

Board of Zoning Appeals – Hearing Room, Municipal Building 54 Hill Street, Shelton, CT.
Tuesday, August 18, 2009 at 7:30pm

AGENDA:

- #709-1 Robert deMaille von Schmidt at 14 Greenfield Drive
- #709-2 Stanislaw & JNanina Drozdz at 114-116 Cliff Street
- #809-1 E&E Quality Homes at 72 Wakelee Avenue, Ext.
- #809-2 Pete Radzwillas at 65 Treeland Road
- #809-3 Pam John, LLC at 82-84 Hill Street

The regular meeting and public hearing of the Shelton Board of Zoning Appeals was held at the above time and place with the following members in attendance: Gerald Glover, Chairman, Linda Adanti, Ed Conklin, Bob Harbinson, Jack Fitzgerald, and Ralph Matto.

Mr. Glover: Alright good evening ladies and gentlemen. Welcome to the August meeting of the Shelton Zoning Board of Appeals. A couple of announcements before we start, the first one on our agenda, 14 Greenfield Drive, the applicant has asked for an extension because they're out of the, their representative is not in the state I guess, or on vacation. So pending the vote of the Board, we will probably extend that. Does somebody want to make a motion to extend

Mr. Conklin: So moved

Mr. Glover: Alright, can I have a second?

Mr. Harbinson: Second

Mr. Glover: All in favor? Unanimous "Aye"

Unidentified voice from audience: Whoa, whoa, what are you extending here?

Mr. Glover: The applicant has asked that we, because he can't be here this evening, that we

Unidentified voice from audience: but we're here this evening for that case

Mr. Glover: that's fine, but he has to be here

Unidentified voice from audience: so now we have to come back another time?

Mr. Glover: You don't have to, but I would advise it if you have something to say

Unidentified voice from audience: No, but I'm saying, we're here so don't we get a chance to talk?

Mr. Glover: No, you can't talk without him being here

Unidentified voice from audience: Huh, and who is this representative?

Mr. Glover: Schaible. Ken Schaible.

Unidentified voice from audience: it would be nice if they let people, you know, know ahead of time when this happened, because we all took time out of our lives to be here and now we have to take it out again, it's really, it's just bad. It's just bad. So there's no sense in us even staying.

Another unidentified voice from audience: Okay, all I want to know is there's nothing being done tonight?

Mr. Glover: No, there's nothing being done, the only that's being done tonight is that he's been granted an extension of time for his application.

Unidentified voice from audience: and he can't do this again, can he?

Mr. Glover: No

Unidentified voice from audience: so it's just one time

Mr. Glover: It's one time

Unidentified voice from audience: this is the second time this has happened

Mr. Glover: No it's not, it's the first

** several in audience talking at once **

Mr. Glover: We heard it, we opened the hearing on the 18th of July and continued it to this month

Unidentified voice from audience: no, in the paper, why was it continued for today?

Mr. Glover: We needed more information. We asked for more information

Unidentified voice from audience: Oh, okay

Mr. Glover: We asked for information

Unidentified voice from audience: July 21st at 7:30 it was here and then it was

Mr. Glover: it was continued at that meeting because we asked him to give us more information

Unidentified voice from audience: (unclear – several talking at once) And now we're here, so he's to bring more information the next time?

Mr. Glover: Yes

Unidentified voice from audience: Okay, I hope he has the more information the next

Mr. Glover: He's going to need to

Unidentified voice from audience: does that mean that there's no building going on at this time until the next hearing?

Mr. Glover: It means that he can't build the porch

Unidentified voice from audience: Alright, okay. And they'll put it in the paper again when the next hearing's going to be?

Mr. Glover: It'll be the third Tuesday in September

Unidentified voice from audience: third Tuesday, well that's very unfortunate because we all have children and it's very hard to do these kind of meetings during the school year, but, thank you.

Mr. Glover: You're welcome.

Mr. Glover: Alright, also, 65 Treeland Road, is anybody here for 65 Treeland Road other than the gentleman that's presenting? (no response) Alright, 65 Treeland Road I've been informed that the gentleman neglected to bring the registered mail receipts showing, notifying his abutting neighbors, so that will be continued to next month also. So if there is anybody here who has input on that, don't stay because we won't be inputting it. That's 809-2. Alright? Alright, now welcome. We meet monthly to have hearings. They are hearings, we take testimony. I would ask you to turn off your cells phones. I would ask you to please refrain from having conversations inside the hall because they will be picked up by Lori's tape recorder, and when she has to transcribe them it, it won't be clear and we won't have a clear record. We won't have a clear record. With us tonight all the way on the left is Commissioner Ralph Matto, Commissioner Jack Fitzgerald, Commissioner

Bob Harbinson, our clerk, Lori Michalak, I'm Gerry Glover, Commissioner Ed Conklin and Commissioner Linda Adanti. Our regulations require that you have taken pictures of your property, four pictures, and that one of them shows the yellow placard in the picture, and that you have notified all of your abutting neighbors, and that you bring with you the receipts, as that gentleman did not. If you have the pictures and you have the receipts, then we will continue on with your hearing tonight. If you don't have either one, or one of them, we will continue the hearing until next month. Ed?

#709-2 114-116 Cliff Street, Stanislaw & Janina Drozd of 114-116 Cliff Street, Shelton, CT are seeking to waiver Section 24, Schedule B, Standard 9 by varying the setback from the left side yard from 8 ft. to 5 ft. for a 23x26 proposed garage.

Mr. Glover: Is the applicant here? (no response) It's going to be a good night. It's going to be a short meeting. Alright, let's pass it and come back.

#809-1 72 Wakelee Avenue, Ext., E&E Quality Homes, LLC of 23 MacIntosh Drive, Oxford, CT is seeking to waiver Section 24, Schedule B, Standard 4 by varying the lot frontage from 50 ft. to 48.14 ft. for a building lot.

Mr. Glover: Attorney Bellis, would that be you?

Atty. Bellis: That would be

Mr. Glover: Aren't you happy that we've gone through two already?

Atty. Bellis: You guys are quick.

