

September 24, 2014, revised 10/28/14 per Commission review at the October 16, 2014 meeting

MINUTES: THE ZONING BOARD OF APPEALS, Town of Hamden, held a Public Hearing and Regular Meeting on Thursday, September 18, 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
 Suzanne Carroll, sitting for Kyle DeLucia
 Steve Walsh, sitting for Jeff Vita

Staff in attendance: Dan Kops, Assistant Town Planner
 Tim Lee, Assist Town Attorney
 Holly Masi, Zoning Enforcement Officer
 Stacy Shellard, Commission Clerk
 Genevieve Bertolini, Stenographer

Mr. Chorney called the meeting to order at 7:04 p.m., reviewed the agenda and meeting procedures, and the panel introduced themselves.

A. Public Hearing

- 1) 14-6534 149 School Street, Request variance: Section 670.2.m to allow a student housing renewal submitted after the 8/1/14 deadline. T-3 zone, Robin Morrell, Applicant

Ms. Robin Morrell, 30 Lady Slipper Lane, Southington, owner, addressed the Commission and stated that it was human error on her part not to renew the student housing permit by August 1, 2014. She had it in her calendar to renew by August 15, 2014. Ms. Morrell said that she has spent a tremendous amount of money and has done everything asked of her to get the house in order. She currently has students in the house and does not know where they will go if the variance request is not granted. Ms. Morrell stated that she understands that the moratorium was in place, and would not have intentionally let the date pass.

Mr. Chorney asked Ms. Holly Masi, Zoning Enforcement Officer, to review the notice sent out to the owners of student housing. Ms. Masi reviewed zoning regulation 670.2.m. She stated that this year is unique because of the moratorium that was passed. Ms. Masi reviewed the courtesy notice that was sent out on May 6, 2014. The notices were sent to the addresses shown on the student housing permits. Ms. Masi explained that she had no flexibility to allow renewals submitted after August 1, 2014 because of the moratorium and this is the reason that variance requests were submitted. Ms. Masi sent out only one courtesy notice mailing, but the requirement to renew by the August 1, 2014 deadline was in both the new Student Housing Permit application and in the Student Housing Permit Renewal application.

Mr. Chorney stated that the applicant needs to show a hardship. Ms. Morrell replied that the hardship is due to her mistake and does not know where the students currently living in the house would go.

Ms. Dove asked if any of the students living in the house are the applicant's children. Ms. Morrell replied no. Ms. Dove stated that there is extra housing available on the Quinnipiac University campus. Ms. Morrell said that the students chose to live off campus. She has spent a tremendous amount of money to have her house meet the requirements and did it through the proper channels. There are many owners who do not get permitted. Ms. Morrell stated that she did not spend the money to purposely let the permit lapse and that it was an honest mistake.

Mr. Nelson asked if this is the first year that Ms. Morrell has had a student housing permit and Ms. Morrell replied that it is her second year to have a student housing permit. Ms. Masi explained that this is Ms. Morrell's first renewal.

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

Mr. Edgar Calderon, 137 School Street, addressed the Commission and stated that he has had a student housing permit since 2005. He explained that he keeps an eye on his students and lets them know that they need to follow the regulations. He feels that as long as his students follow the regulations it helps the community and the street. Mr. Calderon continues to improve this property and the one he owns at 2625 Dixwell Avenue. He is in favor of the application.

Mr. Don Savage, 36 Candlewood Shores Road, Brookfield, addressed the Commission and stated that there are many owners who rent to 5 or 6 students. He also has an application pending to allow the renewal of his student housing permit. Mr. Savage is trying to do the right thing and follow the rules. Mr. Savage stated that people are human and make mistakes, and that this was an honest error.

Ms. Morrell stated that she is a real estate broker and there are a tremendous amount of short sales occurring in Hamden. By buying homes and bringing them up to code and keeping them neat is better than the houses being sold by short sale or going into foreclosure. Also, it keeps up the property values. She is keeping her house in good shape and because of the tremendous amount of money she has spent she is not making money.

Mr. Bruce Ullerup, 47 Taylor Avenue, owner of 180 Tanglewood South, addressed the Commission and stated that he also has an application before the Commission. His request to renew his student housing permit is because of an issue with the mail. Mr. Ullerup stated that to err is human and he is in favor of this application. He also has good students and a letter from a neighbor stating such was sent to the Commission. Mr. Ullerup stated in the future he will hand deliver his renewal.

