

Board of Zoning Appeals – Hearing Room, Municipal Building 54 Hill Street, Shelton, CT. Tuesday, January 19, 2016 at 7:30 PM

#1215-01 333 River Road, Ace Property, LLC. c/o Attorney Dominick Thomas of 315 Main Street, Derby, CT

#1215-02 48 Laurel Wood Drive, Christi Nicefaro of 48 Laurel Wood Drive, Shelton, CT

#1115-02 450 Huntington Street, Dominick Moriello of 450 Huntington Street, Shelton, CT

Commissioner Conklin	Good Evening Ladies and Gentlemen. Welcome to the January meeting of the Zoning Board of Appeals. Our monthly meeting is to consider variances on zoning regulations and appeals on zoning department decisions and actions. When your application is called, please come up to the table and give your name and address. To start the hearing our regulations require that you have a placard at your property, that you provide four pictures including one of the placard and that the receipts indicate that you notified your abutting neighbors ten days in advance of the hearing tonight. If you don't have these we will reschedule the hearing for next meeting. When you come in front of this board you are giving testimony. This is a hearing. If the decision made by this board at the end of the hearing is challenged and taken to the next level, it is the recorded testimony that is presented and not any member of this board. Our minutes are transcribed verbatim. The two recorders up here on the table can only record one speaker at a time. The conversation at all times is between you and the board itself. So please turn off or mute all your cell phones and any conversations please take them out into the hallway. Present tonight are Alternate Commissioner James Oraziotti who will be sitting in for Jamie Jones, Commissioner Linda Adanti, our clerk Sue Pulos, myself Ed Conklin, to my right is Commissioner Phillip Cavallaro, and to his right is Commissioner Bryan Vasser.
Commissioner Cavallaro	TO WHOM IT MAY CONCERN: The following having applied to the Shelton Board of Zoning Appeals for certificate of approval, public hearing on such applications will be held on Tuesday, January 19, 2016 at 7:30 p.m., in the hearing room of the Municipal Building, 54 Hill Street, Shelton, CT <b>Number One 333 River Road, Ace Property, LLC. c/o Attorney Dominick Thomas</b> of 315 Main Street, Derby, CT is appealing a denial of a certificate of zoning compliance.
Commissioner Conklin	Ok, before Attorney Thomas starts – uh we have a lot of new members on the board – ok – this is an appeal of a zoning decision – the application tonight is an appeal of the decision in regards to a certificate of zoning compliance – in regards to the property at 333 River Road – any discussion about usage of the property, zoning regulations or such has no bearing on this hearing. The hearing on this matter is if planning and zoning acted in accordance with the state and/or city regulations and that is what the decision should center around.
Attorney Thomas	Thank you very much Mr. Chairman – Attorney Dominick Thomas, Cohen and Thomas, 315 Main Street Derby, CT representing the appellant – appellants – uh in this matter and I know we have a lot of new members but this is déjà vu all over again to quote the great Yogi Berra. Uh approximately two years ago we were before you in the Kids Zone Realty case – in which it was determined at that point the applicant – our client – was doing an appeal but we had raised the issue at that point that Section 33.3 of the Zoning Regulations dealing with special exceptions required action by the commission 90 ninety days from receipt. Now as best as I can determine that regulation went into effect, has never been modified, probable back in the 70's – since that time, the statute has permitted decisions in special exceptions with a public hearing to be made 65 days after the application – is filed – I'm sorry – to hold a public hearing within 65 days after the application is filed – to hold a public hearing – to complete the public hearing within 35 days and then to rule within 65 days after the public hearing. It is clear in the law that a planning and zoning commission cannot pass regulations that gives them more time than that. In other words, they cannot say well we know its 65-35-65; we're going to give ourselves 90-45-90; can't do that. But there is nothing prohibiting in the law to have a planning and zoning commission reduce the amount of time; that it giving itself to make a decision. So we raised that issue and this zoning board of appeals at that time agreed with us. The issue then was the fact that the date stamped on the receipt was a certain day; the commission accepted the application – it received it at their next public hearing. If you counted it from the date of the date stamp, it was over 90 days; if you counted from the date of the next first regular meeting – it was under 90 days. And so I am going to give you a copy of the decision in which we lost – and by the way this whole thing – before you – this whole lengthy decision does not deal with – does not deal with that one issue – it deals with several issues. In that case there were two appeals – there was this appeal and there was also the appeal of the planning and zoning so you see the two – we also appealed it – the decision of the planning and zoning commission. In this memorandum of decision, I would call your attention to page 7, which at the top begins with the letter B – that is the argument – I'm sorry that is the decision of Judge Madisavich with respect to that plan. Now for some reason, even though this was – this decision was – almost two years ago, the commission, the planning and zoning commission chose not or whatever to change the regulation – they left the regulation the same. You'll notice on page 7 at the bottom of the page, they list the dates – the dates that were at issue. The Court analyzed in quite detail – citing cases – its rule – or its responsibility in determining an interpretation – of the statute – the regulations being the statute. And what the Court ruled here – it ruled against us – it said that the statutory ruling of when you – when you consider receipt is the first regular meeting after you file the regulation – in the planning and zoning office. Which is what the statute said. The regulation 33.3 which is given to you on page 7 – does not contain a definition of the word receipt. We were arguing that therefore it should mean the date it was stamped received – the Court did not agree with us. The Court
Commissioner Conklin	So the Court is saying that the state regulation overrode anything the city
Attorney Thomas	As to what the definition of receipt is – now if the Court were to say you know what – the state regulation overruled the 90 day thing – so it could have said that there and said you know we really don't care when it was received – you know what I mean – the 90 days don't make any difference – but the statute again – the

	statute which gives specific time limits – sets what the standards are. Our position is 33.3 – the commission chose to leave it as is at 90 days – regardless of the public hearing or anything. In this decision when you read through it, and it goes – it goes from pages 7 to – I want to make sure – 7 to 12, where number C begins, you’re welcome to read the whole thing but the rest of it is not really relevant to this issue – the Court found that you counted the 90 days from the date of the um first regular meeting after the filing of the application. Uh – I made the assumption.
Commissioner Conklin	Now is that the first regular meeting that they have or the first regular meeting that they bring up the subject of your application.
Attorney Thomas	Well in this case it’s irrelevant – but it is actually under the statute it’s the next regular meeting whether they discuss it or not – whether they accept it or not. Under the statute. I – you know I should have made copies of the application – in the application in my appeal, I have attached a copy in exhibit A of the minutes of the um August – I want to get the date correct – August 11, 2015 Planning and Zoning Commissioner meeting. At that meeting, in that meeting, the application 15-16 was in fact received at a public hearing set by the commission – so even though the application was filed on August 7 <sup>th</sup> , under this decision, the counting of the 90 days begins on August 11 <sup>th</sup> which is the date of the hearing. The decision
Commissioner Conklin	That is Exhibit A that you supplied with
Attorney Thomas	Exhibit A which is attached to the – to the thing
Commissioner Conklin	Now I noticed in this there’s no date on this page at all
Attorney Thomas	Um and again I identified it in the appeal but its confirmable by virtue – your minutes are on line and I certainly usually take judicial notice – I could supply the entire packet of minutes – I could just print it off online. The- and I did the same thing with the decision. The decision which is uh which is um actually not labeled and should be labeled – it’s part of exhibit B – actually the second page of the – uh Exhibit B uh – I want to make sure I have the right thing here – just one second – actually I’m sorry – I – my apologies – the - the Exhibit A got separated and mis-stapled by Exhibit B. Exhibit A the – uh – this is the second page. For Exhibit A. Of the minutes because it finishes at the top when they accept.
Commissioner Conklin	The label of page 38 in the second
Attorney Thomas	38 of 40; 39 of 40 – those from the minutes
Commissioner Conklin	You guys, unfortunately it is part of the
Attorney Thomas	It’s part of the original application – I thought you were each going to get a copy of the application and then in – in my appeal that I filed, I pointed out and it’s a matter of record that the commission failed to act on or before November 9 <sup>th</sup> . It in fact acted on November 18 <sup>th</sup> and again which is something that is a matter of a record in the minutes. So it acted 99 days after the receipt of the of it at the August 11 <sup>th</sup> public hearing. Then in accordance with the procedure that is required in 33.3 which is attached and which is also in the decision, my client went and applied for a certificate of zoning compliance and that was denied and the submission of certificate of zoning compliance is exhibit C and that was denied by the commission rather than by the zoning enforcement officer – it was denied by the commission acting as – in its zoning enforcement capacity which is why the appeal has to come to the zoning board of appeals. So in this case, the key dates are - the application was received by the commission on August 11 <sup>th</sup> at their August 11 <sup>th</sup> regular meeting. The application was decided upon at its November 18 <sup>th</sup> meeting. And the difference between those two days is 99 days; the – within the period of time prescribed in the regulation; within 30 days of that decision on December 1 <sup>st</sup> , the applicant requested a certificate of zoning compliance claiming that without action within 90 days,
Commissioner Vasser	Um can you move the microphone
Attorney Thomas	Oh sorry
Commissioner Vasser	Just wanted to make sure
Attorney Thomas	Ok with – they applied for a certificate of zoning compliance which is exhibit C attached to the appeal. And at the next meeting which I believe was December 8 <sup>th</sup> , of the planning and zoning commission, it denied the certificate of zoning compliance – and that’s the requirement. So this is purely a legal issue – our position is the commission was well aware of the – uh whatever you want to call it – a problem in their regulation – Commission did not change it – over the past two years after you decided – you decided that receipt was the date it was stamped – the Court disagreed with you – the Court basically said you count from the day of the first meeting and as a result of that when you count from the day of the first meeting which is August 11 <sup>th</sup> , you come up with
Commissioner Conklin	This was a special exception so there was a public hearing correct?
Attorney Thomas	There was a public hearing correct. Yes
Commissioner Conklin	Do you know what the date of that was?
Attorney Thomas	Uh – September 23 <sup>rd</sup> – and that’s the issue with 33.3 – it – even though it requires a public hearing in their section – in the section – and you can read it – it’s attached as exhibit B – even after identifying the requirement of the public hearing, in 33.3, the section goes on to say failure of the planning and zoning commission to so act on any complete application within 90 days after receipt shall be considered an approval.
Commissioner Conklin	So your argument here is basically that the city statute overrides the state statute

