

**October 21, 2014, revised 11/12/14**

**MINUTES: THE ZONING BOARD OF APPEALS**, Town of Hamden, held a Public Hearing and Regular Meeting on Thursday, October 16, 2014 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, alternate

Staff in attendance:

Dan Kops, Assistant Town Planner  
Tim Lee, Assist Town Attorney  
Stacy Shellard, Commission Clerk  
Genevieve Bertolini, Stenographer

Mr. Vita called the meeting to order at 7:02 p.m., reviewed the agenda and meeting procedures, and the panel introduced themselves.

#### **A. Public Hearing**

- 1) 14-6541 80 Skiff St, 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

Mr. John Gabel, Professional Engineer, addressed the Commission and reviewed the variance request and the proposed site. Mr. Vita asked what the hardship is. Mr. Gabel said that the lot is a preexisting non-conforming lot for the proposed use and is only 60.1 feet wide. Mr. Chorney asked what the use will be for the pre-existing lot. Mr. Gabel stated it will be for automotive use. Mr. Tim Lee, Assistant Town Attorney, asked if the site was previously used for automotive use. Mr. Gabel replied no.

Ms. Dove asked what the hardship is. Mr. Gabel replied that the existing lot is small and narrow in size with 60 feet of frontage. He stated that automotive use is allowed in a T-5 zone.

Mr. Dan Kops, Assistant Town Planner asked Mr. Gabel to explain why the requirement for a 150 foot frontage is inappropriate for automotive use. Mr. Gabel stated that the hardship is the lot is small and narrow in size. Mr. Vita asked if the lot can be used for non-automotive use and Mr. Gabel said yes. Ms. Dove asked if the applicant wants to use the lot for automotive use in a T-5 zone and Mr. Gabel replied yes.

Mr. Nelson asked what the building is currently being used for. Mr. Gabel replied it is an abandoned building.

Mr. Chorney stated that the hardship given does not fit the definition of a hardship.

Mr. Vita asked for comments in favor or against the application. There were none.

Mr. Vita stated that one letter in opposition of the application was received from the Pellegrino Law Firm.

Mr. Kops stated that there is a difference between the proposed standard automotive use and the proposed use. There will be no gas station or pumps with multiple exits. Mr. Kops explained that the need for the required frontage is not relevant for the proposed use. His understanding is that the applicant will be displaying vehicles inside the building and the rear of the building will be used for repairs.

Mr. Chorney asked if the RWA had commented on the application. Mr. Kops replied that the RWA provided comments that were standard for automotive use.

Ms. Dove said that the applicant's website shows several cars for sale and she asked where the cars for sale will be located. Mr. Gabel replied that the Mr. Robert Melillo, owner, would need to answer that question.

Mr. Gabel stated that where the site is located the corridor is important and the applicant is trying to revitalize the area.

Mr. Vita closed the Public Hearing.

- 2) 14-6542 38 Raelin Rd, Request variance: Section 670.2.m to allow a student housing renewal submitted after the 8/1/14 deadline. R-3 zone, Christopher Levesque, Applicant

Mr. Tom Jankun, Property Manager, addressed the Commission and stated that the applicant has owned the property for eight years and he missed the deadline for renewal. He is currently working out of the country and his elderly parents who live in Georgia are forwarding his mail to him.

Mr. Vita asked if there are any outstanding issues for the property. Mr. Dan Kops, Assistant Town replied that he is not aware of any issues.

Mr. Chorney stated that several applications that had missed the deadline came before the ZBA and were approved for 2014/2015 school year.

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

Mr. Vita closed the Public Hearing.

- 3) 14-6543 23 Thompson St, Request variance: Section 220, Table 2.3, to allow a side yard of 0ft where 12ft is required for an addition. R-4 zone, Dominic Perrelli, Applicant

Mr. Fred Masotta, Agent for the applicant, addressed the Commission and reviewed the variance request. He stated that the owners are getting older and they would like a bathroom on the first floor.

Mr. Vita asked what the hardship is. Mr. Masotta stated that the property requires a 12 foot side yard and the addition would require a 0 foot side yard.

Mr. Nelson asked if the addition could be placed in another area of the house. Mr. Masotta replied no and reviewed the current site and house. Mr. Chorney stated that a previous variance had been granted for this location. The Commission discussed the existing site and possible alternative locations for the addition with Mr. Nelson.

Mr. Vita stated that a letter in favor of the variance was received from the property owners at 29 Thompson Street.

Mr. Masotta and the Commission further discussed alternative locations for the addition.

