

Board of Zoning Appeals – Hearing Room, Municipal Building 54 Hill Street, Shelton, CT.
Tuesday, October 21, 2014 at 7:30pm

AGENDA:

- #1014-1 Michael and Liz Salemme at Soundview Avenue, Map 87, Lot 34
- #1014-2 Michael Salemme at Soundview Avenue, Map 73, Lot 76
- #1014-3 Dorothy DeMarco at 209 Birdseye Road
- #1014-4 Thomas Cribbins at 20 Todd Road

Mr. Glover: Good evening ladies and gentlemen and welcome to the October meeting of the Shelton Zoning Board of Appeals. We have four items on our agenda tonight, the first two I believe are a lot split so we will take them, when we get there, both together. We have a new member tonight, Bryan Vasser, welcome. Bryan is a new alternate member of the Board and his term is 5 years and he will expire, or his term will expire October 1, 2019. In addition to Bryan being here tonight, we have Linda Adanti, Lori Michalak is our clerk, I'm Gerry Glover, to my right is Jamie Jones and to his right is Ed Conklin. Our regulations require that your property be posted, that you have notified your abutting neighbors by certified mail and you have pictures. When your hearing is called I will be looking for the receipts that show me that you did notify your neighbors and I'll be looking for the pictures and one of them should have the placard shown on them.

#1014-1 Soundview Avenue, Map 87, Lot 34, Michael and Liz Salemme of 16 Soundview Avenue, Shelton, CT are seeking to waive Section 24, Schedule B, Standard 4 by varying the lot frontage from 135 ft. to 118 ft. and Section 24.2 by varying the location of square from 40 ft. to 160 ft. from front setback line to change a property line for an existing house and lot.

#1014-2 Soundview Avenue, Map 73, Lot 76, Michael Salemme of 16 Soundview Avenue, Shelton, CT is seeking to waive Section 24, Schedule B, Standards 3 and 4 by varying the square on the lot from 150 ft. to 115 ft. and minimum lot frontage from 135 ft. to 123 ft. to change an approved rear lot to a front lot.

Mr. Glover: Mr. Salemme, would you come please? Have a seat, relax. Before you start, is it an oversight that one of these applications is Michael Salemme and one is Michael and Liz Salemme? Is there a reason for that?

Mr. Salemme: Yes, it's an oversight

Mr. Glover: Same property owner

Mr. Salemme: Same property owners for both.

Mr. Glover: Alright, can you tell us what you want to do and why you can't conform to the zoning regulations?

Mr. Salemme: These are the paperwork for the mailings

Mr. Glover: And you have 3, 4 abutting neighbors, or 5 abutting neighbors

Mr. Salemme: Yes, 3 in the back that aren't really aren't affected

Mr. Glover: right, but they abutt your property

Mr. Salemme: Yes. Claire, Tom and this is the neighbor affected

Mr. Glover: Alright, we'll get to that in a minute, and do you have a pictures for us, or some pictures?

Mr. Salemme: I have some pictures

Mr. Glover: This is the property that's um, there's Fred Thomas and then there's the church, St. Lawrence Church

Mr. Salemme: Yes. This lot originally we had a line here, would've come in from Soundview and this was not, was an acre and a half lot here. The problems we had is, I have a couple that would like to build a house on the property and they wanted sewer and they wanted a built in pool. There was a couple of problems getting that back there with ledge, a

high water table in the area that the pool would've been in, and the septic would've been in the back. By bringing it up I will be able to do, eliminate the ledge in this area by bringing the sewer up from the corner of Soundview and 108. So, instead of a septic system, I will now be able to bring a sewer up to it

Mr. Glover: This is all one parcel now, correct? The whole thing is one parcel

Mr. Salemm: No, this is an approved building lot

Mr. Glover: It is?

Mr. Salemm: Yes

Mr. Conklin: Didn't we give a variance on this lot? We gave a variance on this lot, a while back ago, something to do with that barn, you wanted to preserve the barn?

Mr. Salemm: Yeah, we did have a variance on it

Mr. Conklin: You have variance on this lot, yeah

Mr. Glover: Preserving the barn?

Mr. Conklin: I don't remember, but I believe it had something to do with that barn

Mr. Salemm: Yeah, I forgot why I was here, I just remembered why, it was 11, I think the distance from the barn, could that have been it?

Mr. Glover: I don't know

Mr. Conklin: There was something to do with (unclear) to preserve the barn, and was it, it wasn't a distance variance, there was something to do with preserving the barn

Mr. Salemm: Yeah, I don't

Mr. Glover: We can go back and look

Mr. Salemm: Yeah, I can't

Mr. Glover: The records would be on file

Mr. Salemm: I mean did the barn have to be a distance, certain distance from the property line?

Mr. Glover: Yeah it does, it's a structure

Mr. Salemm: that would've been the variance. That no longer would be an

Mr. Conklin: an issue

Mr. Salemm: an issue

Mr. Glover: Let's back up. At one time this was all one piece?

Mr. Salemm: Yes

Mr. Glover: And the variance that Ed is referring to was applied for so you could split it into two legal lots

Mr. Salemm: Yes

Mr. Glover: Okay, so now we have two legal lots

Mr. Salemm: Yes

Mr. Glover: Okay, alright, go ahead

Mr. Conklin: But the two, may I ask, the two legal lots were a front lot and a rear lot before

Mr. Salemm: Yes

Mr. Conklin: And you're changing the lots again is what it comes down to

Mr. Salemm: Yes, now this, the original house which is about 250 years old, this is the last remaining piece of property. It's basically a wild life sanctuary back here that goes to Far Mill and some of the properties here drain off a little water into the property. It's very buildable or I wouldn't have been able to put a septic back here. But it would've prevented the pool and it would have made it more difficult to utilize the yard. In this case, with the sewer now coming in we can eliminate that and not have to blast heavily right next to Fred's house in order to bring the sewer up, if we decided not to go with the a, with the a septic system.

