

April 21, 2010

MINUTES: THE ZONING BOARD OF APPEALS, Town of Hamden, held a Public Hearing and Regular Meeting on Thursday, April 15, 2010 at 7:00 p.m. in the 3rd Floor Conference Room, Hamden Government Center, 2750 Dixwell Avenue, Hamden, CT. and the following actions were taken::

Commissioners in attendance:

Jeff Vita, Chair
Wayne Chorney
Fran Nelson
Bill Reynolds
Andrew Houlding, Alternate
Kevin Bohan, Alternate

Staff in attendance:

Dan Kops, Assistant Town Planner
Tim Lee, Assistant Town Attorney
Stacy Shellard, Commission Clerk
Lisa Raccio, 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) **10-6381** 169 Mill Rock Road, Requesting a variance of the following: Section 220 to allow a lot area of 10,000 square feet where 20,000 square feet is required. Section 220 to allow a lot width of 80 feet where a minimum of 100 feet is required. Section 530.5 to permit 7,818 square feet of steep slopes greater than 20% for lot 1 where 0 is permitted and to permit 7,511 square feet of steep slopes greater than 20% for lot 2 where 0 is permitted. R-3 zone, East Rock Partners, LLC, Applicant
Public Hearing continued from the March 18, 2010 meeting

Mr. Vita stated that Mr. Holding has recused himself from this application and Mr. Bohan would be sitting for Ms. Elaine Dove.

Mr. Carl Porto, Attorney, addressed the Commission and reviewed the application and the location of the lots. He said that the lots had come before the ZBA commission in 2008, 159 and 169 Mill Rock Road were split, and this application is asking to split 169 Mill Rock Road again. He stated that 90 percent of the lots that exist in the area have the same conditions that exist at 169 Mill Rock Road.

Mr. Ryan McEvoy, Professional Engineer, addressed the Commission and reviewed an aerial map of the neighborhood and was taken in 2008. He reviewed the existing site conditions and explained that the existing lot is 22,500 square feet, and a significant portion of the lot is defined as having 3,330 square feet of steep slopes located to the rear. The proposed two lot subdivision would result with each lot being 11,250 square feet. However, the slopes for lot one would reduce it to 3,343 square feet and lot two would be reduced to 3,740 square feet. The request is also asking to reduce the lot width from 100 feet to 80 feet. In an R-3 zone a 40 foot setback is required

but the zoning regulation allows a setback equal to either side of the street, and most of the parcels in the neighborhood have houses that setback are in 20 feet from front lot lines. Mr. Nelson asked what the square footage would be for the houses that are being proposed.

Mr. Peter deBretville, owner, addressed the Commission and stated that the houses would be 1,800 square feet and would have two bedrooms. Mr. deBretville submitted a packet to the Commission and reviewed the existing lots. He described the neighborhood and reviewed the lot sizes in the area. He said that 90 percent of the lots are 60 feet in width, and the lots located next to his are 60 feet and 80 feet widths. The 80 feet width being requested if the lots are subdivided would be larger than what exists in the neighborhood. Mr. deBretville reviewed a 3-D picture of the lots and explained that there are no lots in the area that conform to the current zoning regulations. He said that none of the adjacent lots conform to the steep slope or lot size requirements and his request would be conforming to the pattern of the neighborhood. He reviewed a 3-D schematic of the houses being proposed and stated that they would be the same as what is in the existing neighborhood. He said that the subdivision as requested conforms to 90 percent of what already exists and it would continue the pattern of development in the area.

Mr. Chorney said that the pattern being shown is for lots located to the west of the property and Mr. deBretville has neglected to show lots located to the east that do not fit the same pattern as the west and Mr. deBretville agreed. Mr. Chorney reviewed the request to split the lot that had come before the ZBA Commission in 2008 and where lots with the slopes was considered. It was viewed as a transition at the time between the smaller houses and the larger houses in the area. Mr. Porto said that the transition still exists. Mr. Chorney stated that the transition would be much smaller now because they would be putting in two houses where the original variance was for having one house on each of the lots. Mr. Porto reviewed the previous request that was approved and the ZBA commission had granted a variance for steep slopes. Mr. Chorney said that the engineer did speak about taking preventative measures to stabilize the slope. He said that this application is minimizing the pattern by placing two houses on the lot when one had been approved. Mr. Porto said that the one lot was created and has a house on it. As you travel easterly on Mill Rock Road the buffer still exists with a big house as a transition to the other bigger lots. The two lots being requested would be in conformity with all the other homes in the area. Mr. Chorney feels that the degree of the slope and the ability to claim a 20 foot frontage is based on the neighboring lots. There are no drawings showing the frontage and what is located to the east. If 90 percent of the frontage is the same for the houses of a similar size would be going west, but it is not similar going east on the same block. Mr. Vita said that it is where the transition is perceived. Mr. Porto said the existing lot was created and approved by the Commission and represents everything that goes east and Mr. Chorney said that a buffer was created. Mr. Vita asked if the applicant was the owner of East Rock Partners and Mr. Porto replied yes.