Mr. Vita noted that a variance runs with the land. Ms. Dove is concerned that the owner may sell the property and the possibility that it could be used to house students and there would be no side yard. Mr. Nelson stated that a survey of the property is needed.

Mr. Vita asked Mr. Masotta if he is willing to talk with his client about obtaining a survey and Mr. Masotta replied yes.

Mr. Tim Lee, Assistant Town Attorney, asked if Mr. Masotta would grant an extension of time for the application and Mr. Masotta replied yes.

Mr. Vita continued the Public Hearing until the November 20, 2014 meeting.

- 4) 14-6544 50 Maplewood Terrace, Request variances: Section 220 Table 2.3 to permit an 18ft front yard where 25ft is required for an enclosed porch; Section 220, Table 2.3, to allow a side yard of 6.5ft where 12ft is required for a storage room; Section 220, Table 2.1 to permit 26.5% building coverage where 25% is allowed. R-4 zone, OVZ Home Improvement, Applicant

Mr. Vita stated that the applicant is not present.

Mr. Tim Lee, Assistant Town Planner, advised the Commission that they could deny the application or open and continue the public hearing to allow the applicant to be present.

Mr. Vita opened and continued the Public Hearing until the November 20, 2014 meeting.

Mr. Ismael Marrero, Contractor, subsequently arrived. He addressed the Commission and stated that he had been delayed because of an accident on the Parkway. Mr. Lee explained that Mr. Marrero was not present when the application was called and the Commission therefore voted to continue the public hearing until the November 20, 2014 meeting.

- 5) 14-6545 275 Mt. Carmel Ave, Request variance: Section 220, Table 2.3 to permit a 51.4ft high structure where 35ft is allowed for an antenna screening structure. R-2 zone, Cellco Partnership, d/b/a Verizon Wireless, Applicant

Mr. Tom Cody, Attorney, addressed the Commission and reviewed the variance request. He explained that the antennas and screen enclosure will be placed on the top of the Ledges Residence Hall which is located to the rear of the Mount Carmel Campus. Mr. Cody reviewed the proposed site. He stated that the existing building is 41.4 feet in height and the proposed screening will add an additional 10 feet to the height of the building. The proposed antennas would provide additional coverage and capacity to northern Hamden and Quinnipiac University. Verizon Wireless has identified that there is a significant need and demand for additional coverage because the existing cell antennas have reached their capacity limitations. Mr. Cody reviewed the zoning regulations. He noted that Verizon Wireless has worked with the University to design a screened enclosure that would be compatible with the other buildings on Campus and the proposed antennas will comply with the zoning regulations except for the building height requirement. There is no alternative equipment configuration that will satisfy the technical requirements needed for the facility.

Mr. Nelson asked if there are any existing antennas.

Mr. Carlos Santori, Professional Engineer, addressed the Commission and reviewed the existing antennas that on the site. Mr. Nelson asked if the proposed antennas will serve the public and Quinnipiac University.

Mr. Jamie Laredo, RF Design Engineer, addressed the Commission and stated that the proposed antennas will enhance the service on the campus and also provide service to parts of Mount Carmel Avenue and Whitney Avenue. It will add more capacity for the subscribers on the University campus. Mr. Nelson stated that the University's topography is like a bowl and he asked if the service will shoot out.

Mr. Santori reviewed the proposed locations, architectural, and photo simulations of the proposed antennas and screening structure. He also reviewed the locations of existing antennas on the site (Sheet Z1.1-Partial Site/Survey Plan). Mr. Santori submitted a sample of the proposed screening (Exhibit 1) and a coloring sample of the screening (Exhibit 2).

Mr. Santori reviewed Sheet Z-2.0 Roof Plan, Elevation and Antenna Configuration with the Commission.

Ms. Dove asked if providing additional service on the Campus would be a financial gain for Verizon Wireless. Mr. Cody replied that upgrading the service is what drives this application. Mr. Vita stated that the Quinnipiac University would like better service. The Commission discussed further the benefits of additional telecommunication service.

Mr. Laredo reviewed and discussed with the Commission a diagram (Exhibit 3) which shows the area of existing coverage and the proposed area of coverage.

Mr. Vita asked for comments in favor or against the application. There were none.

Mr. Vita closed the Public Hearing.

6) 14-6546 39 Russo Dr, Request variance: Section 626.4.a to permit farm animals (2 alpaca) on a lot that is 24,393.6 sf where 120,000 sf is required. R-4 zone, Victor Jefferies, Applicant

Pastor Jameka Jefferies, addressed the Commission and reviewed the variance request and the history of how the alpacas came to be on the property. Ms. Jefferies showed pictures of the alpacas using her phone and ipad. Mr. Tim Lee, Assistant Town Attorney, asked Ms. Jefferies if she was willing to email the pictures to the clerk as part of the record and Ms. Jefferies replied yes.

