

May 24, 2012

MINUTES: THE ZONING BOARD OF APPEALS, Town of Hamden, held a Public Hearing and Regular Meeting on Thursday, May 17, 2012 at 7:00 p.m. in the 3rd Floor Conference Room, Hamden Government Center, 2750 Dixwell Avenue, Hamden, CT. with the following results:

Commissioners in attendance:

Jeff Vita, Chair
 Fran Nelson
 Bill Reynolds
 Wayne Chorney
 Elaine Dove

Staff in attendance:

Dan Kops, Assistant Town Planner
 Tim Lee, Assistant Town Attorney
 Holly Masi, Zoning Enforcement Officer
 Stacy Shellard, Commission Clerk
 Genovieve Bertolini, Stenographer

Mr. Vita called the meeting to order at 7:02 p.m., reviewed the agenda and meeting procedures, and the panel introduced themselves.

A. Public Hearing

- 1) **12-6460** 26 Norman Road , Requesting variances of the following: Section 220, Table 2.3 to permit a 12 foot side yard where a 20 foot side yard is required for an addition to the existing garage. Section 220, Table 2.3 to permit a 34 foot front yard where 40 feet are required. Section 220, Table 2.1 to permit 18 percent building coverage where 15 percent is allowed. R-2 Zone, Joseph Conte, Applicant

Mr. Joe Conte, Applicant, addressed the Commission and reviewed the variance he previously received for a 17 foot side yard. He explained that the plot plan he received from the assessor's office was incorrect and he needed an additional 5 feet for the addition to his garage. Mr. Conte stated that his wife had a knee replacement and needs the additional space to get in and out of the car. He also explained that this variance request for additional building coverage includes the front patio he is building. Mr. Conte reviewed the proposed site plan with the Commission. Mr. Dan Kops, Assistant Town Planner explained that the roof over the front door adds to the building coverage and a variance is therefore needed.

Mr. Chorney asked what the hardship is for the front patio and if it could extend out less than 10 feet. Mr. Conte said he could make the patio under 10 feet. He is adding to the front overhang to protect the area from ice and snow in the winter.

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

Mr. Conte submitted a letter to the Commission. Mr. Vita read a letter from Ms. Maureen Roberts, 35 Norman Road, which stated she is in support of the application.

Ms. Holly Masi, Zoning Enforcement Officer, advised the Commission that there is a letter in the Commissioners packet in opposition of the application.

Mr. Tom Collello, Jr. 173 Heathridge Road, addressed the Commission and stated that he was the real estate broker when Mr. Conte purchased the house. He said that he was happy there would be improvements to the house and that they would enhance the neighborhood and the values of the houses in the area. Mr. Collello advised the Commission that he has received random feedback from neighbors that were positive. He feels that Mr. Conte is a stable person who has been in business for 34 years, and has the best intentions for his needs. Mr. Collello further stated that Mr. Conte had originally thought of renting the house for a brief period of time while he was selling the property he owns in Hamden, but will now be moving into the house. Mr. Collello advised the Commission that Mr. Conte owns houses in Hamden that he rents under Section 8 and to Quinnipiac students, so he is happy that Mr. Conte will be living in the home and not renting it.

Mr. Vita asked for comments against the application:

Ms. Kathy Jergens, 46 Norman Road, addressed the Commission and stated she was never asked for feedback. She said that the applicant's house as it exists is beautiful and all the houses in the neighborhood are well kept. The proposed changes would not help the neighborhood and would be impinging on the abutting property.

Mr. Paul Macaboy, 36 Norman Road, addressed the Commission and stated he does not oppose the additions to the front and rear of the home. He does oppose to the addition to the side of the house because he feels it would encroach on his property and he is concerned with flooding onto his property.

Mr. Conte stated that he has had a business in Hamden for 34 years and he is a pillar in the town. He has donated time to youth soccer. Mr. Conte said that the house he purchased is his dream house and had everything he wanted and could now afford. He said that he needed a ranch home because his wife cannot get up and down stairs. His wife liked the house and the neighborhood but needs the garage to be larger because of her knee replacement. Mr. Conte said that there is no problem with drainage on the property and has taken precautions so that water will not go onto the abutting properties. The work that is being done to the rear of the house has created no problems with water draining off the property. Mr. Conte said that landscaping will be done and his wife will make sure that the landscaping is done properly.