Attorney Thomas	Not overrides it -
Commissioner Conklin	Supersedes it
Attorney Thomas	Yes – in fact the City has the ability and chose to at some point put a time limit in rather than – what they should have done is simply delete the section or delete the sentence – you know what I mean – completely because the state statute governed it – they left it in – it’s still effective. It doesn’t get overruled by state statute – what was – what the court ruled is that the definition of receipt was by state statute. But in this case it is immaterial whether you use August 7 <sup>th</sup> the day it was handed in, or whether you use August 11 <sup>th</sup> the date of the first meeting – it’s really immaterial.
Commissioner Vasser	So you’re saying that they handed it in on the 7 <sup>th</sup> and the meeting was on the 11 <sup>th</sup>
Attorney Thomas	On the 11 <sup>th</sup> right
Commissioner Vasser	There was no time there – how is it that – they put it on the meeting right away
Attorney Thomas	No no – there procedure is not to have a – it’s not heard on the 11 <sup>th</sup> – if you read the minutes all they did is say received – set a public hearing. The way that the court’s decision is to define the word receipt.
Commissioner Vasser	Uh huh
Attorney Thomas	And it was put into the statute for this reason – it says in that statute that receipt is at the next regular meeting – and the Judge actually made a good point – what he said was if you didn’t interpret it that way somebody could really shorten the time limit by coming in the day after a regular meeting and for the boards that meet once a month – and gave thirty days – you know what I mean – by you gave thirty days – close enough – that wouldn’t make any sense in the regs – you would be creating this – so what the court said is we have to go by the definition of received – so the definition of received is at the next regular meeting or if there is there is not a regular meeting, for instance a snowstorm.
Unidentified voice	Speaking of the devil
Attorney Thomas	A snow storm, it’s within 35 days. You know it’s deemed to be received. And that’s when the clock starts counting under the statute. Our position is – the planning and zoning commission does not have the right to extend the time limit in the statute – in other words – give itself more time to act – but there is nothing from prohibiting it from giving itself shorter time to act and all they had to do since two years ago or two and a half years ago whatever is simply delete 33.3 and they did not – so my client is saying it’s still there – it’s 90 days. Count 90 days its 90 days. And it says it in there it’s an automatic approval – and interestingly enough, as you pointed out with the public hearing issue, it’s in the sentence right after the public hearing requirement which has always been in effect for the special exceptions. So it’s a purely, as I said it’s a purely legal argument – it isn’t a variance – it’s a somewhat unique but it is in a sense déjà vu all over again. Ok?
Commissioner Conklin	Ok – do we have a counter side – is anybody from planning and zoning here to represent? Ok come to the table please and identify yourself.
Rick Schultz	Ok Rick Schultz Planning and Zoning Administrator City of Shelton 54 Hill Street, Ok I want to first
Commissioner Conklin	I was just going to say what is Planning and Zoning’s side on this
Rick Schultz	Good Evening Mr. Chairman and members of the board. Tonight we are not disputing the 90 days versus the 99 days. That’s a matter of fact. However, I want to explain what is going on here. I prepared a memorandum which you have before you. And if you can follow it with me as I read it – I think it will be very helpful and clear up some of the issues. The Shelton Planning and Zoning Commission at their December 8 <sup>th</sup> 2015 meeting voted unanimously to deny the issuance of application for certificate of zoning compliance number 0441 for the following reasons. The Commission processed that application and conducted the public hearing in accordance with all applicable state statutes – relative to a special exception type application. Two – the applicant through their agent agreed to all of the scheduled public hearing dates to process this application as noted in the record. Three – during its review, the proposal and the public hearing input, the application was determined to be lacking information in a violation of street set back requirements and other zoning standards and provisions for which no variance relief had been granted. The Commission also found that the proposed activity would overtax available parking capacity resulting in on-site congestion and would pose unacceptable adverse impacts on area streets, property values, safety and the use and enjoyment of the adjacent residential neighborhood. Four - the application was denied unanimously by the commission at its November 18, 2015 meeting for reasons stated in the adopted resolution report dated 11-17-2015. The Shelton Planning and Zoning Commission offers the following background information, to the Board regarding the processing of special applications in the City of Shelton and the reasons for tonight’s appeal to be denied. One – a total of 36 applications for special exceptions were received and processed by the Shelton Planning and Zoning Commission from 1997 to date. That coincides with my employment. All these applications were processed pursuant to Connecticut General Statutes Section’s 8-3c and 8-7d. There are no provisions that allow municipalities to deviate from these time limits regardless of what a local zoning regulation provides. As this board knows there is 169 municipalities in the State and at any given time, a local zoning regulation can be out of sync with State statute – let’s face it – Shelton Zoning Regulations has 300 pages – it happens. The statement of fact is important for the board to hear insofar as the planning and zoning commission has never deviated from the State statutes. If I go before a – the court of law, a Judge will ask me Mr. Schultz, how have you processed your applications – have you ever had any instance where you a - limited to the ninety days – the answer is no. And it’s important that you understand that there is a history and the history goes back to 1997. Two – the law office of Cohen and Thomas has submitted, represented five special exception applications during the above noted time frame. The issue of section 33.3 a maximum of 90 days versus 100

	<p>days to process an application of the Shelton Zoning regulations regarding the procedure was pointed out for the first time by Cohen and Thomas in the denial appeal of application 13-17 Platt Road. That was discussed this evening. The Court however never addressed the validity of section 33.3 when it upheld the denial of the commission. The law office of Cohen and Thomas has once again brought up this matter with the denial of application 15-16 which is currently before your board tonight. Three – as the board is aware the Shelton Planning and Zoning Commission is restricted by State Statute relative to time limits for hearings and decisions just like the board of zoning appeals is required to follow. Once again there are no provisions to deviate from state statutes – simple as that. And four – accordingly, the board of zoning appeals is asked tonight to deny this appeal and to allow the denial to allow to the denial of application for certificate of zoning compliance 0441 to stand. So the purpose of what I presented was to simplify it – this is a situation where our regulations are out of sync with the state statutes – the state statutes prevail. In regards to the Platt Road I did not participate in the process before this board – I would have said the same thing – I just thought it was so obvious because state statutes prevail. I have contacted all of the attorneys throughout the state of Connecticut and asked if they were aware of any local regulations that have different time periods. The answer is zero. So once again tonight to simply what is going on, it's the 90 days versus the 100 days – the 100 days is the state statutes – 65 and 35 – Commission acted on it within the 99 days – there is no disputing that – and we're asking you to uphold the denial because commission complied with the state statutes.</p>
Commissioner Conklin	Any questions. Alright.
Rick Schultz	A lot to digest
Commissioner Conklin	Yeah
Commissioner Vasser	It's not black and white.
Commissioner Conklin	The list of sections here 8-3c and 8-7d
Rick Schultz	Those are the applicable state statutes
Commissioner Conklin	Ok – right
Rick Schultz	And I've attached the state statutes and they are highlighted in yellow. – There is no asterisk that says please refer to our local zoning regulations. Cause in situations like that they would.
Commissioner Conklin	Alright – thank you.
Commissioner Conklin	Rebuttal
Attorney Thomas	Very, very briefly in response that I do want point out what the your chairman stated at the very beginning that the merits of the application are not before you – this is purely a legal argument in other words, why it was denied – we can't appeal to you the basis of the denial of the special exception – that's in superior court – there is an appeal pending in superior court on that – this is just on
Unidentified voices from audience	We can't hear everything he is saying
Attorney Thomas	The – what is before you is not the denial of the - the merits of the denial of the special exception
Commissioner Conklin	Correct
Attorney Thomas	It's the – it's the
Commissioner Conklin	Timeframe issue
Attorney Thomas	And uh I'm going to actually under the state statute they had they not had this regulation, would have had 165 days to make a decision – 65-35-and 65 – you know total
Commissioner Vasser	I'm sorry you said that's the state statute
Attorney Thomas	That's what the state – if you look at the state statute – 65 days to set a public hearing, theoretical – you know you don't set that public hearing on the 65 <sup>th</sup> day – theoretically you have 65 days to set the public hearing - 35 days to have the public hearing and then 65 days with one extension of 65 days. There used to be the past – there used to be unlimited. The reason that other lawyers might have said there is no other changes is simple – I do a lot of zoning – I know of no other regulation that I have read which has a time limit in it. They all rely on the state statute. My point is that Mr. Schultz is correct – no commission can give itself more time than the state statute, there is nothing prohibited from giving itself less time which is pretty common legislative act and that is the basis of the position.
Commissioner Conklin	So what you're saying is that in the state regulations there are somewhere in there verbiage that says that the city can
Attorney Thomas	No – that is basically a judicial gloss on the statute – zoning regulations are enduragation of common law property rights so zoning regulations and state statutes that derogate property rights are always interpreted to the benefit of a land owner. The property owner. Because at common law, there was no zoning. You got to do whatever you probably – whatever you wanted to do. With your property. When they passed statutes, governing zoning, they set certain requirements. The requirement in the time frame thing is not for the benefit of the planning and zoning commission, it's for the benefit of the applicant. Its saying to the applicant that under state statute you can rely on the fact that you're not going to file an application and that application is not

