

Board of Zoning Appeals – Hearing Room, Municipal Building 54 Hill Street, Shelton, CT.
Tuesday, January 15, 2013 at 7:30pm

AGENDA:

- #113-1 Faith & Edward Hunt at 56 Birchbank Road
- #113-2 917 Bridgeport Ave., LLC at 917 Bridgeport Avenue
- #113-3 Richard S. Chapman at 12 Galen Road
- #113-4 William V. McDonnell, Jr. at 64 Birchbank Road

Possible Decision:

- #912-6 Thomas & Mary D'Addario at 42 Canfield Drive

Mr. Glover: Alright, good evening ladies and gentlemen and welcome to the first meeting of the Zoning Board of Appeals for 2013. Happy new year. We meet monthly to hear variances and appeals. These are hearings. We record what you say here. You're giving testimony when you come here and give a, have a hearing. If you have a cell phone, please either turn it off or put it on vibrate. If you need to have discussions, please have them outside in the hall because the acoustics in here are not the greatest and our recorders are apt to pick up your discussion and it may override our discussion. If at any time you cannot hear, feel free to move forward. This hall is equipped with a microphone, but unfortunately the microphones are behind me up on the stage and we need to be down here so that we can look at maps and exhibits. So we do not use that microphone. We come up here and work from here. Our regulations require that if you are coming for a variance that you take pictures of the property and that you notify by certified mail your abutting neighbors. When you are called for your hearing, the first piece of business that we will have is that you are going to have to show us that you did notify your abutting neighbors and you're going to have to show us the pictures that you are supposed to provide. We have five commissioners here tonight, which makes a full board. Ralph Matto is on the end. Linda Adanti, Lori Michalak, is our clerk, I'm Gerry Glover. To my right is Jamie Jones and to his right is Ed Conklin.

#113-1 56 Birchbank Road, Faith and Edward Hunt, c/o Atty. D. Thomas, of 315 Main Street, Derby, CT are seeking to waive Section 24.4.12, Schedule B, Standard 9 by varying the setbacks from the right side yard from 10 ft. to 5.8 ft. and from the left side from 10 ft. to 8.1 ft. for a 26'x36' single family dwelling.

Mr. Glover: Attorney Thomas? If there is anyone in the hall that has an interest in this and wants to get closer to hear what's going on, feel free to come forward. Good evening, Attorney Thomas would you please give your name and address for the record?

Atty. Thomas: Good evening. Attorney Dominick Thomas, Cohen and Thomas, 315 Main Street, Derby, CT, representing the applicants, Edward and Faith Hunt. And I have for you the certified notices to the, there were two abutters. Even though, on the exact property the clients' were the abutter because they have two lots, I went on either side of even their house and here's the photographs of the posting, of the property and the photographs of, taken standing on the property and looking out the various directions.

Mr. Glover: They live in this house?

Atty. Thomas: they live in that house. Also, what was submitted with the application was a 11x17 map. For the record I have a full size copy of the map and the second page is just the sub-surface disposal. If you have the application packet, I did blow up the lot. I also have for you a copy of the, for the record, a copy of the 2007 septic approval, which we have confirmed orally, Mr. D'Amico confirmed orally, is still valid with the requirement that obviously, as is in there that test holes have to be done at the time. This is a valid pre-existing lot. I don't want to go into detail on Birchbank. You've had an abundance of lots on the Birchbank area. It's a valid pre-existing lot and the property of course as you are aware, Shelton is, does not have the doctrine of merger, it has the doctrine of common law merger and the original dwelling was not built, which is shown on the map under the words "parcel A" was not built over the line. They did not in any way do a common law merger of the two properties. The regulation with respect to non-conforming lots that I have cited in the application, as you are aware, states that when there's, and this I've confirmed with Mr. Schultz that this is a pre-existing non-conforming lot and the regulation 24.4.12 basically states that when you have a pre-existing non-conforming building lot, that the side yards need to be a minimum of, or 20% of the, of the frontage, with a minimum of 10 feet. The frontage is 50 ft., that would require 10 feet on either side. The hardship, the topographical hardship related to this property, is the location of the septic and the location of the wetlands. In order to keep the property, the proposed building, which is a relatively small dwelling, away

from, appropriately back from the septic area and also appropriately away from the wetlands area and the flood line, the requirement is to locate it where it is which makes it necessary to have the, I guess the easiest way to put it, the longer line, the rectangle going horizontally as opposed to vertically. In addition, and I think my clients, I don't know if they've had some conversations with him, but the location of the house does preserve to some extent, the view of the adjacent neighbor, the Brainards down river, or up river I suppose it would be an up river view by not going back. And we believe that the layout of the house and the size of the house is appropriate. The footprint does barely cover, go above the required 900 feet, slightly over the required 900 feet that is required in the regulation for single family homes. And of course Mr. & Mrs. Hunt are here to answer any questions

Mr. Glover: So you have a pre-existing non-conforming lot

Atty. Thomas: Right

Mr. Glover: Topographically distressed

Atty. Thomas: correct

Mr. Glover: and exacerbated by the flood plain?

Atty. Thomas: by the flood plain on one side and the, obviously the septic requirement on the other side

Mr. Glover: right. You're, there's city water up there right?

Mrs. Hunt: Yes

Atty. Thomas: yes

Mr. Glover: and you're going to be on, connected to city water,

Mr. Hunt: Correct

Atty. Thomas: yes

Mr. Glover: Birchbank is an established area. Would you assert that there are many houses that are closer than 10 feet?

Atty. Thomas: There are houses on the lines, over the lines, etc. I mean, I know that I myself have had I believe 3 variances before you, including one that was denied because the people built across the line and that was one of the first things I checked on, that the existing house had been built across the line which created the doctrine of common law merger and they common law merged property, but in this case they have not used the property for any structures or buildings or anything over the line. And as you can see I think that their other property is an appropriate distance away from the lot line.

Mr. Glover: It looks like Brainards' is almost equally as close.

Atty. Thomas: Um, yes, I couldn't, I'm not Mr. D'Amico so I couldn't verify it, but I mean he located the building and it does appear to be actually similarly (unclear)

Mr. Glover: Well the front

Atty. Thomas: yeah, the front looks a lot closer

Mr. Glover: of Brainard's is a lot closer

Atty. Thomas: yeah, the front is even a lot closer the way it

Mr. Glover: And that is an A-2 survey isn't it?

Atty. Thomas: yes it is.

Mr. Glover: Alright, does the Board have any other questions? (no) Is there anyone in this room who is in favor of this application? (yes) Would you come over and give your name sir?

Mr. DeMeo: Good evening, my name is Lou DeMeo. I live at 37 Birchbank Road in Shelton. I'm in favor of the application in front of you right now. I'm, I've been one of those recipients of your variances and kindness, so I'm hoping you'll share that with them.

Mr. Glover: Are you in favor because you say that it's in harmony with the rest of the neighborhood?

Mr. DeMeo: Yes

Mr. Glover: And they don't have much choice?

Mr. DeMeo: No, not at all. They're very difficult lots to be on

Mr. Glover: Thank you.

Mr. DeMeo: Thank you

Mr. Glover: Anyone else? (yes) Good evening.

