

Board of Zoning Appeals – Hearing Room, Municipal Building 54 Hill Street, Shelton, CT.
Tuesday, October 18, 2011 at 7:30pm

AGENDA:

- #811-1 Joe Pereira at 500 Shelton Avenue
- #811-2 Nancy & George Berntsen at 1017 Howe Avenue, Lot 22
- #811-3 Nancy & George Berntsen at 1017 Howe Avenue, Lot 22A
- #1011-1 Joanna Diorio at 55 Oronoque Trail
- #1011-2 David & Louisa Dunn at 52 Patricia Drive

Possible Decision on:

- #711-3 Stephen Zuber at 2 Federal Road

Mr. Glover: Good evening ladies and gentlemen and welcome to the October meeting of the Zoning Board of Appeals. If you have a cell phone would you either put it on vibrate or turn it off. We meet monthly to consider variances and appeals. When you testify, when you speak to the Board it's a hearing, you're giving testimony which we record. Later on in the month it is transcribed and it becomes the permanent record of the Board. The very sophisticated equipment that we have here picks up a lot of noise from the room, so if you're going to have any conversations, take them out into the hall so it doesn't corrupt the record, which ultimately could hurt all of us. Um, with us tonight is Commissioner Linda Adanti, our Clerk, Lori Michalak. I'm Gerry Glover, Commissioner Jones, Commissioner Conklin and Commissioner Cavallaro. Our regulations state that you will have notified your abutting neighbors and that you will supply us with four pictures of your house or property and that one of those pictures will show the yellow placard in the picture. That's a requirement, so if you have them we can go on with the hearing tonight. If you don't have them we'll be happy to continue it until next month when you can conform to the regulation.

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

Mr. Glover: Alright, I'm in receipt as of today at 4:58 of the following message.

Mr. Jones read email: "Rick, on behalf of Peoples United Bank, I hereby request to withdraw the pending ZBA application."

Mr. Glover: So, application 811-1 has been withdrawn. If you're here for that hearing you don't have to stay because we won't be doing anything with it.

#811-2 1017 Howe Avenue, Proposed Lot 22, Nancy and George Berntsen of 1017 Howe Avenue, Shelton, CT are seeking to waive Section 5.25, Article 5 by varying the minimum contiguous building area from 30,000 sq. ft. to 17,000 +/- sq. ft. for a proposed lot with the applicants' existing one family home.
1017 Howe Avenue, Proposed Lot 22A, Nancy and George Berntsen of 1017 Howe Avenue, Shelton, CT are seeking to waive Section 5.25, Article 5 by varying the minimum contiguous building area from 30,000 sq. ft. to 14,000 +/- sq. ft. for a proposed lot.

Mr. Glover: alright, this is a continued hearing, so we have already received the notification of the neighbors and we've already received the pictures. Can you please identify yourselves for the record?

Atty. Thomas: Attorney Dominick Thomas, Cohen and Thomas, 315 Main Street, Derby, CT, representing the applicant.

Mr. Berntsen: George Berntsen, 1017 Howe Avenue

Mrs. Berntsen: Nancy Berntsen 1017 Howe Avenue

Mr. Glover: We continued this hearing Dominick, because you were going to go talk to the Planning and Zoning Commission

Atty. Thomas: which we made, in fact that's why I brought this stuff, this is the presentation we made to Planning and Zoning at the meeting last Tuesday. And I've received a copy, I know that there was a revised report

Mr. Glover: We have a letter, we can read it into the record.

Mr. Jones read letter: "To: Gerald Glover, Chairman, Board of Zoning Appeals. From: Richard D. Schultz, Planning and Zoning Administrator. Date: October 18, 2011. RE: ZBA Applications #811-2 and #811-3. The Shelton Planning and Zoning Commission at their October 11, 2011 meeting revisited pending ZBA Applications #811-2 and #811-3 for the proposed split of property into two lots (lots 22 and 22A) located at 1017 Howe Avenue. After discussion and review of the application with the applicant and their professional representatives, the Commission noted the following: 1. The Commission determined that the two lot subdivision could be designed in a manner which meets the intent of Section 5.25. 2. It was clearly demonstrated that the development of the subject property will not require the clear cutting of forest land visible from the Housatonic River. The Housatonic Greenway will not be impacted by this subdivision and the property owner has agreed to a conservation easement to protect this area in perpetuity. 3. The Commission now believes that the proposed building areas are reasonable in this instance and will not have a negative impact on the public health, safety, welfare and property values on this neighborhood. 4. The Commission recommends that if the Zoning Board of Appeals should look favorable on these applications it should note that the applicant will submit a subdivision application to the Planning and Zoning Commission and provide a conservation easement area on a certain portion of the property subject to acceptance by the City."

Mr. Glover: Go ahead

Atty. Thomas: Obviously after the report, one of the things that was of concern to us with the prior report, is that my clients had actually, and I'm not going to go into the details, had spoken to Planning and Zoning some years ago when they were going through the process as we talked about, of purchasing the excess right of way and then in addition to that, as we told you there was a gas line found actually on their property, right adjacent to it and they were communicating with the gas company. At that point they went to Planning and Zoning because they had more than enough property with the purchase to build a three lot subdivision, but as I said, that point that they were told "whoa, we have a slope requirements" because again, as I said you can't find the slope requirements if you go into Schedule B. You have to go, I solved the mystery of 5.17 versus 5.25, 5.17 was what that number was in 1997 and it obviously, they changed

Mr. Glover: Mine is 5.25

Atty. Thomas: Yeah, right, and they changed it. So anyway, at that point they spoke to people at Planning and Zoning, including Rick who indicated that in looking at the size of it and everything else, that they felt a two lot subdivision would be appropriate and there would be a variance needed. Since that time obviously there was a lot else that had to be done in negotiations. So we made the presentation to Planning and Zoning and in it, you've already, although Commissioner Jones wasn't here, I think everybody else was here, and we have the you know, obviously the, the map that we presented to you, you have the larger version of it. I do have a, a couple extra smaller copies if you want to pass them around. I passed them around last time.

Mr. Glover: Why don't you give the small one to Commissioner Jones because he hasn't seen it.

Atty. Thomas: And one of the highlights, and we had some discussions with Planning and Zoning Staff, okay, one of the things we highlighted on that map, the circles that are here are the fact that in this upper area there is between the toe of the slope or the buffer, there's only a 6 foot area. And we were pointing out how level it was up there. And then of course this map, which again, again, this is the area that they purchased to add to their property to increase the size of their property from the 2.41 acres to the 3 point something acres that it is now. And what we did is, and we had the engineer at the presentation, we went out to, to illustrate to, we showed photographs of it. Based on that map this is the area where the addition would be, as you can see it's, if anybody put an addition, the addition would be within zoning requirements. Alan Shepard couldn't be at the meeting, but he wanted to be in the picture, he sent Mike O'Bymachow instead and Alan is standing at the front corner of the house, and was pointing out that basically the house goes in that direction. This area here being the old Howe Avenue, Route 110 road bed, you know, that was, somebody was estimating that it was changed back around the 50's somewhere, in around the 50's. And this was the area that they purchased. There's this natural buffer which we represent we have no intention, in fact my clients are leaning toward

relocating their house there, and have no intention of taking it down obviously. But that's not what they were concerned about the cutting. The cutting they were concerned about is what's on the slope going, going down. And what they actually did is they prepared, and this was prepared awhile ago, a model of the area with the various things. And Alan Shepard located the house for them. So the area that was concern for the conservation easement is once it drops off, the forest that's down there. I pointed out to the Planning and Zoning Commission, Alan said to me if you wanted to cut it, it would cost you an arm and a leg to get anybody down there to cut that slope. They have no intention. They've agreed to a conservation easement subject in these situations to the normal conditions which would be the removal of dead trees and any invasive species, but no clear cutting of any of the trees over a certain size, whatever the Commission, Planning and Zoning Commission, wants. The other reference that they have is that this property may very well be a free-split. My clients agreed with the Planning and Zoning Commission that they would waive their free-split and go in there with a subdivision so the Planning and Zoning could have a record subdivision map with these notes on the record subdivision map. We then showed them, you know, the area of the house, the tree line, how far it was, the septic area which has been tested and I think, has it been retested?

