

Board of Zoning Appeals – Hearing Room, Municipal Building 54 Hill Street, Shelton, CT.
Tuesday, February 15, 2011 at 7:30pm

AGENDA:

- #1210-1 Kevin Murphy at 90 Blueberry Lane
- #111-1 John T. Nowell, Jr. at 14 Hamilton Drive
- #111-2 Michael Moraveck at 15 Beverly Hill Drive
- #111-3 Augusto DaSilva at 29 Dome Drive
- #211-1 Jean Fabozzi at 137 Howe Avenue, #8
- #211-2 Patricia Ostrom at 26 Park Avenue
- #211-3 Gerard Laneuville at Summit Avenue, Map 106.C, Parcel 48

Mr. Glover: Good evening and welcome to the February meeting of the Shelton Zoning Board of Appeals. We meet monthly to have hearings to I guess determine variances. They are hearings. You are giving testimony. While you're in the hall I would appreciate it if you would not have conversations because we record the minutes and later on they're transcribed and if you have discussions in the hall it garbles the tape and we can't get a good, we can't get a good record of the meeting. If you have a cell phone please either put it on vibrate or turn it off. With us tonight to my left is Bob Harbinson. Lori Michalak, is our clerk and I'm Gerry Glover. To my right is Jamie Jones and to his right is Ed Conklin and to Ed's right is Phil Cavallaro. Our regulations say that you should have posted the yellow placard, that you should have taken pictures which you should bring, should have with you tonight. And you should have receipts showing that you notified your abutting neighbors of what you intend to do. When your hearing is called we will be looking for the receipts and the pictures. If you have forgotten them, then we will have to continue your hearing another month so that you can fulfill that requirement. Our meetings, will start, we will call the applicant. The applicant will come up give their name and address, tell us what they want to do, they'll be questioned by the Board and then we'll ask if there's anyone else in the room who is in favor and then we'll finally ask if there's anyone in opposition. If you have something to say there'll be a time to say it. I will run the meeting and I will let you know when it's appropriate to say it. And at all times we need to have a, not a dialog, but one person speaking because she can't take minutes with two people speaking at once. She has to decide who's more important.

#1210-1 90 Blueberry Lane, Kevin Murphy of 21 Ozick Drive, Durham, CT is seeking to waive Section 24, Schedule B, Standard 8 by varying the minimum setback from the rear property line from 30 ft. to 15 ft. for an 18x36 in-ground pool.

Mr. Glover: Good evening

Mr. Murphy: hello

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

Mr. Murphy: Kevin Murphy, Pool's by Murphy, 21 Ozick Drive, Durham, CT.

Mr. Glover: Did you get my call last month?

Mr. Murphy: I believe my assistant

Mr. Glover: then you got the message not to come?

Mr. Murphy: not to come?

Mr. Glover: Last month, we cancelled the meeting because of the ice

Mr. Murphy: Yeah, because of the weather, yeah

Mr. Glover: I think I left a message on your machine, I didn't want you to come all the way from Durham

Mr. Murphy: I probably wouldn't have made it anyway, it was pretty bad that night

Mr. Glover: Alright, Mr. Murphy, you have some pictures for us this month?

Mr. Murphy: yep

Mr. Glover: And some, did you give us receipts?

Mr. Murphy: Um, I have two letters here. My assistant in the office spoke to somebody and they said these would be fine?

Mr. Glover: Who'd they speak to?

Mr. Murphy: She said the Zoning Enforcement Officer?

Mr. Glover: Good, but they're not fine

Mr. Murphy: What's the matter with them?

Mr. Glover: They have to be registered mail

Mr. Murphy: Oh boy, okay

Mr. Glover: Alright, first of all, are these the only two neighbors?

Mr. Murphy: Yes

Mr. Glover: Well, we have one here that came in writing, so obviously they know. And we have another one from Mr. Choate. These are both the same I think. These two are the same.

Mr. Murphy: Okay

Mr. Glover: Did you have

Mr. Murphy: Oh, I have another one

Mr. Glover: Okay. And this one is from Russell Choate and we already have that by mail, so you're good to go because the intent of it is to make sure your neighbors know what you're doing. They've already sent us letters.

Mr. Murphy: Okay

Mr. Glover: And so, you're off the hook on that one

Mr. Murphy: Okay

Mr. Glover: and we need pictures then

Mr. Murphy: These are the pictures, the sign by the street, sides of house and rear

Mr. Glover: alright can you tell us, did he give his name and address?

Clerk: Uh huh

Mr. Glover: He did, can you tell us what you want to do and why you can't comply with the zoning regulations?

Mr. Murphy: Yeah, there's a 30 foot rear setback and they have a quite large rear patio coming off of the house and that is set at the setback. So there's really, with the setback there's zero room for the swimming pool to comply with the rear setback. If we can reduce it to a 15 foot setback I can position the pool

Mr. Glover: First of all it's going in the back of the house

Mr. Murphy: yep

Mr. Glover: and the Assessor's map which you've given us to serve as a plot plan, it appears that the house is set abnormally far from the street, is that correct?

Mr. Murphy: Yeah, it's closer to the rear line than it is to the front, yep

Mr. Glover: Is that because out in front there is ledge or something like that?

Mr. Murphy: I don't know

Mr. Glover: Alright, so the house exists pushed way back on the lot

Mr. Murphy: right

Mr. Glover: and there's not much room in the back

Mr. Murphy: right

Mr. Glover: the back of you, is that water company land?

Mr. Murphy: Yes

Mr. Conklin: (inaudible)

Mr. Glover: probably should have been. Is there any, is there some reason that you didn't notify the water company?

Mr. Murphy: They were notified by mail. And I was told that if they don't object then we're fine

Mr. Glover: Yeah but we don't know if they were notified

Mr. Murphy: I don't know if I have a copy of the letter that I mailed them, no I don't

Mr. Glover: See, of the three abutting neighbors in your case the most important one is the water company because it's water shed land, and you're talking about pool chemicals

Mr. Jones: and that's the one he's infringing on too

Mr. Glover: And those are the people that you're encroaching on. I'm sorry to tell you this, but you're going to have to get either a registered letter showing that you've informed them, or you're going to have to get a letter from them telling us that they don't have a problem

Mr. Murphy: Okay

Mr. Glover: I don't necessarily need a letter from them, I just have to know that they're informed. Once you inform them it's their responsibility

Mr. Murphy: So if I send them a certified letter and give you

Mr. Glover: well, that's what you were supposed to do to everybody

Mr. Murphy: Okay

Mr. Glover: So we'll continue it until March.

Mr. Murphy: Okay

Mr. Glover: I'm sorry

Mr. Murphy: That's alright

Mr. Glover: It's a long trip to Durham

Mr. Murphy: That's okay

Mr. Conklin: Question?

Mr. Glover: Yes?

Mr. Conklin: There's no deed restrictions on that property in the back is there at all?

Mr. Glover: I don't know. Are there any deed restrictions that you know of in the back of that property?

Mr. Murphy: No

Mr. Glover: I don't think there are because it's water company land in the back of it. Alright, thank you.

#111-1 14 Hamilton Drive, John T. Nowell, Jr. of 14 Hamilton Drive, Shelton, CT is seeking to waive Section 24.12.1 by varying the maximum square footage from 750 sq. ft. to 960 sq. ft. and maximum height from 20 ft. to 24 ft. for a 24x40x24 detached three car garage.

Mr. Nowell: My name is John T. Nowell, Jr. I live at 14 Hamilton Drive in Shelton, Connecticut. I have two of the receipts, the other one, the other one never came back.

Mr. Glover: That's okay, it doesn't have to come back, all we need is that one there.

Mr. Nowell: I have that and I have the, that from off of the Internet

Mr. Glover: That's all I need sir. It doesn't, it doesn't make any difference whether they come, we just have to know that you told them that's all.

