

Board of Zoning Appeals – Hearing Room, Municipal Building 54 Hill Street, Shelton, CT.
Tuesday, February 20, 2007 at 7:30pm

AGENDA:

- #207-1 Shelton Heights Joint Venture at Constitution Blvd, South, Map 92, Parcel 86
- #207-2 Charles Walker at 69 Indian Well Road
- #207-3 Scott & Barbara Morrow at 132 Old Mill Road
- #207-4 Don C. Stanziole at Lot #23 Wooster Street, Map 128, Lot 92

The regular meeting and public hearing of the Shelton Board of Zoning Appeals was held at the above time and place with the following members in attendance: Gerald Glover, Chairman; Ralph Matto, Vice Chairman; Jamie Jones, Ed Conklin, Phil Cavallaro and Jack Fitzgerald.

Mr. Glover: Good evening ladies and gentlemen and welcome to the February meeting of the Shelton Zoning Board of Appeals. We have a relatively short agenda tonight so we probably won't be here too long. We meet monthly to listen to hearings, people who need variances. Our regulations require that you have posted your property; that you have taken four pictures of your property and that you have notified your abutting neighbors by registered mail. When your hearing is called I will be looking for the pictures and I will be looking for the evidence that you, the receipts that you mailed your abutting neighbors. If you have them we will continue. If you don't, we'll continue the hearing until next month when hopefully you'll be able to provide that information. This is a very small room but there's an echo in this room. And we record everything for Lori to transcribe in the next few days or weeks; and that transcription represents the record. And that record is the official part of this meeting. If you don't like what we do here tonight you have the opportunity to appeal our decision to the Superior Court. And when you do that, it is the record that goes to court. So if it's a clear record we've got a pretty good shot at somebody telling us we did something right or something wrong. The record, the recording gets garbled if you have conversations in the room. It picks them up and then the record, the official record gets distorted. So if you're going to have any conversations, talk on your cell phone, please go out in the hall so we don't pick it up and distort the record. With us tonight on the left, all the way down on my left is Commissioner Ralph Matto, Commissioner Jack Fitzgerald, our clerk, Lori Michalak, I'm Gerry Glover. To my right is Commissioner Jamie Jones, Commissioner Ed Conklin and Commissioner Phil Cavallaro. Jamie?

#207-1 Constitution Boulevard South, Map 92, Parcel 86, Shelton Heights Joint Venture, c/o Atty. D. Thomas, 315 Main Street, Derby, CT is seeking to waiver Section 24, Schedule B, Standards 1 and 3 by varying the minimum lot area from 40,000 sq. ft. to 31,321 sq. ft. and dimension of square from 150 ft. to 105.6 ft. for a building lot.

Mr. Glover: Dominick, would you please close the door? Attorney Thomas, would you give your name

Atty. Thomas: Attorney Dominick Thomas, Cohen & Thomas, 315 Main Street, representing the applicant. I have for the commission for the record photographs of the posting and photographs of the site and the property across the site and the two adjacent, certified mails, returned with the return cards

Mr. Glover: Your pictures are getting better Dominick.

Atty. Thomas: Yes, it's a new printer. The, this piece of property, interestingly enough the individuals, my clients in this case came to me and asked me to represent them and when I looked at it I sort of smiled, and they weren't aware of the fact but I happened to have been the lawyer many years ago, pre-gray hair, for the Sullivan family. When Constitution Boulevard was simply a dream in the eyes of the community and in the eyes of the developer at that time who was looking to buy the Sullivan property, which the developer was Chris Bargas. I represented the Sullivan family, I used to, affectionately when I represented them refer to this as Shelton Southfork. The entire family, for those of you who remembered Dallas and Southfork, the entire family lived here; brothers, sisters, they all lived on this property. And this was the single key piece of property to the development of Constitution Boulevard South. The piece of property that I'm here on tonight is actually the remaining piece from the Daniel Sullivan parcel, the Sullivan Family parcel. That is this piece here and obviously the brightest color. What I've drawn here for you, to orient you, this is Constitution Blvd. South, this is Long Hill Avenue, the blue line shows you the R-1 zone that exists; however, and I'll submit this as an exhibit, in looking through the R-1 zone in this area, it's an eclectic mixture of large parcels such as St. Margaret Mary's and others; and smaller lots that range, most of them range, that pre-dated the R-1 zoning of

40,000 sq. ft. because as you can see in here, many of the lots in here and some of the lots along lower Long Hill Avenue are substantially below. Across, and there are photographs, the photographs show across, across Constitution Blvd. of the property was property that Mr. Bargas purchased. This was the development of the Laurel Heights area when they, what you got is Ivy Brook and all the areas up there that were the development area, but you also got approved here a zone, an R-3 zone and that's all developed with the appropriate lot sizes in here, as you can see ranging from some of them are .6 to .4 and most of them .3. The R-4 zone is back there. The R-3 zone stretches over here, and this area here is an R-2 zone. So, this property is at the convergence of several of the residential zones. Now, how was it formed? Our first position is it's not a self-created hardship because it was actually formed by the designation and the location of south Constitution Blvd. The Sullivan property, as you can see there Stephen and Jean Sullivan, this is the map which I'll submit, this was property, again the Sullivan's would be given and conveyed to the Shelton Heights Joint Venture. This was property of Jean Sullivan. This was property of Daniel Sullivan, William and Catherine Hildebrand, were also part of the Sullivan family. And as this proposal was being made, they all sold property to Chris Bargas. He purchased everything including this large piece here which was property acquired from, actually the Estate of Daniel Sullivan. This large piece here. At that time, I did not represent Mr. Bargas or anything, but at that time as we were going through the transactions, Mr. Bargas was going through zoning. And there were numerous layouts for Constitution Blvd. The reason I was aware of that was that there was some discussions as to whether or not any of the family members would be able to remain in their homes. And there were various layouts, how far up they obviously wanted to get, because this terrain goes up, they wanted to get the lowest grade possible. This was a decision between the developer and the town, but mostly the town's decision as to where to locate this road, that the town at that point had envisioned beginning on Route 110 and ending on Route 110; beginning on River Road and ending up on Leavenworth Road. So the property was then purchased and this is an, this is an older map, again it's also recorded in the Shelton land records and it shows the layout that occurred for this property and this here is a portion of, you know, the property. And as you see Plaskon Drive, I want to make sure I get the right, I'm sorry, not up there, it's down here, when they laid it out, they laid it out in such a way so as to create a parcel of land on the west side, I would assume it would be, of Constitution Blvd., isolating that parcel of, of land. Now we come before you with that parcel of land, which was created by the layout of the road, which is now a town road obviously, and are asking for two variances for a single family home. Single family home keeps in line with the zoning in the R-1 district obviously. The house which we've located here in blue is able to be set on the property conforming with all the setbacks, the front setback of 40 feet, side yard setback of 30 feet, and you can obviously see from the side and the rear that it actually exceeds that. The only problem is because of the nature, because of when the road cut this property off and obviously, and the road, when the town made it happen they slid it over this way it probably would've been a compliant lot. But it is in a transitional zone and all it needs is the, the square is 105 ft. instead of 150 ft. and the size of the lot is 31,321 sq. ft. If you look, there's a couple things. If you look in the area of the Assessor's map and you look around within this general area there are numerous lots, even in the R-1 zone, that are 1/2 acre or 4/10 of an acre, because the R-1 zone was laid over areas that had smaller lots that had built up. And the second thing, and probably the most obvious thing is, this is, was created by the layout of a road, by the action of the town, not the action of the property owner at that time. And to adhere strictly to the regulations would be, in this situation, confiscatory because there is no alternative use of this property. The town, when it laid out the road, had two other choices. The town could've included that entire parcel in its right of way and then eventually sold it off as excess if it wished. And in some instances, which many of you are familiar for instance with the areas along Route 8 when the State took it, very often when the State did that, instead of cutting a parcel the State would take the entire parcel, which is why areas along Route 8 when you look at some of the right of way and it actually, actually State property I'm going to call it, it actually sticks out. And it is not a straight line. What they've done is they've established the right of way as a straight line, what the town did here, your right of way. But in fact, the State would go and choose to take the entire parcel because you're isolating the parcel. In this case that was not done when Constitution Blvd was laid out. So as a result, to apply the zoning regulations strictly, and this is almost a direct quote from 8-6, would be to confiscate the use of the property. There would be no, no (unclear) use of the property. It is not, it certainly cannot be considered in its size a residual piece given the fact that within the area again, along the zone, there are many parcels some of which possibly variances have been granted or possibly they were just laid out, but you know, this is .54, this whole area which is in the R-1 zone the lots are .47, .60, .60, so many of the lots within the residential areas are lots that are of lesser size than this. So basically I think it's the classic variance in that the size and shape of the property, which was created by the layout of the town road, Constitution Blvd., has created a parcel of property that is undersized and to interpret the regulations in their narrowest sense, in other words to require

them to follow the regulations would be confiscatory because there is no other use of the property. I'm ready to answer any questions?