Mr. Glover: You're bringing the sewer up Soundview from the church?

Mr. Salemm: It's on the corner, yeah, it's on the corner of 108 and Soundview. Now, when they originally did that I guess they went through the a, instead of bringing it up Soundview, they brought it through the golf course and around back on Brae Loc so they missed everybody in that section unfortunately.

Mr. Glover: Is the Brownson connected to sewers?

Mr. Salemm: Yes. But now by doing that, Fred will be able to connect, the line will end here and it can be, the only other person, and I'm going to connect, and this person has the option, he's talking about now of bringing it up. So it'll have all three on at some point.

Mr. Glover: Your two and Fred?

Mr. Salemm: Yes, well actually 4, Mr. Wang, Frank Wang, who is

Mr. Glover: on the corner?

Mr. Salemm: who I, also gave a verbal approval, he was happy with the idea of this

Mr. Glover: He's on the corner of Sportsman?

Mr. Salemm: Well

Mr. Glover: It's not Sportsman,

Mr. Salemm: Squire I think?

Mr. Glover: Yeah, Squire

Mr. Salemm: Yeah, he's kind of on the corner, not quite, but it's the last house, whatever you want to call it

Mr. Glover: Okay, so it was once considered an interior lot

Mr. Salemm: Yes, it is now

Mr. Glover: Okay. It is an approved building lot as an interior lot

Mr. Salemm: Yes

Mr. Glover: And you're really labeling it, well, you're keeping an interior lot, you're just asking for the transfer of the square from the 40 ft. to 160 ft., you're pushing it back, is that correct?

Mr. Salemm: Well, this um, the square on this lot is

Mr. Glover: back there

Mr. Salemm: would be back here, yes

Mr. Glover: right, okay

Mr. Salemm: so there is a square on that lot

Mr. Glover: No I understand that, I understand, but as a rear lot it would be okay there, as a front lot it should be touching the front, that's your issue

Mr. Salemm: yes, and the frontage

Mr. Glover: right, your issue is the front setback, your issue is that the square is supposed to be, touch the front setback

Mr. Salemm: Yes

Mr. Glover: and as a rear lot it can be back there, as a front lot it's supposed to touch back here, so that's the 40 to 160 ft.

Mr. Salemm: Yes

Mr. Glover: Okay.

Mr. Conklin: And you're abandoning that as a rear lot

Mr. Salemm: Yes, that will now be part of my property

Mr. Conklin: property A

Mr. Salemm: Yes,

Mr. Conklin: and it won't be able to be split in the future because it's not big enough to put two lots on it

Mr. Salemm: no, it's only 9, mine would be just around an acre and a half. And that will have the full acre

Mr. Glover: so is this going to be a subdivision?

Mr. Salemm: I think it's just a lot line change from what I was told in the Planning and Zoning office

Mr. Glover: and you said that in the back you could get a septic system but the area where you might go, it was wet

Mr. Salemm: It's, it would be affected, I would have to, it would be costly and to bring the sewer in with the ledge would have been, may have prohibited that and then the area of just the houses on Sportsman, which is behind it, is kind of a (unclear)

Mr. Glover: The granting of this variance would get four houses off of septic system and onto sewers

Mr. Salemm: Three, potentially four

Mr. Glover: Alright, does the Board have any other questions?

Mr. Conklin: No, we're just, like he's saying rearranging a lot line. The same acre or property acreage, with just two houses that exist

Mr. Salemme: still two lots and

Mr. Glover: Any questions from that end of the table? (no) Is there anyone in this room in favor of this application? (yes) Would you come forward sir? Would you give your name and address for the record?

Mr. Viores: Stephen Viores, and the address is 40 Laurel Glen Drive in Shelton

Mr. Glover: And would you be moving into this house?

Mr. Viores: Yes, that's the hope

Mr. Glover: So I guess you're in favor of it

Mr. Viores: I'm in favor, so is my wife, especially

Mr. Conklin: I just want to verify you don't need setbacks

Mr. Salemme: No

Mr. Glover: Anyone else in favor of this application? (yes) Would you give your name and address please sir?

Mr. Thorsen: Carl Thorsen, 183 Grove Street in Shelton. I represent, I'm a realtor with Raveis, the owner of 8 Squire, Dr. Koneswaran called me, he's in Srilanka, he just left last night, and he got the letter. And he wanted me to see what was going on because he was worried about how it would affect his property and but, going from septic to sewers and not building more houses than there are, I'm telling him it's not an issue.

Mr. Glover: Okay, thank you.

Mr. Thorsen: You're welcome

Mr. Glover: Anyone else in favor? (no response) Is there anyone who is opposed to this application? (no response) Any final questions or comments from the Board? (no) Then I'll declare the hearing closed. Thank you.

Mr. Salemme: Thanks.

Later that evening during the work session the Board, upon motion by Commissioner Conklin and seconded by Commissioner Adanti, unanimously voted thAtty. Thomas:

#1014-1 "In the application of Michael and Liz Salemme of 16 Soundview Avenue, Shelton, CT, for a certificate of approval for a lot line revision for an existing house and lot, located on the property of the applicants at Soundview Avenue, Map 87, Lot 34, R-1 zone, and which requires a reduction in lot frontage and location of square on the lot,

The application for variances is approved.

Inasmuch the Board viewed this as a minor variance as it is change in lot line only for two pre-existing building lots,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval of variances in the minimum lot frontage from 135 ft. to 118 ft., and in the location of square on the lot from 40 ft. to 160 ft. from the front setback line at the above is granted (Section 24, Schedule B, Standard 4 and Section 24.2) in this instance.

This certificate of approval shall take effect on the date following the publication of the statutory notice in a newspaper having circulation in the City of Shelton, provided that a copy thereof has been recorded by the petitioner in the land records of the City of Shelton."

#1014-2 “In the application of Michael Salemme of 16 Soundview Avenue, Shelton, CT, for a certificate of approval to change an approved rear lot to a front lot, located on the property of the applicant at Soundview Avenue, Map 73, Lot 76, R-1 zone, and which requires reductions in square on the lot and lot frontage,

The application for variances is approved.