Ms. Debra Conte, 26 Norman Road, addressed the Commission and stated that she is trying to make improvements to her home, and that she is not saying that other homes are not beautiful.

Ms. Masi said that there is a unique situation where Mr. Conte is hooked up to public sewer and the abutting property has a septic system. She would like QVHD to review the application.

Mr. Macaboy stated he is worried about flooding if an addition is put onto the garage. The addition would be approximately 8 feet from the property line and there would be no privacy and his master bedroom faces the property line. Mr. Macaboy reviewed the proposed plan with the Commission. The Commission reviewed the approved variance and the proposed plan with Mr. Conte.

Mr. Vita asked Mr. Conte if he understood Ms. Masi's request to have QVHD review the application and Mr. Conte replied yes. Mr. Conte discussed Ms. Masi's request to have QVHD review the proposed addition and he stated that he wants to make sure that everything is being done correctly.

Mr. Frank DeLucia, 27 Troiano Road, addressed the Commission and asked Ms. Masi where the septic system is located on the abutting property. Ms. Masi said she does not know, but because one exists QVHD should review the plan because of the construction activity being proposed. Mr. DeLucia asked if the abutting property is opposed to the variance request because of a water and drainage. Ms. Masi said that Mr. Macaboy had noted his concerns in a letter to the Commission.

Mr. John Cronin, 76 Norman Road, addressed the Commission and stated that Mr. Macaboy has had water problems in the past and had to have his basement redone. There are houses on the street that have had drainage issues. Mr. Cronin said that Mr. Macaboy has placed gravel around the house to stop water entering it and is concerned that the work being proposed could cause additional problems that he has already fixed and were done at a lot of expense. Mr. Cronin explained that most of the houses on the street are susceptible to water and if the contour of Mr. Conte property is changed it may cause additional problems.

Mr. Conte stated that he is not changing the contour of his property and the only digging being done is in the back of the house where an addition is being added. He will be diverting water away from his house. Mr. Vita asked who had done the measurements of the property lines. Mr. Conte said that a survey was not done and the measurements were done by the architect.

Mr. Collello said that there are natural springs in the area and at different times throughout the year water comes across the road and this needs to be addressed by the entire neighborhood. Ms. Masi explained Mr. Conte is asking for a variance which is outside the scope of the regulations and concerns need to be considered by the Commission.

Mr. Vita asked Mr. Conte if the garage addition could be made smaller and still address the needs of his wife. Mr. Conte said it could be 12 feet but there would still be a need for a variance.

Mr. Nelson asked if there would be a basement and if he would be digging down 42 inches. Mr. Conte replied that he would be going down 42 inches to place the footings and foundation.

Mr. Conte reviewed the process used to determine the property lines. Mr. Conte stated that whether the garage is 12 feet or 14 feet wide he would still need to do the construction and he does not want to have any issues with his neighbors.

Mr. Vita closed the public hearing.

2) 12-6461 2856-2860 Whitney Avenue, Requesting a variance of the following: Section 550.2.7.a to permit two free standing signs on a lot where only one is allowed. T-4 Zone, Margaret Mary English, Trustee, Applicant

Ms. Joan Molloy, Attorney, addressed the Commission and reviewed the history of the site and the variances that have been granted in the past. Ms. Molloy submitted a picture of the previous sign (exhibit 1) that was on the property prior to the Charlton Hill Condominium being constructed. She explained that the existing building is located to the rear of the property and is not directly located on Whitney Avenue and the visibility of the building when traveling on Whitney Avenue is limited. Ms. Molloy said that the parcel is unique in nature because there are two separate commercial buildings and a residential structure on it. Ms. Molloy submitted a picture of sign proposed and the location proposed (exhibit 2). Ms. Molloy said that the existing sign is currently located six inches onto the condominium's property and she has contacted the President of the condominium and the sign will be moved entirely onto the English property. Ms. Molloy reviewed the zoning regulations, Plans of Conservation and Development the economic development goals. The signs would allow the business to support the goals of the Town and would be in compliance with the POCD and the intent of the zoning regulations. Ms. Molloy reviewed the history of a second sign being located on the property in the past and said that a second sign would allow for safe access to the property.

Mr. Vita asked if two signs are recommended for the parcel. Ms. Masi said historically there have been two signs for the parcels because of the location.