	going to fall in between the proverbial filing cabinets and never get decided. Which in certain circumstances in the past was happening – not you know – because you could ask for all these extensions and everything. So then the state statute was modified to say this is what you have 65-35-65 with a total of 65 day's worth of extensions that could be granted, consented to by the applicant. So the statute is written for the benefit of the applicant – when you look at that – our position is commission has no authority to say no 90-60-90 – they can't do that – that's adding time in the state statute. But they can do less because that is benefitting the applicant – it's giving the commission less time to act.
Commissioner Vasser	Does it say that they have to do this
Attorney Thomas	They, it – in 33.3 it does – in the statute it doesn't refer to it at all – the reason there is no other time limit set in most instances is because most; every zoning regulation that I've read doesn't have anything in it about that – they just rely on the state statute.
Commissioner Vasser	In the application, a reference to the application being submitted does it say anything about it being 100% complete or valid. I see that there may be an issue that was with the application – something was lacking.
Attorney Thomas	That's what they came afterwards, they were saying even though it wasn't raised during the public hearing, again we're getting to the merits even though they were saying during the public hearing
Commissioner Vasser	Well not necessarily – if they have to submit a valid application in order for the board to receive it, then it isn't merit it is that the paperwork was
Attorney Thomas	The application was complete – what they are saying is – what they said in their decision is – well maybe you should have gone and gotten variances – we dispute that – I'm not – I mean I could explain to you why because we presented a picture showing them that there were foundations and footings in a structure that preexisted therefore you don't need to get a variance because it existed there and the same thing related to their argument for the back – that's what they were referring to – the sort of after the fact one of the basis of the decision was well maybe you should have gotten a variance before you came to us. That's not an incomplete application, that's a reason
Commissioner Vasser	It just says - it says lacking information.
Attorney Thomas	That you know, they can argue that
Commissioner Oraziatti	Can I ask a question
Commissioner Conklin	Yes
Commissioner Oraziatti	We're sitting here and I'm listening to this and you know I'm one of the new guys here so correct me if I'm wrong, but what I'm hearing is that you're not asking us to rule on a hardship you're asking us to circumvent a what a Connecticut state court has determined.
Attorney Thomas	No this isn't a
Commissioner Oraziatti	No that's what you're asking us to rule on a timeline that the Connecticut state court already has ruled is valid. Is that correct?
Attorney Thomas	No
Commissioner Conklin	The state statute – I think you're wording is the state statute
Attorney Thomas	This is not a variance
Commissioner Conklin	It's a state statute – not a state court. State statutes
	<b>Multiple parties talking</b>
Commissioner Oraziatti	The court ruled that this state statute is valid
Attorney Thomas	No – we're not – due to validity – first of all this isn't a hardship situation – this is a
Commissioner Oraziatti	It's not a hardship so I'm asking you
Attorney Thomas	Right yeah – this isn't a variance so there is no issue of hardship
Commissioner Conklin	Yeah there is no hardship
Attorney Thomas	If you read pages 7 through 12, in the decision by the Judge, what he ruled was,
Commissioner Oraziatti	What Judge,
Attorney Thomas	Judge Matisavage
Commissioner Oraziatti	This is a state court – well I'm just asking
Attorney Thomas	Yeah this is a state court
Commissioner Conklin	Right
Commissioner Oraziatti	So I said a state court already ruled that it was denied within the time line – that's correct
Attorney Thomas	No- no – no- no
Commissioner Conklin	This is a different case
Attorney Thomas	This is a different case and the issue then was when you start – when do you start counting the 90 days. When

	you bring something into planning and zoning, it is stamped received. The Court ruled
Commissioner Conklin	Regardless of what you want to consider, the 90 days or 65 or 35-65, that's simply a discussion or stating when the actual time clock starts
Commissioner Oraziotti	And this court whichever court, whichever court in this other case determined that the commission acted appropriately
Commissioner Conklin	In the starting date.
Commissioner Oraziotti	In the starting date.
Attorney Thomas	Starting date right
Commissioner Oraziotti	And so we are sitting hear listening to this because you are asking for an appeal the starting date
Attorney Thomas	Nope
Commissioner Conklin	No
Attorney Thomas	Not in the new case – in the new case – in the new case that we filed the starting date is as the Judge said it in here and as Mr. Schultz said, there not disputing that it was 99 days – that you just counted it – it was clearly 99 days in this case. In this prior case, it
Commissioner Oraziotti	Well which case are you talking about here – what are you here for – the prior case or this case
Attorney Thomas	No-no I only cited this as an example to show to the court that the Judge ruled – the Judge didn't say that the 90 days was superseded by state statute – he said that definition of receipt was superseded by state statute.
Commissioner Conklin	Right
Attorney Thomas	That's all I brought it in for.
Commissioner Oraziotti	So the receipt
Commissioner Conklin	Right
Commissioner Oraziotti	Ok so that is what we are talking about here
Attorney Thomas	No not in this case – in the new case there is no argument as to receipt – there is no argument. The – everybody agrees it was received at the first
Commissioner Conklin	First hearing
Attorney Thomas	At the first hearing – yeah we don't – and when you count from the first hearing it was 99 days
Commissioner Oraziotti	Which is outside the guidelines
Attorney Thomas	Outside the 90 days
Commissioner Oraziotti	Ok – so what is it exactly that you came before us – you quoted a court case that upholds it so
Commissioner Conklin	Well that court case has nothing to do with what is before us
Commissioner Oraziotti	I understand that buy he's quoting it – he's using it
Attorney Thomas	Well I'm using it for the basis of your 90 days
Commissioner Oraziotti	Right
Attorney Thomas	The 90 days
Commissioner Oraziotti	Ok
Commissioner Conklin	So the start of the 90 days is what he is actually using that for correct
Attorney Thomas	Right because the court
Commissioner Conklin	Historic
Attorney Thomas	Well I'm actually using it for another reason – again the court in discussing it could have easily have said we don't have to get to that point
Commissioner Oraziotti	You should stop talking about what the court – you're throwing complicities in here because you're starting to say the court could have said this – why don't you just tell us what the court said
Commissioner Conklin	Well, we'll have to read this
Attorney Thomas	You have to read it – my point being that the court could have said in the Kid Zone case that it's irrelevant to discuss the receipt date because the state statute overruled 33.3- you know exactly what was being argued today. Court could have said why we don't even have to get to that point.
Commissioner Oraziotti	Did they say that though
Attorney Thomas	No – they did not – it said

Commissioner Orazietti	So you're speaking for the court
	<b>Multiple voices</b>
Attorney Thomas	No I'm pointing out an option the court could have
Commissioner Orazietti	You've got us going around and around in circles here – you're saying things that the court could have said but what did the court say
Attorney Thomas	The court said that
Commissioner Orazietti	I'm only interested
	<b>Multiple voices</b>
Commissioner Conklin	The Court had no determination of timeframe in the last case – that had no bearing on the case at that time.
Commissioner Orazietti	Ok
Attorney Thomas	Question
Commissioner Cavallaro	What is in question here is 33.3
Attorney Thomas	33.3 yes – that's what is solely the issue
Commissioner Cavallaro	And that was somebody's decision within the town years and years ago probably and like Rick said it fell through the cracks or whatever – there is nothing specific in the state statute that says - this is really a valid amendment to the statute either
Attorney Thomas	Well actually the state statute came after this so there only argument was that somehow the claim that it supersedes it
Commissioner Cavallaro	So then technically that 33.3 is illegal because the state statute came afterwards and overrode it
Attorney Thomas	No didn't overrule it – it didn't say – it would have had this been – this is my point – had this been we have a year to make a decision ok – if it said that yes – it would have been you know overruled – because you cannot give yourself more time
Commissioner Cavallaro	That's correct
Attorney Thomas	<u>Yu can give yourself less time – there is nothing prohibiting that – that's our argument and I'm assuming</u>
Commissioner Conklin	Is there anything in the state statute that directly says that the city can override the state statutes
Attorney Thomas	No – neither way – they basically – the judicial statement is – the judicial gloss they call it - the interpretation of a state statute is that in zoning it sets minimums – in other words – it's for the benefit of the land owner that is why
Commissioner Conklin	So you're saying that the state
	<b>Multiple voices</b>
Attorney Thomas	Maximum case so for instance the classic example is the state statute does have an automatic approval section – it's in site plans and it's in sub divisions – so it does have an automatic approval section – there is no automatic approval section dealing with special exceptions or zone changes. When they passed this statute which is why most towns deleted anything that they had in their regulations to do with it so for instance with a special exceptions – I'm sorry with a site plan only – or a subdivision if in fact there is a famous that came out of Ansonia where in a site plan where there is no requirement for public hearing, they held one. And the appellate court said you know – that the town held one – and the town said when we have a public hearing it's 65-35-65; and the court said no – state statute says not – can't lower my – state statute says you have 65 days- you can hold the public hearing anytime you want – you can hold 10 public hearings on it – but you have to decide it within 65 days – it's the Jamakowski case – it's a nurses
Commissioner Conklin	It's because their regulations didn't require
Attorney Thomas	No their regulations could not have required – they could have said 100 times in there regulations we had more time then state statute
Commissioner Conklin	Right
Attorney Thomas	Didn't work – they said that the lesser time – the state said that the lesser time rules – and that's what we're saying here – the lesser time rules – but again – thank you for hearing us -
Commissioner Vasser	I just want to sum it up
Attorney Thomas	Oh sorry
Commissioner Vasser	For myself
Attorney Thomas	Go ahead
Commissioner Vasser	So we have a supposed application that was received or accepted in the eyes of the state on the 11 <sup>th</sup> of August – yes
Attorney Thomas	Right
Commissioner Vasser	It was decided on 11/18 correct – 99 days – so we have one day between the state statute and the state statute requires 100 days am I right