Inasmuch the Board viewed this as a minor variance as it is change in lot line only for two pre-existing building lots,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval of variances in the minimum square on the lot from 150 ft. to 115 ft. and minimum lot frontage from 135 ft. to 115 ft. at the above is granted (Section 24, Schedule B, Standards 3 and 4) in this instance.

This certificate of approval shall take effect on the date following the publication of the statutory notice in a newspaper having circulation in the City of Shelton, provided that a copy thereof has been recorded by the petitioner in the land records of the City of Shelton.”

#1014-3 209 Birdseye Road, Dorothy DeMarco of 221 Birdseye Road, Shelton, CT is seeking to waive Section 24, Schedule B, Standard 4 by varying the lot frontage from 135 ft. to 105 ft., and Section 24.2 by varying the location of square on the lot from 40 ft. to 175 ft. from the front, for a new Lot #B.

Mr. Glover: Good evening

Mr. Lewis: Good evening

Mr. Glover: Would you like to give your names and address for the record if you are going to speak?

Mr. Lewis: Tracy Lewis, with Lewis Associates, 260 Main Street, Monroe

Mr. Glover: Welcome Mr. Lewis

Ms. DeMarco: Dorothy DeMarco, 221 Birdseye Road, Shelton

Mr. Glover: Alright, Tracy, do you have some pictures and some receipts?

Mr. Lewis: Yeah, Dot has some

Ms. DeMarco: Here are the receipts and pictures. And I took the one with the sign at that end, because I couldn't get it, it wasn't visible from the wooded area

Mr. Glover: Yeah, that's fine. So you have one, go ahead tell me what you want to do Tracy

Mr. Lewis: Okay, this is an existing lot that was part of a subdivision of a large tract of land. It's two acres in size, approximately two acres in size, maybe a little bit less. It has an existing house on it. So we're asking to create another, another lot. They want to keep the house. There are some outbuildings that are in here, I have another map I'll show you, but there's another, there's some outbuildings that are back here that we're going to remove. They're pretty run down. The house if, to bring to mind, it's the one with the statues, if you go down Birdseye Road it has the statues

Mr. Glover: Joey's house

Mr. Lewis: Yeah, and actually there's two, there's two girders here at the entrance that came from the twin towers. So he passed away and they had always been told that they had these, you know two lots, and when we went through it and going through with Dot, the, we realized we didn't have the frontage. We can get the square to fit, but it doesn't touch the front setback

Mr. Glover: The same as the last one

Mr. Lewis: Yeah, and there is a 50 foot right of way here that goes into the back for a large like a 10 acre parcel of land in the back. So someday this may be a town maintained road that goes along here and then the variances will be kind of mute at that point

Mr. Glover: You'll have a lot of frontage then, won't you

Mr. Lewis: We'll have enough frontage, she'll have the square touching, it will all work out, but, that's owned by Acquarion, I don't know if that, what they're worried about is that will never get done, so that's why we came to the Board for relief from those setbacks, from those two items, frontage we're going to go to 105.99 and the location of the square

Mr. Glover: It's amazing how similar this is to the last one

Mr. Conklin: I don't think it's close, similar

Mr. Glover: It's what?

Mr. Conklin: Those are nice square lots, this isn't square at all

Mr. Glover: Well no, but I mean the variances he's

Mr. Lewis: We could've made them squarer, but we wanted to try and, you know we wanted to try and keep the house, so that's kind of why it worked out that way, and to try and keep the squares so they fit.

Mr. Glover: you'll have a long driveway

Mr. Lewis: This lot conforms

Ms. DeMarco: That would be a lot, yes, that would be a long driveway

Mr. Glover: It would have septic system

Mr. Lewis: Yeah, it would have septic. I have a, I have a plan that we did.

Mr. Glover: There's no city water there is there?

Ms. DeMarco: No, nowhere on that street

Mr. Conklin: How big is the lot, existing house

Ms. DeMarco: Uh, small cape

Mr. Lewis: This kind of shows, this kind of shows the layout of what we wanted to do. We did septic testing. The testing was remarkable. I haven't seen soil like this in a long time. It was really good, a lot of good gravel. And we tested for the house, the existing house. As you can see there's a couple buildings we do want to remove. They're pretty run down, that he had had, and then we have the septic and then you know, driveway access into that house. You know it's just a proposal of what we could do

Mr. Glover: but you know, you

Mr. Lewis: we have to get an engineered site plan approved. We have to get it approved from Planning and Zoning at this point for the new lot

Mr. Conklin: (unclear) the area for the first house?

Mr. Lewis: What's that?

Mr. Conklin: where's the reserve area for the first house?

Mr. Lewis: It's right here. The reserve septic area is here, this, the existing system is in here. We're not quite sure the shape or size of that at this point, but it works fine.

Mr. Conklin: that reserve area is 75 feet from that

Mr. Lewis: from the well?

Mr. Conklin: yeah

Mr. Lewis: Yeah,

Mr. Glover: So you have to drill a well for this one

Mr. Lewis: yes

Mr. Glover: and you have to put a septic system in, you've done the deep hole testing

Mr. Lewis: Yes, Jim Swift did the engineering on it and we have acceptable systems. You know, the setbacks are good for the well. This house, the well will stay, everything will stay on this house as it is, other than, you know, taking the buildings down

Mr. Glover: So we're kind of sneaking it in as a front lot?

Mr. Lewis: What's that?

Mr. Glover: We're kind of sneaking it in as a front lot, it is a front lot

Mr. Lewis: yeah

Mr. Glover: its' not a rear lot

Mr. Lewis: it's not a rear lot

Mr. Glover: an interior lot

Mr. Lewis: no, see if we do an interior lot, then we don't have the area, so you know, and typically this frontage

Mr. Glover: Yeah, but you also would have bigger setbacks

Mr. Lewis: Yep, that's right, bigger setbacks and

Mr. Glover: Alright, does the Board have any other questions?

