is mixed with commercial, multi-family and single family residences. The T-4 zone requires that the face of the building face Sanford Street and the frontage be 60 percent of the building. There are Town sewers that go through the site with a 10 foot wide easement, and a silt sump that is located on the site. The pond is located within the 100 year flood line. Over 60 percent of the site is not buildable and the frontage is only 53 feet wide which is only 14 ½ percent of the frontage. It is impossible to build with a 60 percent frontage and the building must be angled.

Mr. Vita asked if the location of the building has changed from the previous application. Mr. Paul reviewed the previous location of the proposed building.

Mr. Nelson asked if the number of units has changed from the previous application. Mr. Bailey said no, but all the units would be one bedroom and the size of the building would remain the same and it would be more efficient.

Mr. Bailey stated that the zoning regulations require one bedroom units to be 600 square feet and the proposal is for 500 square feet. The reason for a smaller size unit is because the goal of all new construction is energy efficiency. All architects, developers, towns and cities have an obligation to build energy efficient buildings. He explained that the proposed building would be energy efficient and this has been proven by projects done in other towns and cities. The buildings will also be handicapped accessible and adaptable. The smaller size units will

require less energy which will have a direct impact on the rent and a savings to the tenants. The users of the units have less funds available to put towards housing costs.

Mr. Nelson asked how many units would have been in the building if the units were 600 square feet. Mr. Bailey said there would be 1/3 less units and the shape of the proposed building would make it difficult to make the units 600 square feet.

Mr. Burton reviewed the elevations and the proposed architecture of the building. He said if the units were 600 square feet it would change the proposed architecture of the building and it would not fit into the neighborhood. It would also affect the energy efficiency of the building.

Mr. Burton reviewed with the Commission the hardships. He stated that multi-family housing is permitted in the T-4 ZONE, but not on Sanford Street. There are existing multi-family and commercial use buildings in the area. Mr. Burton said that to prohibit multi-family use on the proposed site creates a hardship. Mr. Burton reviewed the two variances that were granted in 1987 for multi-family use. A special permit was granted in 2001 for 36 condominium units on this site and the approval was prior to the zoning regulations being amended in January of 2010. Mr. Burton feels that this is a less intense proposal than any of the prior applications for this site. The hardships are the location of the flood line and the Town's infrastructure. Both are an inherent land conditions that limit where one may build. Mr. Burton said that the smaller units energy costs would be less of a burden on the tenants and to require a larger unit would create hardship on the owner of the building and the tenants. Mr. Burton reviewed the traffic study and the previous concerns stated at the October 2011 meeting.

Mr. Steve Ulman, Professional Engineer, Senior Traffic Engineer with Purcell Associates, addressed the Commission and reviewed the location and access to the site. He said that the speed limits on Mill Pond Road and Sanford Street are not posted and therefore 25 mph. He assumed a 35 mph speed limit to determine the site distances needed for the proposed driveways. Mr. Ulman reviewed the traffic study with the Commission. He stated that he discussed his findings with the Town Traffic Department and they were not aware of any traffic issues in the area. The Traffic Department said that Connecticut Transit would like the bus schedule times at Shepard Avenue and Sanford Street changed. Mr. Ulman stated that in his professional opinion the proposed project will not adversely impact the safety or the traffic on Sanford Street or in the area.

Mr. Houlding asked if the traffic study included the speed of the vehicles and Mr. Ulman said no. Mr. Ulman stated his observation was that 35 mph was a reasonable speed within the area of Mill Pond Road. Mr. Houlding asked Mr. Ulman to address the validity of the samplings that were done over the two days. Mr. Ulman said that the traffic studies are a snapshot of the afternoon and the morning of an average day. School was in session during the study and he captured the school buses. Mr. Ulman stated that the buses did not seem to have a negative impact on the traffic in the area and they did not appear to have any difficulties turning on and off of Mill Pond Road. Mr. Houlding asked what times during the day the study was done. Mr. Ulman reviewed the times and days that the traffic was observed.

Mr. Burton stated that the proposed development addresses a crucial housing need in Hamden. It is a very important contribution to addressing the need for affordable housing in Hamden. The developer for the project has a very good track record which includes the development located on Treadwell Street. The applicant has proven to be an excellent owner and operator of affordable housing developments, operating them in a way that is a benefit and adds to the value of the Town. The hardships being suffered result from the unique conditions of the site, including a flood plain, silt pump and sewer line. This is a situation where the location of the site is ideal for multi-family housing and to not allow it creates a hardship for the owner. He further stated that the required unit size creates a hardship for the owner and tenants because they need to be efficient. The zoning regulations impose an unnecessary burden in the context of this development. He said that the concerns raised with the previous application have been addressed and Mr. Burton feels that it is a very good project and that the development will add value to the Town.