Mr. Nowell: Okay

Mr. Glover: Alright, you want to put a pool in, let me, we have some correspondence here let's read that into the record before we

Mr. Nowell: No, I want to put a garage

Mr. Glover: before we start, I'm sorry, a garage, we'll give you a pool too if you want

Mr. Nowell: I don't know need one

Mr. Jones read letter: "To: Gerald Glover, Chairman, Board of Zoning Appeals. From: Richard D. Schultz, Planning and Zoning Administrator. Date: February 15, 2011. Re: ZBA Application 111:1. The Shelton Planning and Zoning Commission at their February 8, 2011 meeting received and discussed ZBA Application #111-1 and offers the following comments: 1. The Commission believes that the standards for detached accessory structure should not be varied as they are necessary in protecting the public safety, welfare and property values. 2. The Commission believe that there is no hardship shown. cc: Planning and Zoning Commission."

Mr. Glover: Mr. Nowell, tell us what you want to do and why you can't, I know you want to build a three car garage, but tell us what you want to do and why you can't make the garage fit within the setbacks.

Mr. Nowell: It's not a setback issue. Let me read the

Mr. Jones: it's the square footage

Mr. Glover: Oh, it's the square footage of the garage, well it's only 32 feet from the side line

Mr. Nowell: It only has to be 30 feet

Mr. Glover: Okay, I'll wake up tonight. Go ahead

Mr. Nowell: This is an application to construct a 40 foot by 24 foot by 24 foot three car garage with a loft constructed to the left side when facing the street of our ranch style home at 14 Hamilton Drive. We're asking the City of Shelton for variances: 1. from allowable maximum square footage of 750 sq. ft. to the proposed square footage of 960 sq. ft.; and 2. from the allowable maximum height of 20 feet to the proposed height of 24 feet. The request for the variance for the allowable maximum square footage of 750 sq. ft. to the proposed square footage of 960 sq. ft. is to provide out of weather parking for my motor vehicles. We currently own four registered motor vehicles that include one antique 1983 Mazda RX7 and have sufficient out of weather parking for one vehicle. One of the two under house garages is used to park one vehicle while the other one is used as a wood working shop and place to store snow blowers during the winter. The other vehicles are parked outside. My wife and I are currently 69 and 70 years old and cleaning snow off vehicles has become a significant hardship as we age. If this request is granted, all vehicles will be parked inside eliminating the hardship making life much more livable for us here in Shelton. The request for the variance from the allowable maximum height of 20 feet to the proposed height of 24 feet is to provide adequate head room clearance at the permanent stairway to the loft. The physical dimensions don't work with the 20 foot height restriction. We decided to construct a garage with a loft and a permanent stairway to provide additional storage for seasonal yard chairs, decorations and my model airplanes in the loft. With the additional storage my basement area will be available for additional model building area. The garage will be extremely eye appealing with the high peaked roof and dormers. Currently, seasonal decorations are stored in the attic of our ranch house and getting them down has become a significant hardship using the fold up stairway. If this is requested, if this request is granted, seasonal decorations will be stored in the loft eliminating the hardship of using pull down shaky stairs and will add our needed additional storage. We have lived at our residence for 47 years and intend to live our lives out right where we are and we request that this variance be granted. And as I said, it's myself and my wife. Now, if you want to go over the, I have, I have a letter from Mr. and Mrs. Raymond Grich, Jr., and from Marie and Bob Wnek. They are two of the three bordering neighbors. Anybody want to talk about the pictures? I'll go over the pictures.

Mr. Glover: No, not yet, Jamie can you read these in please?

Mr. Jones read letters: "January 16, 2011. Zoning Board of Appeals Members, RE: Public Hearing on January 18, 2011 at the Shelton City Hall concerning the construction of a 40-ft. (W) x 24-ft (D) x 24-ft (H) three car garage. My wife Marie and I live adjacent to June and John Nowell, Jr. on the property north of their residence. We have been neighbors for over 35 years. We have absolutely no objection to the construction of a three car garage at their residence at 14 Hamilton Drive. Shelton, CT. Regards, Marie T. Wnek and Robert J. Wnek."

"January 18, 2010. To: Zoning Board of Appeals. Re: June and John T. Nowell, Jr.'s application for construction of a three car garage at 14 Hamilton Drive, Shelton, CT 06484. My wife and I own and reside at 18 Hamilton Drive, Shelton, CT 06484, the property adjacent to the side of the requested variance at 14 Hamilton Drive, and have no objections to the requested square foot and height variance to build a three car garage. We recommend that the Zoning Board of Appeals grant the requested variance. John and June are thoughtful and giving longtime residents of Shelton and we believe they should be allowed to build their garage as proposed. Thank you, Raymond and Melissa Grich."

Mr. Glover: Thank you. Alright, so you want to build a garage and your variance is from the maximum allowable 750 and you want to go to 960 and you want to go 4 feet higher than allowed by code.

Mr. Nowell: Yes

Mr. Glover: And you're going to have a stairway inside going up to the second floor.

Mr. Nowell: Yes

Mr. Glover: Other than electricity are there any utilities in this garage?

Mr. Nowell: No

Mr. Glover: Other than normal residential vehicles are there any commercial vehicles going to be stored in the garage?

Mr. Nowell: No

Mr. Glover: Will there ever, the upstairs ever be used for living space?

Mr. Nowell: No

Mr. Glover: The only reason for your 20 to 24 feet is for head room for the stairs?

Mr. Nowell: Yes

Mr. Jones: What's the height of the garage doors?

Mr. Nowell: 7 feet

Mr. Jones: 7 feet

Mr. Glover: I know we're going to struggle with a hardship sir. And I know that in your conversation you talked about hardships that you have, but the hardships that you're speaking of are not hardships that go with the land, they're hardships that go with the occupant of the property. And the statute says it has to be a hardship that goes with the land. So, our problem is going to be to find a hardship and I'm not sure that there is one. Are there any other garages such as this in the neighborhood?

Mr. Nowell: Yes

Mr. Glover: Three cars?

Mr. Nowell: Yes

Mr. Glover: detached?

Mr. Nowell: Yes. Mohegan Road, two of them. The farm is, the old Birdseye, that's a three car there. There's a three car down not far from across the street from the gas station. There's a three car that looks almost identical to the one that I want to build.

Mr. Glover: Okay, are they equally as high?

Mr. Nowell: Yeah, oh no, the one on the farmer's is not. But the one down by Mohegan is

Mr. Glover: It's like this?

Mr. Nowell: Yeah

Mr. Glover: Sir, do you have any idea how long that garage has been there?

Mr. Nowell: a few years

Mr. Cavallaro: Isn't there another one down on Hamilton and Windsor?

Mr. Glover: Yeah, that was

Mr. Nowell: oh that's a monstrosity

Mr. Glover: That's a, that's a problem

Mr. Cavallaro: that's what started the trouble

Mr. Nowell: That's right down the street from me. That's actually another house.

Mr. Glover: The dormers are, your dormers have a 12x12 pitch, is the roof of the garage the same? Do you know what the pitch of the garage is?

Mr. Nowell: It's 12x12

Mr. Glover: It is?

Mr. Nowell: Yeah. Aesthetically the 12x12 looks pretty nice

Mr. Glover: Alright, does the Board have any other questions for the applicant? (no) Is there anyone else in favor of this application?

Mr. Conklin: Do you have a plot plan?

Mr. Glover: Yeah, I do, hang on, I just have to find it in here. Here it is. The location though is not the issue. The only issue is that, the two issues are the height and the size, square footage. Who also is in favor? Would you come up please? You have to come here and give your name and address and tell us you are in favor of it. If you're in favor of it. You don't have to tell us you're in favor if you're not.

Mrs. Grich: I am in favor

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

Mrs. Grich: Donna Grich, 17 Hamilton Drive

Mr. Glover: And you're, you think this is a good idea?

Mrs. Grich: Yes

Mr. Glover: and you're an adjacent neighbor

Mrs. Grich: No, I'm across the street

Mr. Glover: Across the street, so you're going to be looking at it

Mrs. Grich: Yes and I don't have a problem because I also look at the

Mr. Grich: We also look at the HAD Construction, okay, which is an embarrassment to Hamilton Drive, this will not be

Mr. Glover: Before we, are you through? You don't have to be, but are you

Mrs. Grich: Is what?