Mr. Glover: Doesn't that air conditioning feel good in here tonight

Atty. Bellis: I'm not going to wear my jacket if you don't mind

Mr. Glover: I don't mind at all.

Atty. Bellis: For the record, I'm Attorney Stephen Bellis and I represent the applicant, and Mr. Ellis is also here. Let me get started with some preliminaries. I have the photographs. Larry, don't eat my M&M's those are mine.

Mr. Ellis: I thought they were for the commission

Atty. Bellis: No

Mr. Glover: No that's a (unclear)

Atty. Bellis: These are the notices that were sent certified mail along with the receipts to the abutting neighbors

Mr. Glover: These are all the abutting neighbors?

Atty. Bellis: Yes. And I also have a letter from each of the abutting owners in writing stating they're, with their signature and their address, that they are adjoining property owners, that they've spoken with E&E Quality Homes about the variance, and that they're in favor of granting the variance. And that's from each and every one of them.

Mr. Glover: Is that a form letter that you wrote?

Atty. Bellis: Yes it is

Mr. Glover: So, I'm assuming you just read that letter, what it says in that letter

Atty. Bellis: I summarized it

Mr. Glover: That's fine, okay. And so you guys composed the letter, all the letters are the same

Atty. Bellis: Yes

Mr. Glover: All the signatures are different

Atty. Bellis: All the signatures are different

Mr. Glover: Yeah, I, I, the reason I ask is because if the letters were individually written we'd have to read them all

Atty. Bellis: No, they're not individually written

Mr. Conklin: should I read one?

Atty. Bellis: Oh, you could read one, they're all the same

Mr. Glover: yeah go ahead

Mr. Conklin read letter: "To: Zoning Board of Appeals. From: Adjacent Property Owner. RE: Variance for 72 Wakelee Avenue Extension. Dear Chairman: Please be advised that we live at" and there's an address of the neighbor "which is an adjoining property owner to 72 Wakelee Avenue Extension. It is our understanding that E&E Quality Homes is seeking a variance of approximately two feet for frontage in order to build a single family residence. We are in favor of granting the variance." We have one for 130 Wakelee Ave., Ext., I can't read the signature

Atty. Bellis: That would be John Todice

Mr. Conklin: 58 Wakelee Ave., Ext., that's Voight;

Atty. Bellis: Correct

Mr. Conklin: 112 Wakelee Ave., Ext., Aiello; 70 Wakelee Ave., Ext., Passaro

Atty. Bellis: Uh, Chuck, Chuck Passaro

Mr. Glover: Alright, go ahead

Atty. Bellis: I've submitted and I don't know if you have them, but I can flip them around

Mr. Glover: We have the map

Atty. Bellis: Okay, that's, yeah that's the one, oh you've got both okay. What we have here is Wakelee Avenue, Ext., if you know where Stephen's Terrace Condominiums are at the very end of Wakelee Avenue, Ext., right, the driveway for Stephen's Terrace Condominiums and then you have this lot up there, so it's in that neck of the woods. There was a lot here. It's an old old lot from the 1900's, and there's an existing dwelling which I've show on this proposed lot split that has, I'm trying to read upside down, let me look at it, 6,861 sq. ft. The additional land next to it has 5,100 sq. ft. This is in an R-5 zone so you need 5,000 sq. ft. So both lots have in excess of 5,000 sq. ft. In this zone R-5, you need to have the 25 foot setback from the rear property line and we show on the map that says "proposed lot split" that there's more than that for both of these lots. And you can look at both maps. You need 8 foot side yard, 8 setbacks, it has the 8 feet on the existing dwelling on one side, 10 foot on the other, and you have at least that on the new proposed lot. The minimum square on lot is, fits on both parcels. The only, only thing that this lot does not have, Parcel A, is two feet, approximately two feet, a little less than two feet of road frontage on Wakelee Avenue, Ext. And the reason for that is a couple things. One is the lot is not a perfect, I guess that would be a rectangle, it's a 100 feet deep, 100.15 and in the back it's 53.24, but in the front it turned out to be 48.14. On the other one you

had the 50 feet and you have about 88 in the backyard. So the lot's, now I'm just looking to split this property, so we're only talking about one lot. The other lot meets all the requirements of zoning. The zoning enforcement officer had no problem with it.

Mr. Glover: So this is not a pre-existing non-conforming lot, this is a lot you're making

Atty. Bellis: Yeah, it's a proposed lot split. It is an old pre-existing non-conforming lot as far as zoning is concerned because I did historical research and it's an old subdivision, obviously that part of town, and I have the map. It's in Volume 8, page 378, so this goes back to the early 1900's, and they have the subdivision of Wakelee Avenue, where it comes up and I think that the problem and why we need the variance here is that the surveyor at that time, and again it was a long time ago, you'll notice he didn't put the meets and bounds on the lots on this side of Wakelee Avenue, Ext. In particular, our lot is Lot #23, most of them were all 50 foot lots and they were 100 foot deep, but there's no meets and bounds on our Lot 23 as there isn't in Lot 22, or Lot 21. And what I think that, after speaking to our surveyor, what I think happened at the time was he tried to maintain a 50 foot right of way for Wakelee Avenue, Ext. and when the road ended it connected with a paper road. So what he did was he made it parallel and perpendicular at a 90 degree angle, and hence I think he gyped himself two feet, approximately two feet. I think it was always the intent to have this be a 100 foot by over 100 feet in depth, but you can't tell from this map that it's a little bit short. He didn't put the meets and bounds on it, but when our surveyor went out there, in reality it was 48.14 feet as opposed to the 50 feet that you need in your zoning regs now for an R-5. As I said, the a, I think what happened was it was, because this was a dead end, the topography, he held that particular spot which is right here on Wakelee Avenue, and because of the geometry and that's all it really is, of keeping the road perpendicular and maintaining that 50 foot right of way, he was a hair short. I, since this was way back in the 1900's, I don't know how exact they were with the equipment that we have today. Our survey was done obviously you know, 6 months ago, and the technology is obviously significantly better today. But that's the only reason we're here. I think it

Mr. Glover: Does this, this is served by city sewers right?

Atty. Bellis: Oh, yeah

Mr. Glover: And city water

Atty. Bellis: yes

Mr. Glover: And this is Lot 23?