Mr. Chorney asked about the sign coverage. Ms. Masi said the sign would not be big or egregious and would not create a site line or visibility issue. Mr. Chorney asked if the two signs would help because it is a busy intersection. Mr. Kops said that the two signs would help people locate the business.

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

Mr. Vita asked for comments against the application:

Ms. Mary Lou Philips, 37 Charlton Hill, Representative for Charleton Hill Condominium Association, addressed the Commission and stated that the existing sign went up without a permit. The Condominium Association said a survey was done of the driveway and the lower property to verify the placement of the sign it was determined that the sign was placed on the property of the condominiums. Ms. Philips said that she is not opposed to the sign if it is placed on the applicant's property. She submitted a letter showing a portion of the survey (exhibit 3) and reviewed the location of the sign with the Commission and Mr. Tim Lee, Assistant Town Attorney. Ms. Molloy advised the Commission and said that the existing sign will be relocated.

Mr. Williams Reilly, 29 Charleton Hill, addressed the Commission and stated that he agrees with the comments made by Ms. Philips.

Mr. Vita closed the public hearing.

- 3) 12-6462** 75 Ralston Avenue, Requesting a variance of the following: Section 220, Table 2.3 to permit a side yard of 8 feet where 12 feet are required for an addition. R-4 Zone, Michael Ross, Applicant

Mr. Michael Ross, Property Owner, addressed the Commission and reviewed the application. Mr. Vita asked if the addition will go up only. Ms. Masi said that the addition will not encroach into the yard.

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

Mr. Vita closed the Public Hearing.

- 4) 12-6463** 19 Barraclough Avenue, Requesting a variance of the following: Section 220, Table 2.3 to permit a 6 foot 4 inch side yard where 10 feet are required for a deck. R-5 Zone, Nelsie Mills, Applicant

Mr. Derrick Lewis, addressed the Commission and reviewed the application and the site.

Ms. Masi said that the proposed deck will not encroach into the existing side yard and the deck would go into the rear yard. Ms. Masi asked Ms. Nelsie Mills, Property Owner, if there is an accessory structure located in the rear yard because there is no zoning permit on file. Ms. Mills said that there had been a garage that came down during the hurricane and the work to rebuild it had started but then stopped. Ms. Masi said that she will need a zoning permit to continue the work.

Mr. Chorney reviewed the proposed plan and noted that the deck would be set in from the footprint of the house. The Commission reviewed the location of the deck and the accessory structure. Mr. Tim Lee, Assistant Town Attorney explained that the variance being requested is for the deck only. Mr. Chorney advised Ms. Mills that she must cease any further work on the garage until she receives a zoning permit and Ms. Mills agreed.

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

Mr. Vita closed the Public Hearing.

- 5) 12-6464** 102 School Street, Requesting variances of the following: Section 600, Table 6.1 to permit a two family house where only a single family is allowed. Table 3.4 to allow two dwelling units where no more than one is allowed per the residential density permitted. T-3 Zone, Edward Pierpont, Applicant

Mr. Ed Pierpont, Applicant, addressed the Commission and reviewed the application and the existing properties in the neighborhood. He explained that when the property was being purchased the Assessor's field card showed the zone as R-5. He further stated that after the property was purchased, it was determined that the zone is T-3 which does not permit a two family home. Ms. Masi explained that the assessor's records do not reflect the new zoning.

Mr. Vita asked Mr. Pierpont if he would be living in the house. Mr. Pierpont replied that his daughter and his mother would be living in the home. Mr. Pierpont said that there is plenty of parking located in the rear of the house.

Mr. Reynolds asked what the percentage of impervious surface was on the site. Mr. Pierpont stated that the parking area already exists.

Mr. Reynolds asked what the hardship is. Mr. Pierpont replied that the property was purchased with the thinking that a two family house would be okay. He can still build the house as a one family dwelling and that it could house the same amount of people, but that a two family would be a better living arrangement for his mother and daughter.

Mr. Chorney stated that there does not appear to be an obvious hardship even with the belief that the house was located in an R-5 zone. Mr. Pierpont reviewed with the Commission the existing one and two family houses in the neighborhood. Mr. Chorney advised Mr Pierpont that it is his responsibility to provide the hardship and the property is viable with a one family house.