Mr. Chorney asked for comments against the application:

Ms. Cindy Civitello, 61 Berkeley Court, Co-President of West Woods Neighborhood Association, addressed the Commission and stated that she sends out notices for all the Town Meetings. Because this agenda involved Quinnipiac University, Ms. Civitello asked her membership for comments. She submitted and read several comments (exhibit 1) that express the general sentiment of the membership not being in favor of the student housing permits and would set a bad precedent for the Town.

Mr. Gus Spohn, 4032 Whitney Avenue, addressed the Commission and stated that any discussion beyond the issue of if there is a financial hardship is unnecessary. If there is not a financial hardship the board has no choice but to deny the application. There could be a financial hardship for the students but they are not the applicant. The students have the option of going into dormitories and Quinnipiac has plenty of space. Mr. Spohn has also seen "for rent" signs all over town, but he does not know if they have student housing permits. He agrees with Ms. Civitello that approving this application would set a bad precedent, and other landlords who have not renewed their applications may come forward.

Ms. Morrell understands that she is not allowed use financial reasons as a hardship. Ms. Masi explained that there needs to be a hardship of the land. Ms. Morrell stated that this is not a new student housing application, but a renewal. She went through an expensive and grueling process for the original permit and is asking to be allowed to renew the application.

Mr. Chorney closed the Public Hearing.

2) 14-6535 13 Nature Trail, Request variances: Section 220, Table 2.3, to allow a 10ft side yard where 20ft is required for an outdoor kitchen. Section 230.4 to permit an accessory structure outside the 25ft rear boundary, R-2 zone, William Miranda, Applicant

Mr. William Miranda, Applicant, addressed the Commission and reviewed his variance request. He stated that he has spoken with his neighbors and they have no objections. Mr. Miranda stated that there is no other location to place the structure and it will be significant distance from the neighbor's driveway. Ms. Holly Masi, Zoning Enforcement Office, stated that she has worked with Mr. Miranda to see if there were alternate locations. QVHD did comment on the location because of the septic tank and its reserve.

Mr. Chorney questioned what the hardship is for the outside kitchen. Mr. Miranda stated that there is no other location to place it.

Ms. Dove asked Ms. Masi why the structure could not be placed between the swimming pool and the house. Ms. Masi replied because of the location of the septic tank and its reserve. Mr. Miranda stated that there is a buried gas tank and he must stay between six and ten feet away from it. Ms. Masi stated that there are no other alternatives.

Mr. Walsh stated that the diagram submitted shows the placement of the structure is nine feet from the property line and the applicant is asking for ten. Mr. Miranda reviewed the site plan with the Commission.

Mr. Chorney asked how old the propane tank is and when it will have to be replaced. Mr. Miranda said it is six years old and does not know when it should be replaced.

Ms. Dove asked where the neighbor's property line is. Mr. Miranda reviewed the site plan.

Mr. Chorney asked why the structure cannot be placed closer to the pool. Mr. Miranda stated that it would interfere with the gas tank and the septic system. Mr. Chorney would like a more detailed plan that shows the existing pool fence and pool maintenance area. The Commission further reviewed the location of the pool, fence, septic and gas tank and alternative locations for the outdoor kitchen.

Mr. Nelson asked if the structure could be moved in an additional two feet from the property line. Mr. Miranda stated that the structure could be moved in two feet and that two feet could be removed from the structure. He noted if the pergola was not built, a variance would not be required. There was lengthy discussion with the Commission and the Planning Staff with regard to the location of the structure and the need for additional information and a detailed site plan which includes location, size & height. It was determined that the applicant is willing to move the pergola an additional two feet from the property and reduce the size of the kitchen by two feet. The consensus of the Commission was that no additional information would be needed.

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

Mr. Chorney closed the Public Hearing.

3) 14-6536 415 Mather Street, Request variance: Section 652.1, Table 6.3, to allow a multi-family housing development on a street that is not an allowed location for this use, T-4 zone, Regan Development Corp, Applicant

