

July 25, 2012

MINUTES: THE ZONING BOARD OF APPEALS, Town of Hamden, held a Public Hearing and Regular Meeting on Thursday, July 19, 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
Wayne Chorney
Bill Reynolds
Fran Nelson
Suzanne Carroll, sitting for Elaine Dove

Staff in attendance:

Dan Kops, Assistant Town Planner
Tim Lee, Assistant Town Attorney, arrived at 7:40 p.m.
Holly Masi, Zoning Enforcement Officer
Stacy Shellard, Commission Clerk
Lisa Raccio, Stenographer

Mr. Vita called the meeting to order at 7:07 p.m., reviewed the agenda and meeting procedures, and the panel introduced themselves.

A. Public Hearing

- 1)12-6566** 191 Thornton St, Requesting variance:Section 220,Table 2.3 to permit 6ft side yard where 12ft is required for an addition. Section 220,Table 2.1 to permit 44% impervious surface where 30% is allowed. R-4 Zone, Frank & Robin Esposito, Applicant
Public Hearing Continued from the June 21, 2012 meeting

Mr. Vita and Mr. Nelson stated that they have both reviewed the application and the documents in support and against the application and feel that they understand the request.

Mr. Don Lamy, Contractor, addressed the Commission and reviewed the revised site plan and the existing footprint of the house. Mr. Vita asked if the existing house is five feet from the property line and Mr. Lamy said yes. Mr. Vita asked how far the existing room and deck off the back of the house is from the property line. Mr. Lamy said it is approximately 5 ½ feet from the property line and the revised plan is increasing the side yard and it will be less impervious. The net impervious surface will be 40 square feet. Mr. Lamy said that a 4 x 10 foot section of the driveway can be removed and changed to a pervious surface.

Mr. Nelson asked if asphalt was being added and that is why 44 percent impervious surface was being requested. Mr. Lamy said that the original request included a deck and that it was removed from the revised plan. Mr. Nelson asked what the percentage would be with the revised plan. Mr. Lamy did not have the exact amount, but stated that it would be less than what exists. The Commission further discussed the impervious surface on the site. Mr. Lamy stated if the Commission requires removal of some pervious surface they allow the applicant to decide where it would be removed from.

Mr. Nelson asked if the revised plan changed the configuration of the proposed room. Mr. Lamy said that the revised plan is to make the room smaller. He said that at the last meeting there was a concern for flooding. Gutters will be placed on both sides of the addition and the water will be directed to the rear of the property and the property grade will not be changed. Mr. Nelson explained that there is a requirement that all water stay on the homeowners property and Mr. Lamy replied that it would.

Mr. Vita reviewed the letters received that were for and against the application.

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

Mr. David Cataldo, 131 Wakefield Street, addressed the Commission and stated that he has lived in the neighborhood for 28 years and it is a friendly neighborhood. He said that the applicants decorate for the holidays. There have been several houses with additions built on to the houses and they are more invasive than what is being requested by the applicant. Mr. Cataldo feels that the applicants are good neighbors and that he is in favor of the application.

Ms. Heddy Weiner, 225 Thornton Street, addressed the Commission and stated that she is in favor of the application. She said that there are four other houses on the street that have rooms located off the back of them. They are located at 175, 185, 205 and 215 Thornton Street. She feels that additions are a common practice and new families should be allowed to add to their homes if within reason. She submitted a letter to the Commission.

Mr. Eric Annes, 200 Thornton Street, addressed the Commission and stated that he is a member of the Inland Wetlands Commission. A de minimis review was done and it was determined that the impact to the environment would be minimal. Mr. Annes feels that the addition fits within the back of the property and will not be unsightly. He said that the applicants keep the house in meticulous order and the yard is well kept. He further feels that it is important to accommodate the applicants and the request for the addition should be allowed.

Mr. Vita asked for comments against the application:

Ms. Susan Wade, 195 Thornton Street, addressed the Commission and submitted a letter to the Commission and read it into the record.

