

Draft minutes subject to approval of the Commission.

April 22, 2013

MINUTES: THE ZONING BOARD OF APPEALS, Town of Hamden, held a Public Hearing and Regular Meeting on Thursday, April 18, 2013 at 7:00 p.m. in the 3rd Floor Conference Room, Hamden Government Center, 2750 Dixwell Avenue, Hamden, CT and the following will be reviewed:

Commissioners in attendance:

Bill Reynolds, Acting Chair
 Fran Nelson
 Suzanne Carroll, Alt. For Elaine Dove
 Steve Walsh, Alt. For Jeff Vita
 Andrew Holding, Alt. For Wayne Chorney

Staff in attendance:

Dan Kops, Assistant Town Planner
 Tim Lee, Assistant Town Planner
 Holly Masi, Zoning Enforcement Officer
 & *Acting Clerk*
 Lisa Raccio, Stenographer

Mr. Reynolds called the meeting to order at 7:00 p.m., reviewed the agenda and meeting procedures, and the panel introduced themselves.

A. Public Hearing

- 1) **13-6492** 94 Cooper Ln, Requesting a variance: Section 220, Table 2.3 to permit a side yard setback of 6 ft where 12 ft is required for an addition, R-4 zone, Joshua & Daniel Rossner, Applicant

Public Hearing opened at 7:04 p.m.

Mr. Rossner, the applicant, came forward to review the application and plans on file for a proposed addition.

Mr. Reynolds asked for public comments. There were no comments in favor.

Gerald McRoberts, 104 Cooper Lane, came forward to speak against the application. He submitted a picture of the Public Hearing sign placement (marked Exhibit 1) noting that he was concerned that it wasn't placed in a way that was easily visible to the public. He also submitted a picture of the existing house with a sketch of where he noted the addition will go (marked Exhibit 2). He raised concerns about the proposed encroachment into the setback noting that he thinks that there will be additional noise. He referenced the applicant's dogs and raised concern about barking. He doesn't feel the variance is necessary. He suggested alternate locations for the addition that would not require a variance.

Attorney Lee recommended that the Commission continue the Public Hearing to next month's meeting so the applicant can move the sign closer to be more visible to the public as well as give the applicant the opportunity to talk with Mr. McRoberts.

Alex Rossner, the applicant's father, 22 Glen Street, Milford, came forward to speak about the proposed addition. He submitted 5 pictures of the existing part of the house that the applicant proposes to expand (marked as Exhibit 3). He noted that this structure has been there forever. Mr. Houlding asked why the addition cannot be moved to the rear. Mr. Rossner responded that there is too much ledge. He noted that this existing area would allow for the extension of the slab and a platform over it. He also noted they do not want to affect a stream if there is one. He noted this is the best location that would involve the least amount of site work. There was further review of the application and alternative locations discussed by the applicant and the Commission. Mr. Rossner does not understand the neighbor's objection. Mr. Kops reviewed the intent of the Zoning Regulations and the expectations of property owners regarding compliance with them.

Mr. Nelson made a motion to continue the Public Hearing to the May 16, 2013 meeting to allow the applicant the time to locate the Public Hearing sign in a more publicly visible location as well as talk with the neighbor, Mr. Houlding seconded the motion. The motion passed unanimously.

- 2) 13-6493** 2666 Dixwell Ave, Requesting a variance: Table 6.1, Allowable Uses, to permit a first floor chiropractic office where none is allowed, R-4 zone, Norma Camacho & Daniel Tarifi, Applicants

Public Hearing opened at 7:27 p.m.

Attorney Bernard Pellegrino came forward to review the application and plans on file for the proposed use variance to allow a chiropractic office on the first floor and residential on the second floor. He noted that Planning and Zoning Commission approval would also be required should the variance be granted and reviewed the additional parking spaces needed. He reviewed the strip of properties on Dixwell Avenue from this property to Sanford Street, which are zoned R-4 and noted the other side is zoned T-4. Most of the homes in this area have gone through similar transitions. He reviewed the history and noted that he tailored the variance request to this particular proposal. He noted the hardship as the limited utilitarian benefit of the R-4 properties on Dixwell Avenue based on the location and the uses in the proximity of this location.

