

The Shelton Planning and Zoning Commission held a Regular Meeting on October 10, 2006 at 7:00 P.M. in the Shelton City Hall, Room 303, 54 Hill Street, Shelton, CT.

Members present: Chairman Alan Cribbins
Comm. Virginia Harger
Comm. Jason Perillo
Comm. Anthony Pogoda
Comm. Leon Sylvester
Comm. Karen Tomko-McGovern

Staff present; Anthony Panico, Planning Consultant
(arrived late)
Richard Schultz, Planning Administrator
Diana Barry, Clerk

Members absent: Comm. Daniel Oraziatti

Tapes (2) and correspondence on file in the City/Town Clerk's Office and the Planning and Zoning Office. Attachments are not available on the website.

Chairman Cribbins opened the meeting with the Pledge of Allegiance. He stated that the Commission has received a letter of resignation from Comm. Papale and the Republican members of the Commission have nominated Patrick Lopera, an Attorney in town, who presently sits on the Zoning Board of Appeals, to replace him. We have advised him to be sworn in at the Town Clerk's office.

We were waiting for our Consultant, so we will skip to Item B, stated Chairman Cribbins.

APPLICATION # 05-44 AND 06-22, 475 RIVER ROAD, AUTO CARE FACILITY – FINAL SELECTION APPROVAL OF EXTERIOR MATERIALS AND FINISHES

Richard Schultz stated that the project is moving along and tonight we are here to reconfirm the exterior material selection. The applicant is here and I will pass around a photo for you.

Attorney Dominick Thomas, representing the applicant, addressed the Commission. We were asked to appear and the applicant agreed to be here to show the three sides as proposed of the brick veneer, which is similar to the picture. There will be vinyl in the back, regular vinyl siding. This is in compliance with what was presented.

I don't know what you presented but I remember listening to the building being all brick not brick faced, not vinyl brick, not brick look like, all brick, stated Comm. Pogoda. That is what was proposed to me at the meeting that I sat in from day one and that to me is not acceptable. Not with what we are trying to do in that area. The South end of Shelton has been getting hit on and banged on. The building across the street is looking good and they have done pretty much everything that we have asked. The building on the corner, that stands next to this thing, if they continue to go the way with what their drawings represented that is a beautiful building, he added.

I think that this is going to be a beautiful building, stated Attorney Thomas.

I approved brick, that was what was presented to me at the meeting, stated Comm. Pogoda. It was said to me that it would be a brick building, he added. Chairman Cribbins questioned Richard Schultz if he had any minutes from when we reviewed this?

Yes, I did review them and had a discussion with the developer, stated Richard Schultz. The word brick was used and as you know the Commission is seeing more brick veneer. This Commission wants to know what is going on for the exterior skin and accordingly I wanted the material here. Obviously you are responsible for the total build-out of the facility. Tonight you are getting the samples and it is your call, he added.

Attorney Thomas stated that the resolution (there is trouble with the tape and the rest is from the Clerk's note). We did have a work session and the developer did show the brick look.

Comm. Pogoda stated you presented it to us and there was no statement saying brick look alike or brick laminate, it was a brick building. Brick to me, is brick. If you say brick don't say brick laminate. Comm. Pogoda stated it is not what you presented to us. If someone says brick then I expect brick, 5 by 2 by 3, not brick look like, he added.

It does say brick and it is imperative that this Commission controls the skin. This is something that we deal with everyday and we want to know what is happening, stated Richard Schultz. We had a lot of discussion on this and what we wanted there. This is the first time I am seeing this, stated Chairman Cribbins. So know I have to go back in the documentation to take a look to see what was presented, he added.

Chairman Cribbins stated what is important and factored into a decision. Attorney Thomas stated the proposal for the gas station is under a special exception and we presented the brick look. There was a lot of discussion and the cost of the construction would prohibit that for a small business owner. The Special Exception has a moderate amount of control, he added.

Chairman Cribbins stated what I would like to do is have you point out other buildings in the area that have that particular skin so we can see that. We can ask Corporation Counsel for an opinion and thirdly we will pullout the minutes to see exactly what we heard.

