

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

AGENDA:

- #307-1 Alan Tyma at 37 Edgewood Avenue
- #307-2 Mucci Construction, LLC at 445 Access Road
- #307-3 Edward Reilly, II at 39 Suren Lane
- #307-4 Natalia K. Whittmer at 35/37 Wakelee Avenue
- #307-5 Roberta McLoughlin at 34 Mayflower Lane
- #307-6 Bruce Kerns, Countryside Veterinary Hospital at 374 Leavenworth Road
- #307-7 Alexander Esposito at 376 River Road
- #307-8 Mary Driscoll at 235 Thompson Street, Lot 1
- #307-9 Mary Driscoll at 235 Thompson Street, Lot 2
- #307-10 Matthew & Merilee Westfall at 80 Birchbank Road

Possible Decision on

- #207-1 Shelton Heights Joint Venture at Constitution Blvd, South, Map 92, Parcel 86

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: Alright, good evening ladies and gentlemen and welcome to the March meeting of the Zoning Board of Appeals. We have a rather long agenda tonight, so we'll try to get through it as quickly as possible. We meet monthly to have hearings to grant or deny variances. When you speak in front of us it's a hearing, you're giving testimony. We record it on two recorders and that testimony is later transcribed by our clerk. It's, the tape recorders will pick up your conversations in the hall, so if you're going to have conversations or talk on your cell phones, I would appreciate it if you'd go out in the hall so that we didn't pick up those conversations on our very sophisticated tape recorders. Our regulations require that you've posted your property, that you've taken four pictures of your property; one of those pictures should show, should show the posting. And that you have notified your abutting neighbors. And I will be looking for pictures as well as the receipts or evidence that you have mailed the notices to your abutting neighbors. Those are a requirement, so if you have them we will hold the hearing, if you don't we will continue the hearing until next month or whatever time you can get them to us. We have a full Board tonight. On my left way over on the end is Commissioner Ralph Matto, Commissioner Jack Fitzgerald, Commissioner Linda Adanti, our clerk, Lori Michalak, I'm Gerry Glover, to my right is Commissioner Jamie Jones, to his right is Commissioner Ed Conklin and to his right is Philip, Commissioner Phil Cavallaro. As we go through the meeting we'll call you. You can come up and have a seat. I will ask you for your name and address and the pictures and the receipts. We will, we will question you, we will listen to you, we'll ask you questions if we have questions. Then I will ask for anyone else who is in favor of that application, finally anyone who's opposed to that application, and then I will ask the applicant if he wants a brief rebuttal to any opposition that may have been given and then I will ask if the Board has any further questions and if they do not I will close the hearing. Jamie?

#307-1 37 Edgewood Avenue, Alan Tyma of 231 Coram Avenue, Shelton, CT is seeking to waiver Section 24, Schedule B, Standard 4 by varying the minimum lot frontage from 60 ft. to 35.46 ft. for a lot split.

Mr. Glover: Atty. Tyma?

Atty. Tyma: Good evening

Mr. Glover: How are you Alan?

Atty. Tyma: How are you. For the record, Attorney Alan Tyma, and I have notification letters to the abutters, only one that's been returned officially, but these are the notifications and I actually spoke with one of the gentleman this evening. I guess he was away in Florida, indicated that he just picked up the receipt, so this is the only one I have, but I think the condominium association, they've been here previously at one point in time they had no objection to this. I also have pictures, sets either side, it's the same pictures basically showing the property. And an indication of where the sign has been posted timely and it's been up for more than 10 days.

Mr. Glover: Alright Alan, why don't you have a seat

Atty. Tyma: Thank you

Mr. Glover: before you continue, if there's anyone who has an interest in this and can't hear it, feel free to come closer to the front. I know it's hard to hear. The stage behind us is equipped with microphone, yeah you can come right up here, the stage behind us equipped with microphones, but as you'll see as we go, as we go through the night we have to look at maps and other things that we have to have hands on down here. So it makes it difficult to use the microphones and difficult for you to be heard especially when you sit all the way against the back wall. So at any time feel free to come forward and, so you can hear what you may be interested in. Alright, while you are forward here I will conduct the meeting. The applicant will be addressing the Board. You may listen. At, at the correct time you'll have an opportunity to ask questions. The questions will be given from the Board to the applicant or the Board to you. There's not going to be a dialog between the two of you. If you don't understand something, you'll have an opportunity sometime to ask. Once we get into a dialog situation it gets very difficult for us to record what's going on. Alan, go ahead, what are you doing?

