

**SHELTON PLANNING AND ZONING COMMISSION    September 9, 2008**

The Shelton Planning and Zoning Commission held a special meeting on September 9, 2008 in the Shelton City Hall Auditorium at 7:00 p.m., 54 Hill Street, Shelton, CT. The Chairman reserved the right to take items out of sequence.

The following members were present:    Chairman Anthony Pogoda  
Comm. Virginia Harger  
(arrived at 7:05 p.m.)  
Comm. Chris Jones  
Comm. Patrick Lapera  
Comm. Ruth Parkins  
Comm. Leon Sylvester  
Comm. Thomas McGorty  
(alternate for V. Harger)

Staff members present:                    Richard Schultz, Administrator  
Anthony Panico, Consultant  
Karin Tuke, Recording Secretary

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 Pogoda began the meeting at 7:00 p.m. with the Pledge of Allegiance. He announced that Comm. Harger would be arriving late, and Comm. McGorty would be the alternate until that time.

**OLD BUSINESS**

**APPLICATIONS FOR CERTIFICATES OF ZONING COMPLIANCE**

Mr. Schultz indicated that Items #1 & #2 would be tabled tonight. Items #3-#26 have been reviewed, inspected, and found to be in compliance with Shelton's Zoning Regulations. Staff recommends their approval.

**On a motion made by Thomas McGorty seconded by Patrick Lapera, it was unanimously voted to table the Applications for Certificates of Zoning Compliance for Standards #1 and #2.**

**On a motion made by Patrick Lapera seconded by Thomas McGorty, it was unanimously voted to approve the Applications for Certificates of Zoning Compliance for Standards #3-#26.**

**SEPARATE #4169, DANNY RODRIGUE, 11 LEDGEWOOD RD., HOME OFFICE**

Mr. Schultz stated that this was to be a home office for a licensed magician occupying 100 square feet. Staff recommends approval.

**On a motion made by Chris Jones seconded by Ruth Parkins, it was unanimously voted to approve Separate #4169.**

**SEPARATE #4155, JOE POTENZA, 2 ENTERPRISE DR., BUSINESS**

Mr. Schultz indicated that this was an existing business requesting a name change. Everything remained the status quo, 5000 square feet, 135 employees, hours of operation 9 a.m. – 5 p.m. They deal with software services; this name change is necessary for them to acquire their trade name. Staff recommends approval.

**On a motion made by Chris Jones seconded by Thomas McGorty, it was unanimously voted to approve Separate #4155.**

**SEPARATE #4109, PHYSICALLY FIT, LLC, 702 BPT. AVE. SUITE 101, BUSINESS/SIGN**

Mr. Schultz indicated that this was located in Split Rock. The leased area is 3000 square feet consisting of gym equipment, 3 employees, hours of operation 7 a.m. – 8 p.m. with 12 assigned parking spaces. He showed the Commission a photo of the planned signage. Staff recommends approval.

Commissioner Harger arrived at 7:05 p.m.

**On a motion made by Ruth Parkins seconded by Chris Jones, it was unanimously voted to approve Separate #4109 for the business and the sign.**

**SEPARATE #4145, GUY BEARDSLEY, 276 LEAVENWORTH RD., BUSINESS**

Mr. Schultz indicated that this was a home office for an organic gardening business. It is a 100 square foot office area with one employee. Staff recommends approval.

**On a motion made by Ruth Parkins seconded by Patrick Lopera, it was unanimously voted to approve Separate #4145.**

**SEPARATE #4179, WJS, LLC, 514 BPT. AVE., BUSINESS**

Mr. Schultz indicated that this is a business for retail party supplies, Party Land; it would be replacing the catering facility previously located there. The leased area is 2566 square feet, 3 full time & 2 part time employees, hours of operation Mon. – Fri. 10 a.m. – 7 p.m. and Sat. 9 a.m. – 6 p.m. Staff recommends approval.

**On a motion made by Virginia Harger seconded by Ruth Parkins, it was unanimously voted to approve Separate #4179.**

**SEPARATE #4144, JEAN FABOZZI, 137 HOWE AVE., HOME OFFICE**

Mr. Schultz indicated that this was for a business called the House of Hope of Connecticut. Ms. Fabozzi provides consultation for pregnant women needing housing covering the gamut from unwed mothers to married/unmarried mothers with no dwelling. It is a non-profit organization. No meetings take place at the home office, only phone consultations. With those conditions, Staff recommends approval.

**On a motion made by Chris Jones seconded by Patrick Lopera, it was unanimously voted to approve Separate #4144.**

**SEPARATE #6751, SEMYON ZLOTNIKOVA, 91 HILLSIDE AVENUE, HOME OFFICE**

Mr. Schultz indicated that Mr. Zlotnikova is a consultant who works with local dentists. It is a home office, 25 square feet, one employee, Mon. – Fri. 8 a.m. – 5 p.m. Condo association approval has been obtained. With the conditions of no signage or visitors, Staff recommends approval.

**On a motion made by Virginia Harger seconded by Patrick Lopera, it was unanimously voted to approve Separate #6751.**

**SEPARATE #4126, SAN'S LIMO, 68 MONTGOMERY ST., HOME OFFICE**

Mr. Schultz stated that the Commission has always been concerned when there is a limousine service out of a dwelling. Montgomery Street is considered a substandard street in terms of width. He indicated that the applicant/operator has been advised that there would be a stipulation of approval that there be no continuous or overnight parking of the commercial vehicles. However, sporadic daytime parking would be acceptable.