Atty. Bellis: It is

Mr. Glover: on this lot, on this map?

Atty. Bellis: Yes it is. And the reason I think that, you can see that all the other lots are 50 feet. I think when he got to the end of the street, since he held that point, he was just off by a hair. As I said, both lots have all the other, area, it has everything else that you need. We talked to all the neighbors, each and every one on the surrounding, surrounding the whole property. All of them thought that it was a building lot. In fact, one of them told me, and I went down to the tax assessor, for some reason there's two tax bills, I'll submit those. And I think that that's the hardship, it's the geometry and the fact that they didn't survey that lot way back when. I think it was always the intent to have the 100 feet.

Mr. Fitzgerald: You say it had two tax bills?

Atty. Bellis: Yeah

Mr. Fitzgerald: Was that for two pieces of property?

Atty. Bellis: I don't know, I guess. It's the same piece, yeah, it's Lot 23

Mr. Matto: maybe the map is messed up, I would assume it's

Atty. Bellis: I'm just pointing it out, it's just additional information, I know, you know

Mr. Matto: Well, if it's got two, two lot (unclear) it's non-conforming

Atty. Bellis: Yeah, it probably, so I mean, but, otherwise it meets, in every way it meets a building lot

Mr. Matto: It's two lots, but did you have two maps by any chance?

Atty. Bellis: Two maps?

Mr. Glover: We have two maps on the original subdivision

Atty. Bellis: Yeah. Oh did I have two, no the lot wasn't split on the original subdivision if that's what you mean

Mr. Matto: No, I just wanted to look at one of the maps

Mr. Ellis: Do you have another map for him?

Atty. Bellis: Oh, oh, I didn't give you a map, I'm sorry. This is how I split it.

Mr. Matto: Oh alright

Atty. Bellis: The parcel A is the parcel that I'm seeking the variance. We don't need any variance on, I also gave a, what do you call this Gerry?

Mr. Glover: Site plan

Atty. Bellis: site plan so you can see that it meets the, all the zoning requirements as for setback, for front yard, rear, side, everything, square, area on the lot, just everything

Mr. Glover: so you need no other variance

Atty. Bellis: No, I need no other variance whatsoever. It's pretty straight forward, but that's the situation.

Mr. Glover: Any questions from the Board?

Mr. Matto: None here

Mr. Glover: Is there anyone in this hall who is in favor of this application? Other than the applicant? (no response) Is there anyone in the hall who is opposed to this application? (no response) Any final questions from the Board? (no) Then I'll declare the hearing closed. Thank you very much.

Atty. Bellis: Oh, thank you. You're welcome.

Later that evening during the work session the Board, upon motion by Commissioner Fitzgerald and seconded by Commissioner Matto, unanimously voted that:

#809-1 "In the application of E&E Quality Homes, LLC of 23 MacIntosh Drive, Oxford, CT for a certificate of approval for building lot on the property of the application identified as Parcel A at 72 Wakelee Avenue, Ext., R-5 zone, and which requires a variance in minimum lot frontage,

The application for a variance is approved.

Inasmuch as the lot will conform to the zoning code in every other way, including having the required square footage for a building lot in an R-5 zone, and

Inasmuch as no other variances are needed to build a home, and

Inasmuch as the house will be connected to public water and sewers, the Board felt that the lot frontage was a minor issue and was within the purpose and intent of the zoning code, and would create a lot consistent to and in harmony with the neighborhood,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval of a variance in minimum lot frontage from 50 ft. to 48.14 ft. at the above is granted (Section 24, Schedule B, Standard 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.”

#809-3 82-84 Hill Street, Pam John LLC, c/o Atty. Dominick Thomas of 315 Main Street, Derby, CT is seeking to waiver Section 24, Schedule B, Standards 2, 7 and 12 and Section 45.3.3 by varying the square footage per dwelling unit from 5,000 sq. ft. to 1,416 sq. ft. per unit, the setback from the street line from 25 ft. to 14 ft. for a covered porch and maximum impervious coverage from 50% to 81%; and Section 42.5.2 by varying the minimum parking spaces from 1.5 per dwelling unit to 1.16 per dwelling unit; Section 45.3.2 by varying the minimum width from parking to street line with landscaped planting from 6 ft. to 3 ft.; and Section 45.3.1 by varying the off street parking separation from building from 5 ft. to 0 ft. for a 6 family – one bedroom house.

Mr. Glover: Ralph, you're going to recuse yourself?

Mr. Matto: Yep

Mr. Glover: Alright, before we start the hearing, some information. There are 1, 2, 3, 4, 5, 6 commissioners here tonight, two are going to recuse themselves, which means you will have 4 commissioners hearing this. If the commissioners complete the hearing, you will have the option of asking them to continue on and vote, or to wait until next month when a fifth commissioner can review the record and then vote. If you vote with four commissioners present, then you have to get a unanimous decision. If you wait for the fifth one, you're able to get one negative and still pass.

Atty. Cole: To make that decision, can we wait until after

Mr. Glover: You can make that decision

Atty. Cole: after the presentation

Mr. Glover: after, yes. I am going to recuse myself this evening and Commissioner Matto is going to recuse himself, and I'm going to turn the meeting over to Commissioner Conklin, who will run the hearing.

Mr. Matto: Gerry, do we have state why?

Mr. Glover: No

Mr. Matto: We don't.

Atty. Cole: Good evening ladies and gentlemen, my name is Ian Cole, I'm from Dominick Thomas' office, he's on a much deserved vacation and so I'm here in his stead with this particular application. First things first,

Mr. Conklin: One second. How many people here are interested in this hearing? Okay, can you all hear? If not, come up to the front seats so everyone can make sure they can hear this. Okay.

