

June 24, 2014

MINUTES: THE ZONING BOARD OF APPEALS, Town of Hamden, held a Public Hearing and Regular Meeting on Thursday, June 19, 2014 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:

Wayne Chorney, acting chair
 Fran Nelson
 Elaine Dove
 Kyle DeLucia
 Suzanne Carroll, sitting for Jeff Vita

Staff in attendance:

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

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

A. Public Hearing

1) 14-6523 1732 Dixwell Avenue, Requesting variances: Article III, Figure 3.6 to allow a structure of 56.1 feet in height where only 35 feet is allowed for telecommunications antennas. Article III, Figure 3.6 to allow a structure of 61.1 feet where only 35 feet is allowed for an equipment shelter. T-4 zone
 Cellco Partnership d/b/a Verizon Wireless, Applicant
Public Hearing continued from May 15, 2014 meeting

Mr. Ken Baldwin, Attorney, addressed the Commission and reviewed the original designs. He stated that at the Commission's request they have submitted three options which include the equipment shelter being eliminated on the roof and placed in the basement. He reviewed the variances being requested and noted that the height of the building is legally non-conforming.

Mr. Carlos Santori, Professional Engineer, addressed the Commission and stated that the proposed equipment room will now be located in northwest corner of the basement. The conduit for the antennas and generator will go up the rear side of the building. A 6×3 foot emergency generator and six feet high will be located on the roof behind the existing penthouse. This is the same for all three options being proposed. The gas piping for the generator will be located in the southwest corner and go down the rear side of the building.

Mr. Santori reviewed the three options being proposed. Option 1 will have the antennas located three feet from the edge of the roof with an eight foot high screened enclosure. Mr. Santori reviewed the materials that are being proposed. In Option 2, the antennas will be located ten feet from the edge of the roof and there will be no

screening. The antennas will be 12 inches wide by 6 feet tall and the pipe masts will be approximately four feet apart. Mr. Santori reviewed the elevation views which will be 9 feet above the roof to the top of the antennas. Option 3 will be the same with screening in front of the antennas. The antennas will extend slightly over the top of the screening.

Mr. Baldwin reviewed photo simulations of the three different options with the Commission.

Mr. Nelson asked how much of the antennas would be visible to the property located to the rear of the building. He asked if there would be screening located to the rear of the building. Mr. Baldwin said that there would not be screening placed at the rear of the building. There is a large parking lot with a tree line. The generator will be located behind the penthouse and will not be visible from the ground. Mr. Santori stated that the supporting structure platform will be lowered and the generator will be smaller than originally proposed. Mr. Baldwin explained that the equipment shelter was previously proposed to be 61.1 feet above ground level and now the generator will be 52.5 feet in height. The height of the antennas was lowered at the roof edge but the height of the antennas if moved away will be 56.1 feet above ground level.

Mr. Nelson referred to option one and questioned the height of the screening. Mr. Santori stated it would be eight feet high to the top of the antennas. Option 2 would be nine feet to the top of the antennas. Option 2a is eight feet to the top of the screen and 9 feet to the top of the antennas. There is no screen for option 2.

Mr. Chorney asked how wide the screen would be and Mr. Santori replied 8 feet. Mr. Chorney asked what the vertical and horizontal area of the screen would be. Mr. Santori replied approximately 25×8 feet. Mr. Chorney asked what the surface area would be without the screening. Mr. Santori replied each antenna would 1 foot x 8 feet. Mr. Chorney asked if there are other individual antennas already existing. Mr. Santori replied yes. Mr. Nelson asked if a screen were to be installed, will it only cover the Verizon antennas. Mr. Santori replied yes and explained that other antennas cannot be near Verizon's because it will cause interference.

The Commission discussed with Mr. Baldwin and Mr. Santori the location of the other carrier's antennas and reviewed photographs submitted with the application of other Verizon antenna locations with and without screening.

Mr. Nelson asked what the total of screening in lineal feet would be. Mr. Santori stated there is 140 lineal feet perimeter and would require a large amount of screening. Mr. Baldwin and Mr. Santori had a lengthy discussion about the mass and height of the screening with the Commission. They discussed the locations of the proposed antennas and the different types of screening that could be used. A screening sample (Exhibit 1) was submitted. Also submitted pictures of simulations of different types of screening (Exhibit 2).