Chairman Pogoda commented that he would be allowed to bring one vehicle to his house, drivers could park briefly to go in and out; however, there have been problems with this before...

Comm. Jones added that there was no room on that street for limos.

Mr. Schultz responded that obviously, if he drives to LaGuardia and comes home at 2 p.m., the car would be there. If the Commission would like to give this a try, this condition could be part of the approval.

Chairman Pogoda asked if there was enough room for a stretch limo, if he comes home in the middle of the night.

Comm. Sylvester asked if there was room enough for those cars to turn corners there.

Mr. Schultz responded that they advised the applicant that he has to find another location for the cars. He said he is working on it but hasn't found a location yet.

Comm. Sylvester asked where he was going to park his cars until he gets a location.

Mr. Schultz indicated that he had only one vehicle but he may get more.

Comm. Jones asked if it was just a Lincoln or a stretch limo.

Mr. Schultz responded that it was a stretch limousine.

Chairman Pogoda stated that he would be more comfortable if they table this until the applicant finds a location for the vehicle(s).

Comm. Sylvester added that it can't be a location on a public street either.

Comm. Jones suggested approving it and letting Rick handle the location issue.

Comm. Sylvester commented that he was concerned that if he didn't have a place to put it near his own home, he would put it the nearest place he could still see it, like the neighbor's space, so it won't be vandalized. It's OK, but he needs to find a place to park it.

Mr. Panico asked if the applicant had an off-the-street parking space at his place of residence – where he wants the office.

Mr. Schultz responded that was not going to work on that street.

Comm. Lapera added that if he can't put in a driveway, then the only other way would be to condition the approval on evidence that he has found a commercial location for his vehicle.

Comm. Sylvester commented that this is another indication of the parking problem in the more densely populated areas with cars all over the place. The streets downtown are old and weren't designed for it.

Chairman Pogoda asked for a motion with the conditions stated by Staff and the monitoring of a new location.

**On a motion made by Chris Jones seconded by Leon Sylvester, it was unanimously voted to approve Separate #4126 with conditions of no overnight parking and confirmation of an established limousine parking area.**

**SEPARATE #4177, CANDEL ELECTRICAL CONTRACTING, 31 WHITEWOOD DR., HOME OFFICE**

Mr. Schultz stated that this was for an electrical contractor's home office, 75 square feet, one employee, unmarked vehicle. Staff recommends approval.

**On a motion made by Virginia Harger seconded by Patrick Lapera, it was unanimously voted to approve Separate #4177.**

**SEPARATE #4178, BRYAN LIZOTTE, 11 WALL ST., HOME OFFICE**

Mr. Schultz indicated that this was for a magician's home office, 75 square feet, one employee. Staff recommends approval.

**On a motion made by Leon Sylvester seconded by Chris Jones, it was unanimously voted to approve Separate #4178.**

**SEPARATE #4182, RAFAL RYLO, 38 MIDDLE AVE., HOME OFFICE**

Mr. Schultz indicated that this was a roofing/siding contractor, 100 square foot office area, one employee, part time hours, and one unmarked Chevy van. Staff recommends approval.

**On a motion made by Patrick Lapera seconded by Chris Jones, it was unanimously voted to approve Separate #4182.**

**SEPARATE #4121, T.D. PROPERTIES, LLC, 329 BPT. AVE., COMM. CONST.**

Mr. Schultz stated that this was for the recently approved D'Addario's to upgrade the front façade to include modernization and the addition of a covered service driveway.

Chairman Pogoda reviewed the building renovation expansion details for the D'Addario application which had been approved at the August 5<sup>th</sup> meeting.

Commissioner Lapera indicated that he was not present at that meeting, and he recused himself from voting.

**On a motion made by Virginia Harger seconded by Leon Sylvester, it was unanimously voted to approve Separate #4121. Comm. Lapera abstained from voting; Comm. McGorty voted as alternate.**

**SEPARATE #4167, ABC SIGN CORP., 44 HUNTINGTON PLAZA, SIGN**

Mr. Schultz stated that this was for the bank behind Beechwood which would no longer be a Commerce Bank. He showed the proposed signage to the Commission for new TD Bank.

**On a motion made by Ruth Parkins seconded by Patrick Lopera, it was unanimously voted to approve Separate #4167.**

**SEPARATE #4164, ORAZIETTI BROS., LLC, 441-445 HOWE AVE., SIGN**

Mr. Schultz indicated that Mr. David Oraziotti was present. He distributed copies to the Commission of the old Rapp's Restaurant sign as a reference. Mr. Schultz stated that the Zoning Subcommittee has been dealing with the rewriting of all the sign regulations. Mr. Oraziotti has visited the Subcommittee on more than one occasion to provide the vision he sees for downtown, and more particularly for his establishment, Danny O's. He showed the neon type sign that Mr. Oraziotti proposed.

Mr. Schultz stated that the Subcommittee had some concerns, so Dave is here tonight to discuss his revisions to keep it more like Rapp's.