Mr. Glover: Are you finished, have you said everything?

Mrs. Grich: Yes

Mr. Glover: Alright, now you have to give your name because we

Mr. Grich: Oh, I'm sorry, Raymond Grich, 17 Hamilton Drive

Mr. Glover: Alright, now Mr. Grich, what did you have to tell us

Mr. Grich: Again, I will have no problem viewing John's garage as opposed to the other monstrosity

Mr. Glover: The one that's on the corner that was a problem a number of years ago

Mr. Grich: Yeah, the one that's really creating this problem for John, okay, but

Mr. Glover: Well it might be creating this problem for the city and not just for John

Mr. Grich: It's, it's probably what changed the statutes in this town

Mr. Glover: That's what I'm saying, it's

Mr. Grich: okay, but if it was allowed there and on Hamilton I, you know, again this is going to be quality as compared to that, we'll call it a barn, built with construction equipment that is now residing out my other window.

Mrs. Grich: Excuse me, that we hear constant, trucks up and down

Mr. Grich: That's a whole other story

Mr. Glover: but so you are in favor of this

Mr. Grich: Yes

Mrs. Grich: Oh yes

Mr. Glover: Okay, thank you very much. Mr. Pavone?

Mr. Pavone: How do you know my name?

Mr. Glover: I've known your name for a long time

Mr. Pavone: Peter Pavone, 18 Coachman's Lane. I support his effort also. My garage by the way, on adjacent property is 800, I had to do the math on it just now, it's 34 feet long by 25 feet wide, which comes out to be 850 which is less than his, but I don't have a problem with the square footage or the height because it guarantees that we have quality neighbors for a long time. Maybe this is part of the aging process, we should give consideration to our baby boomers who don't want to climb up ladders anymore.

Mr. Glover: Just for the record, is your garage attached or detached?

Mr. Pavone: It is attached to the house

Mr. Glover: It is attached, okay, when was your garage constructed?

Mr. Pavone: 1977

Mr. Glover: Which was prior to the change in the regulation

Mr. Pavone: That's, I was going to ask that question. I don't know if I can ask questions, but when was the regulation put in about the size?

Mr. Glover: I don't know, but I know it was

Mr. Pavone: It was after

Mr. Glover: It was after when you built your house, I know that. I don't know if there was zoning when you built your house

Mr. Pavone: I don't know either, I couldn't find a good builder either in those days, so it was tough

Mr. Glover: So you're in favor of this

Mr. Pavone: I'm 100% in favor of this

Mr. Glover: Thank you sir. Anyone else in favor? (no response) Is there anyone who is opposition to this application? (no response) Anymore questions from the Board? (no) Thank you, I'll declare the hearing closed. Thank you sir.

Mr. Nowell: Thank you.

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

#111-1 "In the application of John T. Nowell, Jr. of 14 Hamilton Drive, Shelton, CT for a certificate of approval for a 24x40x24 detached three car garage to be located on the property of the applicant at 14 Hamilton Drive, R-1 zone, and which requires a variance in maximum square footage and height, The application for variances is approved.

Inasmuch as testimony indicated the size and shape of the structure will be in harmony with other garages in the area, and

Inasmuch as the height and width allow for a safe means of accessing the storage area above the garage area with an actual stairway, and

Inasmuch as the building will provide space to house all vehicles inside and needed storage, and

Inasmuch as the abutting neighbors were in favor of the aesthetic design of the structure and were opposed to a structure that would be attached to the existing house,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval of variances in maximum square footage from 750 sq. ft. to 960 sq. ft. and maximum height from 20 ft. to 24 ft. at the above is granted (Section 24.12.1) in this instance.

This certificate of approval is contingent on the following stipulations: 1. There shall be no living space in the proposed garage and no plumbing/water. 2. No commercial business shall be conducted out of this garage. 3. The maximum height of the garage doors shall be 8 feet.

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

#111-2 15 Beverly Hill Drive, Michael Moraveck of 15 Beverly Hill Drive, Shelton, CT is seeking to waive Section 24, Schedule B, Standard 7 by varying the minimum setback from the street line from 40 ft. to 34 ft. for an 18x20 gazebo.

Mr. Moraveck: Hi, good evening

Mr. Glover: Good evening

Mr. Moraveck: Mike Moraveck, 15 Beverly Hill Drive

Mr. Glover: Can you hear him?

Clerk: Yes

Mr. Glover: Okay

Mr. Moraveck: pictures and receipts

Mr. Glover: Now this property already has a variance on it

Mr. Moraveck: Yep, I've got multiple. For the house, pool, hot tub

Mr. Glover: Alright, and you gave me the receipts. Now, you want to build a gazebo?

Mr. Moraveck: Yep, right at the end

Mr. Glover: and

Mr. Moraveck: I actually wanted it on the side, but because of the septic system, the health department wouldn't allow it

Mr. Glover: How far away do you have to be from the septic system?

Mr. Moraveck: 25 feet, even with the gazebo

Mr. Glover: is the reserve there?

Mr. Moraveck: yeah, you add the reserve, it's all in the back, on the side

Mr. Glover: Alright, so the reserve is back here

Mr. Moraveck: Yep

Mr. Glover: Okay

Mr. Moraveck: Yeah, the health, I have it on a copy, another copy. The health department approved it already, the gazebo, even before we got a variance.

Mr. Glover: But they told you it had to be

Mr. Moraveck: It had to be at the end of the pool, it couldn't be next to it

Mr. Glover: right, but could it be at the end of the pool and closer to the, to the fields

Mr. Moraveck: Well, offsetting it, as long as it was 25 feet away yeah, but we wanted it, you know, either right on the side of it or right at the end of it.

Mr. Glover: but it's possible that you could put it

Mr. Moraveck: I could shift it over yeah, but it probably wouldn't look as good

Mr. Glover: See, but when you say you can shift it over you have no hardship

Mr. Moraveck: Well, 25 feet, as long as it's 25 feet from that tank, yeah. But I mean this spot over here is still for reserves too, that's what the health department told me. This part and the back part, because the well for the neighbor is over here as well. That comes into my property.

Mr. Glover: so how far is the gazebo away from the edge of your reserve, because it's not shown on here. All that's shown on here is your septic system

Mr. Moraveck: I couldn't tell you exactly how far away it is.

Mr. Glover: Then how do you know you can't move it in far enough

Mr. Moraveck: I'm just going by what the health department told me. You know, my hardship is mainly that I'm on a corner lot and I have a well and I have a septic system. You know it's a smaller square footage lot in an R-1 district.

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

Mr. Moraveck: Uh huh

Mr. Glover: And your, the variances you got were for the pool and for the hot tub?

Mr. Moraveck: Yep, and for the house. We got the 38 foot for the house, I think it was 28 foot for the hot tub

Mr. Glover: I remember this house because you were only going to be just barely, you were going to be within 12 inches or something as a setback

Mr. Moraveck: It was literally inches

Mr. Glover: Yeah, I think we made you put the footings in and then survey it

Mr. Moraveck: Yep, oh yeah

Mr. Glover: and then put the house up

Mr. Moraveck: Yep

Mr. Glover: Okay, so your testimony is that you can't put the gazebo closer to the fields because that's the location of the reserve for the septic system

Mr. Moraveck: From what the health department said, yes

Mr. Glover: and the health department has told you that this is as close as you can go to your fields

Mr. Moraveck: Yep, and they approved it the way it is, even though I know

Mr. Glover: approving it, but is that what they told you, you couldn't go any closer?

Mr. Moraveck: yep

Mr. Glover: Okay. This is just an open gazebo?

Mr. Moraveck: Yep, no walls

Mr. Glover: No walls

Mr. Moraveck: It's got a roof, and that's, what I was told I had to apply for a variance because it has a roof, because it's going to be a slab at the end with a roof, no walls though

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

Mr. Conklin: This is going closer than the pool, but not to the hot tub

Mr. Glover: He already has a variance for the house, for the house?