Mrs. Berntsen: Not yet, we're waiting

Atty. Thomas: We're waiting, but it's been tested, passed once and it's got to do again because of the time limit. This is, these are pictures of the buffered area and this is the view, which was interesting to the Commission in that, before the leaves have fallen off the trees and I didn't take that good a picture, but just standing in the general vicinity of the house, you can actually see the Housatonic River. And in fact as you walked up and down, you could actually see the traffic on Route 34 on the other side. So it really isn't anything where anybody would, you know, need to, for once the leaves fall off the trees obviously you have a clear view, but we agreed to protect it with a conservation easement, which

Mr. Conklin: That line you have on that (unclear) picture, is that supposed to represent about where the, is that a black line

Atty. Thomas: No, no, that just says view. I didn't, the area where, what I did was tree line and the house, basically the house, as Alan said, the house is going to sit up really on I think it's, he said about a couple of feet into, you know into the, you know where it begins to drop off. But the first drop off down to the area of the, see in the rear of the house and the septic, is a relatively low drop-off, you know, to this area here. The tree line doesn't really begin until down here. That's where the tree line is and that's what I was trying to point out. It's hard to do it in a two dimensional picture like this, but the tree line, the Commission was concerned that the tree line was

Mr. Conklin: That was my concern

Atty. Thomas: Yeah, farther, how far away was the tree line from the house? Obviously in the location, in the exact location as Alan pointed out, in the exact location there's mainly brush and a few two inch or less you know, that would have to be cut down. And then when you look out forward from it, this buffers it from the street. There's no way anybody would want, my clients would never want to take it down, it would be impossible to imagine, but they weren't concerned about anybody doing it, people would want it. But you have instead of a, the point is the pressure on people in this situation and by the way, that other property was a pre-existing lot

Mr. Glover: Yeah

Atty. Thomas: Okay and the pressure when you look, look at that property is that it was built on this, you know on this kind of a thing, the house in the, and obviously they cleared in the back of the house to create some sort of a yard. And it looks to me as, it's hard to tell, it looks to me like they may have put some sort of a small retaining wall to create a yard. This case, the yard is this. They have an enormously large side yard and this is the yard. And it stretches all the way to where, and this doesn't do justice as to how big, obviously I doubt that somebody would do that, that whole thing. But it's a substantial area that goes out there. So what we feel we've done is we addressed all the concerns. I think the hardship still exists, I mean when you look at the size of the property, when you look at the application, especially when you look at the neighborhood and the application of this regulation to this property when you have all this flat area up here, that in fact the clients have a hardship. They are not in non-legal terms, being greedy, in other words they have enough for, they have enough land for three lots, but they're not looking for that. They're just looking for

a second lot which is something they anticipated and it's something that they took steps to purchase the excess right of way. They took steps to expand their property and we have what, they addressed the issues of Planning and Zoning. We agreed with the two conditions which one would be that we apply for a subdivision to the Planning and Zoning Commission and the second is that there be a conservation easement on the, what the Planning and Zoning Commission considers the Housatonic River Green, you know Greenbelt, which is the area of the forest as it runs down. I believe they felt confident they could define exactly what it is. That's why they wanted a subdivision map, because the subdivision map is obviously going to be much more detailed and they can require it. And then that conservation easement would be on the record, subdivision map, we have no doubt that the City would accept it obviously in this area here and it would be protected. And again we're here to answer any questions. I didn't bring Alan or Michael with me tonight, but I can respond to most of the questions.

Mr. Glover: Your house, what size is the house that you're, the blue house there?

Atty. Thomas: It's about the size of one of the small "Post Its."

Mrs. Berntsen: I can answer that

Mr. Berntsen: She knows the foot print

Mrs. Berntsen: I can answer that. The scale is one inch is 36 feet, this is 36 and this is 60, so it has to fit within that area.

Mr. Glover: I'm sorry, say that again?

Atty. Thomas: One inch equals 36, it's 36 x 60

Mr. Glover: Okay, so the house is no bigger than 36 x 30, by 60

Atty. Thomas: Yeah

Mr. Glover: Okay

Mrs. Berntsen: There's a little more room over here like if there was a deck or porch or something where it's level. But as far as the square, that's the biggest rectangle that you can put on there

Mr. Conklin: and is it a two story home?

Mrs. Berntsen: Yes

Mr. Glover: Alright, so there'd be no deck on the back of the house?

Atty. Thomas: No

Mrs. Berntsen: Well,

Atty. Thomas: I mean there could, there could be

Mrs. Berntsen: the surveyor, I mean, I'm sorry, the engineer, excuse me, should I speak?

Atty. Thomas: yeah

Mrs. Berntsen: The engineer said that there can be a deck, a small deck around the back, but it might not be necessary depending on the plan that may be fitting, you know like a, more like a cat walk thing

Mr. Glover: According to his, his drawing there that house is probably no more than 6 to 8 feet from the start of the bank

Atty. Thomas: Not, no no, not the steep, the real steep. This is, see this here this is, it's really hard to show this. This, in the septic area here, in this area here it slopes, obviously they couldn't do it here, it slopes a lot less, you know, up the top here. The septic area is

Mr. Glover: it's more gradual

Atty. Thomas: yeah, much more gradual, until it gets down to the tree line. And in fact, the first blush of the tree line it's still on a pretty level, but then all of a sudden it goes, you know, way down. So when it, the point was that you could have a walk-out basement in the back. You can have a little area, you're still in the level with your septic, you know what I mean? And that's it. Where the concern was of the Commission to impose the, the conservation easement was at the point where the tree line, which based on what Alan was saying or Mike O'Bymachow was saying, was that it is approximately down here.

Mr. Glover: Is this a model that the engineer made?

Atty. Thomas: No, it's a model that Mrs. Berntsen's father made

Mr. Glover: Okay

Mr. Berntsen: He used a topographical map and traced it on these pieces.

Atty. Thomas: But it was, we were just using it for illustration as to the, the height of it and you know the fact that it can be accomplished, and the fact that while people have a pressure for yard, we had no problem with the conservation easement because this has a side yard. And you know, this has plenty of room to have a substantially large yard if they wanted to put either a deck, off, you know if they wanted to have a wrap around deck you know, to sit out in the back, but on the side have a big deck, you know, they could easily go out the side with a big deck.

Mr. Glover: Still a single driveway?

Atty. Thomas: Uh, that's proposal, I mean that's subject to P&Z, but yes, the proposal, the initial proposal from the engineer would be to close this and create a common driveway here. We obviously, we have to deal with District 3 DOT because it's a State road. But I mean going down to the single driveway wouldn't be a problem at all. (unclear) well, Carmen's retired, I don't know who's up there now, but

Mr. Cavallaro: What's the speed limit over there, 35 or 40?

Mrs. Berntsen: 35

Mr. Berntsen: It's 35

Mr. Conklin: and it's probably 400 foot line of sight?

Mrs. Berntsen: that particular area also has a nice pull off. You can actually pull off to the side and traffic can still flow through

Mr. Cavallaro: DOT only goes by line of sight

Mrs. Berntsen: Oh, oh, I didn't, I didn't know what you were trying to address

Mr. Cavallaro: oncoming traffic

Atty. Thomas: Well I mean there's, you know, right now there's two cuts. So knocking it down from two cuts to one cut, I mean, DOT would, would love that. They would, that's what their preference would be, I, you know, basically that's the design that Alan has drawn up.

Mr. Glover: And we're talking city water to both houses?

Atty. Thomas: City water to both houses

Mr. Glover: and the possibility of natural gas?

several talking at once

Atty. Thomas: we had to move it so (unclear)

Mr. Berntsen: for whatever reason, it runs all the way up 110.

Atty. Thomas: and a gas, I mean, the sewer issue unfortunately is, I assume at some point there could be sewers there but there is a, what are they a, a high pressure line

Mr. Glover: That's what, that's what your testimony was last time

Atty. Thomas: Well, I

Mr. Glover: I think that there's probably

Atty. Thomas: Tony Panico was

Mr. Glover: I think there's a high pressure line that lifts it up to Meadow Street

Atty. Thomas: no, no, this takes it up to Housatonic Way, is that it?

Mr. Berntsen: Housatonic Rise

Atty. Thomas: Housatonic Rise

Mr. Glover: right

Atty. Thomas: Monty Blakeman's

Mrs. Berntsen: but from there

Mr. Glover: right but from there it goes

Atty. Thomas: Oh I'm sorry, it goes that way

Mr. Glover: and then it goes up over the hill to Meadow Street

Atty. Thomas: Yeah, we contacted the Blakemans to see if there, it could be connected to the sewer. But they did, obviously, you know, we're, they're subject to the Naugatuck Valley Health you know, testing and the prior testing that was done in 2005 passed.

Mrs. Berntsen: they did two different sets

Mr. Glover: What was, in your conversations with the Planning and Zoning Commission, what was the determining factor where they went from the Commission believes the two applications are inappropriate and not consistent with the intent of the regulation, to they're endorsing it?

