

Board of Zoning Appeals – Hearing Room, Municipal Building 54 Hill Street, Shelton, CT.
Tuesday, September 20, 2011 at 7:30pm

AGENDA:

- #811-1 Joe Pereira at 500 Shelton Avenue
- #811-2 Nancy & George Berntsen at 1017 Howe Avenue, Lot 22
- #811-3 Nancy & George Berntsen at 1017 Howe Avenue, Lot 22A
- #911-1 John Pam, LLC at 500 River Road
- #911-2 Chris & Kelly Cacchillo at 61 Broc Terrace, Ext.
- #911-3 Ross Dalling at 225 Birdseye Road

Possible Decision on:

- #711-3 Stephen Zuber at 2 Federal Road

Mr. Glover: Good evening ladies and gentlemen and welcome to the September meeting of the Shelton Zoning Board of Appeals. We meet monthly, usually, to hear, to hear appeals for variances. Our regulations require you to furnish us with four pictures of your property and they require you to notify your abutting neighbors by certified mail. At the beginning of your hearings I will be asking for the pictures and I will be asking for the receipts showing that you did notify your abutting neighbors. If you haven't done that, then we'll have to continue your hearing until next month when you can do that. This is a hearing. When you come before the Zoning Board of Appeals you are giving testimony. It's recorded on two recorders and later on it's transcribed by our very able clerk, Lori Michalak. This room is not the best room for acoustics, so if you're going to, if you have a cell phone please put it on vibrate or turn it off. If you feel it's necessary to have a discussion amongst yourselves while you're in here, please take it out in the hall because the tape recorder will pick it up and we won't get a clear hearing. We have a quorum tonight. We're required to have four people, four commissioners to have a quorum. We do have four. To be successful in the Zoning Board of Appeals you need to have four votes. Normally we would have five commissioners up here, but we are short a commissioner, so if, we will have the hearings and at the end of the hearing I will ask you if you would like us to vote tonight or if you would like us to wait until next month when another member can read the transcript and then you have the possibility of getting a negative vote and still being successful. If you get a negative vote with just four of us, you are not successful. Present tonight are Commissioner Linda Adanti, Lori Michalak, I'm Gerry Glover, Commissioner Ed Conklin and next to Ed is Commissioner Phil Cavallaro.

#811-1 500 Shelton Avenue, Joe Pereira of Pereira Engineering, LLC, One Enterprise Drive, Suite 312, Shelton, CT is seeking to waive Section 24, Schedule B, Standards 7, 8 and 10 by varying the minimum setbacks from the street line from 40 ft. to 25 ft., rear property line from 40 ft. to 35 ft., and from the residence district boundary line from 40 ft. to 35 ft. for the construction of a single story building for a financial institution.

Mr. Glover: Alright I have a email sent to, actually it was sent to Rick Schultz and then sent to me from him.

Mr. Conklin read email: "On behalf of People's United Bank I would like to request a continuance to the next ZBA public hearing scheduled on October 18, 2011. The architects are still working on revising the architect's drawing for the proposed bank branch. I will let you know when I have the updated architectural drawing so that we can reschedule the staff meeting with Ruth and Tony." This is from Joe Pereira

Mr. Glover: Alright, I'd like a motion to continue this hearing.

Mr. Conklin: So moved

Mr. Glover: Can I have a second?

Mr. Cavallaro: Second

Mr. Glover: All in favor? (unanimous aye). Alright this will be, this is on the agenda for next month and this starts their clock on their 65 days.

#811-2 1017 Howe Avenue, Proposed Lot 22, Nancy and George Berntsen of 1017 Howe Avenue, Shelton, CT are seeking to waive Section 5.25, Article 5 by varying the minimum contiguous building area from 30,000 sq. ft. to 17,000 +/- sq. ft. for a proposed lot with the applicants' existing one family home.

#811-3 1017 Howe Avenue, Proposed Lot 22A, Nancy and George Berntsen of 1017 Howe Avenue, Shelton, CT are seeking to waive Section 5.25, Article 5 by varying the minimum contiguous building area from 30,000 sq. ft. to 14,000 +/- sq. ft. for a proposed lot.

Mr. Glover: Is the applicant here?

Atty. Thomas: Attorney Dominick Thomas, Cohen and Thomas, 315 Main Street, Derby, CT, representing the applicant. Mr. & Mrs. Berntsen are here. First thing I would like to do is submit to the Commissioner, the Board, I'm sorry, the three notices. I treated this as, even though they are two applications, I treated it as a single application for the purpose of notices, because obviously I didn't have to notice my own client and he borders, you know, each of the lots. So notices were given with a complete site plan attached to the notice to William & Gloria Kiss, Housatonic Railroad that borders the entire back of the property and hold on a second here. And I did send to the Housatonic Railroad and Ovesny and I don't know why the Ovesny one isn't here. Here's a copy of what we sent out on Ovesny. I think that that may have been because the green card was not returned.

Mr. Glover: I don't need the green card, I just need the receipt that shows that you sent it.

Atty. Thomas: Okay

Mr. Glover: Whether they accept it or not is up to them. Alright, and these are all the abutting neighbors?

Atty. Thomas: I'm sorry, here's what she did, let me just, if you can give me that copy back, she, the return thing is in there and the mail.

Mr. Glover: These are all the abutting neighbors?

Atty. Thomas: These are all the abutting neighbors, which I will point out on the map. Even though it says Penn Central Railroad, and it says Penn Central Railroad in your Assessor's office, they are not the owners. I happen to know that because I've done some work, or actually had some cases involving Housatonic Railroad. This is now purchased, actually it became, from Penn Central it became the Maybrook Line and from the Maybrook Line for, of the Boston and Maine, it was purchased by the Housatonic Railroad. I've actually dealt with them on the Boys and Girls Club, closing of the crossing and things of that nature, so I knew that it wasn't Penn Central, which doesn't exist. Here is a photograph of the sign. We signed it in two different locations and with respect to the notices I will represent to you that the Ovesny's were spoken to directly by my clients and they have no objection and I have for the Commissioners an email from Mr. & Mrs. Kiss approving the application.

Mr. Glover: Let's get this read into the record.

Mr. Conklin: Which one?

Mr. Glover: The one from Mr. & Mrs. Kiss

Atty. Thomas: Do you want me to read it, or

Mr. Glover: Do you want to read it

Atty. Thomas: It's addressed to, it's an email, and it's addressed to myself, Attorney Thomas "We received your notice of public hearing at Shelton City Hall on August 16, 2011.." which was the original date that this was assigned for, "after review of the attached material we have no issue with the proposed addition to 1017 Howe Avenue, referenced in the attached drawing. We will not be attending the hearing. I realize that this email is not necessary but thought it might be good for you to have in your position.." possession, I assume, "if the question came up with regard to owners, the property at 1029." And that is this property right there. And to make it easier so that you don't have to stretch, what I do have for the Commissioners is 11x17 of the, of that map. Now what the situation is here is, Mr. & Mrs. Berntsen purchased this property and upon purchasing it, with the intention clearly that they someday would have a second lot. And they did some due diligence and their due diligence involved going to the Shelton Zoning Regulations and, by themselves, and look at Schedule B. Now you may look at my application and say now wait a minute, Attorney Thomas,