Mr. Jones: If you remove the house, could you make it two conforming lots?

Mr. Lewis: Not with the squares, no, the squares, the squares as you can see, either this square goes back here and this one goes up here, or, you know, you just can't

Mr. Conklin: I still haven't got an answer how many square feet is that first house?

Ms. DeMarco: It is about 1100 square feet. It's a cape without

Mr. Conklin: on the first floor?

Ms. DeMarco: no, 800 on the first, which is, I just went and got a building permit for an addition upstairs, not an addition, a

Mr. Glover: a dormer?

Ms. DeMarco: it's just an attic right now, it's small

Mr. Conklin: But right now that house, as exists now doesn't meet the standards of the City

Mr. Glover: But it's pre-existing non-conforming,

Mr. Conklin: non-conforming, yeah I know that

Mr. Glover: it's there. Any other issues or questions? (no) Is there anyone else in the room in favor of this application? (no response) Anyone opposed? (no response) Any final questions from the Board or comments? (no) Then I'll declare the hearing closed. Thank you.

Later that evening during the work session the Board, upon motion by Commissioner Adanti and seconded by Commissioner Jones, unanimously voted thAtty. Thomas:

#1014-3 “In the application of Dorothy DeMarco of 221 Birdseye Road, Shelton, CT, for a certificate of approval for a new Lot #B to be located on the property of the applicant at 209 Birdseye Road, R-1 zone, and which requires reductions in lot frontage and location of square on the lot,

The application for variances is approved.

Inasmuch it is a minor variance allowing full use of the parcel,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval of variances in the minimum lot frontage from 135 ft. to 105 ft. and location of square on the lot from 40 ft. to 175 ft. from the front property line at the above is granted (Section 24, Schedule B, Standard 4 and Section 24.2) in this instance.

This certificate of approval shall take effect on the date following the publication of the statutory notice in a newspaper having circulation in the City of Shelton, provided that a copy thereof has been recorded by the petitioner in the land records of the City of Shelton.”

#1014-4 20 Todd Road, Thomas Cribbins of 20 Todd Road, Shelton, CT is seeking to waive Schedule A, Use Line 45, to allow a storage yard.

Atty. Thomas: Good evening, attorney Dominick Thomas, Cohen and Thomas, 315 Main Street, Derby, CT, representing the applicant, Thomas Cribbins. I present to the Board the notices, all but one were received back, (unclear) properties abutting this parcel. The photograph is up here of the sign, the posting, with the other photographs

Mr. Glover: I guess you have 4 pictures huh?

Atty. Thomas: I have 4 pictures.

Mr. Glover: Dominick, before you start, you know that we're, by regulations we have to refer this to the Planning and Zoning

Atty. Thomas: Absolutely

Mr. Glover: and we did that on September 24th and so that part of the requirement is, on the record, is done

Atty. Thomas: uh huh. Briefly, the hardship that we're claiming with respect to this is that somehow, and I will clarify what I mean by unbeknownst to me, this property was singled out on the east side of Bridgeport Avenue to be put in what is called the RBD, or the restricted business district zone. It was a CB-1 zone and as you'll see from what I'm

showing you, the Assessor still list it as a CB-1 zone. If this was a CB-1 zone, we wouldn't be here, we would be simply filing a site plan with the Planning and Zoning Commission, it's a permitted use as of right. A little bit of history. In 1999 the Planning and Zoning Commission decided to do a Route 8 corridor update. And they were toying with the idea at that point, of basically zoning the entire Bridgeport Avenue corridor as OPD, Office Park District, which was a highly restricted zone. A certain attorney, yours truly, was hired by a couple of people, number 1 the Wells family farther up, but also all the auto dealers because they had an extreme fear of this being laid over and turning all of their auto dealerships into pre-existing non-conforming uses, which would have prevented them from adding a garage bay to their property. The, at the end of the zoning when they did the zoning, we appealed. The solution of the appeal, after many meetings, was to come up with what is called a restricted business district zone. And the real purpose of the whole thing, the real fear of the commission at that time, was that D'Addario, Curtiss Ryan, and Crabtree were of sufficient size to have a big box. And there was just this complete aversion to any big box store. It's amazing what a recession will do to the attitude of zoning commissions, but at that point there was a tremendous aversion to it. So how could you give the auto dealers the ability to reuse their property if they needed to, without overly restricting them right now. And err go came the restricted business district. And what I have for you is a set of 4 sheets beginning with the Assessor's record that shows, and again, the Assessor's record we all know is not determinant as to what the zone is, it's Planning and Zoning, so in it I just highlighted it, it actually still refers to it as a CB-1. That's what the zone was. The second page is the Schedule A permitted uses and as you can see a builder's contractor's business and storage yard would have been permitted as a matter of right by the filing of a site plan under the CB-1 zone. The third page is a blow up of the zoning map of the City of Shelton. And you can see that for some odd reason, the RBD which was laid over Crabtree across the street, laid over Curtiss Ryan and laid over D'Addario and then carried all the way down to, almost down to Blacks Hill Road, that RBD crossed Bridgeport Avenue and covered just the Cribbins property and nothing else. Now the only thing I can imagine because that was not the subject of my appeal at all, was because it happened to be an automobile use, in other words, Professional Tire. That's the only reason I could imagine. Now the other issue was that as anticipated, and as has happened, Access Road, a portion of it has disappeared and those properties now have frontage on Bridgeport Avenue and have a tremendous amount of access to Bridgeport Avenue. If you flip to the third page you will see a google earth view and show that this property is basically surrounded by industrial uses. You have Anco Engineering, which is out of business right now, you have the Motino property which at one point stored cranes; and then to the rear of this property and elevated above it you have Oliver Terrace, which is one of the more heavily industrialized little streets in the town with John J. Brennan, with now Winter Brothers and Savin and other entities back there. So, the property really shouldn't have been zoned RBD because it had no functionality with respect to that. Now there's another reason to take a look at it and by the way, the other uses on Sound, on Todd Road are, there's the Spooner House which is next door, there's a veterinary clinic, and as you get down, you get down to, towards the end you have the road leading up to some light industrial buildings, many of which are vacant. Now, one of the reasons why granting a variance is not going to disturb the neighborhood is also the reason why Access Road disappeared. Access Road disappeared because, and the rest of it the State and the City want it to disappear, you're able to bring it to Bridgeport Avenue. One of the things that was noted when we had our lengthy discussions on Access Road, is Todd Road, which was also an access road in 1948 and access road, meaning a road running alongside the Bridgeport Avenue. Bridgeport, if you remember, Bridgeport Avenue was going to be Route 8. So it was contemplated that at some point probably those roads on either side would be incorporated into it. Todd Road cannot, well, I shouldn't say, if you have enough money you can do anything, Todd Road really can't be incorporated into Bridgeport Avenue like Access Road is, for two, for a couple of reasons. Number one, it is below the level of Bridgeport Avenue slightly. Number 2, that big pile of green that you see between Todd Road and Bridgeport Avenue in it is a major drainage facility, a stream, that takes the water coming from the Crabtree site, Nells Rock and a lot of that drainage, underneath Bridgeport Avenue into that drainage and at some point in there is the crest between Burning Ground Brook, is it Burning Ground is that?