Atty. Cole: Let me see what I did with the a, here we go. I'm going to submit everything that's on the board into evidence, alright, so, you have the four pictures and I, as I do my presentation I'll show you, but I think you want right now the notice of publication

Mr. Conklin: the notice, right

Atty. Cole: And there are two abutting owners, one of them who's here, and here are the notifications. We got one receipt back and one we did not get back. And I want to make sure everybody is able to see this. Begin? Yeah, I'm representing Mr. Matto, who, whose company is the contract seller for this particular piece of property, he's not the owner, but it's under contract. I guess it was part of an estate. I think the property's been vacant for about 4 years, and there are about 4 or 5 owners, nephews and cousins and stuff, but they've all signed the contract, which is contingent upon on us getting the variances so we can redevelop this particular piece of property. We have, first of all, I have the pictures here. It's just a, I guess you're all familiar with it because it's three houses up from city hall here on Hill Street. This is the front view of the property. Currently, the ground floor used to be commercial use. There was a liquor store in this smaller section and this was a grocery store based on the information I have. It was on the second floor a, one apartment with three bedrooms and on the third floor, one apartment with three bedrooms. There's a garage in the back, two bays. As you can see it's rather poor condition. All the asphalt is broken up here. It hasn't been painted in years. I also downloaded from the Internet today this photograph so you can see an aerial view of the property as it relates to the two other houses here. That's in relation to one of the variances we're seeking, of which I'll go into later, but it's basically so that they can put a cover over a concrete pad that's in the front there to have a porch like the other houses right on the same street on either side of the building. Presently, a non-conforming, this property is non-conforming. The biggest problem here obviously is the density requirement. We're in an R-5 zone, 5,000 sq. ft. per dwelling unit. Right now, it doesn't qualify. The only, it's 8500 sq. ft., this is 85 by 100, so that all you're permitted to have right now in the regulations is one dwelling unit. So, you notice when it was occupied as two dwellings with a commercial it's in violation of zoning. It's in violation of zoning as almost all the properties in this area are, because most of them, a lot of them are 5,000 sq. ft. And a lot of them, and Mr. Matto will describe how he did this, he checked all the properties. He verified that everything in red here, this is the Assessor's map, are two families, and he was very conservative. Some of these that are light might be two families but he couldn't verify that. But as you can see, all these properties in red and the yellow is our property, are non-conforming with respect to the 5,000 sq. ft. per dwelling unit. So that's the biggest problem here. The other non-conforming problems are frontage. The property is, requires in this whole area, and I think a lot of the properties have the same problem, 25 foot frontage from the street, and a lot of them including this one are closer. This is 20 feet if you go to the edge of the house. And if you go to the edge of the concrete pad, you see this line of hedges here, in front here, well there's a concrete pad behind that concrete porch, it's called here. And one of the proposals is so we can put a roof over it so there's basically a 6 foot wide porch on the front, like the two houses, adjacent houses here. You can see they have nice porches. We had an elevation done so you could see where the porch would be. The roof would remain the same, it's a flat roof, but it has some shingling there so it has resemblance of a gable roof. And also, approximately 50, a bit more I think of the lot already is covered by impervious areas. We have the building itself. We have the driveway's here. And you have the garage in the back.

Mr. Conklin: Is that garage staying?

Atty. Cole: The garage is staying. In fact that's two of the parking spaces. So, in addition to the a, what Mr. Matto is proposing to do in purchasing the property, is to get rid of the non-conforming use, the commercial use, get that out. It's not permitted in the R-5, get completely rid of it. And substitute a dwelling unit, dwelling units on the first floor. As I said, there are, basically, right now there are 6 bedrooms and he's going to maintain 6 bedrooms, he's not going to change that. What he wants to do is make smaller apartments. Two on the first floor with one bedroom, two on the second floor, one bedroom a piece, and two on the third floor, one bedroom a piece. So the bedrooms will remain the same, but you will have an increase in the dwelling units. As a result of that, you're running into a problem with respect to the parking requirements. It's 1.5 spaces per unit, so your regulations would require 9 spaces. Now, the site plan that we're submitting shows the 9 spaces, but we're asking for a variance of the 9 from, so, so, in other words, from 1.5 to 1.16 which translates into 7 parking spaces. There are two here, two here so those are existing, and that would, to make 7 would be three here. So if you varied that provision of the regulations, let me just correct one thing. Dominick, in his addendum he describes the sections in, he says 45.3.3, it's actually 42.3.3, the same thing for all those 45 they should be 42. But he describes, and in the letters he describes what the variances are and those descriptions are exact. They refer to 42.3.3, 42.3.2 and 42.3.1. I don't think that creates a problem.

Mr. Conklin: Now, you aren't utilizing those other two parking places?

Atty. Cole: Well, you know, if you varied the 1.5 down to 1.16 then you essentially don't need these at all

Mr. Conklin: But you have the provisions there to incorporate a full 9 spaces if needed

Atty. Cole: if needed

Mr. Conklin: okay

Atty. Cole: but if we do the full 9 spaces we still need a variance and that's, that's why the list of variances seems so long. If we're stuck with the 9 spaces, then we need the variance to put, this is the only area to put the addition of two spaces here to get 9. And that would require a variance, you have a landscaping strip requirement of 6 feet, you'd have to get down to 3. And over here there, I believe the parking spaces are 9 feet wide, I'm supposed to have a 5 foot separation

Mr. Conklin: and that's down to the 0

Atty. Cole: that's going down

Mr. Conklin: that incorporates why you have multiple

Atty. Cole: right.

Mr. Conklin: So in other words, if we grant the variance down to 1.16 per dwelling unit, we don't have to grant the variance for the 6 feet from the road and the 0 feet from the building is what you're saying

Atty. Cole: correct. We really don't know what Planning and Zoning or, you know, is going to require that's why we're requiring them, or requesting them both. And the other thing obviously the problem here is the impervious area requirement. And that's why we're asking for a reduction of that. I mean there is a possibility depending on what Planning and Zoning really wants, I mean I understand in today's age there are other options than tarring it with regular asphalt. There apparently is asphalt that is pervious, you can use, or pervious concrete. I guess the old fashioned way would be a gravel driveway. But rather than have to come back for additional variances if we run into problems with Planning and Zoning, we would like the variance of the impervious area, with the understanding that we may not have to do this or we may be able to have a permeable driveway and parking area. So that's where are. And then the last variances I indicated, we're looking for a variance, just because it's going to make the building look a hell of a lot nicer, if we could put a roof over this concrete porch that's already behind the hedges. The hedges are going to stay, so we're just putting a roof over that. And if you look at the aerial photograph, you'll see the houses here. They have nice porches. In fact from the aerial photograph it looks like the porch was ripped off on our own building, but that's not the case. I don't think it ever had a porch on the front. It has a little bit of an extension there but that's it. So those are the variances we're requiring, or requesting. Mr. Matto is going to, wants to say a few things to you, particularly about his methodology in getting this. He's going to completely reside the building. He's going to, you know, completely redo the a, the existing driveway and whatever is necessary for the rear there. The reason why you have this in here because there's a tree, you can't, I guess it's this tree over here and you can see it in here, over here. That's going to stay. And so the owner got permission if we can go around that tree, save that tree. This tree though is right in the area where the, it's a big overgrown bush that would have to be removed. The garage is going to stay.