Atty. Thomas: Generic versus specific. In other words, generically they looked at it, I don't know honestly what they had, I don't even know if they had a map in front of them at the time?

Mr. Glover: for the first letter?

Atty. Thomas: For the first letter, so they're whole point was if you were going to build a house there you're going to have to cut trees. You're going to have to cut the, you know, you're going to have to, you're going to cut trees down and you're going to destroy the greenway forest

Mr. Glover: so what you're saying is they, they were relying on assumptions and gut feelings

Atty. Thomas: exactly

Mr. Glover: basically

Atty. Thomas: They were relying on a generic application, a generic application, I mean, now can I tell you that anybody said to me that they referred to the other house, you know, the new house, some of them recalled the fact that they had, that a house had been approved in that location and that house, it seems clear to me that there must have been some cutting. Although, there's still, if you look at the back of that house there's still a substantial forest

Mr. Glover: There's a substantial forest, but there's a real drop from the back of that house

Atty. Thomas: right, I mean, there is a drop so I think that's the image they had. The thing that had the greatest impact upon them, is when they saw the detail that in fact, with the purchase of the State right of way, that there was an entire flat here that the house could be built on. That the house didn't even need to be built

Mr. Glover: on the slope

Atty. Thomas: on the slope, other than, you know, like Alan said maybe a few feet and you would still, you could still design like a walk-out basement if you wanted to do that where it caused that first little drop off, which is about 6 feet. Then it goes a down a little gradually, then you have the septic area, then the tree line and then badaboom. But that was their main thing. I think once they specifically saw it, number 1. Number 2, once they appreciated the fact and I mean I think one of them made a comment that they initially thought that if this were approved then there'd be a third lot, you know looking at the size of the property? Okay we got one lot, now we can get another

Mr. Glover: And that would never happen

Atty. Thomas: right, it would never happen, but I think they may have thought, because you have a substantially large piece of property

Mr. Glover: right, but you have a piece of property which requires 30,000 sq. ft. by their regulation and you have 31,000 sq. ft. and now you want to divide it into two and you, you almost have, your variance is almost 50% of what you need in the aggregate, okay? And if you were to go to a third lot, it'd be even more severe of a variance. And I've got enough problem with the, going from the required 60 to 30

Atty. Thomas: Well, yeah, but I think the other thing and they referred to it, the spirit. This doesn't you know, what their concern is with the slopes, this doesn't have those concerns. So that's why I think the reference in paragraph 1, reach the intent of, if the intent, you know there is, the intent is not to destroy the slopes and there's really nothing in this design that, with the protections that's going to destroy the slopes. When we go in there and again, the usual problem that you have in these situations is after the home is built and everything then, and sold, then one of the persons decides they want a larger area open and they go out there one Saturday morning with a Skill, Steele or whatever saw and they start taking down trees. You know, we've agreed, in fact what we talked about, we even talked about the fact that we wouldn't even, we would agree not to um, because they weren't concerned about the Berntsen's, they were concerned about if they sold to someone, that the conservation easement would not be posted on the trees, that they would use the white vinyl posts which are more noticeable than putting a sign on a tree and that kind of protection for it. Which also, I mean, not that there's anymore property developable but it also establishes the pattern if there is more there, then this is what we want to do.

Mr. Glover: It seems like, as a Commission, they're way out on a limb because there's a lot of marginal lots in this town that have to come under this regulation.

Atty. Thomas: I understand that and I think one of the issues was once they looked at this, once they took a good look at it and they saw that the construction was taking place on the flat area, there was not going to be a destruction of the slope, and then

Mr. Glover: I understand what you're saying. I understand what you're saying. We don't set a precedent. Nobody can, nobody can point to us and say well you did this, you let them do this. But it doesn't apply to them. You next week, can bring somebody else in with a, and point to them and say well you let them do it.

Atty. Thomas: That doesn't, that isn't going to work with them because they're not, they're not doing it. You're saying for Planning and Zoning,

Mr. Glover: They're saying we're going to let them do it

Atty. Thomas: well,

Mr. Glover: that we're going to endorse it

Atty. Thomas: Well,

Mr. Glover: No, I know they have to come here. But what they're saying is we'll

Atty. Thomas: Well, because they looked at the specifics of it

Mr. Glover: I understand

Atty. Thomas: I mean they're again, and I did address to them and I was very honest, I did address to them the fact that you know, some reference we, there's a term that some engineers use they call hidden or what is it, left turn regulations. You know when you can't find them unless you make a left turn, you know, and this is one of those regulations. And it's very common. You go, most people would go to Scheduled B. You go to Schedule B and there's no reference to it. One of the Commissioners did actually, you know, make a comment to the fact that there should be some reference to it so that people would know when they're purchasing property, I mean these are clients who took enormous steps to enhance the ability to have a second lot by buying additional property, and that fortunately that additional property is flat. And that's why the Commission I think felt it was

Mr. Glover: So, can, can we say that their hardship is topographical?

Atty. Thomas: Oh yes, certainly

Mr. Glover: Well, I mean if we cited topographical that would be

Atty. Thomas: Well remember, topography deals with two things, the ups/downs and the size also and the application of that to this property when you consider the fact that all, that the whole purpose and I think what they're saying is that the whole purpose of the regulation is to prevent the destruction of slopes, with this variance there would be no destruction of the slopes.

Mr. Glover: Right

Atty. Thomas: you create an oversize lot where the construction was all in the flat, there would be no destruction of slopes, no destruction of forest and you have the right to place conditions on it

Mr. Glover: Right, but we're beyond that. Okay? Here's what I'm saying, you're citing two hardships. One that it's not mentioned in Schedule B and the other one that it's topographical

Atty. Thomas: Well, the fact that it's not mentioned in Schedule B is simply a consideration for you in looking at the conduct of my clients.

Mr. Glover: And I want to be clear

Atty. Thomas: but the true hardship, the true hardship is the topography which includes the shape of the lot, the up and down, the slopes of the lot and the size of the lot

Mr. Glover: right, and I, and I want to be clear that the hardship that we may recognize is the topography, not the fact that the, that there's a, something is or isn't in Schedule B.

Atty. Thomas: That's not a legal hardship, that was just to explain the issue of their conduct

Mr. Glover: I understand that, but I want to make it crystal clear that just because it's not mentioned in "B"

Atty. Thomas: it isn't a hardship

Mr. Glover: It is not a hardship. I don't consider it a hardship, maybe they do, but

Atty. Thomas: That would be a zoning stoppable issue, that's a whole different issue

Mr. Glover: But I don't

Atty. Thomas: The other issue of course there's also, you have to consider is the impact of the action upon the regulation in this case. And that's why we went back to them and that's why it says in paragraph 1 to meet the intent, because we aren't destroying the slopes which are the, which are the hardship, the topography, we aren't destroying them. We agreed to conditions that would protect those areas in the slopes that Planning and Zoning has, has the main concern. This is, that was their main concern when putting that in, was to prevent people from going and clear cutting a slope you know, and which creates really the other issue that they were concerned about, besides the view of the Housatonic River, which is soil erosion and sediment control because you can do whatever you want sometimes on a slope it's not going to work. We're agreeing that that's not going to happen here.

Mr. Glover: alright, any Board members have a question for the applicant?

Mr. Cavallaro: Doesn't the greenway itself create a hardship too?

Mr. Glover: I don't know, I wouldn't want to

Mr. Conklin: No, not at all

Mr. Cavallaro: Why not? It's your property?

Mr. Conklin: the greenway is an established, how do you want to put it, it's just an established area where you possibly want to keep something of natural beauty

Mr. Cavallaro: That's fine, but you still own the property, you still pay taxes on it, I mean that limits your ability to do something.

Mr. Glover: I think that topographical, you just, any

Atty. Thomas: That comment could be a fact in analyzing the evidence in the case. You know, the fact that you, as a Board, as a zoning board, you want to preserve the greenway also, therefore, conditions make it appropriate

Mr. Glover: Do any other Board members have questions? (no) Is there anyone in this room who is in favor of this application? (no response) Is there anyone behind that easel who might in favor of that application? (no response)

Atty. Thomas: I don't think so

Mr. Glover: Alright, is there anyone opposed to the application? (no response) Final questions? (no response)

Atty. Thomas: for the record, because I know Commissioner Jones wasn't here, the

Mr. Glover: He read it

Atty. Thomas: the two neighbors, oh, I just wanted to, okay

Mr. Glover: The minutes were sent and so he's read part 1 and now you've filled him in on part 2. Any other questions? (no) I'll declare the hearing closed. Thank you Dominick.