Mr. Vita asked if New Haven Home Recovery will own the land or lease it. Mr. Burton said that New Haven Home Recovery or an affiliate entity will own it, and it will not be a ground lease.

Mr. Walsh asked if the traffic study calculations are conservative because the residents will be in support housing and many will rely on public transportation. He also asked where the nearest public transportation is and how will it be accessed by the residents. Mr. Burton reviewed the aerial picture with the Commission and stated that the residents can walk to Sanford Street and Dixwell Avenue or go to Shepard Avenue and then down to Dixwell Avenue for public transportation. Mr. Burton reviewed the area and the locations of the sidewalks on Sanford Street, but there are painted stop bars for pedestrians to cross at. Mr. Walsh stated that he is concerned because going west on Sanford Street to Shepard Avenue there is a sharp curve that does not have a sidewalk. Mr. Burton was unable to explain why some areas on Sanford Street do not have sidewalks. There are pedestrians who walk in the area and cannot explain why the Town does not do something to make the area more walkable. Mr. Burton said that when looking at a potential site the proximity of public transportation is taken into consideration. When the traffic study was done the report was done it was assumed that 33 units would have cars to make sure that they were accurately predicting the traffic conditions and the impact of the traffic conditions. Because the proposed project is for affordable housing it is expected that the numbers will be lower. The proximity of public transportation is taken into consideration and this location is accessible to the bus lines J and D. Mr. Walsh asked what the walking distance is to the public transportation and Mr. Burton said that it is less than ¼ of a mile in either direction.

Mr. Nelson asked what services will be provided on the site. Ms. Day stated that there would be a security office and an onsite private office for the staff to meet with the residents. Mr. Nelson asked if the tenants will live on their own. Ms. Day said that the proposal is not for a shelter, group home or halfway house, but is for private apartments with a lease.

Mr. Nelson asked why security is needed on the site. Ms. Day explained that there will be a space for a security office in case it is needed on the site. She said the plan is to plan for the worst, but expect the best. Mr. Nelson asked if there is security on all the sites owned by the applicant. Ms. Day said that there is not a security office at the Treadwell Street site. There is an office that is used for meetings and social gatherings. Mr. Burton said that most of the applicant's development plans have multi-use space and allows for flexibility if it is needed. Ms. Day said that at the Treadwell Street building there is space for the property manager to have an office.

Mr. Walsh asked if one of the 33 units would house a security unit. Ms. Day said that there is a planned space if it is needed because of issues that may arise. Ms. Day further discussed with the Commission the functions that could occur in the office spaces.

Mr. Walsh asked what percentage of the residents will have their own transportation and what percentage of residents will rely on public transportation. Ms. Day stated that she unable to determine a percentage because 60 percent of the median income is \$48,000.00 and they most likely will have a car, but someone with a \$20,000.00 income may not. She said that during the selection process for tenants the fair housing law must be followed. Ms. Day feels that there will be residents without a car. Mr. Burton stated that the plan is for 33 units to have cars and that there is no preference to tenants whether they do or do not have a car.

Mr. Walsh have asked how many buildings New Haven Home Recovery owns. Ms. Day said that there are 2 buildings in Hamden, 3 buildings in New Haven, and 2 other building that are shelters. Mr. Walsh asked based on prior experience how many people walk to the buses. Mr. Burton said that there should not be a different standard applied to affordable housing. There was a discussion of the number of vehicles and the traffic study based on 33 units. Mr. Walsh feels that there is a concern for an increase of pedestrians where there are no sidewalks. Mr. Burton said that if the Planning & Zoning requires sidewalks on this property then they will be put in, but they should not be held to a different standard because it is affordable housing.

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

Ms. Lauren Rossi, 11 Sky View Circle, addressed the Commission and stated that she is affiliated with New Haven Home Recovery as a former board member and a donor by a foundation set up by her parents. She said that the program is successful because of their commitment to its programming and their mission. Ms. Rossi feels that the success at the building on Treadwell Street is indicative of the work that New Haven Home Recovery does and will continue to do.

Mr. Arnold Hyman, 30 Bromley Court, addressed the Commission and asked how many people can live in one unit and Ms. Day stated only one person per unit.