Mr. Dan Kops, Assistant Town Planner, advised the Commission if screen is to be placed around the entire perimeter of the roof, so the variance request would need to be revised. The screening would raise the roof line and revised plans would need to be made available for public inspection. Mr. Baldwin did not feel that the screen would not exceed the height of the current proposal and the language in the legal ad would not change. Mr. Kops advised that the design would be substantively different and the public has the right to see it. The Commission further discussed with the Planning staff and Mr. Baldwin the placement of screening, height of antennas and the aesthetics of the building.

Mr. Baldwin discussed with the Commission possible locations of the antennas. The Commission expressed their concerns about the aesthetics and view of the antennas from the street level. Mr. Kops explained that the aesthetics is an issue that the Planning and Zoning Commission will address. He explained that the ZBA Commission needs to determine if one of the options provided is acceptable to grant the variance. Mr. Baldwin stated that he can provide revised plans that include screening the perimeter of the building or shift the antenna sectors.

Mr. Baldwin is aware that there are other telecommunication carriers that will be coming before the ZBA Commission to place antennas on the roof. Ms. Masi stated that Verizon is here for a specific request and not how bad the building looks. That would be up to the landlord to fix up the building.

Ms. Sandy Carter, Verizon Wireless, addressed the Commission and stated that the building as it stands is legally non-conforming. She noted that putting up a massive wall would increase the non-conformity and change to appearance of the existing building. Verizon would also need the landlord's approval. Ms. Dove stated that the original proposal showed no screening. Mr. Chorney stated that the Commission is looking to minimize the variance. Ms. Dove explained that the Commission should be looking to not compound the problem with the building appearance. Other carriers have used screening on buildings.

Mr. Chorney continued the Public Hearing until the July 17, 2014 meeting.

2) 14-6526 512-514 Pine Rock Avenue, Requesting variances: Section 600 & 610, Table 6.1, to permit housing non-owner vehicles. R-4 zone, John & Pamela Kennelly, Applicant

Mr. Jack Kennelly, Applicant, addressed the Commission and stated that he is an antique car collector. The garage was built to store antique cars and he had obtained a zoning permit. The garage is climate controlled and lighted. Mr. Kennelly had downsized his collection and allowed his friends to store their antique cars in them and he was not aware of the regulation requiring a permit to do so. He explained that in the winter time the cars are not driven and remain housed. Mr. Kennelly advised the Commission that he has never had any complaints or criminal activity because of the cars being there. When the cars are outside prior to being taken to shows many of the neighbors will come over to view the vehicles and discuss their history. Mr. Kennelly reviewed the pictures submitted with the application. Mr. Kennelly stated that the garage bays are specifically designed for the storage of antique vehicles and nothing else.

Ms. Dove asked Mr. Kennelly how long he has been renting out the garages. Mr. Kennelly replied for 12-13 years. Ms. Dove asked how many spaces are being rented out. Mr. Kennelly stated 3-5 bays and he has two of his own being stored. Ms. Dove asked what the hardship is. Mr. Kennelly explained that the cars must be stored in a climate controlled atmosphere and if they have to be removed the owners would have no place to store them, and they would have to sell them. Ms. Dove said there are climate controlled storage facilities. Mr. Kennelly replied that the storage facilities are expensive and many of the cars have been in his garage 12-13 years. He asks the people who are storing their vehicles in his garage to share the expenses.

Mr. Nelson stated that the building and use is pre-existing and it is only used for storing antique cars. Mr. Chorney explained that the use itself has not changed. Ms. Dove understands that Mr. Kennelly is an avid car collector. However, the issue is whether he can have his friends rent or share the expenses.

Ms. Holly Masi, Zoning Enforcement Officer, said that it will be easier to enforce the use if it is classified and the use is defined. If the applicant moves or sells the property the specific use would be filed on the land records showing that the garage can only be used to store antique cars. Mr. Nelson noted that the hardship is that only specific cars can be stored in the garage bays.

Mr. Chorney asked for comments for and against the application. There was none.

Mr. Chorney closed the Public Hearing.

3 14-6527 165 School Street, Requesting variances: Section 600 & 610, to permit a 2 family house where none is allowed, T-3 zone, KB Houses, LLC, Applicant

Mr. Ken Votre, Attorney, addressed the Commission and reviewed the variance request. He stated that the property was used as a two family prior to his client purchasing it. Requiring it to remain commercial would not be

in harmony with the existing neighborhood. Currently his client is renting the two family house to Quinnipiac students. The hardship is set up and used as a two family house since his client purchased the property.

Mr. Nelson discussed the location of the property with Mr. Votre and Ms. Holly Masi, Zoning Enforcement Officer.

Mr. DeLucia stated that his grandfather grew up in the home and sold it 13 years ago. It had a photography studio on the first floor with an apartment on the second floor.