Mr. Glover: Burial Ground

Atty. Thomas: what?

Mr. Glover: Burial Ground Brook

Atty. Thomas: Burial Ground Brook and Far Mill River. So right in there is where it goes. So you would have to do an extensive amount of drainage and you would have to bring Todd Road up, and all of those properties, the Cribbins property and all the rest of those properties, Spooner House, you would have to elevate them to bring them up because the slope would be too great. So it's not likely to be part of it. But really the bottom line here is our hardship, simply because it's not suited for any of the RBD type things. You're not going to have a used car, or a car dealership on this property, which is one of the uses permitted. You're really not going to have any retail, so when you look at the fact that had it not been included in the RBD zone for some reason, you would have been able to do this as a matter of right,

Contractor's storage yard. Now I will consent and I'm not sure whether the Planning and Zoning Commission in it's report to you, included this, but as I've shown you it would have been approved as a site plan. So if that is a condition we obviously would consider it reasonable with respect to it. You can see that from the photographs up here, obviously, Mr. Cribbins and if you went down to the Assessor's office you would've think, thought you could do it as a matter right, although you still would have needed a site plan, but the tenant, because it's not him it's a tenant that's doing it, had set it up these blocks can be pushed back, there can be a site plan, there's room for some landscaping and even though the plan that he submitted has a proposed driveway and everything, I've actually been in discussions with him about incorporating the entry to the property through his own driveway, which would then alleviate another curb cut and also the fact that providing appropriate security. This is a proposed, as you can see from the size here, to be something that would service the public and other small contractors, not necessarily the public as much, but you know, a contractor building a house or doing a subdivision coming down to pick up some mulch or things of that nature. So that's our, that's our presentation, and again, the hardship is the change of zone which took place unbeknownst to Mr. Cribbins and to a lot of other people, which took away this permitted use from the property.

Mr. Glover: On your, let me see what page it is, page 3, abutting Mr. Cribbin's property is the Spooner House

Atty. Thomas: Yes

Mr. Glover: which is a PDD

Atty. Thomas: PDD 46, yes

Mr. Glover: Can you, for the record, tell us what a PDD is?

Atty. Thomas: Planned development district?

Mr. Glover: yeah

Atty. Thomas: it was a planned development district because it was, in the Route 8 corridor, it was less than the, they require only to be 20,000 sq. ft. and it was a planned development district approved by the Planning and Zoning Commission to permit the, I believe, high density residential use for, you know, non-rental use which is Spooner House, it's the homeless shelter

Mr. Glover: So would you say a PDD is a like a, like a variance granted by the Planning and Zoning Commission

Atty. Thomas: it's not a variance, it's a zone change

Mr. Glover: I understand that

Atty. Thomas: yeah, it's a zone change, they can

Mr. Glover: they're changing their own rules

Atty. Thomas: they change the rules very successfully and I will point out to you that now, after holding their breath and turning blue, a lot of the other towns are beginning to realize that Shelton is the success, maybe we ought to start doing PDD's because they're very, not necessarily, I'm not talking about the Spooner House situation, but it's something that's favorable to developers substantially and they like it, that's why Shelton has it. Obviously, Spooner House was a situation where you could not in any way shape or form categorize it under any one of the zoning categories.

Mr. Glover: right

Atty. Thomas: So that, the only way to get it in there would have been a PDD

Mr. Glover: right, which is kind of a special exception

Atty. Thomas: Right, and you will see by the way, if you look across, this was strange when they did this, if you look across Bridgeport Avenue, there is a remnant of CB-1 across Bridgeport Avenue, I believe what that covers is the property that I think is PLR Enterprises, they have a couple of small businesses there. They have a landscaping business

and they have actually a storage yard, it's in the back, but they actually, the owner of the property has his landscape business and store, mulch and everything back there. You know, his name is Paul I dealt with him, I dealt with him in (unclear)

Mr. Conklin: What is the white zone next to this property?

Atty. Thomas: OPD. What they did is, as a result of the lawsuits and everything, they picked and choosed what they wanted, again, I couldn't possibly tell you why they, they created the block on the south side of Platt Road as OPD, that was, and that's something, that piece of property's been a lot of, the subject of a lot of ups and downs. In fact there was a lot of complaints because for awhile there they were without any permission. I think it was, A, what is it A-Pick

Mr. Glover: Quick pick?