Comm. Perillo stated that my frustration is that the Attorney for the application specifically stated brick and that this is a bait and switch. Now we see plastic and I have a problem with that. When we discussed this, three times you said brick look and at the public hearing those words were never used, stated Comm. Pogoda. I heard brick and if you are going to say brick look then say that. As Jason said bait and switch. Brick is what I expected, he added.

Attorney Thomas stated that we are getting into technical legal issues. We just need more data stated Chairman Cribbins there will be no action taken.

APPLICATIONS FOR CERTIFICATE OF ZONING COMPLIANCE

Richard Schultz stated that there are 31 standards. Staff has reviewed them and all comply with regulations. (see attached)

On a motion made by Jason Perillo seconded by Anthony Pogoda it was unanimously voted to approve the Applications for Certificate of Zoning Compliance, Standards, 1-31.

SEPARATES:

6345 WILL BRYON, 6 MAYFLOWER LANE, HOME OFFICE

Richard Schultz stated that is for a home office for Real Estate Investment. There will be one employee and hours of operation are 9 to 5. He will have a desk and file cabinet.

On a motion made by Anthony Pogoda seconded by Jason Perillo it was unanimously voted to approve Separate # 6345.

6348 JAIME COCHRAN AULET, 88 HILLSIDE AVENUE, HOME OFFICE

Richard Schultz stated that this is for a home office. She will use 100 square feet and she is a wedding planner. It will be on the weekends only. Comm. Perillo asked no one coming to the house? Yes, answered Richard Schultz.

On a motion made by Jason Perillo seconded by Anthony Pogoda it was unanimously voted to approve Separate # 6348.

6353 DAN WELLS, 109 OLD MILL ROAD, HOME OFFICE

Richard Schultz stated that is Lyman Wells's son. He needs a checking account. His occupation is farmer/landscaping. Staff recommends approval.

On a motion made by Anthony Pogoda seconded by Jason Perillo it was unanimously voted to approve Separate # 6353.

6360 PAUL SCALERGHE, 38 TREELAND ROAD, HOME OFFICE

Richard Schultz stated that this individual does graphics on the computer. He will use 60 square feet. There is one employee and he will have a desk and computer.

On a motion made by Anthony Pogoda seconded by Jason Perillo it was unanimously voted to approve Separate # 6360.

6363 TIMOTHY TURNER, 8 QUAGO TRAIL, HOME OFFICE

Richard Schultz stated that this is a computer consultant. He will use 80 square feet and there will be one employee.

On a motion made by Jason Perillo seconded by Anthony Pogoda it was unanimously voted to approve Separate # 6363.

6380 HENRY BOGUCKI, 22 FALMOUTH DRIVE, HOME OFFICE

Richard Schultz stated that this gentlemen is a cabinetmaker for kitchens and baths. Office area is 75 square feet. One employee and the public does not visit the site. There is equipment on the site. No storage of materials, stated Chairman Cribbins.

On a motion made by Anthony Pogoda seconded by Jason Perillo it was unanimously voted to approve Separate # 6380.

6352 WEB SITE DESIGN FOR YOU, 878 BRIDGEPORT AVENUE, BUSINESS

Richard Schultz stated that this is Shelton Square and it is located within the travel agency. They are subleasing one table, 50 square feet, for web design. There will be one employee and hours of operation are 9 to 6, Monday through Friday.

On a motion made by Anthony Pogoda seconded by Jason Perillo it was unanimously voted to approve Separate # 6352.

6362 CT COMMERCIAL INV., 709 BRIDGEPORT AVENUE, BUSINESS/SIGN

Richard Schultz stated that this is the Old Sikorsky Federal Credit Union. It will be a Nail Salon and Spa. There will be 4 employees, 9:30 to 7 P.M., Monday through Friday. The area is 2,172 and it is a permitted use within the PDD. It has signs, is there anything on that, questioned Comm. Pogoda? It is just the business at this time, answered Richard Schultz.

On a motion made by Anthony Pogoda seconded by Jason Perillo it was unanimously voted to approve Separate # 6362, just the business.