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

#811-2 "In the application of Nancy and George Berntsen of 1017 Howe Avenue, Shelton, CT for a certificate of approval for a proposed lot 22 with applicants' existing one family home located on the property of the applicants at 1017 Howe Avenue, R-1 zone, and which requires a variance in the minimum contiguous building area,

The application for a variance is approved.

Inasmuch as the parcel will utilize the public water supply; and

Inasmuch as this is a large piece of property of 60,000 sq. ft. that is topographically distressed and the Board recognizes the topographical hardship of the property, but does not recognize the fact that the contiguous building area requirement is not part of Schedule B of the zoning regulations as a hardship; and

Inasmuch as there is sufficient flat buildable area for single family dwelling,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval of a variance in the minimum contiguous building area from 30,000 sq. ft. to 17,000 +/- sq. ft. at the above is granted (Section 5.25, Article 5) in this instance.

This certificate of approval is contingent on the applicant adhering to the following stipulations: 1. The applicant shall maintain a conservation easement beginning at the line of the large tree growth. 2. The applicant shall prepare a site plan and submit to the subdivision process and approval of the City. 3. Approval contingent on the ability to create an approved septic system.

This certificate of approval shall take effect on the date following the publication of the statutory notice in a newspaper having circulation in the City of Shelton, provided that a copy thereof has been recorded by the petitioner in the land records of the City of Shelton."

#811-3 "In the application of Nancy and George Berntsen of 1017 Howe Avenue, Shelton, CT for a certificate of approval for a proposed lot 22A to be located on the property of the applicants at 1017 Howe Avenue, R-1 zone, and which requires a variance in the minimum contiguous building area,

The application for a variance is approved.

Inasmuch as the parcel will utilize the public water supply; and

Inasmuch as this is a large piece of property of 60,000 sq. ft. that is topographically distressed and the Board recognizes the topographical hardship of the property, but does not recognize the fact that the contiguous building area requirement is not part of Schedule B of the zoning regulations as a hardship; and

Inasmuch as there is sufficient flat buildable area for single family dwelling,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval of a variance in the minimum contiguous building area from 30,000 sq. ft. to 14,000 +/- sq. ft. at the above is granted (Section 5.25, Article 5) in this instance.

This certificate of approval is contingent on the applicant adhering to the following stipulations: 1. The applicant shall maintain a conservation easement beginning at the line of the large tree growth. 2. The applicant shall prepare a site plan and submit to the subdivision process and approval of the City. 3. Approval contingent on the ability to create an approved septic system.

This certificate of approval shall take effect on the date following the publication of the statutory notice in a newspaper having circulation in the City of Shelton, provided that a copy thereof has been recorded by the petitioner in the land records of the City of Shelton.”

#1011-1 55 Oronoque Trail, Joanna Diorio of 55 Oronoque Trail, Shelton, CT is seeking to waive Section 45.6.6 by varying the maximum square footage for an accessory dwelling unit from 900 sq. ft. to 1012 sq. ft, 33 1/3 floor area to 39% floor area.

Mr. Glover: Alright would you please give your names and addresses for the record?

Ms. Diorio: Joanna Diorio, 55 Oronoque Trail in Shelton

Mr. Glover: And your name?

Ms. Schulte: Patricia Diorio Schulte, 97 Harkins Drive, Milford

Mr. Glover: Okay and will you speak louder? Yell at us. We're married, we're used to being yelled at. Alright, if there's anyone else in the room who has an interest in this and they want to come closer so that you can hear, feel free. You don't have to sit back there. Alright, tell us what you want to do and why you can't conform to the regulations.

Ms. Diorio: Well, I'm here to ask for a variance for the in-law section of our home. My father recently, well, passed away about a year and a half ago, so we went to the bank because I need buy sister out of the house and when the appraiser came she said that our home doesn't, is not legal; our second floor is not legal.

Mr. Glover: Okay so you have, you have an apartment, what you consider is an apartment there now

Ms. Diorio: right

Mr. Glover: and you're here to try to legitimize it

Ms. Diorio: Right, the apartment was

Mr. Glover: Let me have your pictures. Okay, so your in-law apartment is up, it's not only is it built, it's above the first floor. It's on the second floor?

Ms. Diorio: Yes

Mr. Glover: And when was it put in?

Ms. Diorio: August of '01

Mr. Glover: And was it put in as in-law apartment or just an addition?

Ms. Diorio: Well, this is the problem. We had hired a contractor and we had signed contracts and everything that it was going to be an in-law apartment that I was going to live in with my parents. But he came I guess to the town and just put it in as just an addition with no kitchen, when I have the contract showing that there was going to be a kitchen and a dining room and everything, but we had come down here for were two different things.

Mr. Glover: Who was the contractor?

Ms. Diorio: Ralph Iuliano

Mr. Glover: I don't know him, sorry

Ms. Diorio: This was back in '01, when my father was alive, he, you know, was doing all this. So now, you know, he passed and I want to buy my sister out so I can live there and have the house

Mr. Glover: So your testimony is that you hired a contractor to put on an in-law apartment on your house, or your father's house, and when he went to take the permit he didn't mention in-law apartment. You thought he was taking a permit for an in-law apartment, when in fact he was just taking a permit for an addition.

Ms. Diorio: right, I don't know, all I know is when the contractor came to our house we talked about how we wanted the house built, and you know, we wanted a little kitchen area, this, that, you know, when he had come to the City I don't know, maybe the City said you know, you can't have an in-law section, I mean an in-law apartment you know, with these measurements or with this or I don't know how it was said. But I know that now, you know, I've, all these cans of worms are being opened as far as, you know, the contractor and the City, so you know, at the time you know, I, we really thought, you know, we were just following whatever the contractor was saying.

Mr. Glover: Okay

Ms. Diorio: So we, you know, we trusted in him to build it and so I have the contract from the, because actually in '03 we had gone to court to sue him because he left us high and dry right in the middle of building. It was almost 80% done and then he just left us. So we went to court with him and we sued him and got some of our money back. But, I mean, in the contract it shows like the kitchen area, but what's here at the town does not show a kitchen area

Mr. Glover: right, may I see the, are you served by city sewer? Are there sewers there or is it septic?

Ms. Diorio: Yes, it's, no, it's sewers and city water

Mr. Glover: and water?

Ms. Diorio: uh huh

Mr. Glover: May I see the zoning compliance? It's that form. Is this is a copy?

Ms. Diorio: Yes

Mr. Glover: Okay. So acting as your agent, he filled out the zoning compliance and neglected to put that there was a kitchen in here.

Ms. Diorio: Right

Mr. Glover: And there is a certificate of zoning compliance that is signed by, initialed by Pat Tisi, Zoning Enforcement Officer.

Ms. Diorio: And those are all, when they were coming to the house and checking on you know, the inspection, I have all the inspection things from when they were checking on the plumbing and electricity and

Mr. Cavallaro: When they were doing the inspections after the thing was built, was the kitchen in at that time?

Ms. Diorio: Um, like all the plumbing and everything was there. Like I said, my father was doing this in '01, '01, '02, but I'm sure all the plumbing you know, was there for the dishwasher and for the sink.

Mr. Glover: Alright, can I have those receipts please? Thank you. These are all your abutting neighbors?

Ms. Diorio: Yes

Mr. Glover: Happy now?

Clerk: Yes

Mr. Glover: Alright, so it's built, you're not going out anymore, it's already there. You're not going to add on, what's there is there.

Ms. Diorio: Right

Mr. Glover: you're not planning to add onto it.

Ms. Diorio: No

Mr. Glover: Okay. You're planning just to legitimize the addition that's already built

Ms. Diorio: right, which we thought was you know, the whole entire time

Mr. Glover: right, and for the record there are inspections here and there are, there is a certificate of occupancy from the Shelton Building Inspector

Mr. Cavallaro: Is there a tax card there by any chance?

Mr. Glover: A what?

Mr. Cavallaro: a tax card?

Mr. Glover: I don't know

Mr. Conklin: There were enough inspections here

Mr. Glover: Yeah, they had a lot of inspections

Mr. Conklin: It's not like someone didn't walk through that house a couple times.

Mr. Glover: No, they walked through a lot of times, yep. Okay, alright, so you're served, you have city water, you have city sewers. You have an in-law apartment that is, exceeds the size, it's supposed to be 900, it's 1012, 10 something.

Ms. Diorio: Yes

Mr. Glover: And you have permits and you've done everything else, that I can see, you've done everything right. Does the Board have any other questions on this? (no) We know what happened here? Is there anyone else in favor of this application? (yes) Would you come forward please? You can stay there. Give your name and address for the record sir?

Mr. Wondell: Shawn Wondell, 55 Oronoque Trail

Mr. Glover: So you, this is at 55?