Mr. Moraveck: Uh huh

Mr. Glover: the house, the pool and for the hot tub. The house was in 2006, the pool was '07 and 2011 is the gazebo.

Mr. Moraveck: Eventually, we might get there

Mr. Glover: You should've bought a bigger lot

Mr. Moraveck: In Shelton, at that time? Right now, I could if I didn't put this house up then, if I put it up now it'd be great. Do you need this paperwork too?

Mr. Glover: No, we have that on file.

Mr. Moraveck: And those trees are all staying, as per the variance

Mr. Glover: Any other questions from the Board? (no) Anyone in this room in favor of this application? (no response) Is anyone in this room opposed to this application? (no response) Any opposition? (no response) Good luck.

Mr. Moraveck: Thank you.

Mr. Cable: Can I, come up to the table?

Mr. Glover: No, I'll declare the hearing closed, thank you. Not unless you have something to say about his?

Ms. Cable: No,

Mr. Glover: No you can't.

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

#111-2 "In the application of Michael Moraveck of 15 Beverly Hill Drive, Shelton, CT for a certificate of approval for an 18x20 foot gazebo to be located on the property of the applicant at 15 Beverly Hill Drive, R-1 zone, and which requires a variance in minimum setback from the front property line,

The application for a variance is approved.

Inasmuch as this is a pre-existing non-conforming undersized lot, and

Inasmuch as the Valley Health Department has indicated this is the only place the gazebo can be placed due to the existence and location of the septic system and reserve, and

Inasmuch as the structure will be an open construction, with a roof, but no walls and no living space,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval of a variance in minimum setback from the front property line from 40 ft. to 34. ft. at the above is granted (Section 24, Schedule B, Standard 7) 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."

#111-3 29 Dome Drive, Augusto DaSilva of 29 Dome Drive, Shelton, CT is seeking to waive Section 24.11.4 by varying the setback from the right side yard from 40 ft. to 30 ft. for a 30x24 proposed garage.

Mr. Glover: Good evening

Mr. DaSilva: Good evening

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

Mr. DaSilva: My name is William DaSilva, and I live at 271 Seaview Avenue, Milford, CT. I'm Auggie's son

Mr. Glover: Okay. Do you have some pictures for me sir?

Mr. DaSilva: I do and here's the

Mr. Glover: and these are your neighbors, or his neighbors?

Mr. DaSilva: Yes

Mr. Glover: and you're speaking on his behalf as his son

Mr. DaSilva: Correct

Mr. Glover: Okay. He wants to put a garage in

Mr. DaSilva: He wants to add a two car garage correct

Mr. Glover: detached right?

Mr. DaSilva: No it's attached to the side of the house

Mr. Glover: Okay. Alright so, I'm assuming the driveway is there

Mr. DaSilva: The driveway?

Mr. Glover: is it coming here?

Mr. DaSilva: Yeah, it does, it comes down and it actually circles out. So it comes right around like this

Mr. Glover: So the position of the garage is predicated by the location of the driveway

Mr. DaSilva: Correct, yes

Mr. Glover: And you too have a septic system in the back

Mr. DaSilva: Correct

Mr. Glover: so you can't put the thing there

Mr. DaSilva: right

Mr. Glover: and a well in the front

Mr. DaSilva: Correct

Mr. Glover: So this is the only place you can put it?

Mr. DaSilva: Really it's the only place because of the septic and the well like you said, and still be able to get into to from the house

Mr. Glover: And what are you going to use the garage for?

Mr. DaSilva: Vehicles

Mr. Glover: What kind of vehicles?

Mr. DaSilva: He has a 1955 Thunderbird and then their regular vehicles

Mr. Glover: but not commercial vehicles

Mr. DaSilva: No, no commercial vehicles

Mr. Conklin: What's the height of the structure?

Mr. DaSilva: It's, it's under, I'm not sure of the exact but it's under what's require, the requirements

Mr. Conklin: Does it have a second floor?

Mr. DaSilva: No, it does not, it's a single floor with just a pitch roof

Mr. Conklin: Just electricity, no water?

Mr. DaSilva: No water, just electricity

Mr. Glover: Is that going over here?

Mr. DaSilva: Correct, right on the corner there

Mr. Glover: Alright so you have the same problem as the other gentleman with the reserve and the pool, I mean the well, and it's the only place you can put it.

Mr. DaSilva: That's right, exactly. And there's no, nobody

Mr. Glover: And you're not going to park any commercial vehicles in it

Mr. DaSilva: No commercial vehicles

Mr. Glover: and he's not going to do any commercial work out of it

Mr. DaSilva: Absolutely not, he'll probably be in Florida most of the time anyway

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

Mr. DaSilva: Thank you very much.

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

#111-3 "In the application of Augusto DaSilva of 29 Dome Drive, Shelton, CT for a certificate of approval for a 30x24 foot proposed garage to be located on the property of the applicant at 29 Dome Drive, R-1 zone, and which requires a variance in minimum setback from the right side yard,

The application for a variance is approved.

Inasmuch as it is the only place the garage can be built due to the existence and location of the septic system, and

Inasmuch as it is the most logical place to build a garage due to it's proximity to the existing driveway,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval of a variance in minimum setback from the right side yard from 40 ft. to 30 ft. at the above is granted (Section 24.11.4) in this instance.

This certificate of approval is contingent on the following stipulations: 1. The garage shall be a one story structure with no living space. 2. No commercial business will be conducted out of this garage.

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.”

#211-1 137 Howe Avenue, #8, Jean Fabozzi of 137 Howe Avenue, #8, Shelton, CT is seeking to waive Section 24, Schedule B, Standard 2 by varying the minimum lot area per dwelling unit from 7500 sq. ft. to 3687 sq. ft.; and Section 33.2 Permitted Uses, waive special exception and site plan for an 11th unit, detached from a 10 unit apartment complex, converting an existing garage building to living space.

Mr. Glover: Do you have some receipts for me please?

Ms. Fabozzi: Yes

Mr. Glover: Could you give your name and address for the record if you're going to speak?

Ms. Fabozzi: Jean Fabozzi, 137 Howe Avenue, #8, Shelton, CT

Mr. Fabozzi: Dominick Fabozzi, 137 Howe Avenue, #8

Ms. Fabozzi: I have the receipts that were returned and I have the confirmation from on-line. I have four of them if you need that.

Mr. Glover: Alright, this is the track that they got the receipt, that it was delivered to them. Alright

Ms. Fabozzi: Okay? And here's a copy of each letter sent.

Mr. Glover: It's just basically telling them what you're going to do, what you want to do. Okay, now we also have a letter from the P&Z, let's read that before you start.

Mr. Jones read letter: “To: Gerald Glover, Chairman, Board of Zoning Appeals. From: Richard D. Schultz, Planning and Zoning Administrator. Date: February 15, 2011. Re: ZBA Application 211:1. The Shelton Planning and Zoning Commission at their February 8, 2011 meeting received and discussed ZBA Application #211-1 and offers the following comments: 1. The Commission approved the subject detached garage with the stipulation that there will be no dwelling units permitted within it. 2. The Commission believes that the bulk standards of Schedule B should not be varied as they are necessary in protecting the public safety, welfare and property values. 3. The Commission does not support the ZBA waiving the special exception/site plan submission requirements as this requirement is intended on giving area residents an opportunity to attend a public hearing and voice their comments. 4. The Commission believes that there is no hardship shown. cc: Planning and Zoning Commission.”

Mr. Glover: Alright, who's talking Jean or Dominick?

Ms. Fabozzi: I am

Mr. Glover: Alright, this is a repeat from 2006, basically it's the same thing

Ms. Fabozzi: Yes

Mr. Glover: that you built a garage in 2002 and at that time you got a certificate of zoning compliance from the Planning and Zoning with it looks like seven stipulations. One was that the upper floor area loft is going to be for storage area, storage only. And the other is that all conditions shall continue, the other important one is any changes to these conditions shall require approval by the Planning and Zoning Commission. First of all, we're in trouble because we don't have approval from the Planning and Zoning Commission, because they just wrote us a letter and said they're not approving it.