Mr. Glover: Alright, you have a neighbor, St. Margaret Mary's Church

Atty. Thomas: Uh huh

Mr. Glover: And the Jensens on the other side

Atty. Thomas: Yes

Mr. Glover: Where this house is topographically it really shoots up doesn't it? It looks like you're going from 30 feet to, no it's not, 120, 118, 114?

Atty. Thomas: don't throw those engineering questions at me. I don't know, I

Mr. Glover: The highest point is 120

Atty. Thomas: I prefer the pictures. The a, this rock, if you look at the sign picture that I have here

Mr. Glover: The rock with 86 on it?

Atty. Thomas: The rock with 86, it happens to be Lot 86, somebody marked, I mean Assessor's Lot 86

Mr. Glover: Okay

Atty. Thomas: And so you can see I'm standing out in Constitution Blvd., not really out in Constitution Blvd. cars go awfully fast up and down Constitution Blvd., and I'm taking the picture. So you're looking at the lot as it looks back, it does obviously rise in the back, then this is angled toward the Jensen's property. You can see, still see 86 and you can see it's angled that direction. And then this one here, is again, angled toward the Jensen's property, and looking down. And this one here is looking toward St. Margaret Mary's.

Mr. Glover: You have city sewer and city water here?

Atty. Thomas: Yes

Mr. Glover: And the plan is to put a single family house on here?

Atty. Thomas: A single family house

Mr. Fitzgerald: Is the driveway going to come out on Constitution Blvd. or

Atty. Thomas: I would assume it has to, there's no other (unclear)

Mr. Cavallaro: How big of a house are you planning to put?

Atty. Thomas: Again, some of that's going to be controlled by Planning and Zoning, you know, as far as that. We just had them draw it on because it's easier for this Board to visualize it. What they drew on was a footprint of 30x60, is what I'm reading on the map, which should be on that map

Mr. Glover: But whatever house you build, you don't need any further variances

Atty. Thomas: No, no further variances

Mr. Glover: You can build the house without variances

Atty. Thomas: without variances, yes. This is, I've highlighted here, you can see 40 feet is the front setback

Mr. Glover: Yeah, where your blue is, but your not telling me they're going to put it right where that blue is, you're telling me they're going to put it someplace in that block

Atty. Thomas: they can easily slide it this way, I think that the engineer located it here, because this was the best location for the property

Mr. Glover: But in any event, they're not going to, they're not going to relocate it anywhere that needs additional variances

Atty. Thomas: If they did, they'd have to hire me again to come back here. These are the only two variances they chose to ask for at this point because they feel that this is the appropriate location. And also to minimize the requirements because obviously when you look at this lot and its size, you certainly can locate it properly within the setback requirements, I mean clearly, so that would be really

Mr. Glover: It has a sewer easement or drainage easement through it, or sewer easement? Is that a 12 inch pipe going through it, that's going through that property?

Atty. Thomas: It cuts through this corner of the property

Mr. Glover: Is the gas line anywhere near it?

Atty. Thomas: The gas line is down here. Tennessee Gas easement is here, it may touch, yes I think it touches right, it's very very (unclear) and the zoning chart, is the zoning district table is on the map that you have. This one, there's (unclear) the other map I had (unclear)

Mr. Glover: Yeah, we're going to need, especially I'm going to need the Assessor's map. Does the Board have any other questions? (no) Does the Board have any questions of Attorney Thomas? (no) Is there anyone else in this room who is in favor of this application? (no response) Anyone in favor of this application? (no response) Alright, is there anyone who is opposed to this application?

Mr. Dognin: Yes

Mr. Glover: Alright, Regis, would you like to come up and, have a seat because you'll be near the recorders and we'll be able to, Attorney Thomas has a booming voice so we can usually pick him up. That's a complement Dominick. Would you give your name and address please for the record?

Mr. Dognin: Regis, Dognin, D-O-G-N-I-N, 342 Long Hill Avenue in Shelton

Mr. Glover: And can you tell us why you oppose this sir, what your opposition is?

Mr. Dognin: For many reasons. I'm going to read my prepared statement. I spent 10, 12 hours preparing this and I'm not going to give you copies because you'd have to promise and swear on a Bible that you're going to read it.

Mr. Glover: Oh, okay

Mr. Dognin: So okay, **INTRODUCTION:** Members of the Board, you have a proposal before you by a bank holding title to lands from the former Shelton Heights Joint Venture, is this too loud?

Mr. Glover: No, you're fine.

Mr. Dognin: Okay - to create a non-conforming building lot where no lot exists today solely for a more profitable sale to a developer. This is nothing more than spot zoning applied to a small lot. We are pleased to note that the ZBA denied two applications in recent years by another developer trying to overdevelop our neighborhood. Hopefully, you will see this latest effort as nothing more than the same ... shoehorning a building lot where it neither fits nor belongs. We have unfortunately experienced a great many zone changes in our neighborhood. I had enumerated these zone changes in my January 20, 1998 analysis – I am sure

you will be familiar with them. Let me just list them here so you can appreciate just how many zone changes have occurred in our area of Long Hill Avenue and Constitution Boulevard:

- | | | |
|---------------------|---|---|
| 1. Mid 1980's: | <u>Laurel Heights hospital complex.</u> | Mr. Chris Bargas |
| 2. March 1988: | <u>Mas Property</u> – 65 acres | City Trust |
| 3. | <u>Helen Bures Estate</u> – R2 to R4 | Pine Hill Village Condos |
| 4. | <u>IB1 zone</u> Sheton Heights SDA overlay | SHJV – Bargas |
| 5. | <u>PDD #10- Rivendell Condominium</u> | SHJV – Bargas |
| 6. Dec. 10, 1991: | <u>Laurel Ledge subdivision</u> – 26 acre | Mr. Chris Bargas – that by the way was an R-1 zone, he misspoke when he talked about R-3. It became an R-3 as a result of a zone fight. |
| 7. Sept. 27, 1994: | | <u>PDD – Gas station/store/retail/office</u>
Joseph Salemme |
| 8. July 18, 1995: | <u>“The Laurels” subdivision</u> – 65 acres | Mr. Chris Bargas |
| 9. Dec. 12, 1995: | <u>R1 to R3 at Constitution Boulevard</u> | Mr. Chris Bargas – that’s the area of the park as you know it today. |
| 10. Jan. 20, 1998: | <u>2-for-1 split in R-2 zone</u> – 296 LHA | Mr. Scott Wasilewski |
| 11. April 18, 2006: | <u>2-for-1 split in R-4 zone</u> – 233 LHA | Mr. Scott Wasilewski – that’s near the underpass of Route 8. |
| 12. Feb. 20, 2007: | <u>R-3 Equivalent into R-1</u> – 282 Const. Blvd | SHJV – People’s Bank |

People in our neighborhood want to see the **City of Shelton require that banks and developers play by the rules** and not try to break them at every opportunity. People want our commissions and boards to protect the City’s homeowners, to help improve the quality of life, and to help build a sense of community. We think the requested waivers by People’s Bank/SHJV to create a new building lot of such substandard size and in the wrong place are totally inappropriate and unjustified. We therefore ask the Board of Zoning Appeals to **DENY THESE VARIANCES** outright.

OBSERVATIONS: A set of waivers of Section 24, Schedule B, Standards 1 and 3 have been proposed for a site adjoining #280 Constitution Boulevard. The site is **Lot #86 on Tax Map 92**. Lot #86 as drawn does not meet R-1 minimum standards in at least two regards. In fact, lot #86 does not meet the R-2 minimum standards (minimum square = 125 ft.). So, in effect, what we have is an attempt by **People’s Bank/SHJV to insert the equivalent of an R-3 lot**. Nevertheless, the purpose of these requested variances is to allow the bank/developer to create a new building lot (and dwelling) where otherwise no lot or dwelling can be constructed. This obviously will benefit the applicant economically. However, the group of residents and neighbors that I represent has carefully reviewed these requested changes and are firmly opposed to them. We submit the following observations for consideration by the Board of Zoning Appeals and ask the Board to unanimously deny these requested variances. **Here are the reasons:**

1. **Lot #86 Provides no Hardships:**
 - Connecticut’s statute requires the applicant to prove that this lot, its structures, or both are unique among other lots so zoned. Zoning here is an existing R-1 District requiring a minimum of 40,000 square feet per lot. **There exists no hardship on the present lot as required by Connecticut’s statute. It is not at all unique in the sense required by the law.** The land is a remnant of the process of construction of Constitution Boulevard developed by Shelton Heights Joint Venture in the 80’s. The lot contains only 31,321 sq. ft. and is triangular in shape – the required 150 ft. square does not fit. (I wish I had some water.) Let’s recall that People’s Bank acquired this parcel from Shelton Heights Joint Venture when the latter went bankrupt. If there is any uniqueness with this lot, it is the supreme irony that People’s Bank cannot claim a hardship for a parcel of land for which Shelton Heights Joint Venture (whom they bought it from) determined the size, the shape, and indeed every characteristic of parcel #86. If parcel #86 is defective as a building lot, People’s Bank has no one to blame but itself for financing those that created it. If they don’t like it, they can sell it or give it to the municipality – SHJV gave nothing of value in open space and donating parcel #86 would be a welcome change. The request for variances should be denied.
 - Connecticut’s statute is equally clear that economic and human hardships, should they exist, are to be given **no consideration** here. The hardship must be unique to the property alone, without regard to ownership.