**Mr. David Oraziotti, Proprietor, Danny O's, addressed the Commission.**

He showed a picture taken 4 or 5 years ago of Rapp's Restaurant. He indicated that he wants to duplicate that sign, in green, red and white letters but saying "Downtown" on the top and Danny O's" going downward. They would be putting in a Terrace Room instead of a Green Room (shown as Conte Room on the Rapp's sign). He explained that in driving through downtown, it would be seen from both sides. He thought it would be nice and inviting for downtown.

Mr. Oraziotti added that he went to all the business owners in the area, and they all signed a petition indicating that they liked the proposed sign. He clarified that he would not be using any graphics, such as the martini glass, shown on one of the proposed photos.

**Atty. Dominick Thomas, 315 Main Street, Derby, CT addressed the Commission, representing the applicant.**

He added that he was contacted by other members of the downtown business community concerning this issue. They liked this retro look. He referenced the Liquid Lunch sign in downtown Milford which has a similar, nice retro look. He realizes there is a lot of concern about uniformity, but sometimes a little bit of color adds to things. He added that, strangely enough, everyone loves the retro parking arrow in downtown Derby on the corner of Thompson Place and Elizabeth Street. In Shelton, they already have that retro tradition from Rapp's or Sylvester's.

Comm. Lopera asked for clarification if this would be one sign or two signs. He asked if the bottom part that said Conte Room was attached or separate.

Atty. Thomas responded that he planned to model it off of the sample of Rapp's - showing Downtown going across and Danny O's going down. The portion of the sign at the bottom that Comm. Lopera refers to, where it says Conte Room, - it's actually thinner giving the perception of two separate signs.

Comm. Lopera asked what he would be adding to the bottom of his sign.

Atty. Thomas responded that he would be using Green Room.

Mr. Orazietti added that he would be duplicating the sign that is shown in the picture, without the martini glass, with that style and green, red and white letters.

Comm. Lopera asked about the overall dimensions of the sign.

Mr. Orazietti responded that it would be 12 feet long and 4 feet wide at it's widest point on the top, and then it would go down to two feet wide.

Mr. Schultz asked what the predominant color would be – green in the background?

Mr. Orazietti responded yes, and they would be using the red and white lettering.

Comm. Jones commented that he thinks he would brighten up downtown.

Comm. Harger asked for clarification that one rendering shows the shape and size of the sign he'd be using and the other indicates the arrangement of lettering.

Mr. Orazietti responded that was correct.

Comm. Lopera added that it would not have the martini glass – correct?

Mr. Orazietti responded that there would be no martini glass.

Comm. Sylvester commented that he did not think they should hesitate that this sign isn't representative of a good establishment, because that old-fashioned sign, as it appears in the photo, represented a very renowned, upscale, white-collar establishment in the Valley. The Rapp's sign was a beacon for people to see coming down the street. It will add a touch of class to downtown.

Mr. Panico commented that it was important to be careful in the design of the signs that the retro look is not the Las Vegas look. Additionally, it needs to be properly positioned on the building so it won't visually obstruct or hinder emergency access. Those are the two most important issues.

**On a motion made by Chris Jones seconded by Ruth Parkins, it was unanimously voted to approve Separate #4164 with modifications to signage to be approved by Staff.**

#### **SEPARATE #4156, LOU KATHRAKIS, 702 BPT. AVE., SIGN**

Mr. Schultz stated that this was for the salon, Salon S, at Split Rock that the Commission approved for the use. He showed the Commission a photo of the proposed signage and indicated that it was consistent with all the other signs.

**On a motion made by Virginia Harger seconded by Ruth Parkins, it was unanimously voted to approve Separate #4156.**

#### **SEPARATE #TD BANK, 828 BPT. AVE., SIGN**

Mr. Schultz indicated that this was for the old Commerce Bank. He showed the Commission a photo of the proposed ground sign, wall sign and directional sign.

Atty. Thomas added that he was present in case there were any questions about the status of the permit. This is a proposal to change the existing, temporary monument sign. The permanent monument sign, approved by this Commission,

had the Hotel Sierra, Commerce Bank and the option of the two restaurants. Apparently, from his communications, the restaurants don't need to be on it.

Atty Thomas indicated that he put the new TD Bank people in contact with the Hotel Sierra people because they want to be on the same page about the monument sign; it is going to be an expensive sign. Unfortunately, they didn't get the proposed permanent signage done for this meeting. They will have to file another application when they do it.

Mr. Panico asked if he was just asking for a change to the temporary signage.

Atty. Thomas responded that was correct. It would be a change to that first sign seen right in front. It is resting on the footing where the permanent sign will eventually go.

**On a motion made by Patrick Lapera seconded by Ruth Parkins, it was unanimously voted to approve Separate #4158 to change the name on the temporary signage.**

**APPLICATION #08-14, SPORTS CENTER OF CT FOR MAJOR MODIFICATION OF DETAILED DEVELOPMENT PLANS FOR PDD #30 (VIDEO ARCADE ADDITION), AND CAM SITE PLAN, 784 RIVER ROAD (MAP 12, LOTS 37 AND 38), (PUBLIC HEARING CLOSED ON 7/15/08) – DISCUSSION AND POSSIBLE ACTION**

Mr. Schultz stated for those not present at the August meeting, this discussion was tabled because so many Commissioners were absent. As everyone knows, parking is a critical issue. Although they previously approved this addition, they had another public hearing on it. This parking issue is in the forefront.

