

May 22, 2013

AGENDA: THE ZONING BOARD OF APPEALS, Town of Hamden, held a Public Hearing and Regular Meeting on Thursday, May 16, 2013 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
Elaine Dove

Staff in attendance:

Dan Kops, Assistant Town Planner
Holly Masi, Zoning Enforcement Officer
Stacy Shellard, Commission Clerk
Lisa Raccio, Stenographer

Mr. Vita 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- 1) **13-6492** 94 Cooper Ln, Joshua & Daniel Rossner, Applicant, *Withdrawn at the applicant's request*
- 2) **13-6496** 2695 State St, Requesting a variance: Figure 3.6, to allow a building of 1 story in height where 2 are required and a front yard setback of 46 ft where a maximum of 18 ft is allowed, T-4 zone, John Rufrano, Applicant

Mr. Joseph Ciarleglio, Luanci Construction, addressed the Commission and noted that the building currently has a 44 foot front yard setback which was grandfathered in when the zoning regulations were amended. He received a notice of violation and he read the current zoning regulation 31.2 which is specific to zones T-4 and T-5. Mr. Ciarleglio reviewed the application. He noted that the proposed location of the addition would maintain the front line of the building. If the addition were moved closer to the road it would be a safety concern for people entering the property and the building.

Ms. Dove asked how changing the location of the addition would affect customers coming onto the site. Mr. Ciarleglio replied that they would need to enter into the building on the other side and it would affect the parking

area. Ms. Dove asked if there would be semi-trucks entering the site. Mr. Ciarleglio said that there would be trucks entering the site, but they would not be semis.

Mr. John Rufrano, Applicant, addressed the Commission and reviewed the site plan. Mr. Ciarleglio noted that he would like to isolate the storage and repair of the vehicles to one area. Ms. Dove asked if this would be an auto storage facility. Mr. Ciarleglio replied no and that the vehicles brought in are normally only on the premises for one to two days.

Mr. Chorney said that some of the vehicles brought to the site are expensive and cannot be left outside. Mr. Rufrano explained that he has a contract with the Hamden Police Department and it requires him to have indoor storage for vehicles under investigation.

Mr. Kops advised that the front yard setback variance request is not needed.

Mr. Ciarleglio stated that the variance to allow a building of one story in height where two is required is needed. The primary use of the addition would be for storage and a second story is not needed. Mr. Ciarleglio said that the current proposed flat roof can be revised to a front to back gable roof and this will fit in with the existing building.

Mr. Chorney asked if when adding an addition, if the regulations require a percentage of floor area. Mr. Kops said currently the regulations allow five percent of closed floor area to be added without coming before the Commission. The reason for this is to allow more flexibility and not cause a hardship. Mr. Chorney noted that the use of Smart Code in the zoning regulations applies to many properties, but this existing building would not fit in with the area on State Street if it were to meet the 18 foot front yard setback. Also if it tried to meet the setback requirement it would block the existing parking area.

Mr. Vita asked for clarification of the roof line. Mr. Nelson explained if the addition had a gable roof it could be seen from the street. Mr. Ciarleglio explained he could increase the height of the rafters for the roof and this would give an appearance of height. Mr. Kops advised the Commission that they must consider the application on its merits.

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

Mr. Vita closed the Public Hearing.

3) 13-6497 96 Edgemere Rd, Requesting a variance: Section 220, Table 2.3 to allow a rear yard of 19 ft where 25 ft is required for an addition, R-4 zone, Penthy Brandi, Applicant

Mr. Jeff Wolcox, Contractor, addressed the Commission and reviewed the application. The existing deck located off the rear of the house will be removed and the addition will increase the size of the kitchen and reduce the footprint. Mr. Vita asked if another deck would be added and Mr. Wolcox replied no.

Mr. Chorney was concerned with the location of the kitchen door leading to the outside. The Commission discussed the location and height of the existing deck and the proposed door. Mr. Reynolds asked what the hardship would be. Mr. Wolcox said that the existing kitchen is small and the back line of the lot already exists. Mr. Vita noted that the addition as it stands is already non-conforming.

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

Mr. Vita closed the Public Hearing.