Mr. Fabozzi: talk to her, she's the boss of this

Ms. Fabozzi: Well, Rick Schultz told me, and he's telling you a different story, that when I, when he gave me this, he said this is for you to follow as a four bay garage with a storage unit. Because I had a lot of "what ifs" before we signed this. I said what if some day we do want to turn this into a home. He said then you come back to us, we will give you what you need to go back to the ZBA. He said and once you go back, he said these will no longer stand against you because you're going up for a new a variance, or for a variance. We didn't need a variance to build the garage.

Mr. Glover: No, they gave you, that's because you maintained the setbacks

Ms. Fabozzi: Right

Mr. Glover: And at that time the square footage, this gentleman is asking for a variance from 750 to 960, because since you built this garage you wouldn't be able to do it today, it's against the zoning now, but it wasn't then. So you complied at that point with the garage. At that time you would not have complied with the variances that you're asking for tonight. You're asking for a variance of lot area per dwelling unit. And because now you're adding a dwelling unit to it, and you wouldn't have complied then either for a room upstairs, over the garage.

Ms. Fabozzi: right

Mr. Glover: but, you have two issues here and one of them is that they allowed you to put in a four bay garage with a loft with a stipulation that there would be no area upstairs for living space

Ms. Fabozzi: For this, for that what do you call it

Mr. Glover: zoning compliance

Ms. Fabozzi: yes

Mr. Glover: Yes

Ms. Fabozzi: Because, that's what they wanted us to keep it this way so we would not do anything with it without coming back to them first

Mr. Glover: right, so you know you have to go back to them

Ms. Fabozzi: I did

Mr. Glover: Yep, and they wrote us a letter and said they don't approve of it.

Ms. Fabozzi: Well, okay

Mr. Glover: They, we have a letter here

Ms. Fabozzi: I just heard it, yeah

Mr. Glover: that said that they, the Commission, not Rick Schultz, the whole board said that they did not want

Ms. Fabozzi: But we didn't go before the Board

Mr. Glover: No, you didn't have to go before the Board, see we have our agenda and our agenda is given to the Board and our agenda is presented to the Planning and Zoning Commission for their commentary if they wish to. Sometimes they do, most times they don't, but they did. And they met on the 8th of February and did not give you permission to put storage, to put a living space above the garage

Ms. Fabozzi: Okay, so that means because they don't agree you will not show favor to give this variance, is that where the bottom line is?

Mr. Glover: the bottom line is, you more or less made an agreement with them when you went for the zoning compliance

Ms. Fabozzi: But the only reason I made this agreement was because Rick Schultz said when you come up for a new, for a variance for something new these will no longer be held against you, is what he told me, or this would not have been signed by us.

Mr. Glover: I don't know what to tell you because I wasn't there for that. All I can tell you is I have a document of certificate of zoning compliance and one of the issues says that any changes to these conditions shall require approval by the Planning and Zoning Commission and they have written us a letter saying they don't approve of it. I'm

Ms. Fabozzi: So, do you not want to hear anything else, is that it?

Mr. Glover: They, we can't comply with their conditions.

Ms. Fabozzi: Okay

Mr. Glover: you can't comply with their conditions

Ms. Fabozzi: Okay

Mr. Glover: based on his letter. Does the Board have any questions or any issues?

Ms. Fabozzi: I have met every issue that you guys had the last time and that two complaintees had last time. We have solutions to all those problems.

Mr. Glover: They're not even here I don't think tonight.

Mr. Fabozzi: No, they're not

Mr. Glover: So I mean, that's

Ms. Fabozzi: And I have two letters from two of the adjoining people, from numbers 3 and 4 approving of it, and the other two aren't even here to complain about it

Mr. Glover: 3 and 4, what's

Ms. Fabozzi: I mean the people around me, 1, 2, 3 and 4

Mr. Glover: Okay, the properties around you

Ms. Fabozzi: Yes, since my neighbors are agreeing which was the problem at first, you still say

Mr. Glover: No, the other thing, I wouldn't, I'm only one vote but I would not recommend that we waive the special exception hearing, is that what, the special exception site plan

Ms. Fabozzi: But if the other people are going to vote with you, then I won't give my side of the story. But if there's any chance that they will vote not with you, then I would like to give my side of the story

Mr. Glover: Why don't you give me your side of the story

Ms. Fabozzi: Okay, here are my two letters. Here are the pictures of my sign on the

Mr. Glover: let's read this into the record

Ms. Fabozzi: and here are the four surrounding pictures going out into the property

Mr. Jones read letter: "Dear Jean and Dominic Fabozzi, We received your letter that you plan to turn a 4 bay garage into a home with a two bay garage. I think due to an increase in your family; that it sounds like a wonderful idea. My wife and I both wish you the very best and approve of the plan you and Dominic have decided on. Best wishes, Orlando & Dolores Buccelly."

Mr. Jones read letter: "To the Board of Appeals, My family live at 96 Myrtle Street in Shelton. Our neighbors Fabozzi want to change garage to home. We do not care, place is beautiful and people are nice. Thank you, Chi Chu Sin."

Mr. Glover: Alright, there are some more letters in the file, so let's read them,

Mr. Jones: Okay, these all

Mr. Glover: They're different aren't they, or are they the same?

Ms. Fabozzi: Those are the letters that I sent to the

Mr. Jones: they seem to be identical. They're explaining what they want to do.

Ms. Fabozzi: These are letters that I had previously from tenants around our surrounding area, I mean neighbors surrounding us that approve. There's six letters here of people looking at our property that approved of us living, but this was from 2006

Mr. Glover: Yeah, I don't want them from 2006, they may not even live there now

Ms. Fabozzi: All but one does, and that home is up for sale now

Mr. Glover: So go ahead, tell us

Tape had to be flipped*

Mr. Glover: Go ahead

Ms. Fabozzi: Well I was going to start off saying that Dominick and I have lived here for 15 years. We have made this our home. And our family is getting bigger. When it comes to birthdays, holidays, we can no longer all fit together in our little apartment. We have to go out to restaurants and the intimacy there is gone. When my family comes to visit we have to put them up in a hotel. So we need a bigger place. We choose to live here on this piece of land because we have put blood, sweat and tears into with all the stone walls and just the beauty that we have turned this land into. It would just be a wonderful thing if you guys would grant us the favor of the variance since it is already an existing building. We have three extra parking places at the present time filled to capacity. The parking would not be a problem if we were to move from our apartment up to and turn in the four bay garage into a home. We want to take two of the bays out, make the bottom, half of the bottom part living quarters and the top part living quarters. So it would, it would be an alleviation of parking as already said if we move out of that apartment. Because we have three extra spaces

Mr. Glover: Now?

Ms. Fabozzi: Now, now

Mr. Glover: Excluding the garage?

Mr. Fabozzi: No

Mr. Glover: Including the garage?

Mr. Fabozzi: Excluding, yeah

Mr. Glover: If you don't count the garage you've got three extra spaces, when your full right now

Ms. Fabozzi: Right

Mr. Fabozzi: that's just around the apartments

Mr. Glover: So what you're saying is if you're going to take the four car garage and turn it into a two car garage

Ms. Fabozzi: right

Mr. Glover: and that's where you're going to park, and when you do that you still have parking for a full house in the apartments

Ms. Fabozzi: absolutely. And our first intent was to have storage and a four bay garage because we needed the storage area at the time. Now we don't need that storage area. What we need now is a home

Mr. Glover: and people area

Ms. Fabozzi: For us, yeah, you know. And before we, we built this place, I'd like to show you, there was no playing area whatsoever. This is the grounds.

Mr. Glover: Are these all one bedroom or two bedroom units?