Mr. Votre stated that the parking requirement is being met. He submitted and discussed a picture of the house and it's location.

Ms. Barbara Bergman, Ann Arbor Michigan, addressed the Commission and stated that she and her husband are the members of the LLC that own 165 School Street. She explained that the first floor apartment has three bedrooms, a living room, a bathroom and a kitchen. The second floor has two bedrooms, a kitchen, a bathroom and a living room. Mr. Votre stated that there are no plans to add a third apartment. Ms. Bergman stated that there is a separate entrance to the second floor apartment.

Mr. Nelson asked if there is an existing student housing permit. Mr. Votre replied no. Ms. Masi stated that there is an enforcement action pending and the variance would allow the property to come into conformance. Mr. Votre said that there have been student permits in the past, but the issue of the zoning compliance came up. He noted that the student housing permit had expired.

Mr. DeLucia asked how many students are allowed to live in the house. Ms. Masi stated that the total amount of students would be eight. The Commission discussed with Ms. Bergman the number of students who have lived in the apartments. Ms. Masi said the Building Department, Fire Department and Health Department have inspected the site and the variance would legalize the zoning requirement component. Ms. Bergman stated that most of the houses on the street are two family houses with students living in them. Mr. Votre noted that if the variance is approved the house would be compliant with the neighborhood.

Ms. Dove asked Mr. DeLucia if it was always a commercial use on the first floor and he replied yes. Mr. Votre stated that the house was purchased as a two family house and there may have been a buyer in between. Ms. Masi stated that the records show that the photography studio was granted in 1984 and there is no record or permit converting it to a two family house. It was an R-5 zone and a two family house was permitted. When the zoning map was changed the zone was changed to a T-3.

Mr. Chorney asked Ms. Masi if she had any recommendations regarding the variance request. Ms. Masi replied that the house has been used as two family for many years and cannot see it going back to a commercial use. A two family house is keeping with the neighborhood.

Mr. Chorney asked for comments in favor or against the application. There was none.

4) 14-6528 3 Frederick Street, Requesting variance: Section 220, Table 2.3, to permit a 15feet front yard setback where 25 feet is required for a porch. R-4 Zone, Charles Hebron, Applicant

Mr. Charles Hebron, Applicant, addressed the Commission and reviewed the variance request. He stated that he would like to enclose the porch and to protect the occupants of the house from the outside elements. Ms. Holly Masi, Zoning Enforcement Officer, stated that the request is to enclose the existing porch which is already legally non-conforming and that the lot is small and narrow. The Commission discussed the variance request with Mr. Hebron and Ms. Masi.

Mr. Nelson asked when the house was built. Mr. Hebron was unsure but thought that it was in 1967.

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

Mr. Chorney closed the Public Hearing.

B. Regular Meeting

a. Discussion and voting on Public Hearing items.

14-6526

Mr. Nelson made the motion to approve Application 14-6526. Mr. DeLucia seconded the motion. Mr. Nelson stated that the hardship is the building itself. It was created for the specific operation of storing antique cars only. The zoning application is requesting to keep only antique cars. *Mr. Nelson added the condition: The storage of antique cars only.* Mr. Nelson stated that the keeping of antique cars was represented by the applicant. *The motion passed unanimously.*

14-6527

Mr. Nelson made the motion to approve Application 14-6527. Ms. Dove seconded the motion. Mr. Nelson stated that the hardship is a preexisting condition. The second owner of the house changed it from a single family with a business on the first floor to a two family house 13 years ago. The Zoning Enforcement Officer would like to resolve the outstanding violation on the property. It is staying with the character of the neighborhood because there are other two family houses. *The motion passed unanimously.*

14-6528

Mr. Nelson made the motion to approve Application 14-6528. Ms. Dove seconded the motion. Mr. Nelson stated that the lot as it exists is legal non-conforming. The request is for a small increase to the existing porch and is needed to avoid the weather. *The motion passed unanimously.*

b. Approve Minutes of May 15, 2014

Mr. Nelson made the motion to approve the Minutes of May 15, 2014. Ms. Dove seconded the motion. Mr. Nelson, Ms. Dove and Mr. Chorney voted in favor of the motion. Mr. DeLucia and Ms. Carroll abstained. Therefore, the motion passed 3-0-2.

c. Old Business

Ms. Masi updated the Commission on the work that is being done for sign and litter enforcement.

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. Delucia seconded the motion. Therefore, the motion passed unanimously.

The meeting adjourned at 8:39 p.m.

Submitted by: _____
Stacy Shellard, Clerk of the Commission