Mr. Wondell: Yes

Mr. Glover: Okay, so you live there

Mr. Wondell: Yes

Mr. Glover: Okay, and you think it's a great idea

Mr. Wondell: Yes

Mr. Glover: Sir?

Mr. Jeff Wondell: Jeff Wondell, 116 Park Avenue in Derby

Mr. Glover: Okay, and you think it's a good idea?

Mr. Jeff Wondell: Oh yeah, it keeps him out of the house

Mr. Glover: Yes ma'am?

Ms. Clifford: Collette Clifford, 58 Oronoque Trail

Mr. Glover: Alright, so you live next door?

Ms. Clifford: Across the street

Mr. Glover: across the street.

Ms. Emily Clifford: Emily Clifford, 58 Oronoque Trail

Mr. Glover: Okay, and the people across the street, this has been here for like 10 years

Ms. Clifford: Yeah

Mr. Glover: hasn't presented a problem to anybody in 10 years?

Ms. Clifford: No, it's no problem

Mr. Glover: Okay, thank you. Anyone in this room who is opposed to this application? (no response) Final questions from the Board? (no) Then I'll declare your hearing closed. We'll vote on it tonight. We have to keep this stuff.

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

#1011-1 "In the application of Joanna Diorio of 55 Oronoque Trail, Shelton, CT for a certificate of approval for a one family home with an in-law apartment located on the property of the applicant at 55 Oronoque Trail, R-3 zone, and which requires a variance in the maximum square footage for an accessory dwelling unit,

The application for a variance is approved.

Inasmuch as evidence was presented to the Board showing that the homeowner took appropriate permits and had numerous inspections during the construction of the accessory dwelling unit,

Inasmuch as this accessory dwelling unit has existed for 10 years without incident,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval of a variance in the maximum square footage for an accessory dwelling unit from 900 sq. ft. to 1012 sq. ft., 33 1/3 floor area to 39% floor area at the above is granted (Section 45.6.6) in this instance.

This certificate of approval shall take effect on the date following the publication of the statutory notice in a newspaper having circulation in the City of Shelton, provided that a copy thereof has been recorded by the petitioner in the land records of the City of Shelton."

#1011-2 52 Patricia Drive, David & Louisa Dunn of 52 Patricia Drive, Shelton, CT are seeking to waive Section 24.12.1 by varying the maximum square footage from 750 sq. ft. to 1428 sq. ft. and height from 20 ft. to 23 ft. for a barn style garage with three residential garage doors.

Mr. Glover: Would you give your name and address for the record please?

Mr. Dunn: David Dunn, 52 Patricia Drive

Mrs. Dunn: Louisa Dunn, 52 Patricia Drive

Mr. Glover: And Mr. Dunn, do you have some notification of your neighbors?

Mr. Dunn: Yes

Mr. Glover: How many abutting neighbors do you have?

Mrs. Dunn: Three

Mr. Dunn: We have three

Mr. Glover: And do you have some pictures?

Mr. Dunn: I sure do.

Mr. Glover: I wonder what you're going to put in the garage?

Mr. Dunn: Yeah, and dimension wise, that's the about the room it's going to take up. This one here is the rear, side. That's another one here, and another one, I got carried away

Mr. Glover: alright, so you want to build a three car garage

Mr. Dunn: I want to build a three car garage. We got the okay for it there, there's no pipes or anything on that side. The problem is the a, square footage that they give you, they allow won't fit

Mr. Glover: Let me interrupt you for one minute. If there's anybody in the room who is, has an interest in this and you can't hear, please come up in front so you can hear. It's not a problem. Go ahead

Mr. Dunn: okay, we can't put it on the other side of the house, our septic goes through there and the topography of the way the property is, we're up on a pitch, the house, so we can't add it onto the house.

Mr. Glover: so it's impossible to add it on

Mr. Dunn: It's impossible.

Mr. Glover: And the only, the only variances that you're after are the square footage and the height

Mr. Dunn: Well, yes

Mr. Glover: So it does, it really doesn't make any difference, are you telling me that the location of the septic system to indicate you can't attach it to the house?

Mr. Dunn: exactly

Mr. Glover: So it's impossible to build this because of the topography or utilities, underground utilities

Mr. Dunn: Right

Mr. Glover: and attach it to the house

Mr. Dunn: exactly

Mr. Glover: And because it's a detached building

Mr. Dunn: yes

Mr. Glover: you're, you're stuck with 750 sq. ft.

Mr. Dunn: exactly

Mr. Glover: if you attached it, it could be as big as

Mr. Dunn: as big as you want

Mr. Glover: as, right to the setbacks to the house and as high as you want

Mr. Dunn: and as high as the house

Mr. Glover: alright, tell me what you're going to put in the garage?

Mr. Dunn: You can see from the pictures we're going to have a boat

Mr. Glover: the record can't see the pictures

Mr. Dunn: We're going to have

Mrs. Dunn: the boat

Mr. Dunn: We've got a 26 foot Chaperell that's gotta go in. We've got a couple of classic automobiles, a trailer. Basically everything that's in the yard now. The tent goes away, everything goes inside

Mr. Conklin: So what's the height of the garage doors?

Mr. Dunn: Uh, nine

Mr. Glover: What's the width?

Mr. Dunn: Nine, it's going to be 9 feet wide

Mr. Glover: 9 feet wide, how high?

Mr. Dunn: 9

Mr. Glover: 9 by 9

Mr. Cavallaro: (unclear) why does it have to be so high?

Mr. Dunn: On the door, do they make it a 9 wide, 8 high? Oh okay, that would be where it's going to be

Mr. Glover: Do you have a design of the building?

Mr. Dunn: We have a sketch

Mr. Cavallaro: What do you have for garage on it now?

Mr. Dunn: We've got fake doors where the garage used to be. When we bought it they had converted it over into an extra room.

Mr. Cavallaro: Okay, so there's no garage attached to the house

Mr. Dunn: the driveway goes like this

Mr. Cavallaro: There is no other garage on the house

Mr. Dunn: There is no other garage, just what the house came with. It's a raised ranch.

Mr. Glover: Um, you're building a gambrel roof, a barn roof

Mr. Dunn: I like the style and that's the reason why, we're going to build it to make it look like a barn

Mr. Glover: There's going to be an attic to it, or second floor to it?

Mr. Dunn: It's going to have like a loft up there, a crawl space and that was the reason for the 23 foot. I didn't know if we had enough room to walk, to actually walk in there without hitting your head.

Mr. Glover: And, and how will you access the second floor?

Mr. Dunn: Inside stair

Mr. Glover: Okay, and what will you use the second floor for?

Mr. Dunn: Just storage

Mr. Glover: Will there be

Mr. Dunn: It won't be finished

Mr. Glover: Will there be any utilities? Will there be electricity in it?

Mr. Dunn: There will be electricity in there, yes

Mr. Glover: Will there be any heat?

Mr. Dunn: Uh, no heat

Mr. Glover: Will there be any water?

Mr. Dunn: No water

Mr. Glover: and there'll be no bathroom

Mr. Dunn: No bathroom.

Mr. Cavallaro: You know where we're going with this right?

Mr. Dunn: no outhouse

Mr. Cavallaro: no in-law apartment

Mr. Dunn: Oh, I see

Mr. Glover: We're not looking for another in-law apartment here?

Mr. Dunn: No, no

Mr. Glover: So you're going to, you're not going to use it for anything commercial

Mr. Dunn: No, I have a commercial lot in Trumbull already that we, I run a gas station there.

Mr. Glover: Okay

Mr. Dunn: So we do all our work there, but I do have classic cars and last winter it took a toll on one of them

Mr. Glover: But you're not going to run a business out of here

Mr. Dunn: No, no, I have my own business

Mr. Glover: This is for your boats and your yard equipment

Mr. Dunn: Boats, yard equipment, tractor

Mr. Conklin: basic household toys

Mr. Dunn: Toy box

Mr. Glover: Tell me, tell me again about the topography of it. Your driveway you've kind of sketched in here and it goes over I assume to the house

Mr. Dunn: Yes

Mr. Glover: Is the elevation of this higher?

Mr. Dunn: No it's lower

Mr. Glover: It's lower?

Mr. Dunn: Yes it is. On one of those pictures there you can see the angle of the, let me see if I can find it. Maybe you can see it from this way, the driveway's behind that tree where it comes up and it's on a pretty sharp angle

Mrs. Dunn: It goes like this and then like this

Mr. Dunn: This one here, you might be able to see, that's coming from the front yard looking out. And you can almost see how the cars are parked on an angle there

Mr. Glover: What is the siding that's on your house?