Atty. Tyma: So what's happened here and these are all neighbors, all of whom I know, there is, and I'll just pass out the map, you have the original map over there. There, Edgewood Avenue is a dead end city street, there's about 14 houses on it. Sometime ago there was a development done with respect to four newer homes on Edgewood Avenue and there is left one home that is pre-existing which is more than twice the size of what's needed for the lot areas. When we had gone originally, we were going to use this particular parcel that was there and split it and we went to the City to talk with them about it. And they said well, we're not using Edgewood Avenue anymore, Edgewood being the dead end street up here and since that doesn't go through, because it goes down to Trolley Bridge where I believe Mr. Miceli lives, so in talking with Counsel Sous, Mr. Sous said we don't know who owns it. So you go out and do a title search because we don't know if we own it or if you own it or if somebody else owns it, and so we had through First American Title, a title search done on the parcel going all the way back to when it originally came into place. And low and behold we found out that the title was still in the original developer of Trolley Bridge. Okay? And as a result of that we acquired that title to that property. We've checked, I even was talking with Mr. Welch today, there's no indication either through the City Engineer or anybody else that there was ever any action done by the City with respect to that road, because the road was never developed. It was thought of being developed as a through road, but then they allowed development below and they allowed condominiums behind yourself Joe, I believe, so therefore there's never going to be a road going through. So therefore, we end up with this cul de sac and you'll see that as a result of that, at the edge of Edgewood Avenue, that's now available for a lot. The lot when we originally were going to put it in, was going to extend it slightly and go back because we've acquired this other property at the end of Edgewood Avenue, it doesn't have to be extended. So therefore, it will be actually much closer to where the existing pavement ends here. And as a result of your zoning regulations, unfortunately, there isn't 60 feet with respect to that lot, the way it exists because of the acquisition of the property. If we were to develop it the other way without having acquired the property, we might have been able to do it but it would have extended back and might have gone and created some issues. I believe it could have created some with respect to Mr. Miceli's property if we had to go back, looking at the slopes. But this appears, based upon the engineer's rendering, not to pose any particular issues and would allow us to develop, not only the existing house which is already being worked on, but also putting this new lot below and it would have very little impact. Originally, for the Board's edification, I had spoken with the neighbors, talked with them about knocking down the original house and that would've then allowed us to put in an R-4 zone, a three family house but that wouldn't have been in conformity with the neighborhood. No one up there was really favorable to it so the thought process was if we could just go and construct something that would be in conformity that would be preferable. So the existing property, which is 37 which has the house on there, something that we've been working on actually since last year, and unfortunately because of some of these weather related issues we haven't been able to quite complete it. The reason for coming before the Board today is that we comply with all the zoning regulations on the proposed new lot except for the frontage requirement. And part of that is as a result of where the street is and in the actual location of the property, etc., so it's kind of indigenous to where the property is. Otherwise, with respect to all of the aspects of your zoning regulations there is compliance.

Mr. Glover: Alright so, this is right now one big parcel?

Atty. Tyma: Yes sir

Mr. Glover: Okay, and Edgewood Avenue comes up and stops

Atty. Tyma: Edgewood Avenue goes around and stops, there's actually a driveway that goes up to the other property

Mr. Glover: But it stops, it doesn't come out, is that right?

Atty. Tyma: Yes, Edgewood Avenue goes up to a dead end

Mr. Glover: Correct

Atty. Tyma: correct

Mr. Glover: Alright, and the property that you're talking about title searching, is that the property at the end of Edgewood?

Atty. Tyma: It was the property that was thought to be a potential paper road or extension of Edgewood Avenue, which in fact doesn't exist.

Mr. Glover: If, is it, is it fair to say that if Edgewood Avenue was extended you'd have enough frontage?

Atty. Tyma: If Edgewood Avenue was extended theoretically we have enough frontage

Mr. Glover: You'd have enough frontage

Atty. Tyma: absolutely, but the town chose not to do that

Mr. Glover: Well, hang on, if it did you'd have enough frontage

Atty. Tyma: Yes sir

Mr. Glover: But there's no reason for it because now you're going to acquire this piece of land

Atty. Tyma: It has been acquired already

Mr. Glover: so you're coming up to it instead of going by it

Atty. Tyma: absolutely

Mr. Glover: If you went by it, you'd have the 60 feet. You're coming up to it so you only have 35

Atty. Tyma: Yeah, 35 and change, that's correct

Mr. Glover: Okay, now the house that you're talking about possibly taking down is the one that's labeled existing dwelling?