Mr. Ferrante: Hi, my name is Dominick Ferrante, I live at 38 Birchbank Road and I approve of the proposal that the Hunts have before you.

Mr. Glover: Okay, thank you.

Mr. Ferrante: Thank you.

Mr. Glover: Anyone else in favor?

Mr. Kislek: My name is Ed Kislek, I own the property at number 58 Birchbank Road. I've known the Hunts for many years and I've always considered them to be a positive influence in the Birchbank community. And I think that their project that they're proposing here tonight will be an enhancement, for not only their property, but the entire Birchbank area.

Mr. Glover: Thank you.

Mr. Conklin: How tall is this building?

Mr. Hunt: (unclear)

Mr. Glover: Go ahead sir.

Mr. McDonnell: Bill McDonnell, I own 63 and 64 Birchbank Road and I'm also here to speak in favor of the Hunt's project tonight.

Mr. Glover: Thank you sir. Ed, your question?

Mr. Conklin: How, how tall is this?

Mr. Glover: One story, two story?

Mrs. Hunt: It's two stories

Mr. Glover: two stories

****several talking at once****

Mr. Conklin: so you're going to

Mr. Hunt: No, no, not a high pitched roof

Mr. Matto: is there a basement, you have a basement

Mrs. Hunt: There's a floating

Mr. Matto: I'm looking at two levels here and I see a foundation coming up here

Mr. Hunt: I think that if there is a basement

****several talking at once****

Atty. Thomas: You've got to be careful not to talk at the same time. I mean you're answering the question that's great, but just, once you're finished, then you can respond.

Mrs. Hunt: You go ahead

Mr. Hunt: It was my understanding that if there was a basement it's sole, strictly a basement because of the

Mr. Glover: because of the flood plain

Mr. Hunt: because of the flood plain, yes

Mr. Glover: right, but there is a foundation

Mr. Hunt: yeah, correct, there's a foundation

Mr. Glover: Does that answer your question Ralph?

Mr. Matto: Well, yeah, I mean the basement's there it's just he can't use it because the water's going to go in there

Mr. Hunt: Correct

Mr. Matto: so you must have filled it up with earth or something inside

Atty. Thomas: he's asking about your own house?

Mr. Hunt: Oh, our house, no, we have a basement. In the existing house, next to the lot we're speaking about?

Mr. Matto: Yeah, yeah right

Mr. Hunt: Yes, we have a basement

Mr. Matto: Okay, I'm looking at this picture so this is probably

Mrs. Hunt: Yeah, it's a cinder block

Mr. Hunt: Yeah, it's actually a walk out, where you're

Mr. Matto: right, it's a 3 level, 3 level situation

Mr. Hunt: correct

Mr. Matto: yeah, okay

Mr. Glover: Alright, is there anyone else in favor of this application? (no response) Is there anyone in this hall who is opposed to this application?(no response) Any opposition? (no response). Alright, does the Board have any other final questions or comments? (no) Seeing none, I'll declare the hearing closed. Thank you.

Atty. Thomas: Thank you very much.

Mr. Hunt: Thank you.

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

#113-1 “In the application of Faith and Edward Hunt, c/o Atty. D. Thomas, 315 Main Street, Derby, CT, for a certificate of approval for a 26'x36' single family house to be located on the property of the applicants at 56 Birchbank Road, R-1 zone, and which requires variances in the minimum setbacks from the right and left side yards,

The application for variances is approved.

Inasmuch as the lot is a pre-existing non-conforming lot which is very narrow, and

Inasmuch as the proposed dwelling will be in harmony with the rest of the neighborhood,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval of variances to the minimum required setbacks from the right side yard from 10 ft. to 5.8 ft. and left side yard from 10 ft. to 8.1 ft. at the above is granted (Section 24, Schedule B, Standard 9) 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.”

#113-2 917 Bridgeport Avenue, 917 Bridgeport Avenue, LLC of 917 Bridgeport Avenue, Shelton, CT is seeking to waive Section 23, Schedule A, Line 16A by varying the use to allow a fitness center on a commercial premises.

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

Mr. Rizzio: Chairman and members of the Commission, I'm Raymond Rizzio. I'm an attorney, I have an office at one Post Road, Fairfield, CT and I'm representing 917 Bridgeport Avenue, LLC, with regard to this application. This application is for a use variance and when I kind of explain to you what it's really, what's it for, I think the Commission will understand. This property was not, 917 used to be the home of Image Graphics. It was their home. It was about a 9 ½ acre parcel. Back in like '98 you know, through a town wide study there was a whole drive in town to create office park districts. The, you know, you had the Scinto stuff going on, you had all the things up on, off of Exit 12, and the town looked at the large pieces of property and then, because this property at that point was zoned industrial. But this property was 9 ½ acres and they zoned it office park district, left little Shelton Plaza which is over here as a IA-2 property. It comes around to 2008, office market is kind of, went sideways, the office market doesn't work, the previous developer, the previous owner went and obtained a PDD for the rear portion of the property that went all the way out to Huntington Road. And that was for Avalon of Huntington, so there were 95 units that were created here. Next door, this used to be IA-2 also, and that, so what happened was you had, in effect, OPD that was originally IA that went all the way out to Huntington Road. Then it gets chopped off in PDD and the other IA-2 on the other side gets PDD'd into Extended Stay America. Now you end up with a 29,000 sq. ft. building that's supposed to be an office park district, not quite an office park district. That leads us into our issue for

tonight. And I'll just give you a couple things, because I think if you'll see what's happened, your current definitions of office park, of fitness centers and then accessory use fitness centers. And I also want to show you what the regulation which tells you where we are and where we're not. So if you look at your regulation, full service fitness center serving the general public are permitted in almost, in almost all of your commercial zones, except for office park district, pretty much. And the theory I think behind that was, I think you were, when you look at what the definition of full service fitness center was, it was geared toward the full, because it was being treated more like a retail operation, it was treated like Fitness Edge, Planet Fitness, \$10 a month, high volume, bring the people in and out. That's fine, but it was 15 years ago. And then they said well, in an office park district we'll let you have a fitness center as long as it's an accessory use. Now, that's pretty good when you have 150,000 sq. ft., you have multiple buildings and you have a so called, complex. Well what happened was when, by taking of the PDD and the creation of the units we have the office part, but we don't have the complex part. So the complex has been in effect, cut away and zoned away. So now we end up with a 29,000 sq. ft. building, 29,000 sq. ft. building that would never be able to support a fitness center as an accessory use. The whole thing of having this as an accessory use is when large volume of rentable space to use and justify somebody putting in a fitness center. And that alone I don't think is the reason to get the variance. But I think the reason that is different is the way health centers have evolved. You have really two types, and unfortunately because the definition is so broad as for a full service fitness center, the definition is so broad that it includes the 25,000 sq. ft. Fitness Edge's. It includes (unclear) technically almost a 1500 sq. ft. Weight Watchers so, or something like that. We have a hybrid. We have what's called CrossFit. CrossFit now, and Jason Leydon is here today and he's going to tell you a little more about it. But it's not something, it's, everything's by class. Everything's small. A 6300 sq. ft. space which is what we're looking for approval for, and we'll grant, you know agree to a condition that this doesn't apply to the whole building so you don't have to worry about somebody coming back door, we would agree to a condition that only 6300 sq. ft. would be used as a fitness center. It's all by class, it's all personal training, it's all nutrition training. It's almost more wellness than it is retail fitness. We don't have a whole line of treadmills and ellipticals that people come and just do whatever they need to do. They have very structured classes that deal with a, there's cross fit, there's push-ups, there's pull-ups, there's class you know, small weights, there's you know, maybe in winter they'll run up on a treadmill for a little bit, everybody get back off. But it's 6300 sq. ft. space. Now the building almost has a precedent for it in the building. And it's, the hard situation is where does fitness become wellness to become rehab. The whole medical world is gearing toward wellness, keep people healthy, get people healthy so that they need less, less help. And that's what this is really geared for. So right now in the building, we have a physical therapy and rehab for children. I took a bunch of pictures which I'll show you. There's a whole, Physical Therapy for children, that's the side of the building, but there's Physical Therapy for children and there's also, we have a typical physical, also a big physical therapy section of the building that's probably taking about 8-10,000 sq. ft., but just a specifically physical therapy. Then we also have Russo Radiology in the building and we have a Bridge to Kindercare, it's like abridged, kind of a child training child, a bridge to, basically a bridge to pre-school kind of thing. So it's all around taking care of people in here.

