

December 22, 2014

MINUTES: THE ZONING BOARD OF APPEALS, Town of Hamden, held a Public Hearing and Regular Meeting on Thursday, December 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: Jeff Vita, Chair
Wayne Chorney
Andrew Houlding sitting for Fran Nelson
Elaine Dove
Suzanne Carroll

Staff in attendance: Leslie Creane, Town Planner
Tim Lee, Assist Town Attorney
Holly Masi, Zoning Enforcement Officer
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 members introduced themselves.

A. Public Hearing

1) 14-6550 17 Maple Street (aka 2812 State Street), Request variance: Table 3.4 & Figure 3.6 to allow a third story with a front yard setback of 39.3ft where a maximum of 18ft is allowed. T-4 zone, Keith Frost, Applicant
Public hearing continued from 11/20/14 meeting.

Mr. Tim Yolen, Attorney, addressed the Commission and reviewed the variance request to allow a third story that will be used as a 480 square foot efficiency apartment. He said that the zoning map was changed from an R-4 to a T-4 zone. The existing building sits 39 feet from the street where 18 feet is required. Mr. Yolen stated that the hardship is that the building is preexisting and it is legal non-conforming. He noted that the T-4 zone does not have a side yard requirement.

Mr. Vita asked when the zone was changed from an R-4 to a T-4. Mr. Yolen replied that the amended zoning map was effective January 1, 2010. Mr. Vita asked if the zone was an R-4 would a variance still be necessary and Mr. Yolen replied yes.

Mr. Chorney noted that the existing garage is on the property known as 17 Maple Street and he asked if a lot line revision has been done. Mr. Yolen replied that a lot line revision has been submitted.

Mr. Houlding asked Mr. Yolen what the hardship is. Mr. Yolen replied that the hardship is due to the location of the property, and the preexisting building because the front yard setback requirement is 18 feet. The Commission discussed the location of the existing building with Mr. Yolen. Mr. Yolen stated that a prior owner had merged 17 Maple Street and 2812 State Street back in early 2000 to reduce the property taxes.

Ms. Dove asked what the building is currently used for. Mr. Yolen reviewed the site with the Commission. Ms. Dove questioned the condition of the building. Ms. Holly Masi, Zoning Enforcement Officer, stated that the building is classified as a garage and it is dilapidated. Mr. Yolen stated that when the building is renovated it will house offices and an efficiency apartment. Ms. Dove stated that the structure is not in compliance and not being used by the existing owner. Ms. Leslie Creane, Town Planner, explained that the lot is considered a through lot and the garage does not comply with the T-4 zone regulations.

Mr. Vita asked if the owner has the ability to divide the existing lot. Mr. Tim Lee, Assistant Town Attorney, explained that the variance would allow the owner to do a lot line revision and use the existing building. Ms. Masi said that the variance would allow the third floor to be added. She added that if the variance is not granted the applicant can use the existing building as offices. The Commission, the Planning Staff and Mr. Yolen had a lengthy discussion about the existing building, the variance request, and the hardship.

Ms. Creane stated that the lot is a split zone and she advised Mr. Yolen that the lot line revision map he submitted is not acceptable. She discussed with Mr. Yolen what is required so that the lot line revision application can be approved.

Ms. Dove reviewed the existing parking and asked if a variance will be required. Ms. Masi explained that the applicant cannot propose new parking that does not meet the regulations.

Mr. Houlding asked Mr. Yolen to review the hardship. Mr. Yolen reviewed the history of the site. He stated that the variance request is to allow a third floor to be added and it will be used as an apartment.

Mr. Chorney discussed the variance request that was submitted with the Planning Staff.

Mr. Vita asked for comments in favor of the motion. There were none.

Mr. Vita asked for comments against the application:

Ms. Nancy Minck, 9 Maple Street, addressed the Commission and stated that her home is adjacent to this property. She submitted and reviewed a picture of the site (Exhibit 1). She stated that the existing garage is in need of repair and should be condemned. Ms. Minck stated that the view from her back yard is of the lake and marshes that are located on the other side of State Street. She feels that her family should continue to enjoy the privacy of her back yard and the wildlife that she sees from it. If the request to allow offices and add a third floor to the building is approved it will take away the view and lower the value of her property.

Mr. Vita asked what the height of the addition will be. Mr. Yolen replied that the addition to the building will add approximately five feet to the height of the existing building.

Mr. Houlding asked what the distance is from Ms. Minck's property line to the existing building. Ms. Minck replied it is 11.9 feet.

Mr. Vita stated that the T-4 zone has an allowable height requirement and the proposed building would meet that requirement and be allowed. Ms. Minck asked if the building would meet the required setbacks. She noted if the building were to be moved to the required setback, it would still allow her to have her privacy.

Mr. Yolen stated that the proposed building meets the height requirements. If the building were to be demolished and moved to meet the setback requirements, his client could make the building taller. Ms. Minck replied that moving the building would block the view currently being seen from the residence at 17 Maple Street. Ms. Dove does not feel that the proposed building will impact 17 Maple Street. Ms. Minck stated that the house at 17 Maple Street is currently in foreclosure and the owner's grave digging company operated out of it.