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

Mr. Vita asked for comments against the application:

Mr. Derrick Bacon, 129 Mill Rock Road, addressed the Commission and explained that the lot had been split when he purchased the home. He reviewed the area and feels that the request would not maintain the integrity of the neighborhood.

Mr. Vita asked for any additional comments. There were none.

Mr. Porto says that the application is relying on the notion of whether the ZBA thinks there is conformity. The ZBA had previously allowed the lot to be split. The lots are located in an old section of Hamden and the houses are modest in size. The hardship is the steep slopes located on the lots and is part of the neighborhood and not part of the transition because they would be the same as the houses going to the west.

Mr. McEvoy stated that the 20 foot setback for the two lots was determined by a field survey and was done using the Town's aerial mapping of the area.

Mr. Chorney said that the applicant has argued that there is no reasonable use of the property as it exists today, but a house could be placed on the property. Mr. Porto stated that the hardship is in regards to relief of the steep slopes. Mr. Chorney feels that the original variance had addressed the steep slopes. Mr. Porto said that the ZBA had recognized the issues with the original application and this application addresses the same problems. The topography of 169 Mill Rock Road and 159 Mill Rock Road is the same.

Mr. Vita closed the Public Hearing.

- 2) 10-6385** 123 Forest Street, Requesting variances of the following: Section 220 to allow a lot width of 32 feet for a legal non-conforming lot where 80 feet is required. R-4 zone.
Forestland Homes, LLC, Applicant
Public Hearing continued from the March 18, 2010 meeting

Mr. Vita stated that this public hearing is being continued from the March 18, 2010 meeting and he, Mr. Houlding, Mr. Nelson and Mr. Chorney would hear this application.

Mr. Bernard Pellegrino, Attorney, addressed that the public hearing was left open to receive a letter from the Fire Marshal and the Fire Chief. Mr. Pellegrino said that a letter dated April 14, 2010 has been received.

Mr. Tim Lee, Assistant Town Attorney, advised the Commission and Mr. Pellegrino that the public hearing was left open so that a response could be received from the Fire Chief and Fire Marshall, but correspondence from neighbors has also been received. He asked Mr. Pellegrino if he had any objections to the correspondence being made part of the records. Mr. Pellegrino stated that he had no objection to the letters from Ms. Nancy Abate because she had not attended the last meeting. He said that Mr. Ramsey was in attendance and would leave it up to the ZBA if his correspondence should be entered into the records. Mr. Lee explained to the Commission that if the correspondence is accepted into the record that the Commission must allow Mr. Pellegrino to comment.

Mr. Vita stated that the public hearing was left open with respect to receiving comments from the Fire Chief and Fire Marshal. The Commission discussed if the letters should be entered into the record, and Mr. Vita stated that the letters would not be accepted.

Mr. Holding asked if the driveway would remain unpaved and Mr. Pellegrino replied yes. Mr. Lee advised the Commission that their questions should pertain to the comments made by the Fire Chief and the Fire Marshal.

Mr. Vita asked the Commission if they had any additional comments. There were none.

Mr. Jeff Ramsey, Mount Carmel Action Committee, addressed the Commission and said that the driveway is 18 feet wide and over 400 feet long and in the wetlands. He feels that there would be parking in the driveway and that the Fire Marshal did not take that into consideration.

Mr. Pellegrino stated that the site development plan shows ample room off the driveway to access the houses and there would be no need to park in the driveway. Mr. Chorney said it was shown on the IWC map and was made part of the record at the previous meeting.

Mr. Vita closed the Public Hearing.