you're applying for a variance to 5.25, why don't you also apply for a variance to Schedule B. The reason is, if you will note here, in Schedule B in the R-1 zone, and I just want to point out to you, there is no reference whatsoever to the buildable area requirement. So anybody doing their due diligence looks at it, there's no requirement, there's no buildable area, there's no definitions, there's not even a note or a reference that it is a bulk standard. Something that's, frankly I pointed out that you know, it's one of the things that should be in the bulk standards so people looking at this, because this is what you normally go to that tells you what sizes and what issues your lot has to have. So anyway, in order to increase the size of their lot, several years ago and I want to show you, there's some photographs of the area, and these are the other photographs of the property, but you'll notice that this is obviously looking down from almost the end of their property, from almost 1029 looking down Howe Avenue. And this is looking back in that same direction. So you can see the area. This is the old Howe Avenue, in other words, the old road, the old 110 that was there. So there was an old 110, the road was realigned and you can see another picture of the road being realigned. And what they did at the time, and I'm not going to go into extreme detail, but there was issues with the gas company where they found a gas line that was in without an easement. So what they did, in an effort to increase the size of their property, thinking they had two lots, is they went and purchased this property from the State of Connecticut. It's called excess right of way. And they purchased this property from the State of Connecticut to increase their lot size. And after that, by increasing it, and that's the area that would be to the right of the road for instance, when you look at the road looking here where Mr. Berntsen's boat is, they purchased that and so they own now up to the State taking line for the realigned Route 110. So at that point they thought they had two lots, until of course they hired an engineer, a surveyor, who went out there and as you can see from our proposed plan in the purple area, because of the topography of the property which falls off rapidly to the railroad, they do not have the contiguous buildable area for the two lots, that they thought they had even after purchasing the excess property from the State. If you look in this neighborhood, hopefully if you've gone out to look at it, there is a newer house two houses away from it, right on the other side of 109 that has exactly the same thing. It falls off sharply. I don't know whether those people came in for a variance or what the situation is, but certainly the house looks like it was built within the last let's say 10 or 15 years when this regulation existed.

Mr. Glover: Is that the Ovesny house?

Atty. Thomas: Yes, the second

** Several talking at once **

Atty. Thomas: and then there's a more modern one, that has it. In fact, if you look at the topos here, and actually you could see that house on the map, you could see that house. If you look at the topos here, the location of the house, existing house and the proposed, and their proposed addition which is not an issue, not an issue here because it meets the zoning if you split it and the proposed new house, both of them are on much more level property where they're going to build it before it begins to drop off rapidly.

Mr. Glover: Ovesny's is 23 and 24?

Atty. Thomas: Uh, yes, on the Assessor's map 23 and 24

Mr. Glover: and, and the new house that you're talking about is 24

Atty. Thomas: The new house I'm talking about is 24, and I don't know whether there was a variance or anything like that that was granted for that house, but it doesn't appear that it would have. So basically the topography, based on everything, based on their, the size of the lot that they purchased, the fact that they added to the property. Also I think you have to take in consideration the fact that when you look at the zoning regulations there is no way anyone doing this or purchasing this is going to be aware of that, unless you go into the definitions. That's where it's found, it's in the 5.25 definitions. And because of the sharp topography of the lot, and there are as you can see numerous houses over here that exist, that pre-exist, that would never qualify under that requirement because of the way the property slopes off. It doesn't have anything to do with wetlands or anything like that, it just has to do with the way the property slopes off. In this property there is, as you can see from the photographs, and I'm sorry I have a few more photographs, the upper area where the property is located is relatively level before the sharp drop off which begins right there. And that level area continues over even to where the proposed house is and then it drops off. So, we're prepared to answer

any, actually because both neighbors obviously I didn't here anything from the railroad, they would have no concern, they're way down the bottom of the hill.

Mr. Glover: When did they acquire this land?

Mrs. Berntsen: It was either 2005 or 2006 when it was finalized. I think we started working on it in 2004

Atty. Thomas: You have to identify yourself for the record please

Mrs. Berntsen: Nancy Berntsen,

Atty. Thomas: Address?

Mrs. Berntsen: at 1017 Howe Avenue

Mr. Berntsen: And George Berntsen, 1017 Howe Avenue

Mr. Glover: And when did you buy the, the original piece?

Mr. Berntsen: 2002

Mrs. Berntsen: I always get it mixed up if it's 2002 or 2003. I think it is 2002.

Mr. Cavallaro: Now, Dominick, if I remember you did say that they thought all along that it was two lots

Atty. Thomas: Yes

Mr. Cavallaro: Did they in fact have two tax bills for the property?

Atty. Thomas: No, no, no, I'm not saying that, they thought they had enough property to subdivide it into two

Mr. Cavallaro: But not that it was

Atty. Thomas: Not that it was, no, no, we're not claiming, we're not claiming, if it was a pre-existing building lot we wouldn't have to be here because if it pre-existing zoning, it's not. They bought a large piece of property when they, when they moved here they did their due diligence. Their intent was to live in this house and actually my conversations with them, to potentially construct a new house for themselves on Lot 22A, you know what I mean, and possibly sell or rent the other house

Mr. Cavallaro: Oh, okay

Atty. Thomas: they have issues with, I mean there was always (unclear), they just assumed it and because there would have been no reason for them obviously to purchase the extra property. It took awhile because it was discovered that there was, like I said a gas easement running through it and the gas company had to relocate the gas main and everything that was involved.

Mr. Cavallaro: Aren't there telephone polls on that too? Because part of that area the poles actually are on the old road.

Mr. Berntsen: no they're not, there's no poles there. The poles are all on

Mr. Cavallaro: on 110?

Mr. Berntsen: Yes

Mr. Glover: Alright, because this, the regulations for the 5-17 was effective September 1st of 1997.

Atty. Thomas: yes, the regulation, the regulation that's involved

Mr. Glover: pre-dated them buying it

Atty. Thomas: pre-dated them buying the property. And no, we're not claiming that, the issue really is, I mean, I know that ignorance of the law is no understanding, but when you look at, it's very strange, when you look at Schedule B, there's no even reference to it in Schedule B

Mr. Glover: Are there, is there is city water?

Mr. Berntsen: Yes

Atty. Thomas: city water, there is no sewers at the present time, there's septic

Mr. Glover: Where is

Mrs. Berntsen: Well, there is across the street

Atty. Thomas: Well, there's, yeah there, it's, I've done some due diligence as to determine whether or not they could hook up to the sewers at what is it

Mr. Glover: At Monty's place?

Atty. Thomas: Yeah, at Monty's place, but I don't think they can, it's something you may know more about this than I do, something about a pressure line or something like that, or

Mr. Glover: Well, they wouldn't need a pressure line for it, Monty has a pressure line

Atty. Thomas: He has a pressure line and they can't necessarily hook up, so you know we, they had to develop this respect to the idea of having a, you know, they'd have to be able to comply. Obviously if they don't comply with the health district, it's, the whole thing is moot

Mr. Glover: Have you looked, have they looked into that?

Atty. Thomas: Yes

Mrs. Berntsen: We actually did have test holes dug, that's how we found out the gas line was there because of Call Before You Dig

Mr. Berntsen: So it perc'd real well and then we found the gas line was on our property

Mr. Glover: Did they indicate that there was room for a septic system there?

Mr. Berntsen: Yes, uh huh

Mr. Glover: And are you contemplating a two bedroom house or a three bedroom house?

Mr. Berntsen: The new house will be a three bedroom house, is what we were thinking

Mr. Glover: which would be serviced by city water

Mr. Berntsen: right

Mr. Cavallaro: What's the well and the pump house? Is that just abandoned?

Mr. Berntsen: That's abandoned

Mr. Glover: So your, your hardship is that they didn't know based on the standards

Atty. Thomas: Well, two things, number one they didn't put it in there and number two, there is an extreme topography on this property, it's similar to all the other properties in the area that are all the same way. They're all built on the front toward Howe Avenue on the flatter portion of the road and they all steep, go off to the back side. I, you know, obviously we did not survey all the other properties, but I think if you eyeball all the other properties it's quite clear that

Mr. Glover: right

Atty. Thomas: none of them would be able to comply with

Mr. Glover: And you think it's possible that a precedent was set by the Planning and Zoning Commission when they okayed the other house?