Atty. Tyma: Right, but that's, that's already been worked on, there's been a lot of work put into it so nothing ever happened with respect to that

Mr. Glover: You've got to shorten these questions, answers up.

Atty. Tyma: Yes

Mr. Glover: Is that the house that you were talking about taking down?

Atty. Tyma: yes

Mr. Glover: Thank you. And if you took that down you could get a three bedroom house, three

Atty. Tyma: Three family house in an R-4 zone, that's correct

Mr. Glover: three family house, and your contention is that it wouldn't be in harmony with the rest of the neighborhood.

Atty. Tyma: Absolutely that's our feeling and that was the neighbors' feeling too.

Mr. Glover: So what we're, what we're looking at here is an existing dwelling and then a new four bedroom dwelling

Atty. Tyma: Yes sir, very similar to one that's adjacent across the street

Mr. Glover: And the only variances that we're looking at now are the variance of the frontage, the rest of it complies

Atty. Tyma: correct, that's correct

Mr. Glover: And you're served by city sewers?

Atty. Tyma: city water and city sewers

Mr. Glover: Okay. Now you were in here last year with another piece on Edgewood

Atty. Tyma: The existing home

Mr. Glover: This one?

Atty. Tyma: That's correct

Mr. Glover: Okay, so this is the same piece of property that we worked on last year doing something different

Atty. Tyma: It is. Last year there was no indication that we would have the acquisition of this parcel which would've required a variance, so when it was presented it was with respect to the existing house and the neighbors who wanted to trade some property, which we did do, and allowing us to go and put work into the existing home that would make it look like the rest of the neighborhood, which is what's being done. And you can kind of see it in one of those pictures, where it's all been sided and it's been added onto as it was indicated as of last year.

Mr. Glover: So any decision that we may make tonight would rescind the old variances

Atty. Tyma: It would have no effect on the old variances

Mr. Glover: Did you have an old variance on this for a garage?

Atty. Tyma: No, it was on the existing dwelling

Mr. Glover: it was on this dwelling

Atty. Tyma: yeah, it has nothing to do with the new one. In other words, what was granted

Mr. Glover: was on this and the parcel next to it

Atty. Tyma: it was on that one and the parcel next to it, which was just a small exchange of property and an allowance to let us put on a garage and a family room above it which is what we did do.

Mr. Glover: Alright, so, this is a new wrinkle to it, a new parcel that's, that you're adding to it or dealing with it, we weren't dealing with that before

Atty. Tyma: Last year the expectation was we would have a split, but that we wouldn't need a variance because of the way the property was configured. And then when we went through the process of ascertaining the ownership of Edgewood Avenue, etc., we came to the conclusion that we could acquire that and as a result of that, we've actually made it better in terms of the ultimate project, but it requires a small frontage variance.

Mr. Glover: I'm just trying to clear up for the record, the variances that we gave you last year

Atty. Tyma: are

Mr. Glover: had to do with the house, the existing dwelling here

Atty. Tyma: Yes sir

Mr. Glover: and an exchange of land with another parcel

Atty. Tyma: An exchange of land with the neighbors, that's correct

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

Mr. Conklin: Off the end of Edgewood at this time you're showing an existing driveway feeding this existing dwelling?

Atty. Tyma: and that does not, is not used. In other words, that will not be part of, that'll be part of the new lot. In other words, that

Mr. Conklin: Okay, you're not going to grant an easement across any part of the new lot

Atty. Tyma: No, the new lot

Mr. Conklin: because the way it shows right now is you have a driveway that comes down to feed this house. This driveway or easement's going to be eliminated and this will be a separate lot on its own

Atty. Tyma: The way we're looking at this, there's two ways you can come in. You can actually come in over here like this, totally on its own lot; let me explain it this way. The existing home which you can see up in the top of that picture has access through this right of way here

Mr. Conklin: common driveway

Atty. Tyma: this common driveway, so that they and the other people are all using the common driveway

Mr. Conklin: Okay

Atty. Tyma: but no one's in there yet because it's still being worked on. The expectations of the new house is it has its own separate driveway. Where that will be located in terms of coming in, it'll be where the best location. It can be straight in here or it can be over here, it'll be somewhere with respect to its own topography

Mr. Conklin: But the existing driveway you show is not, this is going to be eliminated

Atty. Tyma: Yes, the existing driveway is not being used and is really not a good driveway. It was built many years ago and it's got an angle to it that really isn't good. It isn't very safe.