Attorney Thomas	No-no state never
Commissioner Vasser	Ok where am I
	<b>Multiple voices</b>
Attorney Thomas	The mathematics of the state statute
Commissioner Vasser	Yes
Attorney Thomas	Is 65-35-65
Commissioner Vasser	Ok
Attorney Thomas	So the mathematics of it is you have to set your public hearing within 65 days of the date of receipt
Commissioner Vasser	And they did that because it was only a few
Attorney Thomas	Right exactly
Commissioner Vasser	Yeah
Attorney Thomas	Then the state statute says you must complete your public hearing within 35 days of the commencement of the public hearing. Then the state statute says you must decide a special exception application within 65 days of the conclusion of the public hearing.
Commissioner Conklin	With the addition of one possible 65 day extension
Attorney Thomas	Which the applicant must consent to
Commissioner Vasser	Which I assume they did not
Attorney Thomas	There wasn't any discussion of any extension on this case
Commissioner Vasser	So alright 65 -30 90 100 days we're talking about – right
Attorney Thomas	No I count
	<b>Multiple voices</b>
Attorney Thomas	145
	Yeah that's if you get – the first 65 days set the meeting – so that they're done with that 65 days is that right
Attorney Thomas	Uh the way it works is – for instance – in this case to be exact they have to set it within the first 65 days – they set it
Commissioner Vasser	45
Attorney Thomas	No - no they set it what 30 – 40 something days after the – after they received it – I was August 11 <sup>th</sup> to September 23 <sup>rd</sup>
Commissioner Conklin	September 23 <sup>rd</sup> alright
Attorney Thomas	August 11 <sup>th</sup> to September 23 <sup>rd</sup> – so that first 65 day period was only 40 whatever that math is
Commissioner Vasser	47
Commissioner Conklin	So and what your question then would be from September 23 <sup>rd</sup> they have 35 days to complete the hearing
Attorney Thomas	And they completed it within that 35 days
Commissioner Vasser	Ok within that 35 days and from that point
Attorney Thomas	Under state statute, from that point they have an additional 65 days to make a decision
Commissioner Vasser	And they took
Attorney Thomas	20 something days – no – I keep going – October – if my memory serves me correctly October 27 to November 18 <sup>th</sup> whatever that is
Unidentified voice	Um hum
Attorney Thomas	Whatever that number of days is
Commissioner Vasser	So it's uh
Attorney Thomas	20 something days – but it exceed the 90 in there regulations – yes – did it comply with state statute - if they didn't have 33.3 they were within the perfect timeline.
Commissioner Vasser	Ok so what were – so how many – what's the gap – 9 days
Attorney Thomas	They exceed the 90 days by 9 days 99
Commissioner Vasser	And the state statute gives them 100 and voice fades
Attorney Thomas	The state statute gives them from October 27 <sup>th</sup>
Commissioner Vasser	Uh huh
Attorney Thomas	And I may be day off, you know what I mean



Commissioner Vasser	Ok
Attorney Thomas	From October 27 <sup>th</sup> the day that the public hearing closed, 65 days – that’s what the state statute says
Commissioner Vasser	Ok
Attorney Thomas	In my opinion – in our opinion
Commissioner Vasser	They were 64
Attorney Thomas	Huh
Commissioner Vasser	How many days were they after that – I mean how far off
Attorney Thomas	Oh no they were – under state statute they were perfect – it’s under their regulation that they weren’t – under state statute they decided it 18 +4 uh 22 days
Commissioner Vasser	So in this project apparently has some some evident I know this isn’t a factor but it has some evident issues with the harmonious – with the harmony of the neighborhood – am I right
Commissioner Conklin	Yeah but that has no bearing
	<b>Multiple voices</b>
Commissioner Vasser	But what we’re trying to do, what we are saying is we’re looking to –we’re looking to make a – you’re asking for a – a technicality here –to get something through that doesn’t; isn’t harmonious with the neighborhood
Commissioner Conklin	That has no bearing in this situation
	<b>Multiple voices</b>
Commissioner Oraziotti	Actually what we are going to decide on here is if we want to give a variance to our city regulations
Commissioner Conklin	No
Attorney Thomas	No
Commissioner Cavallaro	No – it’s not that either
Attorney Thomas	No not at all – it’s a matter of fact
Commissioner Oraziotti	The state regulations
Attorney Thomas	No it’s a matter of fact that I’m saying you should follow – this is the most unusual – I’m the other way around – I’m not varying it – I’m saying read exactly the way it is – but you know I value my malpractice insurance when you have something like this it has to be raised – it’s out there – as it was in Kid Zone – the reason it probably wasn’t raised in the other 3 special exceptions we handled, is we probably won – I mean got approvals. But thank you very much – thank you for your input.
Commissioner Conklin	Alright – thank you
	Unidentified voices from the audience
Commissioner Conklin	This is strictly testimony from the two people – that’s it.
	Unidentified voices from the audience
Commissioner Conklin	No
Clerk	I need to switch tapes before you call the next one
Commissioner Conklin	This doesn’t have a favor or for or against situation – this is strictly between two people of whether a right decision or a wrong decision was made – this isn’t about zoning or any other matters
	Unidentified voices from the audience
Commissioner Conklin	Merits of what appeal.
	Unidentified voices from the audience
Commissioner Conklin	John this is not – this is not – this is – this is equivalent to a small court – this is not open to public uh like planning and zoning has a public hearing which allows people to discuss matters in front of them or – or board of alderman. This was merits of a case which the applicant is appealing a decision of the planning and zoning board.
Unidentified voice	So as chairwoman of the planning and zoning, am I allowed to speak
Chairman Conklin	Well you should have come up at the time when I asked for you side to speak
Unidentified voice	Well Rick did come up and they he immediately – well Attorney Thomas immediately began to take
	Unidentified voices from the audience
Chairman Conklin	If you want to have a discussion in regards to nothing that has been put on the table as of yet, yes
Unidentified voice	I think it would be more to clarify some of the questions regarding the dates – voice fades
Chairman Conklin	Well unfortunately Rick was the person who was discussing this left.
	Unidentified voices from the audience
Attorney Thomas from the audience	I have no problem Mr. Chairman wants to say – he is the chairman
Chairman Conklin	Ok if you wish to take his place in regards to that, that’s fine.

Unidentified voice	Well I guess it wasn't made clear at the beginning of the hearing then – it was just between Rick and Attorney Thomas
Chairman Conklin	Well it's between – no it's not between Rick – it's between the Planning and Zoning Board
Unidentified voice	Right but I also
Chairman Conklin	And the applicant
	<b>Multiple voices</b>
	End of tape
	Tape #2
Chairman Conklin	Ok – when Rick walked out I figured planning and zoning was all done with their side of the argument
Unidentified voice	Well unfortunately as soon as Rick finished speaking, Dominick Thomas – Attorney Thomas came
	<b>Background voices - unclear</b>
Chairman Conklin	Ok
Unidentified voice	I'm not really familiar with
	<b>Background voices - unclear</b>
Chairman Conklin	We're not going to try and rehash everything
Ruth Parkins	Nope I'm rehashing – I just want to provide a bit of clarification again – Ruth Parkins, Chairwoman of the Planning and Zoning Commission – um I realize there has been a lot of points made by Attorney Thomas – while I don't necessarily agree with them I'm not an attorney so I'm not going to - I'm not here to refute them. I just wanted to um – the question about the state statute in terms of dates, the hearing shall commence within 65 days of receipt – it occurred 43 days; the hearing shall be completed within 35 days after hearing commences – it was 34 days; all decisions shall be rendered not later than 65 days after completion of the hearing – it was rendered within 22 days. So I just wanted to clarify that timeframe – um again at the very minimum I would um I'm not going to refute comments that were made by Attorney Thomas I think he provided a little bit of confusion um to the table regarding bringing the prior case to um to light. I would just ask that the zoning board of appeals prior to making a decision consult with corporation counsel on this matter. That's my only request.
Commissioner Vasser	On the 34 days, tell me again what that – what that date represents
Ruth Parkins	Um – hearing shall be completed within 35 days after the hearing commences. It was completed within 34 days. – It was closed within 34 days.
Chairman Conklin	Ok
Ruth Parkins	Thank you.
Chairman Conklin	It was just a statement of facts – there is nothing for you
Attorney Thomas from the audience	I have nothing
Chairman Conklin	Ok – alright – being all said – close the hearing
Commissioner Cavallaro	<b>Number 2 48 Laurel Wood Drive, Christi Nicefaro</b> of 48 Laurel Wood Drive, Shelton, CT for a waiver to Section 31, Schedule B, Line 9 by varying the minimum setback from the left side from 30 feet to 8 feet to allow for construction of a two car garage.
Chairman Conklin	Ok – is the applicant here – please come up to the table and give your name and address for the record.
Christi Nicefaro	Good Evening Board, my name is Christi Nicefaro
Chairman Conklin	Have a seat and relax
Christi Nicefaro	Christi Nicefaro, 48 Laurel Wood Drive.
Chairman Conklin	Ok
Christi Nicefaro	I have more pictures for you – I have the receipts for the registered mail – I got one back – the other two are stuck in Hartford because of the um snow and sleet storm this week but I have
Chairman Conklin	We just need the receipts that you mailed them out
Christi Nicefaro	Oh I did, I certainly did.
Chairman Conklin	Ok
Christi Nicefaro	And it's all here – and I have a letter saying that are no objections from the three people adjoining my property – I have signatures right here
Chairman Conklin	Ok – tell what you're trying to do and why you can't make the regulations please.
Christi Nicefaro	Ok – I'd like to build a two car garage on my property at the end of my driveway in one of – in several of the pictures you'll see that there is a chain link fence at the end of the driveway right now and that would be removed. There is currently a garage on the property but it isn't sufficient to hold our three big vehicles as well as all of our snow and garden lawn equipment. So we're looking to be able to store that inside for the winter months.
Chairman Conklin	Ok
Christi Nicefaro	The reason I am requesting a variance – if you look at picture zero, actually it shows from the street view to the front of the property there is a – the topography is quite challenging – so much so that when the house was constructed it was constructed at the very right side of the property, we're on the corner and the house is at the very right side of the property shown in picture one so that our side property isn't sufficient to meet the 30 feet guideline. It currently would be at the front part of the new garage, it would be 8 feet and the property does angle out as you can see on the survey so that it's not 8 feet all the way – um – it – would be at the front corner of the proposed building. Picture one also shows that the notice has been up there since the 9 <sup>th</sup> – and the letters were all mailed out on the 9 <sup>th</sup> . We got receipts that the – that all of our neighbors um saw our plans and did not object to them.
Chairman Conklin	Is there some reason why the garage cannot go on the other side of the property?