Ms. Fabozzi: Two. And this is the grounds today. I'd like for you all to see the grounds today. This is a Google Earth shot. That second picture is when we first built the a, that's the Assessor's thing. The bottom picture is when we first bought the building what the place looked like. And as you can tell by the Google Earth shot, we have done just a tremendous amount of work on this piece of land. And it's very accessible for the tenants. The tenants would come up Howe Avenue, turn into their parking lot. Here's Howe Ave., tenants come in here, they pull in the parking lot and they enter the apartment in the front and in the back. From this picture here, this used to be their backyard. They now have a beautiful backyard where kids can play. We go around, we go around the block going down to, from Park to Myrtle, we come up our back drive and this would be our home.

Mr. Glover: Your driveway would be off of Myrtle

Ms. Fabozzi: Yeah, and the kids have all this area to play

Mr. Glover: How many children are there?

Ms. Fabozzi: Right now we have two that are in high school and three that are from ages two down to new born. These children don't go outside by themselves. When they go out they are in the assistance of their parents and they play here on the back patio. The parents are, we have a few families who go out their back door here, they go down the patio and these are three umbrellas here, we have tables and chairs for the adults and the kids to go out and sit and eat. They bring their families over and they you know, sit there and talk and have coffee. We have tenants who go out the back door, they go to the left of the patio and they walk down our driveway and they walk the neighborhood at night after they've, they've had dinner. I mean it's, we have made this a lovely place. Prior to us putting in this driveway, it was this, nothing but a piece of rock. So for the fact of the children not having anywhere to play prior to this, if you would look on this back page, this was all ledge, this was all woods. Up here in this section, Chief Donovan had a basement there where he once had a home.

Mr. Fabozzi: right where the garage is

Ms. Fabozzi: So we had a big hole with a lot of stone, a lot of broken glass from whiskey, vodka, beer, beer cans

Mr. Fabozzi: garbage

Ms. Fabozzi: a lot of metal, it was pathetic. An adult couldn't walk through there and play, much less an adult. So what we have transformed this to we've utilized every bit of the land that we are paying taxes on so everyone can enjoy it now. To where as before this, no one could enjoy it. No one could play. No one could walk. They only had access to their cars into the parking lot and back into the building. So we've done a wonderful job. And as far as, I told you about the garage, and then Rick Schultz had told me that these compliances would no longer be held against me when I came up for a variance.

Mr. Glover: Did he tell you that in 2002?

Ms. Fabozzi: Yes. And, no, he told me that when we, in, when we signed, yes, in, yeah, in 2002. So what our hardship is, when they built this building they built it in the late 60's and early 70's. Then our square footage per apartment was 2500. So if that were the same today we wouldn't be asking for that much of a variance because we were asking for 3687 now, with 11 units.

Mr. Glover: You're saying the zoning regulations have changed since the building was built

Ms. Fabozzi: Drastically, yes. You know, so if we could put that into consideration, that 41 years ago things were a little bit different. And as I said, the building that is in question is already in existence and we have the ample parking. So I want to go over just a few, I have 6 things here and I'll be done. Last time that we were here, property 1 had an issue with the four bays, said that we only needed two. So now we're only asking for two. We would like to turn the rest into living quarters for Dominick and myself. She also had an issue with our big white fence in one of her letters. But I would like to bring to your knowledge that for her to make her point on being able to see Dominick's backhoe and that big white fence, she had a man come in cut down shrubs and trees to make her point. Property #2 had a problem with, said that she had a problem with water coming into her basement. The City made Dominick put up a

Mr. Fabozzi: a cement curb

Ms. Fabozzi: a curb and drainage

Mr. Fabozzi: and a catch basin

Mr. Glover: To stop the water from going in

Ms. Fabozzi: Right. So she's not getting our water, she was on an incline and her house is on the bottom of the incline. So that's not our problem. And she also said she did not want us looking in her backyard. I have pictures showing her backyard.

Mr. Glover: Is that it over there?

Ms. Fabozzi: Yes, thank you very much. From upstairs, from, there's three dog window things,

Mr. Glover: the dormers

Ms. Fabozzi: Yes, this is what we see out of the first window. We do not see in her backyard. This is standing from the last one, the third window. We do not see in her backyard. And this is standing from the garage on the ground looking in, but we cannot see her backyard. I wanted you to be able to see the variance from me upstairs and down.

Mr. Fabozzi: white fence, it's not snow

Ms. Fabozzi: And looking from the apartment where we presently live, we can see her backyard. And this is a picture I had taken several years ago of kids playing on our patio. They utilize it. The parents go out there with them and they play, which before that, they had nowhere to play. They had nothing.

Mr. Glover: this is the patio you made, the patio you made in the back

Mr. Fabozzi: Yeah, the whole length of the back of the house

Mr. Glover: These cars are your tenants parking

Ms. Fabozzi: yes

Mr. Fabozzi: Yes

Mr. Glover: That's your property. That yellowish building is your neighbor's property

Ms. Fabozzi: correct, and so is the blue, the blue is a tenant, I mean a neighbor as well. And I have here that last time people were confused about the storage because of what Mr. Schultz had told me. You get it right now for storage, you come back to me and we'll send you back to zoning and planning for a variance. And that none of these restrictions would be held against you. So I'm going to have to speak with him because I don't understand why he'd tell you one thing and me another. So I'll be knocking on his door.

Mr. Glover: I'm glad I'm not there.

Ms. Fabozzi: And the Board was concerned about the no playing area and I have showed you that we now have sufficient playing areas. Now because, do you guys want to see this?

Mr. Jones: We'd have to keep it

Mr. Glover: No, we really don't want to see it because if we do, we have to keep it. And you gave

Ms. Fabozzi: I already gave you one

Mr. Glover: You already gave us a picture, so I don't want to see that.

****Several talking/mumbling at once****

Ms. Fabozzi: So this is what our patio, if you guys want to see that's what, that's what the backyard look like now

Mr. Fabozzi: (unclear) patio

Mr. Glover: I don't need those, why don't you keep those.

Ms. Fabozzi: Okay

Mr. Glover: I'd like you to keep those. Are you set?

Ms. Fabozzi: I'm set

Mr. Glover: Does the Board, do the Board members have any questions of the applicants?

Mr. Jones: Yeah, how many apartments, units are there in the building?

Ms. Fabozzi: 10

Mr. Jones: And the garage now is just for

Ms. Fabozzi: for us, for he and I

Mr. Jones: the garage is empty

Mr. Fabozzi: empty yeah, nothing in it, no sheetrock

Ms. Fabozzi: It's an empty, it's a shell

Mr. Glover: It's like a shed

Ms. Fabozzi: yeah, well, the inside has no sheetrock or nothing

Mr. Fabozzi: It was built to be sheetrocked and everything. It's got the good foundation and everything in it. I think you have that

Ms. Fabozzi: I have the plans, if you guys need to look at the plans

Mr. Fabozzi: See the building, the building,

Mr. Glover: this is the garage up here

Mr. Glover: right

Ms. Fabozzi: And we put that beautiful white privacy fence around it so they wouldn't have to look at us

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

Mr. Harbinson: I just, there's one thing I'd like to clarify. If Rick Schultz told you it was countermand by the full board

Mr. Glover: right

Mr. Harbinson: it wasn't Rick that changed his mind, it was the full board in terms of that

Ms. Fabozzi: But, if the law is that these will not be held against me with a new variance, how can it be if that's the law?

Mr. Harbinson: (unclear) don't really know

Ms. Fabozzi: That's what I'm saying. Somewhere, something happened.

Mr. Harbinson: (unclear)

Mr. Glover: Alright, let's, any other questions? Are you set?

Mr. Conklin: Do you own any of these other houses around here?