Mr. Glover: Alan you've got, you've given us a map as part of the application, but there's no title on it, there's no survey number on it

Atty. Tyma: I have a map here, that is a full map that I brought with me, but they just asked me to go and extend something, but I have there map here

Mr. Matto: Gerry?

Mr. Glover: Yes?

Mr. Matto: I've got to bring something up. I didn't realize this was happening. I'm the developer he's talking about. Should I disqualify myself and leave?

Mr. Glover: I think you just did, yeah.

Mr. Matto: Huh?

Mr. Glover: Yes.

Mr. Matto: Yeah, because I didn't realize this was happening.

Atty. Tyma: So this is that full map which is the sub-division map that (unclear) that's probably just a bigger picture of it. It's the same, it's the same information.

Mr. Glover: Yeah, that's fine. This is the one that we did last year

Atty. Tyma: That's correct

Mr. Glover: with this one

Atty. Tyma: So what we did is we put in the driveway here and we extended the dwelling here so that we could have a garage because everybody else has a garage and then we were putting in a family room. So it would be roughly common in terms of the square footage, elements and everything else

Mr. Glover: Well when you see the big map it answers Commissioner Conklin's questions on how you're getting in here

Atty. Tyma: Right, right up through here and there's the

Mr. Glover: Alright, can we keep this for the record?

Atty. Tyma: Absolutely, it is yours.

Mr. Glover: Any other questions from the Board? (No) Jack?

Mr. Fitzgerald: No

Mr. Glover: Linda?

Ms. Adanti: No

Mr. Glover: Is there anyone in this room who is in favor of this application? (no response) Is there anyone who is opposed to this application?

Mr. Tremblay: I have a question

Mr. Glover: Alright, give your name and address for the record please.

Mr. Tremblay: Joseph Tremblay, 26 Edgewood Avenue

Mr. Glover: And which one of these houses is yours, Mr. Tremblay, if you know?

Unidentified voice: (unclear)

Atty. Tyma: No Joe, you're over here, Joe is this lot over here, this one right over here.

Mr. Glover: Alright, and what is your question.

Mr. Tremblay: At this time, right now, the way the road, it's set up at the end of the cul de sac, not only can the buses won't come up the street to turn around because there's not enough room, but the city trucks are actually backing up into my driveway to turn around. And that's my only question. I don't have a problem with him building a home. The whole project that he's done alright, I've been fine with. I just had a question with the cul de sac. There's just not enough room for a bus to come up and now we're up to 10 children on the road.

Mr. Glover: Do you think that his development of this parcel would, would make it easier or harder for a bus and a city vehicle to turn around?

Mr. Tremblay: I don't know, it depends on how they develop it. That's my question and I believe the bus company came up and said no way, they couldn't turn around.

Mr. Cavallaro: There's an easement in favor of the city, to make a turn around

Mr. Tremblay: So I'm wondering if there's a way they can expand it. His whole project, we've been fine with. It's that cul de sac there that I don't know if there's any way they can move it out, expand it a little bit or, as it stands right now you come up and you go approximately you know, say I don't know what it is 10, 20, 30 feet something like that?

Atty. Tyma: about 30

Mr. Tremblay: And then you back into his private road and that's how they come down. There's actually a very small circle, very small. And you can't go to the left because there's a house there and his driveway, access to his residence

Mr. Cavallaro: part of that driveway is on the easement

Mr. Tremblay: Is actually on that cul de sac and if, right now as it stands, you know, there's been, you know, 3 or 4 young children up there over the last 2 or 3 years and it's getting to the point where we have to find a way to get a bus

Mr. Glover: Do you think there's something that the applicant can do to help?

Mr. Tremblay: That's why I'm here, I don't understand how they can make that cul de sac larger, I'm not quite sure. I mean everything he's done, like I said, and the whole project's been fine. I believe my concern, and my neighbor's here, we watch the city truck back up into my driveway to turn around, so it's a little tricky there right now.