Atty. Thomas: Quick Pick crane

Mr. Glover: parked their crane there

Atty. Thomas: yeah, they were parking several cranes there. And, and there's been a couple of proposals. The problem with that parcel from a retail perspective, and there had been retail, is, and the problem with a lot of these parcels including Mr. Cribbin's is Todd Road. The way Todd Road lies, the fact that it, you know, it is unless you go into the State property and get the permission to cut down all those trees, you don't have any visibility, number 1. And second of all, Todd Road, the Todd Road intersection being so close to the Platt Road/Bridgeport Avenue intersection, Nells Rock intersection, creates traffic issues on that side for somebody who wants to come in with any sort of a higher traffic type use. But that white and that you see there is the extension that of course on the other side of the road, is an existing office building and then the car wash is PDD 53.

Mr. Glover: the white piece that Ed just talked about, is that where Curtiss Ryan is parking their cars?

Atty. Thomas: No, that is the Motino. The, of course then, this is not to scale. The portion where Curtiss Ryan parks their cars is actually State property. The property to the west I guess it would be of Todd Road. They're between Todd Road and Bridgeport Avenue?

Mr. Glover: uh huh

Atty. Thomas: Where they park their cars? That is State property, they lease that from the State. So basically, once the Todd Road right of way ends, you know, where the right of way ends, all that that you see in trees if you're looking at the fourth page and you see the client's property and the white line for Todd Road, everything between the White Lane and the yellow lane, everything between the white line actually and all the way across, although this building shows you know, now Access Road is purchased all of that is State property. So all of that that you see in front of Professional Tire, in front of Spooner House, in front of there on the other side of Todd Road, that's all State right of way.

Mr. Glover: Yeah, from Todd Road to Bridgeport Avenue

Atty. Thomas: to Bridgeport Avenue, yeah, and that's where Crabtree parks their

Mr. Glover: but they're parking their cars in the lot where there

Mr. Cribbins: fenced in on the corner

Mr. Glover: where it's fenced in on the corner

Atty. Thomas: Fenced in on the corner? That's State property. They lease that from the State

Mr. Conklin: You can just barely see the edge of this I think

Atty. Thomas: Yeah, yeah, you can see the cars, you're right, Commissioner Conklin is pointing it out. You can see the cars

Mr. Glover: okay so that's State

Atty. Thomas: that's State property

Mr. Glover: Okay.

Atty. Thomas: and that's leased by them from the State. May I, if you look at the zoning map, even though it's a PDD, if you look at the zoning map and go back and go all the way down, next to PDD 57, which is King's Point, is the Family Health Care Center on that parcel. Next to that is a parcel zoned OPD which I assisted Crabtree in purchasing from the State, not Crabtree, I'm sorry, Curtiss Ryan, that's where they park a lot of cars up there.

Mr. Glover: Right, and I think they have a variance to do that

Atty. Thomas: They own that, we had to obtain a variance, and that was, the minimum size of an OPD lot is 4 acres. So this zone was laid on with the understanding that nobody was going to be building a four story office building on any of these properties. It was just put there, the main purpose was to force a developer, a property owner to come in and apply for a PDD if they wanted to do what they wanted to do.

Mr. Glover: Which would give them control of what they could do on the PDD

Atty. Thomas: right

Mr. Glover: Alright, does the Board have any questions? (no) Is there anyone else in this room in favor of this application? (yes) Would you come forward please? Would you give your name and address please?

Mr. Monaco: Joe Monaco, Jr., 156 Crosshill Road,

Clerk: I'm sorry?

Mr. Monaco: 156 Crosshill Road

Clerk: Crosshill?

Mr. Monaco: Monroe

Mr. Glover: and why are you in favor of this?

Mr. Monaco: I actually own the company that's in there

Mr. Glover: So you're the tenant

Mr. Monaco: I'm the tenant

Mr. Glover: okay, and you intend to stay there?

Mr. Monaco: we'd like to yes, we do produce a lot of mulch and sell it to all the businesses and residents in the area

Mr. Glover: but you don't produce it on the property

Mr. Monaco: No, we only sell it there

Mr. Glover: Okay. Anyone else in favor? (no response) Anyone opposed? (no response)

Atty. Thomas: the Planning and Zoning report?

Mr. Jones read letter: "To Gerald Glover, Chairman of ZBA, from Rick Schultz, P&Z Administrator. Dated October 21, 2014, RE: ZBA Application #1014-4, 20 Todd Road. The Shelton Planning and Zoning Commission at their October 14, 2014 meeting received and discussed pending ZBA application #1014-4 for a use variance allowing an outside

commercial storage yard located at 20 Todd Road, located within the restricted business district. This review was made pursuant to Section 4.4.5 of the zoning regulations. After discussion and review of the application, the Commission noted the following: 1. The property was originally zoned commercial CB-1 which allowed the subject use. The Commission initiated and subsequently rezoned the property to RBD as part of the re-zoning of this portion of Bridgeport Avenue corridor. 2. The Commission at the time determined that this use was inappropriate for this area of Bridgeport Avenue, Todd Road. 3. Based on the circumstances noted above the Commission does not support this use variance and recommends that the application be rejected.”

Mr. Glover: Dominick, when did the applicant purchase the property?

Atty. Thomas: Mr. Cribbins, would you identify yourself?

Mr. Cribbins: Tom Cribbins, 20 Todd Road and 18 Perch Road. We bought that property in 1979.

Mr. Glover: And when did you start your business on that property?

Mr. Cribbins: 1979

Mr. Glover: So you’ve continually, had a continuous business as Professional Tire since 1979

Mr. Cribbins: 35 years

Mr. Glover: okay. And obviously when you bought it, it was a CB-1

Mr. Cribbins: that’s correct

Mr. Glover: that’s what the record states. And when they changed it to the RBD, did you get any notice?

Mr. Cribbins: No

Mr. Glover: Did you know anything about it?

Mr. Cribbins: No

Mr. Glover: Dom, when did they change it, 213? 2013?

Atty. Thomas: Oh, no, no

Mr. Glover: 2011?

