

September 22, 2009

**MINUTES: THE ZONING BOARD OF APPEALS**, Town of Hamden, held a Public Hearing and Regular Meeting on Thursday, September 17, 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  
Fran Nelson  
Steve Walsh, Alternate sitting for Elaine Dove

***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 7:05 p.m., reviewed the agenda and meeting procedures, and the panel introduced themselves.

**A. Public Hearing**

- 1) **09-6359** 2259 State Street, Requesting action under Section 861.1, Appeal of Zoning Enforcement Officer's decision dated March 18, 2009, CDD-1, VID LIQ LLC, Applicant  
Public Hearing continued from June 18, 2009

Mr. Tim Lee, Assistant Town Attorney, addressed the Commission and stated that the applicant had presented and argued that the existing business was a pre-existing and non-conforming use, and that the video viewing booths are part of it. The Commission had come to a resolution that would allow the use of four video viewing booths as an intensification of the non-conforming use. The applicant has agreed to reduce the number of video viewing booths from nine to four, and the attorney representing the applicant was agreeable to this decision. Mr. Lee advised the Commission that they should uphold the decision of the Zoning Enforcement Officer with the agreement that the applicant would be allowed four video viewing booths on the premises. Mr. Lee recommended that the public hearing be closed. Mr. Dan Sober, Attorney for the applicant, addressed the Commission and stated that he agreed to the conditions.

***The Public Hearing closed at 7:14 p.m.***

- 2) **09-6363** 4224 Whitney Avenue, William E Copeland, Applicant -**Withdrawn at the request of the applicant**

- 3) **09-6364** 128 Putnam Avenue, Requesting variances of the following: Section 434b to permit an 8 foot side yard where 12 feet is required for the reconstruction of a pre-existing deck. Section 326 to allow the expansion/continuation of a non-conforming structure.

Mr. Vita advised the applicant and the public that there were only four Commissioners in attendance. To pass a variance the applicant would need 4 favorable votes. The applicant does have the right to request a postponement until the next meeting.

Ms. Jennifer Lia, applicant, addressed the Commission and advised them that she would proceed with her application. She explained that the pre-existing deck had been in disrepair and was removed and reconstructed. Ms. Masi, Zoning Enforcement Officer, stated that the Cease & Desist order that Ms. Lia had received was issued by the Town's Building Department. Ms. Lia said that the deck is almost completed except for the side railing. Mr. Nelson asked Ms. Lia if the deck was the same size as the previous deck. Ms. Lia advised that the deck is the same width, but it goes out further into the yard towards the garage, and the same foundation is being used. Mr. Chorney asked if there would be access to the second floor. Ms. Lia advised the Commission that there had been an access to the second floor which no longer exists. Mr. Chorney asked if the deck would be parallel to the house and the garage. Ms. Lia stated that the deck does not go into the side yard and is located closer to the garage.

Mr. Vita asked for comments in favor of the application and there were none. He asked for comments against the application and there were none.

***The Public Hearing closed at 7:08 p.m.***

## **B. Regular Meeting**

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

#### **09-6359**

Mr. Nelson made the motion to uphold the decision of the Zoning Enforcement Officer with the condition that the applicant will reduce the number of video viewing booths located on the premise down to four. Mr. Chorney seconded the motion. The motion passed unanimously.

#### **09-6364**

Mr. Nelson made the motion to approve the request for the variances. He stated that the request for the deck is to rebuild it and that it would not encroach into the side yard. Mr. Chorney stated that the motion should include a condition that the deck is built as shown in the the plans that were submitted and that there be no access made to the second floor. Mr. Chorney seconded the motion as amended. The motion passed unanimously.

### **b. Approve Minutes of June 16, 2009**

Mr. Vita advised the Commission that the minutes being approved were for June 18, 2009. Mr. Chorney stated that on page two, third paragraph from the bottom should read "Mr. Chorney suggested".

***Mr. Nelson made the motion to approve the minutes as amended. Mr. Walsh seconded the motion. Mr. Nelson, Mr. Chorney and Mr. Walsh voted in favor of the motion. The motion passed.***

### **c. Old Business**

There was none.

### **d. New Business**

Mr. Chorney advised Ms. Masi that there are signs placed on the fence where Home Depot is located. Ms. Masi stated that she is aware of the signs and has been in contact with the businesses that have placed them on the fence. Mr. Vita asked Mr. Dan Kops, Assistant Town Planner if Petco was going to be located at 2335 Dixwell Avenue. Mr. Kops advised the Commission that Petco would be relocating to 2335 Dixwell Avenue and will be occupying half of the retail space within the building. Mr. Nelson said that there seems to be activity where Toys R Us had been. Ms. Masi said that she has contacted the land lord regarding the activity. Mr. Nelson asked if the detention center located on Sherman Avenue was increasing the amount of beds allowed with the renovations that are being done. Ms. Masi stated that they have an approval for the renovations and it does not include increasing the amount of beds allowed. The Commission discussed the work being done to align West Woods Road with Mt. Carmel Avenue.

**e. Adjournment**

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

*The meeting adjourned at 7:24 p.m*

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