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

Mr. Vita asked for comments against the application:

Ms. Barbara Sendroff, 92 School Street, addressed the Commission and stated that she is against the application. She explained that the existing two family homes were built in the 1930's. Ms. Sendroff asked when the zoning regulations had changed and Ms. Dove replied in January, 2010. Ms. Sendroff is concerned that the parking of vehicles will spill onto School Street which already has problems with street parking and traffic. Her understanding is that each house is allowed one parking space on the street, but it is rare she can do that because of the employees and patrons that use existing businesses in the area. Ms. Sendroff asked what the existing parking regulations are.

Ms. Sendroff stated that there is already existing parking on the property which can hold up to four vehicles in the rear and four vehicles in the driveway. Ms. Sendroff said that the rear area of the property was previously used for storage and asked if it could be used for parking.

Mr. Kops explained that when the property was an R-5 zone two family houses were allowed but were required to have a 9,000 square foot lot and this property as it exists is only 6,000 square feet. He stated that the paved area located in the rear of the house would only allow up to three cars and reviewed the zoning regulations for parking and the stacking of vehicles. Mr. Kops also said that if the parking area would need to be expanded, it would reduce an already small rear yard and impervious surface calculations would be needed.

Mr. Pierpont agreed that there is room for three vehicles but he could park at least two cars in the driveway. Ms. Masi stated that a parking space must be 9 feet by 18 feet per space and that the spaces must be shown on the plan.

Mr. Vita closed the Public Hearing.

- 6) **12-6465** 297 Welton Street(aka 0 Welton St), Requesting a variance of the following: Section 570.b to permit an 8 foot high fence where only 4 feet are allowed within the first 25 feet of the front property line. M Zone, MTG Inc.

Mr. Michael Milazzo, Attorney, addressed the Commission and reviewed the site and the application. He submitted pictures of the site (exhibit 1). Mr. Milazzo stated that the configuration of the property creates the hardship. Mr. Milazzo reviewed the use of the site to store cars under a government contract. Mr. Milazzo explained that the property cannot be seen from the road and if someone were to go over the fence and damage the vehicles it would be his client's responsibility. Mr. Milazzo submitted pictures of the fence to be used. He discussed the location and height of the proposed fence including the barb wire.

Mr. Chorney asked if the barb wire would count towards the height of the fence and Mr. Kops said yes. Mr. Lee explained if the barb wire made the fence height more than eight feet high, the variance request would need to be re-advertised. Mr. Milazzo stated that they have no objections to the variance being requested. The Commission further discussed the zoning regulations for a fence with the Planning Staff.

Mr. Peter Saldamarco, 185 Welton Street addressed the Commission and advised the Commission that the fence that currently exists on a portion of the property is 6 feet high with barb wire which would make the fence approximately 7 feet tall.

Mr. Kops said that his interpretation of the zoning regulations is that the fence cannot be higher than six feet in any required side and rear yard. The required side and rear yard in this zone is 0. He said that the front yard has a maximum of four feet in height for a fence and there is no allowance for visibility. The variance being requested is for the front yard only.

The Commission and Planning Staff reviewed the location of the site, proposed height of fence and entry to the property with Mr. Milazzo. Mr. Milazzo said that there will be a trailer located on the site and it will be used as an office.

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

Mr. Vita asked for comments against the application:

Mr. William Marinos, 296 Welton Street, addressed the Commission and asked if Mr. Saldamarco owns the property and was advised he is renting the property.

Mr. Robert Braccidiferro, 306 Welton Street, addressed the Commission and asked if the applicant could access the property from the rear. He is concerned with traffic and the speed of vehicles because there are children on the Street. Mr. Milazzo explained that the parcel cannot be accessed through the rear of the property because the road is private and he reviewed the site. Mr. Saldamarco explained that he does not have legal permissible access to the rear because it is a private road and he is not sure who owns the property. Mr. Vita said that Mr. Saldamarco may want to look at an easement in the future.

Mr. Vita closed the Public Hearing.

7) 12-6566 191 Thornton Street, Requesting a variance of the following: Section 220, Table 2.3 to permit a 6 foot side yard where 12 feet is required for an addition. R-4 Zone, Frank & Robin Esposito, Applicant
Tabled until the June 21, 2011 Meeting at the Applicant's request

8) 12-6567 61 Overlook Drive, Requesting a variance of the following: Section 650.1.a to permit motor vehicle service & repairs on a lot with 110 feet of frontage on a Town street where 150 feet of frontage is required. M Zone, Anthony Monaco, Applicant.