Atty. Thomas: I have no idea who okayed the other house, but certainly the other house

Mr. Glover: I mean we did not

Atty. Thomas: Okay

Mr. Berntsen: It might have been that

Mr. Conklin: is it a pre-existing lot?

Mr. Berntsen: I believe it pre-existing, it was a pre-existing lot

Mr. Glover: Okay

Atty. Thomas: it may have been, I honestly don't know. All I know is that as you're driving down

Mr. Glover: you can see it because that's why it's (unclear) 24

Mr. Cavallaro: there was a lot number

Mr. Glover: It was a pre-existing non-conforming lot

Atty. Thomas: I have no idea when it came into existence. The fact that it has a 24 on it right now wouldn't necessarily make that because it would've been given a lot number at some point, but in fact all I'm saying is that I was, as I was surveying the neighborhood back and forth to determine, you know, basically every lot has the same topography.

Mr. Glover: Alright, we have a memo here from our friends upstairs. We'll have it read into the record.

Mr. Conklin read letter: "Memorandum. To: Gerald Glover, Chairman, Board of Zoning Appeals. From: Richard D. Schultz, Planning and Zoning Administrator. Date: August 12, 2011. Re: ZBA Applications #811-2 and #811-3. The Shelton Planning and Zoning Commission at their August 9, 2011 meeting reviewed pending ZBA applications #811-2 and #811-3 for the proposed split of property into two lots (lots 22 and 22A) located at 1017 Howe Avenue. The resulting lots do not comply with the minimum contiguous building area for the R-1 District which requires 30,000 square feet. After discussion and review of the application, the Commission noted the following: 1. The intent of Section 5.17: Lot Area and Shape, as amended in 1997, was to provide adequate guidelines to properly regulate the remaining subdivision of residential land within the City of Shelton. It was determined at that time that a substantial portion of the remaining undeveloped or underdeveloped land in the city contained steep topography and/or was adjacent to the Housatonic River and required special attention. 2. Members of the Conservation Commission area aware of these pending applications and expressed concern to the Zoning Subcommittee of any future development requiring clear cutting of forestland adjacent to the Housatonic River which would have a potential negative visual impact to this important Greenway. 3. The Commission believes that the 30,000 square foot minimum building area is a reasonable zoning requirement and should be upheld to protect the public health, safety, welfare and property values within the City of Shelton. 4. The Commission believes that the two applications are

inappropriate and are not consistent with the intent of Section 5.17. (see attached regulations for Section 5.17.)” And it goes on to give the 5.17 regulations.

Mr. Glover: You don't have to read the regulations. The regulation was put into effect September 1, 1997.

Atty. Thomas: The first question is, did they renumber the regulation?

Mr. Glover: I have no idea.

Atty. Thomas: because in the zoning book that I have it's 5-25, 5.25

Mr. Glover: That one's 5-17. Is there a 5-17 in your book?

Atty. Thomas: Yes, it's height, the height of a building, unless they renumbered it in a later book. Are we talking about the same regulation?

Mr. Conklin: (unclear) lot area and shape now

Mr. Glover: Yeah, does that say 5-17?

Mr. Conklin: 5-17

Mr. Cavallaro: 5.17, yeah.

Atty. Thomas: Maybe they re-numbered it. It's the same regulation we're talking about.

Mr. Glover: It's the same regulation

Atty. Thomas: Same regulation, I just wanted to make sure because I didn't want my application to be defective. I mean,

Mr. Glover: No, I don't think yours is defective because you're citing the most recent book

Atty. Thomas: Book yeah, I think this is, I'm pretty sure it's the most recent book, I try to you know, go up and abscond with them as much as I can

Mr. Glover: Do they charge you for it?

Atty. Thomas: Sometimes they do, sometimes they don't.

Mr. Glover: Alright, is there anyone in this room who is in favor of this application? (no response) Is there anyone in this room who is opposed to this application? (no response) This um, this map that you have here, Dominick, up here it says 2.41 acres and down here it says 22,000. Is it 2.41 for the entire thing

Mrs. Berntsen: just the white area

Atty. Thomas: it was 2., this is a portion of the State taking map I believe, okay? This is a portion of the State taking map. I have no idea whether or not it's done to A-2, this is what they were

Mr. Glover: That's not what I'm asking. Is included in this figure is that just the white area?

Mr. Berntsen: No

Mrs. Berntsen: No

Mr. Berntsen: It's three acres, 3.0 with the State land that we bought

Mr. Glover: So we're talking about a 3 acre piece

Atty. Thomas: Yes, 3 acre

Mr. Glover: And other than that, you comply with all of the regulations?

Atty. Thomas: Other than that, every regulation is complied with, besides the house was downsized and it probably constitutes a free split. I haven't done the research on that and it, like I said it's

Mr. Glover: I don't think it does, I'm not sure it does it, but you're the attorney, but they've added onto it. I don't know whether that defects it or not.

Atty. Thomas: It's usually taking away from it. By adding onto the property it would normally not do it, regardless of whether or not it would still be a situation where

Mr. Glover: It's not before us anyway

Atty. Thomas: Right, it's not, you know, it's not the situation. Obviously, I mean the only comment about and I haven't seen unfortunately, I've never seen Mr. Schultz's report, it was not provided to me or anything like that.

Mr. Glover: I just saw it tonight

Atty. Thomas: Yeah, and um, I mean there's no intent here whatsoever doing anything anywhere close to the river or the railroad or anything like that. I mean the area where the house is going, yes there would have to be some trees cut down between the house and the, on basically what would amount to the State right of away. But it would not in any way impact the visual impact of the river. So that is a statement that is not applicable to this

Mr. Glover: I'm wondering, well I guess they could make that statement because they could've come down to the Town Clerk's office and looked at the file. I mean they, I was going to say how do they know where you're building?

Atty. Thomas: Right

Mr. Glover: A copy of the application is in town hall

Atty. Thomas: a copy of the application right, but I mean if you go out there and physically look at it, first of all, nobody would, you'd be crazy to clear cut anything along

Mr. Conklin: Well that's what a lot of people are afraid of, them taking a swath and clearing this out for a view of the river.

Atty. Thomas: Certainly. And that can be easily handled by the Commission.

Mr. Glover: Which you would have no objection to?

Atty. Thomas: Conservator easement? Not a problem at all. I would have no problem with you putting it on, your Board putting that as a condition

Mr. Glover: as a stipulation

Atty. Thomas: yeah, I mean certainly, you know, once it slopes off, I mean, I don't, we are not in, I will say we are not I believe looking at the numbers, even if the Housatonic River, we are not in the upland review area, you know, of the Housatonic River, which I think is expanded to 150 feet. But, we would have no problem with a, you know, beyond the sloped area, beyond the purple area there, we have not problem with conservation

Mr. Glover: Yeah, and you're certainly far enough from the stream

Atty. Thomas: Yeah

Mr. Glover: the brook over there.

Atty. Thomas: I mean there's no intention of anybody to cut trees down on the slope

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

Mr. Cavallaro: Is there going to be a common driveway between the two, is that the intent?