2. **Contrary to the Shelton Plan of Development:**

- These requested variances are **contrary to** Shelton's new "**Shelton 2006 Plan of Conservation and Development**" – approved by Shelton's Planning and Zoning Commission on July 31st, 2006 – (title is abbreviated hereafter to: Shelton Plan of Development – also page references like "5-21" refer to this plan). That plan calls for stabilizing Shelton's population and reducing the rate of growth by holding or reducing development densities. (See page 4-27: about "reducing the intensity of suburban development") **These proposed variances are about increasing density twofold** in the immediate area. Where there is one existing dwelling, there would then be two dwellings. It is an R-1 district zone and the Bank is attempting to insert an equivalent R-3 zone...that is also increasing the density. On the basis of these two findings, this application should be denied.
- Of course, People's/SHJV might try to say this is actually a very insignificant intrusion. But the ZBA knows this is a very BIG TREND. There are hundreds of small parcels such as this in downtown Shelton that are substandard and/or odd shaped where a developer wants to squeeze in a house or two. All he needs is to break a few rules (zoning regulations). The variances requested here, if granted, would send the wrong message to such developers and carry Shelton in the direction of over-building and excessively high development densities in these already tight zoning districts. It is a trend that must be stopped and we are determined to continue to fight for this (both Wasilewski efforts were defeated – 1998 and 2006). These undesirable changes should be denied.

3. **Inconsistent with Recent P&Z and ZBA Decisions:**

- In the late 1980's when the developers of the Helen Bures Estate were planning Pine Hill Village Condominiums, they attempted to change the existing R-2 District to an R-4 District in Lot #112 that borders Lot #111. The zone change was denied by the Shelton Planning and Zoning Commission in order to retain the viability of the residential nature in the area and to prevent the loss of buffer areas and large spruces which are still visible today. The applicant's **requested variances are not consistent with these past decisions by the Planning and Zoning Commission** and should be denied.
- Recent (Dec. 12, 1995) attempts by Chris Bargas, Ltd. To change the zoning for lands adjacent on or near Long Hill Avenue and Constitution Boulevard (specifically Lots #27, #84, #80, #81 and #82) were denied by the Shelton Planning and Zoning Commission in order to retain the viability of the residential nature in the area at the R-1 level. By the way, Lot 84 which is listed amongst these is the park, Constitution Park. They were denied by the Shelton Planning and Zoning Commission in order to retain the viability of the residential nature of the R-1 level. The applicant's **requested variances are not consistent with past and recent actions by the Planning and Zoning Commission** and should be denied.
- The recent attempt (January 20, 1998) to downzone Lot #112 by Scott Wasilewski by a 2-for-1 split was denied by the Board of Zoning Appeals
- An even more recent attempt (April 18, 2006) to downzone Lot #169 on Tax Map 105 (which is 223 Long Hill Avenue) by Scott Wasilewski by requesting variances which would allow 2 dwellings where only one dwelling might fit was denied by the Board of Zoning Appeals.
Thus both the Planning and Zoning Commission and the ZBA have independently rejected these down zone attempts and continue to protect our Long Hill Avenue and Constitution Boulevard neighborhood. For obvious consistency and plain logic, this attempt too should be denied.

4. **This is Down Zoning and Spot Zoning:**

- Lot #86 is a non-conforming parcel (but not a building lot) left over from Shelton Heights Joint Venture's construction of Constitution Boulevard. **It meets Shelton's R-3 District minimum standards** for a single family dwelling. To create a non-conforming lot of an **R-3 nature** at parcel #86 is nothing but downzoning. The Board of Zoning Appeals should not be asked to **create new non-conforming lots** that fail to conform with the City standards, further expanding the non-conformity.
- In his book entitled "**Land Use Law and Practice**", Connecticut Judge Robert A. Fuller discusses the concept of spot zoning – Page 52, § 4.8 – and states that two elements emerge as defining when spot zoning is present: "(1) a change of zone affecting only a small area of land and (2) a change which is out of harmony with the comprehensive plan for the good of the community as a whole". While the bank/developer has not officially requested a zone change in so many words, the effect of allowing an R-3 parcel within an R-1 district is the same. The effect of these variances is every bit as real here. And **these requested changes meet the definition of spot zoning** as applied by Judge Fuller and the Connecticut Courts.

There is no compelling reason from the Board of Zoning Appeals to help with the insertion into an R-1 zone of something approaching an R-3 zone. These requested variances should be denied.

5. **Not in the Neighborhood's Best Interest – Buffers are Critical:**

- The **owners** of the adjacent homes on both sides of Constitution Boulevard **will be hurt by lowered property values** when Lot #86 is completed as requested, with most of the trees cut and removed, and when asphalt and a dwelling replace the woody buffer area that is both enjoyed and so necessary given the proximity to Constitution Boulevard. The neighborhood's dissatisfaction with this proposal is clear from the signed petitions presented here to the Board of Zoning Appeals. All residents in the immediate area are opposed and we have about 94 petitions of practically everybody in the immediate area of both on Long Hill, Laurel Ledge, Constitution, etc.
- Constitution Boulevard carries not only very heavy traffic (12,900 daily trips) but also, the traffic involves very large, heavy, and often dirty vehicles. This brings much noise, dirt, pollution, smoke, and visual pollution ... who wants to look at heavy equipment, trucks, cranes, oil trucks, semis, tanker trucks, cement trucks, flatbed trucks with helicopter components, giant pay loaders, construction rigs, and so on. **So the buffers of trees and shrubs along the way are absolutely critical for those of us who live close by.** All the residents along Constitution Boulevard strive to plant and maintain trees of every sort between us and this principal arterial road. Far better if we cannot see or hear the traffic. The canopy of trees helps clear and purify the air and helps reduce pollution. So every bit of buffer counts. The Planning and Zoning Commission recognized this in 1991 and went out of its way to create buffers of trees (see Laurel Ledge development) to protect the homes near Constitution Boulevard. Constitution Boulevard cut right through R-1 residential areas (the only such arterial in Shelton) and was always conceived of as an area where the residential integrity needed to be protected and reinforced by minimum curb cuts, maximum buffers, and maximum setback for any future construction.
- From the neighborhood's point of view, Constitution Boulevard offers one benefit in that when you drive along it, one sees few if any homes. One sees vegetation, woods, trees, and buffers pretty much along the length of it. For the most part, trees buffer the homes that are generally far enough away not be seen even in winter. The current proposal would result in cutting down a whole area of buffer trees, expose the home at #280 to street traffic, remove the buffer that protects the residents at #280 and hides Constitution Boulevard's traffic from them, AND it would build a house very close to the ROW. Very few structures will be as close to Constitution Boulevard as this new dwelling – a very undesirable result. The neighborhood unanimously endorses the denial by the Board of Zoning Appeals of this ill-conceived proposal.

6. **Create a new traffic hazard and reduce the traffic safety on Constitution Boulevard:**

- **Constitution Boulevard is one of five principal arterial roads in the City of Shelton** (see Map "Transportation Plan" on page 5-21 of the Shelton Plan of Development). The daily trips associated with Exit 13 of Constitution Boulevard are 12,900 – making it the highest traffic in south Shelton with the exception of Bridgeport Avenue and Route 8 itself. Exit 13 (at both ramps) are also listed among Shelton's "High Accident Locations" by the Shelton Police Department. At traffic hours, traffic backs up on Constitution Boulevard higher than the #86 parcel. Constitution Boulevard is an extremely busy and fast traffic flow area. Traffic by parcel #86 hovers around 50 mph and exceeds it at times (particularly in the downhill flow). **The Shelton Plan of Development recommends (page 5-20) the following actions for primary arterial roads to improve traffic safety:**

- Reduce curb cuts
- Limit and restrict access
- Limit conflict points
- Remove turning vehicles

To add a new dwelling at parcel #86 would, at a single stroke, violate every one of those "best practices" and obviously create a new set of safety hazards. It would add an undesirable curb cut, a new access point, provide new conflict points, and more turning vehicles. All of them highly undesirable. To accept this proposed application would fly in the face of important, reasonable, and responsible actions expected of City government to ensure greater safety on Constitution Boulevard. More reasons for the Board of Zoning Appeals to look unfavorably on these requested variances and strong reasons for the ZBA to deny the application.