Mr. Glover: All on the same parcel

Mr. Rizzio: All on the same parcel, all in the same building

Mr. Glover: Alright, so you're thinking about a fitness center

Mr. Leydon: Correct

Mr. Rizzio: but a fitness,

Mr. Glover: Yeah, hang on

Mr. Rizzio: oh sorry

Mr. Glover: another portion of this building has physical therapy for children, rehab

Mr. Rizzio: correct

Mr. Glover: okay, and what's the third

Mr. Rizzio: The third one, then there's just general physical therapy

Mr. Glover: General physical therapy, another physician

Mr. Rizzio: General, correct. And then there's also

Mr. Glover: a medical facility

Mr. Rizzio: Correct. And then there's also Dr. Russo's Radiology practice in there

Mr. Glover: okay

Mr. Rizzio: So you have in effect, a lot of rehab, exercise related activities. We believe, why it would be, because of the type of use that we have, the type of facility that we have, the fact that we are, although we're zoned office park district, due to the physical limitations of our lot and our property, parking and otherwise, we'll never be an office park district. We'll never be an office park. We're going to be a, basically a one story 29,000 sq. ft. building that really will never be able to take advantage of some of the zoning granted to it for example, you'll never have an accessory use because you'll never have enough people in the 29,000 sq. ft. to create the accessory use fitness center. But we're not the fitness center that you're worried about. We're not the Fitness Edge that's going to have people parking out on the streets and going crazy. The nice thing, and we'll explain to you their hours, their hours of operation basically start from, in the mornings from 5:30 until about 10:30 in the morning; they have another class at noon and then they go again from 4:30 to 8:30 or 9:00 or 10:00 depending on how late it has to be. So it does not conflict at all with the uses on site. They have longer times on Saturdays and Sundays, but on Saturdays and Sundays this parking lot is empty. I was in this parking lot today, those pictures that I show you with basically an empty parking lot, was like at 2:00 in the afternoon and you can see the parking lot is basically empty. What I also, what these pictures do show you is, because I wanted to give, give you um, I'm sorry, some, I wanted to give you some, also this is the other side of the parking lot to give, to show you that the Avalon, if you, basically wraps the building from behind. Then you have to the side like I said, Shelton Place which is a little industrial, a bunch of little industrial buildings that kind of, it's a mish mosh of things, and then Extended Stay next to us. So we have enough parking. They have 120 spots for 29,000 sq. ft. We have great complementary of uses because this operation will operate at the non-peak times of the building. And the building as it is for most of the kids, for the Bridge to Pre-school, the kids are left off and there's no parking, the kids, you know, it's almost like a day care. And in a day care the last thing you need is a lot of parking spaces. So everything integrates very well with the building. Our hardship in this is that we basically, the use has been zoned, we've been zoned out of our permitted uses. We're zoned office park district and we can never be anything, we'll never be an office park. We don't have the amount of property to do it. We are surrounded by industrial spaces and what was an industrial space and we were industrial space. And due to the size limitations of our property, we'll never be able to create a development for the manner with which our property is zoned. I also think the other hardship is that strict interpretation of this definition of fitness center doesn't really fit the use that we're proposing and willing to put conditions on. In other words, no more than 6300 sq. ft. of the building, that, that's really it size that will limit the retail, the ability to create a retail component here which is this is not meant for. Jason, if you can just explain to the Commission, he's the owner and operator of the Milford CrossFit, explain the difference between yourselves and a retail, and a retail, in effect what the Commission understands as retail gyms

Mr. Glover: Before you explain, please give your name and address

Mr. Leydon: Jason Lyden, 49 Research Drive, Unit B, Milford, CT, is the address of CrossFit Milford. My address is 39 Milford Chase, Milford, CT. The difference between a fitness gym and the gym or the facility that I run is a lot. It's a complete opposite spectrum of facilities. We're not a facility where people are going to be running in all throughout the day. We're not a facility that's going to have 1,000's of people on membership like the Fitness Edge's do or Planet Fitness's do. Everything we do with inside our fitness facility is in a class structure or personal training. Classes very rarely get over 20 people per class. So as a class that runs per hour, let's say it's 5:30 am or 6:30am, 8:00 and 9:00am, which is what we do in Milford, the class averages somewhere between 15 to 20 people at a time. It decreases sometimes and then might pick up later again at night. But everything is run a set program and a set structure based off what I envision for the facility. So the biggest thing is that it is way more expensive than the Fitness Edge's and Planet Fitness and that's what's going to keep it back from that, because that's not my envision with the facility that I run in Milford or that I would hope for in here, where it's 1,000's of people coming in and out and it's a mish mosh

and free for all. Everything is very structured and very organized and everything is run under coach's eyes and the pricing structure is very much different, so

Mr. Rizzio: For example, an average person would spend how, \$300 or \$250 in a month or

Mr. Leydon: it's about, depending on what they're doing, between \$150 to \$250 a month

Mr. Rizzio: Versus

Mr. Leydon: \$10

Mr. Rizzio: if you see the signs plastered all over the billboards, \$10 a month, are looking to turn bodies

Mr. Conklin: this is more a strength and conditioning type classes that you're running?

Mr. Leydon: It's more wellness, yes. So, on my staff in Milford there's a physical therapist, there's a nutritionist, there's a naturopath, there's a massage therapist. There's another type of, we have a doctor called an ART doctor and chiropractor, so it's a full wellness facility where we bring in some athletes and people that just want to be in a closer set environment and kind of have, be on their own like in a Fitness Edge. Strength conditioning, fitness, lifestyle and nutrition, it's kind of all encompassed in there.