6364 CHRIS COSTA, 706 BRIDGEPORT AVENUE, COMM. CONST.

Richard Schultz stated that this is Split Rock, Building # 5. The Commission recently approved the minor modifications with the drive through. Comm. Sylvester questioned where is this? This is Split Rock, the Commission at its last meeting received a request to modify this and this is for a drive through. Is it a bank, questioned Comm. Sylvester? We have not received the final plans for occupancy but they are talking with a coffee shop. This is for Building # 5, stated Richard Schultz.

On a motion made by Anthony Pogoda seconded by Jason Perillo it was unanimously voted to approve Separate # 6364.

6378 PAUL PICIRILLO, 50 CENTER STREET, SIGN

Richard Schultz stated that this is for Porky's sign. The project is moving along nicely. This will be individual channel letters and they will not be illuminated.

On a motion made by Jason Perillo seconded by Virginia Harger it was unanimously voted to approve Separate # 6378.

6381 LAURETANO SIGN GROUP, 487 HOWE AVENUE, SIGN

Richard Schultz stated that all of you are aware that NewMil Bank was bought out by Webster Bank. Last year we changed the color scheme of Webster. They are replacing what is there now. There will be administrative offices. One thing I don't see is the sign that goes over the sidewalk, questioned Chairman Cribbins? Richard Schultz passed around pictures.

On a motion made by Anthony Pogoda seconded by Leon Sylvester it was voted to approve Separate # 6381. Comm. Perillo voted in opposition.

6385 ART Q-TECH, 916 BRIDGEPORT AVENUE, SIGN

Richard Schultz stated that this is the Old Tech Furniture. The Commission yearly this year approved the operation of an art gallery there. This is for the sign. This will be black channel letters, black internally illuminated, you will have a blue awning with white letters over the entrance. Where is this, questioned Comm. Sylvester? This is Exit 11, Image Graphics, answered Richard Schultz.

On a motion made by Jason Perillo seconded by Virginia Harger it was unanimously voted to approve Separate # 6385.

6388 GERALD GLOVER, 20 SCHOOL STREET, IN-LAW

Richard Schultz stated that this is for an in-law. This complies with the standards. Valley Health and Staff recommend approval. It is all-internal, on the first floor.

On a motion made by Leon Sylvester seconded by Jason Perillo it was unanimously voted to approve Separate # 6388.

WAIVER OF SITE PLAN**# 6379 J. MIESZCANSKI, 30 CONTROLS DRIVE, BUSINESS**

Richard Schultz stated that this is a new business, occupancy of the second floor. They will use 12,000 square feet. Hours of operation are 9 to 5:30. This is an analytic production lab with only two employees right now but they are expected to grow. This is a start up business with 2 parking spaces. Is there enough parking for future expansion, questioned Comm. Pogoda? There is plenty, answered Richard Schultz.

On a motion made by Jason Perillo seconded by Anthony Pogoda it was unanimously voted to approve Separate # 6379.

6350 UNITED ILLUMINATING CO., 801 BRIDGEPORT AVENUE, TEMPORARY TRAILERS

Richard Schultz stated that the Commission approved the trailers. He read the letter from the U.I. They are requesting the trailers be allowed to stay for 3 years. Staff will recommend one year increments. They are also requesting addition of pre-manufactured offices to two of the trailers.

Do they have any intentions of making any of these trailers permanent, questioned Comm. Pogoda? As you can see, Staff has constantly has asked that question, for a permanent solution, stated Richard Schultz. Staff is recommending one year increments so that we can evaluate it, he added. In the long run are they planning, something, questioned Anthony Panico? It is a temporary fix that is working well, stated Richard Schultz. How many years have they had this, questioned Comm. Perillo? This will be the 4th year, stated Richard Schultz. Why don't we ask them for a permanent solution and give them a year, stated Chairman Cribbins. So that we can understand what their future plans are, he added.

On a motion made by Anthony Pogoda seconded by Jason Perillo it was unanimously voted to approve Separate # 6350 for one year with conditions.

6367 DON STANZIALE, JR., 101 MOHEGAN ROAD, DEALERS LICENSE

Richard Schultz stated that this is for the gas station. He currently enjoys a full repairers license and what he is proposing is to have this Commission consider an approval for body repair. The Commission years ago approved a free standing building, in the back, that they use for storage. They have a pick up truck on the property. They have always had a full repairers license. They want to change that to a dealer's license that will give them the opportunity to do auto body work. The spraying is the most important issue. Today they have state of the art equipment approved by the State DEP. The Commission won't tolerate emissions into a residential area. The State of Connecticut now makes this your responsibility, he added.