- Even if merged driveways were used for the parcel #86 and the neighboring one, (which may be impractical), the traffic situation near this curb cut would be worsened because of additional turning movements into and out of the driveway and conflict between exiting vehicles and entering vehicles.

This will increase the probability of additional turning type accidents and will reduce roadway safety.

- **The safety issues raised above will only worsen with time because the completion of Constitution Boulevard north to connect to Leavenworth Road** (a top priority – “**PRIORITY 1**” by the long range planning on page 7-17; planned in general but without a specific schedule at the moment) **will bring with it higher traffic over time.** Constitution Boulevard North will tap into 9,500 daily trips where it intersects with Rte 108 and an additional 8,100 daily trips where it intersects with Leavenworth Road at Rte 110. Meanwhile, every curb cut reduces the roadway safety and while this is true with only one lane of traffic (Constitution Boulevard’s current situation), the problems worsen when **Constitution Boulevard will be striped for 4 lanes versus 2 lanes** – as it surely will when Constitution Boulevard North is complete. And the Laurel Heights Industrial Park build-out will generate its own additional daily trips on Constitution Boulevard South when that occurs.
- Imagine if you will this added curb cut, a mailbox is planted there, and a Post Office mail truck is delivering mail and blocking one through lane. At another time, a young child might run out into the traffic lanes to retrieve a wayward basketball – focusing on the oncoming, southbound vehicles but not seeing the onrushing northbound vehicle – coming around a curve. Can’t happen. Think again. Kids from Constitution Park have chased balls into those traffic lanes during traffic hours. **It has happened.** And it’s that much more likely because the proposed Lot #86 is 25% too small and the basketball playing is likely to be in the driveway and very close to the ROW. **For all these reasons, Constitution Boulevard safety will be reduced if this proposal goes through. This proposal should be denied.**
- Because of the obvious lack of space on the lot #86 property (it’s 25% smaller and below R-1 standards, it would be difficult to design off-street parking that would have the ability to turn around within the lot. **Any off-street parking scheme that required vehicles to back into Constitution Boulevard would be extremely dangerous** given the poor sight lines from rear view mirrors facing the wrong way and a blind curve on the downhill side of Constitution Boulevard. This is a safety hazard the ZBA will want to avoid. The application should be denied.

7. Alternate Needs for That Area:

- If we carefully read the Shelton Plan of Development, I’m talking about page 5-29, and the discussion about Constitution Boulevard, we know that there is an 80foot right-of-way (ROW) and the text notes that this accommodates the addition of pull-offs for buses. The future Constitution Boulevard will be a likely candidate for buses and the need for pull-offs. Southbound on Constitution Boulevard, the first location suitable for a pull-off is in the area of Parcel #86. This is mostly due to the topology, ledge formations, and three existing curb cuts (2 of which are for homes that predate Constitution Boulevard). It may be prudent to plan for this eventuality.

8. House Siting Problems:

- The waivers requested include: (a) minimum lot area – 0.75 acre is 25% below R-1 standards (b) minimum dimension of square on the lot – 30% below R-1 standards combined with (c) an awkward parcel shape (triangle)- these obviously limit the ability of a design engineer to properly site the house, the driveway, the turn-around, the deck, the basketball court, and so forth. **They only help make it very clear that a house cannot properly fit on this lot.**
- Taking the viewpoint of the would-be new owners of the proposed dwelling, this house would seem to be a **very undesirable house to live in. It will be extremely close to the Constitution Boulevard traffic** with its attendant noise: cars “gunning it” as they do, or heavily loaded dump trucks downshifting many times to make it up the hill, not to mention motorcycles on Sunday morning who love that hill to show off their true power to accelerate! They will not benefit from any buffering trees and shrubs – at least for many years. They will smell the fumes of vehicles and the black air pollutants covering their garden furniture and picnic table. They will deal with (and maybe wait for) the traffic when they want to exit the property and the impatient drivers behind them when they want to enter their driveway. They will have little off-street parking for guests to use. But there is one benefit: they will have a very small lawn to cut!
- **We believe that in proposing a non-conforming lot at this location, the bank/developer is attempting to overbuild for the lot and conditions. For these reasons, these variances should be denied.**

9. Added Burden to Shelton Taxpayers:

- The Shelton 2006 Plan of Conservation and Development worked out the figures (page 1-23). **The average dwelling unit in 2002 costs \$1,467 more in community service (and we’re talking**

about schools, roads, fire, etc.) than it generates in tax revenue. In other words, every new house built in Shelton costs Shelton taxpayers money and has to be subsidized to the tune of \$1,467 by other economic activities. More bad news, this is not a one-time cost to the taxpayer. No, this is a recurring tax gap that is repeated every year for every house. This is hardly good news for the average taxpayer. The builder makes his profit and leaves and we have to foot the bill that results. And while you might say this is “just one house”, remember that there are hundreds of other non-conforming areas with developers ready to prove that bending the rules or breaking the rules is the right way to go. **Remember, we’re talking about a trend here, a bad trend. The City had better send the right message to developers on this one!** For this reason, these requested variances should be denied.

10. **The Proposed Variances Area Opposed by the Community:**

- The requested variances are opposed universally by neighbors in the area as witnessed by the petition signatures presented this date to the Board of Zoning Appeals. Such unified disapproval shows these requested variances for what they are: **an unfair abuse of the ZBA process and an attempt by a bank/developer to make unwarranted profits at the expense of neighborhoods and the Shelton community at large.** These variances must be denied.
- **All the immediate neighbors we could contact were totally opposed** to the variances creating a new non-conforming building lot. This includes residents along Long Hill Avenue (from the underpass – Rte 8 to the Board of Education), it includes residents on High Plains Road, on Laurel Lane, it includes residents on Constitution Boulevard and Laurel Ledge subdivision (Ridge Lane, Steepbrook Lane, etc.), it includes people on Kneen Street and other Shelton residents. The Petitions signed by residents are submitted for the record. And also for the record, we have of course the opposition of Mr. Jensen, Tom Jensen who is the abutting owner on 2/3 of the area that’s not the road, and the other 1/3 that’s not the road is the Roman Catholic Church, St. Margaret Mary. And Father Wayland signed the petition opposing this last night. So the church is also opposed. So that means that everything around it is opposed to it, practically every owner in Laurel Ledge, which is opposed to it. It’s a pretty clear message.

11. **These Variances Are Not in the City’s Best Interest:**

- The changes proposed, far from supporting Shelton’s new Plan of Development, are contrary to several of its provisions.
- If accepted, the application will be detrimental to Constitution Boulevard as a high speed corridor to serve the transportation needs of the City and will create new safety problems.
- The City will lose tax revenue due to higher density housing and the tax burden related to educational costs.
- The City needs to create strong neighborhoods and act to protect the investments of its homeowners and legitimate property owners. And it must help build a strong sense of community.
- The City needs to send an **unmistakable message** to residents and developers alike that Shelton is a City that stands with integrity behind its land use regulations to protect Shelton landowners.

In SUMMARY there’s 11 bullets:

1. Lot #86 presents no “hardships” as defined by Connecticut statutes
2. These variances are contrary to the Shelton Plan of Development
3. The request is inconsistent with the recent P&Z and ZBA decisions
4. This is down zoning ... and spot zoning which is illegal in Connecticut
5. These changes are not in the neighborhood’s best interests – buffers are critical
6. New traffic hazards and reduced roadway safety will result
7. Alternate Needs for That Area exist
8. There are serious siting problems with the proposal
9. These changes represent added tax burdens to Shelton’s taxpayers
10. The proposed variances are strongly opposed by the community
11. The variances are not in the City’s best interests

FOR ALL THESE REASONS, WE ASK THIS BOARD TO DENY THE REQUESTED VARIANCES UNANIMOUSLY. THANK YOU FOR LISTENING TO OUR NEIBORHOOD!!! Submitted by: Regis J. Dognin, 342 Long Hill Avenue, Shelton, CT 06484

Mr. Dognin: And I have a whole bunch for you.

Mr. Glover: We could have this for the record?

Mr. Dognin: What?

Mr. Glover: We could have this for the record?

Mr. Dognin: Well, okay, I'll give you what I've got.

Mr. Glover: Oh, you have a number of them?

Mr. Dognin: I think I have 9

Mr. Glover: Oh, okay.

Mr. Dognin: There's nothing special about my copy

Mr. Glover: Oh no, no, no, that's alright. I didn't know you had 9 of them.

Mr. Dognin: Alright, now

Mr. Glover: I can't imagine why you didn't think anybody on this Board would read it

Mr. Dognin: That's why I was not wanting to take a chance. Now, I'm getting lost in my stuff, I also have 9 of this.

Mr. Glover: Is this what you're looking for?