- 3) 10-6386** 107 Cumpstone Drive, Requesting variances of the following: Section 670.2.e to allow two parking spaces where four are required on-site: one on-street parking space and one parking space in the required front yard. Section 670.2.f. To allow one parking space in the required front yard where none is permitted. R-4 Zone, Christian G. Contreras, Applicant

Mr. Greg Robinson, representing the owner of the property, addressed the Commission and stated that the house was approved for a student housing permit by Mr. Tom Talbot. The neighbors have had issues with the students living on the premises and it was determined that the conditions of the permit were not met. Mr. Robinson stated that it is not unreasonable to ask for a variance to park on the street because if the students were not living in the house, street parking would be allowed.

Mr. Chorney said that for several years since the applicant applied for student housing, the plan for the parking has been ignored and never completed, and that the yearly renewal for the permit was done with zero parking. Mr. Robinson said that they were told that as long as parking is shown, they did not have to make the parking happen. He explained that he feels it is a fair request to ask for parking on the street, but if necessary will put the parking in the rear of the property. Mr. Robinson stated that they want to work with the neighbors and have had communication to ask if they could work the parking situation out. It is up to the Commission to determine where the parking should be. Mr. Chorney said there would not be a problem if the required parking had been put in as it was originally proposed and asked what the hardship would be. Mr. Robinson said that the amount of work required in the rear of the yard and that the neighbor may not want the amount of digging that it will require. Mr. Chorney asked how much digging would be required in a yard that is flat. Mr. Robinson said that it is not flat. Mr. Chorney said that he feels it is pretty flat and asked if it is not flat why he had originally said he would be willing to put the parking in. Mr. Chorney asked Mr. Kops for his comments and if he has to show parking on the plan. Mr. Kops said that the Zoning Enforcement Officer looks at the site to see if it is feasible and if it is not than the Zoning Enforcement Officer should recommend that the application be rejected. If the application is approved the agreement is by filing the permit the spaces will be provided on site for use by the tenants. This would not prohibit the student from parking on street where signs are not present preventing parking, but there must be four spaces provided on the site. Mr. Kops questions the comments regarding the terrain, because it is not flat and there is a rise on the right, and digging could result in something that is not attractive.

Mr. Chorney said that the parking plan was accepted and Mr. Kops said he was correct and that it was accepted by Zoning Enforcement Officer. Mr. Lee said that it was proposed by the applicant and approved by the Zoning Enforcement Officer. Mr. Nelson asked if there is a plan showing the driveway cut in and if there is a retaining wall. Mr. Kops said that there is a retaining wall between the property on the right and the retaining wall to the back of the driveway takes an L and another retaining wall would have to be created to create a finished edge. Mr. Nelson asked if the retaining wall is in the application and Mr. Kops said it was not. Mr. Chorney reviewed what exists on the property and said that a driveway going to the rear would not disrupt the berm. The driveway presently is 15 feet wide and a deck had been added which the owner has volunteered to take down and would create free access to the rear without going into the rise that exists. The distance from the deck to the block wall is 16 feet, and with another 5 feet when the deck is removed would create plenty of space to get into the rear. Mr. Chorney did a site visit and there were three cars in the driveway and one was parked across the sidewalk, which is illegal. The drawing that was submitted to the Planning Office is out of scale, and there is sufficient room to the rear because the lot is deep. He asked Mr. Kops if the driveway can be gravel and Mr. Kops said yes. Mr. Vita asked if the application is denied, does the applicant automatically have the right to put the parking area in. Mr. Kops said that it was indicated in the application that was approved that parking would be put in and approval would not be needed unless there was a significant amount of fill being removed.

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

Mr. Vita asked if there were comments against the application:

Mr. Michael Sutila, 108 Cumpstone Drive, addressed the Commission and stated that the drawing that has been submitted has no dimensions, no property sidelines or surveys and asked how a permit could be granted. He does not understand how the initial permit was allowed when there is clearly not sufficient parking. He reviewed the Student Housing Permit which states that "failure to provide evidence of legal parking will result in denial of the zoning permit application". He asked how the initial permit was allowed based on the drawing submitted. He feels that nothing was done and now it is being said that no further permit is necessary, because of the original approval. Mr. Sutila feels that what has been submitted is insufficient and Mr. Vita confirmed with him the drawing he was