Mr. Anthony Monaco, Applicant, addressed the Commission and stated he would like to do general repairs on the site.

Mr. Steve Inzero, 61 Overlook Drive, addressed the Commission and reviewed the application. He said that the property frontage is 110 feet and the zoning regulation requires 150 feet. Ms. Masi explained that general repair is allowed in an M zone but the property does not meet the frontage requirement. The applicant will need to get a special permit and site location approval.

Mr. Nelson asked if fabrication work will be done on the site. Mr. Monaco said yes and reviewed the work that will be done to the vehicles on the site.

Mr. Chorney asked if the intensity of use will change. Mr. Kops said that a special permit is needed for automotive repairs and a location approval will be needed because the P&Z Commission acts as an agent for the MVD. The Commission reviewed the location of the site.

Ms. Dove asked if the site is sold at a later date what kind of business could go in if the variance is granted. Mr. Lee explained that the variance will only allow the site to be used for automotive use. Mr. Kops said that location approval for automotive use is required by the MVD, but the site would have the necessary frontage for a manufacture use. Ms. Masi said that a location approval would be needed for each new owner.

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

Mr. Vita closed the public hearing.

B. Regular Meeting

a. Discussion and voting on Public Hearing items.

12-6460

Mr. Chorney made the motion to approve Application 12-6460. Mr. Nelson seconded the motion. Mr. Chorney said that a hardship was stated for the addition to the garage. He stated that the front portico entry way is a decorative feature but it is also being done for weatherization because it is an open area. It is a minor intrusion and will not affect the allowed amount of impervious surface coverage. Prior to a zoning permit being issued the applicant must receive approval from QVHD to address the proximity of the abutting property's septic system. ***The motion passed unanimously.***

12-6461

Mr. Nelson made the motion to approve Application 12-6461. Mr. Reynolds seconded the motion. Mr. Nelson stated that the hardship is a safety issue and that the 2 signs are better than one because of the location on the main road with traffic moving at high rates of speed. Mr. Vita feels that there is a safety issue, but the location of the property is unique and historically has had two signs. ***The motion passed unanimously.***

12-6462

Mr. Nelson made the motion to approve Application 12-6462. Mr. Reynolds seconded the motion. Mr. Chorney stated that the request is staying within the existing line and no increase to the footprint. ***The motion passed unanimously.***

12-6463

Mr. Nelson made the motion to approve Application 12-6463. Mr. Reynolds seconded the motion. Mr. Nelson stated that the deck will be built a few feet in on the existing house on a side yard that is non-conforming and it will be better than what already exists. ***The motion passed unanimously.***

12-6464

Mr. Reynolds made the motion to deny Application 12-6464. Mr. Chorney seconded the motion. Mr. Nelson stated that no hardship was shown and the street does not need additional cars or traffic congestion. *The motion passed unanimously.*

12-6465

Mr. Nelson made the motion to approve Application 12-6465. Mr. Reynolds seconded the motion. Mr. Nelson stated that the 8 foot high fence would include to the top of the barb wire, and if any additional height is needed the applicant would need to come back to the ZBA. There is no restriction on the sight line. *The motion passed unanimously.*

12-6467

Mr. Reynolds made the motion to approve Application 12-6467. Ms. Dove seconded the motion. Mr. Nelson stated that hardship is the location of the property and that the applicant is asking for a minor variance of 150 feet. *The motion passed unanimously.*

b. Approve Minutes of April 19, 2012

Mr. Reynolds made the motion to approve the Minutes of April 19, 2012 as written. Ms. Dove seconded the motion. Mr. Reynolds, Mr. Chorney, Ms. Dove and Mr. Nelson voted in favor of the motion. The motion passed.

c. Old Business

There was none.

d. New Business
Election of new officers

Ms. Dove made the motion that Mr. Vita remain as Chairperson and Mr. Chorney remain as vice-chair. Mr. Nelson seconded the motion. The motion passed unanimously.

Mr. Chorney said that there are many signs appearing in the right of way. Ms. Masi said that she is working with Mr. Bill Sikorsky, Litter Enforcement Agent. Ms. Masi said she receives negative comments from the business owners when she asks them to remove the signs.

e. Adjournment

Mr. Nelson made the motion to adjourn. Mr. Reynolds seconded the motion. The motion passed unanimously.

The meeting adjourned at 8:46 p.m

Submitted by: _____
Stacy Shellard, Clerk of the Commission