Mr. Rizzio: We think it's a, one of the reasons the location works so well, first of all, like I said, we already talked about our neighbors and we also talked about, right across the street from highway, we

Mr. Leydon: Exit 11

Mr. Rizzio: we are behind 95 units of apartments, you have 1000 Bridgeport Avenue which is probably I want to guess 75,000 sq. ft. of office space. It's a unique use with we think a perfect location and we're not looking, as I said, because of the size limitations square footage wise, that we're willing to also condition our use on, we can never, we're never going to be a competitor to Fitness Edge. You can't put, you can't put enough, you can't put enough treadmills, elliptical machines and weight machines in 6300 sq. ft. to make a retail fitness type work. We believe the blend of the, for the whole building as kind of a wellness/rehab medical, it still has a medical component to it. And I think that's the hard part at some of these older definitions and regulations go, is that as uses change, we fit under the full service fitness center. We're not much different than a wellness component, a weight loss component, you know what I'm saying? And I think as long as we agree to this condition that we don't, on our size you don't have to worry about us turning into the retail type gym that the regulations envision. So our hardship is kind of we fall in between. We fall in between the medical office, we fall in between the wellness center and we fall between the fitness center, because the whole point of what you do is to make people healthy, to rehab people who are injured, to help people lose weight and to help condition people in a better and stronger and a more particular manner. That's a tough thing to define and that's why we're here. So I think the strict interpretation of the regulations would create an undue hardship on our, on the applicant because they don't really address the true use of the property, of the applicant, and also based on the zoning as it's evolved around the property, we don't have the ability to ever really create an office type campus which would allow us to put the kind of fitness center in there that would work. So in the end, we end up with a, what the Commission would be concerned about, we end up with a non-retail in effect, wellness center that uses physical exercise to help the a, to help our customers. I also took pictures, so you know, I'll leave these with you, of the property at 2:00. You probably go up and down Bridgeport Avenue yourselves, this is, this parking is never full. Then when you take into account, there's a bunch of pictures there, when you take into account the compatibility of the uses, because you've got to remember, as much as parking is important to you, he's not going here if his people can't park. And there's nowhere for them to park off-site so, one of the essential elements for Jason in renting here was knowing that he had availability of parking, and a compatibility use so that when he was busy we didn't have to worry about any kind of parking constraints.

Mr. Glover: So the total building is 29,000 sq. ft.

Mr. Rizzio: 29,000, yes

Mr. Glover: And you're a little bit more than 20% of that building

Mr. Rizzio: we're about, yes, correct, just a little bit more

Mr. Glover: How many total parking spaces are there on that property?

Mr. Rizzio: 120, there's been more spaces added as they restructure, but the number is 120

Mr. Glover: Right, so 20% of the parking would be 24?

Mr. Rizzio: correct

Mr. Glover: 24 parking. Our code says you need 1 parking space for every 300 sq. ft., which would mean you'd need 21 parking spaces. The use of, the other uses, I heard you say that the day care doesn't need much. What do you think the other people need for parking? I, and I see your pictures, but

Mr. Rizzio: I'd probably be the best to answer that. The Russo Radiology portion of it is their back office, it's a billing office, it's not in effect the

Mr. Glover: So the patients don't come there

Mr. Rizzio: The patients don't come there

Mr. Glover: Okay

Mr. Rizzio: So it's limited to you know, I mean, very few people. The, in effect, I'm not going to call it day care, but the educational, youth educational, toddler educational perspective takes no spaces because it's a drop off. Um, the physical therapy is more in and out. So that's really it.

Mr. Glover: Is the physical therapy on the other side of the building?

Mr. Rizzio: The physical therapy is in, I believe in the front here. They're going to take the 6300 sq. ft., you're going to be like in here right?

Mr. Leydon: in the middle

Mr. Glover: Alright, so most of your parking will be on the right hand side of that building

Mr. Rizzio: correct. We think it's a perfect location for it. We think, both the applicant and the landlord know that they have enough parking or we wouldn't be here. And I think compatibility of the use, we think, works out well when taking into account the kind of hybrid of what we are.

Mr. Conklin: So, the structure of the business is not an open enrollment

Mr. Leydon: No

Mr. Conklin: It's strictly, you sign up for a particular class at a particular time

Mr. Leydon: yeah, for instance, for people to enroll into a program, everyone goes through an assessment, so it's not even a place where you can just walk in and sign up and go. As you walk in to start you sit down, you go through a 20 or 30 minutes assessment with a coach and then you go through what's called a functional ability screen to indicate ability of the user (unclear) or any prior occurrences.

Mr. Rizzio: and they can tell your body fat and all that stuff

Mr. Leydon: From there you have to start like a beginner class where there's either training or what's called an on-ramp class and that's to get into the normal classes. So, even with the way the process is set up to start, you can't just walk in and say I want to sign up and here you go. It doesn't work like that. There's a process to start in it as well.

Mr. Rizzio: In other words, I can't come in and say hey I want to use your weight machines

Mr. Leydon: No, no, we don't do that

Mr. Rizzio: You either enroll in the program or you're out.

Mr. Conklin: so this is not an open enrollment, open door policy

Mr. Leydon: I don't run it that way

Mr. Rizzio: what's interesting to see, going back to the regulation, the regulation says open, we're open to the public, but we're not, we're open to the public in an organized and managed manner. We don't just open the doors. You know what I'm saying? That's kind of the,

Mr. Glover: people are coming in for a specific class, a specific time, they come in at the beginning of the class and they'll leave at the end of the class. They don't come in at random and use machines and stuff like that

Mr. Matto: I assume you talked to Planning and Zoning, is that right?

Mr. Glover: I'm sorry, Ralph?

Mr. Matto: The reason they're here is they've probably been turned down by Planning and Zoning

Mr. Glover: No, they're here because it's a use variance, well, yeah everybody that comes here in effect has been turned down by Planning and Zoning, because nobody comes here that hasn't been turned down

Mr. Rizzio: We have not been to Planning and Zoning for a, what would be a

Mr. Glover: for a hearing yet

Mr. Rizzio: for a hearing yet

Mr. Glover: You have to come here because it's not an approved use

Mr. Rizzio: we went to Planning and Zoning and they say it's not an approved use, you have to go to, but we have not been to a hearing before P&Z

Mr. Matto: that's what I wanted to hear, why did you go there and come here

Mr. Rizzio: We went to the office, and filled out a compliance, the compliance says wait a second you really don't fit either one of these, you have to go to ZBA and get some relief. One of things that your chairman points out to me, and this is what I think, if you can just indulge me for 2 minutes, I'll go through this real quick. Where do we, how do we fit into your approval range. And that is, you know, under your 4.4.6 you have three things you have to look at. Subject parcel of land can't be reasonably developed for any permitted use within the district in which it's located because of reasons peculiar to the parcel in question and otherwise applicable, and not otherwise applicable to the whole area. We're one of the few people who have been zoned office park district and then in effect had enough property removed away that you cannot create an office park, you know, an office park. So I think we're much more peculiar than people in our zone. I think we also have, the property's been developed in a manner which is a physical, medically related uses which we, I still believe this is, given the fact that it's really as much a wellness center as it is a gym, as it is a physical therapy petition. So I think we differ ourselves, because of the way this property developed and evolved, I think we clearly are not, this is not a situation that applies to every IA-2 property and is not a situation that applies to any, every OPD property. We're a unique property because of we're a hybrid, that was IA-2, zoned office park district because we're so big and now slimmed down to where we don't belong to the IA-2 which it would be permitted use. The requested base of variance is necessary to alleviate acceptable difficult and unusual hardship and is minimal and necessary to accomplish such purpose. I think this is very slight and very minimum. Given the fact that there's 5.13 and 5.14 and we figure we're 5.13 1/2 basically, under your regulations. Where we're not really the fitness center that the regulations all look like and we're not the