Atty. Thomas: No, this was done in the early 2000’s. That’s when I filed the appeal, when they, you know when they did the Route 8, they did the Route 8 corridor update in 1999, the appeal continued into at least 2000, 2001 or 2, and then they made that change. I’ll be very honest with you, having been an intimate author of the RBD zone, you know what I mean, I helped write it, I, you know, they did a draft and I responded, I’m going to be very honest and I’m not trying to contradict them, but I don’t recall any conversation of anything to the, I think it would be the east of Bridgeport Avenue. We weren’t focused there. We were focused on the large parcels and, with one exception, is that the discussion was how far below D’Addario to take the zone at that point. And looking at those uses and what they were looking at again, and I don’t think it’s called Access Road, the road that Wiffle Ball is on, the concern, they took it all the way down there because the concern was that that could be part of a development, you know that, that pushed out. You know, that was able to access Bridgeport Avenue easily. There was never a discussion of the other side because no one in their right mind conceived of the properties on

Tape had to be changed

Atty. Thomas: there was never the discussion because it just wasn’t comprehensible that these properties would access Bridgeport Avenue. I don’t recall us ever having a discussion on CB-1 uses. The real big things were they did not want big boxes. They did not want the car dealers, but for some reason I think people thought that something was going to happen and we weren’t going to have cars in the near future and the car dealers were going to shrink. Actually what

happened was the exact opposite, the car dealers ended up getting inventory requirements that required them to expand their inventories on site. You know, I represented Crab, Curtiss Ryan, and Curtiss Ryan was told you have to increase your inventory and that's why we went and purchased the property that's next to the Family Medical Center. And so, I don't recall any conversation on that side of the, you know, as to what was going on on that side of the road. There was really no, I mean, I can tell you that a, right down the road from Mr. Cribbin's property, I sat with a group of developers who wanted to put apartments, residential apartments. And they were told no, this is a light industrial area, you know by the Commission and the developers didn't want to invest and they walked away. But where the veterinary clinic is, they were going to buy I think that parcel and there's another parcel that was around there, and they were going to put, they wanted to put 140 apartments in, and they were told no.

Mr. Glover: the reason I ask that is, I looked back, believe it or not I have a couple of zoning books

Atty. Thomas: Right, I have more than you have

Mr. Glover: You probably do, and I looked in 2004

Atty. Thomas: you can't find RBD

Mr. Glover: I looked in 2011, RBD doesn't appear in the zoning book until 2013

Atty. Thomas: Ah, but if you go back into the back and the 3rd page under the full moon on a Tuesday, you will find the RBD district

Mr. Glover: Okay

Atty. Thomas: or you can look in my electronic file where I have a copy of it. Until, 2000, I believe 13, Shelton as wealthy of a community as it is, did not take the time to take its zoning regulation and put it together in a cohesive thing. So when you're reading it, you had to do it

Mr. Glover: They just amended it, amended it and amended it

Atty. Thomas: right, and I will tell you this, it's, Shelton as bad as it was, was an amateur, class A amateur compared to the major league confusion of Ansonia and Derby's, I mean, you know, they have, Ansonia's you have no ability to rely on the regulation you're reading, you know what I mean, because the amendments are all over the place. You have to look in the front, the back and everywhere else. But the RBD, I have, the RBD the only place you would find it, is either in the back of the book, very often the earlier books, or in

Mr. Glover: So do you think that Mr. Cribbins would look in the back of the book if he wanted to know if he could do something

Atty. Thomas: I don't think Mr. Cribbins got any notice of the zone, the zone change, I will tell you this, the zone change was a Commission oriented zone change to resolve the appeal. And I don't believe they are required to notify the property owners encompassed in the zone change and that resulted in, you know, I'm sure when you look at the RBD zone, Mr. Cribbins isn't interested in selling cars, was never interested in selling cars and the repairs and everything that he would do, theoretically at that point, I don't even know whether the, his repair facility would have been a non-conforming use. But he was in an area that needed more flexibility and that was the CB-1, which they did leave on, as you see in the zone, they left that on the other side where there is a contractor's storage yard business operating, and that's PLR Enterprises.

Mr. Glover: Under the CB-1 zone, you stated and you're right, I know you're right, that he needed a site plan

Atty. Thomas: site plan approval, yes

Mr. Glover: So, if I understood you right, you would've agreed to having a site plan done for this

Atty. Thomas: I, you know, I, even if you granted the variance, if that possibility existed, we'd have to file it anyway, so

Mr. Glover: Yeah, I mean I would make that a condition of it, that you have to file a site plan with the P&Z

Mr. Conklin: You listed in here strictly as storage, okay, but then there was a discussion of selling to landscapers and residents. So is this storage or storage and retail?

Atty. Thomas: Well, a contractor's storage yard can sell property, business or contractor's yard can sell stuff off the, off of the site, what is on the site, but what you can't do is manufacture anything on the site. So that would be, and that would be part of the site plan

Mr. Conklin: there's a real difference between whole sale and retail

Atty. Thomas: Yeah, those issues would be dealt with in the site plan. But what he can't do, what is clear that he can't, is he can't manufacture mulch on the site. In other words, he can't bring in

Mr. Cribbins: grind it up

Atty. Thomas: right, grind it up and put it in on the site, that would be

several talking at once

Mr. Glover: Any other questions from the Board, or comments?

Ms. Adanti: You said, just one comment, you said something about coming in in a different location, I just want to clarify that?

Atty. Thomas: Well, the plan that submitted by, hand drawn by Mr. Cribbins on a 1979 survey, shows a driveway here. Okay. When I went out to the site and looked at the site, as you can see you would have to do a curb cut here to do this. And my review of it and looking at it, not that I want to take over any surveyor or engineer's job, there's a driveway here, a substantial driveway here. The blocks that can be used can create a chained gate here and this entrance here, as Mr. Cribbins said, could easily be used as access to the site which would alleviate the need, and this is really a site plan issue, but it would alleviate the need for a curb cut. And it would create

Mr. Conklin: could you just put that back up so I can see it again

Atty. Thomas: Okay, sorry

Mr. Conklin: what is the largest size trucks that you intend to bring into this property?