Ms. Holly Masi, Zoning Enforcement Officer, stated that the impervious surface for most of the houses located on Thornton Street and within Spring Glen as they exist became legal non conforming when the zoning regulations were amended in 2010. As the house sits now, it is non conforming and it would not have a large increase with the proposal. Also many houses on Thornton Street and in Spring Glen do not meet the side yard setbacks as they exist. Ms. Masi said that many houses on Thornton Street have received variances in the past and it is hard to determine if they are conforming. Ms. Wade said that there have been variances that have also been denied.

Mr. Vita reviewed with Ms. Wade the location of her house in relation to the applicants.

Mr. Chorney said that a house is required to have a 12 foot side yard, but many are legal non conforming. Many of the houses in Spring Glen conform on the side with driveway and the other side is non conforming. Mr. Chorney explained that when additions are constructed it would not be on the side with the driveway because of the detached garages. There are many houses in Spring Glen with additions. Ms. Wade said that there are large lots in Spring Glen that have had additions constructed and do not encroach on their neighboring property. Mr.

Chorney said that there would be five feet beyond the required side yard setback from Ms. Wade's property line and would not encroach onto her property. Ms. Wade questioned if the measurements submitted are correct. The Commission and Planning Staff discussed the proposed addition and side yard setback requirements. Ms. Wade said there is fence located in the rear yard and Mr. Chorney explained that it does not impact the side yard setbacks.

Mr. Seth Rosenthal, 86 Heloise Street, addressed the Commission and submitted a letter and read it into the record. Mr. Rosenthal added that at the last meeting there had been a discussion as it relates to the existing impervious surface and that the amended regulations did not change the allowed 30 percent. The impervious coverage for the proposed addition will be approximately 50 percent. Ms. Masi explained that the existing driveway could be removed and replaced with pervious surface and the applicant would be in compliance with the zoning regulations.

Ms. Ellen Rosenthal, 185 Thornton Street, addressed the Commission and submitted a letter and read it into the record. She further stated that the letters of support received by the Commission were from property owners that are not directly impacted by the proposed addition.

Mr. Nelson said that Ms. Rosenthal stated in her statement that the proposed wall would be 17 feet high. He explained that the wall would only be 8 feet high and 17 feet to the peak. Ms. Rosenthal replied that 8 feet is still higher than a privacy fence. Mr. Nelson said that she had stated that her roof line is 10 feet tall and then goes higher to the peak. Ms. Rosenthal said that the addition would be 22 feet long x 20 feet wide on her side with a cathedral ceiling. The Commission further discussed with Ms. Rosenthal the dimensions and height of the proposed addition and the addition that was added to her house prior to her purchasing it. Ms. Rosenthal is concerned with the size of the structure and how it will block the sunshine onto her property. Mr. Chorney explained that if the proposed addition had 12 feet side yards it could also increase the height by adding a second story. Ms. Rosenthal explained that she understands that the applicants could add a second story, but that this is not what they are proposing.

Ms. Masi explained that a variance would not be needed if the applicant reduced the size of the addition and added a second floor. If the driveway is removed and replaced with a pervious surface the applicant would not need to come before the ZBA. Mr. Nelson said that the position of the ZBA board is what would have the least impact on the property.

Mr. Vita asked Mr. Lamy if the proposal includes changes in the grade or topography of the property that would affect the abutting properties. Mr. Lamy stated that the landscape will remain as it is. The tree that was in the yard is 12 to 15 feet away and there will be no impact to the root system.

The Commission discussed with Mr. Lamy the location of the proposed addition in relation to the existing structure and floor plan.

Mr. Vita closed the Public Hearing.

2)12-6469 163 Harmon St, Requesting variance Section 220, Table 2.3 to permit a 22.5ft front yard where 25ft is required for a 2nd story addition; R-4 Zone, Joe Schreck, Applicant

Mr. Nelson stated that the applicant is his cousin's brother in-law and will not impede his decision.

