

January 25, 2011

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

Jeff Vita, Chair
 Fran Nelson
 Bill Reynolds
 Steve Walsh, sitting for Wayne Chorney
 Andrew Holding, sitting for Elaine Dove
 Elaine Dove, not sitting
 Wayne Chorney, not sitting

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
 Genovieve Bertolini, Stenographer

Mr. Vita called the meeting to order at 7:06 p.m., reviewed the agenda and meeting procedures, and the panel introduced themselves.

A. Public Hearing

- 1) **11-6451** 2300 Dixwell Avenue, Requesting action under Section 726.1.1, Appeal of Zoning Enforcement Officer's decision dated 11/7/2011 to issue a zoning permit for a package store. T-5 Zone, Levant Kiranlioglu, Applicant

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 Vita stated that this application was withdrawn at the request of the applicant.

B. Regular Meeting

a. Discussion and voting on Public Hearing items.

- 1) **11-6451** 2300 Dixwell Avenue, Requesting action under Section 726.1.1, Appeal of Zoning Enforcement Officer's decision dated 11/7/2011 to issue a zoning permit for a package store. T-5 Zone, Levant Kiranlioglu, Applicant

Withdrawn at the request of the applicant.

- 2) 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 were 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 for a 1 bedroom unit; T-4 Zone, New Haven Home Recovery, Inc., Applicant.
Tabled from 12/15/11 meeting

Mr. Vita stated that he, Mr. Reynolds, Mr. Williams, Mr. Holding and Mr. Walsh were the Commissioners who sat last month for this application and will be the only members voting on this item. Mr. Lee explained that the Commissioners who heard this application last month are the only members who can comment on this application.

Mr. Holding made the motion to approve this application for discussion purposes. Mr. Reynolds seconded the motion.

Mr. Vita asked Mr. Lee to explain the legal standards that the board must consider with regard to this application.

Mr. Lee stated that the applicant submitted the application under the Affordable Housing State Statute 8-30g and under this statute different standards apply for the Commission's review of the proposal. The State is on record citing the need in Connecticut for affordable housing. If the Town's affordable housing stock (as defined by the Statute), is less than 10 percent, they are subject to the provisions of CSG 8-30g when reviewing an affordable housing application such as this one. The Town of Hamden is below the ten percent threshold and the Town is subject to an application such as this one and it is rightfully before the ZBA. When evaluating the application the Commissioners can not apply the traditional hardships or variance standards applied to other applications before the commission. The Commissioners need to determine whether the application poses a threat to public health, safety and welfare, and if the determination is made of a possible threat than the commission must determine if the public safety threat outweighs the State's interest for affordable housing. The threat would have to be real, identifiable and quantifiable, not just a theoretical concern.

Mr. Lee said that at the public hearing held on December 15, 2011 the Commission did not have the traffic study review by the Town Engineer and the Traffic Commission. Mr. Vita stated that a letter from the Town Engineer was submitted and dated December 28, 2011.

Ms. Leslie Creane, Town Planner, stated that the application was reviewed by the Traffic Commission. There were no concerns with regard to the health, safety or welfare regarding this application.

Mr. Holding feels that a major concern is that the proposed site is not located on a bus route. He stated that the anticipated number of residents who will need to use public transportation does not rise to the level of safety to warrant a rejection of this application. Mr. Holding said that though the site is less than ideal because it is not on a bus line, he does not feel it is an issue to disqualify the application. Mr. Holding stated that the concerns by the Town Engineer are the pedestrian access to public transportation can be mitigated by the relocation of bus stops and a requirement for additional sidewalks and this would satisfy the statutory requirements.

Mr. Nelson said the applicant did not reduce the size from 600 square feet to 500 square feet but they did comment that there would only be one person living in each unit. Mr. Lee said that if the applicant represented that there would only be one person per unit then the Commission could make it a condition of approval. The Commission further discussed the comment made regarding units being only one bedroom with one person in a unit.

Mr. Walsh reviewed the Town Engineer's comments and reviewed item number three. Mr. Walsh feels that there is potential for accidents and would like the driveway on Mill Pond Road be eliminated and only have one on Sanford Street. Mr. Nelson said that he thought the applicant was willing to change the site plan and eliminate the driveway on Mill Pond Road. Mr. Lee said the Commission should refer to the minutes of the previous meeting on December 15, 2011.