Mr. Vita asked for Comments against the application:

Mr. James Pascarella, 49 Stratton Court, addressed the Commission and commended the Treadwell Street development. Mr. Pascarella reviewed the proposed site and said that the neighbors use the site as a park and feed the ducks in the pond. He feels that the proposed project will not enhance the property values in the neighborhood. It is a public financed housing project being put in a predominately residential neighborhood. Though there are multi-family homes in the area, they are residential single family condominiums that are owner occupied. There is no other piece of property in the neighborhood or surrounding area that is rental property. Mr. Pascarella said there will be neighborhood opposition because he cannot imagine how anybody's property in the area will increase in value with this project. He said that it is approximately 1/3 of a mile from the proposed site to Dixwell Avenue. People walking on Sanford Street has at times become a safety concern.

The Hamden Middle School creates traffic and children that go up and down the street 2 times during the day. Mr. Pascarella noted that there are no sidewalks up and down Sanford Street. Mr. Pascarella said this proposed project will house 30 plus people. He stated that he believes that a number of the proposed parking spaces are not needed because if people need government assistance to pay for their apartment in its entirety or half of their rent they will most likely not have enough money to own a car. He further stated that for them to get to a job they will have to walk down to Sanford Street to get to the bus stop.

Mr. Pascarella asked who will pay for a sidewalk that will go down 1/3 of a mile down Sanford Street to Dixwell Avenue. He assumes that this would have to be factored into the applicant's project. Most of the sidewalks would need to be placed on private property. Mr. Pascarella said that he is not opposed to a project of this type and thought the project on Treadwell Street was phenomenal. If this project of what amounts to 4 acres was to be placed on Whitney Avenue in Spring Glen or up in Mt. Carmel where there is plenty of land, Mr. Pascarella wonders what type of reception the proposed project would get because it would be located in residential neighborhoods.

Mr. Pascarella noted the need for security in the proposed building because some of the clientele that will be leasing the units may have had something in their past that requires security. Mr. Pascarella stated that he does not care if there is security. He asked why security was needed, who would rent the units, and who would the clientele be. Obviously some of the tenants would come from situations that may create issues. Legally the application could not be denied if there is a security guard on the site. If the applicant would like to get the neighborhood to support the project they should give information that shows how it will help the neighborhood.

Mr. Pascarella suggested that the parking area be made smaller and a park area added to access the pond and would enhance the property. He asked if 4 acres of asphalt that may never be used is needed. Mr. Pascarella said he had spoken to the applicant and it was said that they do not necessarily want to go to a neighborhood that does not want them and he asked that the property owners be shown how the project would help the neighborhood. Mr. Pascarella stated that he does not personally care who lives in the neighborhood nor is he discriminatory and he asked how this project in a residential neighborhood would enhance the property values because the proposed use is different from anything else located in the neighborhood. He asked that the applicant to come back with a proposal that would be more appealing.

Mr. Todd Manual, 160 Sanford Street, addressed the Commission and stated that he is an abutting property owner and he is opposed to the application. He does not feel that variances are a minor deviation to the Hamden planning code but rather represent major deviations from the existing code. A 33 unit multi-family housing project does not represent the surrounding neighborhood. Mr. Manual said the zoning code's purpose is to protect the character and nature of a neighborhood. He further stated that if the variances being requested are approved it would forever alter the character and nature of his neighborhood. The key consideration for any zoning variance is compatibility. Each zoning variance being requested by the applicant is incompatible with the existing neighborhood.

Mr. Manual said that as a father of 2 girls he is concerned about the project's potential negative impact on public safety. Sanford Street is a heavily traveled street and a project of this scope would generate additional traffic. He referred to the traffic study and he asked that the traffic impact study be more detailed than what was stated. Mr. Manual does not feel four hours of time over two days is indicative of what the traffic on Sanford Street is like. He said that there is foot traffic in the area which includes children that walk to and from the Middle School. They would have to walk past the proposed building.

He and his neighbors have invested in their real property with the knowledge of the limitations that were associated with the acquisition of this real property. The existing zoning regulations provided a certain sense of security and stability to help protect the long term value of their investments. The applicant knew the zoning limitations placed on the subject property, hence the necessity for them to ask for the variances which would increase the value of their investment at the expense of and to the detriment of the surrounding neighborhood and property owners. The ZBA has no obligation to maximize the financial value of the applicant's subject property, especially if the applicant knew the limitations of the limitations when acquiring the property. If the 33 unit multi-family housing project is a rental property a more transient population will be introduced into the neighborhood, and it will affect the stability which is the character of the neighborhood. Mr. Manual asked the Commission if it would approve similar variances for his property to maximize the value of his real property. He stated if the application is approved he will talk with other residents to come back to request a change from residential property to commercial property to enhance the sale value of their properties. He asked the members if against current zoning regulations they would want a 33 unit multi-family housing project built in their neighborhood.