Christi Nicefaro	Uh yes – if you look at the topography it would be virtually impossible to locate it somewhere else – the other – it’s a – there are three pictures – number zero, five and six that show how high the land is on the left side of the house. It slopes so drastically on that side there also would not be easy access into the back yard to put it over there – we would also have to build another driveway which frankly we cannot afford. The – at the end of the driveway is um – would be the most beneficial to us. Because it would be straight in parking. I’ve also – I own a pickup which happens to be in one of the pictures that I have tried to park in the existing garage and have hit the side several times. The new garage would have 68 foot single door with no columns which would allow me to park more successfully and we have lawn tractor and all the equipment that we take care of the yard – that needs a place to live.
Chairman Conklin	Ok is your property serviced by any city water or city sewer?
Christi Nicefaro	Yes both
Chairman Conklin	Phil – can you read this letter please
Commissioner Cavallaro	To Shelton Planning and Zoning Board of Appeals, I/we have no objection to the approval of the variance at 48 Laurel Wood Drive. Mr. and Mrs. Clifford Young, Mrs. Lisa Milano or representative , and Mr. and Mrs. Damian (unclear) – voices fades
Chairman Conklin	I notice along the driveway it looks like or by the shed area – is that the trees that are along the property line your trees or the neighbors
Christi Nicefaro	They are – all of that is ours – um – right before the shed those 5 trees would be relocated – either somewhere else in our yard or on the other side of the fence – our property actually extends far beyond that green fence that you see – the – in that picture number 3 – it extends about 16 feet to the right of the front corner of our shed. Into what looks like the neighbor’s property. Which in fact is our property? As a matter of fact, part of the neighbors shed is actually on our property as you can see by the survey and the aerial view of our property.
Chairman Conklin	Alright any questions from the board.
Commissioner Adanti	I just wanted to ask a question about this area – right here – is there any reason why you couldn’t possibly move that.
Christi Nicefaro	Well the shed – we have a shed here – this is the shed – I would have to take that down
Commissioner Adanti	Ok
Christi Nicefaro	Cause we are looking to put it in front of – in this grassy area – right beyond the driveway
Commissioner Adanti	And this is really the only neighbor that we’re talking about as far as the
Christi Nicefaro	Well this one
Commissioner Adanti	Yes
Christi Nicefaro	And this one
Commissioner Adanti	In terms of your
Christi Nicefaro	Of really the garage itself yes
Commissioner Adanti	Yes
Christi Nicefaro	Just this one
Commissioner Adanti	Ok – thank you
	<b>Unclear voice</b>
Christi Nicefaro	We’d like the shed to stay – otherwise the three cars wouldn’t fit in the two car garage and they’d have to compensate for that. Right now the tractor takes up most of that shed.
Chairman Conklin	How high is that shed – it doesn’t look very tall to me.
Christi Nicefaro	Um
Chairman Conklin	Is it 8 feet inside
Christi Nicefaro	Yes
Chairman Conklin	Ok
Commissioner Cavallaro	How high is the new garage going to be?
Christi Nicefaro	Within guidelines for sure.
Chairman Conklin	If you supply that we have to keep that – ok just one copy that’s fine.
Christi Nicefaro	It definitely falls within the guidelines. Of planning and zoning
Chairman Conklin	Ok
Commissioner Cavallaro	You mentioned 16 feet wide on the overhead – 7 foot high.
Christi Nicefaro	Yes it’s a 22 by 22 garage with one door and a side door also to allow us to drive the tractor from the back to the front yard.
Commissioner Cavallaro	I just want to make sure the overhead is not higher than 7 or 8 feet.
Chairman Conklin	Any other questions
Commissioner Cavallaro	No
Chairman Conklin	Any other questions.
Commissioner	I’m good

Adanti	
Chairman Conklin	Ok – thank you for your time – ok sorry – is anybody in favor of this application -
Unidentified voice	Yes
Chairman Conklin	Do you wish to come up and speak
Unidentified voice	Pardon
Chairman Conklin	Do wish to come up and speak in favor of it
Chairman Conklin	Name and address for the record please
Barbara Custer	Sure Barbara Custer the address is 48 Laurel Wood Drive
Chairman Conklin	Ok – and you obviously
Barbara Custer	Live there
Chairman Conklin	Obviously
Chairman Conklin	Ok thank you
Chairman Conklin	Ok is there anybody opposed
Chairman Conklin	Ok please come up to the
Jerry Milano	My name is Jerry Milano. I live at 71 Linc Terrace and I oppose it with an exception. I live on this border right here - 57
Chairman Conklin	Ok
Jerry Milano	Alright –
Chairman Conklin	You're the person she would be encroaching upon
Jerry Milano	Correct – may I sit
Chairman Conklin	Yes – have a seat
Jerry Milano	Um- the exception is I am having water problems with her land – when she put in the new garage- when she had put in the new garage she put in a new driveway and the driveway tilts toward my land
Chairman Conklin	Let's hold up for one second – you're saying when she put in the garage – this garage is
Jerry Milano	The
Chairman Conklin	The garage or the shed that is existing
Jerry Milano	The garage and this is it here – this is the garage that's existing right now
Chairman Conklin	Ok
Jerry Milano	Alright – she put in a new garage and – or she had a new garage put in and she had a new driveway put in and when they put the driveway in - they tilted it towards my land – down at the end – right here -
Chairman Conklin	Does the property slope naturally toward that way or
Jerry Milano	No – it didn't with the old driveway – it didn't with the old driveway
Chairman Conklin	Well my question is that property – topographically the land
Jerry Milano	It's worse down on down – in front of the truck – you could see where the leaves gather from where it drains – alright
Chairman Conklin	You're showing these – we will have to keep these pictures you know.
Commissioner Vasser	Was the driveway asphalt before
Jerry Milano	It was always asphalt yes
Commissioner Vasser	And they poured new asphalt voice fades
Jerry Milano	Well I couldn't blame them – it was terrible.
Commissioner Vasser	No I just asked
Jerry Milano	Yes
Chairman Conklin	Are you showing – what is this
Jerry Milano	Um that is the drainage they put in there after they had the new driveway put in
Chairman Conklin	Where is it
Jerry Milano	And that is draining onto my property and I had complained to them about it, and I complained to city hall about it, and it was finally taken out I do believe but
Chairman Conklin	So it has been removed
Jerry Milano	Yes fine but who's to say what they are going to do next once the new garage is put in at the end of the driveway – they want to – the water builds up here – it goes straight down here into the backyard and it also follows the trees – now all those trees are not on her land some of it is on mine the way the land line goes – alright – this is just a drawing which isn't 100% accurate
Chairman Conklin	No this is an A2 survey
Jerry Milano	Well alright then – there are trees that are on my property also – some of those little trees – but once you put in a garage here and stop the water from going on both sides you're going to have a 2-4 inch lip correct that will stop the water from going in the garage – where's it going to go – back to my property – what type of drainage are they going to put in there – is it just going to keep on draining on my property
Commissioner Vasser	Isn't that a building department issue
Chairman Conklin	Yeah it is – it really is
Jerry Milano	Um – when they took away the tube here, oh where is it
Chairman Conklin	I don't see any of those pictures
Jerry Milano	When you take that away there, that's where the water runs to now, see there goes the tube sideways – that's where it runs now – and when it runs here – this is what I get – and this was the other day when we had the