This is a non-conforming situation right now, questioned Anthony Panico? Would it increase the non-conformity, questioned Chairman Cribbins? The applicant is here to address your concerns, stated Richard Schultz. He passed around the A-2 survey.

Procedurally, would we need a variance to the Site Plan to allow this, questioned, Chairman Cribbins? Anthony Panico stated you have a right to exercise some discretion. If you feel the additional use is within the perimeters of what was grand fathered in and it is not an expansion on the non-conforming use, then you have a right to grant it. However, if you feel that it is an expansion of the non-conforming use then it would need a variance, he added.

There is a second part, you could require the site plan or you can waive it, stated Richard Schultz. That is an administrative follow up, stated Anthony Panico. Once you recognize that as an acceptable use of a non-conforming activity, you could end up, as an acceptable non-conforming use that is allowed, he added.

Hours of operation right now are 7 to 8 Monday through Saturday, stated Richard Schultz. 8 P.M. in an R1 neighborhood, stated Comm. Pogoda. The applicant is willing to reduce that to 6 p.m. stated Richard Schultz.

Chairman Cribbins asked what kind of storage are you going to have? There is a lot of discussion we need to have so that we understand what will work well with the neighborhood, he added. I want to fully understand what is going on there.

Can he do body work under his current license, asked Anthony Panico? We bring cars in and out of there but working with the body work, I will look into that. I want to keep that separate and I don't want to create a car lot up there, stated the applicant. Staff is recommending tabling, stated Richard Schultz.

The difficult part is how to draw the lines saying yes, stated Anthony Panico. If someone comes in with a dented fender, then it becomes the whole quarter panel, when does it become major bodywork, he questioned? I don't know how you draw the line, he added.

Chairman Cribbins stated what do we get for the license if we granted this exception? The license could give him the right to do some activities and under the zoning you can't stop him from doing those, stated Anthony Panico. We understand outside storage, added Chairman Cribbins.

Staff is recommending a request for withdrawal, stated Richard Schultz. Do I have a motion of acceptance of the withdrawal, questioned Chairman Cribbins?

On a motion made by Jason Perillo seconded by Anthony Pogoda it was unanimously voted to approve the request for withdrawal of the waiver of site plan on Separate # 6367.

6389 ANCO ENGINEERING, INC. 217 LONG HILL CROSS ROAD, FUEL STORAGE TANK

Richard Schultz stated that this is for a fuel storage tank. There are no wetlands issues on this site. I have checked with the Fire Marshall and there is a storm water pollution plan so that this would be added to it. This is a double lined tank.

What do you do about an accidental spillage, questioned Anthony Panico? There is a plan in place, stated Richard Schultz. They should have some sort of curbing for spillage, added Anthony Panico. Not for rupturing but for spillage, he added.

There should be some sort of containment for the tank, stated Comm. Pogoda. Do we have the authority to request that, he questioned? You can have them pour a concrete pad, stated Anthony Panico.

On a motion made by Anthony Pogoda seconded by Jason Perillo it was unanimously voted to approve Separate # 6389, waiver of site plan, with conditions.

End of side 1a of 2a, tape 1 of 2 at 8:10 P.M.

APPLICATIONS # 06-30 R.D. SCINTO, INC. FOR SPECIAL EXCEPTION (HIGH TRAFFIC GENERATOR) (LIGHT INDUSTRIAL BUILDING) 71 LONG HILL CROSS ROAD (MAP 51, LOT 7) LIP DISTRICT (PUBLIC HEARING CLOSED ON 7/11/2006) – DISCUSSION AND ACTION AND APPLICATION # 06-33 R.D. SCINTO INC., FOR SITE PLAN APPROVAL (LIGHT INDUSTRIAL BUILDING) 71 LONG HILL CROSS ROAD (MAP 51, LOT 7) LIP DISTRICT – DISCUSSION AND ACTION

There is a problem with the tape. This section is strictly from the Clerk's notes.

