

**October 21, 2013, revised 11/26/13 per Commission review at the November 21, 2013 meeting**

**MINUTES: THE ZONING BOARD OF APPEALS**, Town of Hamden, held a Public Hearing and Regular Meeting on Thursday, October 17, 2013 at 7:00 p.m. in the 3<sup>rd</sup> Floor Conference Room, Hamden Government Center, 2750 Dixwell Avenue, Hamden, CT. with the following results:

***Commissioners in attendance:***

Jeff Vita, Chair  
Wayne Chorney  
Fran Nelson  
Elaine Dove  
Suzanne Carroll sitting for vacancy

***Staff in attendance:***

Dan Kops, Assistant Town Planner  
Tim Lee, Assistant Town Attorney  
Stacy Shellard, Commission Clerk  
Genovieve Bertolini, 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) **13-6504** 4224 Whitney Ave, Requesting a variance: Section 340, Table 3.4, to allow a lot to be subdivided into 2 lots to create a building lot for a house, T-3 Zone, William Copeland, Applicant.

***Withdrawn at the request of the applicant***

- 2) **13-6510** 24 Abby Ln, Requesting a variance: Section 220, Table 2.3, to permit a 32.8ft rear yard setback where 40ft is required for an addition, R-3 zone, Charlotte Perlroth, Trustee, Applicant

Mr. Bernard Pellegrino addressed the Commission and reviewed a map of the neighborhood. He stated that the applicant would like to build an addition to add a full bath and closet on the first floor for his wife because she is ill. Mr. Pellegrino reviewed a survey of the lot and said that the surveyor found a discrepancy between the deed and the field survey. There is a 22 foot strip that is not deeded to anyone. Mr. Pellegrino stated that one way to solve the discrepancy would be to give 50 percent of the strip to his client and the remaining 50 percent to the abutting property owner. Mr. Pellegrino noted that if this were to be done there would be more than 40 feet to the rear property line and a variance would not be necessary.

Mr. Chorney asked Mr. Pellegrino how he would put the additional land on the land record if there is no ownership. He also asked if the additional land is being used as part of the property. Mr. Pellegrino stated the application does not reflect the additional piece of property. Mr. Nelson said that unclaimed piece of property can be considered a buffer zone. Mr. Vita noted that hardship needs to be based on the deed. Mr. Pellegrino referred to the 22 foot strip of land as "No Man's Land".

The Commission further discussed the deed vs. the survey.

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

Mr. John Lohr, 12 Abby Lane, addressed the Commission and stated that he has no objection to the application. However, he would like the Commission to require a vegetated screening between his property and the applicant's. Mr. Vita suggested that Mr. Lohr discuss the type of plantings he would like with the applicant. Mr. Dan Kops, Assistant Town Planner stated that Mr. Lohr's property is not affected. The variance request addresses the rear property line. Mr. Lohr stated that his request for screening is due to the overall situation and the entire concept of the applicant requesting to build a 12 foot addition. Mr. Pellegrino stated that his client is planning to have supplemental screening and is willing to work it out with Mr. Lohr. Mr. Tim Lee, Assistant Town Planner, said that the Commission should consider what plantings will be added. Mr. Vita asked if the applicant and Mr. Lohr would like time to discuss and Mr. Lohr replied it was not necessary.

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

Mr. Vita closed the Public Hearing.

**3) 13-6511** 2666 Dixwell Ave, Requesting variances: Section 600 & 610 to permit a chiropractic office where an office is not permitted. R-4 zone, Norma Camacho & Daniel Tarifi, Applicants

Mr. Daniel Tarifi, Owner, addressed the Commission and stated that the property was purchased as an investment. However, after posting the property for rent it was found to be too noisy because it was on a busy street, and incompatible with renting to a family. The property is located in a commercial area. It had been rented to students in the past and they caused problems with the neighbors. Mr. Tarifi said that he will be making aesthetic improvements to the building and the parking area will have three to four spaces with a turnabout.

Ms. Norma Camacho, Owner, addressed the Commission and stated that when they purchased the foreclosed property it was inexpensive and they were unaware of the zoning issues. She said that the property being zoned for residential use has rendered the property unusable and has created a financial hardship.

Mr. Nelson asked if the house was a single family. Ms. Camacho stated if the variance is granted it would be owner occupied and well maintained. She would add a kitchen to the second floor for personal use and the first floor would be used as a Chiropractor's office.

Ms. Carroll asked if there would be sufficient parking. Mr. Kops explained that there is a parking area proposed and it is not anticipated that there would be a high volume of traffic to the site. Mr. Nelson asked what the hours of operation would be for the office. Mr. Tarifi stated that the office would be open on Monday's, Wednesday's, Friday's and Saturday.

Mr. Chorney asked for a copy of the denied variance. Mr. Kops stated he did not have it with him, but could obtain it. Ms. Camacho gave Mr. Chorney her copy of the meeting minutes of April 18, 2013.

Mr. Vita asked if the property is currently zoned as residential with a significant number of businesses in the area and Mr. Kops replied yes.

The Commission and Planning staff discussed the amended zoning map and the abutting properties owners desire to leave as an R-4 zone. Ms. Camacho reviewed the commercial properties in the area with the Commission. They discussed the letter received from a resident objecting to the variance.