Additionally, today, they received a less than favorable recommendation from the Coastal Area Management. They aren't happy with the pedestrian path that goes down to the River. However, they received a nice letter from the Trails Committee. Staff hasn't had an opportunity to speak to the Applicant about this CAM issue, and they'd like to work more on the onsite parking issue.

Mr. Schultz stated that he asked the Applicant to provide an extension. The applicant's representative, Joe Mingoello, Mingoello & Hayes, requests an extension on this pending application because the review period ends in the next week.

**Joe Mingoello, Mingoello & Hayes, addressed the Commission.** Mr. Mingoello stated that they would like an opportunity to share the revisions made to last month's presentation with Staff. It was revised for various reasons and they would like to share those reasons with Staff as well.

**On a motion made by Leon Sylvester seconded by Virginia Harger, it was unanimously voted to approve a 65-day extension period for Application #08-14.**

Comm. Sylvester commented that he wasn't at the last meeting, but he heard the presentation made in June. He asked what has changed since then.

Mr. Panico responded that at the last meeting there was concern expressed about the adequacy of parking. At the time of that discussion, the Commissioners present wanted to table it to get a more concrete resolution. He indicated that he prepared a revision to his report but now that proposal isn't workable for them.

Mr. Schultz commented that the letter from the State requests that they work with the Applicant to provide better pedestrian access than what exists to the Housatonic River.

Comm. Sylvester responded that it was a good access, practically a driveway with woodchips.

Mr. Panico stated that the issue was with the grade of it and the fact that it stops abruptly 50 feet from the River. They also made comments about lack of reserve parking spaces. But all these things can be worked out.

Comm. Sylvester commented that he thought they did it on their own.

Mr. Panico responded that it was part of the conditional approval 3 or 4 years ago for the Coastal Area Management request.

**On a motion made by Patrick Lapera seconded by Virginia Harger, it was unanimously voted to approve a 65-day extension of the review period for Application #08-19.**

**APPLICATION #08-19, BROADBRIDGE HILL DEVELOPMENT, LLC FOR SITE PLAN APPROVAL (COMMERCIAL BUILDING), BRIDGEPORT AVENUE (MAP 105, LOT 163), CB-2 DISTRICT – REQUEST FOR EXTENSION ON REVIEW PERIOD (APPLICANT INITIATED).**

Mr. Schultz indicated that this was the old Petro property. They went before ZBA, and the Commission appealed that. In the meantime, they've submitted this for a single story commercial building. Staff met with them last week to tell them that the design was unacceptable, and Staff is advising the Commission to look unfavorably on it. He is going back before the ZBA to get relief from the resident setback. The property is in a predominantly commercial zone and the back is residential. There is a 40 foot setback from the resident district.

Comm. Sylvester asked about the appeal they had on this.

Mr. Schultz responded that was for the 2-story mixed use. He came in separately for a single-story, commercial, as of right. He's abandoned the 2-story.

Chairman Pogoda added that they have a case pending with the back portion where the condos were. Mr. Schultz stated that if he wins, he'll come back; if he loses, he'll proceed with the single-story commercial building. It's all about parking and the configuration.

Mr. Panico commented that the spaces were there, but it's the tightness of the circulation. The only way to do it would be to push the buildings back another 10 feet or so; however, it's right up against his required setback in the back. Behind the building there was going to be another 40 feet of residential land that he wasn't able to use for parking or anything. So Staff suggested that it was more important to have a workable parking arrangement down in front as opposed to having 40 feet instead of 30 feet in the back. The Applicant agreed and indicated he would go back to the ZBA to get some relief from that setback. That's where it was left off, unless something has changed.

Mr. Schultz stated that if he's rejected by ZBA, he'll have to go back and scale down the building. Staff is not going to recommend something without workable parking.

Mr. Panico commented that it cannot be off site parking on Center Street – so it has to work.

### **NEW BUSINESS**

**APPLICATION #08-20, OEM CONTROLS, INC. FOR MODIFICATION OF SITE PLAN APPROVAL (BUILDING ADDITION AND PARKING RECONFIGURATION), 20 CONTROLS DRIVE (MAP 40, LOT 22), LIP DISTRICT – ACCEPT FOR REVIEW.**

**On a motion made by Chris Jones seconded by Patrick Laperera, it was unanimously voted to accept Application #08-20 for review.**

**APPLICATION #08-21, DOMINICK J. THOMAS JR. FOR FINAL SITE DEVELOPMENT AND SUBDIVISION APPROVAL FOR PDD #68 (MEADOW VIEW CLUSTER RESIDENTIAL), BUDDINGTON ROAD (MAP 62, LOT 31) ACCEPT FOR REVIEW**

**On a motion made by Virginia Harger seconded by Chris Jones, it was unanimously voted to accept Application #08-21 for review.**

**APPLICATION #08-22, WILLIAM HODOSI FOR SITE PLAN APPROVAL (AUTOBODY REPAIR FACILITY), 803 RIVER ROAD (MAP 12, LOT 27), CB-2 DISTRICT – ACCEPT FOR REVIEW)**

**On a motion made by Chris Jones seconded by Leon Sylvester, it was unanimously voted to accept Application #08-22.**

### **PUBLIC PORTION**

Chairman Pogoda asked if there was anyone in the audience wishing to address the Commission on any item not on the agenda.