Mr. Schreck, Applicant, addressed the Commission and reviewed the application.

Mr. Nelson asked if the proposed addition would stay with the footprint of the main house and Mr. Schreck replied yes. Mr. Schreck explained that his wife would like the house to be in character with the original house prior to an addition that was put on it. Mr. Vita asked where the addition would be built and Mr. Schreck said above the existing addition. Mr. Chorney said the lot is an odd shape and would be a hardship to move the addition back because it would impede on the rear line to go beyond the existing house. Mr. Schreck explained that it would require more building coverage if the addition was added to the back of house.

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

Ms. Mary Glynn, 4 Harmon Street, addressed the Commission and stated that staying within the foot print of the existing house would be more traditional. The addition would support her brother's growing family and keep him in the neighborhood.

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

Mr. Vita closed the Public Hearing.

3)12-6470 19 Vernon St, Requesting variance: Section 220, Table 2.1 to permit 34% impervious surface where 30% is allowed for a deck; R-4 zone, Amy Sowitcky, Applicant

Ms. Amy Sowitcky, Applicant, addressed the Commission and reviewed the application and the existing deck. Mr. Nelson asked if there would be a roof over the deck and Ms. Sowitcky replied no. Mr. Nelson asked why the deck would be impervious if the water goes through it. Ms. Masi said that decks are structures and have been considered impervious. If it is represented that the deck will not hold water then it can be considered pervious. There is concrete located under the deck. Ms. Sowitcky stated that she would be using bullnose decking and she would not be adding to the concrete. Ms. Sowitcky reviewed the floor plan of the house.

Mr. Chorney asked if Ms. Sowitcky would be adding to the existing deck would be pervious and she replied she is replacing the entire structure. Ms. Masi said that the variance is needed because of the concrete pad the applicant has 32 percent impervious coverage. The Commission further discussed the need for the variance with the Planning Staff and the Applicant.

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

Mr. Dave Smith, 20 Vernon Street, addressed the Commission and stated that he is in favor of the application.

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

Mr. Vita closed the Public Hearing.

4) 12-6471 2237-2241 State St, Requesting variances: Table 3.4 to permit 44ft where 18ft is allowed for the principal building front yard setback, Section 360.1.b & 360.4.a to permit parking in the front of a building, Section 360.3.b to permit a driveway width of 25ft where the maximum of 18ft is allowed, T-4 Zone, McNeil Properties, LLC, Applicant

Mr. Richard Greenalch, Professional Engineer, addressed the Commission and reviewed the application and the site. He explained that the FDA has required that all services for the Fish Market must be inside and the owner would like the addition to help increase his business. Currently the freezers are located outside and the FDA now requires that they be located inside. He reviewed the proposed floor plan with the Commission.

Mr. Vita asked if the house that is attached to the market is currently being occupied and Mr. Greenalch replied yes. Mr. Greenalch explained that there is no practical way to make the building look good if he meets the current zoning regulations and places the addition 18 feet from the street. He said that the business could not exist if the parking is located in the back as required by the zoning regulations. Mr. Greenalch submitted pictures of the site. He reviewed the variances being requested.

Mr. Nelson asked if there is any parking located in the rear. Mr. Greenalch said there will be some parking located in the rear and it will be the trucks and residents living in the house. There will be some use of pervious surface in

the rear. Mr. Greenalch said that Mr. McNeil, property owner wants to expand his business which has been in business 24 years at this site. The site is small and if Mr. McNeil had requested this expansion prior to the amendment to the zoning regulations a variance would not have been needed.

Mr. Nelson asked if the hardship is the amended zoning regulations with a preexisting building and Mr. Greenalch replied yes.