4) 13-6498 2704 Dixwell Av, Requesting variances: Section 520.2.14.c to allow 2 signs with a total of 76.1 sq ft where 16 sq ft is allowed. Section 550.2.14.d to allow a free standing sign to be 17 ft 8 inches in height where a maximum of 6 ft is allowed, R-4 zone, New Haven Sign Co., Applicant

Mr. Peter Mayo, Applicant, addressed the Commission and reviewed the application. He stated that the hardship was created when the zoning regulations were amended. When the property was purchased it was already approved to build a bank. The Commission discussed with the Planning Staff the approval that granted the bank use on the property. The Commission had a lengthy discussion with the applicant with regard to the design of the sign and the height of the sign. Also discussed, was the location of the sign so that it would not obstruct visibility to the traffic in the area.

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

Mr. Ralph Ciarlone, 22 Colony Street, addressed the Commission and asked if when the traffic is approaching the bank from Colony and Dixwell Avenue, if the sign would not block the view of drivers on Colony Street going onto Dixwell Avenue. Mr. Mayo said that the sign would be set back 15 feet and the variance is requesting the height of the structure be allowed so that drivers can see through it.

Mr. Vita asked for comments against the application. There was none.

Mr. Vita closed the Public Hearing.

5) 13-6499 147 Colony St, Requesting a variance: Section 220, Table 2.3 to permit a 5 ft sideyard where 12 ft is required for a deck, R-4 zone, Chester & Shaon Mighty, Applicant

Ms. Shaon Mighty and Mr. Chester Mighty, Owners, addressed the Commission and stated that the front of the house does not face Colony Street and because of this where the deck is located it is considered the side yard. The Commission reviewed the location of the deck with the applicants.

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

Mr. Vita asked for comments against the application:

Mr. Tim Yolen, Attorney representing Mr. Antonio Colasanto, 151 Colony Street, addressed the Commission and reviewed the location of his client's house.

Ms. Holly Masi, Zoning Enforcement Officer, explained that the deck is already being constructed and when she contacted the applicant, they decided to ask for a variance since they could not meet the zoning regulations. She received a complaint from Mr. Colasanto. Mr. Yolen said that the deck is built and that it had been determined that it did not meet the setback requirements. He understands the hardship that was stated as the unique shape of the lot. However, the lot is not any different than every other house in the area. Mr. Yolen believes that there are alternate locations for the deck on the property and that the current location of the deck is the Mighty's preference so there is no hardship. Mr. Yolen stated that his client wants the deck to be in compliance with the Zoning Regulations, there is no hardship of the zoning regulations, or is there an exception, difference or unusual hardship affecting the property.

Mr. Vita asked if the deck is completed and Mr. Mighty replied yes. The Commission and the staff reviewed the location of the deck, the size of the property and the deck's location relative to Mr. Colasanto's property.

Ms. Dove asked if there was an issue with the amount of building coverage. Ms. Masi stated that there did not appear to be any issues with the coverage because the lot is on three quarters of an acre in an R-4 zone. Mr. Kops said that the issue is the shape of the lot. Mr. Chorney noted that the property also slopes. Ms. Masi reviewed the topography of the property.

Ms. Mighty said that the deck is not encroaching into the neighbor's area because it does not overlook the house or seeing the neighbor when she is on the deck.

Ms. Dove asked Ms. Mighty what would prevent alternate locations for the deck. Ms. Mighty described the house and its location on the property. Ms. Dove asked if the deck could be made narrower. Mr. Yolen did not feel this would work because it is only five feet from the property line. The Commission continued the discussion to determine if there was an alternate location on the applicant's property. They discussed the location of the existing fences and shrubbery.

Mr. Yolen understands that the properties do not have a visual contact with the existing plantings. However his client could see the deck in December and called the Planning & Zoning Department. Mr. Yolen stated there is visual contact with the deck. The deck is not totally blocked off and it affects his client's property.

Mr. Mighty stated that he cannot see his neighbors property, but may be able to see it in the winter. Mr. Chorney said that there is nothing presented showing what the neighbor sees, making it difficult to understand.