Atty. Thomas: The intent would be to have one curb cut instead of two, right now there are two curb cuts

Mr. Cavallaro: yeah, I see that

Atty. Thomas: It's a horseshoe. The intent and the proposed intent, Alan Shepard who did the design was, it would be much better to have a single curb cut at that location

Mr. Glover: Are you, are we dividing the lot for a family member or just

Atty. Thomas: Not necessarily so, could be, but I'm not going to make that representation that it definitely would be a family member I think, but it's one of the possibilities

Mr. Conklin: Part of this regulation is steep slope which is 25% or more in part of this regulation. None of this is 25% slope, because I'm almost positive that most of this is over 25% slope

Atty. Thomas: Yeah

Mr. Cavallaro: Yeah, that's why he's here

Mr. Conklin: yeah, but the purple area

Atty. Thomas: The purple area, the purple area is all compliant. The purple area complies

Mr. Conklin: so it's less than 25%

Atty. Thomas: less than 25% slope. This, with, if you travel up and down actually different houses have different looks to them, because the road was straightened out here and they have the flatter area, they have actually a much flatter area than some of the other houses. A lot of them if you, in this area it slopes off rapidly. And like the new house that the Ovesny's built there, it has obviously a walk out, I mean it's obvious you can look at it from the top and see that it's a walk out basement in the back. And you look at some other houses, and then it really changes. Then there'll be an area which is a little flatter and still with the drop off a little steeper as it goes back. But as you drive along there, there's nothing, nothing remotely that would comply and, basically in this area that would remotely comply with that regulation. So it's certainly not out of character

Mr. Glover: As it um, are you through Phil?

Mr. Cavallaro: Yes

Mr. Glover: Okay, as it sits right now with one house on it, it has about 31,000 of contiguous building area

Atty. Thomas: On a 3 acre parcel

Mr. Glover: it's a 3 acre parcel but it has enough contiguous flat land for one house

Mrs. Berntsen: It's a very large area, very long

Mr. Glover: Yeah

Mr. Berntsen: I would, I would just add that because all our, we didn't think our property was anything unusual from the neighborhood and it's a lot flatter than across the street and you know, other places, so we didn't pick up on that requirement

Mr. Glover: Yeah, I'm guessing that the, that it is right on the Ovesny piece that it was a pre-existing non-conforming

Mr. Conklin: Otherwise it would be 24A

Mr. Glover: The, the area across the street, where Monty's building on, was pre 1997, that was, that's an old subdivision, that's an old subdivision. Monty bought that subdivision in the (unclear)

Unclear - Several talking at once

Mr. Glover: Nippy Russell

Atty. Thomas: Well the top, what he did was he leveled it on the top

Mrs. Berntsen: He did redesign it

Mr. Glover: Right, but I mean

Atty. Thomas: The lots that are up there, and also that is a, those aren't one acre lots I don't think

Mr. Glover: yeah

Atty. Thomas: I mean I think, I know, I think those aren't one, it may even, I'm not sure if it's a PRD? But I think the lot sizes over there if you look up at the houses that are eventually being built are smaller than 1 acre

Mr. Glover: But it is, it is a subdivision that came before 1997. Nippy Russell voted on that one

Atty. Thomas: Well I mean, you could, you know, right now and Connecticut lags way behind the issue of form based zoning. I mean the bottom line is that in most areas now they, they establish a certain standards and they go about it in a case by case basis. On this case I mean especially with the railroad and everything like that. It would be a lot different if you were talking about you know, where you had to do some filling or something like that, you know, in the back. But I mean this isn't it, I mean I, you know again I didn't, not that I would expect that the P&Z Commission would give me an opportunity to address them on the issue, but they, they did not. Obviously, you indicated that you were going to give us an opportunity, you know, and I may since I've never seen that report, I may very well, if you're going to vote with a full Board at the next meeting, I'd rather that

Mr. Glover: Well, I can continue the hearing

Atty. Thomas: that the public hearing be kept open. I'd rather the public hearing be kept open, that at least would give me a chance to respond.

Mr. Conklin: Question on this one though, I'm reading this saying that the whole lot shall not have steep slope, not just the contiguous building area, that anything of the steep slope should be in excess of the square footage of the lot

Mr. Glover: Say that again? I'm sorry

Mr. Conklin: Or am I reading this wrong

Mr. Glover: I think you're reading it wrong, I think you need 30,000 square feet that is not steep

Atty. Thomas: Well actually, you need

Mr. Conklin: you need 30,000, that's what I'm saying, but the steep slope has to be in excess of the square foot area

Mr. Glover: of 30,000

Mr. Conklin: of 30,000 square feet

Mr. Glover: Yeah, that's why I said that there's enough now for one house because the variance is asking for a variance from the required 30 to 17 and the required 30 to 14. so that

Atty. Thomas: And I'm going to, what I did is I have, because obviously it's very expensive to have an A-2 survey, you know, based on everything else, this is, the map shows slightly greater numbers of buildable area. I have put, based on my discussions with the engineer and the surveyor, I have put a bit of a cushion in there

Mr. Glover: I read that

Atty. Thomas: Yeah, because I didn't want to

Mr. Glover: it's down here, yeah. Alright, would you, would you like us to continue

Atty. Thomas: Yeah, I'd rather, I'd rather

Mr. Glover: leave it open?

Atty. Thomas: keep it open and also, you know hopefully there'll be

Mr. Glover: Alright, then we'll continue this hearing until next month to give you an opportunity to do what you need to do and come back.

Atty. Thomas: Thank you very much. Then at least I can clarify this issue of 5, maybe my book is too old. I have to check on it, but we are talking about the same regulation.

Mr. Glover: Yes, we are. Thank you.

Mrs. Berntsen: Thank you

Mr. Berntsen: Thank you.

#811-1 500 River Road, John Pam LLC of 41 Fanny Street, Shelton, CT is seeking to waive Section 23, Schedule A, Use Line 45 by varying the use to allow for a builder's construction business and storage yard in an IA3 zone.

Mr. Sal Matto: Sal Matto from John Pam LLC, you have to guide me along as to what to give you

Mr. Glover: Do you have some receipts for

Mr. Sal Matto: Yes, I do. There's the receipts and that's for all the adjoining property owners

Mr. Glover: Five?

Mr. Sal Matto: Yes

Mr. Glover: Okay

Mr. Sal Matto: And I have here letters I got signed by all of the residents

Mr. Glover: And do you have some pictures?

Mr. Sal Matto: Yes I do, now I've got a couple things here. Here are pictures and here is one of these for each of you, and what I did was mark the number on the picture so you could see and then the number on the map so you could see where the picture was taken from. Like number 8, I was standing at Latex Foam shooting that way. Number 5 I was standing here shooting this way. This is a building that the neighbors can't see it and so I didn't know quite how to make the pictures so that we could see exactly what, or you could see exactly what's there

Mr. Glover: I've been there so I know what's there

Mr. Conklin: This was an electronics store wasn't it before?

Mr. Sal Matto: Yes, it was, it was Regent Controls years ago, then it was Chestnut Street Stair Company, but with the financial environment of the country right now, they're not there anymore

Mr. Glover: Yeah, unfortunately

Mr. Sal Matto: yes

Mr. Glover: Alright, um, for the record, sit down relax, this is a use variance and we are required for a use variance to submit a copy of the application to the Planning and Zoning Commission, which has been done. Okay? Also, I spoke to Mr. Schultz today about a coastal area management survey and the need for one, and he has told me that you already had one done for this

Mr. Sal Matto: For, 5 years ago I had one done, for an addition

Mr. Glover: for the Planning and Zoning Commission

Mr. Sal Matto: Yes, I did

Mr. Glover: Okay, so Mr. Schultz notified me that we're covered for the DEP because it's along the river. Okay? Now, yours is a use variance so can you tell us what you want to do?

Mr. Sal Matto: The closest we could come with Planning and Zoning and I, and myself what it would be was construction, building construction business and storage yard. It's going to be landscaping and tree cutting. Outside in the yard in the parking, of the parking lots, there will be vehicles on rubber tire. There'll be a small backhoe, there'll be some wood splitting and some wood split, split wood stored

Mr. Glover: bucket truck?