fitness accessory use because, that you'd see in an office park because we're not big enough to have an accessory use. So we're more of, we're not a retail, the retail operation envisioned by the regulations, we're almost a medical, physical therapy type or wellness type use that would be more in keeping with a medical office type use which would be permitted in this zone. And then the requested use will not impair the essential existing character of the area and will not conflict with the general purpose and intent of these regulations and will conserve the public health, safety and convenience of the property values. We clearly are going to have no negative effect on property values. It's consistent with the uses, forget about the area, it's a, we think it will be a benefit to the uses around us and it's as compatible a use as you can have with the building with regard to timing, parking. As I said, we're offering a conditional limitation on the use that it be only applied to 6300 sq. ft. so this doesn't give free reign of the building, so with regard to size, type of use, parking and timing in compatibility of the uses, we believe this is the perfect use for this site. So when you, and then there's no impact on safety, there's no impact on convenience, there's no impact on welfare, we think we satisfy sections A, B and C of Section 4.4.6 of your regulations and we hope and respectfully request that this Commission grant us a variance so that we can put this man to work.

Mr. Matto: I think it's a great idea and I think it's a great plan

Mr. Leydon: Thank you

Mr. Rizzio: It's funny, I do a lot of work in a lot of towns, I've been before you guys a bunch of times too on some of the Canal Street stuff, the regulations, the world is evolving so our regulations can't keep up with a lot of different uses and I think you're going to have a lot of these kind of questions before you, and then the real question is how do you, by limiting and conditioning it on size you take away the threat of getting something you didn't anticipate or want, because nobody's going to put a retail gym in 6300 sq. ft., it can't happen.

Mr. Matto: Maybe I'd join it, I'm getting pretty (unclear)

Mr. Conklin: I'd like to find out some wording to put in it to restrict it, I assume they're talking strength and conditioning classes over there in the Milford Orange area where it was strictly a class. (unclear) situation, excuse me, what can we put in wording here to ensure that it's not an open enrollment that satisfies their need and our need for a restriction. I mean, restricting it to the 6300 sq. ft., not open enrollment to the general public walk-in, I mean, to serve the general public but I don't want to overstep you know, put something in there that restricts you or runs you out of there.

Mr. Rizzio: I would think that it, and you before I just too far, I think you could agree to the

Mr. Leydon: Well, it's not the way I run, I've run (unclear) in Milford for over 5 years and it's always been run the way I explained tonight and it's been consistent and steady growth and I have no, and this is not in my business plan or what the way I envision of running my gym

Mr. Conklin: well, the problem is not you, if we give a variance it

Mr. Rizzio: it runs with the land

Mr. Conklin: it runs with the property, we have to add, or do something that protects it if you were to move out, someone else can't move in and you take

Mr. Rizzio: Could you limit use to be by appointment only or class participation? So in other words, a guy can't just walk in and start, and jump on a treadmill unless he calls and makes an appointment

Mr. Leydon: Well right, yeah, and that's the way it's run, it's run through personal training so they'll come in and meet a trainer at different hours or the set class structure

Mr. Rizzio: So then use of the facility by invitees through either a specific appointment or class participation

Mr. Glover: Let's hold that, come back to that. You have anything else at this point?

Mr. Rizzio: No

Mr. Glover: Does the Board have any questions for the applicant at this point? (no) Alright, let's see if there's anybody else. Is there anybody in this room who is in favor of this application? (no response) Anyone in favor of it? (no response) Is anyone opposed to it? (no response) No opposition? (no response) Okay, here's what I need. Because it's a variance that goes with the land, yes we can limit it to 6300 sq. ft., but somebody's going to come in here in a few years and say you allowed us to have a fitness center in 6300 sq. ft. we want to expand it to, and because the use is already there it's kind of a small jump from one to another. Ed wants a definition of what you are doing. I want a definition of it so that I can say it's limited to 6300 sq. ft. and by appointment only or whatever. So that if you leave, go out of business, and Edge comes in here, they have to

Mr. Rizzio: come back to you

Mr. Glover: they have to come back both for size, but they also have to come back for use, because they won't fit into your use description

Mr. Leydon: understand

Mr. Rizzio: I think we're comfortable with both of those, both components

Mr. Glover: I think we need it

Mr. Rizzio: Yeah, and I've got to be honest with you, it happens to me all the time when you make these representations, I like to have conditions because the next time you see me and there's a big, there won't be a Fitness Edge sign up there that you're mad at me for.

Mr. Glover : I mean zoning evolves

Mr. Rizzio: Yes, yeah, I think we're very, we're here for the specific purpose. Dr. Russo's office, back office is there. The other people aren't going anywhere and this is, it wouldn't work to do anything else. So we're very comfortable with both those, one, limiting it to 6300 sq. ft., and two, that the enrollment would be for, would be basically by invitees would be able to use the facility by appointment only, by appointment or by participation in class. Right?

Mr. Leydon: Absolutely

Mr. Rizzio: I like when a guy doesn't, no stutter no nothing, we're okay

Mr. Glover: Alright, now some housekeeping, you are required to answer three questions which you have.

Mr. Rizzio: thank you

Mr. Glover: We are required to convey a copy of this total record and application to the Planning and Zoning Commission. And for the record that was done in early December of 2012.

Clerk: You should have a copy of the letter, Mr. Chairman, with the application.

Mr. Glover: December 3, 2012, so as a Board we have complied with the requirement to notify the Planning and Zoning Commission of an impending use variance. We've done that. Any other questions from the Board? (no) Comments? (no) Then, I'll declare the hearing closed. Thank you very much.

Mr. Rizzio: Thank you very much for your time.

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

#113-2 "In the application of 917 Bridgeport Avenue, LLC of 917 Bridgeport Avenue, Shelton, CT for a certificate of approval for a fitness center to be located on the property of the applicant at 917 Bridgeport Avenue, OPD zone, and which requires a variance to allow the use,

The application for a variance is approved

Inasmuch as testimony presented indicated the property was sub-divided from a larger parcel, and

Inasmuch as there is sufficient parking, and

Inasmuch as the size and description of the actual use of the fitness center is defined and limited,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval of a variance in use to allow a fitness center in a commercial premises at the above is granted (Section 23, Schedule A, Use Line 16A) in this instance.

This certificate of approval is contingent on the following stipulations: 1. The approval is for the type of fitness use presented to the Board, and is limited to clientele with specific appointments and/or scheduled classes and is not approved for an open enrollment type fitness center. 2. This variance limits the size of the fitness center to 6300 square 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."

#113-3 12 Galen Road, Richard S. Chapman of 12 Galen Road, Shelton, CT is seeking to waive Section 24, Schedule B, Standard 7 by varying the setback from the front property line from 40 ft. to 23 ft. for a 40.6' x 6' x 10' H front porch.

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

Mr. Chapman: Richard Chapman, 12 Galen Road

Mr. Glover: Okay, and Mr. Chapman, you want to put a front porch on your house

Mr. Chapman: Yes, I do

Mr. Glover: Do you have some pictures?