referring to. Mr. Vita asked if a survey is required and Mr. Kops said no. Mr. Kops said that there is adequate space to place parking in the rear. Mr. Nelson advised Mr. Sutula if he feels that that the parking was on his property, he would have to have a survey done. Mr. Sutula asked if a building permit would not be required and Mr. Kops said no. Mr. Sutula asked what would happen if the work being done created a problem on the neighboring property. Mr. Chorney said that what the plan shows is that the work will not be near the abutting neighbor. Mr. Sutula stated that there would need a cut made into the hill. Mr. Robinson believes that if the parking were pushed farther into the yard, the students could still park on the street which is the issue at hand. If the students were to be treated like any other town resident, they would be allowed to park on the street and the spaces would not be needed. Mr. Sutula said that the parking is a requirement of the town and he cannot force the students to park in the spaces. He explained that exiting his driveway has become a problem and on the weekends there are cars parking on the front lawn and students were seen having a party on the roof of the house. Mr. Robinson asked Mr. Sutula to give him a call if the parking on the front lawn continues so that he can address the issue. Mr. Lee advised that comments and questions should be addressed to the ZBA Commissioners.

Mr. David Villette, 124 Cumpstone Drive, submitted pictures taken during a snowstorm with four cars parked on the street. He stated that the snowplows cannot do the work that is necessary to clear the street and the cars traveling on the street must go around them, and it creates a dangerous situation. He stated that if he were to have a house that housed students and parking was needed, he would make sure it could be done before permits were necessary. The permits were issued for three years by the Zoning Enforcement Officer, and a site visit should have been done to make sure the zoning regulations were being met. Mr. Villette stated that he is a licensed surveyor and has never seen a permit issued before all the conditions were met. He said that the pictures of the snowstorm that were taken there was during a parking ban, and stated he was told that the town does not take action for parking bans. Mr. Villette reviewed the student housing application and stated that it was approved every year without the parking. He feels that the tax he pays is for the Planning Office and to have a Zoning Enforcement Officer to enforce the zoning regulations. The house at 117 Cumpstone Drive houses students who park in the rear of that property.

Ms. Jeannette Allen, 116 Cumpstone Road, addressed the Commission and stated that she agrees with her neighbors and the students at 107 Cumpstone Road are disruptive and that she expects the town she pays taxes to would enforce the parking regulations. Ms. Allen stated that she bought her house with the belief that she would stay in it forever, and is hopes for a solution that would make everyone happy. She would like the rear parking area put in for the tenants.

Mr. Steve Szymczak, 129 Cumpstone Road, addressed the Commission and stated that he purchased the home in November, 2009, and that the neighbors have tried to deal directly with the tenants and that there have not been trouble with any other students in the neighborhood. The comments made this evening show the frustration that his neighbors have with the parking regulations not being enforced.

Mr. Vita asked for further comments. There were none.

Mr. Vita closed the Public Hearing.

- 4) **10-6387** 1832 Dixwell Avenue, Requesting variances of the following: Section 638.1.a to allow a seating area that is accessible from the street, instead of only from the building. Section 638.1.b to allow an outdoor eating area of 337 square feet where a maximum of 196 square feet (20% of the indoor area) is allowed. T-4 zone, Victor Hart, Applicant

Mr. Victor Hart, Owner, addressed the Commission and reviewed the application for an outdoor patio. The regulations require an access door which cannot be done because of the integrity of the design building. Mr. Hart said that the patio would be located in the front of the store. Mr. Chorney reviewed where the patio would be located and if it would be along the entire front of the building. Mr. Chorney asked if Mr. Hart would be taking over the space next to his store. Mr. Hart said that the space next to his is a separate location, which would be heard by the Zoning Section of the Planning & Zoning Commission. Mr. Kops explained that the variance being

requested is for an outdoor café with the seating located to the front of the restaurant on the right. The store next door where you can purchase prepared items will have two tables with chairs outside, and is not a restaurant. Mr. Kops reviewed the site plan with the Commission. Mr. Houlding asked if the restaurant will have a liquor license and if liquor will be served on the patio. Mr. Hart stated he will be seeking a liquor license and when the patio is open a hostess will be outside at all times. Mr. Lee stated that the applicant can apply for a permit through the State Consumer Protection for an outdoor restaurant. The Commission discussed with Mr. Lee and Mr. Kops what is necessary to allow a restaurant serving liquor at a restaurant with an outdoor patio. Mr. Hart submitted an affidavit and a photo of the sign that is required by the zoning regulations.