Mr. Dunn: it's like a wood

Mrs. Dunn: It looks like regular shingles

Mr. Dunn: shingles

Mrs. Dunn: but it's vinyl siding

Mr. Dunn: the new siding, the new vinyl siding that looks like the wood shingles

Mr. Glover: And what's the siding on the barn or garage?

Mr. Dunn: Well, I kind of like the clapboard, but I don't know if they (unclear) the vertical ones, with the trim around the outside

Mr. Glover: Can, can

Mrs. Dunn: It will look like

Mr. Conklin: How high is the ceiling on the garage?

Mr. Dunn: I'm going to go with 11 foot

Mr. Glover: Why are you going to go 11 feet?

Mr. Dunn: We've got height in there. I've got some old signs and stuff I want to hang in there.

Mr. Cavallaro: that's why you were concerned about a crawl space upstairs

Mr. Dunn: Yes, because I'm not going to have enough room to walk.

Mr. Cavallaro: You're not going to have any lift or engine hoist, or any of that kind of stuff

Mr. Dunn: No, I don't need it, I don't really need it.

Mr. Glover: You're on the corner of what, Patricia and

Mrs. Dunn: Hunters Ridge

*** Tape had to be changed ***

Mr. Glover: Alright, so, because 40 feet in from the property line is 10 feet from the edge of the street.

Mr. Dunn: Okay

Mr. Glover: Because the city has roughly 10 feet

Mr. Dunn: 10 feet from the edge of

Mr. Glover: So your 40 feet starts there

Mr. Dunn: Oh okay.

Mr. Glover: And you're required to be 40 feet

Mr. Dunn: Yes,

Mr. Glover: Because it's a street

Mr. Dunn: right

Mr. Glover: Is there a possibility that you could make it closer to the house?

Mr. Dunn: There is a possibility

Mr. Glover: I mean does it have to be 40 feet, you have the right to do it at 40 feet, but you're building a big building on a corner lot

Mr. Dunn: I understand, right

Mr. Glover: where people coming around that corner are going to see this huge barn

Mr. Dunn: Well, that's the other thing we're going to do also. We're, on the, do you see that picture there how we continue the uh, the trees? We're going to go all the way around and down the side of Huntington, Hunter's, where you won't be able to see it. That was on the, you can see it on this one. We started already. We're just going to continue this down 40 feet from the street, make a left turn and then follow it to the back of the barn

Mr. Glover: And you're building a barn that's almost twice the size that's allowed

Mr. Dunn: almost

Mr. Glover: almost, okay

Mr. Conklin: what's the dimensions? Oh there it is, 42 by 34, you're pretty deep

Mr. Dunn: It's about a car and a half deep. The trailers are long. And the only way we can get in there, the long way of the barn has got to go up so we have to pull in through the side, we can't go through the front

Mr. Glover: Linda, do you have any questions?

Ms. Adanti: No

Mr. Glover: And it's just a little over an acre

Mr. Dunn: Yes

Mr. Glover: Alright, are there any other buildings of this size in your neighborhood?

Mr. Dunn: Actually, there's a couple of them, here goes one, this one's being rebuilt right now and this one is about 5 houses up from us

Mr. Cavallaro: where are the others?

Mr. Dunn: That one there, Mohegan, the other one's on

Mrs. Dunn: Waverly

Mr. Dunn: on Waverly

Mr. Glover: The red one?

Mrs. Dunn: yes

Mr. Glover: Is that like an old barn, I mean it was an old barn on a farm?

Mr. Dunn: I think so, it was leveled out and they were just finished, rebuilding the whole thing again

Mr. Glover: And where did you say the tan one was?

Mrs. Dunn: Hunter's

Mr. Dunn: That's on Hunter's, yeah. He never got his boat inside it

Mr. Glover: Is he on a corner lot?

Mrs. Dunn: No

Mr. Dunn: He's right on the main road

Mr. Jones: That's connected to the house isn't it?

Mr. Glover: Yes, I think it is. Is that connected to the house?

Mr. Dunn: It's got a space between the house about, you can put this table through it, it's not, if it's connected it's probably from something over the top, because you can see his other garage between it, from the original garage from the house.

Mr. Glover: And what would you tell me was your hardship?

Mrs. Dunn: the hills

Mr. Dunn: we have the hill, the topography, number one

Mrs. Dunn: the septic tank

Mr. Dunn: the septic tanks are the other, and all the cars and the

Mrs. Dunn: being a corner lot

Mr. Dunn: the corner lot on top of it, there's not too many things we can do on location where we can put this

Mrs. Dunn: and the land is wide, it's not deep

Mr. Glover: you mean wide across Patricia

Mr. Dunn: yes, it's long Patricia

Mr. Glover: not deep

Mrs. Dunn: no it's not deep

Mr. Dunn: it doesn't go in deep. If it went in deep we would have been, we could've probably put it on the house, but we can't do it

Mr. Glover: Alright, do you guys have any questions? (No) When you're through with the pictures can I have them to show to Linda?

Mr. Dunn: I wrote on the back where they were. That was just riding around the, looking at the neighborhood and we snapped those pictures

Ms. Adanti: I don't want to miss anything

Mr. Glover: Do you feel like an orphan over there?

Ms. Adanti: No, I'm fine.

Mr. Glover: Alright, no other questions from the Board at this point? (no) Is there anyone in the room who is in favor of this application? (no response) Is there anyone who is opposed to this application? (yes) Would you come forward please sir? Alright, now Mr. & Mrs. Dunn, you are listeners alright?

Mr. Dunn: we are

Mr. Glover: you're listeners. It's not a debate. They're going to give testimony now and later on you will have time to refute it if you don't like it, but this is not the time. Would you give your name and address for the record please?

Mrs. Gluse: My name is Roseann Gluse, 48 Hunter's Ridge Road

Mr. Gluse: and my name is Mr. Joseph Gluse, 48 Hunter's Ridge Road

Mr. Glover: G-L-U-C-E?

Mr. Gluse: G-L-U-S-E

Mr. Glover: S-E. Can you tell us what your opposition is?

Mr. Gluse: Uh, ladies go first

Mrs. Gluse: Start with mine?

Mr. Glover: Yeah, go ahead

Mrs. Gluse: I've lived at 48 Hunter's Ridge Road for the past 31 years. I'm opposed to this application for a variance at 52 Patricia Drive. There are three abutting neighbors and the impact of this application solely affects my property. I have many concerns. The first being drainage. I have some notes here that I'd like to read to you so that you'll know why I have these drainage concerns. These notes I keep in a file that I had in March 12 of 2007. On March 9th I filed a complaint with Nationwide Insurance regarding work that my neighbor did in his yard in mid-September. At that time I called the town of Shelton zoning and wetlands department and indicated my concern that Mr. Dunn, who lives at 52 Patricia Drive, was grading soil over a drainage pipe that runs from the back of my property and down the side of his and into the town's catch basin in the street in front of his property. I asked Mr. Tom Dingle from zoning and Mr. John Cook from the wetlands, to inspect this work to make sure that the drainage pipe was not damaged. This drainage pipe was installed in the 70's when the houses were built in that area. Sometime between mid-September and the last week, this is in March of 2007, Mr. Dunn also was installing a retaining wall in the same area. I had worked for the town of Fairfield at the time. I've worked in conservation for two years, I worked in planning and zoning ZBA for three. I spoke to William Hurley and Laura Pooley, this is in Fairfield in the engineering department and a John Oldham in the health department because we found out that the, the pipe was damaged. There was water in our backyard for I'm not, I'm not sure how long. A couple of weeks.

Mr. Glover: Do you know how big the pipe was?

Mr. Gluse: It's a 4 inch pipe

Mr. Glover: It's a 4 inch pipe?

Mr. Gluse: either a 4 or a 6

Mr. Glover: What does it, what does it drain?

Mr. Gluse: It drains, there's a wetlands that's in the back of our property

Mr. Glover: Okay?

Mr. Gluse: It's actually defined, I'm going to "x" the wetlands and I'm going to draw the drainage pipe

Mr. Conklin: So what you're saying is you have an easement through their property to run a drainage pipe from yours through the city sewer?