Mr. Al Carbone, 57 Stratton Court, addressed the Commission and stated that he has lived in his home for 32 years. There has been reference to the pond and 100 year flood zone. Since he has lived in home there have been 20 years where there have been floods. The water comes down from Shepard Avenue and there is nowhere for it to go and continues to increase. Mr. Carbone said there are no sidewalks up to Shepard Avenue and after the Memorial Day Parade it is difficult to get up Sanford Street.

Ms. Mindy Marks, 185 Sanford Street, addressed the Commission and stated that she abuts the proposed site. The real challenge is the health and safety. Ms. Marks is a parent of young children and she knows her neighbors and wants to live in a neighborhood who she knows and has a relationship with them. She does not feel she would be able to get to know 33 men and women and know what is going on in her neighborhood. Ms. Marks understands that there is a need for affordable housing in the community. New Haven elected their mayor who they thought would do a good job and he should make it a priority to create affordable housing within the New Haven Neighborhoods for the residents they are trying to displace. The proposed structure has so many adjustments that need to be made to place it on the site, it would make more sense to go into an existing structure. There are a number of wildlife that would be displaced and she feels her yard would be a dumping ground for deer, turkey and fox. She would not know who would reimburse her for damage that could be done to her yard.

Ms. Marks reviewed the location of the proposed parking area and feels that they would exit onto Mill Pond Road and would travel at a high rate of speed to the stop sign at Sanford Street. She said that the staff that will help tenants address getting jobs and budget, but when she was in college she did not have someone assist her. This is not a typical residence. If they need staff to assist them with life skills it speaks to the nature of the people who will live in the units. Ms. Marks asked if there would be a screening process for the tenants who live in the building because she is concerned for herself and children in the area with sex offenders living in the apartments. There are bus stops in the area for Wintergreen Magnet School and Bear Path School and this should be

considered. Ms. Marks said that the maximum income would be \$48,000.00 and this seems to be aggressive for a one person household in a low income housing area. She asked if this would be adjusted and if a single bedroom would be occupied by a single occupant.

Ms. Judy Feather, 37 Stowe Court, addressed the Commission and stated that the previous condominium project that had been approved was done before the Middle School was built. The traffic study was done for two hours during good weather and it should be done during bad weather.

Mr. George Palmer, 185 Mill Pond Road, addressed the Commission and stated that from the 135 condominium units at 175 Mill Pond Road he has never seen more than 6 people take a bus because of walking distance to the main street. The traffic from Mill Pond onto Sanford Street in the morning would increase. There are no sidewalks left or right going to Dixwell Avenue and going west to Shepard Avenue there is only one house that has a full sidewalk. The nearest bus stop is at Shepard Avenue and Howard Drive. Mr. Palmer agrees with the previous speakers. He stated that he does not want to see the loss of the park-like setting, which originally included a restaurant before it was torn down. Mr. Palmer stated he does not want to see anything built there.

Ms. Mary Katz, 38 Stowe Court, addressed the Commission and stated that she is not against affordable housing, but this area is over-saturated with businesses and residences. Adding 33 units would take it above and beyond wherever it should be. If there are security issues it could affect the businesses in the area. The businesses are child oriented. There are elder care, the middle school, and bus stops in the area. The proposed project would create additional traffic and would be a safety concern. Ms. Katz does not feel the neighborhood needs the project.

Mr. Kevin Lonergan, 16 Mill Pond Road, addressed the Commission and stated that the proposed application is putting a square peg in a round hole. He said that the applicant should have checked the zoning regulations prior to purchasing the building and C.G.S. 8-30g which he feels is moot by the number of units it allows. The variances being requested are against the zoning regulations that exist and the applicant knows this and Mr. Lonergan asked why they expect it to be approved. The proposal doubles the amount of units the applicant has managed at other locations and Mr. Lonergan asked what the ramifications would be if the units were not managed properly. The zoning that exists is a problem that the applicant should consider even though they could hide behind the C.G.S. 8-30g. Mr. Lonergan feels a smaller amount of units may be more acceptable. The number of neighbors speaking at this meeting reflects the importance of this issue, and he asked that the ZBA take this into consideration.