Mr. Sal Matto: a bucket truck, that would be inside. But nothing outside that's not on rubber, that's not on rubber tires. And there will be logs, some logs, not logs, split wood stored outside and some splitting of wood. There will be a pile of mulch, some will be in bags, some will be in piles. Now, if the pile mulch is a problem, we just won't have it. Please don't hold it up for that, we just won't have it if it's a problem.

Mr. Conklin: Is there going to be cutting of wood there?

Mr. Sal Matto: No, no, there's going to splitting of wood. This outfit cuts trees and they cut them into the fireplace size on the site and just drop them there and split them there when they have not enough work.

Mr. Glover: Is there going to be retail out of there?

Mr. Sal Matto: No

Mr. Glover: They're going to deliver the wood?

Mr. Sal Matto: Yes, they will, yes

Mr. Glover: Alright so, this is basically storage for equipment and splitting wood

Mr. Sal Matto: Yes

Mr. Glover: And storage for some wood that has been split?

Mr. Sal Matto: Yes

Mr. Glover: Okay

Mr. Conklin: Now, the driveway to this used to come through a residential section

Mr. Sal Matto: Yes, it did

Mr. Conklin: Okay, has that been since closed?

Mr. Sal Matto: That's been closed off. This enters from River Road now

Mr. Conklin: Okay, this is the only access to that property

Mr. Sal Matto: That's the only access

Mr. Conklin: Okay

Mr. Sal Matto: Yes, the old driveway was this way and my home is here now.

Mr. Conklin: Okay

Mr. Sal Matto: So, yeah this is the only way in and out from River Road

Mr. Glover: Now, around this building, this property

Mr. Sal Matto: Yes?

Mr. Glover: Latex Foam is on one side

Mr. Sal Matto: Yes

Mr. Glover: up on top of the hill they're putting in storage for cars

Mr. Sal Matto: Yes

Mr. Glover: And across the street there's auto repair things and Duncan Donuts and

Mr. Sal Matto: Yes

Mr. Glover: is it Precision Machine?

Mr. Sal Matto: I'm not sure what it is, but there's

Mr. Glover: There's a machine shop or something across the street

Mr. Sal Matto: Yes, yes, a paint shop and machine shop, yep, a delicatessen, a package store and a big garage

Mr. Glover: Sorge's is back there across the street, and the buses used to be in this area and there's still a tractor trailer school across there

Mr. Sal Matto: Yes, there is

Mr. Glover: So it's not a residential area at all

Mr. Sal Matto: Not at all. The only residential is on this one side, I'm one of them and I as I say, from their homes you can't see the property

Mr. Conklin: Where would the log splitting go, I mean essentially it sounds like that's the noisiest operation

Mr. Sal Matto: Right here, right down here

Mr. Conklin: Okay, oh that's that building, I thought that was the addition

Mr. Sal Matto: No it isn't, no, this is where it will be right in this area here.

Mr. Conklin: That'll be

Mr. Sal Matto: No, that's the front

Mr. Conklin: this part of the building

Mr. Sal Matto: Where's the one with, my little boat?

Mr. Conklin: (unclear)

Mr. Sal Matto: Okay, right back where this dumpster is, that's where it would be

Mr. Conklin: that's number 7, so it would be back, okay

Mr. Sal Matto: Yeah, back here

Mr. Conklin: back in, okay

Mr. Sal Matto: Um, up here number 9, is from the road and you can see the roof of the building

Mr. Glover: Yeah, I see it

Mr. Sal Matto: Okay? But I don't think you can see that area and from these people's homes they definitely cannot see that area

Mr. Glover: Right, because of the topography

Mr. Sal Matto: Yes, yep

Mr. Glover: Alright, now, um, you're in for a construction business and storage yard, um, that's pretty broad

Mr. Sal Matto: Yes

Mr. Glover: And I want to be careful that we don't open this up for later on to be a lumber yard

Mr. Sal Matto: Sure

Mr. Glover: to be heavy equipment and stuff like that down there. So, you're going to park the big trucks inside

Mr. Sal Matto: Big trucks inside, outside will be some small trailers, the low ones that they put their lawn mowers on. There's one or two that are closed in, but they're small trailers. The log splitter will be outside. I think there's a, there's a leaf blower that will be outside too. But nothing that's not on rubber tires

Mr. Glover: But no retail

Mr. Sal Matto: no retail

Mr. Glover: This isn't going to become a lumber yard or supply house for somebody else

Mr. Sal Matto: No, no and I don't have any problem if the Board is more comfortable by stating that, it's quite alright

Mr. Conklin: Now, the hours of operation are why, them starting up you know, say you had three trailers of mowers, everybody starting up mowers to test them out early in the morning could be, you know

Mr. Sal Matto: I live next door and there won't be any noise. They don't, no, these mowers run every day and most of them on the open trailers are inside and they just scoot right out with them. They don't want them out in the weather. So there's not a matter of them running in there,

Mr. Conklin: Okay

Mr. Glover: Any storage of fuel?

Mr. Sal Matto: NO, none other than the fuel oil for heating

Mr. Glover: and what's in the vehicles

Mr. Sal Matto: and the vehicles, and for heating the building of course

Mr. Conklin: Probably a lot of portable gas cans for the mowers, but other than, no storage of

Mr. Sal Matto: Yes, yes, I've seen that they don't use them very much anymore. They pull into a gas station now and fill up 5, 6 mowers on that trailer. So there's not a situation of pouring gas around

Mr. Glover: This is a 9,000 sq. ft. building, are they going to use it all?

Mr. Sal Matto: Yes, the whole thing's going to be occupied by landscape and tree cutters

Mr. Glover: Okay, my only, my concern is not

** Tape had to be changed **

Mr. Glover: My concern is not the landscaping business, my concern is that we don't open it up to other stuff like I say.

Mr. Sal Matto: Yeah

Mr. Glover: I think it's important that this building be used similar to this because we just shut down all of Canal Street, there's no more industrial space on Canal Street and a, businesses have to have someplace to go. And this one topographically is really in a hole. So, a

Mr. Cavallaro; Best kept secret, I didn't know it was there

Mr. Sal Matto: It's been there for years, and years ago it was a, a company that made graphs and going in there it was like, like this room with a classroom and everybody would be there drawing the graphs. And I used to go there when I first started building, they had the best machine in town for making big blueprints. And the young fellow there that made the blueprints from town lives right up on Howe Avenue, wound up buying the company and still has it and all the work that all these men did he does no one computer in his basement now

Mr. Glover: Is that right? Is that John?

Mr. Sal Matto: I think that's his name?

Mr. Glover: Yeah. Alright, any questions from the Board? (No) Is there anyone else in this room in favor of this application? (no response) Is there anyone in this room who is opposed to this application? Any opposition? (No response) Final comments or questions? (No response) I'll declare the hearing closed. Thank you.

Mr. Sal Matto: For the neighbors I did write in there that it was landscaping, tree cutting service

Mr. Glover: Yeah, I can see that. Thank you.

Mr. Sal Matto: Will the Board be voting on this this evening?

Mr. Glover: Would you like that?

Mr. Sal Matto: Yes, I would

Mr. Glover: Then we will

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

#911-1 In the application of John Pam, LLC of 41 Fanny Street, Shelton, CT for a certificate of approval to allow a builder's construction business and storage to be located on the property of the applicant at 500 River Road, IA-3 zone, and which requires a variance in the permitted use,

The application for a variance is approved.

Inasmuch as this approval is for the specific use as explained in the public hearing, and

Inasmuch as the topography of the parcel conceals the building and property from the view of the general public, and

Inasmuch as other similar business uses are located in this area, and

Inasmuch as areas for this type of use are diminishing in Shelton,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval of a variance in the use to allow a builder's construction business and storage yard in an existing industrial building at the above is granted (Schedule 23, Section A, Use Line 45) in this instance.