Mr. Victor Jefferies, Applicant, addressed the Commission and explained the history and habits of the alpacas. He noted that the alpacas upkeep costs are \$50.00 a month. They do not smell or make a lot of noise. Mr. Jefferies uses them as therapy animals.

Pastor Jefferies reviewed the location of the pen. She is involved with the church and the community. She has brought children to the property to see the alpacas and many neighbors have stopped by to see them.

Mr. Jefferies stated that an acre of property can have up to 10 alpacas. His property is over a half of acre and he could house up to three alpacas. Mr. Jefferies stated that alpacas are easy to maintain.

Ms. Carroll asked where the alpacas are housed for the winter. Mr. Jeffries stated the existing shelter is three sided and provides shelter from the outside elements. Ms. Carroll asked how the alpacas are protected from outside predators. Mr. Jeffries explained that if threatened, the alpacas will make a high pitch noise or faint. He has a fox in his yard that has not bothered the alpacas.

Mr. Vita asked if Mr. Jefferies would accept a condition of approval that there are no more than two alpacas. Mr. Jefferies agreed to the condition.

Mr. Chorney discussed zoning regulations for the keeping of animals. Mr. Jefferies stated that the alpacas do not challenge the fence and they are tagged with a microchip. He noted that alpacas can no longer be imported.

Mr. Kops reviewed the zoning regulations for the keeping of animals. He noted that the applicant has only requested "a" of section 626.4. The Commission discussed the keeping of animals zoning requirements. Mr. Kops stated that the Zoning Enforcement Office can and should verify that the applicant meets all the requirements. He reviewed the submitted site plan with the Commission. Pastor Jefferies showed pictures of the pen and enclosure and will email them to the clerk. Pastor Jefferies stated that if additional compliance is required she and her

husband are willing to adhere to the conditions. If there are any health issues involved Pastor Jefferies will remove the alpacas from the property. She noted the alpacas do not smell or make noise. Pastor Jefferies stated that the property is immaculate and that they are capable of caring for the alpacas.

Mr. Vita noted for the record that seven letters were received in favor of the application, and one letter against the application.

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

Mr. Vita asked for comments against the application:

Mr. Richard Furtak, 1019 West Woods Road, addressed the Commission and stated that his back yard abuts the applicant's property. He has a pool in his back yard and he can smell the alpacas. Mr. Furtak's explained that his deck is located 100 feet from the enclosure and when it is damp at night he can smell the alpacas hay and poop. He thinks that the animals are cute; however, the property is not a farm. Mr. Furtak has lived in his house for 30 years and does not want to smell a farm. He stated that there are days the smell is unbearable. Mr. Furtak owns a dog and stated that it is a house pet which alpacas are not.

Mr. John Mroz, 25 Russo Drive, addressed the Commission and stated that alpacas are cute and a good place for them is a petting zoo, not a residential neighborhood. Mr. Mroz stated that the alpacas do smell. The pen is located two feet from his property line. He had his property surveyed when the activity started at 39 Russo Drive.

Mr. Tim Lee, Assistant Town Planner, asked Mr. Mroz if he had a survey of his property relative to the location of the plan. Mr. Mroz did not have the survey with him and showed a copy of the plot plan. He asked that the variance request be denied.

Mr. Joseph Venditto, 1 McDermott Circle, addressed the Commission and stated that if the variance is granted it will set a precedent for the keeping of other farm animals.

Ms. Janet Stewart, 1043 West Woods Road, addressed the Commission and stated that she agreed if the variance is granted it will set a precedent.

Pastor Jefferies stated that she was not aware that the smell is strong. Lime can be used to deter the smell and she is willing to use it. Pastor Jefferies would like the opportunity to use the lime to deter the smell. Mr. Jefferies stated that when it does rain the urine does smell, but he cleans it up when it stops raining. His neighbor has never advised him of the smell. One neighbor had advised him of the smell. Mr. Jefferies has used organic lime and mixed it with the dirt to eliminate the smell.

Mr. Chorney stated that the Commission should have a survey to verify the property lines. Mr. Kops explained that if the variance is granted the Zoning Enforcement Officer will verify that the pen is located 25 feet from the property boundary.

Mr. Vita closed the Public Hearing.