Mr. Chorney asked why Mr. Hart wants a larger area than what is allowed by the zoning regulations for an outdoor patio with tables. Mr. Hart said he would like an area that allows more than three tables. Mr. Kops said that the area is not limited to 20 feet, but limited by 20 percent of the indoor area, and the restaurant is very small and does not allow for a useable outdoor area. Mr. Kops said that the concern when the current zoning regulations were being drafted was the town did not want to see large outdoor eating areas. Mr. Chorney said that this type of application used to go before QVHD and asked if this was still a requirement. Mr. Kops said that any application coming before a land use commission must be reviewed by QVHD. Mr. Chorney said that the Police Department safety report appears to be something out of Smart Code. Mr. Kops advised the Commission that the Police Department has recently started to provide reviews that are primarily of use to the applicant, and if there were concerns or objections they would be stated in the review. A copy of the review is to be given to the Applicant. The Commission further discussed the percentage of area required for an outdoor patio and the requirement of an entry way. Mr. Reynolds asked if the increased table capacity would require additional parking requirements. Mr. Kops explained that an outdoor café is not used for more than six months and is seasonable, so no additional parking spaces are required.

Mr. Vita asked for comments in favor of the Application:

Mr. Frank Cohen, 2 Skiff Street, apartment 402, addressed the Commission and stated that he is a long time Hamden resident and a restaurant critic. He feels that the restaurant would be an improvement to the area and that the 20 percent figure is designed to keep large restaurants from having large outdoor patios. He stated that the owner of Abiza restaurants had been nationally recognized in Manhattan prior to 911 and has several restaurants in Connecticut which are attractive and done with class.

Mr. Vita asked Mr. Hart what the hardship would be. Mr. Hart submitted pictures of the building and reviewed the area with Commission and explained that there is no place to put the door that is required by the zoning regulations.

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

Mr. Vita closed the Public Hearing.

Mr. Vita made note that for 107 Cumpstone Drive there were two letters received that were in opposition to the application.

- 5) **10-6388** 1774 Dixwell Avenue, Requesting a variance of the following: Section 350.3-Table 3.1- Required parking in transect zone to allow 9 parking spaces were 11 are required. T-4 zone
Rosario Valentino, Applicant

Mr. Paul Fioretti, EDIFICIO, LLC, addressed the Commission and reviewed the request for a reduction in the parking requirement. He explained that a previous application had been approved in February 2010 for ten parking spaces. After the application was approved there was a clarification regarding the on-street parking and he was asked to submit a new application requesting nine parking spaces. Mr. Chorney said that there was on-street parking spaces approved that is not allowed by the Town or the State of Connecticut. Mr. Fioretti stated that he

had gone before the Town's Traffic Commission and reviewed the findings of the commission and submitted a letter to ZBA. The Traffic Commission approved legal parking on the north side of Red Rock Road.

Mr. Chorney asked what the hardship will be. Mr. Fioretti said that Mr. Valentino cannot sustain his operation as a take-out restaurant only. The restaurant would be a good business for the neighborhood. Mr. Chorney asked if the hardship was monetary, because then a variance could not be considered. Mr. Fioretti stated that the expansion is to increase the size of the business. Mr. Lee stated that the ZBA cannot grant a variance purely based on monetary hardship, but could grant it based on the size of the property and how it compares to other businesses in the neighborhood. Mr. Fioretti said that other businesses on the same side of Dixwell Avenue are larger and have the room to park in the rear. The proposed expansion will be 1150 square feet for the interior and the total size of the building is approximately 3,000 square feet. The Dixwell Avenue restaurants that are similar in size do not have the required parking. Mr. Fioretti referred to the Sushi House that only has four spaces. Mr. Nelson asked if the hardship would be the size of the lot. Mr. Fioretti said that the property is only 50 feet wide and 150 feet long. Mr. Chorney asked if the request to expand the restaurant would make it double in size. Mr. Fioretti said that that the size of the restaurant as it exists is approximately 1,800 square feet and they would be adding 1,200 square feet. Mr. Houlding asked where the parking for the restaurant would be. Mr. Fioretti discussed with the Commission the parking space locations, the bus stop location, and the location of the parking signs and what is allowed by Town and State parking regulations. Mr. Lee and Mr. Kops discussed with the Commission that the request is to allow less amount of parking spaces than what is required by the Zoning Regulations and that the P&Z Commission would determine the legality of the proposed parking spaces in the street.

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

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

Mr. Vita closed the Public Hearing.

B. Regular Meeting

a. Discussion and voting on Public Hearing items.