Mr. Fabozzi: No

Mr. Conklin: You keep calling them tenants, that's why I ask

Ms. Fabozzi: No, I'm just used to having tenants. Those are my tenants in the brick building

Mr. Conklin: In the brick building, okay

Mr. Glover: Is there anyone in this room in favor of this application? (no response) Is there anyone in the room who objects to this application? (no response) Alright, here's my suggestion. My suggestion is we keep the hearing open

Ms. Fabozzi: Okay

Mr. Glover: and that you go make your fine presentation to the Planning and Zoning Commission

Ms. Fabozzi: Okay

Mr. Glover: because we've got two documents here. One document is a document that you signed in 2002 saying you want to build a garage and you wouldn't build anything above it and as a condition on that certificate of zoning compliance, which has your signature on it, or your signature on it, it says that there'll be no changes unless they approve of them. The second document we got came in today that says "we don't approve of it." And it was given with a stipulation that nothing would be upstairs. So in 2006, you agreed to one thing and I understand what you're saying about what Rick Schultz said, but we've got a letter now that says they don't want a room up there. They don't want us to waive the special exception and, and you, they have to approve it and they're not.

Ms. Fabozzi: okay

Mr. Glover: I think you've done a beautiful job on the property. The property looks great. The patio on the back, I remember this property, I think it was, Rozza owned it?

Mr. Fabozzi: Yeah, you can check with the Shelton Police

Mr. Glover: Was it Rozza that owned this?

Ms. Fabozzi: Yeah, I think so

Mr. Glover: It was a dump

Mr. Fabozzi: That was a special place for the Shelton police to stop

Mr. Glover: You've done a beautiful job. It's

Ms. Fabozzi: Thank you

Mr. Glover: It's clean, the building is clean. You're absolutely right, the first hearing the Petz's complained about something. And the Rossler's is that their name, complained about water and you looking in their windows. Well, you've addressed the water. You've addressed the fact that you can't see in their windows. Ms. Petz isn't here tonight, and she's been notified. So you've done everything right. You've done a beautiful job. You've improved the property. It looks great. But you're asking us for a variance that I don't think we can give you because of the 2002 agreement that there'll be nothing up there and they have to, any change they'd have to accept.

Mr. Fabozzi: He said if we had to build that building today we wouldn't get the permit to do it

Mr. Glover: because of its size

Mr. Fabozzi: What?

Mr. Glover: Because of its size

Mr. Fabozzi: because of the size

Mr. Glover: Because of the square footage.

Mr. Fabozzi: But when I built it, how come I got the permit

Mr. Glover: The regulation wasn't there then

Mr. Fabozzi: How come they could tell me that I can't put nothing upstairs and I can't do this, and it fit for the regulation

Mr. Glover: I think the answer to that, I don't know the answer to that to tell you the truth. I really don't know

Mr. Fabozzi: I don't know either and I would like to know.

Mr. Glover: You have to ask them

Ms. Fabozzi: Okay

Mr. Fabozzi: but when they write a letter like that that says that we're not supposed to put anything upstairs we're not allowed to do this, we're not allowed to do that, how come? Other places are built and they do it and we're not allowed to do it.

Mr. Glover: You have to ask them, I can't answer

Ms. Fabozzi: he can't answer that question

Mr. Glover: But I think that you should, you should make a, it's not the right word, but you make a presentation to the Planning and Zoning Commission. Show them what you did and then ask them, look guys, will you approve this and will you let us do this?

Ms. Fabozzi: okay

Mr. Glover: because we can't, or wouldn't waive it, because if we waived that they would come after us and bring us to court

Ms. Fabozzi: and I don't want to get you guys in trouble

Mr. Glover: it wouldn't get us in trouble, we'd be in court, and it would be the city fighting the city and in the meantime you wouldn't be able to do anything until it went through the court system. And because we wouldn't be motivated to bring it through the court system, and the Planning and Zoning Commission wouldn't be motivated to bring it to the court system, it would just hang around for a long time. And you wouldn't get what you want anyway. So I would suggest that you take all these pictures that you have, and we have to keep ours because they're evidence here. And that's why I gave you back the pictures of the patio that we don't need. Go give them a similar presentation to what you gave us here. It doesn't appear that there's any objection. There appears that the two neighbors that are in back of you approve of it, but we have a document that says that these people agreed that they wouldn't do this and they wouldn't do this and if they were to do anything they have to come back to us and get our permission. And now we've got a document that says "we're not giving them permission" and they can't do it.

Mr. Fabozzi: They probably made her say that just to get a permit, and that's wrong

Mr. Cavallaro: (unclear) so you could build it in the first place

Mr. Conklin: (unclear) Planning and Zoning this is not a split lot, so technically all these people over here are abutting neighbors

Mr. Glover: Say that again

Mr. Conklin: This is not a split lot, so this is all one lot where this variance is going for, all these people on this side are abutting neighbors

Mr. Glover: you're right

Mr. Conklin: and they were not notified, so if Planning and Zoning was to challenge a decision (unclear) so my suggestion would be for them to notify all abutting neighbors

Mr. Glover: That's probably a good observation

Ms. Fabozzi: For me to notify all of them

Mr. Glover: Your, what he's saying is if you look at that map, that's all one piece. Anybody that's on the, as you look at that, anybody that's on the right hand side of your driveway, of your parking lot for the apartments, is an abutting neighbor because it's all one piece.

Ms. Fabozzi: Okay

Mr. Glover: I think you notified the people who are by the garage

Ms. Fabozzi: Right

Mr. Glover: But I don't think you notified the people

Mr. Fabozzi: Just Dickie Kasden and the corner house, that's all

Mr. Glover: I don't know. Okay?

Ms. Fabozzi: Okay

Mr. Glover: So I mean, it's a technicality but it's a point well made

Ms. Fabozzi: You know why I didn't though, because our, either Planning and Zoning or our attorney only told me to contact those four people

Mr. Glover: You have to notify any abutting neighbor for us and because it's all one big piece of property, the people who are on the other side of the parking lot, about the property

Ms. Fabozzi: Okay

Mr. Glover: Okay?

Ms. Fabozzi: okay

Mr. Glover: It's a technicality, but don't get hung up on a technicality

Ms. Fabozzi: Okay

Mr. Glover: So I'll continue this hearing. We'll give you a month to get in touch with the Planning and Zoning Commission. Go in front of that Commission, tell the commissioners what you want. I know what you're saying about what Rick Schultz said, but Rick Schultz works for the Planning and Zoning Commission and Rick Schutlz, and the Planning and Zoning Commission changes, they're voted in, they're voted out. And Rick Schultz is just the administrator, and it's very possible that in 2002 you signed a document that said yeah this, this is, if you want to do this you should come back and we'll do this. But the document says that the Planning and Zoning Commission has to give you permission. It doesn't say Rick Schultz can give you permission, the Commission has to give you it. And you have a different Commission in 2011 than you had in 2002.

Ms. Fabozzi: Okay

Mr. Glover: And so, they're the ones that have to, I wouldn't be beating up on Rick because Rick was probably very straight forward when he told you in 2002 this is the way it is, but in 2011 there's a new Commission. A different Commission and they may have different thoughts. You've done a nice job, it's a beautiful piece of property and I think that perhaps if you show it to them, maybe they'll change their mind.

Ms. Fabozzi: Okay. When can I get a copy of that, that letter?

Mr. Glover: Do you want to make a copy tomorrow?

Clerk: I can mail it to her

Ms. Fabozzi: Okay, great.

Mr. Glover: But Rick's got a copy of it upstairs too.

Ms. Fabozzi: Okay

Mr. Glover: because there's a cc to the Planning and Zoning Commission, so they've got a carbon copy of it

Clerk: I can mail a copy tomorrow

Ms. Fabozzi: Thank you

Mr. Glover: Alright, so we'll continue this hearing until next month. Have a good night.

Ms. Fabozzi: thank you for hearing me.

#211-2 26 Park Avenue, Patricia Ostrom of 26 Park Avenue, Shelton, CT is seeking to waive Section 24, Schedule B, Standard 9 by varying the setback from the right side yard from 30 ft. to 28 ft. for a 4'x10'x10'x6' bathroom addition.

Mrs. Ostrom: We need to apologize, we need to reschedule. I didn't bring any pictures

Mr. Glover: Okay, we'll just continue you until next time.