A resolution was prepared and presented at the last meeting. However the Commission wanted additional information in the form of a legal opinion. There is a favorable recommendation from the City Engineer and the Fire Marshal. Richard Schultz read the Legal Opinion from Assistant Corporation Counsel Raymond Sous.

Chairman Cribbins questioned if the answers provided in the legal opinion satisfied Comm. Sylvester. Chairman Cribbins then stated that no matter what our decision is this will end in Court. Comm. Sylvester agreed.

Comm. Sylvester stated that the City Engineer is recommending to us that we approve the proposal. He can't fight with the City Engineer.

Chairman Cribbins stated that the resolution was read into the record at the last meeting. Comm. Sylvester stated that his request was meet and that Corporation Counsel Sous did a legitimate presentation.

On a motion made by Anthony Pogoda seconded by Virginia Harger it was unanimously voted to approve Applications 06-30 and 06-33. A roll call vote followed with all participating Commissioners voting I to approve.

Chairman Cribbins stated we had to remove just who the applicant were on this to be able to vote.

PROPOSAL OF PLANNING AND ZONING COMMISSION TO AMEND THE ZONING REGULATIONS BY RE-WRITING SECTION 34: PLANNED DEVELOPMENT DISTRICTS (PDD) (PUBLIC HEARING CLOSED ON 9/26/2006) DISCUSSION ONLY(see attached)

Anthony Panico stated that the issues were raised at the public hearing and what I will do is the memorandum with the major areas of change as a result of the comments. I will prepare another copy of this and put your words in and then I will put the new text. You'll have a document with the changes and a new text.

Comm. Sylvester questioned 34.4.1? This is what is in the regulations now. When we started with PDD's we had 60,000 square feet as the minimum. That is still in there but in the business districts there are tiny parcels of land. We adopted a standard of 10,000 as the minimum lot size. We may need to look at that again. When we did the Route 8 plan we found parcels fronting on major feeders or Bridgeport Avenue as they are preexisting they are allowed the 20,000 minimum, stated Anthony Panico.

We might have to rethink the 10,000 square feet, stated Anthony Panico. Spooner House precipitated the 20,000 square foot, questioned Comm. Sylvester?

If the Downtown Sub-Committee would put together a recommendation about the downtown properties concerning PDD's that don't meet that 10,000 foot requirements. We might modify the standard then, stated Anthony Panico. At this point that this was written until recently we are concerned that the 10,000 may not be right, stated Comm. Perillo.

With the situation tonight we had this evening with the River Road, it was not done in the PDD but if it had been in the PDD it would have been done differently, stated Comm. Perillo. Your own plan said to redistrict that stated Richard Schultz. Like on Bridgeport Avenue, he added.

The owner should be responsible for the signage stated Comm. Pogoda. The signage needs to be addressed but by Statue our hands are tied, stated Anthony Panico. There are some things we can regulate, he added. We are running into problems with the logos stated Comm. Tomko-McGovern. This Commission doesn't have a problem with reasonable logos, stated Anthony Panico. A while ago we had a proposed sign that had a painted casket advertisement on it that wanted to go downtown, he added.

Another thing that was brought up by one of the Attorney's concerning the dialogue at the table with the applicant being almost illegal. I will put additional language regarding that, stated Anthony Panico. We want that option, he added. I think that should be legal.

There was some language about Wetlands and when we should contact them. I will add additional language concerning Wetlands information being offered to us regarding impacts to Wetlands. We will make a referral and if they don't comment fine.

Another comment came up about page 12 with regard to Wetlands. We have a responsibility to the environmental impacts rather or not there is wetlands. Any environmental impacts should be addressed within limits even to the Corp of Engineers, stated Anthony Panico. Those are the areas that I think needed changes.

Richard Schultz stated I will go back to Corporation Counsel and take the revised draft to them. I believe I can have this done for you by next week or so. I will get copies to Rick early enough for him to get this out to you early, stated Anthony Panico.

Comm. Sylvester stated I have a question with regard to height of the buildings. He read the statement about allowable density. I was not thinking downtown. If you are dealing with a sizeable piece of land and you have a certain amount of density you can cover more ground but if you can reshuffle that you decrease the footprint and increase the height with the same amount of density, stated Anthony Panico. To encourage development downtown, that is in conflict with that, he added. Part of downtown is to come up with a reasonable amount of density increase with regard to the private financing revitalization efforts.