Mr. Reynolds asked for public comments. There was no one present to speak; however, there was a letter submitted in opposition. Mr. Kops read the letter (on file) noting concerns about the variance request since the zoning was kept Residential. Ms. Carroll asked for clarification about the zoning changes. Mr. Kops reviewed the process of how the regulations and map were amended and that, in error, the original map change rezoned this strip as T-4, and that this was subsequently corrected to keep it R-4. Attorney Pellegrino noted that he contacted the Council Person for this area and had a meeting with the neighbors. No one came to the meeting. Ms. Masi noted that this house had been used for Student Housing and that several houses in the area had been used for student housing resulting in neighbors complaining about parking and property damage. Mr. Kops reviewed the criteria in the Zoning Regulations for granting a use variance. Attorney Pellegrino responded noting that there was an intent to rezone this strip commercial and that the proposal is in keeping with what was intended to happen and with what is happening in the neighborhood. He also noted rentals creating issues. This is the most limited variance requested without many alternatives. It is a part time use limited to a chiropractic office. He doesn't feel the applicant did anything to necessitate the variance. There was a discussion about this. Attorney Houlding noted that they knew they would need a variance for the proposed use, but they took the gamble anyway in purchasing the property. Attorney Pellegrino noted that they didn't cause the factors necessitating the variance. Mr. Walsh asked about the rest of the houses in the strip on their side. Attorney Pellegrino reviewed the uses.

Public Hearing closed at 7:50 p.m.

- 3) 13-6494** 2300R, 2308, 2320 & 2330R Whitney Ave, Requesting a variance: Section 591.1.15.b to permit interior landscaping areas with a minimum dimension of five feet where nine is required, for a hotel/commercial/retail site, T5/T4 zone, NU Development, LLC, Applicants

Public Hearing opened at 7:51 p.m.

Attorney Pellegrino came forward to review the application and plans for the proposed redevelopment of the 4 former Centerville Lumber properties. He noted that there is an application currently before the Inland Wetlands Commission and that an application is being prepared for the Planning and Zoning Commission. He reviewed the landscaping within the proposed parking areas and noted that the geometry and configuration of the proposed parking lot necessitates the proposed variance; however, the overall requirement for landscaping will be more than met. Commissioners reviewed the plans.

Mr. Reynolds asked for public comments. There were no public comments.

Public Hearing closed at 7:55 p.m.

- 4) 13-6495** 2384-2392 Whitney Ave, Requesting variances of Section 320.1.d. To allow a first floor height of eight feet where eleven is required, and Table 3.4 to allow an Expression Line Height of 15 feet six inches where 17 feet is required, for a restaurant expansion, T-5 zone, Tri-Star Realty, LLC, Applicant

Public Hearing opened at 7:56 p.m.

Attorney Steven Ciardiello came forward to review the application and plans on file for the proposed expansion to Eli's Restaurant. He noted that this is the old "Conte" building. The variance requested is aesthetic and there will be a Site Plan application heard by the Planning and Zoning Commission. The plan is for the two facades to all become one so there is a consistent visual appearance. The outdoor seating proposes is consistent with the Plan of Conservation and Development. The intent is for the building to be aesthetically pleasing with consistency overall. There is no benefit in not being consistent. The hardship is in trying to match the old aesthetics with the new building and meeting the regulations. There was review of the application, the proposed expansion and the architectural drawings for clarification.

Mr. Reynolds asked for public comments. There were no public comments.

Public Hearing closed at 8:15 p.m.

B. Regular Meeting

a. Discussion and voting on Public Hearing items.

13-6492

Public Hearing continued to May 16, 2013

13-6493

Mr. Houlding made a motion to approve the application for discussion purposes; Mr. Nelson seconded the motion. Mr. Houlding thinks that while it makes sense and seems to be consistent with what is going on in the neighborhood, it is difficult to find that they meet all the requirements for the granting of a use variance. Mr. Nelson noted that they meet the majority of the requirements and that it fits the area as they are seeing more and more commercial on Dixwell Avenue. It is a part-time use and would be owner occupied when the practice is open. Mr. Walsh noted concerns that the regulations and map were purposely corrected to keep these properties zoned R-4 and that the application does not meet all the use variance criteria. Mr. Reynolds noted that they bought the property knowing that a variance would be needed. Mr. Nelson thinks it is a good area for professional use. Mr. Reynolds thinks the hardship seems self made and he is concerned about opening the door for the other properties regarding use variances. Mr. Kops noted that each application is individual. The motion failed 3-2 with Mr. Nelson, Ms. Carroll, and Mr. Walsh voting in favor of the application and Mr. Houlding and Mr. Reynolds voting against the application.

13-6494

Mr. Nelson made a motion to approve the application; Mr. Walsh seconded the motion. Mr. Nelson noted that the shape and configuration of the lots is the hardship and they are compensating with other greenery so they are asking for a minimal variance. The motion passed unanimously.

13-6495

Mr. Holding made a motion to approve the application; Mr. Walsh seconded the motion. It makes sense to accommodate the aesthetics hardship and it is a minor variance within the context of the scope of the project and the hardship has been met for the purposes of the their approval. The motion passed unanimously.

b. Approve Minutes of February 21, 2013

This item was tabled to the May 16, 2013.

c. Old Business

There was no Old Business discussed.

d. New Business

There was no New Business discussed.

e. Adjournment

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

The meeting adjourned at 8:30 p.m.

**Submitted by: _____
Holly Masi, Acting Clerk of the Commission**