7) 14-6547 335 Putnam Ave, Request variances: Section 668.3.a to permit a lot size of 151,015sf where 500,000sf is required for an enrollment of 500 students; Section 668.3.c to permit a rear yard of 9.50ft where 50ft is required; Section 668.3.d to permit off-street parking in the side and rear yard. T-4 zone, Highville Charter School, Applicant

Mr. Bernard Pellegrino, Attorney, addressed the Commission and reviewed the variance request and location of the site. He stated that the school was chartered in 1999 and when it was originally permitted for use on the other side of Leeder Hill it housed grades K-8 students. The school is ranked high and the charter has been permitted to expand to grades K-12. The current location is housing grades K-10 and the school has outgrown its current site. The charter district is Hamden and New Haven. The original charter was originally based on groups from the Highwood section of Hamden and the Newhallville section of New Haven. Mr. Pellegrino reviewed the location of

the proposed site and the site plan. There are currently 400 students attending the school and they would like to increase to 500 students. Mr. Pellegrino reviewed the zoning regulations for the proposed use and site. He stated that the hardship is the educational program specific to the charter school vs. a public school. Mr. Pellegrino reviewed the school's curriculum that focuses on education and there are no athletic teams. An outdoor play area may be installed. Mr. Pellegrino reviewed the existing conditions on the site and he reviewed the surrounding properties. He noted that currently five of the public schools in Hamden that are currently operating, none of them meet the area requirements under the zoning regulations. Mr. Pellegrino said this site has two front yards and a 50 foot rear yard. He noted that the property owner located to the west of the site is renovating the building into a residential building. Mr. Pellegrino represents the owner and he has no objections to the variance requests and feels that the school will be compatible with the approved residential use. The parking lot exists and zoning regulations do not permit parking in the rear or side yards

Ms. Dove asked Mr. Pellegrino to review the parking. Mr. Pellegrino reviewed and discussed the existing parking area with the Commission.

Mr. Pellegrino stated that the school has been an anchor for the community. The school would like to remain in close proximity to the existing location. The proposed site is available and is ideal in size and configuration. There will be minimal exterior work done to accommodate the school. The school will be compatible and a benefit to the neighborhood.

Mr. Chorney asked if children will walk or be bused to the school.

Mr. Craig Drezek, Executive Director, Highville Charter School, addressed the Commission and stated that the children are bused from Hamden and New Haven.

Mr. Nelson asked if the State mandates the square footage per student. Mr. Pellegrino replied no, it is the Town that mandates the amount of square footage per student.

Mr. Chorney asked what the charter requires. Mr. Pellegrino does not have the charter with him. Ms. Dove asked if the State sets the charter requirements. Mr. Drezek said that the school is a 501.c and there are no state requirements. Mr. Pellegrino and Mr. Drezek reviewed the requirements for square footage per student with the Commission.

Mr. Nelson asked what the current schools square footage is. Mr. Drezek reviewed the schools current building size. He noted that this school is one of two in that building.

Mr. Chorney asked if built, will the playground be fenced in. Mr. Pellegrino replied yes. Mr. Chorney asked if the parking area is removed will it meet the zoning regulations. Mr. Pellegrino stated that a playground cannot be located in the front or side yards. The Commission discussed the proposed location of the parking area and the playground with Mr. Pellegrino, Mr. Kops and Mr. Drezek.

Mr. Nelson asked if there is an abutters list. Mr. Pellegrino submitted the abutters list and stated that the 12 property owners were notified.

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.**

**14-6541**

***Mr. Chorney made the motion to deny Application 14-6541.*** He stated that there was no hardship shown. ***Ms. Dove seconded the motion. Mr. Chorney, Ms. Dove, Ms. Carroll and Mr. Vita voted in favor of the motion. Mr. Nelson abstained. Therefore, the motion was approved 4-0-1 and the variance was denied***

**14-6542**

***Mr. Nelson made the motion to approve Application 14-6542. Ms. Carroll seconded the motion.*** Mr. Nelson stated that the applicant's elderly parents were forwarding his mail and he did not receive the renewal letter in time to meet the August 1, 2014 deadline. ***Mr. Nelson, Ms. Carroll and Mr. Chorney voted in favor of the motion. Mr. Vita and Ms. Dove voted against the application. Therefore, the motion failed 3-2-0 and the variance was denied***

***Mr. Chorney made a motion to reconsider the application. Mr. Nelson seconded the motion.*** Mr. Chorney stated his motion was for discussion purposes. ***Mr. Chorney, Mr. Nelson and Ms. Carroll voted in favor of the motion. Therefore, the motion passed 3-2-0.***

Mr. Chorney stated that four similar applications were approved at the September 18, 2014 meeting. It had been determined that there were 254 student housing applications and only 13 had missed the deadline. Of the four applications heard at the previous meeting an applicant had stated that he was unable to complete the applications because he did not have the name of the tenants or the information to complete the renewal application. Mr. Vita stated that the reason given by the owner is not acceptable. As the owner of the property he should have had the name of the prospective tenants. If the owner does not know who is going to rent his property then how can he come before the ZBA and ask for a variance. Mr. Chorney stated that in previous years if an owner was late submitting the renewal application a late fine would be paid. The moratorium that is in place changes it. The Commission had a lengthy discussion that addressed students living in the houses vs. what the owner's responsibilities are.