The Piermont block today would never be built in fact 90% of downtown Shelton could not be built under today's regulations, stated Anthony Panico. I think we need to exclude the downtown area because it is unique, he added.

Other communities are engaged in the same thing that we are trying to do so how do they handle that, there has to be some wheel invented that allows Communities to allow things to happen downtown that would not happen else where, stated Comm. Sylvester. It means saying things like density bonuses that Communities don't want to hear, stated Anthony Panico. Most downtowns encourage self-revitalization such as bonuses and removing the parking requirement picking that up municipally to allow that to happen, he added.

I took the liberty of calling Lowe, Massachusetts Town Planner, these Mill towns are converting these buildings. The new construction was so successful. He said they didn't have regulations like we are grasping with. We have two things going on downtown, we have the re-use of our mill buildings and we are now seeing proposals about knocking down other buildings especially on Howe Avenue. We are wrestling with new regulations dealing with the standards. We have density numbers conflicting your comfort level, stated Richard Schultz.

When you get near Canal Street that is not the core area, stated Anthony Panico. The area adjacent to it, we have let that area go, the structural area around downtown, it has become an investors haven, the two and three family houses have been carved up as rentals, the outside stairwells, all that take away from the beauty of the neighborhood, stated Comm. Sylvester. That is the area we have really let go, he added. The rentals, I drive by everyday, I wonder how the landlord let that happen.

The downtown sub-committee is really focusing on the core of downtown but before the job is done you will stretch your horizons into the surrounding neighborhoods. That is not the area where you want to change but preserve, stated Anthony Panico. That doesn't have a lot to do with the PDD regulations, it has a lot to do with how well we stir and support the market downtown because once the market improves downtown, you will see the tear downs, the improvements, the change-overs then you will see that ripple out into the outer ring, stated Comm. Perillo. We will need to say do we want to save the outer ring and then we have to consider the zones, stated Anthony Panico. There are some neighborhoods that we will say that this will work here and some that we say this will not work here, stated Comm. Perillo.

Remember on Wall Street with that proposal, the neighborhood said no, stated Richard Schultz. We have to look at the multi-family because the comfortable two families with the big attics can be made in the three family with another vehicle that there is no room for, stated Anthony Panico. It is a discussion that is always on my mind, stated Comm. Sylvester. Our Community has gone through a change that has been detrimental to the Community, he added. In the last few years we have seen a resurgence to the multi-families being fixed up, stated Comm. Perillo.

The next meeting is October 24, stated Richard Schultz. We want to read and absorb this, stated Chairman Cribbins. We have Master's, we have an acceptance under new business that will be scheduled for then, added Richard Schultz. Lets see if we can get this for the 24th, stated Chairman Cribbins.

Conservation has an appeal for the Condos by the River, stated Anthony Panico. One of their allegations has to do with the legality of the PDD, he added. I would hate to see this Commission lose this tool that you have because of what some Judge will say about that appeal. I want to have a strong foot to put forward, he added.

I didn't get a notice, I got a letter from Corporation Counsel to return the record, late last week, stated Richard Schultz.

Chairman Cribbins stated see if you can get that so that we can read that.

Comm. Sylvester questioned what is the appeal? Are they saying we should not have changed the zone? We didn't change the zone, stated Anthony Panico. I didn't get the particulars, stated Richard Schultz. They are attacking the legality of the PDD, he added. If this gets litigated I want to be able to show we did everything in our power to make a good regulation.

NEW BUSINESS

APPLICATION # 06-46 SECOND TREETOPS,LLC FOR SPECIAL EXCEPTION APPROVAL (HIGH TRAFFIC GENERATOR: PARKING LOT) 20 COMMERCE DRIVE (MAP 38, LOT 1) LIP DISTRICT – ACCEPT AND SCHEDULE PUBLIC HEARING

Richard Schultz stated that this is Enterprise Rent a Car. They bought the lot next door, known as Lot 6. David Mack had a proposal for an office building. This is on the left hand side as you go up. It is the middle lot, we walked the middle parcel. David Mack had this and it is a very small piece, stated Comm. Pogoda.