**On a motion made by Virginia Harger seconded by Chris Jones, it was unanimously voted to close the Public portion of the meeting.**

### **APPROVAL OF THE MINUTES**

**On a motion made by Ruth Parkins seconded by Thomas McGorty (alternate for Patrick Laperera on 8/5/08), it was unanimously voted to approve the minutes of 7/15/08 and 8/5/08. Comm. Laperera and Comm. Sylvester abstained from voting.**

### **ZONING ENFORCEMENT**

1. 1 HILLSIDE AVENUE (JUNKYARD CONDITIONS)
2. 49 MAPLE LANE (JUNKYARD CONDITIONS)

Mr. Schultz advised the Commission members that Staff goes through 3 steps – informal contact to work with Staff, Notice of Violation and then the Cease & Desist Order. The City Sheriff has issued notices to 1 & 2. He added that there has been no cooperation at this point and the neighbors have been complaining.

**On a motion made by Virginia Harger seconded by Patrick Laperera, it was unanimously voted to authorize legal action for zoning enforcement of properties located at 1 Hillside Avenue and 49 Maple Lane due to junkyard conditions.**

## **RELOCATION OF EXISTING CANOE & FISHING ACCESS AREA AT SHELTON HYDROELECTRIC FACILITY – DISCUSSION AND RECOMMENDATION**

Mr. Schultz stated that Mayor's Office sent them a notice to please review the enclosed plan from McCallum Enterprises Ltd. Partnership. A request was sent to the Federal Energy Regulatory Commission to relocate the existing fishing and canoe portage on the Shelton side of the dam to an area immediately adjacent to the main outer gate and boat lock. He showed the Commission a location map and read a letter from the Citizen's Advisory Board. He indicated that the highlighted area on the map shows where they would like to relocate it to. They want it closer to the Lock.

Comm. Sylvester commented that access to that site is not in question because it is part of the approval and they are bound for access. He couldn't recall if there was any attempt on the Commission's part to have them designate a specific area. He was sorry about that because after the fact, where they designated, is OK.

Comm. Lopera asked who picked that spot?

Comm. Sylvester responded that they designated it. The Commission at the time, about 25-30 years ago, fought for two things. First of all, they really didn't want the plant there. They tried to get a fish ladder. The State, at that time, came down and said that there was not enough significant species coming up from the Sound to require a fish ladder. But that was because of the pollution in the River. So they didn't get the fish ladder but they did get the designation of access for fisherman to go there.

He didn't recall that they required any specific location; Mr. McCallum designated an area where they could not go – on the cement platform that had access to the power plant. For 30 years, everything else has been open to the local fishermen. So there isn't one designated area. They've been using it from the Shelton boat locks all the way up. He reminded them that access from the roadway down to River at the boat locks is almost impossible for anyone who is physically impaired and just plain difficult for anyone else.

Comm. Sylvester concluded that he would be against any area being specified as the only area that could be used to access the water. It was never done before, and it shouldn't be done now.

Comm. Lopera asked if the original approval stated that fishing was allowed anywhere but the power plant.

Comm. Sylvester responded that he came after it was built, and it may be in the old minutes, that he did designate an area right around the facility itself that was not accessible. It made sense because it was right around the power plant, and it was not a problem. That was the only time he could recall that any limitations were addressed.

Comm. Parkins asked if that was part of the FERC approval as well or just a condition of P&Z approval. Mr. Schultz responded that it was just P&Z.

Comm. Sylvester responded that it was P&Z, but he didn't know if it was part of the FERC approval.

Mr. Panico commented that this would not have had a CAM report.

Comm. Lopera indicated that if this was a power plant, it would have had federal government conditions.

Mr. Panico responded yes, but the Commission was not part of that process.

Chairman Pogoda asked Rick if there was a reason why, at this time, they are requesting this canoe/fish use be relocated.

Mr. Schultz stated that he had a letter from the Citizen's Advisory Board that investigated a lot and they wanted to share this with the Commission. He read the letter indicating that it was addressed to Kimberly Bose, Secretary, Federal Energy Regulatory Commission.

**\*See attached letter from James F. Oram to K. Bose, Secretary, Federal Energy Regulatory Commission.**

Comm. Sylvester reiterated that having had been part of this from the beginning, he's thankful that they had the guidance to keep this area available for over 25 – 30 years and he sees no reason for them to change it unless they are forced to.

Chairman Pogoda agreed with Comm. Sylvester and the points made in the Citizen's Advisory letter. He asked for a motion to report unfavorable on this issue.

Mr. Schultz responded that he would state the reasons for supporting unfavorably include the Citizen's Advisory Board letter and the fact that the City has enjoyed the existing location for 25 – 30 years. Additionally, the site is consistent with the comprehensive plan of development.