Mr. Glover: Okay

Mr. Fitzgerald: I would think something could be done

Mr. Tremblay: I just wanted to bring it to the Board to see if there's any way they can maybe look at that, and if there's an easement, why not use it?

Atty. Tyma: Well, there is an easement and so the question becomes, because we, I guess what everybody decides to do is back into the driveway that we have. So I mean

Mr. Tremblay: The way it is now

Atty. Tyma: But I guess they're not doing that all the time, Joe, they're coming sometimes into your driveway?

Mr. Tremblay: They're backing all the way to my driveway

Unidentified voice: I've watched

** several talking at once **

Mr. Tremblay: Yeah, yeah, he's watching it too. See they come up with a plow and they pushed the snow

Mr. Glover: Can we have just this gentleman speaking

Mr. Tremblay: They come up with the plow and they push the snow straight ahead

Mr. Glover: And now they'll push it into his driveway

Mr. Tremblay: so there's no turn around,

Mr. Glover: So there's no place

Mr. Tremblay: there's no turn around by the time the storm is over, there's no turn around. If you notice the snow's all packed up there

Mr. Glover: Alright

Mr. Tremblay: I myself last night tried to push some back, but it just, you can't get a bus up there or, or God forbid if we need a ladder truck, it ain't happening.

Mr. Glover: Anything else?

Mr. Tremblay: That's all I'm, that's my only concern about the whole project, everything else has been done correctly.

Mr. Glover: Thank you. Sir, your name?

Mr. Miceli: Joe Miceli, 23 Trolley Bridge Road

Mr. Glover: And are you opposed to this?

Mr. Miceli: Not necessarily, my only concern is drainage. Over the last, a couple years ago we had a serious situation because of construction of these other homes

Mr. Glover: Up in here?

Mr. Miceli: All this drainage come down to this cul de sac, and I believe it was, the builder was Ken Schaible?

Atty. Tyma: Yes

Mr. Miceli: and over a year and a half and three tries, he put in a drainage catch basin over here so that the

water would come around my property because at one time I came home and half of my lawn was in Trolley Bridge Road. And it took a year and a half, three tries and a suspect person to try to correct my lawn. So my only concern is, if this property goes ahead, where would the drainage go because it's on a pretty steep piece of property.

Atty. Tyma: Well there's actually, as you see, there's some piles over there that will make this much smoother when it goes through. There is a drainage easement that the city has that goes behind here, okay, and that's probably where the tie in will be.

Mr. Miceli: probably is the key word

Atty. Tyma: Well, what I'm saying is that's the likely tie in because that's where the drainage easement already is. And obviously, your property's down here so the development's going to be away from your property. Your property is down below

Several talking to each other at once

Mr. Miceli: I'm down below that turn around (unclear) from my deck

Atty. Tyma: This is your property right here

Mr. Miceli: Okay

Atty. Tyma: this is your property, okay.

Mr. Glover: Alan, time out

Atty. Tyma: I'm sorry

Mr. Glover: I understand that you're familiar with the piece, but you guys are engaging in a conversation which she can't get. And then the Chairman is rattling this paper which picks up, overrides that conversation, and so we're all three in trouble. You have a problem with water coming down here. Where's your house, is your house here?

Mr. Miceli: I'm sorry he's right

Mr. Glover: Yours sits here and the water is coming this way and onto you. Alright, so this gentleman has a problem with turn around and you have a problem with you want to know where water's going to go. Okay. Alright, anything else?

Mr. Miceli: That's my main concern.

Mr. Glover: Alright. Sir, your name?

Mr. Figeroa: My name is (unclear) Figeroa, I live right across from Joe

Clerk: I didn't get his name at all

Mr. Figeroa: (unclear) Figeroa, 25 Edgewood Avenue, and Alan has done a fantastic job with the property, and the location of (unclear) cul de sac. But it's true what my neighbors said. I watch the trucks, I call the public trucks, and there's a lot of snow, you know, it's dangerous going down the hill. So they come right away, but I watch them from the window backing, having a hard time backing up to the private road. Or sometimes they got to back up and go to Joe's driveway, which is a big heavy sand truck and damaged his driveway, or even try to cut into mine if he can't get in there. That'll be a problem. Now then he was explaining to you about having a bus, one more house being built and the bus can come up, but there's no way to turn and that's a big concern.