On a motion made by Jason Perillo seconded by Anthony Pogoda it was unanimously voted to accept Application # 06-46 and schedule a Public Hearing for October 24th, 2006.

APPLICATION # 06-47 THE WOODS AT LAKE ROAD, LLC FOR CRD RESUBDIVISION APPROVAL, 6 LOTS. (THE WOODS AT LAKE ROAD, PHASE 2) LAKE ROAD, R-1 DISTRICT (MAP 115, LOT 5) ACCEPT, DISCUSSION AND ACTION

On a motion made by Jason Perillo seconded by Anthony Pogoda it was unanimously voted to add Application # 06-47 to the agenda.

The old application became null and void because they failed to meet all the conditions of approval within the 90 day period after the appeal period, stated Richard Schultz. So this is the left side of Shelton Lakes. The Commission approved 16 homes on the right side through a PDD. The left side was as of right through a CRD, 6 lots with a conveyance of Open Space. So this has to be re-approved. This is for 6 lots CRD, re-subdivision, he added.

Nothing has changed, questioned Chairman Cribbins? No, answered Richard Schultz. This is as of right, all the conditions are the same. This is a re-subdivision, stated Anthony Panico.

On a motion made by Jason Perillo seconded by Anthony Pogoda it was unanimously voted to report favorably on Application # 06-47.

Comm. Sylvester questioned what happened to throw this off? When you approve a subdivision one of your conditions is that the applicant should fulfill all the conditions of approval including filing of the Mylar map, within 90 days of the appeal period. They didn't do that, stated Richard Schultz. They had a choice to request an extension, they didn't do that. So he is coming back for a re-approval, he added. This is a CRD as a matter of right.

PUBLIC PORTION

Chairman Cribbins asked if there was anyone who wished to address the Commission on anything not on the agenda. Hearing no response, he asked for a motion to close the public portion.

On a motion made by Anthony Pogoda seconded by Jason Perillo it was unanimously voted to close the Public Portion.

OTHER BUSINESS:

APPROVAL OF MINUTES: 8/8/2006, 9/12/2006 and 9/26/2006

On a motion made by Anthony Pogoda seconded by Karen Tomko-McGovern it was unanimously voted to approve the minutes of 8/8/2006, 9/12/2006 and 9/26/2006.

PAYMENT OF BILLS

On a motion made by Jason Perillo seconded by Anthony Pogoda it was unanimously voted to pay bills, if funds are available.

STAFF REPORT

Richard Schultz reported that the ZBA agenda has several items of interest, including a modification of use. There is a proposal for modifying the use through a variance for property located at 187-189 Coram Road, right down the road, on the left by Route 8, for Yoga Classes. The ZBA many years ago approved the use variance to allow a professional hair cutting establishment, on one floor.

To add the classes to the professional hair salon, questioned Anthony Panico? Another use, he added. They got the activity through a use variance, this is an R-3, stated Richard Schultz. There is already one variance, the salon has a variance, stated Comm. Perillo. That is correct, stated Richard Schultz. This is another business activity, stated Anthony Panico. There is a Yoga class that exist and Staff has notified them to cease and desist. They choose to make an application to ZBA, stated Richard Schultz.

Lets go over what the Yoga class is because you can do one of three things, you can do nothing at all, you can direct Staff to write a letter in opposition with your findings, and thirdly you might want to support it. The Yoga Class involves the following, on Monday between 6 & 7 they provide these classes on the second floor. As of today I received notification that the second date, within the week has been eliminated. They will go to ZBA requesting the application be limited to Monday nights only between 6 & 7.

They are of the opinion that there is sufficient on site parking. Keep in mind though that the on-site is predominantly State owned and privately owned. The area was regraded in the State of right of way, stated Richard Schultz.

I received a verbal approval from the Fire Marshal. That is not good enough, I need a letter and I have asked him to have that ready for ZBA's meeting next week. If this Commission wants to act favorably that is a condition. There is storage in the third floor that we don't want them using for anything else but storage.

What is the use of the second floor before this, asked Anthony Panico? It was a dwelling unit, apartment, stated Richard Schultz. Is there an apartment on the sub-level, questioned Comm. Sylvester? Any questions that the Commissioners have, I can present to the Board, I don't know that, so either I would present that to the Board or find out on my own, stated Richard Schultz.