This certificate of approval is contingent on the applicant adhering to the following stipulations: 1. Retail sales are prohibited from this location. 2. All large construction vehicles shall be stored indoors. 3. Use is limited to rubber tire equipment – equipment with tracks is prohibited. 4. The use is restricted to storage and function of splitting wood and is not to be used for heavy construction or earth moving type construction.

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.

#911-2 61 Broc Terrace, Ext., Chris & Kelly Cacchillo of 61 Broc Terrace Ext., Shelton, CT are seeking to waive Section 24, Schedule B, Standards 7 and 9 by varying the minimum setbacks from the front yard from 40 ft. to 27 ft. and from the right side yard from 30 ft. to 20 ft. for a front porch covered and rear addition.

Mr. Glover: Good evening, would you give your name and address for the record?

Mrs. Cacchillo: Kelly Cachillo, 61 Broc Terrace, Ext.

Mr. Glover: Alright, are you the sole spokesperson?

Mrs. Cacchillo: Uh, I'm

Mr. Cacchillo: I'm Chris Cacchillo, 61 Broc Terrace, Ext.

Mr. Glover: Okay, and do you have some pictures for us?

Mrs. Cacchillo: I do, I brought a bunch. I think I might have one of the receipts in there, oh thank you. I wasn't sure on angles

Mr. Glover: This is fine. And may I have your receipts?

Mrs. Cacchillo: Sure

Mr. Glover: Okay, I have one, two, three receipts, is that three abutting neighbors?

Mrs. Cacchillo: Yes

Mr. Glover: Okay, alright, now would you like to tell us what you want to do and why you can't conform to the zoning regulations?

Mrs. Cacchillo: Sure, I'll start. We want to add an addition out back and based, due to the shape of our lot we really can't conform with the regulations. Our lot's triangular, you know, triangular shaped and it's um, apparently from what we've been told it's a half an acre in a one acre zone

Mr. Glover: It's a pre-existing non-conforming lot

Mrs. Cacchillo: Yes, um, and due to the location of our well which is on the side over here we can't go out in this direction which means we can really only go back

Mr. Glover: So you have an irregularly shaped lot

Mrs. Cacchillo: Yes

Mr. Glover: That's pre-existing non-conforming, it's 1/2 of the area that you're supposed to have by zoning now

Mrs. Cacchillo: Correct

Mr. Glover: And the only place that you can put this addition is on the back of the house

Mrs. Cacchillo: correct

Mr. Glover: and because of that diagonal line, property line you can't conform, you'll only be 20 feet from the property line

Mrs. Cacchillo: Correct

Mr. Glover: Okay. And you can't go out the side because there's a well there

Mrs. Cacchillo: correct

Mr. Glover: And in the front you're going to put a porch

Mrs. Cacchillo: We're going to put a porch on, we currently, you can probably tell from the pictures we have concrete stairs going up to the front door

Mr. Cacchillo: that doesn't even conform

Mrs. Cacchillo: which is now again, I guess an existing non um, it's again an existing one um, and we want to add a front porch and get rid of those steps

Mr. Glover: How much further are you going to come out?

Mrs. Cacchillo: two feet

Mr. Glover: Two feet more

Mrs. Cacchillo: Two feet more

Mr. Glover: So the porch as you say now doesn't conform

Mrs. Cacchillo: Correct

Mr. Glover: it's too close

Mrs. Cacchillo: Correct and the steps are a bit old and concrete

Mr. Glover: Alright, so without, without, that's pre-existing non-conforming

Mr. Conklin: Well, that's what I'm saying, is that already 20 feet?

Mr. Glover: It could be

Mrs. Cacchillo: It could, it's

Mr. Glover: just about

Mr. Conklin: yeah, that's what I was wondering

Mr. Glover: it's just about, so you're not going to be any closer to the property line than is already there

Mrs. Cacchillo: Correct

Mr. Glover: Okay, and the porch, you're going to be 2 feet closer

Mrs. Cacchillo: Two feet closer

Mr. Glover: is that an open porch?

Mrs. Cacchillo: It's going to, yeah, it's going to be covered but open

Mr. Glover: Okay, so it's, there's no rooms then, it's not heated or anything like that, it's just a porch

Mrs. Cacchillo: No, just a covered front porch.

Mr. Glover: And it's the only place you can gain access to the front of the house

Mrs. Cacchillo: Correct

Mr. Glover: Alright, any other questions from the Board? (no) Anyone else in this room in favor of this application? (no response) Is there anyone opposed? (no response) Final questions? (no) I'll declare the hearing closed, thank you.

Mrs. Cacchillo: Thank you

Mr. Cacchillo: Thank you

Mr. Glover: You want us to vote tonight?

Mrs. Cacchillo: Yes please.

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

#911-2 In the application of Chris & Kelly Cacchillo of 61 Broc Terrace, Ext., Shelton, CT for a certificate of approval for a front porch covered and rear addition to be located on the property of the applicants at 61 Broc Terrace, Ext., R-1 zone, and which requires a variance in the minimum setbacks from the front and right side property lines,

The application for variances is approved.

Inasmuch as the lot is a pre-existing nonconforming, irregularly shaped lot, and

Inasmuch as the encroachment by the new construction will not exceed the encroachment by the existing structure which already exists,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval of variances in the minimum setback from the front property line from 40 ft. to 27 ft. and from the right side yard from 30 ft. to 20 ft. at the above is granted (Section 24, Schedule B, Standards 7 and 9) in this instance.

This certificate of approval is contingent on porch not being enclosed and shall contain no living space.

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.

#911-3 225 Birdseye Road, Ross Dalling of 149 Newgate Road, Oxford, CT is seeking to waive Section 24, Schedule B, Standard 9 by varying the minimum setback from the left side yard from 30 ft. to 20 ft. and Section 24.12.1 by varying the maximum sq. ft. and height from 750 sq. ft. to 1200 sq. ft. and 20 ft. high to 24 ft. high, for a detached garage/pool house/shed.

Mr. Glover: Good evening

Mr. Dalling: Hi

Mrs. Dalling: Hi

Mr. Glover: Would you give your name and address?

Mr. Dalling: Ross Dalling, 149 Newgate Road

Mr. Glover: And would you give yours?

Mrs. Dalling: Colleen Dalling, 149 Newgate Road

Mr. Glover: And do you have some pictures?

Mr. Dalling: you want these too?

Mr. Glover: and you have two abutting neighbors?

Mr. Dalling: yes

Mr. Glover: the Conservation Commission and DeMarco

Mr. Dalling: and the other one behind is (unclear) and he signed here, he didn't send a card back

Mr. Glover: Okay, so tell us what you want to do

Mr. Dalling: I drew it on the map, I don't know if you have a copy of it at all, with the application? I have this one here.

Mr. Glover: All I have is this

Mr. Dalling: that little diagram, that's going to be, that's going to be the detached garage, pool house. We're putting a swimming pool in here. We're going to have a garden here because there's a whole bunch of apple trees that (unclear) on the conservation line I guess? We're going to put some more of those here and we're going to keep the pool away from, there's all tall evergreens over here

Mr. Glover: yep

Mr. Dalling: So we want to keep as far over this way as possible, this is the only spot where there's going to be a lot of sun for a garden. So we want to shift it over 10 feet.

Mr. Glover: This is a vacant lot right now

Mrs. Dalling: Uh huh

Mr. Dalling: yeah

Mr. Glover: There's no house at all there

Mr. Dalling: No

Mr. Glover: Okay. When are you going to build the house?