Mr. Ostrom: I just didn't want to waste the Board's time when we forgot

Mr. Glover: I'm sorry it's just a, it's a rule

Mr. Ostrom: That's why I don't want to waste the Board's time

Mrs. Ostrom: See you next month, thanks.

#211-3 Summit Avenue, Map 106.C, Parcel 48, Gerard P. Laneuville of 29 Milne Avenue, Shelton, CT is seeking to waive Section 24.2, Schedule B, Standard 1 by varying the minimum lot area from 6,110 sq. ft. to 5,105 sq. ft. for a residential lot.

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

Mr. Lewis: Tracy Lewis, licensed land surveyor. I'm the owner of Lewis Associates, 260 Main Street in Monroe.

Mr. Glover: And may we have your pictures and receipts?

Mr. Lewis: These are the receipts?

Mr. Glover: These are all the abutting neighbors, Tracy?

Mr. Lewis: Yep

Mr. Glover: Okay

Mr. Lewis: and here are all the pictures. You can take note that on Summit Street there is, I believe an address wrong on the Assessor's map, so I just sent it to both of them. Now, one isn't an adjoiner, but I did send it to them just to make sure everything was legal.

Mr. Glover: Thank you

Mr. Lewis: And Mr. & Mrs. Laneuville are here with me, and you have the map. Um,

Mr. Glover: Tell us your story

Mr. Lewis: Okay, they, they live at 29 Milne Avenue and they've lived there for 37 years and they also own an adjoining lot which goes out to Summit Avenue which is a vacant lot. There, they want to sell the lot. And what they, through the years they built a shed, actually a building for their kids in the rear of their property and they want to keep that building on their, on their property, and sell off the remaining portion. So I did a lot line revision plan that would incorporate the shed being left with their own property and then selling off the remainder. And what I did was, it's an R-4 zone. They're both legally non-conforming lots, so what I did was I just flipped the conformity so what was once, uh the exact area is there, what was

Mr. Glover: what was 6100 here, is now 6100 here. And what was 51 here is now 51 there

Mr. Lewis: Right. So we didn't change any of the numbers, as you might say. They, their daughter has now moved back with them and she has some storage items too as well and they'd like to utilize the shed for storage. It's a nice building, it's a permanent building. It's not, it's not something that's easily movable. And there is a cloth shed on the vacant lot, that's going to be removed when they sell

Mr. Glover: Did the snow remove it?

Mr. Laneuville: No, it's still up

Mr. Lewis: And so, and this is up in Coram Avenue Gardens, so the lots are, are the same throughout the whole neighborhood, pretty much the same size. They both have, this lot has a 50 foot frontage and can certainly accommodate the new home. As will allow Mr. Laneuville and Mrs. Laneuville and reserve the rights to review, you know, the new house that's going to be on the property, so

Mr. Glover: Are both houses served by city sewers?

Mr. Lewis: City sewers? You have city sewers right?

Mr. Laneuville: Yeah, both lots

Mr. Glover: And they both have city water?

Mr. Lewis: yes

Mr. Laneuville: And gas on this side

Mr. Glover: Do you want his name?

Clerk: Yeah, we didn't get it.

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

Mr. Laneuville: Gerard Laneuville, 29 Milne Avenue

Mr. Glover: Alright, so Tracy, basically what you're doing is you're, the lot, the total lot, two lot areas is staying the same.

Mr. Laneuville: yep

Mr. Glover: And you're making one that used to be roughly 5000, there were two lots, one of them that was roughly 6 and one that was roughly 5 and you're making the 5 a 6 and the 6 a 5.

Mr. Lewis: Yes

Mr. Glover: And you're doing that so that you can change the rear property line of 29 Milne

Mr. Lewis: right

Mr. Glover: adding a little bit more land to it so that you can save the shed structure in the back

Mr. Lewis: yes. I also reviewed it with Staff as well and they looked through the plan and they didn't have any problem with it. I talked to Rick in the office there and they seemed to agree with it.

Mr. Glover: Are there any setback issues with the shed?

Mr. Lewis: No

Mr. Glover: You've made the lines so that there weren't

Mr. Lewis: yes, I made it so they aren't

Mr. Glover: Does the Board have any questions? (no) Anyone in favor of this application? (no response) Is there anyone who is opposed to this application? (no response) Any opposition? (no response) Any final questions? (no) Thank you Tracy.

Mr. Lewis: Yep, thank you.

Mr. Glover: I'll close the hearing.

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

#211-3 "In the application of Gerard P. Laneuville of 29 Milne Avenue, Shelton, CT for a certificate of approval for a residential lot on the property of the applicant at Summit Avenue – Maple 106.C, Parcel 48, R-4 zone, and which requires a variance in minimum lot area,

The application for a variance is approved.

Inasmuch as the Board feels the variance requested complies with the intent of the zoning regulation since the petitioner owns two lots adjacent to each other which currently consist of 6,110 sq. ft. and 5,105 sq. ft. and is only adjusting the property line between the two lots. Such adjustment results in making the current pre-existing non-conforming lot of 5,105 sq. ft. conforming at 6,110 sq. ft.; and the current conforming lot of 6,110 sq. ft., that is the subject of the variance, non-conforming at 5,105 q. ft., and

Inasmuch as the lot is served by municipal sewer and water, and

Inasmuch as the lot will be in harmony with the neighborhood,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval of a variance in minimum lot area from 6110 sq. ft. to 5105 sq. ft. at the above is granted (Section 24.2, Schedule B, Standard 1) 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."

Other Business

After the hearing were over, and before the Board entered it's work session, Ms. Cable approached the Board regarding ZBA application #610-1.

Mr. Glover: Give your name and address please?

Ms. Cable: Jacquelin Cable, 8 Cots Street

Mr. Glover: And how can we help you Mrs. Cable?

Ms. Cable: I'm still waiting for a letter and a written documented letter from the

Mr. Glover: our work session?

Ms. Cable: excuse me?

Mr. Glover: the work session that we had?

Ms. Cable: Yes

Mr. Glover: I mailed it to you, you didn't get it?

Ms. Cable: I didn't get it, no. I only got the, the appeal that you guys didn't have, but I didn't get an explanation that

Mr. Glover: Okay

Ms. Cable: I was here in November and

Mr. Glover: Yeah, and Lori sent it to me and I sent it to you I believe. But we'll get you another copy.

Ms. Cable: Okay, because

Mr. Glover: Do you have another copy of it perhaps?

Clerk: I should

Ms. Cable: So (unclear) is waiting for it and so is my lawyer

Mr. Glover: Yeah, okay,

Ms. Cable: Thank you

Mr. Glover: We did, I did send it to you. We'll find it and send it

Ms. Cable: I came last month, well last month you guys cancelled

Mr. Glover: Yeah, because of the weather

Clerk: Can I have your correct address?

Ms. Cable: 8 Cots Street, C-O-T-S, in Shelton

Clerk: Okay

Ms. Cable: It's like a full clarification as to the reasoning that you did favored (unclear)

Mr. Glover: All we can give you is what, the minutes from the work session

Ms. Cable: Is that what you mailed me when you mailed me the registered letter?

Mr. Glover: No, no, I mailed it to you afterwards. You came afterwards and asked for it and I asked Lori to make a copy and she made it and gave it to me and I mailed it to you.

Ms. Cable: Okay

Mr. Glover: And if you didn't get it we'll get you another copy, that's no problem.

Ms. Cable: Will it clarify what the Board voted, said in the writings?

Mr. Glover: I can't tell you, I don't even know what it said at this point, I'm sorry it's been too long. I'm not that smart.

Ms. Cable: Thank you.

Mr. Glover: You're welcome.

Approval of Minutes

During the work session the Board upon motion by Commissioner Jones and seconded by Commissioner Conklin, unanimously voted to approve the minutes of the December 21, 2010 hearing as submitted by the clerk.

Respectfully submitted,
Loreen Michalak, Clerk