Mr. Fitzgerald: Does the square footage on the garage count?

Atty. Cole: for the impervious?

Mr. Fitzgerald: No, I'm talking about the capacity for the automobiles, the square footage?

Atty. Cole: Um it's my, yeah, I believe it does. I mean that was the assumption for the architect who drafted this. And I went over this with Attorney Thomas and that wasn't an issue whatsoever with him. So I'm pretty sure that the parking, you can have interior parking spaces I believe

Mr. Fitzgerald: I'm saying there's probably more square footage of area in that garage there, but you only show two parking spaces

Atty. Cole: Right, well there's not enough to get a third parking space. Is that what you're asking?

Mr. Fitzgerald: Yes

Atty. Cole: If there was, then we sure would, it would be on this

Mr. Sal Matto: It's two overhead doors and one pedestrian door. So it's like 2 ½ garage.

Atty. Cole: Now, as for the hardship, the regulation 4.23 allows you to grant variations of the zoning regulations in case of exceptional hardship, exceptional difficulties or hardship. And we submit that we've, that's proven here because as I indicated, it arises out of the enactment of the zoning regulations. This is an old lot, as almost all these are, they're about what 50 by 100 foot lot, some of them are even smaller. The hardship arises out of the enactment of the density requirement and, which wasn't always in the regulations I believe, and it made this building even as it existed, you know, 4 or 5 years ago, non-conforming as all these other properties in red, and probably more. Mr. Matto was very conservative in his determination of which properties violated the density. As I indicated, these are two families and for two families you need 10,000 sq. ft. None of these properties have that. And some of these in white which, some of them are single families, but some of them might be multi-families too. So there might be a lot more. But that's around 75% of the neighborhood by the change in the regulations made them non-conforming. So it arises, the density problem arises out of basically the narrowness and shallowness of the lot when you translate that into the density problem. You have the problem, you have the hardship. Connecticut, you have your regulation there, which requires a hardship, but Connecticut law is very clear, that also there's an alternate basis for granting a variance. So you have authority under your own regulation under hardship, I think we've shown that; and also what we have to show that it doesn't negatively affect the comprehensive plan and I don't think it does because we are removing, if your plan, or the regulations themselves want you, provide for reduction of non-conforming uses, to try and eliminate them. You have a perversion there where you have non-use for a year, you deem under your own regulations that it's, you know, it's abandoned, it cannot be resumed. There's a question about the enforceability of that, but that's part of your regulation as part of your comprehensive plan. So we're reducing a non-conformity here which is one of the principal purposes of the comprehensive plan. But there's an alternate basis, aside from hardship, aside whether we prove hardship, is that if you're reducing the non-conformity that's a separate basis for granting a variance. So you have the legal authority to do that. But there was a very interesting case called Vine vs., I think it was the Zoning Board of Appeals of Branford. The appellate court said no you couldn't, but the appellate when it took it up on appeal in 2007, said no you can if you're reducing non-conforming uses or a portion of the property as long as it overall reduces, reduces the non-conformity, then a variances is appropriate. I give you the cite and I can give you a copy of the case of you'd like, but, where is it, Vine vs. ZBA , 281 Conn. 553. I'll submit a copy. It's 2007's CT Supreme Court and just the operative language here, "the Zoning Board of Appeals can grant variances requested if the new use, even though non-conforming, is "more compliant" with the overall zoning plan than the previous non-conforming use." We still have the non-conforming, not a use, but the property is going to be non-conforming, but overall this is a less non-conforming proposal than what is there. And without, without some type of variances you can't use this property at all. You can't use this for a store. You have, immediately you have a problem with the density, you know, you're not, under your regulations it's been 4 years, you know, technically you can't use it for a store and you can't use it for a liquor store over here and grocery store over here, and you can't use it for an apartment because you're already in violation. You know? For a third apartment you would need 15,000 sq. ft. at least for just one additional apartment. And also you'd have a problem with the density. You need 4.5 and you don't have that you have 4. So I think the requested variances are very reasonable. You have the legal authority to do that and I'm done with my presentation unless you have some question of me, but Mr. Matto would like to explain a few things, describe what he's going to be doing.

Mr. Conklin: Please give your name and address for the record please?

Mr. Sal Matto: Sal Matto, Fanny Street, Shelton, CT, I'm the manager of Pam John, LLC, the purchaser of the property. I had a whole list here but my representative covered it pretty well. I would like to get into one thing and it's in reference to the experience I'm having with one and two bedroom apartments. I have a

building in Derby, the Franklin School Apartments, I have 28 units there, 19 one bedroom units and the 19 one bedroom they use 19 parking spots, 19 and 19. There are 20 people in 19 one bedroom units. I have 9 two bedroom units, those 9 units use 12 parking spots and there's 11 people. I have in Shelton another complex with 8 units, 1 two bedroom unit, that two bedroom unit has two cars and three people. The 7 one bedroom units have 7 cars, 7 people. I'm experiencing one bedroom apartment, one person, one car. So, 9 spots is a cushion. If we get 9 fine, if I do get them, the two that are closest to the road I will only assign them if needed. All of my parking are assigned, every building I have has assigned parking spots. I feel the parking spot is as valuable to them as their living room. That's that portion. Now back to Bank Street, or Hill Street, of course as has been said we'll be removing a non-conforming use of stores and making it less non-conforming. I'd like to go over what I'm going to do there. The new front porch, an expense, but I feel it's really necessary, it'll blend in nicely with the rest of the neighborhood. It's on an existing slab. I'll be putting new siding on the house and garage. There's a little storage on the upstairs of the garage, that'll be my playroom, my tools and stuff for maintaining the property. I'll be doing new paving, new shrubs, new windows, redo the rear porches. I'm going to build some protection for the fence on the rear of the property so that the parking that's close to the property line won't disturb the fence that belongs to the neighbor. I have an okay from the city engineer regards to splitting that driveway on Division so I can save that tree. He went along with it with ease to save the tree. I think that's about it, I'll certainly answer any questions the Board may have.