Mr. Glover: Alright, but you're not opposed to it, you're just concerned with how people are going to get in and out of here

Mr. Figeroa: Yeah, right, exactly

Mr. Cavallaro: Where's the curb cut going to be for the driveway?

Mr. Glover: It's undetermined yet

Atty. Tyma: That's correct

Mr. Cavallaro: where the property line goes there's really no, it's got to be at the end of that cul de sac, so how's that going to effect when the city does plow the snow where they're going to put it? Because of the dog leg from this other existing lot, see that dog leg comes over? It's a common driveway, this driveway is coming out, but the property line still dog legs

Atty. Tyma: There is, there is room, if you'd like me to address that if I can? There is room between the existing driveway and then there is a drain to the left of the driveway as you look at and that's where that 20, or that section is. So there's actually land there, okay, and then where you would put the driveway, and I understand the concern that everybody has and it's certainly a concern for me too, is you would put the driveway somewhere to the left of that as you're coming in. There would more than likely be room for a truck to go and if it were plowing to put it over there. In other words, it wouldn't have to interfere with the existing access to the other homes and there would be room between the existing driveway and there would be land which would not be built upon. The only question was how would that impact the driveway and we'd have to make sure that the driveway cut was such that they'd have room to do it so they wouldn't have to go over the side where Mr. Miceli's property is and put it over there. I don't know what they're going to do and I understand, that's a legitimate concern that everybody has in terms of, you know, where they're going to put it. I'm sure we can work with the city in terms of figuring out where the best location for that driveway would be. And I think with response to Mr. Miceli's question, again, just for the record there is an easement that the city has going down below that which goes where the condominiums are. So I'm sure that in the construction of it the drainage can go and flow into the existing easement over there so hopefully we don't have any issues or concerns going forward. But certainly it's an issue.

Mr. Glover: Where's the drainage easement? I see it's noted here that there's a drainage easement, but where exactly is it?

Atty. Tyma: It's, goes down through there, through their property, sort of like this, okay? It goes down like that so it's away from Mr. Miceli's property. It goes in front of where the condominium is. It's where the access to the condominiums is.

Mr. Glover: Is there an easement on your property?

Atty. Tyma: It goes through my property and it goes down through the, the condominium property and goes to the end of Trolley Brook Road, Trolley Bridge Road.

Mr. Glover: But is the easement shown on this map?

Atty. Tyma: Is the easement shown on this map. I don't know, I don't see it.

Mr. Glover: I don't either

Atty. Tyma: It's up side down. But I mean, it says drainage easement in favor of the city, it may be referring to this. It probably goes down and below. See where there's a notation on the map "drainage easement in favor of the city."

Mr. Glover: And there's a line that goes over here

Atty. Tyma: Right, but I believe that that line actually goes all the way down here. There's a pre-existing map

with respect to the original sub-division which I believe shows that. I don't have that with me, but it's on file in the Town Clerk's office. I can certainly have that available

Mr. Glover: Well I think that he's got a legitimate, he's already had a problem with water. And I think that if your engineer is going to put on here "drainage easement" he should show it, so that we know there is a drainage easement and where it's going.

Atty. Tyma: Understood. Again, I don't have that map with me, but I know that it, there is a drainage easement. The city acquired that when they had the developer below put in his situation and then made us grant the easement to them. So, it exists, I'm not sure why it's not here.

Mr. Miceli: I can explain where it exists.

Mr. Glover: Go ahead

Mr. Miceli: It borders my property and the condominiums. It does not go down into the condominiums. It borders my property at a culvert and then enters underneath into the old river that used to be there.

Atty. Tyma: I think that's correct

Mr. Miceli: There's a catch basin right at the entrance to the condominiums which takes the water, because it still comes down off the hill, waters my, and on a heavy rain the water comes alongside my property

Atty. Tyma: So with respect to that, perhaps if we're looking at the edge of the property here, it's kind of where I was saying before,

Mr. Miceli: It comes down, it turns, and it comes underneath along this property edge here and then it goes underneath this driveway at the entrance to the condominiums

Atty. Tyma: I think he's absolutely correct on that, that's the way

Mr. Miceli: and there's still silt fences there

Atty. Tyma: so that would have to be managed and controlled to be sure that there's no drainage that affects Mr. Miceli.

Mr. Glover: But there is an

Atty. Tyma: there is an existing

Mr. Glover: easement through your property

Atty. Tyma: There's an existing easement through the property that goes down along the side of that

Mr. Glover: Well do you think that Mr. D'Amico could give us a map that showed it?