	rains – you can't see it but there might be a date on it – that's the rains and when its dry I put down a board to show you that the ground is caving in – and when I keep on asking her about – even though my wife signed the paper – she said she will check the issue but I was told to come in here and make sure that it's on record. I am not against her building a garage at all – I'm not – but what are they going to do with the water issue – are they going to put some type of drainage in front. Now I drew a little tiny dot right here – they do have drainage – or they've had drainage – but now its two inches above the tarmac. Or more. In front of the door to the house.
Commissioner Cavallaro	The drain is
Jerry Milano	Correct – um I have no problem at all with that extra garage but they should take the issue of the drainage – I mean common – listen up.
Chairman Conklin	But that has been removed as of now
Jerry Milano	Yes and in this picture – in this picture this is where the water drains and you can see where it's pushed the leaves all the way – and you can see the water up here. And this was last week.
Chairman Conklin	So you're saying the just paved this driveway
Jerry Milano	No they didn't – they paved it the same time they built the garage that's there now
Chairman Conklin	How long ago was that
Jerry Milano	You would have to ask them – they were the ones that had that garage built – this one here.
Chairman Conklin	Ok
Commissioner Vasser	Well that's not showing on their survey
Chairman Conklin	Yeah that's not showing on our A2 survey here – is this
Jerry Milano	You can keep that – that's from city hall – uh the gentleman down there has it and if you want to and another – and another question -
Chairman Conklin	Well that's what I'm saying – we -
Jerry Milano	At the beginning of the driveway, the survey surveyed the land – with a laser – which they do – he came over on my side of the fence – closed his eyes and went – that's where it goes – and he pointed at my shed. If you know anything about geometry an inch 60 feet down is a foot. Or More – who knows – I'm not a professor in that but I do know that a little is a lot further away from you. And that's what he did when he did the side of the property from here to here where my shed and Mr. Young's shed is. I don't have the money to pay for a surveyor so and another thing they said that there - my shed is on their land – but if you look also in the front where the guy did use the laser here driveway is about 3 or 4 feet on my land. And it goes on an angle.
Chairman Conklin	Where did you get this from- which department
Jerry Milano	Downstairs records, or whatever they call it -
Chairman Conklin	Yeah - yeah unclear voice fades
Jerry Milano	Yes
Chairman Conklin	Planning records ok – thank you
Jerry Milano	Thank you
Chairman Conklin	Now the person that was speaking originally can come up
Christi Nicefaro	We had possibly anticipated this so I have a set of pictures that shows
Chairman Conklin	Well let's start with this – this is an A-2 survey you supplied to us.
Christi Nicefaro	Yeah here's the – this is the aerial
Chairman Conklin	That's not an A-2 survey – ok – that's not an A-2 survey
Christi Nicefaro	Oh I'm sorry
Chairman Conklin	Ok this is the A-2 survey that you supplied to us
Christi Nicefaro	Yep
Chairman Conklin	That's as of July 1, 2004 and obviously it's deficient of what is on-going at the moment.
Christi Nicefaro	Well that was done in order to put the addition on the house that was done in 2004
Chairman Conklin	Ok
Christi Nicefaro	So 11 years ago
Chairman Conklin	But how much
Christi Nicefaro	<b>Multiple voices</b>
Chairman Conklin	Ok so we don't know what beyond the edges of this house exists at this time
Christi Nicefaro	Nothing – nothing – absolutely nothing – it was all put in the front
Chairman Conklin	Ok
Christi Nicefaro	It was all in the front and it was all with planning and zoning approval with guidelines. And the driveway does not tilt by the way – and I took a whole pictures to show you that on the edge and yes Mr. Milano and my family agreed that at the time that we did the addition we would allow his shed to continue to stand on our property and he also allowed us to build the driveway in that manner – it was a tradeoff – it was by agreement – and I'd be more than happy to rip up the driveway and move it if he would like me too
Chairman Conklin	That is not a matter in front of us
Christi Nicefaro	Ok – so here – on the side of our property there is a drastic downhill slope into his yard – it almost drops off completely – water goes downhill – we get water in our backyard – front yard, cellar everywhere because we live at the bottom of a hill – all these pictures letters A through F show the drastic downhill – we put in 17 arborvitaes and took out a tall fence on the side of the driveway when we first moved in or when we did the addition in order to stop drainage down that hill because there was a space under the fence that allowed the water to flow freely but now those 17 arborvitaes stop the flow of water directly from our driveway down that big hill . Would you voice fades
Chairman Vasser	I'm sorry you say the trees stop the water flow – I'm looking at pictures here that – voice fades

Christi Nicefaro	Oh that's his yard. – he lives further down the hill then we do. And he also has a huge slope in the front of the yard that flows downhill
Chairman Vasser	Too far from microphone
Christi Nicefaro	That's his yard and if you look at my pictures it shows why – because at the edge of my yard
Chairman Vasser	Too far from microphone
Christi Nicefaro	It goes straight down
Chairman Vasser	Too far from microphone
Christi Nicefaro	It goes absolutely straight down – there's my fence over here – but you can see it goes straight down from our property and water naturally goes in that direction
Chairman Conklin	Alright – while trying to look at this – the City of Shelton GIS map, it looks like from the upper most part of your property, it drops – look like 28 feet or I'm sorry 26 feet – does that sound about right
Christi Nicefaro	I'm sorry I don't know that
Chairman Conklin	Ok
Christi Nicefaro	I know that was given to me by planning and zoning when they helped me fill out the application
Chairman Conklin	Ok – so there is a downward slope on your property going toward
Christi Nicefaro	Oh my god yes
Chairman Conklin	Yes
Christi Nicefaro	And we get water in our backyard too and we've put up the five arborvitae behind the shed and the 17 in front to try to help that but frankly if you came out and looked at our backyard it's eroded a vast – our neighbor to the upper part of the street took down most of the trees in his backyard and in the woods behind our property causing more water to flow through and our neighbors past Mr. Milano's, Mr. Young getting water where he never did because there are no longer any trees to stop it. In the – behind the back of our property.
Chairman Conklin	Ok – thank you
Christi Nicefaro	It's a hill
Chairman Conklin	Alright – is there anybody else opposed to this. Ok
	Voice from audience – too far from microphone
Chairman Conklin	It's still open
Jerry Milano	Um I don't disagree with her with water coming down hill – I don't disagree with that – but when you direct it on someone's property, that's when you're wrong. And
Chairman Conklin	Unfortunately that is not really a purview of this board – ok
Jerry Milano	I understand that
Chairman Conklin	Ok
Jerry Milano	Like I said
Chairman Conklin	You can ask for stipulations in regards to the new project being built but in regards to on-going problems, we do not have control
Jerry Milano	I understand that
Chairman Conklin	You may take that to planning and zoning.
Jerry Milano	Um
Chairman Conklin	I'm sorry the building department or
Jerry Milano	I tried that they didn't want to hear me – um – my question is can you people or somebody look into some type of water drainage that will go through her driveway and through the back of her yard – away from my house – something like that.
Chairman Conklin	That is not a purview of this board
Jerry Milano	Ok alright
Chairman Conklin	Unfortunately
Jerry Milano	Ok that's it
Chairman Conklin	I mean it would be a great time to work with her if she's doing construction and try and get your problems solved
Jerry Milano	For years, since she had the first garage built, I have been putting down stones, rocks, dirt and a lot of truckloads of wood chips on the edge of that land to pretty much slow down and almost stop the water that it will seep straight through instead of across my property
Chairman Conklin	Ok
Jerry Milano	And she has helped me also I can't deny that she has helped me trying to help me build up that area but um
Chairman Conklin	Ok – alright thank you
Jerry Milano	Thank you.
Chairman Conklin	You guys have any further questions regards to the application. – ok declare the hearing closed.
Commissioner Cavallaro	<b>Number 3 450 Huntington Street, Dominick Moriello</b> of 450 Huntington Street, Shelton, CT for a waiver to Schedule B, Line 7 by varying the minimum setback from the street line from 40 feet to 28 feet to allow for construction of a two story addition and an attached two car garage in an R-1 zone. Application states that on the Right is the Heather Ridge Condominiums; on the Rear is the Heather Ridge Condominiums; on the Left is Huntington Street; and in the Front is Kazimarez Zimnoch.
Chairman Conklin	Ok
Dominick Moriello	My Name is Dom Moriello, my wife and I we just purchased the property recently on 450 Huntington Street and um we're asking for the board of zoning to allow us to put a two car garage
Chairman Conklin	Ok hold it – we have quite a few things to do before it
Dominick Moriello	Ok

Chairman Conklin	Ok we mailed
Dominick Moriello	Yes
Chairman Conklin	Mailings out to you because you had to placard your property ok we got – everything was returned to us
Dominick Moriello	I check the mail every day
Chairman Conklin	Well this is what we received is return to sender – uh when it was mailed out to you at 450 Huntington Street – ok – the property has to be placarded in other words it has to be marked on the property that there is a hearing being held
Dominick Moriello	We’ve never received that otherwise I would have put it out to be honest with you
Commissioner Cavallaro	Well you didn’t receive it – it came back.
Chairman Conklin	To your property it came back from the post office
Dominick Moriello	That’s impossible – because I got all the other mail that I get on ...inaudible... at the house – we don’t live there – but we live in Monroe – but we do check the mail priority and everything else – that’s where I got all the mail and everything else – that’s where I got all the mail and everything else – that’s why I don’t understand why the check all the mail that wasn’t in my mail box or else I definitely would have had it.
Chairman Conklin	Unable to forward, unable to forward, they had some sort of forwarding here and they never did it
Commissioner Cavallaro	There is no forwarding on file – you getting your mail forwarded
Dominick Moriello	Everything should have been either forwarded at 450
Commissioner Cavallaro	How long have you been getting your mail forwarded
Chairman Conklin	This is sent out registered right or is this just mailed
	<b>Multiple voices</b>
Dominick Moriello	About since we bought the house maybe a month and a half two months ago – we also left the address where my wife and I live in Monroe -
Commissioner Cavallaro	They only forward the mail up to a certain period of time then it gets returned.
Chairman Vasser	That has to be posted for us to hear obviously and voice fades
Chairman Conklin	Done this twice already – well actually the hearing has not even opened up as of yet
Dominick Moriello	Well if we have to redo it – I mean I don’t have a problem but I’m wondering myself now
Chairman Conklin	The hearing has not – in fact will open it as of today – post this for this month and will hear it in February – ok – it has to be
	Unidentified voice
Dominick Moriello	No that’s fine - I don’t have a problem – I mean so do I have to inaudible the letters everything also
Chairman Conklin	No no but the date on that has to reflect the hearing that is going to be – I got to you – I’ll get to you within a day or two of the hearing
Dominick Moriello	That’s fine
Chairman Conklin	We have to move the February hearing to a different date
Dominick Moriello	That’s fine- I don’t have a problem with that.
Chairman Conklin	Ok fine
Dominick Moriello	Ok so you should have my residence
Chairman Conklin	I would like to get your phone number so I could call you directly
Dominick Moriello	Sure I’ll give you my phone number, or where my wife works. But my home phone number is area code 203-452-0733; and where my wife works is area code 203-372-9565 – her name is Rosemarie – and you want my cell number I’ll give it to you too
Chairman Conklin	Yeah ok
Dominick Moriello	Area code 203-650-0121
	Ok – property must be placarded
Dominick Moriello	That’s fine – I don’t mean – like I said if I had this it would have been – inaudible
	Unidentified voice
Dominick Moriello	I will do that for you
Chairman Conklin	Pictures of the placard – ah the regulations – you didn’t turn any pictures in did you
Dominick Moriello	I got some pictures that I have from the real estate
Chairman Conklin	Retake them of the pictures of the property – the requirements that there are
Dominick Moriello	Ok