Mr. Martin Laskin, 15 Stowe Court, addressed the Commission and stated that he speaks as a resident and a sociologist. He stated that he is proud of his neighborhood because of the diversity and what is best about Hamden. Mr. Laskin said before anything is done the ZBA should consider what already exists.

Mr. Paul Jobmann, 28 Stowe Court, addressed the Commission and stated that the proposed project is being fit in between the flood plain and an easement. Mr. Jobmann feels that the size of the building could be reduced and what is being proposed is to maximize the amount of rents they can get. He said that when traveling on Mill Pond Road to Sanford Street drivers go partially through the stop sign because of the sight line and exit onto Sanford quickly to avoid oncoming traffic moving at a high rate of speed and is a traffic nightmare.

Ms. Marks said that considering that the residents may or may not have cars and are single individuals they would not take advantage of the abutting commercial businesses. She feels that the nearest grocery stores would be a long distance when walking and it would be a disadvantage to not be near the basic needs.

Mr. Burton asked if the letters of support received by the Planning Office were included in the record.

Ms. Holly Masi, Zoning Enforcement Officer, reviewed the letters of both support and opposition.

Mr. Burton stated that a number of the comments were questions and concerns directed at the individuals who will be occupying the units. Mr. Burton stated that the comments made by Mr. Pascarella were discriminatory and are illegal. The property values are not appropriate for consideration under the C.G.S. 8-30g analysis. The proposed

site is private property and use as a park cannot be considered and the ZBA cannot prevent development of this site whole sale. Mr. Burton stated that the applicant is asking for small variances because of the condition of the land which there is no control where to build because of the locations of sewer, silt pond and the duck pond is. If the Planning & Zoning Commission requires sidewalks they will be put in. The safety of residents walking on other sections of Sanford Street is a Town consideration. The traffic study is a snap shot in time which was explained in the presentation. The concern of traffic feeding from Mill Pond Street or Sanford Street will not change the study. Mr. Burton said that the 33 units is the request and is being done in a way that will fit into the neighborhood. The building will be attractive and will contribute to the neighborhood. Mr. Burton said if the ZBA denies the application, the C.G.S. 8-30g requires that the reasons of denial be stated and he asked that each variance be addressed individually. He hopes the ZBA understands the importance, the value and the need for affordable housing in the Town of Hamden.

Mr. Nelson asked if the site could be reconfigured to reduce the amount of variances. Mr. Burton reviewed the previous proposal and reviewed the site. He said that when the applicant met with the Planning Staff the concern raised was that under new zoning regulations there is a specific frontage requirement and the intent of the regulations is to minimize the parking area in front of the buildings. He said that the applicant was encouraged to consider a plan that would be consistent with the spirit of the new zoning regulations. Mr. Nelson further discussed with Mr. Burton the location of the building and the variances being requested.

Mr. Vita asked how many units were in the original units. Mr. Burton said the previous application was for 33 one and two bedroom units and this application will be 33 one bedroom units. Mr. Vita said that the applicant stated that they have 28 units over 5 buildings and why the need to have 33 units in one building for this application. Mr. Burton said that Hamden needs 470 units for affordable housing. Mr. Vita and Mr. Burton discussed the need for affordable housing and the mission of New Haven Home Recovery. Ms. Day explained that when Treadwell Street opened up 100 applications were received within 10 days and for only 10 available units. There was further discussion on the need for affordable housing in Hamden and what would make the project feasible.

Mr. Walsh asked why pedestrian traffic was not considered in the study. Mr. Burton discussed with the Commission the need for sidewalks and safety at the proposed site. Mr. Burton said sidewalks and pedestrian traffic further down Sanford Street are Town issues. The application should not be held to any different standard than any other multi-family development with regard to pedestrian safety. Mr. Walsh discussed with Mr. Burton the health and safety of pedestrians with regard to this application. Mr. Burton reviewed with the Commission the 8-30g statute and the authority and restrictions it allows the ZBA.

Mr. Vita asked if the applicant is willing to consider a reduction in the number of units to lessen the density and address the issues that have been raised. Mr. Burton does not feel that reducing the number of units would address any of the variances being requested, and density is not a substantial interest that can be considered with affordable housing. There was a discussion with regard to the number of units and the effects it would have on traffic, pedestrians and safety. Mr. Burton said the ZBA has the ability to impose reasonable conditions on the development.

Mr. Reynolds asked if the units will be handicap accessible and adaptable and Mr. Burton said yes. Mr. Burton said that the units will be within the fair housing laws and no distinction will be made to whether a tenant is handicapped or not.