10-6381

Mr. Chorney made a motion to deny Application 10-6381. Mr. Nelson seconded the motion. Mr. Chorney stated that the applicant had already been granted a variance and that relief had been given to the property by the ZBA. The Commission listened to what the engineer had proposed and that the property was the transition of the neighborhood. This is not keep with the keeping with the neighborhood to the east. It is moving the smaller houses from the west as opposed to the east. Mr. Vita said that the transition is there but is going in the opposite direction, and would be conforming to the lots in the other direction, but the issue is where the transition point would be. Mr. Chorney said that the previous variance that was granted was to allow two lots and that there could not be three or four lots, and with the steep slopes two lots were sufficient. The Commission discussed the previous request for variances and noted the request would be for a variance on a variance.

Mr. Reynolds, Mr. Nelson, Mr. Chorney and Mr. Vito voted in favor of the motion. Mr. Bohan voted against the motion. The motion passes 4-1-0. The application was therefore denied

10-6385

Mr. Nelson made the motion to deny Application 10-6385. Mr. Chorney seconded the motion. Mr. Nelson said that the owner is creating his own hardship and the properties will not handle three lots in a manner that is appropriate. Mr. Chorney said that it appears to be an excessive use of a property with a lot of wetlands. He said that five months ago under the prior zoning regulations the request would have been more conforming than the new regulations, and Mr. Chorney feels it would be more reasonable to create two lots and eliminate the long driveway.

Mr. Vita stated that he agrees with Mr. Chorney and that the application as submitted is too excessive. Mr. Chorney also said that the houses being proposed would be out of character with the neighborhood.

Mr. Nelson, Mr. Chorney, Mr. Vita and Mr. Houlding voted in favor of the motion. The motion passed. The application was therefore denied.

10-6386

Mr. Nelson made the motion to deny Application 10-6386. Mr. Reynolds seconded the motion. Mr. Nelson said that the zoning regulations for student housing should be enforced. The neighborhood opposition is not opposing the parking that should be located in the rear of the house and that the other houses in the neighborhood are in compliance. Mr. Houlding said that the primary problem is that parking regulation was never enforced.

Mr. Vita, Mr. Chorney, Mr. Nelson, Mr. Reynolds and Mr. Houlding (sitting for Ms. Dove) voted in favor of the motion. There were no dissenting votes. The motion passed. The variance application was therefore denied.

10-6387

Mr. Nelson made the motion to approve Application 10-6387. Mr. Chorney seconded the motion. Mr. Nelson said that the hardship is that the inside of the restaurant has a small footprint and would only allow one or two tables outside. Mr. Chorney said that to conform with the liquor laws they must have an entry way to the patio and that would take away patio space. Mr. Chorney feels the commission should consider a condition that would require the applicant to meet the requirements of the Police Department and the State Liquor Board. Mr. Nelson said that the Planning and Zoning would need to make that determination. Mr. Vita asked for a motion to grant or deny the variance as requested.

Mr. Vita, Mr. Chorney, Mr. Nelson, Mr. Reynolds and Mr. Houlding (sitting for Ms. Dove) voted in favor of the motion. There were no dissenting votes. The motion passed.

10-6388

Mr. Nelson made motion to approve Application 10-6388. Mr. Reynolds seconded the motion. Mr. Nelson stated that the applicant has a hard time staying in business with the economy and it has nothing to do with the size or shape of his property. Mr. Chorney feels that because the applicant wants to enlarge the business he is creating the hardship. Mr. Vita said that the business would be consistent with other businesses in the area in terms of the size and that they do not have adequate parking. Mr. Chorney said that the legal parking on the State Highway would have to be determined by the Planning & Zoning Commission. The Commission discussed further that the request is to allow a reduced amount of parking spaces than what is required by the zoning regulations and that the P&Z Commission would determine the legality of the proposed parking spaces.

Mr. Vita, Mr. Nelson, Mr. Reynolds and Mr. Houlding (sitting for Ms. Dove) voted in favor of the motion. Mr. Chorney voted against the application. The motion passes 4-1-0.

b. Approve Minutes of March 18, 2010

Mr. Chorney stated that on page 3, 1st sentence should read “and that the errors made for some lots when original survey for this subdivision were done and that the original builder placed some houses”. Item 4, the 1st sentence of the second paragraph should read: Mr. Chorney stated that similar applications which were denied in the past that had driveways in access of 400 feet, it was because emergency vehicles did not have the accessibility to move their equipment. The fifth sentence should read “Fire Marshal and Fire Chief stating their position.