Mr. Robert McNeil, Property Owner, addressed the Commission and stated that the hardship is that the new FDA requirements will not allow him to operate his business as it currently does. He sells wholesale and to the public. Mr. McNeil's orders are fabricated in the shop and must go in and out of the freezers prior to being shipped. Mr. Greenalch stated that Mr. McNeil will not be able to continue his business at this location if he is unable to expand the building. The proposed changes to the building will look better than as it exists when the work is completed.

Mr. Chorney and Ms. Masi discussed with Mr. Greenalch previous variances that have been granted for the property. The variances were granted when the zone was a CDD-1, and the property is now located in a T-4 zone.

Mr. Chorney discussed the existing parking and the proposed parking with Mr. Greenalch. Mr. Greenalch discussed the difficulties that would exist if the building was located closer to the street.

Mr. Reynolds asked where the delivery trucks would park and Mr. McNeil said the trucks would park at the rear of the property.

Ms. Carroll asked if the parking areas would be repaved. Mr. Greenalch reviewed the parking areas and the work proposed. The paving proposed to be used will be pervious. Ms. Masi explained that if the variance is granted, the applicants next step would be to go to the Planning and Zoning Commission for approval.

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.

12-6466

Mr. Nelson made the motion to approve Application 12-6566. Mr. Reynolds seconded the motion. Mr. Nelson stated that the applicant came back to the ZBA with a revised plan. They tried to reduce the impact on the side yard. Though the proposed addition is large, it fits the house as it represented in the drawing. Mr. Chorney stated that the alternative to meet the setback requirements would require a longer building to get the same square footage, and it could come over beyond the house on the left side. The applicant's proposal is in character with what is typically seen for this style house. Mr. Vita stated that the proposed addition is very close to the existing footprint of the closed in porch and deck. Mr. Chorney said the applicant has volunteered to remove a 4 x 10 square foot area of pavement and replace it with a pervious material to be done in a location of their choice. The Commission further discussed the replacement of a 40 square foot area of the driveway and replace it with pervious material. Mr. Nelson stated that he would like the driveway intact instead of cutting a piece out.

The motion passed unanimously.

12-6469

Mr. Reynolds made a motion to approve Application 12-6469. Mr. Nelson seconded the motion. Mr. Reynolds stated that the hardship is the shape of the lot. The proposed addition would not be outside the footprint of the existing house and they are going up.

The motion passed unanimously.

12-6470

Mr. Reynolds made the motion to approve Application 6470. Mr. Nelson seconded the motion. Mr. Nelson stated that the deck will be a pervious deck using bullnose decking. The space between the slats will be ¼ inch apart and water will past through the deck. There is a concrete slab under the deck with mostly grass area. The applicant is unsure of the size of the concrete slab, but Mr. Reynolds feels that the amount of impervious surface is close to what is required. Mr. Vita said that there is an existing deck. Mr. Nelson feels that the proposed deck will be pervious.

The motion passed unanimously.

12-6471

Mr. Nelson made the motion to approve application 12-6471. Mr. Chorney seconded the motion. Mr. Nelson stated that the hardship is the new regulations on an existing structure and the FDA strict requirements to run the applicants business. Mr. Nelson stated that the existing structure would not meet the new regulations and Mr. Vita agreed. Mr. Chorney noted that there are railroad tracks located behind the business.

The motion passed unanimously.

b. Approve Minutes of June 21, 2012

Ms. Carroll made the motion to approve the Minutes of June 21, 2012 as written. Mr. Reynolds seconded the motion. Ms. Carroll, Mr. Reynolds and Mr. Chorney voted in favor of the motion. Therefore the motion passed.

c. Old Business
135-145 Sanford Street-Settlement of Pending Litigation

Mr. Tim Lee discussed the pending litigation with the Commission.

d. New Business

Mr. Vita advised the Commission that the August 16, 2012 meeting has been canceled.

e. Adjournment

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

The meeting adjourned at 8:27 p.m

Submitted by: _____
Stacy Shellard, Clerk of the Commission