Mr. Lee suggested that if the Commission approves the variance that it be approved as a Chiropractic Office and there be no residential use. The Commission discussed the site not being used for student housing.

Ms. Dove asked how many cars would come to the site. Mr. Tarifi stated there would be 80-90 cars a week. Mr. Vita stated that the applicant would need to go before the P&Z Commission and they will determine the parking requirements. Mr. Tarifi said that the cars accessing the site would be spread out. Ms. Camacho explained that there would be 15-20 patients throughout a day.

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

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

Mr. Vita reviewed the letter of opposition that was received and in the Commission's packet.

Mr. Vita closed the Public Hearing.

- 4) 13-6512** 76 Fenway Dr, Requesting a variance: Section 220, Table 2.1, to permit 31% building coverage where only 25% is allowed for shed. Section 220, Table 2.5 to permit a 1ft sideyard where 12ft is required, R-4 zone, Konstandinos Makris, Applicant

Mr. Konstandinos Makris, Owner, addressed the Commission and reviewed the application. He stated that the shed which is being used to store his children's toys and the garbage cans. Mr. Vita asked if the shed is located on the side of the carport and Mr. Makris replied yes. Ms. Carrol asked if the shed has already been built and Mr. Makris replied yes. Mr. Chorney asked how far the shed is from the rear property line. Mr. Makris stated the shed is located 40-50 feet from the rear property line. Mr. Vita asked what materials were used to build the shed. Mr. Makris reviewed the materials used and stated that the shed was placed on cinder blocks.

Mr. Makris reviewed the lot with the Commission and stated that he had received a variance to build the deck. He stated that he would be unable to place the shed in another location on his property. Ms. Dove questioned why a neighbor would be upset with the shed being built. Mr. Makris said that he had spoken with his neighbors and no one had objected. He noted that the shed was built in June 2013. Mr. Makris reviewed the properties in his neighborhood.

Mr. Vita reviewed a letter that was received in opposition to the variance request. Mr. Makris stated that the shed can not be seen because he has a fence. The Commission and the Planning staff discussed the existing structures on the site and the lot coverage.

Mr. Chorney asked if it would be reasonable to ask the Building Department to look at the shed to see if it meets the building requirements. Mr. Kops explained that the Building Department's comments would not be relevant to the Commission making a decision if they should grant the variance.

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.**

**13-6510**

***Mr. Nelson made the motion to approve the Application. Ms. Dove seconded the motion.*** Mr. Nelson stated that the hardship is the inaccurate deed and the land records of the property. If the property known as “No Man's Land” were to be split between the owner and the neighboring property the variance would not be necessary. The applicant is asking for 7 foot encroachment and there would still be 33 feet between the two properties plus the land no one owns. Mr. Vita stated the other hardship is the family member's need for a bathroom on the first floor. ***The motion passed unanimously.***

**13-6511**

***Mr. Nelson made the motion to approve the Application. Ms. Carroll seconded the motion.*** Mr. Nelson stated that the hardship is that the applicant tried to rent the house as residential and found it difficult because of the high traffic volume. The location of the house is not suitable for a family with children. Older residents would like it quieter. The house is located in an area that has commercial spaces and it will fit the neighborhood. Mr. Vita noted that the character of the neighborhood is important, and clearly there is commercial uses. There is a bank, dental office, audiologist and a school. Along with a significant number of other commercial properties. Mr. Lee suggested that the Commission have a condition that there be no mixed use allowed. Mr. Chorney asked if the hours of operation be restricted. Mr. Nelson stated that it would be difficult to restrict the hours because of the economic hard times.

***Mr. Nelson amended the motion to include the following condition: The variance was granted for chiropractic use only. It cannot be used for residential use at the same time.***

***The motion passed unanimously.***

**13-6512**

***Ms. Dove made the motion to deny the Application. Mr. Chorney seconded the motion.*** Ms. Dove stated that the owner created the hardship placing the shed one foot away from the property line which is unacceptable. The owner should have consulted the Planning Office before building the shed. Mr. Nelson noted that the owner had received other permits and had them inspected by the Building Department. Mr. Kops advised the Commission that they should determine if there is a hardship and look at the impact the shed would have on the surrounding property. Mr. Nelson questioned if the shed is considered a permanent fixture. Mr. Vita stated that the photographs submitted show it as a structure. The Commission discussed variance and permits received by the applicant with Mr. Lee.

***Ms. Dove, Mr. Chorney and Mr. Vita voted in favor of the motion. Mr. Nelson and Ms. Carroll voted against the motion. Therefore the motion to deny a variance passed.***

**b. Approve Minutes of September 19, 2013**

Mr. Chorney said on page 4, third paragraph, 3<sup>rd</sup> sentence, “advised” should be “advising”

***Mr. Nelson made the motion to approve the minutes of September 19, 2013 as amended. Mr. Chorney seconded the motion. The motion passed unanimously.***

**c. Old Business**

There was none

**d. New Business**

There was none

**e. Adjournment**

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

The meeting adjourned at 7:52 p.m.

Submitted by: \_\_\_\_\_  
Stacy Shellard, Clerk of the Commission