Mr. Conklin: I'm just going to ask the question, obviously this is served by all city utilities?

Mr. Sal Matto: Yes, it is.

Mr. Conklin: Does the Board have any questions?

Mr. Fitzgerald: How about stairs to the second floor?

Mr. Sal Matto: I have, there's a stairway here going to the second floor and an entrance here with a stair, interior stairwell going to the second floor. And I'm going to be putting additional stairs inside the porch here so that each apartment has two ways out. These stairs here will be inside this porch, so I'm not involved with a, with a, needing a variance because it's inside the stairwell.

Atty. Cole: The number of bedrooms are going to be the same as there are now, basically

Mr. Conklin: right

Atty. Cole: And I believe there's the bulk standard

Mr. Conklin: Each one is just going to have simply a kitchen

Mr. Sal Matto: living room, bedroom, yes, kitchen, living room, bedroom, bath. A couple of them I've got a little nook like 4x4 for a computer area. I'm getting people that that's important to.

Mr. Conklin: Okay

Mr. Sal Matto: Often my other

Mr. Conklin: Nothing as a den that could be utilized as a second bedroom?

Mr. Sal Matto: No, no, no we're talking 4 foot by 4 foot. We're talking a closet without a door and I wire it so that they can put their computer there.

Mr. Conklin: Okay. Alright, usually ask in favor

Clerk: In favor first

Mr. Conklin: Okay, anybody in favor of this application? Please come up and, to the front? Have a seat, please give your name and address.

Ms. Jankauskas: Roseanne Jankauskas, J-A-N-K-A-U, yeah you know it. 55 Roosevelt Drive, Ansonia.

Mr. Conklin: And why are you in favor?

Ms. Jankauskas: Because it's really a disaster in the neighborhood. It's bringing down the other properties. I have an interest in the property and I think it would be beneficial for the city of Shelton to collect some income, have a, you know, to bring the markets back up.

Mr. Conklin: alright

Ms. Jankauskas: It's been untouched for about 15/20 years.

Ms. Jankauskas' husband: I'm her husband, I feel the same way.

Mr. Conklin: Okay, Louis?

Ms. Jankauskas' husband: Yes, Louis

Mr. Andre Jankauskas: Andre Jankauskas, you wanted the address right?

Clerk: Yes

Mr. A. Jankauskas: 64 Jacks Hill Road, Oxford. It would be a great improvement to the neighborhood and the City of Shelton, and a need for society to have rental units.

Mr. Conklin: Okay, anybody else in favor? You get to read your

Mr. Oram: Well, can I talk a little bit, before I read the letter?

Mr. Conklin: sure

Mr. Oram: My name is James Oram. My wife and I are adjacent property owners at 181 Division Avenue in Shelton.

Mr. Conklin: And that'd be the property that's to the south of them

Mr. Oram: That's the property to the south, yes, with the fence. I would, I would tell you off hand that when I first saw Mr. Matto walking around I said, "Hey, what are you doing there?" And he told me that he was interested in the property. And at first when he said that he wanted to put six units in the property, as a neighbor I was, I was very very concerned. As I thought about it, when he said there were 6 one bedroom units, I thought through the fact that my wife and I have lived next door to Stanley's Market for 34 years now, okay, and we would love it if we still had a neighborhood grocery store there. But those days are gone. Nobody's going to do a grocery store in that spot. Thinking about the alternatives, 3 three bedroom apartments would bring children into the building and those children have very little place to play out on the, in the yard, they'd end up out in the street like many of the kids do in the neighborhood. The other thing would be with mult-bedroom units, as those children became of driving age, guess what we'd get? We'd get more cars again. So I tried to think that through. I've been involved a little bit in downtown development and I'm trying to think what is the highest and best use for this property. And as I thought it through, I said well, one bedroom units with either the younger people or the older people who don't need the additional space, less crowding. It's interesting that to bring to light that there's the same number of bedrooms when this gets done. And as we thought about it really, it's probably the best solution I think. In fact, I think firmly believe it is the best solution to what to do with Stanley's Market. We've been looking and it was a pleasure being next to the Jankauskas family for a long time, but if you look from my yard, here's a photo of what you see right now. It's not the prettiest thing in the world

Tape had to be changed

Mr. Oram: We often times look out our windows and we see the back porches up there and there's three stories of back porches. And what you see are kids up there hanging off the third floor railing, ready to go

through the rot in the railing or fall off. We've seen them attempting to open the windows up there and they get in there God knows what they're going to do. We've called the police on several occasions and I'm sure that's on record somewhere. If you look at this particular photo in the corner you see the charred area where somebody lit a fire on the outside of the building and fortunately my son and daughter-in-law were home and they spotted that fire because you probably couldn't see it from anywhere but our house. And the firemen told them when they came with the fire trucks that, you know, had it been a little bit longer we probably would have lost the building. So leaving the building empty in my mind is not an answer that we can live with. We've got to do something with it. Of course, I'd like to see it sided nice and clean and neat, and there's a photo you can have. Do you want me to read the letter, because that's basically what the letter says?

Mr. Conklin: If you could please.