Mr. Dognin: Oh, yes

Mr. Glover: See, you already gave it to me. We're way ahead of you

Mr. Dognin: Now what's happened is that we've been hit with unbelievable sickness. My wife was going to join me and support me in this and was going to read this, this letter and I shall therefore read it. And we also have Tom Jensen, who himself is the neighbor, and was obviously a major supporter of our effort and he's not here tonight because he was sick today at work and came home and he's in bed. He's had it for the duration. So let me just read this, it's a single pager. "February 20th, 2007, Commissioners, Zoning Board of Appeals, Shelton City Hall, 54 Hill Street, Shelton, CT 06484. Subject: **Map 92; Lot 86 – Application to Create a Building Lot.** Dear Commissioners: My husband Regis Dognin has given you his complete analysis of why this proposal is a bad proposal. I agree with all the points he has raised and also ask that the Board of Zoning Appeals deny this proposal. I would simply like to give you a few comments from the neighborhood: 1. Probably the most repeated comment we get when we go door to door for petition signatures is this: **"Why can't they just follow the rules! This is all about greed!"** They are the developers and the residents feel everyone should play fair and play by the rules. Why should developers get breaks which ordinary citizens don't get if they follow the rules. If you're supposed to meet R-1 zoning regulations then so be it. End of story. And they shouldn't be going to the ZBA for exceptions because there are no hardships. They shouldn't even be there at all. If there's no hardship, it should be denied period. That's the law. 2. A second related sentiment heard is this: **"It burns me up. It's very unfair. We read the zoning regulations and we go by that. They (the developers) hire a lawyer and see if they can break the rules! It's not right! And that's why the neighborhood has to fight back."** The average resident sees the regulations and follows them. Developers, and too many property owners, see the regulations and want to break them. The rules are for everyone alike. This has a lot of people very upset about the ZBA process. It's a process that's been highly abused in Shelton and is viewed unfair for residents. 3. And finally, this suggestion on the part of residents who see the mess at 233 Long Hill Avenue (Scott Wasilewski's parcel near Rte 8) where it has been cleared and the nature buffer is destroyed: **When an owner intends to go before the ZBA with a proposal, no part of the land can be cleared (5" diameter and smaller trees excepted) prior to the decision by the ZBA.** "In other words, if somebody intends, you know, just bought a piece of land like this guy did from the State, they shouldn't be allowed to clear it, you know, clear 10" trees and 12" trees and very mature trees and then he doesn't get what he wants and he's tuck but the whole community's stuck, because everything's been cut down and you can't make it grow again." Some very old

and mature trees get cut down for no good reason and the damage can't be reversed later when the ZBA application is denied. Certainly, the owner can wait a little longer and not destroy the natural property. Very truly yours, Daniele R. Dognin, 342 Long Hill Avenue, Shelton, CT 06484."

Mr. Dognin: You have a set of that. And now let me give you the, I guess it's in here. I've gotten totally lost in the papers I had. Okay here are the originals and I've highlighted the one of Father Wayland, that's in here. And we also did a map of those that, that had signed and opposed. There are obviously cases where nobody's home, people aren't there, this is Father Wayland's, and there should be about 94, 90 some odd.

Mr. Glover: Alright, anything else?

Mr. Dognin: I'd like to make one more comment. His major point is Shelton Heights Development was like "Gee I can't do anything about this, the City wants to put the road here. Let me tell you that to find another 11,000 sq. ft. and to push the road over by 10 feet, or you know five feet, on that length of is not, is not the reason why they didn't want to do it. They didn't think of it. They were worried about other matters, as the other side of the road was R-1 and so, and this side it is R-1 and the story about looking through that section of town and trying to find little bitty parcels, of course you can do that. There's all kinds of houses that were here before zoning. So that's not a reason to excuse something that's not up to the current standard. Today we should live by the new standards. Zoning has been in a long time. I have one other person that's here and would, is from Laurel Ledge and would like to read a statement. The statement is actually Tom Jensen's, who is the guy that's sick. So I will get up and give him the hot seat.

Mr. Glover: State your name and address please?

Mr. Vivani: Gopal Vivani, at 41 Ridge Lane. Based on the lengthy presentation I think that everything's been covered. I'm reading the letter, or I'd like to present the letter written by Tom Jensen who is adjacent to the, this property. Uh, most of the points mentioned here have been covered and I think to expedite the process, I would like to just present the letter instead of reading it.

Mr. Glover: Alright, thank you very much.

Mr. Vivani: I would like to mention something else, on the 37 Ridge Lane, who is my next door neighbor, he had asked about 10 years ago for the driveway entrance on the Constitution Boulevard which was denied by the Board. This would, his proposal would bring the driveway on the Constitution Boulevard, which will now ignite the situation with the neighbor who has tried to do it once. And if this is granted it would be unfair to the private party who has asked for the driveway to the Constitution Boulevard.

Mr. Glover: Thank you.

Mr. Dognin: I just want to add that Father Wayland voiced the same concern because the St. Margaret Mary which has property right down to the road, had wanted a curb cut and was denied.

Mr. Glover: Anyone else in opposition to this?

Ms. Paulson: Yes. My name is Margaret Paulson, I live at 64 Sunset Drive. I have a map of the area in question. I'd just like to point out a few things. This property is right next to a gas line and it shouldn't be overdeveloped at all. The traffic congestion during the evening hours is all the way past this property. You wouldn't be able to make a left hand turn out of this property during dinner time. It's in the Ivy Brook greenway. This would be a contaminant of the Ivy Brook. In the wet season the Ivy Brook flows over this property, it's in wetlands. On Ivy Brook, there's a 2,000 year old Indian rock shelter. We don't want to compromise that, it's been there for 2,000 years. Right now it's in front of the dental office and I talked with her and she said she's going to donate that land to the Shelton Land Trust. I'm sorry, I'm terrible at public speaking. Um, I agree it would be detrimental for the existing neighborhood. There's no other open woods, or parks in our downtown area between Walmart and downtown. This is the buffer. We want to keep it as the buffer. Right now I can hike for two hours from Woonsocket to Barbara Drive. It's on the map, these are hiking trails. There's a park up there that you may not be aware of. And it's a very nice area to walk. This property in question is right on the line. They would complain if my dog ran out there, like it always does. Also, I'd like to mention that it's a major deer migration route. The deer come up from Stratford, through the

landfill and then up Ivy Brook and through, they go through Route 8. That's why every spring you have a deer kill on Route 8 which causes an accident, every year. The place should be, you know, signed deer crossing. Route 8 should be signed deer crossing. I've brought it up with numerous people and nothing's happened yet. Putting a house there would kill that route. You'd have deer in the road. Ivy Brook is there for a reason. Those are my six things. I'd also like to bring up a couple of other unmentionables if I may, please?

Mr. Glover: Unmentionables? Do they pertain to this piece?

Ms. Paulson: Not really

Mr. Glover: Then don't bring them up.

Ms. Paulson: Okay, one more thing that may pertain to this. There is one building going up on Constitution Boulevard South toward the end. They have huge, huge telephone poles that start all the way from the Wells property and they put them on the other side of the road and it's going to go right through this parcel. It's an eyesore. I wouldn't know why anyone would want to build a house on this piece of property.

Mr. Glover: Thank you.

Ms. Paulson: You're welcome.

Mr. Glover: Anyone else in opposition? (no response) Atty. Thomas?

Atty. Thomas: Yes?

Mr. Glover: Would you like a brief rebuttal?

Atty. Thomas: Yes, yes. I'll try to, well first of all, the issues presented, I'm sure some of them are serious concerns, but we are before, I am before, if I'm not mistaken, the Zoning Board of Appeals tonight. Nothing you do impacts decisions of the Wetlands Commission, which is the regulatory agency which would control any issues of wetlands on the property, nor can you do anything which would mandate a violation of the wetlands regulations in the City of Shelton. Number two, many of the proposals, many of the issues that were raised, again, are issues that have to be addressed by this applicant, if the variances are approved, before the Planning and Zoning Commission. Issues such as traffic safety, off-street parking, and those requirements are issues that they would address to ensure safety issues, and that would include curb cut. Regis made the comment concerning that there are many other smaller lots and this could set a precedent. Your actions set no precedent to anything, each lot is individual. And in fact, this lot was created by the designation and construction of the town road. No town road in my memory, in recent zoning is allowed to go somewhere where Planning and Zoning Commission, the Traffic Safety Commission of the town and sometimes the State of Connecticut State Traffic Commission says where it goes. And when that happened it created this lot. And when that happened, the City of Shelton Assessor gave the lot a designation, not as part of any other lot. The City of Shelton could have, very easily at that point, again, taken that if they felt it was (unclear). It is not spot zoning. You, despite the fact that zoning is in your name, do nothing with respect to zoning lots. It is not down zoning. It is in fact the statutory classic hardship. This property was created by construction of a town road and it created a parcel of land which the Assessor then gave a (unclear) to and it, to in fact incorporate and interpret the regulations exactly as to this land would create a confiscatory zoning (unclear). There is nothing else you can do with the property. It is not your job to determine something should be kept as open space. That is the job of the Board of Aldermen (unclear) if they wish it, they can take it, because if the boards and commissions act to take a piece of property, that is in fact what it is, and the property own then claims a taking. If you follow the philosophy of, that was expressed to you in opposition to this, I don't you'd think grant ever any variances. The fact is that this variance has no bearing on 2-for-1 splits, undersized lots and things of that nature, unless they can show that it wasn't a self-created hardship. There are many quotes from the Plan of Development, including quotes concerning spot zoning from the illustrious Robert Fuller. Again, this is not spot zoning, this lot wasn't created by, in other words, you don't have a situation where an applicant or property owner took a piece of property, sold off a legitimate lot to a private person and retained this smaller lot and now is coming in, that isn't the way it was created. It was created by the (unclear) of Constitution Boulevard. One thing I wanted to point out to you is the term Plan of Development issues, first of all, Plan of Development which is in 8-6, I'm sorry the Comprehensive Plan is in