**On a motion made Leon Sylvester seconded by Patrick Lopera, it was unanimously voted to report unfavorably in regard to the relocation of the existing canoe and fishing access area at the Shelton Hydroelectric Facility.**

#### **PAYMENT OF BILLS**

**On a motion made by Patrick Lopera seconded by Virginia Harger, it was unanimously voted to pay bills, if funds are available.**

#### **STAFF REPORT**

##### **ZBA: 811 RIVER ROAD**

**\*See attached Sept. '08 Planning & Zoning Staff Report**

The Zoning Board of Appeals granted a variance at their 8/8 meeting relative to 811 River Road to allow an electronic message board for the car wash business. He referenced the conditions of approval attached to the report. The ZBA found that there was a financial hardship and that's inconsistent with State laws. This electronic sign was previously denied unanimously by this Board. The 15-day appeal period expires on 9/11/08; the Commission has to make a decision tonight if they wish to challenge this variance.

Chairman Pogoda commented that he saw no hardship, in the true definition, it's not applicable here. As Rick says, they have to make a decision about this appeal, and if they want the ZBA to continue to overturn their decisions based on P&Z regs, or if they should just let this go. He asked for comments from the other Commissioners.

Comm. Harger asked if the Applicant explained the terms of the hardship.

Chairman Pogoda responded that he didn't know if he told ZBA, but he didn't mention anything during his discussion with us. He was not denied a sign to show for his business. He added that he didn't understand how not having one sign is a hardship over not having another sign.

Comm. Harger asked if they did oil changes there.

Mr. Schultz responded that they always have done them there.

Comm. Lopera commented that he still has an issue with the reversal of one Board by another Board. He has some questions in his mind about how that works, and he'd like to take a look at that some more. If another Board can continually reverse the decisions made here, then they will continually get people bypassing them to go somewhere else for a decision before they come back here. He indicated that he had some real concerns about this.

Comm. Lopera stated that the question was whether they should continue to expend resources and funds for this sign. The Applicant initially came in for a blinking, scrolling electronic sign. The ZBA has given him a non-blinking, non-scrolling sign with minimal message changes.

Mr. Panico responded that he can change that every minute and scroll it.

Comm. Lopera commented that it doesn't necessarily scroll – one message fades out and another one goes in – it's not rolling up and down.

Comm. Parkins added that it was more like a long, delayed blink.

Comm. Lopera read the ZBA approval that "it shall not blink, flash, or scroll," and the message can't change for one full minute. So if it scrolls, it's a violation of the approval.

Mr. Panico asked how they define scroll – a change from one message to another?

Comm. Lopera responded that a scroll has a message going up and down or across. Comm. Parkins added that a scroll was a moving, continuous message like HAPPY BIRTHDAY JOE HAPPY BIRTHDAY JOE up and down or across.

Comm. Lopera commented that as long as that's the case, he stated that he wasn't so predisposed to drive this into more and more oblivion. Hopefully, when they have some sign regulations in place it will put this all to bed with some kind of uniformity in the regulations. Personally, he did want to continue with this battle.

Comm. Jones agreed that they already have two going, it's getting redundant, especially if people are continually going to go right to ZBA to shoot down decisions.

Comm. Parkins commented that she hoped that the ZBA was viewing these on a one-on-one basis, but it could be that they were convinced in this case, because there is a similar sign across the street at the Sports Center. However, she disagreed that this poses as a hardship for him in any way, shape, or form. He's been in business there for years doing car washes and oil changes, and everyone knows it, so it doesn't create a hardship in her estimation.

Comm. McGorty responded that the uses are significantly different for the Sports Center. It's an entertainment business, like a movie theater, where the most current information needs to be there. Everyone knows what's happening at a

car wash all the time. He added that he didn't understand the financial hardship that it would create either.

Comm. Jones commented that even though it was a PDD, giving the sign to the Sports Center opened a Pandora's Box.

Mr. Panico agreed with Comm. McGorty's comments that the Sports Center is an entertainment facility where the events change periodically, and the sign allows them to notify to the public of those changes. That's different from a business rendering services like oil changes and car washes, etc.

Comm. Sylvester agreed with that point as appealing a lot to him, because entertainment and car wash are significantly different uses. It's a good point to make if they vote to appeal it.

Mr. Panico referenced a very distracting, scrolling electronic sign on North Frontage Road in New Haven, getting off of Rt. 34 heading toward the Valley. There's a Walgreen's on the corner with a red sign that changes every 30 seconds. It's not a scrolling sign but it changes its message quickly.

Comm. Sylvester asked about the ZBA approval stating that there were other signs throughout the community. He didn't know of any others besides the Sports Center.

Mr. Schultz responded that the Sports Center is the only one.

Comm. Sylvester responded that was the rationale they used. Comm. Parkins added that was the case presented by the Applicant.

Chairman Pogoda pointed out that even with all the different kinds of signage, on the Boston Post Road in Milford with phone numbers and everything else, they don't have any scrolling signs.

Comm. Jones commented that this Applicant has a phone number on his sign – he asked if he was authorized to put a big phone number on it.

Chairman Pogoda responded no.

Mr. Schultz responded that he just advised the Chairman that if he decides not to proceed, he would ask the Commission to direct Staff to contact the Applicant. Staff would direct the Applicant to submit an application explaining the details of what he intends to do and what the variance will allow.

Mr. Panico commented that when it comes to whether or not there's a telephone number, that is usually something they persuade the Applicant to do. If push comes to shove, and it could be argued legally, that they have no right to prevent the phone number from being there because it is part of the content of the sign. The statute specifically prohibits them from ruling on content; however, most of the time, they've had understanding applicants who want to cooperate with the Commission. By basic statute, however, they aren't really allowed to say anything about color and content.