Ms. Jackie Kaufman, Attorney, addressed the Commission and submitted two handouts (Exhibits 1&2). Ms. Kaufman stated that Regan Development Corp. is new to Connecticut but has done housing developments for 20 years. They have two properties already developed in Connecticut. She reviewed the existing condition survey noting that the property is located 110 feet from the intersection at Dixwell Avenue (Exhibit 3) and reviewed the pictures (Exhibits 1&2) of the intersection. Ms. Kaufman reviewed the location of the site and the surrounding properties. The 4.8 acre site is currently vacant and not well maintained. Access to the site is exclusively on Mather Street and the entrance would be approximately 200 feet from Dixwell Avenue. Ms. Kaufman stated that the proposed multi-family housing project would dramatically improve the site. She reviewed the landscape plan (Exhibit 4). The project is proposed to be 100 percent affordable housing and will target veterans and those with MS. The zoning regulations limit the location of multi-family housing on nine streets within the Town. This location on Mather is appropriate for the proposed use. The unusual hardship is that the 5 acre site is zoned T-4 and is permitted by right, but does not have access onto Dixwell Avenue. The 11 properties fronting Dixwell Avenue are individually owned. Attempts have been made to purchase the properties without success. The property is handicapped by the properties located at the perimeter of it. The property meets all the goals of the POCD. Ms. Kaufman reviewed the POCD. The site has remained vacant because there is no access that fronts Dixwell Avenue.

Mr. Dan Kops, Assistant Town Plan stated that the intent of the regulation is to ensure that multi-family housing is located near public transportation and this is why it is limited to major streets. In rethinking several applications where the sites are not on major thoroughfares, but near them where people can take advantage of public transportation. The Department is considering proposing an amendment to the regulations to allow multi-family housing near the major roads. Mr. Kops feels that this application is appropriate and would function like a multi-family site located on Dixwell Avenue. He stated that he has no objection to the proposed plan.

Mr. Chorney asked Mr. Kops to review the surrounding properties and what they are permitted for. Mr. Kops explained that there is an approved commercial project across the street and an approved multi-family project at 380 Mather Street.

Mr. Nelson questioned the height of the proposed buildings.

Ms. Susan Odell, Architect, addressed the Commission and reviewed the architecture of the building that will be three and four stories which is due to the grade and slope of the site. She stated that the building will be under the 35 foot height. Mr. Nelson questioned from what point the height of the building is measured. Mr. Kops stated that a sloped roof is measured from the midpoint of it. Mr. Nelson asked if the building will be less than 35 feet and Ms. Odell replied yes. She noted that the height of a building is determined from the average grade around the entire building.

Mr. Chorney asked if there is any access from Lee Street. Ms. Kaufman stated that there is an easement and she reviewed the existing site plan. She said access from Lee Street was considered. However, access from Mather Street made more sense because it closer to the traffic signal at Dixwell Avenue.

Ms. Dove questioned if the Town will widen Mather Street because there would be an increase in traffic if the proposed projects are completed. Mr. Kops stated that he was not aware of any plans to widen the street. The Commission discussed the width and length of the existing two lanes near Dixwell Avenue. The Commission discussed their concerns with regard to the width of Mather Street going up to Dixwell Avenue. Ms. Kaufman reviewed the pictures of the area (Exhibits 1&2).

Ms. Carroll asked if the entrance for the proposed Family Dollar Store will line up with this site. Ms. Kaufman stated that it will be close. Ms. Masi advised Ms. Carroll the proposed project across the street will no longer be the Family Dollar Store. Ms. Carroll is concerned with the amount of traffic that will be generated from the two proposed sites.

Ms. Dove asked what type of transportation there will be for those who are handicapped veterans. Ms. Kaufman stated that a traffic report was submitted and the conclusion of the report was that the traffic can be adequately and safely accommodated. There will be traffic calming measures located along Mather Street. The traffic light at Dixwell Avenue will help to assist with the additional traffic. Ms. Kaufman reviewed the traffic report and the existing POCD.

Mr. Larry Regan, Regan Development Corp., addressed the Commission and stated that the development design has been in keeping with a large percentage of occupants that will be handicapped or disabled veterans. Many of the residents will have MS. Mr. Regan explained that he is the first developer to develop affordable housing and rental units east of the Mississippi for clients who have MS. He has had two successful projects that include a large percentage of housing for clients with MS. This location will have links for access to the building, the community and transportation. The access and design of the interior of the building will be designed for the handicapped. It will be affordable housing, consistent with smart growth, smart built, energy efficient and a green development that will be state of the art.

Mr. Nelson asked if there was a floor plan. Mr. Regan submitted a floor plan of another facility that is similar to what will be built at this site.

Mr. Chorney said there is easy access to Dixwell Avenue, but not to the surrounding areas down Mather street towards Whitney Lake. Mr. Regan stated when housing facilities have been done for other areas his company has offered to do sidewalks using outside contractors or in form of a payment for the town to install them. Mr. Chorney stated that there have been a lot of accidents in the area, the road is winding and dark and maybe an issue when the applicant goes before the Planning & Zoning Commission.