8-6, if you read Fuller thoroughly, and the reason this is (unclear) just finished a brief on it, the Plan of Development is an advisory document for which no board or commission can use that Plan of Development as a basis for any denial. The Comprehensive Plan, if you read Fuller carefully, comprises of the book that you buy upstairs that's called the Zoning Regulations, the Zoning Map and the existing zoning within an area. So the Comprehensive Plan is looking at this. In fact, the R-3 zone all which this would be an approved lot is directly across the street. There was no reason to extend it and enclose these properties to R-3, but in fact it is across the street. So in fact, this property does fit with the Comprehensive Plan. But most importantly, this property is not a self-created hardship, a property of unique shape created by a road and to deny its use as a single family dwelling would be in fact confiscatory, which I'm sure as this Commission is aware of, is one of the guidelines that controls the actions of Zoning Board of Appeals with respect to this property. There is no guarantee or no assurance that your decision here would affect any other piece because no decision that you make sets a precedent to any other piece of property. Thank you.

Mr. Glover: Alright, does the Board have any other questions of the applicant or anyone else? (no) Seeing no questions I'll declare the hearing closed. Thank you Dominick, you're going to give us a copy of that?

Atty. Dominick: This and I'll leave the other two maps that you don't have, you have the a

Mr. Glover: We have the big one

Atty. Dominick: You have the map, the other two would be the layout map and the Shelton Heights access map

Later that evening during the work session the Board, upon motion by Mr. Jones and seconded by Mr. Conklin, unanimously voted to table a decision on this matter until the Board's next scheduled meeting.

#207-2 69 Indian Well Road, Charles Walker of 69 Indian Well Road, Shelton, CT is seeking to waiver PDD #25 (Section 5) by varying the street line setback from 10 ft. to 2 ft. for a 6x12 roof overhang over entry door.

Mr. Glover: Mr. Walker?

Mr. Walker: Yes?

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

Mr. Walker: Yes, Charles Walker, 69 Indian Well Road, Shelton

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

Mr. Walker: I do, here's a top view of the outline

Mr. Glover: Alright, so tell us what you, let me have, did you, do you have letters, notify your neighbors?

Mr. Walker: I did

Mr. Glover: May I have those receipts please? These are all your, what do you have two abutting neighbors?

Mr. Walker: Correct

Mr. Glover: And you notified both of them.

Mr. Walker: And one of them is present here tonight and the other did give me the letter back and just a wrote a note on the back of it and signed it that he has no problem with the

Mr. Glover: Your last name is Walker and both of your neighbors are Walkers also?

Mr. Walker: That is correct

Mr. Glover: Alright, fine, works for me

Mr. Walker: We're a tight knit family.

Mr. Glover: alright, tell me what you want to do and why you can't conform?

Mr. Walker: Basically, I'm a, well first of all, the house is non-conforming already, prior structure already within, or closer than 10 feet to the road. And basically I just want to build a dog house awning which will keep in line with the fence that is on the map there, you know, with just two corner posts, no enclosure. As you can see the cap for the water meter, you know, it falls right underneath the overhang which would prevent me from enclosing it.

Mr. Glover: Is the water meter on your property?

Mr. Walker: Yes

Mr. Glover: How do you know?

Mr. Walker: Because this is the property line here at the edge of the street and you know, that's the water meter for my house there which is

Mr. Glover: And you're going pretty close, you're going to two feet to it. How do you know that you're two feet from the property line?

Mr. Walker: Well, the two feet from, two feet from the edge of the street. And I simply just measured from that post to the, to the edge of the road there.

Mr. Glover: Alright, so you're assuming, you're assuming that the post is, that the edge of the road is the property line?

Mr. Walker: Yes and no, I mean I've heard that the road is simply a right of way through each individual landowners' property down there because I do own property across the street here as well.

Mr. Glover: Okay

Mr. Walker: The road uh, you know, I know was made a bit wider when it was paved, so you know, I am still just measuring up to the edge of that road there, I'm not, not into the street.

Mr. Cavallaro: What's the City right of way on that?

Mr. Glover: I don't know

Mr. Matto: Is it a City road, Gerr?

Mr. Glover: I don't know if it's a city road

Mr. Walker: It is not a city road

Mr. Matto: It's not a city road

Mr. Walker: No

Mr. Matto: Well then the City don't own it.

Mr. Walker: Right

Mr. Matto: So your land goes all the way across the street

Mr. Glover: So then who owns the road?

Mr. Walker: The Association?

Unidentified voice: it's a common area, the Association owns it

Mr. Walker: Common area?

Mr. Glover: You have to answer. I'll ask him later

Mr. Walker: I'm sorry. And I do have a letter here from the Board as well.

Mr. Glover: Alright, well, before we get to the letter the Board, um,

Mr. Walker: And these two posts that you see here would be basically replaced with 6x6 posts to come up to support that overhang.

Mr. Glover: And would they be supported like with Sonotube or something like that?

Mr. Walker: Correct

Mr. Glover: Something that doesn't necessarily have to be permanent, meaning if there was a problem it could be taken back down again

Mr. Walker: Correct

Mr. Glover: Ralph, do you have any, any knowledge of Indian Well Road there?

Mr. Matto: No. It'd be nice if we saw his deed, maybe it would clear up this, is it a whole piece, or one piece, or, more than likely it is

Mr. Glover: Do you have a deed?

Mr. Walker: Um, I do, not with me, but

Mr. Matto: Does it show it as two parcels or one parcel?

Mr. Walker: To be honest with you, I'm not sure.

Mr. Matto: You never read it huh?

Mr. Fitzgerald: Do you have two pieces of paper or one piece?

Mr. Walker: Um, just one, just one deed

Mr. Fitzgerald: Oh, okay

Mr. Glover: Here's my problem. You're asking for a variance from the required 10 feet to 2 feet

Mr. Walker: Right

Mr. Glover: But we don't know whether you're two feet from the property line, or on the property line, or over the property line

Mr. Walker: Well, it's really a, a street setback I guess, not so much a property line setback

Mr. Glover: Then who owns the street?

Mr. Walker: Well again, the Association

Mr. Glover: And do we have the right to grant you to be closer to the street that's not owned by the city, but owned by somebody else?

Mr. Walker: Well, I guess that's

Mr. Glover: Those are, those are, that's my question, is if it's not a city street then does the city have any jurisdiction on how far you are from the street?

Mr. Walker: I guess none

Mr. Glover: Because at that point it's a driveway

Mr. Walker: Right

Mr. Matto: You better find out who owns it, if you own it, you'll probably approve it without a problem, right?

Mr. Walker: Again, you know, it is, I guess it would be considered to be owned by the, the Association and that's why I presented the letter from the Board as well, so

Mr. Glover: Right, so we don't have, we don't have the authority to allow you to encroach on the Association. The Association might have that authority, but we don't have that authority over the Association.

Mr. Conklin: Is he being sent here, he's being sent here I guess by Planning and Zoning?

Mr. Walker: Correct

Mr. Matto: Yeah, and he probably didn't know the question on the road

Mr. Glover: Yeah, I mean, first of all I wouldn't have even thought about it if it was more than two feet. But two feet and you haven't had it surveyed, I don't know

Mr. Walker: The fence is already, you know, even closer to that, closer than two feet to the road because there is a jog in the fence which you can probably see in this photo here

Mr. Glover: Right

Mr. Walker: And you can see you know, the edge of the street from (unclear)

Mr. Glover: I think that, I think you're going to have to come back with your deed, or a copy of it, make a copy of it

Mr. Walker: Okay

Mr. Glover: and maybe we can

Mr. Matto: If it shows it as one piece Gerr, does he have to come back at all?