Atty. Tyma: Yeah, I guess he didn't

Mr. Glover: anticipate the question

Atty. Tyma: anticipate that that question would come up, or whatever. But as you know, sometimes it's very informal, but he just tried to be as formal as he could. But I'm sure that with Mr. Miceli's indication today, I don't disagree with the fact that there is an existing easement and it goes to the city. I know Mr. Schaible is actually here in the audience and I know that he's worked on it with Mr. Miceli over the course of time. And I believe satisfactorily ultimately, and as usual, it doesn't always work the first time, but tends to work at the end of it.

Mr. Conklin: At what point does the city engineer get involved with the curb cut, to design it into the road such as this, to get along with the highway department for snow shelf and things of that nature?

Mr. Glover: Well, I think it's like which comes first, the chicken or the egg? And I think that because we're here first, I think you can decide what you want first. Do you want the city, do you want this shown before you vote on this? I think you have the authority to do that.

Mr. Cavallaro: It's a pretty busy cul de sac

Mr. Glover: I think it's a busy cul de sac, I mean, you have one gentleman that's worried about where the water's going to go. You have two other gentlemen who are worried about school buses and fire trucks coming up. And I understand that the, the purchasing of this parcel of land doesn't make it any worse or doesn't make it any better, but can, but before we grant this frontage from the required 60 to 35 and change, is there something that we can do to at least show that there's an attempt made to at least ease the problems that are here, if not eliminate them. I don't think with the way this is that you're ever going to get a ladder truck up here.

Mr. Miceli: Not even that, and that's not my sole concern. It's the bus, it's the public works, we hope it's never ever that, that a ladder truck needs to be. I'm more concerned about just a simple school bus. The simple city truck coming up. I mean this year we had one snow storm and they ended up backing out all the way up into mine. If there were four, there'd be no cul de sac. There's only a small little area that they drive up, 20, 30 feet.

Mr. Glover: And right now they're pushing straight ahead

Mr. Miceli: They go straight and they try to back up, they don't make the turn and they back all way right down into mine because my driveway's the largest one up there

Mr. Glover: But right now they're pushing straight ahead

Mr. Miceli: straight

Mr. Glover: and our decision tonight takes the straight ahead away

Atty. Tyma: Well, it takes a portion of the straight ahead away, I guess depending on where we want the driveway to be configured. And again, I, you know, we're certainly more than amenable to working with the city engineer, etc., to making sure that it's in the proper location. I mean, that's not the issue. There's plenty of room there in order to put it there and to handle what the questions are that Joe has

Mr. Miceli: That's all, that's the only question. Like I said, the whole rest of the project that Alan has done has been exactly as he told us. And it's been a beautiful project when it was done. It's just now we didn't realize that when this came about that this would be an issue. And we found out after the fact that these buses can't turn around, they won't come up and now I realize that the public work trucks all of a sudden won't back up this way and they're coming straight down the road again. There's nowhere to turn around.

Mr. Glover: Alright, is there anybody in opposition? (no response) Alright, are there any final questions from the Board? (no) Does the Board want me to leave it open or close it?

Mr. Conklin: I prefer to leave it open if we can get it somehow to work out what the city engineer, or other discussion on this before

Mr. Glover: Well, let's leave it open if for no other reason so that we can get a map that shows the, the city's easement, drainage easement through it, so we know that that's

Mr. Cavallaro: and I'd like to see the perc test too, that's kind of a (unclear) There's only 35 feet to put the driveway in without getting an easement across somebody else's property

Atty. Tyma: Just so that you know, the easement, if it were more desirable to put the driveway closer to where the owned area is, remember that's my property. So it's not, it's more than 35 feet, it's like 50 feet, okay, so it's really just a little bit shy but because you need the 20 feet, you know, on the roadway, that's why it's a little less. But there is more room in order to go and be able to do it. In other words, the pavement itself

Mr. Cavallaro: This dog leg goes with this existing property

Atty. Tyma: No it doesn't

Mr. Cavallaro: Well, that's the way the lot line is drawn, that's what's throwing me off

Atty. Tyma: go ahead, again, let me

Mr. Cavallaro: See the lot line?