Mr. Dalling: Um

Mrs. Dalling: As soon as we sell our other one

Mr. Dalling: We're probably going to start within the next month or so, the foundation

Mr. Glover: Are you going planning on building the house first or the garage first?

Mr. Dalling: The same time.

Mr. Glover: Okay

Mr. Dalling: because we're moving from a bigger house into a smaller house

Mr. Glover: Okay, the garage that you're asking for is an accessory structure. Without a house it can't be an accessory

Mr. Dalling: Right

Mr. Glover: Okay? So it's important that you either build the house first or you build the two of them at the same time

Mr. Dalling: Yeah, it will be at the same time

Mr. Glover: you can build the house without the accessory, but you can't build the accessory without the house

Mr. Dalling: yeah, without the house, yeah they told me that in Planning and Zoning

Mr. Glover: Okay. The, is there going to be a garage with the house?

Mr. Dalling: Yeah, this is a two car garage here, the driveway's going to be cut, you know, cut in away from the property line

Mrs. Dalling: on an angle

Mr. Glover: What are we going to use the other garage for?

Mr. Dalling: Like lawn mowers, cars, basic storage

Mr. Glover: Not construction equipment?

Mr. Dalling: No

Mr. Glover: You're not going to

Mr. Dalling: There's no commercial equipment in there

Mr. Glover: You're not going to run a business out of it?

Mr. Dalling: no

Mr. Glover: What portion of that is going to be a garage and what portion of it is going to be a pool house?

Mr. Dalling: Probably, probably a third will be the pool house, back, you know maybe the front third, because the pool is going to be like right here

Mr. Glover: okay

Mr. Dalling: and that will be just storage like for lawn mowers, I have like, you know, snow mobiles, basic, a quad

Mr. Glover: Toys

Mr. Dalling: toys

Mrs. Dalling: and we'll have a bathroom in there

Mr. Glover: Bathroom because of the pool

Mr. Dalling: yeah

Mrs. Dalling: Changing slash toilet

Mr. Conklin: that means it's water

Mrs. Dalling: Yeah, I hope so. I don't want to put an outhouse there

Mr. Conklin: (unclear) because it turns it into someday an accessory apartment

Mr. Glover: Um, are you talking about 1/2 a

Mrs. Dalling: Yes

Mr. Glover: a toilet and a sink?

Mr. Dalling: a toilet and a sink, that's it

Mr. Glover: not a shower or tub or anything like that

Mr. Dalling: No

Mr. Glover: So there's, are

Mrs. Dalling: I would do an out shower maybe, you know, outside of it

Mr. Glover: Is it going to be heated?

Mr. Dalling: No. Well, I might put electric heat in just to keep the water from freezing, you know in the, in that area wherever (unclear)

Mr. Glover: you'd be smarter to shut the water off and blow the line out for the winter time

Mrs. Dalling: Yeah, that's true, that's an idea

Mr. Glover: Plus, it's less expensive. You don't want to run electric heat there all winter and you don't want to have the potential of something freezing

Mrs. Dalling: No

Mr. Glover: So put some anti-freeze in the toilet, turn off the sink

Mr. Dalling: and blow the line out

Mr. Glover: and blow the line out.

Mrs. Dalling: That's your job.

Mr. Glover: Okay. The pool is going to come when?

Mr. Dalling: once the house is up, probably in the spring

Mr. Glover: I mean is it eminent or is it a someday?

Mr. Dalling: Oh, yes definitely, that was the only reason why we were able to sell our house

Mrs. Dalling: I wasn't going to move unless I have a pool

Mr. Glover: My wife said the same thing

Mrs. Dalling: Did she?

Mr. Glover: We've only been there 23 years

Clerk: and there's no pool

Mrs. Dalling: And there's no pool? You conned her

Mr. Glover: I conned her too

Mr. Dalling: The house we're selling now has a pool so

Mrs. Dalling: You better not con me

Mr. Glover: Alright, what are the size of the doors, the garage doors in your accessory building?

Mr. Dalling: They're going to match the house, they're 8 feet high, 10 feet wide

Mr. Glover: Okay. So that,

Mr. Dalling: so the, I mean the whole thing will, it's going to match like the style of the house, it's not going to look like a steel building or

Mr. Glover: Why couldn't you move the house to the left 10 feet?

Mr. Dalling: I want, because there's all apple trees here? I want to continue that over on my side of the property, over in this area where the sun is. There's not much sun on this side because there's tall trees on the left side.

Mr. Glover: You've got 250 feet, 234 feet here across the front

Mr. Dalling: Yeah, I mean the house is 80, that's 30

Mr. Glover: So you're at 130 here

Mr. Dalling: I'm going to, I don't really want to (unclear) to get a tractor through there or something

Mr. Glover: Yeah, I understand that

Mr. Dalling: But over here there's, we cut down some of the trees that were in the front, but back here, from this point back there's, they're probably over 100 feet high pine trees

Mr. Glover: How big is the piece of property?

Mr. Dalling: Two acres

Mr. Glover: And you're going to be 24 feet tall, is there going to be a second floor to the barn?

Mr. Dalling: For storage. Because the roof line on this house is tall. So we're going to match, you know, it's a ranch but it's got the tall, it's like a 12 foot attic space

Mr. Glover: So it's got a steep roof

Mr. Dalling: Yeah, so that's why we want to match

Mr. Glover: so you're going to have a steep roof here too

Mr. Dalling: Yeah, well it's going to be, they're 9 foot, 9 foot ceilings

several talking at once while looking at pictures

Mr. Glover: Are there going to be stairs to the attic?

Mr. Dalling: inside the garage, yeah

Mr. Glover: Inside the garage

Mr. Dalling: It's probably maybe, you know, for maybe pool furniture or junk that we have at our other house

Mr. Glover: We're going to be putting a stipulation that you can't heat it and we're going to be putting a stipulation on it that you can't use the upstairs for living space, or any part of the building for living space. It's a pool house, bathroom I have no problem with for people changing and doing stuff, but we're afraid, we're concerned, not with just you, but with everybody that you get a building like this and it becomes an apartment.

Mr. Dalling: Right

Mr. Glover: And if we allow heat in it and water in it, you've got an apartment

Mr. Dalling: yeah

Mr. Glover: and if you put a steep roof like you're contemplating on it, pretty soon there's a dormer on it

Mr. Dalling: Yep

Mr. Glover: and you've got an illegal apartment there. So we have to stop you, prevent that from happening because it's not zoned for that

Mr. Dalling: yeah

Mr. Glover: So we will have to put stipulations in there that prevent that from happening. And so you're saying that's not your intention and I'm saying to you, we'll make it so, it's not going to happen, okay? Um, the only reason you can't move this to the, over to the side is because you want to put a garden over here

Mr. Dalling: Right

Mr. Glover: How big is your garden going to be?

Mr. Dalling: Well, there's going, going to be a vegetable garden plus the apple trees I want to, what they have on that piece of property next to me the Commission's or Town's property, whoever's it is, we want to continue on ours maybe you know, 20 feet in.

Mr. Glover: You want to grow more apples?

Mr. Dalling: Yes

Mrs. Dalling: No, I don't want them

Mr. Dalling: Well, I want them

Mrs. Dalling: I want tomatoes and stuff.

Mr. Dalling: But that's the basically the spot that gets the most sun, is that side, the right side.

Mr. Glover: That's where the open space is

Mr. Dalling: Yeah

Mr. Glover: Was this part of John Brewster's

Mr. Dalling: Yeah, that's who we bought it from

Mr. Conklin: How far back is this house set?

Mr. Glover: the house?