Mr. Yolen stated that he is trying to understand the hardship. Ms. Dove explained that the way the house is situated on the property it is difficult to put on a deck. If the applicant had come in with an application before it was built there may have not been any comments from the neighbor. Ms. Dove said that it is the hope of the Commission that issues can be worked out between neighbors, however, this did not happen.

Mr. Yolen does not want to cause harm to the applicant, but there are procedures and procedures with protections built into the process. Mr. Yolen stated if the Commission would like to continue the Public Hearing, his client would attend and bring photographs and testimony to what he sees.

Ms. Masi explained that the process started as an enforcement action and the applicant has paid the penalties. The variance is the first step to correct the violation.

Ms. Mighty said she has had no problem with the penalties. She stated that she has lived in her house for six years and does not know what her neighbor looks like.

Mr. Chorney said that the applicant should have come in for a variance prior to building the deck. Mr. Nelson stated that there is a legitimate hardship. Ms. Dove noted that the request is not specific to the applicant because this type of request frequently comes before the Commission.

Mr. Vita closed the Public Hearing.

B. Regular Meeting

a. Discussion and voting on Public Hearing items.

13-6496

Mr. Nelson made the motion to approve Application 13-6496. Mr. Reynolds seconded the motion. Mr. Nelson said that the request for an 18 foot front yard is not needed because it is grandfathered in. The requirement that there must be a two story building does not conform to the existing building and this would create too much room and wasted space. Mr. Vita noted that Mr. Kops' had stated that the front yard setback was not needed. ***The motion passed unanimously.***

13-6497

Mr. Nelson made the motion to approve Application 13-6497. Mr. Reynolds seconded the motion. Mr. Nelson stated that the applicant is removing more that what is being put back and will be reducing the non-conformity on the property. Mr. Vita noted that the structure is a preexisting non-conforming structure. ***The motion passed unanimously.***

13-6498

Mr. Chorney made the motion to approve Application 13-6498. Ms. Dove seconded the motion.

Mr. Chorney stated that the applicant is asking for the variance because it is an R-4 zone and they are required to meet the regulation. The property had been a prior approval for a bank when it was allowed in the regulations. The sign being requested is under the size requirements for a this size commercial building and would have been approved under the old regulations. The applicant is asking for a double sided sign and the building is setback. The Commission discussed the size & height of the proposed sign and location.

Mr. Reynolds said that this zone was switched back to an R-4 zone at the request of the neighborhood because it had been zoned a T-4 in error. He does not have a problem with there being a sign, but does have a problem with the size of the sign. The Commission and the Planning Staff discussed the site, the size of the sign and the zoning regulation.

Mr. Vita and Mr. Chorney voted in favor of the motion. Mr. Nelson, Mr. Reynolds and Ms. Dove voted against the motion. Therefore, the motion failed.

13-6499

Mr. Nelson made the motion to approve Application 13-6499. Mr. Nelson seconded the motion.

Mr. Nelson stated that there is a true hardship on the property. The way the house sits on the property it is quarter turned and the back of the house is considered a side yard. The property is a pie shape with an incline. It is a narrow lot and the side of the house faces the road and is considered the front. The 50 foot frontage opens to a 123 foot deep lot. There is a sufficient hardship and no other place to put the deck which would normally be put on the back of a house. If the house were to be turned as a house normally sits on a property the deck would be in compliance.

The motion passed unanimously.

b. Approve Minutes of February 21, 2013

Mr. Chorney made the motion to approve the minutes of April 18, 2013. Mr. Reynolds seconded the motion. The motion passed unanimously.

Approve Minutes of April 18, 2013

Mr. Reynolds stated that the motion for application 13-6493 should read: ***The motion failed 3-2 with Mr. Nelson, Ms. Carroll and Mr. Houlding voting in favor of the application and Mr. Walsh and Mr. Reynolds voting against the application.*** Also noted was on page 5 the motion to adjourn should read: ***Ms. Carroll seconded the motion.***

The approval of the minutes of April 18, 2013 was tabled until the June 20, 2013 meeting.

c. Old Business

There was none

d. New Business

Election of new officers

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

e. **Adjournment**

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

The meeting adjourned at 8:15 p.m.

Submitted by: _____
Stacy Shellard, Clerk of the Commission