Mr. Walsh asked if traffic and safety can be a considered. Mr. Burton reviewed with the Commission what the courts would consider as a traffic/safety issue.

Mr. Vita closed the public hearing.

- 1) **11-6447** 169 Mill Rock Road, Requesting variances of the following: Section 220 to allow a lot width of 80 feet where a minimum 100 feet is required. Section 220 to allow a lot area of 3,433 square feet where where 20,000 square feet is required. Section 220 to

allow a lot area of 3,740 square feet where 20,000 square feet is required, R-3 Zone, East Rock Partners, LLC, Applicant

Mr. Carl Porto, Attorney, addressed the Commission and reviewed the previous variance applications and the current application which is a request to subdivide the property into two lots. He explained that the owner of the property lives in the neighborhood. Mr. Porto reviewed the existing properties in the neighborhood and he said that the proposed lots would be in conformity with the existing lots. He stated that the variances are needed because of the existing slopes on the property.

Mr. John Milone, Professional Engineer, submitted and reviewed with the Commission a vicinity map, a parcel map, an existing conditions parcel map and a map of the proposed division of the lots.

Mr. Peter deBretteville, Applicant, addressed the Commission and stated that he will be the architect and the developer of the property. He submitted and reviewed with the Commission the proposed site plan, pictures of the site and of the neighborhood. Mr. deBretteville feels that the variances being requested would keep with the intent of the zoning regulations and be consistent with the existing neighborhood.

Mr. Porto stated that the previous application was denied and the concern of the ZBA was what the transition would be. He said that the transition from an easterly direction of the existing lots are smaller than what is being proposed. The existing lots and houses on Prospect Street would not be permitted today under the current zoning regulations. Mr. Porto reviewed where the transition would occur in the neighborhood and says that the proposed lots would fit within the neighborhood.

Mr. Nelson asked what the variance in 2008 was granted for. Mr. Porto reviewed the variance that had been approved. Mr. Nelson said the previous variances were granted to allow the previous property owner to sell a house on the property and now Mr. deBretteville is asking for another variance. Mr. Nelson questioned the need the request to have the lot split again.

Mr. Vita asked for comments in favor of the application. There were none.

Mr. Vita asked for comments against the application:

Mr. Derek Bacon, 159 Mill Rock Road, addressed the Commission and stated that he feels there are details missing from the comparison of the neighboring properties. Mr. Bacon reviewed with the Commission the existing properties in the neighborhood and does not feel that the applicant would be able to build on the lots as proposed because of the steep slopes. He feels that the applicant would be able to make money with the lot as it exists. Mr. Bacon said that there are other property owners who are against the application, but they were unable to attend the meeting.

Ms. Valarie Stone, 178 Mill Rock Road, addressed the Commission and stated that she is concerned about the steep slopes. There are large trees on the property, and some of them came down during the hurricane and additional trees would need to be removed if the properties were to be developed. Ms. Stone reviewed the site with the Commission and she feels that if the proposed houses were to be built they would need to be moved farther back for safety. Ms. Stone feels that one house on the existing property would be sufficient and it would not be feasible to build more.

Ms. Helen Jones, 178 Mill Rock Road, addressed the Commission and stated that she is in opposition to the application. She feels that one house is sufficient. Ms. Jones is concerned with the existing trees on the property, because she has had trees fall into her property.

Mr. Porto said that there is no question about the steep slope and the concern about trees coming down will not change whether there is one or two houses and this condition will not change. He stated that the scale of the proposed houses would be smaller than the existing houses in the neighborhood.

Mr. Vita closed the public hearing.

- 2) **11-6448** 55 West Woods Road, Requesting variances of the following: Section 652.1, Table 6.3, to permit multifamily housing where it is not on a street that permits it, Section Section 652.1.h, to permit townhouses located along common access drives rather than along a public street, Section 652.1.k, to allow multifamily developments to be located along a well-designed pedestrian-oriented internal private street rather than having the units oriented towards the street, Zone T-4, West Woods Properties, LLC, Applicant

Mr. Carl Porto, Attorney, addressed the Commission and reviewed the location of the property. He reviewed the amendment to the zoning regulations that allowed an inn to be built on this property. Mr. Porto said that approvals were also received from the IWC and the P&Z Commission. Mr. Porto explained that because of the condition of the current market the proposed inn project will not be going forward. This variance is to allow a 26 unit multi-family development on the site. Mr. Porto stated that the owner, Mr. Mark Romano is interested in a for sale, owner occupied development, and condominium documents would be created. This has been explained to the West Woods Neighborhood Association and that there is no interest to have the units occupied by students.