Mrs. Gluse: there's an easement on

Mr. Gluse: on the entire development

Mrs. Gluse: on the entire development

Mr. Conklin: Well that's what I'm asking, do you have an easement that runs from your property for this drainage to

Mrs. Gluse: I'm not sure what the easement is, and when I went down to check the records in the town, there are easements on all of those homes because there's a big waterway

Mr. Gluse: Specifically for drainage, because it does have, that entire area has drainage issues because the way Tower Road is on one side and Hunter's Ridge is on the other. Hunter's Ridge, the line comes up and goes into a swale and from Tower it goes this way a little higher than the road and then goes back down into that swale. So between Capitol and Patricia Drive there's an entire area that

Mr. Glover: catches the water

Mr. Gluse: catches all the water and that's where it, it only has one way out

Mr. Glover: It's like a big funnel

Mr. Gluse: and that's out our property and across Mr. Dunn's and that's why that pipe was put in originally when the development was done

Mr. Cavallaro: and it's only 4 or 6 inches?

Mr. Gluse: Yep, that's all it is. I mean, it should be bigger

Mrs. Gluse: There are bigger

Mr. Gluse: Um, but let me just

Mr. Conklin: That's what I'm asking, do you have an easement?

Mr. Gluse: I don't think there is an easement on their property specifically, I think it's an, a development easement

Mr. Conklin: well it would have to be an easement on your

Mr. Gluse: allowing right of way for drainage pipes

Mr. Conklin: well there would have to be an easement across there, on their title

Mr. Cavallaro: it's hard to believe an easement though for that size pipe

Mr. Gluse: Back in, back in 1970 something I

Mr. Conklin: you have to have it

Mr. Cavallaro: No, I'm saying that I don't think they would do it for a 4 inch pipe, they'd want a bigger pipe

Mr. Gluse: right, and here's the issue, that both engineering and wetlands know about the pipe. The town knows about the pipe. And it runs constantly. You can go to that catch basin on the corner and it runs 24/7, 365

Mr. Cavallaro: Would wetlands actually allow a drainage on

Mr. Glover: Well, what was done in 1970, I mean, wetlands was in its infancy in 1970. So what they would have allowed then and what they would allow now would be two different things

Mr. Cavallaro: yeah

Mr. Gluse: Here's a picture of my backyard when that pipe is damaged

Mrs. Gluse: That's what happened in 2007 when the pipe was damaged

Mr. Conklin: Well, what's that after?

Mrs. Gluse: after the work that was done

Mr. Conklin: No, no, I mean what's that after? You're showing water. What storm is that after?

Mrs. Gluse: It was a

Mr. Gluse: Well, we definitely had rain, there's no doubt about that, but it wasn't a, it's wasn't a catastrophic rain

Mr. Cavallaro: It seems inconceivable that that much water would drain through a 4 inch pipe or even a 6 inch

Mrs. Gluse: no, there was that ice storm, it was the ice storm in 2007, it all melted. We didn't know the pipe was crushed. In March when it melted, that's what happened. I spoke to Mr. Dunn March 12th of 2007 and told him that I thought there was something wrong with the pipe and he a, a couple of days after that he did something and all the water drained out in a matter of a day. So that water does go out of that pipe

Mr. Gluse: Here's a picture of the, of Mr. Dunn's property with the small retaining wall. And you can see sand piled on top of it. That was to block the water from running over the top of the wall because that's what it was going to do. And here's the water coming out of his driveway area causing damage to his driveway. Because it had no where to go it was seeping up through the ground wherever it could go. And this is my stepson standing on a stump with a stick in the water, that was over two feet deep. Our biggest concern is obviously our septic system, because that's right over our septic system

Mr. Glover: The water's over it, above your

Mr. Gluse: over the septic system

Mr. Glover: Is um, do you know where the Dunn's plan on putting their barn according to?

Mr. Gluse: We have an idea, we were over with Mrs. Dunn today looking at where the garage would go. My concern

Mr. Glover: Here's a map that they're providing us

Mr. Gluse: Yes, I've, we've seen that with the application

Mr. Glover: Is that pipe going where that garage is? Or, is that garage going where that pipe is?

Mrs. Gluse: I think the pipe is right alongside the driveway

Mr. Gluse: It's got to be close

Mrs. Gluse: on the garage right

Mr. Gluse: It's got to be close. The other concern is actually the height or the elevation that the proposed slab would be at and the height and width of the building. Because directly out of our dining room we look in that area. Now, if you look at that perspective the red indicates the proposed structure and you can see dimensions as to distances from the fence from both our houses, mine's 30 and his is 30

Mr. Glover: Is the fence the approximate property line?

Mr. Gluse: Yes, and if you look at the dimensions on the drawing, I have 23 feet, I have 20 feet and I have 20 feet also for different sizes of garages. The 42 feet doesn't both me. If you look at that sheet that you're looking at now, that's the view from the inside of my house with the three sizes of garages. And that pretty much blocks the sun out of that side of my kitchen; not that we get a lot of sun from that side because it's the north side. And those are pretty much to scale, I'm an architect. I have some other photos if you want them, of the properties

Mr. Glover: I'm sorry, I interrupted you with a question, but do you want to tell me more?

Mrs. Gluse: Yes, either way,

Mr. Glover: That's alright, but I know I did interrupt you with a question

Mrs. Gluse: No, that's fine. Okay, the square footage from 750 sq. ft. to 1428 sq. ft. is almost double the allotted size, which is larger than the existing home itself which is 1280 sq. ft. on that lot. The height from 20 feet to 23 feet for a second story which would have a massive visible, visual effect from my dining room window. An average 3 car garage is 24x36 and 864 sq. ft. And the proposed garage is 34 x 42 and 1428 sq. ft. which is grossly oversized. There is not a home in the neighborhood that has a garage that large, detached or attached. And I do not see a hardship. The proposed garage is 30 feet from the property line where I installed a 6 foot fence because the view out my dining room window was cars and trucks and unregistered, the boat. There was a truck that was backed up to that, my window at one time filled with junk for almost a year. So I'd like to see some solution to this, but building this oversized garage is not the solution. I still want to see the sky and the sun.

Mr. Gluse: And I would just like to continue on the fact that any blockage or crushing of the pipe results in extensive flooding up to 24 inches and better in our backyard and directly over our septic system. If this is approved, I'd like to stipulate that engineering and wetlands oversee the proper care of the a, and ensure the continued flow through that pipe, as limited as it is they should oversee that and make sure it's still continuous and flowing if it's approved. Um, I oppose the size of the garage being 34 feet and, 34 feet deep and 23 feet high. Obviously from the view of my kitchen you can see why. If it's 24 deep and 60 feet long, I don't care because the 24 thing is the part that's really knocking the view out of there. At least with 24 feet and 20 feet high, I can at least see some sky and some trees. The present view out of my dining room I can see the flashing cell tower in Monroe. Even at 24 I doubt if I'll see that again, but

Mr. Glover: Do you like that tower?

Mr. Gluse: I understand,

Mr. Glover: I mean, do you enjoy looking at that

Mr. Gluse: I understand that, you know, he needs room to put things. I have no problem with that. You know, everybody needs places for their toys, but, and like I said if it's longer than 42, it doesn't bother me. And I understand that he's trying to get boats and vehicles in there and that sometimes you got to jockey them around to make them fit. If he can make it longer and, you know, put his boats and vehicles you know perpendicular to what drives in the garage door, then he has the room. So it's the 34 foot and the 23 feet that I'm opposed to. 23 feet is pretty tall.

Mrs. Gluse: He does have a two car garage there now. There is one car I know parked in one of the garages, on one side. The other side I know they built a room down there, but I thought there was still half a garage, but I'm not sure. But there is a car in one side of that driveway, in that raised ranch now. And I feel that there is no, they could add onto that side of the house and put a garage attached to those garages, but there is a garage and they're using it and that probably is why they don't want to put a garage there.

Mr. Glover: Okay.

Mr. Gluse: And the other thing is that I certainly approve of his buffer planting plan. That he would continue the trees to within 40 feet or so of the, of the Hunter's Ridge side and then if he wants on down behind the garage I have no problem with that. But at least, I see some trees before I'll see garage. And then the other thing would be that the blue Quonset parking structure that he has there

Mr. Glover: Yeah, and it's his testimony was it'd be gone

Mr. Gluse: It'd be gone.

Mr. Glover: Alright? Thank you. Anyone else in opposition? (no response) Questions from the Board? (no) Alright, Mr. & Mrs. Dunn it's your time to refute whatever you heard.

Mr. Dunn: Yeah, I didn't know there was a pipe underneath our property. When we checked for all of this stuff down there they didn't say anything was underneath there.

Mr. Glover: Did you repair that pipe in 2007?

Mr. Dunn: I never repaired any pipe. They told me that it was damaged, you can see what we did. We put a couple of stack of bricks, I mean we went down maybe a foot, who runs a pipe that shallow. It doesn't make any sense.

Mr. Conklin: When you bought your house there were no easements across your property, deed restrictions of building, nothing

Mr. Dunn: Nothing. We tried to find something but, I mean when they told us there was a pipe running underneath our property, we never knew about it. We can't find anything on paper. Lord knows, if you look, oh you have to take the pictures

Ms. Adanti: These?