Mr. Dalling: It's set in the 120 feet, it's on the drawing there, it's 120 feet off the road

Mr. Conklin: 120 feet off the road

Mr. Dalling: On that other side there I drew a little diagram

Mr. Glover: So it's a good distance from the road

Mrs. Dalling: The way I like it

Mr. Conklin: Yeah, but I'm still trying to figure out why this can't be set in because the pool is not going to be 80 feet. The pool's only going to be 30

Mr. Dalling: Yeah, I know but

Mr. Conklin: 36 feet

Mr. Dalling: My exit to my house is going to be right there, it's going to come out to the patio to the pool. You know, the bedrooms are all on this side. And this side is like the kitchen and living room

Mr. Glover: Is this the garage out here?

Mr. Dalling: Yeah and the, there's a, the kitchen and living room is down along this way

Mr. Conklin: I mean there's nothing, this could be set 10 feet (unclear)

Mr. Cavallaro: Why can't the house go 100 feet instead of 120 feet, bring it up 20 feet this way, I don't understand that, I mean I understand the distance you want, but 20 feet and 120 feet. It seems like you can gain,

Mr. Conklin: because the house, the physical house is really 150 feet off the road

Mr. Glover: Yeah, because of another 30 feet here

Mr. Cavallaro: There's no topographical reason, it's pretty flat piece of property

Mr. Dalling: It all slopes to the front

Mr. Glover: yeah, but it's basically flat

Mr. Cavallaro: Yeah, so it's not a topographical problem

Mr. Dalling: it slopes down to Birdseye

Mr. Glover: Oh, it does

Mr. Dalling: Yeah, I think like maybe 8 feet if that

Mr. Glover: I mean the whole thing

Mr. Dalling: yeah

Mr. Glover: There's a lot of top soil in there too

Mr. Dalling: Yeah, not as much as you'd think, there's a lot of rocks in there

Mr. Glover: Where will you put your septic system?

Mr. Dalling: Um, he's showing it over here, oh no sorry, over here, they already did the deep hole tests and then the well is going to be back over here

Mr. Glover: Alright. So are you

Mr. Dalling: They already did the drawing

Mr. Glover: is the reason for the septic, the house positioned because of the septic system and the reserve?

Mr. Dalling: Yeah, because over here is, actually it's a little wet, surface water

Mr. Glover: Your septic system is in the front and your reserve is in the front

Mr. Dalling: Yeah

Mr. Glover: Okay. This is a four bedroom house?

Mr. Dalling: Three bedroom

Mr. Conklin: With 2 acres of land asking for variances is pretty tough

Mr. Cavallaro: Yeah, it's tough to

Mr. Glover: to justify

Mr. Cavallaro: And we will get questioned.

Mr. Conklin: Yeah, trying to fit all that on one acre you might have questions, but two acres of land and asking for variances

Mr. Cavllaro: and that is R-1, not R-1A right?

Mr. Glover: It's R-1. It's not a 3 acre zone

Mr. Cavallaro: right, so 1 is, 1A is the other side of the road

Mr. Glover: One acre zone. Okay, well let me see if anybody else is, anybody else in favor of this application?

Ms. DeMarco: I'm in favor with one reservation. Dorothy DeMarco

Mr. Glover: Hi Dorothy DeMarco

Ms. DeMarco: Hi

Mr. Glover: How are you?

Ms. DeMarco: good, how are you?

Mr. Glover: Good, can you give your name and address for the record?

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

Mr. Glover: So these are going to be your neighbors

Ms. DeMarco: These are my neighbors, yes

Mr. Glover: Okay, and your reservation is you want some trees planted?

Ms. DeMarco: I want trees, the evergreens, yeah. But besides that, I'm fine with everything they're doing

Mr. Glover: The um, they're building their pool house 20 feet off of your property line

Ms. DeMarco: Right

Mr. Glover: they're supposed to be 30, that doesn't bother you?

Ms. DeMarco: that doesn't bother me if they put some tall lanky evergreens there.

Mr. Glover: okay

Ms. DeMarco: And I believe there's no windows on my side

Mr. Dalling: No, none on that side

Ms. DeMarco; so basically I see it as a fence with some greenery in front of it that I'm going to be looking at. I don't have a problem, plus did you bring pictures of your

Mr. Dalling: of the house?

Ms. DeMarco: of your house that you're living in now?

Mr. Dalling: no, I didn't bring them

Mrs. Dalling: I have them in the car

Ms. DeMarco: I have no reservations, it's not an asset to the town what they're going to be doing there?

Mr. Glover: it is or isn't?

Ms. DeMarco: It is an asset

Mr. Glover: That was close

Mrs. Dalling: Look it up, 149 Newgate Road and see, we did a good job

Ms. DeMarco: You did a beautiful job

Mr. Glover: Alright, so you're in favor?

Ms. DeMarco: I'm in favor with that written in there, yeah, and maintained, the greenery maintained

Mrs. Dalling: I like to plant

Ms. DeMarco: I know you do

Mr. Glover: Alright, how long have you owned the property/

Mr. Dalling: Um, a year and a half I think

Mr. Glover: Alright, anyone else in favor? (no response) Is there anyone opposed to this application? (no response) Any opposition? (no response) Okay, I think the only thing that we really have a problem with is the 20 feet. I can, I can live with the oversized garage. I can live with the pool house and the pool, live with the house, but

Mr. Cavallaro: live in the house?

Mr. Glover: No, I can live with the house

Mrs. Dalling: You can come visit

Mr. Glover: My wife will come there because there's a pool. But it's hard to find a hardship for 20 feet off the property line with a house that's got

Mr. Dalling: Basically we're trying to gain the sun area, I mean because there's no sun on this

Mr. Glover: I know, are there other houses in the neighborhood that are close to the property line?

Mr. Dalling: Um,

Ms. DeMarco: Some of the pre-existing homes were. The first, those first two on the right, right at Pearmain

Mr. Glover: at Pearmain?

Ms. DeMarco: and then the next one over

Mr. Glover: They're close

Ms. DeMarco: they had been the Stokes'

Mr. Glover: so they're close to the road too, close to the side, they're close to Pearmain

Ms. DeMarco: that one house is on top of Pearmain and Birdseye the way it's situated

Mr. Dalling: on the corner

Ms. DeMarco: The one on the corner, yes

Mr. Glover: Alright, any other questions from the Board? (no) Alright, then I'll declare the hearing closed. Thank you. You want us to vote, right?

Mr. Dalling: Yeah

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

#911-3 In the application of Ross Dalling of 149 Newgate Road, Oxford, CT for a certificate of approval for a 30 ft. by 40 ft. x 24 ft. garage/pool house/shed to be located on the property of the applicant at 225 Birdseye Road, R-1, and which requires variances in the minimum setback from the left side yard, and variances in the maximum size and height of an accessory structure,

The application for the variances in the size and height are approved,

Inasmuch as this structure includes a mixture of uses (garage, pool house and shed) as opposed to just a garage, and

Inasmuch as the parcel is located in a more rural area where other large accessory buildings are common, and

Inasmuch as this is a two acre parcel which is fully usable,

The application for the variance in setback from the left side yard was **denied** as no hardship within the purpose and intent of the zoning regulations was demonstrated.

Therefore, with due consideration for the public health, safety, welfare and property values, the approval of variances in maximum square footage from 750 sq. ft. to 1200 sq. ft., and maximum height from 20 ft. to 24 ft. at the above is granted (Schedule 24.1.1) in this instance.

This certificate of approval is contingent on the applicant adhering to the following stipulations: 1. There shall be no heat in the structure. 2. There shall be no living space or commercial business in the structure and the second floor shall be used for non-commercial storage only. 3. The doors shall not exceed a height of 8 feet.

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 Conklin, unanimously voted to approve the minutes of the July 19, 2011 hearings as submitted by the clerk.

Respectfully submitted,
Loreen Michalak, Clerk