Mr. Chapman: Yes, I do, after 20 years my wife's been bugging me, I guess I got to do it. There used to be shrubs out there and I took them out because they got to big, so I said well, maybe a front porch would look nice.

Mr. Glover: Alright, so you want to put a front porch. In the front of your house there's a stone area

Mr. Chapman: that's for the front door, that's where the porch is going to go, 6 foot out

Mr. Glover: It's going out to about where that stone is, 6 feet

Mr. Chapman: right

Mr. Glover: because I was by there today and it just looks further back from the road, where you ask for 23 feet

Mr. Chapman: right, because I think that plot plan is not right, because I measured it myself from the front where the porch is going to end to the street, and I measured 47 feet. So take your 10 foot off it gives me 37

Mr. Glover: yeah

Mr. Chapman: That's telling me 23 or something right?

Mr. Glover: yeah, I

Mr. Chapman: and I talked to Tommy Dingle and I says, he says well you got to start at the back of the lot, I says, this don't make sense. (unclear) you know

Mr. Glover: I drove by and it didn't make sense. I went around the block about 3 times and looked at it from the front and from the side and I was trying to determine why it was 23 feet, because it has to be almost 50 feet from the street

Mr. Chapman: Yeah, right

Mr. Glover: and a, so

Mr. Chapman: I think I have enough room

Mr. Glover: And that's why I asked you about the stone because I looked at it and it looked like you painted some orange

Mr. Chapman: that's where I'm going to dig the footings

Mr. Glover: where you're going to put the footings in

Mr. Chapman: if you guys give me the okay

Mr. Glover: I looked at and said well if it's only coming out that far that that's nothing, but you know if it was 23 feet it looked like wow how far is he coming out with the porch? Alright, so you're going to put a porch on, it's on the front of the house, it's obviously the only place to put it

Mr. Chapman: right

Mr. Glover: I can, I can tell you from driving around it a couple of times today it doesn't obstruct anybody's view. Is there a well or septic system

Mr. Chapman: I have a well, I have a septic

Mr. Glover: Where's the well?

Mr. Chapman: The well is in the, right in the driveway, you can see a manhole cover there

Mr. Glover: Okay

Mr. Chapman: apparently way back when they, when they built the house that's where they put it and I added on or whoever, you know, the septic's in the back. If the septic fails it's going to go right up to the garden. I already had Naugatuck Valley Health in there to look at that

Mr. Glover: Um, so it's just an open porch

Mr. Chapman: Yeah, well, it's going to have a roof

Mr. Glover: I understand, an open porch with a roof, there's no room in it, no heat, no walls. Alright, and your hardship would be it's the only place to put it

Mr. Chapman: that's it

Mr. Glover: it's probably logical to put a front porch on the front of the house

Mr. Chapman: 40 foot by 6 foot, that's all I'm looking for. A little mini porch

Mr. Glover: Does the Board have any questions for the applicant? (no) It's pretty straight forward

Mr. Matto: It sounds pretty good to me

Mr. Glover: Anyone else in favor of this application? (no response) Anyone opposed? (no response) I'll declare the hearing closed. May I have those receipts?

Mr. Chapman: Yes, sir

Mr. Glover: Thank you, these are your abutting neighbors?

Mr. Chapman: Yes, the three of them there.

Mr. Glover: Thank you, you're done.

Mr. Chapman: That's is, we're good?

Mr. Glover: Yep

Mr. Chapman: Okay, thank you.

Mr. Glover: You're welcome

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

#113-3 "In the application of Richard S. Chapman of 12 Galen Road, Shelton, CT, for a certificate of approval for a 40.6'x6'x10'H front porch to be located on the property of the applicant at 12 Galen Road, R-1 zone, and which requires a variance in the minimum setback from the front property line,

The application for a variance is approved.

Inasmuch as it is a minor variance and the most logical place to put the deck, and

Inasmuch as the porch will not reduce or impair any sight line,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval of a variance to the minimum setback from the front property line from 40 ft. to 23 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."

#113-4 64 Birchbank Road, William V. McDonnell, Jr. of 64 Birchbank Road, Shelton, CT is seeking to waive Section 24.4.9 by varying the setbacks from the front property line from 60 ft. to 40 ft. and right side from 10 ft. to 1 ft. for a 12'x20' shed; and Section 24.4.12 by varying the setback from the right side yard from 13 ft. to 9 ft. and by increasing the maximum lot coverage from 15% to 20% for a 14'x16' deck expansion.

Mr. Glover: Good evening

Mr. McDonnell: Good evening

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

Mr. McDonnell: Sure, my name is William D. McDonnell, Jr. I live at 64 Birchbank Road in the beautiful city of Shelton, CT

Mr. Glover: And Mr. McDonnell, do you have some pictures for me?

Mr. McDonnell: I have pictures

Mr. Glover: Alright, and do you have some neighbors that you notified?

Mr. McDonnell: Yes sir, I have just two

Mr. Glover: One?

Mr. McDonnell: Yes

Mr. Glover: Who's on the other side

Mr. McDonnell: I am

Mr. Glover: Okay

Mr. McDonnell: I own 63 and 64 Birchbank

Mr. Glover: Okay. Can you tell us what you're doing and why you can't conform to the zoning regulations?

Mr. McDonnell: Well, I need a shed. I have, I have a large snow blower after the winter we had a couple of years ago and lawn tractor because I have quite a bit of yard to cut because I'm in the flood plain. And I'd like to put my grandfather's 17 ft. (unclear) canvas canoe in there as well, so that's why I needed it a little longer. And I want to put a deck across the front of my house. I've got a little one there existing but I'd like to make it the full length of the house with a wraparound to the driveway

Mr. Glover: Have you talked to Mr. Cook about that?

Mr. McDonnell: Yes, yes I have

Mr. Glover: and what did he think?

Mr. McDonnell: he thought it was fine

Mr. Glover: Okay. Where is the flood plain in the back of yours?

Mr. McDonnell: The flood plain, it's quite a bit further down the grade.

Mr. Glover: He calls that, does he call the river wetlands or the flood plain wetlands?

Mr. McDonnell: Um

Mr. Glover: If you know

Mr. McDonnell: I'm not sure. I guess

Mr. Glover: But he's looked at it and hasn't got a big problem with it

Mr. McDonnell: yeah, he's looked at it, yes, and he's approved it

Mr. Glover: Okay, now the property that you own, you own two properties, if you're standing on Birchbank Road and looking at this house, do you own the one on the left or the one on the right?

Mr. McDonnell: on the right

Mr. Glover: on the right?

Mr. McDonnell: Uh huh

Mr. Glover: So, your, it looks like that one foot is against somebody else's property, is it Mr. Casey?

Mr. McDonnell: Yeah, that's Casey Miller's property, right

Mr. Glover: Okay, Mr. Miller's

Mr. McDonnell: It's his garage that's in the picture

Mr. Glover: Right, I went up there to look at, at it and it appears there's a foundation there somewhat in the back of that property that has some

Mr. McDonnell: yeah, there's a retaining wall there right

Mr. Glover: retaining wall with some anchor bolts sticking out of it

Mr. McDonnell: anchor bolts, right

Mr. Glover: Are you going to build on that?