Mr. Walsh asked if the driveway can be moved further away from Dixwell Avenue. Mr. Regan stated that his team has met with the Planning staff and it was suggested that the exit/entry driveway be aligned with the development across the street. Mr. Kops agreed.

Mr. Chorney asked if it is possible to have access to the Farmington Canal. Ms. Kaufman stated that access to the Canal is in the design. She understands that a lot of people from the community use the canal. Mr. Chorney asked if the applicant has spoken with the Fire Department about emergency access to the site. Ms. Kaufman stated that she has spoken with the Fire Marshal and he is reviewing the plans. Mr. Kops stated that he has spoken with the Fire Marshal and the only concerns are for additional fire hydrants on the interior of the site.

Mr. Chorney asked for comments in favor of the application. There were none.

Mr. Chorney asked for comments against the application:

Ms. Andrea Visconti, 365 Mather Street, unit 91, addressed the Commission and stated she was in a bad accident at Mather Street and Dixwell Avenue. It is a dangerous intersection because cars speed on Dixwell Avenue. There is no access to the Farmington Canal during the winter because of ice and it never gets plowed.

Ms. Cindy Pagano, 365 Mather Street, unit 165, addressed the Commission and stated that Mather Street is extremely narrow. There are no sidewalks in the area. It is difficult to turn onto Dixwell Avenue with how the Traffic Signal is set. She does not feel the area is conducive to 77 more families and them all coming out to the same points on Mather Street.

Ms. Joan Ciano, 365 Mather Street, unit 95, addressed the Commission and stated she is concerned with the traffic on a narrow street. She does not feel that sidewalks can be installed. She asked Mr. Regan what the percentage of renters will have MS. Mr. Regan stated that in Simsbury approximately 80 percent of the renters have MS. He said approximately 40 percent of the residents at the Hamden site will drive which lessens the burden of additional traffic. He does not have figures for the number of veterans who do not drive. Ms. Ciano asked how Mr. Regan entices veterans to purchase or rent at their sites. Mr. Regan said he works with the community because they

would like to target Hamden residents first. He explained how they market a facility. Ms. Ciano asked if renters include disabled seniors. Mr. Regan said that seniors would fit in and there will be 8 or 9 units to house them and will reach out to the senior center and community service center.

Mr. Stuart Goldberg, 365 Mather Street, unit 28, addressed the Commission and stated that there are 212 units where he lives and adding another 80 units would create 300 cars on Mather Street. He is concerned about the lighting spilling off the site because his unit is directly across from it. Mr. Goldberg is also concerned that his property value will be affected. Mr. Kops explained that the zoning regulations do not allow the lighting to overspill from a property and it will be looked at carefully.

Ms. Dove asked how many other proposals have been approved in T-4 zones that are not located on a designated street. Mr. Kops stated that Sanford Street was approved. Mr. Tim Lee, Assistant Town Attorney asked if this application is submitted under the CGS 8-31g and Mr. Regan replied no. The Commission and Planning Staff further discussed the zoning regulations and placement of multi-family developments.

Ms. Kaufman stated that the site plan presented may have changes prior to going to the Planning & Zoning Commission. She said that multi-family housing is appropriate for the site. Ms. Dove asked what is located directly behind the site. Ms. Kaufman replied the Home Depot.

Ms. Irene Stanczyk, 118 Sherman Avenue, addressed the Commission and stated she is the owner of 365 Mather Street, unit 14. She asked how many bedrooms the units would have. Mr. Regan stated one to three bedrooms. She asked what the need is for a three bedroom unit. Mr. Regan said that there are couples who want to start a family. The units are not meant to be a permanent residence and many young couples need affordable housing. It allows people to live within a community. Ms. Stanczyk asked how many units will be three bedrooms. Ms. Odell stated that 45 percent of units will have one bedroom, 47 percent will have two bedrooms and 8 percent of the units will have three bedrooms. Mr. Regan said there will be 6 units with 3 bedrooms and this allows a family to have a unit within the Town that is affordable. Ms. Stanczyk expressed her concerns with regards to the amount of traffic, need for sidewalks and widening of the road, the need for Town services, recreation facilities on the site, and the use of the Farmington Canal by young children.

Mr. Caifa, Mather Street, addressed the Commission stated he would like access to Dixwell Avenue from the site. The traffic on Mather Street is unsafe because the cars speed and it is dangerous.