Mr. Porto reviewed the variance request and he stated that the hardship is the intent of the T-4 zone. Mr. Porto reviewed the zoning regulations and criteria for a T-4 zone. He feels that the proposed project would meet the intent of the zoning regulations.

Mr. Vita asked if the proposed project would be a condominium. Mr. Porto replied that it would be a condominium and it is not intended for students.

Mr. John Milone, Professional Engineer, submitted to the clerk a copy of the RWA application and the proof of mailing. Mr. Milone reviewed with the Commission the location of the site and the surrounding properties. He also reviewed the topography of the site and the original approvals that had been granted for the site. Mr. Milone explained that the proposed project will result in a reduction of 16 percent in impervious surface and the dwellings will be smaller in size than the proposed inn. He stated that the zoning regulations as written for a T-4 zone require that a development be oriented to the street. There is limited frontage on West Woods Road because of the slope and it is not possible to develop in that area because of the topography. Mr. Milone reviewed the proposed building and the architectural plan, and feels they would fit the intent of the T-4 zone.

Mr. Vita asked for comments in favor of the application. There were none.

Mr. Vita asked for comments against the application:

Ms. Cindy Civitello, 61 Berkeley Court, West Woods Neighborhood Association, addressed the Commission and read a statement that addressed concerns with regards to student housing and the frustrations of the residents with the students that live in the neighborhood and their behavior. The association reviewed the proposed plans for the condominiums and feel that they would appeal to the student population. Ms. Civitello's statement also addressed the concerns for the additional traffic if the proposed project is approved. There is already a concern because of the existing businesses in the area, the Farmington Canal crossing and students that may walk or bike from the York Hill Campus. The sharp curve on West Woods Road creates a safety hazard, especially in the winter when the roads are slippery. The Neighborhood Association is concerned that by adding another driveway and more vehicles to the area that is already hectic and complicated would become even more dangerous.

Mr. Gerald Nolan, 144 West Woods Road, addressed the Commission and stated that the proposed condominium does not fit with the neighborhood. There is already a lot of traffic because the area is saturated with buildings. He has at times waited long periods of time to enter onto Whitney Avenue because the street is congested and the lanes on Whitney Avenue are not well designed. Also on West Woods Road there is a new curve and the proposed

driveway would be difficult to see. Mr. Nolan said that the property does abut residential properties. Mr. Nolan asked what the existing slope of the property is.

Mr. Milone reviewed the existing slopes on the property. Mr. Nolan stated that the property is all rock. Mr. Milone said test pits were done and there will be some rock excavation done on the property.

Mr. Nolan stated that West Woods Road is nothing but rock. He is concerned with what would happen as a result of the proposed development. The property has had several proposals over several years and Mr. Nolan feels that the traffic will be an issue, especially because of the Quinnipiac students.

Mr. Gus Spohn, 4032 Whitney Avenue, addressed the Commission and asked if a hardship has been demonstrated. He feels that the applicant needs to show that there is no permissible use that can be accomplished that is not with respect to financial consideration.

Mr. Milone stated that the property has an approval for an inn that would have a larger structure and it would have more impervious surface than what is being proposed with this application. If the variance is approved Mr. Milone feels that there would not be a greater impact than what is already approved for the property. The location of the proposed access driveway onto West Woods Road is in the same location as what is already approved for the inn. He reviewed the traffic study that was done when the inn was approved and Mr. Milone stated that there would be a reduction in traffic as to what was previously approved. Mr. Milone said that the intent is to have the property as a for sale product and the owner's interest, and consist with the neighborhood's. The hardship is the nature, shape and topography of the property, and the ability to accomplish what is permitted in the zone.

Mr. Porto stated that the intent of the zoning regulations is to allow multi-family use. The proposed use will not be permitted without the requested variance.

Mr. Nolan said that the access road went to the former West Woods Road and asked if the owner has the rights to go to the new West Woods Road. Mr. Milone said that the access road would touch the same locations. Mr. Nolan disagreed. Mr. Milone said it abuts on the right of way onto West Woods Road, and the owner still has practical and legal access to West Woods Road.

Mr. Nolan asked what is the width of the property from the trail to the furthest point of the other property owners. Mr. Milone stated it would be from the narrowest point which would be 290 feet and it would increase to approximately 450 feet.