Mr. Oram read letter: Okay, this is from James & Patricia Oram, 181 Division Avenue in Shelton. Dear Honorable Board Members: We respectfully request that you approve the referenced application for a variance that will allow Pam John, LLC to convert the existing structure at 82-84 Hill Street to a residential building consisting of 6 one bedroom apartments. We have reviewed preliminary plans and we feel that the proposed conversion, including lot coverage, parking arrangements and setbacks, will have no detrimental affect on our property. Our support of this project is contingent upon the developer's agreement to refurbish the exteriors of both buildings and to provide adequate protection to prevent cars from damaging the fence that separates our properties. The existing structure is vacant and deteriorated. We often see trespassers on the property and have notified the police on several occasions. Two weeks ago the building was the victim of an arson attempt which was extinguished by Shelton's fire department. Leaving this building vacant creates a danger to life and property that is unacceptable. Past uses as a neighborhood market and liquor store are no longer commercially viable. The present lot size precludes family sized two or three bedroom apartments because there is little or no off-street space for children to play. Families would also require more parking as children reach driving age. It is our opinion the Pam John proposal addresses the highest and best use of the subject property. We welcome and applaud Pam John's investment in our neighborhood and in light of ongoing deterioration and vandalism of the property, we ask that you quickly approve this request." And that's both of us. You have a copy, do you want another one?

Mr. Conklin: No

Mr. Oram: Do you need anymore photos?

Mr. Conklin: We do have to have the photo that you showed us.

Mr. Harbinson: I'd like to bring your attention to one discrepancy there. You say 6 one bedroom apartments, and the application is for 9? Am I wrong?

Atty. Cole: No, no

Mr. Sal Matto: No, 6

Mr. Harbinson: 6?

Mr. Conklin: He has 6

Atty. Cole: The parking, you require 1.5 parking spaces so the application is to reduce the, that's the parking. We normally would have to have 9

Mr. Sal Matto: I have one thing I didn't mention if I may speak again?

Mr. Conklin: Go ahead

Mr. Sal Matto: In reference to what I'm doing there. I'm not a big fan of dumpsters with a property like this. So there won't be a dumpster for the tenants' garbage. There's an area there about 6 x 10 that is a portion of the back of the building that will be for garbage pails. And our buildings, what we do is the night before garbage pickup we go put the pails out and then we bring them back in. It annoys me to see garbage pails rolling down the street. So we don't have that.

Mr. Conklin: So that won't be the tenants' responsibility, you are going to handle that as the landlord.

Mr. Sal Matto: We as the landlord do that. We have enough apartments where it's a full time job for my son daily. He daily goes to each apartment, walks the common areas, and goes through all of them and then goes and hits the button on the machine to see if anyone has problems, dish washers, things of that nature. That's our norm and it works out well. The interior stairwells and hallways of all our buildings are locked. People don't get in there unless they have the common area key or know the code. We run a tight ship and it works.

Mr. Conklin: Okay, thank you. Anyone else in favor? (no response) Okay, any opposed?

Ms. Durante: I have a question

Mr. Conklin: Well, please come up here. Please give your name and address for the record.

Ms. Durante: Maria Durante, 73 Hill Street

Clerk: I'm sorry, what was the last name?

Ms. Durante: Durante, D-U-R-A-N-T-E, 73 Hill Street. My question is you know, he says he has enough parking? That's my only issue and concern because in the winter time it's hell out on the street. To anybody that lives here, because they don't do the streets right, and the summer's not so bad, but the winter's are horrible. And I think the town has to do something about it too, because literally there's only a few parking spots, it's really bad.

Mr. Conklin: With this proposal he does have enough off street parking

Ms. Durante: Okay, but what if like, they have a visitor or

Mr. Conklin: That's, nobody has control over that

Ms. Durante: And what if one person has a partner and they have two vehicles? Are they allowed

Mr. Conklin: That's the reason why it's designed for 1.5 parking places per unit

Ms. Durante: Okay, so like, let's say three people have two cars, three people living in one unit, are they allowed that?

Mr. Conklin: Well, three people living in one, it's only one bedroom?

Ms. Durante: I know but if three apartments have two people with two cars

Mr. Conklin: That would max out the parking

Ms. Durante: Right, so then what do you do with the other three parking apartments?

Mr. Conklin: Well, that's all that's required by law.

Ms. Durante: Okay

Unidentified voice: (unclear)

Ms. Durante: Well, if there's a couple in each apartment like a, that's 12 cars, or even 9 cars

Mr. Harbinson: There's accommodation for 9 cars

Ms. Durante: Okay

Mr. Conklin: There's 9 cars off street parking there

Ms. Durante: Okay, well, that was my only concern is the parking

Mr. Conklin: So they're meeting the requirements for the number of apartments that they have, they are capable of meeting all the (unclear) requirements.

Ms. Durante: I just want Mr. Matto, I'm all for this, it's just like the winter time it's horrible

Mr. Sal Matto: I understand, I understand your concern

Ms. Durante: and, I mean, if you could either push that, because once winter time comes there's nowhere to park, because the streets are not done right

Mr. Conklin: So are you saying you're for or against?

Ms. Durante: No, I was just, I had questions about the

Mr. Conklin: concern about the parking

Ms. Durante: yeah, right, and like are you going to be collecting HUD or Section

Mr. Conklin: You have to direct all questions to us, you can't ask questions of him

Ms. Durante: Oh, okay, are they allowed like, does it matter what kind of residents are going to be there, like as far as Section

Mr. Conklin: I can ask, I

Ms. Durante: I mean yeah, is he going to

Mr. Sal Matto: alright, let me answer

Ms. Durante: just the type of people that we're looking at, you know what mean? Like, one bedroom apartments I don't know what type of people are going to be

Mr. Sal Matto: Let me answer it in this way, because I'm tiptoeing around the issue.

Mr. Conklin: Yes, I understand

Mr. Sal Matto: I have 28 units in my Franklin School, everyone there pays their own rent.

Ms. Durante: Okay

Mr. Sal Matto: I have 8 units on Coram Avenue, everyone there pays their own rent. When I say their own rent, without any assistance from any departments or bureaus and so forth.

Ms. Durante: Okay

Mr. Sal Matto: So I think I've answered that without saying the wrong thing.

Ms. Durante: Okay, that's all

Mr. Conklin: Alright, thank you.

Ms. Durante: Thank you.

Mr. Conklin: Anybody else opposed? Or anybody opposed?