Mr. Jeff Kadin, 118 Sherman Avenue, addressed the Commission and asked if a traffic calming study has been done. Mr. Chorney stated that the Planning & Zoning Commission would address the traffic study that was done. Mr. Kadin questioned how many parking spaces there would be. Ms. Kaufman stated there will be 118 spaces.

Ms. Dove asked if a unit would be allowed to have two vehicles. Mr. Regan stated that with the MS and veteran population and many families will be on the site. If necessary in the future if there is a problem the number of cars allowed can be limited. There will be 117 spaces for 77 units. Mr. Regan explained that at least 40 units will be occupied by veterans or people with MS, and they usually don't drive. Ms. Kaufman said that the traffic report is conservative, but done as if at full capacity. The comments made this evening will be considered for the Special Permit application.

Ms. Odell stated that Mr. Paul Bailey works extensively with affordable housing and parking is never utilized to its full capacity.

Mr. Scott Beck, 172 Lakeview Avenue, addressed the Commission and asked when the last traffic study was completed. He stated that the traffic pattern have changed since Home Depot was completed. People use the side streets off of Mather Street to avoid the traffic.

Ms. Kaufman stated the traffic study was done within the last six weeks and is part of the record for review. Ms. Kaufman closed by saying that the proposed use is appropriate for the site.

Mr. Chorney closed the Public Hearing.

4) 14-6537 137 School Street, Request variance: Section 670.2.m to allow a student housing renewal submitted after the 8/1/14 deadline, R-5 zone, Edgar Calderon, Applicant

Mr. Edgar Calderon, 2590 Ridge Road, North Haven, owner of 137 School Street, addressed the Commission and stated that he has owned the 137 School Street property since 2005 and has always rented to students. He has never received any complaints. Mr. Calderon stated that this year in January he paid for his student housing renewal and thought it was paid up. When he received the notice after August 1, 2014 he called the Planning Officer. Mr. Calderon said he never received the original mailing from Ms. Masi. He questioned how many student housing permits were received. Ms. Masi stated that there are 242 student housing permits, and all but 13 renewals were received. Besides the four applicants on the agenda tonight, there will be two more heard next month.

Mr. Nelson questioned why Mr. Calderon made a payment in January of 2014. Mr. Calderon said that he had not rented the house. He noted that two years ago from School Street to Evergreen Avenue on Whitney Avenue there were six properties that were vacant. One property had a fire and was remodeled. Mr. Nelson asked why the renewal was paid in January 2014. Ms. Masi explained that prior to the moratorium if the renewal was late the applicant was charged double fee. Mr. Calderon did not have students and Ms. Masi advised him that he must renew the permit or it would lapse. It did not excuse him from renewing the permit by August 1, 2014. Mr. Calderon thought he had made the payment and when notified by the Planning Office he checked his records and realized his error. The students he currently is renting too have been living in the house since May, 2014. He stated that he has had no complaints, maintains the property and is available to the students 24/7. He tries to abide by the rules and feels that keeping his property maintained improves the community.

Mr. Walsh asked prior to the moratorium how much time would need to go by before the permit lapsed. Ms. Masi explained that prior to the moratorium the owner would be advised to pay the double fee. In the case where there is no student there is no violation. The moratorium is in place to allow the Planning Office to look how the student housing is being regulated and to work with Quinnipiac University.

Mr. Chorney asked for comments in favor of the application

Mr. Tyler Morrell, 30 Lady Slipper Lane, Southington, addressed the Commission and stated that the people who sided with the moratorium were unhappy with loud parties and unruly students. The applicants are at this meeting are making an effort and he does not feel it is fair to punish a few for what others have done in the past. The hardship is not the students because they can move back to campus. However, to move a student takes time and effort and this takes away from time spent on their academics. The homeowners are trying to maintain their properties to keep them appealing. If the permits are not renewed it creates a hardship and could force the owners into foreclosure. Mr. Morrell stated that his lease requires the students not to have parties and be respectful. However, the landlord cannot control everything. Of the 13 permits not renewed there are four present at this meeting. It would not only hurt the owners if the variance is not granted, but also the students.

Mr. Walsh asked Ms. Masi how long the renewal date of August 1st has been in place. Ms. Masi replied 12-13 years. The student housing regulation went into effect in 1999.

Ms. Robin Morrell, 30 Lady Slipper Lane, Southington, addressed the Commission and stated that if she wanted to sell her property and no longer rent to students she could not because of the amount she owes. The property values in Hamden are down. She keeps her property in good shape and does not feel that she should get punished because of landlords who do not keep up their properties.