Mr. McDonnell: I'm going to build right on top of that I think, yeah

Mr. Glover: And when you do, you're going to be 1 foot from your property line, but it looks like 1 foot from Mr. Miller's structure

Mr. McDonnell: The shed would be 1 foot from the property line, but the deck will not be

Mr. Glover: right

Mr. McDonnell: The, Mr. Miller's garage is on the property line at the front of the property and then it cuts back. But he has no problem with me putting a garage in there, in fact I'm going to just gravel right up to the side of his house and

Mr. Glover: How will you maintain your, the side of your shed?

Mr. McDonnell: that (unclear), I'll have to get by there by Casey and it's vinyl siding anyway, so a pressure washer would probably do it

Mr. Glover: I mean, can you build it when you're only one foot, how far are you away from his structure?

Mr. McDonnell: Oh it's quite a bit further away from his structure in the back.

Mr. Glover: How about in the front?

Mr. McDonnell: I'm going to put it far back. In the front, I don't know if it shows the distance on here, uh, it's a ½ a foot off his property line, but it's probably 5 feet off of his house. It's a good area to walk through

Mr. Glover: Is there some reason why you kept it away from the house?

Mr. McDonnell: Yes, because I want to have the ability to get by my stairs. The entrance on my house is on the side there and I want to have at least 3 feet to get through there with my beautiful new recycling bins the city dropped off. If I could wheel those through there that would be...

Mr. Glover: So his property at the front, his building, the structure on the front actually touches the property line

Mr. McDonnell: Mmm

Mr. Glover: and yours on the front of your shed touches, just about touches the property line

Mr. McDonnell: almost, yes

Mr. Glover: is that where the foot is in the front?

Mr. McDonnell: yes

Mr. Glover: My concern is not the deck. I don't have a problem I don't think with the deck, I, my problem would be the one foot from the property line, which is also very close to his. And

Mr. McDonnell: There was an existing shed there years ago that unfortunately the carpenter ants got to it and I had to knock it down (unclear) footing and everything else

Mr. Glover: Yeah, the foundation is there

Mr. McDonnell: The foundation is gone, I chopped it out by hand, it was just

Mr. Conklin: You're also asking for a one foot variance, but the plans are showing a half foot, I'm assuming that's the half foot

Mr. Glover: Yeah, it appears, it says a half a foot there.

Mr. McDonnell: Yeah, okay,

Mr. Glover: I don't know, I'm only one vote, but I think you have to move your shed further away from his, your common property line. It wouldn't bother me so much if his house were over where it's supposed to be, but we're now going to have two houses that are going to be very close together. If there's ever a dispute you're never going to be able, you may get along with Mr. Miller now, but the next person that buys it, you may not. How tall is

Mr. McDonnell: The shed is mobile

Mr. Glover: How tall is the shed?

Mr. McDonnell: I'm not 100% sure, it's, I don't have that information

Mr. Glover: Is it big enough to put a car in?

Mr. McDonnell: No, I wouldn't think so, and it's just going to be out on the gravel. I'm not going to put in footings or a foundation

Mr. Jones: It's a prefab?

Mr. McDonnell: Mmm, yeah

Mr. Conklin: It severely restricts any fire access around

Mr. Glover: Yeah, for either one, for either structure. Alright, so on one side because of the deck you're going to go 9 feet, where 13 is required and part of your hardship is that it's a pre-existing non-conforming lot

Mr. McDonnell: Exactly, with the wetlands

Mr. Glover: with the wetlands and with the flood plain in the back, but that's, that's my issue is the closeness, you're asking for 1 foot, the plan shows 6 inches, and the other, his is actually, the corner of his is touching the property line. Yours is back a little further. What do you think, Ed?

Mr. Conklin: Right off the bat the plan doesn't show what he's asking for. My concern is, again like we had those other buildings down there, a fire

Mr. Glover: Yeah, the Maples buildings

Mr. Conklin: yeah

Mr. Glover: Anybody on that end have any questions?

Ms. Adanti: We're having trouble reading this map,

Mr. Matto: (unclear)

Ms. Adanti: yeah, we need a little help

Mr. Glover: Here's a, this one's highlighted, the other section. Does that help you?

Ms. Adanti: Yeah, but we're trying to figure out, putting these pictures in place here, we're not sure how this all comes together

Mr. Glover: I think that the one with the garage

Ms. Adanti: this one?

Mr. Glover: No

Ms. Adanti: this one

Mr. Glover: that one with the truck

Mr. McDonnell: that's my neighbor's garage

Mr. Glover: that's the neighbor's garage which

Mr. Matto: And that's a push from your property line

Mr. Glover: Here's that corner, that corner between the wood and the, the brown and the blue, this point right here is, is this point right here

Ms. Adanti: alright

Mr. Glover: and he wants to put his garage or his shed or whatever you want to call it, right back here and he's asking for 1 foot, but he's got 6 inches, .5 feet to the property line. My concern and I think Ed's concern is that they're so close together that if there was a, if there was a fire in one, a fireman wouldn't be able to get through to it and my point is that he does have probably 6 feet here that, and I know he wants, he would like 3 feet, but I don't know whether he has the ability to pull it over.

Ms. Adanti: more an alley-way to get through from the step, yeah I get that

Mr. Glover: Yeah

Ms. Adanti: Does the pre-fab shed come any smaller? Can you use a smaller one?

Mr. McDonnell: I could if I hadn't already purchased it

Ms. Adanti: oh

Mr. Glover: that does present a problem

Mr. McDonnell: yes, it does

Mr. Glover: alright

Mr. Conklin: Is the retaining wall, and I'm trying to remember looking at the plan, is there a retaining wall that extends from the edge, back into your foundation over?

Mr. McDonnell: yes

Mr. Conklin: and it drops

Mr. McDonnell: Yes, then it drops on the other side of that. That's where I want to put the deck

Mr. Glover: On the back

Mr. McDonnell: on the back, yeah

Mr. Glover: is your plan to walk down that alley- way right onto the deck?

Mr. McDonnell: Yeah, that's what I'd like to do, just as another means of egress

Mr. Glover: You have a set of stairs on the side of that house, on the side of the house, from the front the steps go up to a landing

Mr. McDonnell: but it's on the side

Mr. Glover: on the side of the house

Mr. McDonnell: right, yeah

Mr. Glover: could you put stairs on the back of it?

Mr. McDonnell: I could

Mr. Glover: So if you want to go to the back you could go out (unclear)

Mr. McDonnell: I'd have to get a step, but I imagine I could

Mr. Conklin: Is the deck going to be the same height as the landing of that staircase?

Mr. Glover: It could be

Mr. McDonnell: it could be

Mr. Conklin: so you could extend sort of the

Mr. Glover: yeah, extend the deck down the side of the

Mr. Conklin: right down the side of the house

Mr. Glover: from that ramp from that stairway, from that platform to the deck

Mr. McDonnell: it could be

Mr. Glover: There's not too many people in this room, is there anyone else in the room who is in favor of this application? (yes) Glad I asked, because he can go home after this.