Moriello	
Chairman Conklin	And the placard
	<b>Multiple voices</b>
Dominick Moriello	Ok that's not a problem
Chairman Conklin	10 days ahead of time – I would probably – I would think that let's make this legal re-mail out to your neighbors out to your neighbors the new date and I'll get that to you in a couple of days
Dominick Moriello	Ok
Chairman Conklin	This way we'd meet all the standards
Dominick Moriello	Can you please send it to my residence address – 1 Knorr road Monroe CT
Clerk	I'm sorry what was that
Dominick Moriello	101 Knorr Road, Monroe CT – this way I definitely get them
Chairman Conklin	Ok – but you have to do the mailing – we
Dominick Moriello	Oh I don't have a problem doing the mailing – but whatever information you want to send – send it to my house because we're going to go through this again where I never received or else I would have sent it
Commissioner Cavallaro	That's all you get from us – you got it
Dominick Moriello	That's fine
	<b>Multiple voices</b>
Dominick Moriello	Like I said it's not a problem
	<b>Multiple voices</b>
Clerk	That placard is going to have the wrong date - I'm going to resend you the placard – that has the wrong date on it.
Dominick Moriello	Ok
Chairman Conklin	You're going to send it to his home
Clerk	Yes
Chairman Conklin	Ok will send you a new placard; and will send that out
Dominick Moriello	Alright and once you give me the card – everything – I will redo the letters and everything else and I don't have a problem with that.
Chairman Conklin	Ok
Dominick Moriello	Like I said – when we get there we'll get there
Chairman Conklin	Exactly
Dominick Moriello	Thank you – have a good evening – continue this hearing until next month
Chairman Conklin	You all set
Clerk	Yeah I'm good
	Working session
Commissioner Cavallaro	Ready for Number 1
Chairman Conklin	Yeah let's start with Number 1
Commissioner Adanti	Can we come down, excuse me can we come down and sit in front of you guys so we can
Chairman Conklin	Sure – yeah that'd be fine
Commissioner Orazietti	You know what happens with those mailings, with – when you get things forwarded – this just happened to me – so I'm just telling you – you get things forwarded and the forwarding time runs out
Chairman Conklin	Right
Commissioner Orazietti	It kicks back – I don't care how many times you mail it out – it just happened to me
Chairman Conklin	Yeah
Commissioner Orazietti	I was going to tell him - probably a good idea cause
Chairman Conklin	Well he just bought the property
Commissioner Orazietti	Just bought it huh
Chairman Conklin	He just bought the property
Commissioner Orazietti	Well you can sign up to have it forwarded for 30 days, 60 days, 90 days whatever
Chairman Conklin	Post office didn't want to forward something so big
Commissioner Cavallaro	Can you forward it and have it expire



Chairman Conklin	Just said unable to forward -
Chairman Conklin	<b>333 River Road</b> Item #1 I feel we should a discussion – come up with a list of our questions – couple of items and send this to corporation counsel.
Commissioner Cavallaro	Absolutely
Chairman Conklin	To have a further discussion on this – uh in regards to legality of state statutes versus city statutes – basically that is really what is on the agenda here
Commissioner Cavallaro	Ok
Chairman Conklin	And so it's the only way to handle this
Commissioner Cavallaro	Right
Commissioner Orazietti	You know – what I was trying to get at was that - was that he was saying there that the state statute was valid and then on the other hand he said but the court – well
Chairman Conklin	The only thing that went to court was in regards to the initial date
Commissioner Orazietti	But he said that the court could say that – could have said something
Commissioner Cavallaro	That was only a
Commissioner Orazietti	On a different case – so he getting was very convoluted – and a lot of lawyers like to do that – and I'm immediately I'm thinking to myself we got to get a ruling from – I was thinking the same thing – corporation counsel – and I'm not an expert like you guys – but I'm just saying when somebody starts throwing all this stuff out there like this I felt like I was on a merry-go-round.
Commissioner Cavallaro	Hold on a minute – what do you want
Commissioner Orazietti	You ask the question all the time – what's the hardship
	<b>Multiple voices</b>
Commissioner Vasser	He brought up that case just to establish when, what date are we starting from
	<b>Multiple voices</b>
Commissioner Cavallaro	What he's saying is our own amendment to the statute says they went to long – ok – the court case that he cited was a situation where there was things wrong with the application but in this case there was nothing wrong with the application – so the Judge didn't even bother to look at the timeline anymore because the application was wrong so that's what kicked the other one out – Dominick is simply stating that – and I'm not agreeing with it – my argument on this would be – he's very good at saying that – voice overtaken by background noise – shorten the time – you can't shorten the time - voice overtaken by background noise – is there something in there
Commissioner Vasser	Voice overtaken by background noise. So it says ninety days right so but then it also says that the information on the application was lacking right and you just said
Commissioner Cavallaro	No it doesn't say that
Commissioner Vasser	Oh sure it does
Chairman Conklin	That has no bearing on
	<b>Multiple voices</b>
Commissioner Orazietti	Well then it was the wrong case
	<b>Multiple voices</b>
Commissioner Orazietti	Let me understand something - he's saying that it could be shorter but everything was done within the time frame
Chairman Conklin	Yeah the time frame of the state statute – but he's saying that the city had written – the city had written the regulations
Commissioner Orazietti	Section 33.3
Chairman Conklin	Right back when let's call this just say for the sake of argument 1960 – state regulations 8-3c or whatever those state regulations were made in 1970 ok – so just for the sake of argument time frame – so what he's saying is you know that the state regulations made after the city regulations do not override the city's regulations – the city never went back and re-checked there regulations to find out whether they were in the same – in the same timeframe as the state – they just left them go – ok – so his argument is saying that the city had these regulations and they're override the state regulations cause they're shorter and that's what I'm going to accept – the city is saying that state regulations are the timeframe that they have always gone by – always used – and that even Dominick Thomas has been in front of them and used them before
Commissioner Orazietti	Now here's where I get confused – the state regulations give him more time
Commissioner Vasser	The 100 days
Commissioner	The state regulations give you

Orazietti	
Commissioner Cavallaro	He's right – the state regulations give –
	<b>Multiple voices</b>
Chairman Conklin	The state regulations give you 65-35-65
Commissioner Vasser	And that's what Dominick has used before so
Commissioner Orazietti	State
Chairman Conklin	That's what he's saying – that the state regulations
Commissioner Orazietti	What's the city - the city is shorter
Chairman Conklin	The city is shorter
	<b>Multiple voices</b>
Chairman Conklin	90 days – no the city pre-existed – or pre-dating the state regulations
Commissioner Orazietti	Shorter correct
Chairman Conklin	Yeah correct
Commissioner Orazietti	They followed all the regulations within the city time frame
Chairman Conklin	No
Commissioner Cavallaro	Nope
Chairman Conklin	They're exceeding that's why
Commissioner Vasser	Exceeded city did not exceed state
Commissioner Cavallaro	Correct – our own – my argument is that are regulations written prior to the advent of the state statute then the state statute technically could override the city and the fact that it was something that was put into place before the state regulations
Commissioner Adanti	How do we – how do we get it out of there then
Commissioner Vasser	Wait - wait – did you say that there was a track record of the planning department using the state regulations
Chairman Conklin	Yes – that is the testimony of Rick Schultz
	<b>Multiple voices</b>
Commissioner Vasser	That's what they usually use
Chairman Conklin	Yes – correct
Commissioner Vasser	So there is a history of it – so basically the other statute has not been either looked at or adhered to – just made it known within the city – or didn't pay attention to it or whatever – we have history of doing a certain thing – it's habitual
Commissioner Cavallaro	If they can provide – if they can provide information that shows where they go by the state more times then it's a minor issue – this is still here – in other words if they use it – if Rick says they go by the state statute all the time, then they can bring some cites in that say this is what our normal history is – we don't even look at this anymore – then you have
Commissioner Vasser	Well that was my point – does it say that they have to – it says that they can't exceed it – but does it say they have to follow the city if it's written – where does it say that
Chairman Conklin	Well that is the question as it is
	<b>Multiple voices</b>
Chairman Conklin	Well that is what the argument is, that is what the issue is
Commissioner Vasser	Ok so if it doesn't say – if it doesn't say that they may – cannot follow there's and just follow the state – I mean – you see where I'm pointing to
Chairman Conklin	Well that's what we have to find out through Corporation Counsel
Commissioner Vasser	So why don't we motion to postpone after we talk to them on that
Commissioner Cavallaro	Says it right here – failure of the planning and zoning commission to pass on any complete application
Commissioner Vasser	Well that's why I kept hammering the point complete
	<b>Multiple voices</b>
Commissioner Vasser	Well that's the other reason we have to postpone it – cause we don't have that answer
Chairman Conklin	But they never – I mean if you look at the argument – they never waited until the very end to say it was incomplete – they held a hearing
Commissioner Vasser	Well - well hang on
Chairman Conklin	The problem was they held a hearing – you know not saying it was incomplete – so
Commissioner	It says the application during and voice fades