Ms. Masi stated she does everything allowed under the law. If there is no student housing permit a N.O.V. is issued. If an application is not received then the owner is fined. She works with the University to confirm where

students are living. The majority of students go to Quinnipiac, however, there are also students attending Southern CT State University and Albertus. The Planning Office does the best it can do with the resources available. However, behavior cannot be regulated, nor can it be a reason to remove the zoning permit. If five students are in a house a fine can be levied and at least one student relocated. Also, a N.O.V. can be issued if there is not the required parking. Ms. Masi may not always see the problems because many occur in the evening or on the weekends when she is not at work.

Mr. Chorney asked for comments against the application:

Ms. Sara Clark, 4032 Whitney Avenue, addressed the Commission and thanked the landlords in attendance for the efforts they are making to maintain their property. Ms. Clarke asked the process used for soliciting renewals. Ms. Masi reviewed the process followed for student housing permits. Ms. Clarke asked if she did not receive her tax bill or misplaced it would she be excused. Ms. Masi stated that an interest fee would be imposed. Ms. Clarke is sympathetic, but is concerned with the precedent that would be made if an exception were to be made. She stated that there has been a history of problems with student housing permits and the students living in the houses. The issue is the financial hardship which cannot be considered.

Mr. Calderon stated that the hardship is the students. In the past a late fee was paid and this year is different. He has never had complaints about his house and has good students. He has built a relationship with his students and the community.

Mr. Gus Spohn, 4032 Whitney Avenue, Mr. Tim Lee, Assistant Town Attorney asked Mr. Spohn if he would like his comments for 149 School Street be made as part of the record for this application. Mr. Spohn replied yes, however, he has additional comments. He asked if the ZBA has the ability to legally grant a variance without there being a hardship demonstrated. Mr. Lee replied no. Mr. Spohn said that the talk has been that the only possible renters are students. He feels that the landlords can rent to other people.

Ms. Cindy Civitello, 61 Berkeley Court, addressed the Commission and stated that she would like her comments as previously stated for 149 School Street be made part of the record for this application and for the Applications 14-6539 & 14-6540.

Mr. Calderon stated that the hardship is the students and the properties. There are two properties on School Street that are vacant. He grew up on the North Haven-Hamden townline and has remained. He said School Street is an eyesore and there are houses for sale in the area that cannot be sold. Mr. Calderon bought his for \$190,000.00 and would have difficulty selling it. He tried to rent the house to someone other than students and was unable to do so. Mr. Calderon stated that his students who rent from him are good people.

Mr. Chorney closed the Public Hearing.

5) 14-6539 180 Tanglewood South, Request variance: Section 670.2.m to allow a student housing renewal submitted after the 8/1/14 deadline. R-4 zone, Bruce Ullerup, Applicant

Mr. Bruce Ullerup, 47 Taylor Avenue, East Haven, owner, addressed the Commission and stated that he had mailed the renewal but it was not received by the Planning Office. He explained that when he received Ms. Masi's notice he came in and submitted a variance application. The students renting from him are currently in the Physician Assistant (PA) Program at Quinnipiac University. Mr. Ullerup stated that if the permit is not renewed the hardship is to the students. A neighbor has submitted a letter in favor of the students. Mr. Ullerup said his property is maintained. The students are good tenants and graduate students doing their clinicals. He stated that he had advertised the rental on Craig's List and was called by a parent of one of his renters. Mr. Ullerup did what was necessary to bring the house up to code to get his student housing permit. This is the second year that he is renting it.

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

Mr. Patrick Duffy, 180 Tanglewood South, addressed the Commission and stated that if the owner were not allowed to renew the permit would affect him. He has been attending Quinnipiac University for six years, currently in the PA program and has been living at this location for two years. Mr. Duffy works at a hospital fulltime. There are no parties held at the house. He is happy to be living in his neighborhood and his neighbors have no concerns. His hardship is that Quinnipiac University has no housing available for graduate students. They have limited housing at Whitney Village, but it is limited and he would have to wait to get in. Mr. Duffy stated that not granting the variance would affect him and he did not create the problem.

Mr. Andre Covache, 180 Tanglewood South, addressed the Commission and stated that he is a graduate student in his sixth year. As a graduate student to find housing half way through the school year would be challenging. He has a good reputation in the neighborhood as a student and many of neighbors would be sad to see them have to leave. Mr. Covache stated that during snow storms when the neighbor's electricity went out, he and his roommates allowed them to use their kitchen. Mr. Covache explained that would be challenging and a hardship to have to find new housing while trying to finish his Master Degree. In addition he would have to take out additional student loans to accommodate the additional expense.