Ms. Holly Masi, Zoning Enforcement Officer, advised the Commission that if the application is approved, the applicant must go before the IWC and the P&Z Commission. The P & Z Commission will review the locations of the driveways. Mr. Lee said that the P&Z Commission will apply the same standards as the ZBA when considering an application for this site and if the evidence based on the Town Engineer's comments indicates there is a safety threat with the entrances/exits they could impose a condition for only one driveway.

Mr. Walsh asked if something is detrimental to safety such as exiting or entering the property can the Commission make it a condition of approval to only have access on Sanford Street. Mr. Lee said if the Town Engineer's report supports a threat to public safety the Commission can make a condition of approval. He stated that it is up to the Commission to interpret the report.

Mr. Vita read item number three of the Town Engineer's report. The Commission discussed the Town Engineer's report. Mr. Lee said that the Town Engineer's report does not make reference to the driveway on Mill Pond Road.

Mr. Holding referred to the minutes of December 15, 2011, page 5, and he stated that Mr. Arnold Hyman had asked how many people could live in one unit. Ms. Day had stated that there would be only one person per unit. This comment was made on page 5, second paragraph.

Mr. Holding amended his motion to stipulate that the Commission would approve the application subject to the condition: The applicant does limit the number of persons per unit to one as represented by Ms. Day, the applicant.

Ms. Masi asked if someone living in a unit has a baby would she have to enforce an eviction. Mr. Lee stated yes if it is a condition.

Mr. Walsh said he would like to add a condition: ***There only be a driveway on Sanford Street and not on Mill Pond Road.***

Mr. Dan Kops, Assistant Town Planner, said that it is safer to have an exit on a quiet street and then come to an intersection because the driver would be more aware of an intersection than coming out of a driveway. The Commission discussed their concerns of safety for the egress and ingress of the site.

Mr. Vita said that the pending motion is to approve with the condition of one person per unit. He asked Mr. Walsh if he wants the condition of only one entrance/exit onto Sanford Street. Mr. Lee said that Mr. Holding's motion is pending and they should vote on that motion first.

Mr. Reynolds stated that he is uncomfortable with the one person per unit and the concern if the tenant were to have a child. Mr. Lee said that the applicant's representation was for one person per unit.

Mr. Reynolds seconded the motion as amended by Mr. Holding. Mr. Holding, Mr. Reynolds, Mr. Walsh and Mr. Vita voted in favor of the motion. Mr. Nelson abstained. The motion passed 4-0-1.

b. Approve Minutes of December 15, 2011

Mr. Nelson made the motion to approve the minutes of the December 15, 2011 meeting as written. Mr. Reynolds seconded the motion. Mr. Vita, Mr. Nelson, Mr. Reynolds, Mr. Walsh and Mr. Holding voted in favor of the motion. Therefore the motion passed.

c. Old Business

Mr. Chorney thanked Ms. Masi for dealing with the parking on the sidewalk at Scarpo's on Dixwell Avenue and for confirming that the parking at Playright's on Whitney Avenue does meet the zoning regulations.

Mr. Nelson discussed with Ms. Masi the renovation being done at the Day's Inn on Whitney Avenue. She advised the Commission that it meets the parking requirements and was approved by the Planning & Zoning Commission.

Ms. Dove asked how the percentage for affordable housing is determined. Mr. Lee explained how the State compiles the list from Economic and Community Development and the affordable housing figures can be found on line. The Commission further discussed with Mr. Lee how the income level for affordable housing is established and how a person is considered qualified.

Ms. Diane Perrone, 29 Bromley Court, addressed the Commission and stated that she had been told that the Sanford Street application was implied to be transitional housing. She asked if the owner would pay taxes and Mr. Nelson said yes. Ms. Perrone discussed the traffic study with the Commission. Ms. Perrone asked if an economic impact would be done for the neighborhood when a project such as the approved is built. Ms. Creane said that an economic impact is not allowed to be taken into account. Ms. Perrone stated that the area does not allow multifamily and this is why the applicant asked for a variance. She asked if there were no other properties in Hamden for sale that the zoning regulations would allow this project to be built. Mr. Lee explained that the application that came before this Commission was for the Sanford Street property.

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 7:36 p.m

Submitted by: _____
Stacy Shellard, Clerk of the Commission