Vasser	
	<b>Multiple voices</b>
Chairman Conklin	That was the public hearing
Commissioner Cavallaro	No the application is the application
	<b>Multiple voices</b>
Chairman Conklin	His reading was during the public hearing
	<b>Multiple voices</b>
Commissioner Adanti	I'd like to make a motion
	<b>Multiple voices</b>
Commissioner Orazietti	But what I got out of all of that was that the start date is total key – and he wanted to
Commissioner Vasser	Well the start date apparently is irrelevant in his eyes because the 90 days lapsed whether you consider 8/11 or 8/7 – there's two dates – application and then the public hearing
Commissioner Cavallaro	It goes by the received date of the application
Commissioner Vasser	I understand that but what he's saying is you can use either date and you may still win on it
	<b>Multiple voices</b>
Commissioner Cavallaro	They got the 100 days – they did it in 99 days
Commissioner Vasser	No – well - state
Chairman Conklin	No they don't have 100 days
Commissioner Cavallaro	That's what Dominick is saying – they had 100 days by state statute
Chairman Conklin	Right
	<b>Multiple voices</b>
Commissioner Cavallaro	So they didn't exceed it by state statute – they exceeded by Shelton City rules
Chairman Conklin	Correct
Commissioner Vasser	The rule that apparently hasn't been looked at or been
Chairman Conklin	Right
Commissioner Vasser	Followed
Commissioner Cavallaro	And that's my argument – if that's what they follow then let's have some evidence that says that's what we go by
Commissioner Vasser	Right
Commissioner Cavallaro	And then we can make an educated decision based on what is history
Commissioner Vasser	Right
Commissioner Cavallaro	And it'll get argued because it's still in
Commissioner Vasser	Well now – that would be a stellar time right after this time to take it out
	<b>Multiple voices</b>
Commissioner Cavallaro	But we had multiple years to do it as it was and they didn't
	<b>Multiple voices</b>
Commissioner Orazietti	Why didn't he just file another application – why didn't he start over again - if that was the case – why didn't he just start all over again
Chairman Conklin	Well he didn't have to – because as planning and zoning was concerned – they won
Commissioner Orazietti	So he's going to take it to court
Commissioner Adanti	Right
Commissioner Cavallaro	Because he's being denied and he's saying it says right here automatically approved
Chairman Conklin	Right
Commissioner Orazietti	If you go beyond the 90 days
Chairman Conklin	He is taking it to court – we are a court
Commissioner Cavallaro	It's in court – well yeah

Chairman Conklin	We are the court
Commissioner Cavallaro	Well it's going to go beyond us
Commissioner Vasser	Well I make a motion to postpone it after we have the time to discuss it with corporation counsel.
Commissioner Adanti	I second that motion
Chairman Conklin	Those in favor
	<b>Multiple ayes</b>
Chairman Conklin	Opposed
	<b>Silence</b>
Commissioner Vasser	Are we all going to be in on this conversation with counsel
Chairman Conklin	We'll see if we can arrange that because it has to be soon
	<b>Multiple voices</b>
Chairman Conklin	What we are going to need are the minutes typed up to this as soon as possible to get them to corporation counsel - ok
Clerk	I'll do the best I can – in the snow storm this weekend
	<b>Multiple voices</b>
Commissioner Cavallaro	You're going to get snowed in anyway this weekend
Commissioner Vasser	So the application 90
Commissioner Cavallaro	I'm not disagreeing – here this out
Commissioner Vasser	Ok
Commissioner Cavallaro	Complete application of 90 days after receipt shall be considered an approval
Commissioner Vasser	I see it
Commissioner Cavallaro	That's what Dominick is pointing out
	<b>Multiple voices</b>
Commissioner Vasser	Here's another point that I'd just like to make – is that 43 days was under the 65; 34 was under the 35 – yes they went to 99 total but followed all of these other ones and they felt they were in the right cause they were following state regs
Commissioner Cavallaro	Which they've been doing
Chairman Conklin	Well that's the argument
	<b>Multiple voices</b>
Chairman Conklin	Well that's what the problem is
Commissioner Vasser	But we have the right to say that we agree with that – voice fades
Chairman Conklin	Yes
Commissioner Vasser	But let's at lets discuss it with corporation counsel – ok so that motion is on the floor
Commissioner Adanti	And we already voted on it
Chairman Conklin	Yes
Commissioner Adanti	It's a done deal
Commissioner Cavallaro	Planning and zoning is saying that we don't to care about the application not being complete because they did it under a 100 days
Clerk	Stop – I have to change tapes
	End Tape 2
	Begin Tape #3
Chairman Conklin	All set
Clerk	Yes
Chairman Conklin	<b>48 Laurel Wood Drive</b> – in regards to the garage being 8 feet from the property line
Commissioner Adanti	Motion to discuss
Commissioner Vasser	Second
Commissioner Adanti	I'm just concerned about the drainage as the neighbor was discussing and can we put any kind of regulation on that – or
Chairman Conklin	We can put in any stipulations we so desire to put

Commissioner Cavallaro	My take on this is yes three is an automatic water problem because of the downgrade nature of this property but for us to approve something that is knowingly increase that – I think that is a valid point because that is a pretty wide structure
Commissioner Adanti	Yeah
Commissioner Cavallaro	That will block the water from going the other way and if the driveway is following the grade of the land and the land typically went that way, then it's going to cause more water cause it's not going to go to the pervious property behind the impervious driveway.
Commissioner Vasser	I feel like we are stepping outside of our
Commissioner Cavallaro	No we're not
Commissioner Vasser	Because we're acting – we're saying well you have to – first of all the building department is going to – voice fades
Commissioner Cavallaro	They're not going to deal with it
Commissioner Vasser	Well
Commissioner Cavallaro	It's not going to go there – we have to not allow something that intentionally hurts
Commissioner Vasser	Yeah I agree
Commissioner Cavallaro	Hurts somebody else by granting the variance
Commissioner Vasser	True
Commissioner Cavallaro	Nobody else is going to decide that so the restriction would be that that they would have to have a water management plan in place; that the city will approve – it goes beyond us at this point.
Commissioner Vasser	Can I make a motion
Chairman Conklin	In other words a water management plan going to planning and zoning when its brought to them
Commissioner Cavallaro	Right – I'm not against the garage itself – I think its ok – everybody is in favor of it – in the neighborhood except for this water problem.
Commissioner Orazietti	Yeah the next door neighbor is not even opposed to it - it's just
Commissioner Cavallaro	Right
Commissioner Orazietti	He just doesn't want to make it worse
	<b>Multiple voices</b>
Commissioner Orazietti	Even having the water come off like you said, now where's your downspout going to be – on the side closest to his property – right
Chairman Conklin	Yes
Commissioner Orazietti	And that's normally where it goes, right Ed so
Chairman Conklin	Yeah
Commissioner Orazietti	So then it would drain out unless you made some sort of recommendation to get it underneath the driveway to go down the back somewhere
Commissioner Cavallaro	And I think it's already brook water that's already the problem because what was draining on his property originally was probably the liters coming through the drain and going into the
Commissioner Orazietti	Yeah
Commissioner Cavallaro	Which if it's been removed, that water has got to go somewhere. So now it's staying on the subsurface
	<b>Multiple voices</b>
Chairman Conklin	Right – just pooling up and draining through the natural course of water onto his property
Commissioner Cavallaro	And by nature of the driveway being impervious it's going to roll and now the slab for the garage is going to create more impervious
Chairman Conklin	So I don't know if there was city storm drains that they can tie into or something but they agree – some sort of water management has to be done
Commissioner Cavallaro	It's a tough issue and water is a problem – everywhere
	<b>Multiple voices</b>
Commissioner Cavallaro	Especially on a hill
Chairman Conklin	Would you take that as a friendly amendment to your motion
Commissioner Adanti	Yeah I would – just reword it for me so that it comes out the way it should

Chairman Conklin	You would go along with the second of it
Commissioner Cavallaro	Yes
Commissioner Vasser	Well what's the motion exactly – so the motion is to approve it as long as
Chairman Conklin	Including a water management plan to be brought to planning and zoning or along with these
Commissioner Adanti	Yes I like that
Commissioner Oraziotti	To help alleviate the ponding of the water at the end of the driveway
Commissioner Cavallaro	Don't want to make it worse.
Commissioner Vasser	Right
Commissioner Cavallaro	Looking at it I can see it happen
Commissioner Vasser	So a motion, seconded
Commissioner Cavallaro	Ok
Chairman Conklin	All those in favor
	<b>Multiple ayes</b>
Chairman Conklin	Opposed
	<b>Silence</b>
Commissioner Adanti	Is the meeting closed
Chairman Conklin	Ok – we're done
Chairman Conklin	Someone move the minutes please
Commissioner Cavallaro	Motion to approve the minutes
Commissioner Adanti	I'll second it
Chairman Conklin	All those in favor
	<b>Multiple ayes</b>
Chairman Conklin	Opposed
	<b>Silence</b>
Chairman Conklin	Thank you

During the working session of the Board, upon a Motion made by Commissioner Vasser and seconded by Commissioner Adanti to postpone a decision on the appeal of the denial of a certificate of zoning compliance in the application identified as **#1215-01 333 River Road, Ace Property, LLC. c/o Attorney Dominick Thomas** of 315 Main Street, Derby, Motion passed by 5-0 vote.

During the working session of the Board, upon a motion made by Commissioner Adanti and seconded by Commissioner Vasser it was agreed that the application **##1215-02 (48 Laurel Wood Drive, Shelton, CT)** for a waiver to Section 31, Schedule B, Line 9 by varying the minimum setback from the left side from 30 feet to 8 feet to allow for construction of a two car garage would be granted with the stipulation that a water management plan be presented to planning and zoning at the appropriate time. Motion passed by 5-0 vote.

During the meeting it was agreed that the application **#1115-02 450 Huntington Street, Shelton, CT)** for a waiver to Schedule B, Line 7 by varying the minimum setback from the street line from 40 feet to 28 feet to allow for construction of a two story addition and an attached two car garage would be continued to the February Meeting – at a date to be determined.

**Approval of Minutes**

**Motion made by Commissioner Cavallaro Adanti to accept the minutes of the December 15, 2015 hearings as submitted by the clerk. Motion was seconded by Commissioner Adanti and passed by unanimous vote.**

**Meeting adjourned at approximately 9:20 PM.**

Respectfully Submitted,

*Susan M. Pulos*  
Clerk