Mr. Glover: Well, no, I mean if its his, its his. I mean, I don't know that we can grant him, we can, we can certainly grant you a variance to go two feet from the street, but if it's not our street our variance is very ineffective, it doesn't mean anything.

Mr. Cavallaro: It seems like more of an Association issue

Mr. Glover: Yeah,

Mr. Cavallaro: if in fact it's a private road

Mr. Glover: Yeah I don't, does the city plow that road?

Mr. Walker: No, they didn't pave the road either

Mr. Glover: Yeah

Mr. Conklin: Is it paved?

Mr. Walker: Yes it is

Mr. Glover: But the city doesn't plow it

Mr. Walker: We paved the road, out of the Association (unclear)

Mr. Matto: Do you know if they (unclear)

****Several talking at once****

Mr. Matto: The Association paved it?

Mr. Walker: Right

Unidentified voice: (unclear) the Association and all the property owners (unclear)

Mr. Glover: I can't hear you? Ralph you're not talking to him are you?

Mr. Matto: Huh?

Mr. Glover: You're not talking to him, you have to talk to him.

Mr. Matto: Well, I was looking at him, but I was actually talking to him

Mr. Glover: Why don't you, I'll just leave this open, we'll continue it until next month. Let's do some research and find out because I can give you a variance to be within two feet of a road that the city has nothing to do with, I can but it has no authority. We don't have the power to do that, I don't think

Mr. Conklin: If he had a deed showing he owned that whole parcel and they put a road through the middle and he brought that to Planning and Zoning, that means it's a moot point

Mr. Glover: Yeah,

Mr. Conklin: Then you can charge the Association rent

Mr. Glover: and you don't even have to be here. You don't even have to be here.

Mr. Walker: Well I was, like I said, I mean I was sent here by the zoning office, so, they told me that I had to, you know, apply for a variance before they can grant me the approval to build the overhang, so that's why I'm here.

Mr. Glover: I hear you, but I don't, I don't, if the city doesn't plow it, the city doesn't own it, I don't think we have any jurisdiction over where you, where you, how close you put it to the road. And if you have a deed that says that it's yours from the river to the railroad tracks, then the road is going through your property, put it where you want to put it.

Mr. Walker: Which I wouldn't then require, you know, need a variance?

Mr. Glover: I don't see how we could give you a variance to build on your own property, that's what you would in affect be doing

Mr. Conklin: In the worst case there might be an easement through his property when the Association put the road in, that's

Mr. Glover: That's not our thing

Mr. Conklin: That's worse case

Mr. Cavallaro: It's really up to the Association at that point for the liability or whatever being too close to the road that they own

Mr. Glover: Yeah, I mean, don't take this as a negative. I just don't, I don't think we have any standing here. It's not a city road. Do you agree Tracey?

Mr. Lewis: I don't know, I don't the situation, I'm sorry

Mr. Glover: He's a registered surveyor, I'm just trying to pick his brain a little bit

Mr. Lewis: Well, a survey would solve it.

Mr. Glover: A survey would solve it, but

****Several talking at once****

Mr. Glover: I think you have to go find your deed and check your deed

Mr. Walker: I mean I have had the land surveyed, but again, it listed as, you know, it shows it as two

Mr. Glover: Have you got a map?

Mr. Walker: I'm sorry?

Mr. Glover: Have you got a map?

Mr. Cavallaro: If the survey shows it as two parcels then in fact it was deeded to the Association,

Mr. Walker: and they went by, you know, what's on record in the clerk's office which is this, so

Mr. Fitzgerald: (unclear)

Mr. Glover: Yeah

Mr. Cavallaro: That's what I'm saying, it would prove that the Association had the right of way to put the road there, if in fact it shows it as two parcels.

Mr. Glover: What you need is about a 25 page type written report that you could read to us

Mr. Walker: I could come back, I can do that

Mr. Matto: You don't, you don't need any right to build, if you've done it, if it's been going on for 15 years or 17 then it's there, whether you got the right or not

Mr. Cavallaro: How many tax bills to you get?

Mr. Walker: Just one

Mr. Matto: Well usually when you got two contiguous parcels, the tax department bills you, draws it on the map as one. So the tax map isn't necessarily true

Mr. Glover: Is this a copy?

Mr. Walker: Yes

Mr. Glover: And how far are you coming out with your structure?

Mr. Walker: Uh, from the house to the outside of the posts, about 5 feet with the overhang on it, it wouldn't be anymore than about 6 feet which is, on the application 6 feet

Mr. Glover: According to this map you have 5.3 feet to the property line

Mr. Walker: I'm sorry?

Mr. Glover: According to this map you have 5.3 feet

Mr. Walker: Uh, it looks like he just went to the edge of the a, the fence then

Mr. Glover: Well, he's got it as an A-2 survey, which would show the property lines. Is that a copy of an A-2 survey Jack?

Mr. Fitzgerald: What's that?

Mr. Glover: That's a copy of an A-2 survey? Down the bottom, Mr. D'Amico has signed it

Mr. Fitzgerald: Well, it's, he's got to have a stamp on there and he doesn't have it

Mr. Matto: Yeah, no stamp, it says that, but there's no stamp

Mr. Walker: Well, that's a copy, that's not one of the originals. I don't know if I have one of those with me

Mr. Glover: But if he stamps it, it would come through on the copy, the seal would come through on the copy

Several talking at once

Mr. Glover: What?

Mr. Matto: He's got four pins on both parcels

Mr. Glover: I know he has

Mr. Matto: It's like you said before

Mr. Fitzgerald: Well, you probably only have one deed though right?

Mr. Walker: Yes

Mr. Matto: or the same deed

Several talking at once

Mr. Glover: Well, um, I'm giving your map back. You go look at your deed and see if it has first piece, second piece. You might want to bring that map to Mr. D'Amico and have him sign it, have him seal it, which would then make it

Mr. Walker: I have other copies at home that do have the a, the seal on it so

Mr. Glover: And once you do that, your, the front of your house according to his map says you're 5.3 feet from your property line, so if you're going to put a 6 foot porch on you need a little bit more than a 2 foot variance from the property line because you're about 7/10 over

Mr. Walker: Well, I'll have to have him correct that then

Mr. Glover: Yeah, you're over the property line for what you're asking for if your overhang is 6 feet because according to that you're 5.3 feet

Mr. Walker: Okay

Mr. Glover: so I think you should take it back and have him seal that and then if you want a 2 foot variance then you'll have to go out about 3 feet from the front of the house to be 2 feet.

Mr. Walker: right

Mr. Glover: Okay? And other than that you might have to go for a 0 and go out 5.3 feet. But at this point if you got out 6 feet, according to this map which is not sealed so it's not an A-2 survey, you can only go out 5.3 feet.

Mr. Walker: Gotcha

Mr. Glover: Okay? We'll, I'll hold this open and continue it until next month

Mr. Walker: Okay

Mr. Glover: And if in the meantime you find that there's a problem call the zoning office and we just won't, we won't advertise it again. We'll take care of it, we won't advertise it, we'll just cancel it out. Alright?

Mr. Walker: And they would be able to tell me whether or not that would be necessary, or you're telling me it's not necessary to advertise it again.

Mr. Glover: I won't advertise it again, if, there's no reason to advertise it, if you're 5.3 feet from your property line and you want to put a 6 foot overhang on, then you're not looking for a two foot overhang, a two foot variance. You're over your property line and this application can't go anywhere. And there's no sense in, it costs money to advertise it in the paper and there's no sense in doing it again because it's not valid.

Mr. Walker: Alright, so I'll have that corrected and

Mr. Glover: Yeah, well have him, have him seal it, or you know, and if it's sealed and, if he seals it, then he's certifying that you're 5.3 feet from the property line. And if you are, then if you want a, still want a two foot variance, then you can have a 3.3 foot overhang

Mr. Walker: Okay

Mr. Fitzgerald: Is there any Association rules or anything that you might

Mr. Glover: Well, we have a letter from Bob Pagliaro, who is the president of the Association?

Mr. Walker: property manager

Mr. Glover: Property manager and he has no problem with it. But we, officially we can't give you, cannot give you a variance from the required 10 feet to 2 feet, um, because it would appear that officially you're only 5.3 feet, I should say unofficially because it's not sealed

Mr. Walker: Okay

Mr. Glover: Thank you.

Mr. Walker: Thanks.

#207-3 132 Old Mill Road, Scott & Barbara Morrow of 132 Old Mill Road, Shelton, CT are seeking to waiver Section 24, Schedule B, Standards 7 and 9 by varying the setbacks from the street lien from 40 ft. to 5 ft. and from the right side yard from 25 ft. to 13 ft. for an 81x27 second story addition with an 8x45 front deck.

Mr. Glover: Alright, your name and address please?

Mr. Morrow: My name is Scott Morrow, I live at 132 Old Mill Road, Shelton

Mr. Glover: And Scott, do you have some pictures and some receipts?