Mr. Spohn said that the applicant must still demonstrate that there are no uses that are permissible on the properties without hardships.

Mr. Vita closed the public hearing.

- 4) 11-6450** 22 Glemby Street, Requesting a variance of the following: Section 220, Table 2.3 to allow a 3 foot side yard where a 10 foot side yard is required for an addition, R-5 Zone, Emporio, LLC, Applicant

Mr. John Esposito, Representative for the applicant, addressed the Commission and reviewed the application. Mr. Vita asked if the existing 3 foot side yard would continue with the addition. Mr. Esposito replied it would and the addition is to the second floor.

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

Mr. Vita closed the public hearing.

## **B. Regular Meeting**

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

**11-6450**

*Mr. Nelson made the motion to approve Application 11-6450. Mr. Reynolds seconded the motion.* Mr. Nelson stated that the addition is going up and would not encroach into the side yard. *The motion passed unanimously.*

**11-6447**

*Mr. Nelson made a motion to deny Application 11-6447. Mr. Reynolds seconded the motion.* Mr. Nelson said that in 2008 a variance was granted to split the lot and now it is be requested to be split again. This would make 3 lots out of 2 lots which was originally 1 lot. This is a variance on a variance and it is not appropriate. *Mr. Nelson, Mr. Walsh and Mr. Reynolds voted in favor of the motion. Mr. Vita voted against the motion. Mr. Houlding abstained from the motion. The motion to deny passed 3-1-1.*

**11-6448**

*Mr. Nelson made a motion to deny Application 11-6448. Mr. Reynolds seconded the motion.* Mr. Nelson said that there is not enough information as to the impact on the neighborhood when there is additional traffic exiting onto West Woods Road. He is familiar with the street and there is already heavy traffic on it. Mr. Nelson stated that the applicant had a previous approval for ninety units and this proposal would be smaller units, but he feels it would not fit the area with the amount of variances being requested. *Mr. Nelson, Mr. Reynolds, Mr. Vita and Mr. Houlding voted in favor of the motion. Mr. Walsh voted against the motion. The motion to deny passed 4-1-0.*

**11-6449**

*Mr. Houlding made the motion to approve Application 11-6449. Mr. Vita asked for a second to the motion and there was none. He asked for an alternate motion. Mr. Nelson made the motion to table this item until the January 19, 2011 meeting and this will allow the Commission to get legal advice. Mr. Walsh seconded the motion.*

Mr. Nelson stated that before the Commission makes a decision they should receive legal advice from Mr. Tim Lee, Assistant Town Attorney, and possibly have an additional traffic study done. Mr. Nelson stated that he is familiar with Sanford Street and traffic does travel at a high rate of speed and the curve is dangerous and steep. Mr. Vita said this would allow the Commission to respond to the issues addressed at this meeting. Mr. Kops stated that it is appropriate to ask for legal advice, but that it is not appropriate to ask for any additional information about the traffic because the public hearing is closed. Mr. Lee said that the Commission can ask the Town Traffic Engineer to review the traffic study that was done and receive comments from the Town Staff with regards to the traffic study. Ms. Masi advised the Commission that all members who are present at this meeting should be present at the January 2012 meeting for the vote. Mr. Houlding asked what can the Town Traffic Engineer comment on. Mr. Lee said that the Town Traffic Engineer can review the traffic study that was submitted and send a memo to the ZBA which is allowed even though the public hearing was closed. Mr. Houlding asked if the Town Traffic Engineer had reviewed the traffic study prior to this meeting. Mr. Lee said the applicant's testimony was that the Town Traffic Engineer was contacted but has not had the benefit of seeing the study. Mr. Vita stated that the idea is to receive comments from the Town Traffic Engineer and to seek additional legal advice with regards to the legal issues before the board. Mr. Lee said that there was an issue of sidewalks and pedestrian traffic and members asked him to look at these issues to see what factors these would play in the Commission making their decision. Ms. Masi stated that the next meeting will be January 19, 2011.

Mr. Vita called for a vote of the motion to table this item. *The motion passed unanimously.*

b. **Approve Minutes of November 17, 2011**

*Mr. Nelson made the motion to approve the minutes of the November 17, 2011 meeting as written. Mr. Reynolds seconded the motion. The motion passed unanimously.*

**c. Old Business**

There was none

**d. New Business**

There was none

**e. Adjournment**

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

The meeting adjourned at 10:20 p.m

Submitted by: \_\_\_\_\_  
Stacy Shellard, Clerk of the Commission