Mr. Chorney asked what the reasoning is for adding a third story to the building. Mr. Yolen replied that it would complement the existing building and maximize its use.

Ms. Dove questioned the topography of the site. Mr. Yolen reviewed the topography of the site as it relates to the existing building. Ms. Creane noted that the property sits at grade at State Street and then goes up as it moves towards Maple Street.

Ms. Minck asked if the property would have to be split if the variance were to be granted. Ms. Creane replied yes and the proposed site would be located in the T-4 zone. Ms. Minck further discussed with the Planning Staff the use of the lot if it were to be split. Mr. Lee stated that the Commission can impose as a condition of approval that the existing lot must be split prior to a zoning permit being issued. Mr. Lee asked Mr. Yolen if he would accept this as a condition of approval and Mr. Yolen replied yes.

Ms. Minck submitted a letter (Exhibit 2) summarizing her objections.

Mr. Vita closed the Public Hearing.

2) 14-6553 533 Newhall Street, Request variances: Section 220, Table 2.3, to permit 80ft height for sports lighting poles where 35ft is allowed. Section 580.4, to permit a minimal amount of light into the Towns street right of way, Section 580.5.d, to allow the use of flood lights, R-4 zone, Dale Kroop, Applicant

Mr. Dale Kroop, Director of Economic & Community Development, addressed the Commission and reviewed the previous variances that have been granted for this site. He noted that the Planning & Zoning Commission has approved a Special Permit & Site Plan for this site. Mr. Kroop reviewed the variance that was granted to allow the sports lighting. He explained that the Planning & Zoning Commission limited the use of the lighting to ten games per year.

Mr. Tom Hammerberg, Landscape architect, addressed the Commission and reviewed the previous variance that was granted to allow the sports lighting. He reviewed the variance request to permit 70-80 feet high light poles. Mr. Hammerberg submitted and reviewed pictures (Exhibit 1) of the proposed lighting. He noted that the height of the poles is necessary to limit the light bleeding onto the street and for the safety of the ball players.

Mr. Hammerberg reviewed the lighting plan with the Commission. A lengthy discussion regarding the proposed lighting plan ensued. The Commission expressed its concerns with regard to the length of time the lights will be on, maintaining the lights and how the lights will affect the surrounding residential homes. Mr. Hammerberg reviewed the Electrical Details (Exhibit 2).

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

Mr. Vita asked for comments against the application:

Ms. Velma George, 347 Mill Rock Road, addressed the Commission and stated that she is against the variance. She stated that her master bedroom faces the park and she is concerned about the light pollution. Ms. George questioned who in the Town will be responsible for making sure that only 10 games a year are played at night. Ms. George feels that night games will increase traffic and noise coming from the park. She asked that the variance request not be granted. Ms. George submitted a letter (Exhibit 3) from Ms. Gloria Faber, dated December 18, 2014, who is against the application.

Ms. Elizabeth Hayes, 357 Mill Rock Road, addressed the Commission and stated that she is against the variance request. Her room faces Mill Rock Road and she will see the lighting from the front bedroom in addition to the existing street lights. The proposed lighting will create double illumination. Ms. Hayes is concerned with the quality of life for her and the neighbors if the lights were to be installed because of the density of the neighborhood. She is also concerned with the safety of the neighborhood.

Mr. Kroop said his hope is to have other fields within Hamden renovated with new lights. Because the field is being renovated it allows the opportunity to put in the underground mechanicals necessary for the lighting. Mr. Kroop stated if there were to be more than 10 night games, it would be necessary to go back before the Planning & Zoning Commission to amend the conditions of approval. There are people who are against the park in its entirety because of many issues.

Mr. Hammerberg stated that the lower the lights are placed it becomes more difficult for the lights to spread across the field.

Mr. Vita reviewed the letter from Ms. Gloria Faber (Exhibit 3).

Mr. Kroop addressed the concerns about the on street parking. He noted where residents are allowed to park and that he is working with the Traffic Authority to resolve any concerns.

Mr. Arnie Mann, 25 Huntington Circle, addressed the Commission and stated that he is a member of the Hamden Parks and Recreation Commission. He said that the Commission is always looking for facilities to use for the youngsters in town. Mr. Mann stated that he is an umpire and that fields where the lights are low have a higher incident of accidents. He stated that he schedules the games and he will work with the Parks & Recreation Department to make sure that there are no more than the permitted 10 night games per year. Mr. Mann said that safety is a number one concern. Most of the players who will use the fields are residents and the parents are taxpayers. He has officiated games at night and they usually draw a handful of people. Mr. Mann asked that the new complex with parking on the side of the field be provided.

Mr. Richard Leonardo, 1515 Dunbar Hill Road, addressed the Commission and stated that he is the Chairman of the Parks & Recreation Commission. He said that the lights are needed for safety purposes. Mr. Leonardo said that he has seen videos that have the proposed lighting. The fields in Hamden are in need of restoration. Mr. Leonardo is in favor of the variance request.