Mr. Dunn: And we did that so that we're not parked like this, you know, we just leveled it out just a little bit.

Mr. Cavallaro: So the sand on top of that wall was to divert water?

Mr. Dunn: They were flowing over from their yard coming over and my landscaper dropped sand. I don't know what he thought he was going to do with that because sand is a filter. Water came through it anyway and it started to erode everything out. But we had a pretty big storm. And it was cold and if there is a pipe under there I believe it probably was frozen because I didn't free anything. Now, she may not believe me, but I don't know. I don't even know where the pipe is how am I going to free it up.

Mr. Cavallaro: I just find it very difficult that a 4 or 6 inch pipe could drain that much water

Mr. Glover: Okay, anything else?

Mr. Cavallaro: Like you said it was back in the 70's

Mr. Glover: Well, back in the 70's there was a lot of stuff done that isn't done now

Mr. Conklin: They probably just said this empty lot, I'm going through it

Mr. Dunn: And the trees we're putting in there, we're going to go all the way down. And those things grow 20 feet high, they're almost there now

Mr. Glover: In the 70's I don't think that there was even wetlands that existed, in the early 70's. The later 70's there was, but the early 70's, I mean I built my own house in 1973, you just took a building permit out for a house. You didn't survey anything, you didn't give anybody any elevations. You cut down trees and often, in my early days on this Board, people would come and say uh oh I built it too close to the line or over the line because nobody, there was never a requirement for any of that engineering in those days.

Mrs. Gluse: Even a subdivision

Mr. Glover: Even a subdivision

Mrs. Gluse: like that size

Mr. Glover: Yeah, back then

Mr. Cavallaro: Back then it was a whole different ballgame

Mr. Glover: It was just totally different and, and if the developer of the road found a pocket of water at that point he owned everything, he dug a hole and put a pipe in there, his problem is solved

Mr. Gluse: That was the case. He owned both properties

Mr. Glover: Yeah, his problem is solved and he at least piped it to a catch basin instead of just a dry well, you know.

(unclear)

Mr. Cavallaro: Back in the 70's Shelton was just coming out of the closet. That's when that big explosion started, every cul de sac was turned into a new road

Mr. Dunn: Well like I said, I don't want to destroy a pipe, because as you can see it tears up my property too once it floods over. You know, so, I mean if there's something has to be done, if we can find out where it is, you know, if it's collapsed I don't know.

Mr. Cavallaro: What kind of a pipe is it, do you know? Is it an orangeberg, plastic

Mrs. Gluse: You can see it where it comes out in the catch basin and you can hear it like he said, it drains most of the time. We went by there tonight and you can hear the water going into the catch basin. And I was the second owner of this house and the original owner of their house had told me, showed me one time where the pipe, he thought the pipe had run and it ran down alongside the driveway facing the house which would be on the left side, running right down into

Ms. Adanti: where you drew the line?

Mr. Gluse: Pretty much where I drew the line

Mrs. Gluse: right down into the catch basin

Mr. Cavallaro: So it drains into a catch basin that's in front of his house?

Mr. Gluse: yeah

Mrs. Gluse: on Patricia Drive, yes

Mr. Glover: There's a line on there where you can see where he drew that pencil line

Mr. Jones: Do you know where the inlet is?

Mr. Gluse: it's buried. It's a curtain drain, not a, not like a yard drain

Mrs. Gluse: It's in that wetland area in the back of our yard

Mr. Gluse: It's probably within 50 feet of that, because that was the natural exit for that water to go was down across in that direction

Mr. Cavallaro: So that's like a 350-400 foot pipe then?

Mr. Gluse: It's probably 200, 250 maybe

Mr. Cavallaro: Wow, it's an engineering marvel

Mr. Gluse: Yep, absolutely

Mr. Dunn: and it stayed together this long a four inch pipe

Mrs. Gluse: Yeah, I work for a, I've lived there for 31 years and this worked. And my husband is a licensed architect and works with engineers all the time.

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

Mr. Cavallaro: Are you aware of water coming out of the pipe to the catch basin?

Mr. Dunn: This is what they told me.

Mr. Cavallaro: I mean it's in front of your house

Mr. Dunn: I know, well the catch, I hear water going through there. I don't know where it's coming from, I mean it's a sewer. They claim it's coming from up, I don't know if it's under the driveway because we're going to do a new driveway coming soon too, so, the driveway's gone. I have no clue exactly what root it takes to go down there and no one seems to know.

Mr. Glover: Alright, let's um, some comments for the record here. The pipe is to me, and I'm only speaking for me because there are four other people here, four people here who vote, one who writes. The pipe is important to these people, it's not important to me in terms of your variance. Um, in, whether the pipe belongs there or the pipe doesn't belong there is really a civil thing between, between the two parties. It's not, not ours. It's irrelevant to us as far as I'm concerned. You do have a, you are asking for a garage that is almost twice the size that it's supposed to be and we've had at least half a dozen of these come in in the last three months. And I don't think any of them got through here yet. It's too big, in my opinion. I'm one vote, there's four more. But the pipe, presence of the pipe, I hear what they're saying. One of the most relevant things that I've heard is that your building, your accessory building is bigger than the building that it's an accessory to.

Mr. Dunn: Okay

Mr. Glover: Okay, that's significant, because it is not in harmony with anything that's in the neighborhood, in my opinion. So, that's just, I just want the record to be clear that the pipe, the water in their, in their backyard is an interesting story but it's not relevant to me because as Commissioner Conklin said, is there an easement that allows that pipe to go through there? I don't know. So I, there's nothing I can do about that. All I can, all I can do is try to conform to the zoning regulations, that's our job. We have to find a hardship in order to okay this big building. The town is pretty strict on the size of the building. Your building is big, 34 by 42, I doubt there's anything in the neighborhood that's that size. But the pipe and the water I don't think to this Board are relevant.

Mr. Dunn: Oh, okay

Mr. Glover: Perhaps their view is, to me I think it's too close to the road, the 40 feet from the road because that's going to be a heck of a corner now. You're going to come down there and you're going to see the size of a, you're going to see something that's 34 by 23

Mr. Dunn: Well, it's not at the

Mr. Glover: 40 feet, from the street

Mr. Dunn: From Hunter's Ridge, not from Patricia

Mr. Glover: So my point is that I don't want you to think that your neighbors are nixing your idea here, because I don't think that it had a lot of chance, we listened, but I don't think it had a lot of chance coming in the door. But you haven't had a formal vote yet and there are four other members here that could grant it. Are there any other comments from the Board? (no) Alright, then I'll declare the hearing closed. Thank you.

#1011-2 Later that evening during the work session the Board upon motion by Commission Conklin and seconded by Commissioner Adanti, unanimously voted to deny the application for variances to allow a 42' x 34' x 23' H detached garage in an R-1 zone, since no hardship within the purpose and intent of the zoning regulations was demonstrated and the proposed structure is too large and not in harmony with the rest of the neighborhood.

#711-3 During the work session the Board, upon motion by Commissioner Conklin and seconded by Commissioner Cavallaro, unanimously voted that:

In the application of Stephen S. Zuber of 2 Federal Road, Shelton, CT for a certificate of approval for a building lot to be located on the property of the applicant at 2 Federal Road, R-1 zone, and which requires a variance in the minimum lot size ,

The application for a variance is approved.

Inasmuch as applicant testified that the proposed building lot would be connected to city water and city sewers; and

Inasmuch as this is a minor variance since Section 35.71.1 of the City's PRD code indicates the lot size can be reduced from 40,000 sq. ft. to 30,000 sq. ft. as long as there is city water, and this proposed lot is well over 30,000 sq. ft., and

Inasmuch as evidence was provided to the Board showing lots of similar size in the area making this proposed lot in harmony,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval of a variance in the minimum lot area from 40,000 sq. ft. to 37,163 sq. ft. at the above is granted (Section 24, Schedule B, Standard 1) in this instance.

This certificate of approval is contingent on the applicant adhering to the following stipulations: 1. The building lot shall be hooked up to city water.

This certificate of approval shall take effect on the date following the publication of the statutory notice in a newspaper having circulation in the City of Shelton, provided that a copy thereof has been recorded by the petitioner in the land records of the City of Shelton."

Approval of Minutes

During the work session the Board upon motion by Commissioner Adanti and seconded by Commissioner Cavallaro, unanimously voted to accept the minutes of the September 20, 2011 hearing as submitted by the clerk.

Respectfully submitted,
Loreen Michalak, Clerk