Mr. Kislek: I almost made it out. My name is Ed Kislek, I own the property at #58 Birchbank Road. I know Bill McDonnell's family has lived at Birchbank in the same place for close to a 100 years now. And I really do hope (unclear) work with him to allow him the fullest use of his property because he deserves that. Birchbank is an area where space is at a premium and there are many properties in Birchbank that have sought some creative uses of that space. So really his plan is not far different from any of the others that are in Birchbank. So I know you'll put your head together and I hope you'll come up with a satisfactory solution to his proposal.

Mr. Glover: thank you for your endorsement. Good neighbor

Mr. McDonnell: He is a good neighbor. They all are though.

Mr. Glover: And is anyone opposed? (no response) Any opposition? (no response) Okay, does the Board have any final questions?

Mr. Matto: Yeah, I'm still a little confused. Can uh, can you tell us what's happening here. I see you got that and that's, so this is the porch I assume

Mr. Glover: This is the street side of the house

Mr. Matto: Okay

Mr. Glover: This is the river down here. Across the back of the house he wants to put a deck (unclear) He has a little deck there now, he wants to go the whole length of the house with the deck

Mr. Matto: Yeah, and the river's down here

Mr. Glover: The river's down here

Mr. Matto: And he owns all this land

Mr. Glover: Yeah, and when he does that, he's going to be closer to this property line with the deck.

Mr. Matto: Uh, because of the slight angle here

Mr. Glover: Yeah, well, it's not going to, the house is probably non-conforming now, he's going to add onto it so that will be non-conforming. That's not a, to me that's a minor problem, it doesn't come out any further

Mr. Matto: yeah

Mr. Glover: So that's not a problem. The problem that I have is the shed, and

Mr. Matto: and the shed is away from the house

Mr. Glover: It's away from the house by probably 6 feet

Mr. Matto: okay

Mr. Glover: but he needs, he's got a set of stairs here, that's the main entrance to his house

Mr. Matto: okay

Mr. Glover: and he'd like to have a pass-through here where he can go back and forth to the front and back of his property

Mr. Matto: alright, so he can walk here and go up the stairs and go up here and go in the house

Mr. Glover: yep

Mr. Matto: And this is going to be wide open

Mr. Glover: It's going to be wide open, and Ed has suggested that he extend the deck down to here

Mr. Matto: all the way across

Mr. Glover: Yeah, because this is, this landing is going to come up to just below the floor level of the house, as probably the deck is in the back. So if you came from this landing and went back here, that would give him his access to the back

Mr. Matto: Yeah

Ms. Adanti: His concern why he wants the 3 feet though, was to get trash barrels and things through

Mr. Glover: Right, but if he moves it over 3 feet, he can put the trash barrels on this side of the garage

Ms. Adanti: I see, okay

Mr. McDonnell: My neighbor might not like that

Mr. Glover: Well, he may not like it, but he'd rather have the trash

Ms. Adanti: Can't you put the trash barrels inside the shed?

Mr. Glover: Or in the shed

Mr. McDonnell: Well, I could

Mr. Matto: yeah

Mr. Glover: It's just, it's just my concern is just this one is right on the property line

Ms. Adanti: Yeah, that's always a concern

Mr. Glover: and this one is only 6 inches from the property and I realize this one goes back, but still there's not a lot of room in here.

Mr. McDonnell: I agree with what you're saying is that

Mr. Glover: You know it is a, there is no foundation under this deck, it's just sitting on top of the ground, I mean, I'm sorry, not the deck, I mean the shed

Mr. McDonnell: right it's free standing

Mr. Glover: The shed is a pre-fab shed you're buying from someplace and so it can slide one way or the other if it had to.

Mr. Matto: Alright we have

Ms. Adanti: now we know

Mr. Glover: Alright, so we actually have three variances, one is a lot coverage from 15 to 20% because of the deck. Okay? And the other one is side line from 13 ft. to 9 ft. because of the deck. And then the last is the shed which is a 12x20 movable accessory building which you're asking for 10 to 1 and I don't, I don't think you're going to be successful with the 10 to 1. How does the Board feel? Do you, he's going further away from what he's asked for, do you want to give him 10 to 3?

Mr. Jones: Can we do that? It's fine with me

Mr. Glover: I think we can

Mr. Jones: (unclear) the lot coverage is fine

Mr. Conklin: I know we can be persecuted by that

Mr. Glover: I'm sorry

Mr. Conklin: I said I don't even think a person could squeeze in there

Mr. Glover: No, I don't think so either, and I think it's too tight. And if it were a permanent building I wouldn't give it 3 feet, but it's not, it's a storage shed. Is that something you could live with?

Mr. McDonnell: The 3 feet?

Mr. Glover: Yes

Mr. McDonnell: Sure, I guess I have to.

Mr. Glover: Can you live with that?

Mr. Conklin: Yeah, I can live with that. At least it shows they've got 3 ½ feet to 4 feet on the other side to get

Mr. Glover: Yeah

Mr. Conklin: fire fighter

Mr. Glover: Are there any other questions from the Board? (no) Then I'll declare the hearing closed. Thank you. We'll vote on it in a minute.

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

#113-4 “In the application of William V. McConnell, Jr. of 64 Birchbank Road, Shelton, CT for a certificate of approval for a 12'x20' storage shed and to enlarge an existing deck by 14' out and 16' to the side, to be located on the property of the applicants at 64 Birchbank Road, R-1 zone, and which requires variances in the minimum setbacks from the front and side property lines for the shed and right side yard for the deck and also an increase in maximum lot coverage,

The application for variances is approved.

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

Inasmuch as the proposed structures will be in harmony with the rest of the neighborhood,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval of variances to the minimum required setback from the front property line from 60 ft. to 40 ft. and right side yard from 10 ft. to 3 ft. for the shed, and right side yard from 13 ft. to 9 ft. for the deck extension and an increase in lot coverage from 15% to 20% at the above is granted (Section 24.4.9 and Section 24.4.12) in this instance.

The approval for the 12'x20' storage shed is contingent on the shed not being a permanent structure and shall be built without a foundation or footings.

This certificate of approval shall take effect on the date following the publica*/tion 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 Decisions

#912-6 42 Canfield Drive, Thomas and Mary D'Addario, c/o Atty. Dominick Thomas, of 315 Main Street, Derby, CT are seeking an appeal of decision by the Zoning Enforcement Officer with regard to §24.4.9 by declaring such section illegal and/or that conditions imposed by the Commission with an approval of a certificate of zoning compliance are illegal and not authorized by the Zoning Regulations and/or State statute.

During the work session the Board, upon motion by Commissioner Conklin and seconded by Commissioner Adanti voted unanimously to sustain the appeal of the Zoning Enforcement Officer with regard to §24.4.9.

Approval of Minutes

During the work session the Board, upon motion by Commissioner Adanti and seconded by Commissioner Jones, unanimously vote to accept the minutes of the November 20, 2012 meeting as submitted by the clerk.

Election of Officers

During the work session a motion was made by Commissioner Jones to keep the same slate of officers for the 2013-2014 year, with Commissioner Glover as Chairman, Commissioner Matto as Vice-Chairman, and Commissioner Jones as Secretary. Motion was seconded by Commissioner Conklin and passed by unanimous vote.

Respectfully submitted,
Loreen Michalak, Clerk