The third floor is used for storage is there points of egress out of there, questioned Comm. Perillo? The Fire Marshal said just the second floor. The Fire Marshal verbally told me today so I need his approval in writing.

What is the size of the Yoga Class, questioned Anthony Panico? I don't have that, stated Richard Schultz. That is important, stated Anthony Panico. I drove by the place this evening, there is parking right in front and all around, stated Comm. Sylvester. We opposed a limousine service that was using this and we forced him to give up his service and to leave, he added. He was parking a limo on the street. The parking was all over the bridge. You told me they stopped doing that, questioned Comm. Sylvester? Yes, stated Richard Schultz. Well I don't think they did, stated Comm. Sylvester. It is not a no parking zone, stated Anthony Panico.

When we started this, this came to me, you disagreed with me, the family, the Somo's, the mother and father lived upstairs and she made it a Barber Shop on the first floor. That is the way the house was. The second and third floor belonged to the house and we knew we had limited parking, stated Comm. Sylvester. We didn't want to interrupt that. The street was established as historical. This Commission has done that, he added. They accommodate their own parking. That is mostly professionals, there, stated Comm. Pogoda.

End of Side 1B of 2A, tape 1 of 2 at 9:00 P.M.

The traffic coming and going at the light is always a problem, stated Comm. Sylvester. They bought the business, he added. Anthony Panico stated for the business to go in there that was through the issuance of the variance. That is correct, stated Comm. Sylvester, twenty years ago. ZBA's try to do their job right and they are swayed. Then they take an action and they are not careful enough to document that, stated Anthony Panico. In this case they did, they restricted it, stated Richard Schultz. Did they restrict it to the people living there, to be able to have the business on the first floor, questioned Anthony Panico? First floor only, stated Richard Schultz. Now they want the second floor, he added. Was it contingent on the residential occupancy of the upper floor, I don't know what they did or didn't do, stated Anthony Panico.

It sounds like an unfavorably report, so I will draft that for next week, stated Richard Schultz. I think you have to do that but recite that it is not consistent with the original intent that provided the basis for support of the earlier variance, stated Anthony Panico.

I agree with Comm. Sylvester that we need to draft some things that are consistent, like for instance, if the house is vacant across the street, there is an eye Doctor in the first floor, the Dentist on the second floor and the Dentist's office is on the third floor, stated Chairman Cribbins.

Comm. Sylvester stated that those three homes were owned by the Somo family. They were all residential oriented.

The house across the street, where Video 7 is, is very active. We have said no to expansions in that area, he added. At least Video 7 is a commercial zone that was put there by the Board of Aldermen 50 years ago, stated Anthony Panico. When you wrap it around Coram Avenue, you don't have the commercial zoning. That is a residential street, he added.

The issue is that this is a variance on top of a variance and we are running into the same issues that we had with the different uses, stated Comm. Perillo.

The Commission had established that road as a place to reestablished those houses to keep in character with the neighborhood, stated Comm. Sylvester. What we did is enable them to be converted into a quality professional office use, stated Anthony Panico. It is working beautifully stated Comm. Sylvester.

The bottom three applications involve creating a 3 lot subdivision between Buddington Park Condos and Heritage Pointe on Buddington Road. They are proposing 2 interior lots that are undersized and the third lot is also non-conforming. The property is big enough for two lots and they are proposing three lots, stated Richard Schultz. They are requesting that the two lots be considered as two conforming lots that need major variances, he added.

What is the hardship, questioned Anthony Panico? We have the regulations, you meet them, then you develop by them, he added.

The next one is Ed Newman, so that is continuing with the ZBA, stated Richard Schultz. I will request that ZBA uphold our denial, he added.

Lastly, we got our first request for the temporary shelters, stated Richard Schultz. We have regulations. The property owner wants to keep this as a permanent. This is 20 by 20 and he wants to keep it for permanent. I think that you should say no, stated Comm. Pogoda. We thought that if you needed to build a garage then you could have this temporarily, stated Anthony Panico.

On a motion made by Jason Perillo seconded by Leon Sylvester it was unanimously voted to adjourn at 9:08 P.M.

Respectfully submitted by,

Diana Barry, Clerk