***Mr. Chorney made the motion to approve Application 14-6542. Mr. Nelson seconded the motion. Mr. Chorney, Mr. Nelson and Ms. Carroll voted in favor of the motion. Mr. Vita and Ms. Dove voted against the application. Therefore, the motion failed. 3-2-0 and the variance was once again denied.***

**14-6543**

This item is tabled until the November 20, 2014 meeting.

**14-6544**

This item is tabled until the November 20, 2014 meeting.

**14-6545**

***Mr. Chorney made the motion to approve Application 14-6543. Mr. Nelson seconded the motion.*** Mr. Chorney stated that this application is different than the similar requests that have come before the Commission. The structure will be contained within the campus and will have screening. The applicant has shown that the existing antennas signals are not sufficient to cover the campus. Previous variances have been approved for other buildings on the campus that exceed the height restrictions. The campus is enclosed and this limits the visibility of the antennas to the campus and they will have screening. Mr. Vita stated that the screening will mimic the existing buildings. Mr. Chorney stated that there is a problem with coverage because there are 6,500 students. He noted that it is important to have cell phone use available. ***The motion passed unanimously.***

**14-6546**

***Mr. Nelson made the motion to deny Application 14-6546 without prejudice. Ms. Dove seconded the motion.*** Mr. Nelson feels that the applicant has obtained farm animals. The neighborhood residents are concerned with the odor and is not allowed. If the property were 1 or 2 acres the smell might disperse. Mr. Nelson stated the applicant should speak with the zoning enforcement officer to see if the lime or an environmental friendly product that would kill the odor. Mr. Vita stated the area is densely populated and does not permit the type of use being requested. If the ZBA allows two alpacas, other residents may start keeping farm animals. The Commission further discussed keeping the alpacas as pets. ***The motion passed unanimously and the variance was denied.***

#### **14-6547**

***Mr. Nelson made the motion to approve. Ms. Carroll seconded the motion.*** Mr. Nelson stated that the variance being requested is small considering the size of the property and the existing building. The building is 46,000 square feet and may be difficult to rent. He feels that the building may sit idle. Mr. Vita feels that the applicant has met the hardship. Charter schools are different than a traditional school and do not have the same needs and requirements. They do not have athletic teams and do not need the fields. Many of the schools in Hamden do not meet the zoning regulation requirements. Mr. Nelson stated that the applicant will not have a lot of traffic to the site and the parking requirements will be determined by the Planning & Zoning Commission. ***The motion passed unanimously and the variance was granted.***

#### **b. Approve Minutes of July 17, 2014**

Ms. Carroll asked that the minutes be amended and gave the clerk her recommended changes.

***Mr. Chorney made the motion to approve the minutes of July 17, 2014 as amended. Mr. Nelson seconded the motion. The motion passed unanimously.***

#### **Approve Minutes of September 18, 2014**

Mr. Chorney asked that the minutes be amended as follows: Page 1, Staff in attendance, Tim Lee, Assist Town Attorney. Page 5, 2<sup>nd</sup> paragraph, 1<sup>st</sup> sentence, add "or disabled veterans". Page 5, 2<sup>nd</sup> sentence, "afford" should be "affordable. Page 6, 7<sup>th</sup> paragraph, 4<sup>th</sup> sentence, "177" should be "77". Page 9, 1<sup>st</sup> paragraph, last sentence, "no" should be "not". Page 10, 4<sup>th</sup> paragraph, last sentence should read: The second letter went to his tenants in Hamden and when received he received it he went in to see Ms. Masi.

***Mr. Chorney made the motion to approve the minutes as amended. Mr. Nelson seconded the motion. Mr. Chorney, Mr. Nelson, Ms. Dove and Ms. Carroll voted in favor of the motion. Mr. Vita abstained. Therefore, the motion passed 4-0-1.***

#### **c. Old Business**

Ms. Dove questioned why variances are being required for telecommunication antennas. Mr. Kops discussed the height requirements in the zoning regulations with the Commission.

#### **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 9:05p.m.

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