

January 21, 2009

**Minutes:** THE ZONING BOARD OF APPEALS, Town of Hamden, held a Public Hearing and Regular Meeting on Thursday, January 15, 2009 at 7:00 p.m. in the 3<sup>rd</sup> Floor Conference Room, Hamden Government Center, 2750 Dixwell Avenue, Hamden, CT. and the following was reviewed:

***Commissioners in attendance:***

Jeff Vita, Chair  
Wayne Chorney  
Elaine Dove  
Fran Nelson  
Andrew Houlding, Alternate sitting for Bill Reynolds  
Steve Walsh, Alternate

***Staff in attendance:***

Dan Kops, Assistant Town Planner  
Holly Masi, Zoning Enforcement Officer  
Tim Lee, Assistant Town Attorney  
Stacy Shellard, Commission Clerk  
Lisa Raccio, Stenographer

Mr. Vita called the meeting to order at 7:01 p.m., reviewed the agenda and meeting procedures and the panel introduced themselves.

**A. Public Hearing**

- 1) **08-6317** 2895 State Street, Requesting action under Section 861.1, Appeal of Cease and Desist Order(dated 12/28/07), CDD-1 Zone, Modern Materials, Applicant.  
**TABLED**
- 2) **08-6318** 2895 State Street, Requesting action under Section 861.1, Appeal of Cease and Desist Order(dated 12/28/07), CDD-1 Zone, Empire Paving, Applicant.  
**TABLED**

Mr. Vita advised the Commission that items 1 and 2 have been tabled.

- 3) **08-6349** 325 Fairview Avenue, Requesting a variance of the following: Section 445b to allow a side yard of 7.5 feet where 10 feet is required on one side of the existing house to allow for a 25 foot wide access strip to a rear lot on an oversize parcel. Section 311.1c to allow 50 percent total lots to be rear lots where no more than 15 percent are permitted for a subdivision. Michael Fornal, Applicant

Mr. John Milone, Professional Engineer reviewed the application and stated that the variance for Section 311.1c would not be needed if the variance for Section 445b is approved. The lot is approximately 1800 square feet and has existed since 1949. He submitted an A2 survey that shows the shape and location of the house as it exists now.

The house is located 23 feet from the north boundary line and 33 feet from the south boundary line. Mr. Milone submitted photographs showing the view of the front and rear of the house. The side yard variance would allow for a 25 foot access strip. If granted it would allow a strip of land to be used for access to a rear lot and the potential to build a house. This would not change the distance between the adjacent homes in the neighborhood. It would not change any structural elements associated with the variance. The current owner is Michael Fornal. His parents previously owned the property. This parcel is the only lot in the neighborhood that has enough land to accommodate a rear lot. Mr. Milone explained that the rear lot could be utilized and the variance would not be needed if a portion of the home were to be removed.

Mr. Vita asked Mr. Tim Lee, Assistant Town Attorney if the request for a variance of Section 311.1c is necessary. Mr. Lee advised that the second variance is not needed because it is not a subdivision. It would be considered a simple split of the property. Subdivisions were not in the regulations until after 1957. This lot was in existence prior to 1957 and there had been no splits of the property after 1957.

Ms. Dove asked if it were a two family house. Mr. Milone advised that there is a small apartment on the second floor.

Mr. Fornal stated it has been utilized as a two family home and there have been renters in the past. Mr. Milone could not determine if house were to be sold, it would qualify as a two family house. Ms. Dove asked if the property was being sold as one property. Mr. Milone advised it is currently being sold as one property. If the variance is approved, it could be sold as two separate properties. The Commission reviewed the surrounding properties with a shed and a garage that are the neighbor's. The Commission asked if the owner was going to build a house on the rear lot or would like the right to build a house. Mr. Milone stated the owner would like the right to build a house.

Mr. Vita asked what the hardship is. Mr. Milone stated that the size of the lot is large and difficult to maintain and buyers are interested in smaller lots. He reviewed the size of the proposed structure and stated that it could be a two family home that is allowed by right. Mr. Nelson asked if the application would need to go before the Planning and Zoning Commission. Mr. Kops, Assistant Town Planner advised that it would only need a zoning permit because it is a simple split. Parking could be an issue for the existing house which is listed as a two family home with Vision Appraisal and the Assessor's office.

Mr. Vita asked for public comments:

Mr. Thomas Witt, 315 Fairview Avenue addressed the Commission and stated he has several concerns. He does not understand the hardship stated for the variance. The applicant has only lived at the house for a short time. There are similar lots in the neighborhood and the maintenance is minimal. Residents in the neighborhood bought their homes because of the large lots and the privacy. If another home were to be built on a rear lot it would change the neighborhood. If the house were to be built as a two family and parking spaces added, the concern would be for the increased traffic it would create. He is concerned that a tree would need to be removed and construction of a home on this property could cause water problems to his home.

Mr. Ed Peterson, 309 Fairview Avenue addressed the Commission and stated that Vision Appraisal shows the existing house is a two family home. A new house would require mature plantings to be removed and could change the water flow during storms. Mr. Peterson reviewed maps showing lots and structures located to the rear on Glemby Street. He feels that the south end of Hamden is saturated with houses and with the current market nothing has recently sold.

Ms. Marilee Hird Peterson, 309 Fairview Avenue addressed the Commission. She advised the members that she owns a real estate company and this request could effect the values of the existing properties. The privacy aspect and the surrounding properties would be negatively effected.