Ms. Robin Morrell, 30 Lady Slipper Lane, Southington, stated that she would like her comments as previously stated to be made part of the records.

Mr. Tyler Morrell, 30 Lady Slipper Lane, Southington, stated that he would like his comments as previously stated to be made part of the records.

Mr. Edgar Calderon, , 2590 Ridge Road, North Haven, stated that he would like his comments as previously stated to be made part of the records. Mr. Calderon said he can get something in writing from the parents and students if the Commission would like.

Mr. Chorney asked for comments against the application:

Mr. David Fowler, 185 Highland Avenue, addressed the Commission and stated that he against renewing the student housing permits. It is not about the students, but up to the landlords to renew their permits. He would like his comments to be part of the record for application 14-6540.

Mr. Gus Spohn, 4032 Whitney Avenue, stated that he is against the application, though he was impressed with the students who spoke and his comments were not directed at the students in attendance. He said student behavior is not the issue before the ZBA but the issue tied to the moratorium. The question is what the hardship is and it is not student behavior.

Mr. Chorney closed the Public Hearing.

6) 14-6540 187 Lakeview Avenue, Request variance: Section 670.2.m to allow a student housing renewal submitted after the 8/1/14 deadline. R-4 zone, Don Savage, Applicant

Mr. Don Savage, 36 Candlewood Shores Road, Brookfield, addressed the Commission and stated as a school teacher he follows the rules. The first year he rented the house he worked with Ms. Holly Masi, Zoning Enforcement Officer, to make sure he did all that was needed. It was an oversight on his part in renewing the permit by August 1, 2014. He had mailed the paperwork to the students this year and it took time to get back. Mr. Savage stated that there was a lack of urgency on his part having them get it back to him. In the past years there have been no complaints about his property. Prior to renting to students he had rented the home to a couple who did not take care of it, received complaints from the neighbors and police, and he did not always get paid. Mr. Savage stated if he can renew the permit he would have no choice but to part with the house. He takes pride in his property and gets along with the neighbors.

Mr. Nelson asked how long Mr. Savage owned the house. Mr. Savage replied since 2006 or 2007.

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

Mr. Edgar Calderon, 2590 Ridge Road, North Haven, 137 School Street, addressed the Commission and stated that when he came in it was not the fee but the moratorium that was the issue. Mr. Tim Lee, Assistant Town Planner stated that a letter from the Zoning Enforcement Officer, dated May 6, 2014 advising him of the moratorium for student housing was sent out. Mr. Calderon said he may have overlooked it, but he thought he was set because he paid in January. Mr. Lee asked Mr. Calderon to limit his comments to this application. Mr. Calderon stated that the reason the applicants are hear is because of the moratorium. Mr. Chorney offered to read Ms. Masi's letter sent in May, 2014.

Mr. Savage stated he did receive the letter and it was human error that he did not read it carefully. Mr. Chorney stated that the obligation was to pay the fee. Mr. Savage said in the past there was an additional fee but it was renewed. The second letter went to his tenants in Hamden and when he received it he went in to see Ms. Masi.

Mr. Chorney asked for comments against the application:

Mr. Scott Beck, 172 Lakeview Avenue, addressed the Commission and asked what the student housing rules and regulations are for Mr. Savage's property. He reviewed the issues he has with parking on the street. The Police Department has said he should not speak with the students directly. Ms. Masi gave Mr. Beck a copy of the student housing regulations. Mr. Chorney reviewed the parking regulations for students. The Commission discussed student housing parking and parking legally on the street with the Planning Staff.

Mr. Gus Spohn, 4032 Whitney Avenue, addressed the Commission and stated that he would like his comments as previously stated to be made part of the records.

Mr. Savage stated that not being allowed to renew his permit a hardship for him, but also for his students.

Mr. Chorney closed the Public Hearing.

7) 14-6541 80 Skiff Street, Request variance: Section 650.1.a to allow a lot frontage of 60.1ft where 150ft is required for automotive use, T-5 zone, Robert Melillo, Applicant
Postponed until the October 16, 2014 meeting

B. Regular Meeting

a. Discussion and voting on Public Hearing items.