Atty. Thomas: I think you're going to have to ask Mr. Monaco. I don't think anything much more than a small dump truck (unclear)

Mr. Conklin: well, that's my question, you're not bringing in 40, those long tractor trailers that I've seen

Atty. Thomas: no, Mr. Monaco, would you mind coming up here?

Mr. Conklin: I mean if you're bringing it from some site somewhere

Atty. Thomas: Mr. Monaco, how do you transport the mulch to the site?

Mr. Monaco: to the site, with a, we have a 100 yard (unclear) tractor trailer

Mr. Conklin: so it is, is it a 40 foot or 30 foot tractor trailer?

Mr. Monaco: Yeah, it's a actually probably like 60 foot

Mr. Conklin: And that can be not tying up the street and that can be

Mr. Monaco: Oh no, it goes right in

Mr. Conklin: maneuvered on that property

Mr. Monaco: it backs right in to be dumped and it comes right out

Atty. Thomas: You're talking about bringing it, I thought you meant for purchases. You're talking about bringing

Mr. Conklin: No I'm talking about delivering, I mean (unclear)

Mr. Monaco: It doesn't tie anything up

Mr. Conklin: You're tying up the street for you know, other businesses

Mr. Monaco: No, everything comes right in off, comes in through the entrance, which is right here and just backs right in, there's no stopping anywhere, it just pulls up and back

Mr. Conklin: So you pull into the other lot to back into that one

Atty. Thomas: Actually it's the same lot, I mean it's all the same lot

Mr. Monaco: Yeah, we can pull right in front of their doors and just backs right in. It doesn't take more than a minute or so

Mr. Conklin: Okay, I get it, okay, you aren't swinging the vehicle out on the street

Mr. Monaco: No, there's no reason for that because we're going in long-ways

Mr. Conklin: Okay

Atty. Thomas: There's actually two entrances

Mr. Conklin: (unclear) question you were trying to swing

Mr. Monaco: That's why the bins were built on an angle so we just back right up to them and dump

Atty. Thomas: There are actually two entrances at, two curb cuts for Professional Tire, one here and you can't, way down the bottom

Mr. Conklin: Yeah, I just wanted to make sure there was some way of getting materials onto the site without blocking up the road so if another business were to (unclear) operation you don't block them up

Mr. Monaco: No, he drives right in and backs right in

Atty. Thomas: There's plenty, as you can tell from this picture, there's plenty of room on Professional Tire and the landlord so to speak, has no issue with that.

Mr. Glover: so your sited variance is the change of zone

Atty. Thomas: Yes, the hardship

Mr. Glover: the hardship

Atty. Thomas: Hardship is the change of zone for, in this situation, and again with all due respect to the Commission, there was never any discussion, I was the appellant, I was the person appealing it, there was never any discussion of those kind of uses. The focus was on the accessible property, what to do with those properties, currently automobile uses with flush front frontage on Bridgeport Avenue and that goes right down. And again, the only non-auto dealership discussion ranged from the end of D'Addario down to

Mr. Glover: Black Hill

Atty. Thomas: just passed Cots, Black Hill right there and there was a concern about that because if anything did ever happen to Wiffle Ball or Self Storage and everything, that could easily come right out to Bridgeport Avenue. And those were the only, those were the main concerns of how far down we'd go with the RBD zone.

Mr. Glover: Alright, final questions or comments?

Mr. Conklin: So there's going to be no curb cuts extra to this property at all?

Atty. Thomas: They're, they can operate without any curb cuts, right.

Mr. Glover: Yeah, but that will be dealt with with a site plan

Atty. Thomas: With site plan

Mr. Conklin: Well, I've got sort of a concern because if we don't put something in here now, saying that they can in the future, we're saying they can operate this here. Someone could start swinging 60 foot traffic trailers blocking up the road and restrict some other businesses

Atty. Thomas: We have no problem with that issue, the problem would be and I doubt this would happen, if Mr. Kulacz in his letter to Planning and Zoning would like us to do a curb cut, we have to comply with whatever his requirement is. So subject to being, it being required this can operate without a new curb cut. But again, we can't control what Mr. Kulacz or the Planning and Zoning Commission will require. I can't imagine them at this point wanting

Mr. Glover: I can't imagine them wanting a storage yard, never mind a curb cut

Atty. Thomas: I'm sure there's going to have to be some trees planted and stuff, but that's up to them.

Mr. Glover: Final questions? (no) I'll declare the hearing closed. Thank you.

Later that evening during the work session, the Board upon motion of Commissioner Jones and seconded by Commissioner Adanti, unanimously voted thAtty. Thomas:

#1014-4 “In the application of Thomas Cribbins of 20 Todd Road, Shelton, CT, for a certificate of approval to allow a storage yard on the property of the applicant at 20 Todd Road, RPD zone, and which requires use variance,

The application for a variance is approved.

Inasmuch as the zone change is restrictive to this parcel due to its size and location, and

Inasmuch as the granting of this variance with its site plan requirements are the same as the original zone, and

Inasmuch as the configuration of the new zone is an anomaly with this parcel segregated from the remaining parcels in the same zone, and

Inasmuch as the abutting property uses required special exceptions or special considerations as to zoning,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval of a variance in use to allow a storage yard at the above is granted (Schedule A, Use Line 45) in this instance.

This certificate of approval is contingent on the applicant obtaining site plan approval from the Planning and Zoning Commission.

This certificate of approval shall take effect on the date following the publication of the statutory notice in a newspaper having circulation in the City of Shelton, provided that a copy thereof has been recorded by the petitioner in the land records of the City of Shelton.”

Approval of Minutes

During the work session the Board, upon motion by Commissioner Adanti and seconded by Commissioner Jones, unanimously voted to accept the minutes of the September 16, 2014 meeting as submitted by the clerk.

Respectfully submitted,

Loreen Michalak, Clerk