Clerk: Oh, there's somebody, Ed?

Mr. Conklin: Oh, I'm sorry. Name and address for the record please?

Mr. Rodrigues: My name is Jason Rodrigues, I live at 70-72 Hill Street, just two houses directly across from the location. I really can't say that I'm opposed to the plan. I mean it's a great idea because the location of, I mean, the structure of the building looks terrible and something has to be done. I just have two concerns. My first concern, and it sounds repetitive to what Maria just said is, in regards to parking, and my second concern is in regards to the type of individuals that are going to be allowed to live there. And the reason why I'm so concerned about that is because I've been there 15 years in the same location and in the last 4 years it's like this whole neighborhood has gone down the drain. I mean to me it seems like everyone, homeowners in this area are so desperate to rent out their properties that they're just bringing in anybody from anywhere and allowing these people to live at their dwelling place, you know, within their rental units, Section 8, HUD, whatever the case may be. But it seems like this whole neighborhood has changed in the last 4 years and my concern is what type of individuals are going to be living there. That's, that's my concern, you know, in the last two years I mean, someone has stolen my motorcycle from the back of the house. They've stolen my son's bike twice. My tires have been slashed before. People have shot paintballs at my vehicles and at the house. And that's been in the last 3-4 years. I mean, everything has just changed. So that's my concern. What type of people are you looking to bring to live there. And on top of that, with, with such a plan being initiated I mean, I believe that the town should also take into consideration putting a stop sign there, especially if so many people are going to be living in that unit, because that's a dangerous corner. So that's just something that should be taken into consideration.

Mr. Conklin: You can bring that to the Board of Alderman as public health and safety if that's a concern, that's where you bring that.

Mr. Rodrigues: But anyhow, my two concerns are parking and the type of individuals that are going to be living there.

Mr. Conklin: Okay.

Mr. Rodrigues: Thank you.

Mr. Conklin: Anybody else wish to address the Board? (no response) Okay, alright, last

Clerk: He gets rebuttal

Mr. Sal Matto: I think, I think I've solved the problems or the concerns of the neighborhoods with the one bedroom stuff. Section 8, HUD, so forth, don't come rent one bedroom units. They usually rent many bedroom units, and we won't have that type of situation with one bedroom units. So I think I've solved their concerns with the one bedroom units. And that's all I have to say.

Atty. Cole: I think the concern about the parking seems to indicate that people would really want to see the variance of the 1.5 per dwelling unit so we can keep the 9 instead of the 7. So in other words, those two spaces

Mr. Conklin: Not that we can do anything, the Planning and Zoning, but we can try and stipulate something to grant the variance based upon that you utilize the outlying 7 parking spaces before the other two are used next to the building.

Atty. Cole: He would agree to that as a condition?

Mr. Sal Matto: Positively. You're referring to the two out by the street?

Mr. Conklin: Correct, the two on the side, the two next to the building

Mr. Sal Matto: Yes, I would assign those two spots

Atty. Cole: 8 and 9

Mr. Sal Matto: last

Mr. Conklin: last, right.

Atty. Cole: 8 and 9 on the, by the way this is all submitted as a

Mr. Conklin: Right, it would have to be, once you give any sort of

Atty. Cole: And also just the, the Vine case if anybody's interested or, with the alternate basis that we're reducing the non-conformity.

Mr. Sal Matto: I don't think I'm going to end up assigning 9 spots. I know what I'm experiencing now. It's one person, one car.

Mr. Conklin: Well, that way when someone from your office comes to service the building they can park off the street also.

Mr. Sal Matto: Yes

Mr. Conklin: Okay, any further questions from the Board? (no) Any questions at all? (no) Okay, nothing left from your two gentlemen? (no) And no further questions, I'll close the hearing. You gentlemen have the option, as we were discussing before to hold the vote off until next month because we don't have a, well we have a quorum, but only 4 members, which means you need an anonymous vote. Having a fifth member, you know, gives the option if somebody does decide to vote against it. Okay, would you rather hold it off?

Atty. Cole: Mr. Matto would like to proceed. You understand it's 6 bedrooms, 6 bedrooms total, no change.

Mr. Conklin: I just want to make sure you had that

Atty. Cole: Yep, he's willing to go, we understand it has to be unanimous.

Mr. Conklin: Okay

Atty. Cole: Thank you.

Later that evening during the work session the Board, upon motion by Commissioner Harbinson and seconded by Commissioner Adanti, unanimously voted that:

#809-3 "In the application of Pam John, LLC, c/o Dominick Thomas, 315 Main Street, Derby, CT for a certificate of approval a six family – one bedroom per unit house to be located on the property of Joseph Jankauskas at 82-84 Hill Street, R-5 zone, and which requires variances in minimum square footage per dwelling unit, minimum setback from the street line, maximum impervious coverage, minimum parking spaces per dwelling unit, minimum width from parking to street line with landscaped planting strip, and off street parking space separation from building,

The application for variances is approved.

Inasmuch as the current structure is a pre-existing non-conformity, and

Inasmuch as the proposal eliminates a pre-existing non-conforming commercial use of the property, and

Inasmuch as the proposal will improve the existing property and make it in harmony with the rest of the neighborhood,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval of variances in minimum square footage per dwelling unit from 5,000 sq. ft. to 1,416 sq. ft. per unit, setback from street line from 25 ft. to 14 ft. for covered porch and maximum impervious coverage from 50% to 81% (Section 24, Schedule B, Standards 2, 7 and 19 and Section 42.3.3); in minimum parking spaces from 1.5 per

dwelling unit to 1.16 per dwelling unit, minimum width from parking to street line with landscaped planting strip from 6 ft. to 3 ft. and off street parking separation from building from 5 ft. to 0 ft. (Sections 42.5.2, 42.3.2 and 42.3.1) in this instance.

This certificate is contingent on the petitioner utilizing/assigning the 7 outlying parking spaces before utilizing/assigning the additional 2 designated toward the back side of the structure and the road.

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 Conklin and seconded by Commissioner Adanti, unanimously voted to accept the minutes of the July 21, 2009 hearing as submitted by the clerk.

Respectfully submitted,
Loreen Michalak, Clerk