Mr. Morrow: These are the (unclear) we sent. These are the receipts and then these are pictures of our house. And I also have my scenario for my variances. I have some copies of maps from the Town of Shelton locating my house, 132, again those lines are (unclear)

Mr. Glover: Alright, you've just given me a copy of the Assessor's map and

Mr. Morrow: Uh, the only reason I'm giving you those, those orange lines?

Mr. Glover: Yes?

Mr. Morrow: and the green, is one is uh, the green line is the gas line, two foot gas line that goes through our, Town of Shelton, which happens to go right through, right in front of my house, and the orange line is a sewer line that they put in approximately 11 years ago. The only reason why I'm stating those lines is that um, I'm looking to put an addition. I'm just looking to raise the roof up and just go straight up because I can't move forward

Mr. Glover: you gave me a copy of the Assessor's map which shows the imprint of your property which is number 16 on the Assessor's map?

Mr. Morrow: Uh huh

Mr. Glover: It shows the imprint, the footprint of a house. You're going to go up a second story

Mr. Morrow: Uh huh

Mr. Glover: Are you changing, are you changing the footprint at all?

Mr. Morrow: No

Mr. Glover: so you're just going up a second story. So you're not going to be any closer to the street, not any closer to the side lines or anything else, just up?

Mr. Morrow: Yes

Mr. Glover: Does the Board have any questions? (unclear) It's an easy one.

Mr. Matto: Same as the roof, roof edge?

Mr. Morrow: Same pitch roof

Mr. Matto: The same exact

Mr. Glover: Anyone else in favor of this application?

Mr. Morrow: Oh, that's my mother and father

Mr. Glover: Your mother's for it?

Mr. Morrow: She owns the house, yes.

Mr. Glover: Alright, anyone else in favor? (no response) Is anyone opposed? (no response) Any final questions? (no) Wasn't that easy? Have a nice night.

Mr. Morrow: Thank you, have a good evening.

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

#207-3 “In the application of Scott & Barbara Morrow of 132 Old Mill Road, Shelton, CT for a certificate of approval for second story addition and deck to be located on the property of the applicants at 132 Old Mill Road, R-1 zone and which requires variances in the setbacks from the street line and right side yard,

The application for variances is approved.

Inasmuch as the new construction will not encroach any further on the setback lines than the existing structure does,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval for variances in the setbacks from the street line from 40 ft. to 5 ft. and from the right side yard from 25 ft. to 13 ft. at the above is granted (Section 24, Schedule B, Standards 7 and 9) in this instance.

This approval is contingent on the stipulation that the second floor addition will not extend the current footprint of the structure.

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.”

#207-4 Wooster Street, Lot #23, Map 128, Lot 92, Don C. Stanziole, Jr., of 42 Lazy Brook Road, Shelton, CT, is seeking to waiver Section 24, Schedule B, Standards 7 and 9 by varying the setbacks from the right side yard/street line from 30 ft. to 17.49 ft. and from the left side yard from 12.49 ft. to 8 ft. for a 33x26 new house.

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

Mr. Lewis: My name is Tracey Lewis, licensed land surveyor, office at 260 Main Street in Monroe

Mr. Santziole: Don Stanziole, 42 Lazy Brook Road, Shelton

Mr. Glover: Happy New Year, men, I haven't seen you this year. Is this a pre-existing lot?

Mr. Lewis: Yes

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

Mr. Lewis: right

Mr. Glover: on the corner of Regan and Wooster?

Mr. Lewis: Actually that's one of the things we want to go over. It's not really a corner lot. It does not at this time have frontage

Mr. Glover: Because of the spite strip?

Mr. Lewis: Because of that little spite strip. I brought the map that created that little strip along Regan Circle

Mr. Glover: That's an old map

Mr. Lewis: It's an older map, yes. So for some reason a 5 foot strip put up against the property that

Mr. Glover: Do you know why?

Mr. Lewis: I, well, I can guess, but it's there

Mr. Glover: Because Mr. Regan owned this piece of property and Mr. Flaherty owned this property here. And Mr. Regan went to Mr. Flaherty and said if you'll split the cost of the road, I can put this road over here and Mr. Flaherty said I'm not splitting the cost of anything. You put the road in and I'll get the lots. And Mr. Regan whose son-in-law was Nowakowski

Mr. Lewis: Oh, okay

Mr. Glover: moved the lot, the whole subdivision over 5 feet

Mr. Lewis: I figured it was something like that

Mr. Glover: and when he moved it over 5 feet, Mr. Flaherty lost all of the lots over here so that there was no frontage

Mr. Lewis: Yeah, okay

Mr. Glover: So that's the purpose of that and we, this has been before us

Mr. Lewis: Before

Mr. Glover: (unclear)

Mr. Lewis: I figured it was

Mr. Glover: the lots over in here that had been cleared up now because the spite strip was purchased by somebody and sold. I don't know if it was sold

Mr. Lewis: Well Don is in negotiations for that strip, but that precludes us

Mr. Glover: Is Beacon Builders the people that built down here?

Mr. Lewis: Yes

Mr. Glover: So when they bought these two houses from the Regan's or from the Sullivan's, then they bought that spite strip all the way down

Mr. Stanziolo: Correct

Mr. Lewis: Right, right

Mr. Glover: Alright, so,

Mr. Lewis: So the regulations say from any street line, so I wanted to clear it up so that we

Mr. Glover: Your property, they're problem down there was they didn't have frontage, because they couldn't get across the five foot spite strip. You have frontage on Wooster Street

Mr. Lewis: Right

Mr. Glover: You won't have that problem. So this is a, a lot that's 55 feet wide, it's very narrow and it's pre-existing non-conforming and you can't conform

Mr. Lewis: right, that's it. So we ask for the 8 feet on one side and we're going to meet the side setback of 20% of the lot frontage on the other side

Mr. Glover: How big is the house, width-wise, 25 or 30 feet?

Mr. Lewis: 33x26

Mr. Glover: It's probably a colonial or a cape?

Mr. Stanziolo: Colonial, it was the best to do it that way so it would look, fit into the neighborhood. If I had to do it the other way, sideways

Mr. Glover: (unclear)

Mr. Lewis: So that'll face Wooster Street

Mr. Glover: Right

Mr. Lewis: rather than kick it in sideways

Mr. Glover: Did you gain any land when they, when they re-did the road?

Mr. Lewis: No

Mr. Stanziolo: no

Mr. Lewis: Actually, they're doing a little sloping which is shown on the map, slope easement

Mr. Glover: But that

Mr. Lewis: and the drainage is going to get eliminated too. The drainage is now going to go down Regan Circle, that's going to be taken out. So there'll be no, no water dumping onto the property there

Mr. Fitzgerald: Where are you going to dump it?

Mr. Lewis: They're going to bring it, with the Wooster Street reconstruction, they're going to bring it down Regan Circle and there's an outlet down on Regan Circle I guess, where the drainage is going to go

Mr. Glover: Oaky, so you have access to city sewer and city water

Mr. Lewis: Yes

Mr. Glover: So they have a pre-existing non-conforming lot that has access to city sewer and city water and you can't do anything about the size because that's the way it is, and you're building a modest house on it

Mr. Lewis: correct, it fits in with the neighborhood, it won't be an eyesore

Mr. Glover: Well, the Board is familiar with Regan Circle and it's, over the years there's been a number of applications on Regan Circle, it has a rich history. Any other questions from the Board? (no) Anyone in this room in favor of this application? (yes) Would you come forward please sir? Would you give your name and address for the record?

Mr. Larsen: Rob Larsen, 167 Wooster Street, Shelton

Mr. Glover: And you're for this because you're going to sell it and have some money and you don't mind the neighborhood

Mr. Larsen: Right

Mr. Glover: Anyone else in favor? (no response) Any, no more, no opposition?

Clerk: You didn't ask for opposition

Mr. Glover: I just did. Is there any opposition? (no response) No more opposition? No opposition? (no response) Any final questions from the Board? (no) Then I'll declare the hearing closed.

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

#207-4 "In the application of Don C. Stanziolo, Jr. of 42 Lazy Brook Road, Shelton, CT for a certificate of approval for a 33x26 new house to be located on the property of Robert Larsen at Lot #23 Wooster Street, Map 128, Lot 92, R-3 zone and which requires variances in the setbacks from the street line and left side yard,

The application for variances is approved.

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

Inasmuch as the new structure is reasonably sized and 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 for variances in the setbacks from the street line from 30 ft. to 17.49 ft. and from the left side yard from 12.49 ft. to 8 ft. at the above is granted (Section 24, Schedule B, Standards 7 and 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."

Approval of Minutes

During the work session the Board, upon motion by Mr. Jones and seconded by Mr. Fitzgerald, unanimously voted to approve the minutes of the January 16, 2007 hearing as submitted by the Clerk.

Respectfully submitted,

Loreen Michalak,

Clerk