Mr. Hammerberg stated that the lights will be controlled remotely by computer. It will be the Town's decision as to who will turn them on and off. The system will be sophisticated and can be controlled by the lighting company that is located in Hamden. The lights can be manually controlled by the Parks & Recreation Department. The system can be programmed to identify that only ten games a year are allowed.

Mr. Chorney reviewed the proposed lighting for the fields with Mr. Hammerberg.

Ms. Hayes asked if there are currently lights on other fields and Mr. Kroop replied no. Ms. Hayes asked what types of lights are being used at night on other fields. Mr. Kroop replied that temporary lights are used at Bassett Field. The use of temporary lights was discussed further.

Ms. Dove feels that the lights will disturb the neighbors and that no one will keep track of the lights so they are used for only 10 days. She discussed her concerns with Mr. Kroop and Mr. Hammerberg.

Ms. George feels that allowing the lights to be on until 10:00 p.m. is unreasonable. Mr. Kroop said that the games start at 5:45 p.m. and only last for 2-2 ½ hours.

Mr. Vita closed the Public Hearing.

3) 14-6556 49 Julian Drive, Request variance: Section 220, Table 2.3 to permit an 11.18ft side yard where 20ft is required for an attached garage, R-2 zone, Mark Petrelis, Applicant

Mr. Mark Petrelis, Applicant, addressed the Commission and stated that he renovated the existing house. He said that the hardship is the need for a two car garage. The garage cannot be located to the front of the house because of pitch of the driveway. Mr. Petrelis reviewed the pictures submitted with the application. He stated that there are no alternative locations. The biggest asset of the home is the enclosed porch. Mr. Petrelis stated he would be willing to reduce the size and build a 13 foot attached garage. He noted that the home was sold two days ago and that the new owner is aware of the variance request. He further discussed the location of the proposed garage with the Commission.

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

Mr. Abner Oakes, 35 Julian Drive, addressed the Commission. He submitted and read a statement (Exhibit 1). He would accept a condition of approval that only a one car garage is allowed. Mr. Oakes noted that he has met the new owner of the house and he has a good plan to clean up the back yard.

Mr. Geoffrey Johnson, 68 Julian Drive, addressed the Commission and stated that Mr. Petrelis has done a good job with the house. He submitted and read a petition (Exhibit 2)

Mr. Tim Lee, Assistant Town Planner, asked Mr. Johnson if he would be in favor of a one car garage and Mr. Johnson replied yes.

Mr. Petrelis stated that advertising done for the house was as allowed by his attorney. The house was sold at a loss. Mr. Petrelis said that it has been stated why other locations were not good and he does not feel the hardship is self-imposed.

Mr. Lee stated that Mr. Petrelis indicated he would accept a condition of approval that the garage be a one car garage. Also, Mr. Johnson and Mr. Oakes had stated that they would be in favor of a one car garage.

Mr. Vita closed the Public Hearing.

B. Regular Meeting

a. Discussion and voting on Public Hearing items.

14-6550

Mr. Houlding made the motion to approve Application 14-6550 for discussion purposes. Ms. Dove seconded the motion. Mr. Houlding feels that the applicant provided a reasonable explanation for the hardship. The approval is contingent on the satisfactory submission and approval of a lot line revision. The Commission and Planning Staff had a lengthy discussion with regard to the variance request, the hardship, and the T-4 zone requirements.

Mr. Houlding, Mr. Vita and Mr. Chorney voted in favor of the motion to approve. Ms. Dove voted against the motion. Ms. Carroll abstained. Therefore, the motion to approve the variance request failed 3-1-1.

14-6553

Mr. Chorney made the motion to approve Application 14-6553 with the following conditions: 1) Installed lighting shall not exceed the levels represented on the photometric plan dated 10-30-14. 2) Only one field shall be lit at a time. Mr. Houlding seconded the motion. The Commission discussed the motion and their concerns with regard to the glare from the lights to the neighboring properties. Ms. Creane explained "Cone of Vision" which means that taller elements can be less noticeable. Ms. Dove asked if there should be a condition of approval that the light poles cannot be used for telecommunication antennas. Ms. Creane replied that a variance would be

needed if antennas were to be attached to the light poles. Mr. Lee explained that a telecommunication company can put up a tower by going to the Siting Council. He feels it would be better to use existing poles because it would be less visible. *The motion passed unanimously.*

14-6556

Mr. Houlding made the motion to approve Application 14-6556 for discussion purposes. Mr. Chorney seconded the motion. Mr. Chorney asked that the motion be amended to include the condition that: *The approval is subject to only a one car garage with a side yard of 17 feet where 20 feet is required for the construction of a one car garage.*

Mr. Vita made the motion to approve Application 14-6556 as amended. Mr. Chorney seconded the motion. The motion passed unanimously.

b. Approve Minutes of November 20, 2014

Mr. Chorney made the motion to approve the minutes as written. Ms. Dove seconded the motion. The motion passed unanimously.

c. Old Business

There was none

d. New Business

There was none

e. Adjournment

Mr. Vita made the motion to adjourn. Ms. Dove seconded the motion. Therefore, the motion passed unanimously.

The meeting adjourned at 9:06 p.m.

Submitted by: _____
Stacy Shellard, Clerk of the Commission