Chairman Pogoda asked for a consensus from the Commission as to how they should proceed – should they appeal the decision, or let it ride and direct Staff to have the Applicant bring in the details of what he intends to do on this sign.

Mr. Panico clarified that they could work with him within the guidelines that the ZBA have established in implementing their permit. They've issued restrictions that they expect somebody else to follow up on.

Comm. Parkins stated that if they denied his sign and he went to ZBA, then it's out of P&Z's hands, so how can they alter anything.

Mr. Schultz responded that they have to come back to do an application and get a permit.

Mr. Panico indicated that his understanding was that the Applicant went to ZBA to appeal the reasoning for P&Z denying it. The ZBA gave him a variance, but he still has to come back and get a permit.

Mr. Panico suggested that some of the future controversy with ZBA could be overcome by changing the procedure by which they approve signs and other permits as well. Right now, the Commission acts as the approving agency, and going to the ZBA is an applicant's only source of appeal. If they change that administrative function, as most communities do, where the zoning enforcement officer/planning administrator issues the yes/no on the permit, then, if there is a dispute, it can be brought to this table. The P&Z Commission can become the appeal to that provision. If they are unhappy with the P&Z Commission, the applicant must go to court and not running off to the Zoning Board of Appeals.

Comm. Sylvester asked why they couldn't go to the Zoning Board of Appeals after that.

Mr. Panico responded that they couldn't as long as they provided an appeals source through from the Staff person to the P&Z Commission.

Comm. Sylvester commented that he was about 25 years late in saying that.

Mr. Panico responded that this Commission got burned many, many years ago when zoning permits were issued in inappropriate circumstances and they got so fed up that they wanted to see every permit before it is issued.

He added that he thinks Staff has a much higher professional level now and they should be given the opportunity to process at least 90% of the permits. There will still be controversial applications.

Comm. Sylvester stated that his vote would go with the Chairman; because since it's between two boards he thought the Chairman should decide. He could go either way on it.

Comm. Jones stated that (inaudible) but he would like to sit down with the Chairman of the ZBA.

Chairman Pogoda responded that he already talked to Rick about having a meeting with Jerry on this. He asked Comm. Harger how she felt about it.

Comm. Harger responded that she wanted to appeal it and take it to court.

Comm. Parkins responded that she thought with a stipulation it's not worth taking it to court.

Comm. Lapera was still uncertain about taking it to court but he was uncertain that this was the right venue so he said no appeal.

Chairman Pogoda commented that they keep belaboring this and taking people to court and utilizing funds. As Rick stated, if they can bring the Applicant back and find out what he intends to do with this sign, they could possibly get something resolved. He said that he plans to talk to the ZBA Chairman.

He agreed with the point brought up this evening to get away from these signs. He liked Tony's proposal of bringing them to Staff and having them be the appeal board. Saving this from going to the ZBA would be a great first step.

Mr. Panico stated that it also avoids another potential circumstance that they haven't been hit with yet, but they had one tonight. A site plan was approved a few meetings back and tonight the permit was approved. The action of approving that permit could be appealed. So for anyone having blown their opportunity to appeal the site plan (15-day), they have an opportunity for another 15 days to appeal the permit. It exposes an applicant to double jeopardy. The Commission's job is done when the site plan is approved; the rest is administrative.

Chairman Pogoda concluded that he'd let the other Commission members informed as to how it goes with the ZBA Chairman.

#### ZONING REGULATIONS

Mr. Schultz indicated that Staff has started drafting amendments to zoning regulations regarding applications for Certificates of Zoning Compliance. Staff also recommends that the Commission adopt a policy for the process of application for new residential construction on individual lots. He referenced a draft resolution that he distributed to all the Commissioners. Corporation Counsel has recommended that this be done now while they are rewriting how they process the Certificates of Zoning Compliance.

Mr. Schultz stated that Staff recommends that they have a mandatory referral to the City Engineer's Office for all new single family dwellings on individual lots. The purpose is to review drainage, driveway location, public safety issues, etc.

He read the draft resolution. He noted that they already mandate an engineering site plan review for all new subdivisions. Now they are going to do it for all lots - pre-existing non-conforming lots and new lots.

In regard to the timeframe for the City Engineer's review, he commented that Corporation Counsel did not want to state a specific time, like 14 days or 30 days, just a reasonable period of time. Applications will be referred to the Commission if they aren't completed in a reasonable period of time. The Commission has the ability to override if the City Engineer hasn't acted on it.

He indicated that Staff would advise the Commission if they needed to override an application. The Commission has the ability to override it and hire an outside engineer, such as Mr. Panico, or override it if the site is relatively minor in nature.

Comm. Sylvester asked for clarification as to what this was accomplishing.

Mr. Schultz responded that there are presently no mechanisms in the regulations requiring a referral from the City Engineer on new single family constructions.

Comm. Sylvester asked if they have been going to him anyway though.

Mr. Schultz responded that they have been, on and off, since 1979, but it has never been officially adopted in a resolution. Now, they have an attorney who states that this can't be done because the regulations don't say it.

Comm. Sylvester asked if this was a change of a procedure.

Mr. Schultz responded that the regs say that can't establish procedures as policy; it was never done officially.