14-6534

Ms. Dove made the motion to deny Application 14-6534. She feels that there is no reasonable hardship for this application or for the other applications to allow the student housing renewal submitted after the 8/1/14 deadline. Ms. Dove stated that the Town has been lax with the previous homeowners who did not give much of a thought to paying past the August 1st renewal date because they could pay the double fee penalty. There is no viable hardship to approve the application. ***Mr. Nelson seconded the motion for discussion purposes.*** Mr. Walsh stated that the student housing applications are a unique situation. Prior to the regulations being amended the rules has been lax and renewals that were late paid a double fee. He feels that there is potential for legal hardships. This is because a landlord can be sued by the students with a judgment against them for not being able to satisfy the terms of the lease. The applicants made an effort to renew the applications once they received the notice from the Zoning Enforcement Officer. Mr. Lee stated that it is within the board's discretion to decide if they should deny or grant the application. Ms. Masi stated that there were a total of 13 student housing renewals that were not renewed and there are currently four before the Commission tonight. There are two more that are scheduled to be heard at the

October meeting. Mr. Lee concurred with Mr. Walsh and that all the applicants have the same reason for submitting the variance request. Mr. Nelson stated that if approved the variance does not go with the land it is only a one year variance. The variance is to allow the renewal of the student housing permit and is a temporary variance. Mr. Lee stated that the student housing moratorium was for only one year. **Mr. Nelson withdrew his second to the motion.** Mr. Lee asked if there is a second to the motion made by Ms. Dove. **There was none.**

Mr. Walsh made the motion to approve Application 14-6534. Mr. Nelson seconded the motion. Mr. Walsh stated that the motion to renew the permit application is for a year. It is a new regulation passed by the town and the town has been lax in the past. If someone had not paid the renewal fee by August 1st they were allowed to pay a late fee. The application did not terminate. It seems to be a draconian remedy to not allow them to renew if they missed the August 1st deadline. There is a potential legal hardship in terms of the Landlords being sued by the tenants. Ms. Dove said that the hardship stated is the landlord's hardship. She asked if there can be a fine levied because the landlord is responsible and suggested it be two thousand dollars fine. Mr. Kops noted that fines are imposed according to the state statute. Mr. Kops reviewed the process to impose fines. Ms. Masi stated that a N.O.V. is issued and if the applicant files an application the fee schedule states if the activity is already occurring they a double fee must be paid. She stated that there are different ways to achieve compliance, not necessarily by punishment but by gaining compliance. Mr. Walsh stated that the objective is to reach compliance with the regulations. Mr. Nelson stated that the applicants are not new comers. Though there have been some issues on School Street, the houses are well kept.

Mr. Nelson, Mr. Walsh, Ms. Carroll and Mr. Chorney voted in favor of the motion. Ms. Dove voted against the application. Therefore, the motion passed 4-1-0.

14-6535

Mr. Nelson made the motion to approve Application 14-6535 to allow a 12 foot side yard where 20 feet is required. Mr. Walsh seconded the motion. Mr. Nelson stated that he familiar with the neighborhood and the houses are spaced out. A pergola is an open frame structure that you can see through it on all sides. He said that the variance request is for the pergola, not for the kitchen. The applicant is asking for the variance because it is the only place to put it because there is a fence, pool and an inground propane tank in the yard. The placement of the pergola will not encroach that much towards the neighboring yard. **The motion passed unanimously.**

14-6536

Mr. Nelson made the motion to approve Application 14-6536 for discussion purposes. Mr. Walsh seconded the motion. Mr. Nelson stated that the hardship is the property because it has been vacant for 20 years. The property is vacant and only 110 feet away from the T-4 zone. The applicant will do sidewalk improvements on the property. There may be a need for roadwork but would be decided by the Planning & Zoning Commission. Mr. Nelson does not know if anything can or would want to go in at this location. Mr. Chorney stated that the request for a multi-family housing development would meet the requirements and would not require a variance if it were to front on Dixwell Avenue. **Mr. Nelson, Mr. Walsh, Ms. Carroll and Mr. Chorney voted in favor of the motion. Ms. Dove abstained. Therefore, the motion passed 4-0-1.**

14-6537

Mr. Walsh made the motion to approve Application 14-6537 with the condition that the renewal is for only one year and the reasons as previously cited under Application 14-6534. Mr. Nelson seconded the motion. Mr. Nelson, Mr. Walsh, Ms. Carroll and Mr. Chorney voted in favor of the motion. Ms. Dove voted against the application. Therefore, the motion passed. 4-1-0.

14-6539