Mr. George Petrus, 304 and 296 Fairview Avenue addressed the Commission. He reviewed the map and showed the members where his property is located. He has lived in his home for 20 years. If a house is built, it would

increase the student population at Helen Street School. There would be a change in the characteristics of the neighborhood. He discussed the size of the applicants property and his property . He advised the Commission that he is against the application.

Ms. Carolyn Witt, 315 Fairview Avenue addressed the Commission. Ms Witt stated she is concerned that building on the lot could cause a water problem to her home. The property line is located at her driveway. The surrounding plantings and trees would be affected. She advised the members that children play in the area and safety is a concern. The existing house on 325 Fairview Avenue has only been on the market for two months. She also feels that it would effect the value of her home. She advised the Commission that there had been a previous attempt 40 years ago to subdivide a property in the neighborhood and it was denied. Mr. Demato of 310 Fairview Avenue verified that there was an application to subdivide a property and it was denied.

Ms. Nancy Schmidt, 320 Fairview Avenue addressed the Commission. She stated that building a home on a rear lot would be out of character for the neighborhood and create additional traffic to the neighborhood. She advised the Commission she is against the variance.

Ms. Clara Petrus, 296 and 304 Fairview Ave addressed the commission. She stated that she purchased her home because the yard was large. Her son lives in the house next door. Ms. Petrus advised the Commission that she could have subdivided her property, but wanted the neighborhood to remain the same. Building on the rear lot could bring additional traffic and she is concerned with the children's safety.

Mr. Milone advised the Commission that the applicant's lot is the largest in the neighborhood. It is the only lot that meets the criteria for an additional parcel. As it exists today by right there could be a three family house without any subdivision or zoning approval. The paved area to the rear of the house would not be bisected with the division of the property. The property line would be located at the rear of the pavement. The tree located in the front would not be removed with the construction of the driveway. The two lots that would be created would be close to the average size lots located on the east side of Fairview Avenue.

Mr. Ed Peterson addressed the Commission and advised that 325 Fairview Avenue is not the largest lot located on the street. He reviewed the lot sizes in the neighborhood.

Mr. Michael Fornal, Applicant addressed the Commission. He stated that other houses in the area are two and three family homes. He is not asking for a large house to be built.

Mr. Chorney stated that the lot is an over sized rear lot in an R5 zone. The house that is shown on the plans could be a two family. The rear lot would have enough parking for a two family house. He feels the issue is the stated hardship. Mr. Dan Kops, Assistant Town Planner noted the variance is for a driveway. The parking lot extends on to the second parcel. His concern is that the front lot would have very little green space and there would be no yard, it would all be pavement. The side yard would be 12 feet of asphalt and the rest would belong to the rear property owner. The rear lot could be a two or three family home. Mr. Chorney asked if the proposed regulations would affect this lot. Mr. Kops advised that there is no relationship of proposed and potential splits of conforming lots. Mr. Chorney asked if this proposed house could be built under the proposed regulations. Mr. Kops responded if there was a non conforming lot next to an adjoining lot it would remain a single lot.

The Public Hearing closed at 7:46 p.m.

## **B. Regular Meeting**

### **a. Discussion and voting on Public Hearing items.**

#### **08-6349**

Ms. Dove made the motion to deny the request for a variance. She stated the hardship was not demonstrated. The property is for sale. The owner does not have any intention to do anything with the lot and the neighborhood would be negatively impacted. The R-5 regulation would allow for a three family home if the 2.5 feet was not needed for

the side yard. Mr. Houlding seconded the motion. Ms. Dove, Mr. Houlding, Mr. Vita, Mr. Chorney voted in favor of the motion. Mr. Nelson abstained. The motion passed

**b. Approve Minutes of November 11, 2008**

Mr. Vita noted that on page 3 - application 08-6347 .5 yard should read .5 feet. And remove the sentence that reads Paul and Eddy's Pizza is the owner. Mr. Chorney made a motion to accept the minutes of November 11, 2008 as amended. Mr. Nelson seconded the motion. Mr. Vita, Mr. Chorney, Mr. Nelson, Mr. Walsh voted in favor of the motion. The motion passed.

**c. Old Business**

Ms. Holly Masi, Zoning Enforcement Officer advised the Commission that the Walgreens sign on the corner of Dixwell Avenue and Putnam Avenue is no longer flashing.

**d. New Business**

Mr. Vita welcomed Mr. Andrew Houlding as a new alternate to the Zoning Board of Appeals Commission.

Ms. Dove asked Ms. Masi to investigate the sign for 1-800-JUNK located on Connolly Parkway. She will speak with the Litter Enforcement Office Bill Sikorsky and ask him to remove.

Mr. Chorney reviewed with the members his concerns for the ZBA not being allowed to participate in the writing of the proposed zoning regulations. He discussed what was presented at the Planning & Zoning Special Meeting on 1/14/09 with the members and the Planning & Zoning staff. Mr. Lee advised the Commission that they should get together prior to the next meeting to determine their concerns. The Commission will invite Mr. McDonagh, Chairman of Planning and Zoning Commission and Ms. Leslie Creane, Town Planner to the next ZBA meeting.

**e. Adjournment**

Mr. Nelson made a motion to adjourn. The motion was seconded by Mr. Chorney. The motion passed unanimously.

**The meeting adjourned at 8:10 p.m.**

**Submitted by:** \_\_\_\_\_  
**Stacy Shellard, Commission Clerk**