Comm. Lopera responded that it was a formalization of the procedures.

Mr. Panico added that it handles pre-existing lots that sometimes fall through the cracks.

Mr. Schultz stated that they do it for all new subdivisions as a condition of approval. So it really addresses all the lots including pre-existing, non-conforming lots.

Mr. Panico added that those are the ones that need it the most, the pre-existing, nonconforming, such as Pine Rock.

Comm. Sylvester asked if they haven't been doing that?

Mr. Schultz responded yes, but there have also been some delays in the Engineering Dept and applicants have come before this board stating that the regulations don't spell it out.

Comm. Sylvester asked if this was pointing at the City Engineer's response time?

Mr. Schultz responded that in part, it was, because there have been some delays.

Chairman Pogoda informed Comm. Sylvester about issues brought to the Commission by Atty. Bellis at the last meeting, when he was on vacation.

Comm. Sylvester indicated that he didn't want to get involved with any retaliation against the City Engineer.

Chairman Pogoda indicated that this resolution would clarify this procedure until they rewrite the regulations.

Mr. Schultz stated that if anything goes to court, a judge will tell them to write down the way it is done and adopt it.

Comm. Sylvester stated that he did not want the City Engineer intimidated because somebody is unhappy with his response time. He didn't know how it came about and he was concerned that it may be vindictive.

Comm. Lopera indicated that this codifies what they have, because if they have nothing that requires the City Engineer to look at it, then Applicant can bypass the City Engineer. This says to the applicant of all the other lots, as it already does with subdivision applicants, that they have to go to the City Engineer for a review.

Mr. Schultz stated that Staff considers this to be long overdue and Corporation Counsel has reviewed this. He indicated that he would be putting this Legal in on Thursday, so it will be effective on Friday at 9:00 a.m.

**On a motion made by Patrick Lopera seconded by Ruth Parkins, it was unanimously roll call voted to approve a draft policy that will be adopted to process applications for new residential construction on individual lots to be effective on September 12, 2008.**

#### **Downtown Subcommittee**

Mr. Schultz indicated that the last DSC meeting was held on 8/2/08 with much of the discussion concerning the extension of the Riverwalk, the STC, and the plans for the temporary closure of Wooster and Canal Streets.

He relayed that the STC was requiring the developer of the Canal Street buildings (Primrose) and the City of Shelton to do all the work while the road is temporarily closed. They don't want the public coming down Howe to Wooster or coming over from Derby using Canal Street. The City of Shelton has to do underground utilities, sidewalks on both sides; the developer has to partially fill in that canal, put in new parking and work very close to the right of way. The STC approved this but with the stipulation of closing down the road. They project it will take two years beginning April '09.

Comm. Jones asked what would happen if this Canal Street project is sold to a bigger development. Mr. Schultz responded that it gets transferred; there are mechanisms in place when the property changes ownership.

Mr. Panico responded that they've been concerned that was probably in the works because they recognized the professionals who participated in preparing the final plans. It was obvious that was the direction that they were probably going in.

### **McCallum Enterprises**

Mr. Schultz confirmed that the ongoing discussions with McCallum and the Mayor's Office have ended. There is no resolution on the purchase of development rights as a way to preserve this property. Accordingly, Staff recommends that the Commission proceed with the new public hearing on the proposed zone change from R4 to R1. This matter will also be reviewed by the Zoning Subcommittee.

**On a motion made by Virginia Harger seconded by Patrick Lopera, it was unanimously voted to schedule a 10/28/08 public hearing to discuss the rezoning of the McCallum/Riverview Park properties from R4 to R1 and to direct Staff to make the necessary referrals.**

### **8-24 REFERRAL: FLOATING BOAT DOCK AT SUNNYSIDE**

**On a motion made by Virginia Harger seconded by Ruth Parkins, it was unanimously voted to add the agenda item concerning an 8-24 Referral for a floating boat dock proposal at Sunnyside.**

Mr. Schultz stated that the Shelton Parks and Rec. Dept. was currently proposing construction of a floating dock to the existing Sunnyside Boat Ramp at 418 River Road. This is the only public boat launch available to the Housatonic River in Shelton providing access to Long Island Sound.

He explained that the floating dock would consist of an 8' x 3' floating ramp connecting to a 90 foot long floating dock anchored by four pylons. Pavement rehabilitation to the existing area would also be necessary. It would benefit the City by reducing potential liability to the City. Additionally, it would eliminate the permit holders from having to dock their boats on the asphalt ramp; therefore limiting damage. Also, it would attract more public use and generate more income for the City. Inland Wetlands has already provided their approval for this approval. He showed some photos to the Commission providing examples of what the dock would look like.

Comm. Sylvester added that it's for unloading/loading; it's much safer. It's a great idea and long overdue.

**On a motion made by Chris Jones seconded by Leon Sylvester, it was unanimously voted to report favorably for a floating boat dock at Sunnyside.**

Comm. Jones submitted a letter to the Commission from Mr. & Mrs. Luckachina at 48 Longmeadow Road, regarding a dispute with their neighbors. He received it and wanted to submit it to Mr. Schultz for the record.

**On a motion made by Virginia Harger seconded by Patrick Lopera, it was unanimously voted to adjourn at 8:48 p.m.**

Respectfully Submitted,

*Karin Tuke*