Atty. Tyma: Yes, and what can happen is where that lot line is, if I might just point it out to you, you can put the driveway closer here to come in here if you wanted to, just by virtue of an easement because this is never being used. This is what's being used. So if it were more desirable to put the driveway here closer, you can clearly do that without a problem. (unclear) So this makes it a little easier so that you don't have to worry about it just being 35 feet, it's actually more than that

Mr. Cavallaro: Well I believe that should be defined though

Mr. Glover: Well, seeing as the applicant is in control of both pieces and seeing as at this moment, I'm in control of the hearing, let's send the applicant back and have him put these in here to show us where that drainage easement is, and have him address the curb cut and where the snow might go (unclear) so we'll know what we're voting on before we vote on it

Atty. Tyma: That's fair

Mr. Glover: And then we can at least say that we responsibly tried to work with the neighborhood to make sure that water didn't come here and didn't destroy the neighboring property. I think Mr. D'Amico has to do a little bit more

Atty. Tyma: That's fine

Mr. Glover: a little bit more

Mr. Conklin: and a discussion with the city engineer would probably help (unclear)

Atty. Tyma: I'll certainly ask him to do that (unclear)

Mr. Glover: We're going to hold this hearing open and continue it until next month.

Atty. Tyma: That's fine. The date next month is?

Mr. Glover: The third Tuesday of April.

Atty. Tyma: Thank you very much

#307-2 445 Access Road, Mucci Construction, LLC of 445 Access Road, Shelton, CT is seeking to waiver Schedule A, Line 24 for a use variance to allow a garden & construction material center.

Mr. Mucci: Good evening

Mr. Glover: Good evening

Mr. Mucci: for the record I'm Barry Mucci. I reside at 61 Armstrong Road in Shelton. My business is at 445 Access Road, Mucci Construction.

Mr. Glover: Alright, have you got some photographs, Barry

Mr. Mucci: I've got

Mr. Glover: and some receipts?

Mr. Mucci: do you want these receipts or just these?

Mr. Glover: Those are fine.

Mr. Mucci: alright, this one came back, but I sent it back out a second time

Mr. Glover: That's okay, it shows that you sent them. Are these three your neighbors?

Clerk: That's the receipt that shows he received them, it doesn't show he sent them.

Mr. Glover: alright, that's received, that's received

Clerk: He has four there and three there

Mr. Mucci: Well, there's only three, because this address wasn't the correct address for one of them. This is for PLR?

Clerk: We usually get those, that shows he sent them.

Mr. Mucci: You can have everything.

Mr. Glover: We'll have those

Clerk: That shows he sent them

Mr. Glover: When you have a clerk with some legal background you're in a lot of trouble. Alright, before we get started please give your name and address for the record?

Clerk: He just did. He'll do it again.

Mr. Mucci: I'm Barry Mucci

Mr. Glover: Alright, Barry this is a use variance

Mr. Mucci: Yes

Mr. Glover: And under the zoning regulations of the City of Shelton, the Zoning Board of Appeals, upon receipt of a use variance is required to send a complete record of the application to the Planning and Zoning Commission. And has that been done? And that has been done. So, for the record we have notified the people that we have to and you've notified the people that you have to. Tell us what you want to do.

Mr. Mucci: Okay, um, do you want the rest of my paperwork first?

Mr. Glover: What do you have?

Mr. Mucci: Well, I have a letter and these are what I'd like to sell and these are from the two neighbors

Mr. Glover: Well, if you tell us, as we're going on these can be part of your presentation.

Mr. Mucci: I've a, we've been selling mulch at 445 Access Road for a number of years, and prior to me, Ray Bartomeli had also been selling mulch there for over 10 years, which I didn't know that we couldn't sell mulch there. And when they brought it up to us that we're not supposed to be selling mulch, so we sell bark mulch. So what I'm looking to do now is expand a little bit more and you know and do it legally, selling the bark mulch, grass seed, hydro-seed. I'm looking to work mostly with contractors, landscapers, sell in bulk. So we won't be selling like, you know, the little packages as you get in Walmart or something like that.

Mr. Glover: Alright, so you now have a construction yard on Access Road

Mr. Mucci: Correct

Mr. Glover: And right now it's used to, to house back hoes, excavators, dump trucks and things like that

Mr. Mucci: Correct

Mr. Glover: And that's there under a use variance

Mr. Mucci: Yes

Mr. Glover: because the use isn't provided for, I think this Board provided probably Bartomeli or Countryside or somebody, I forget who it was,

Mr. Mucci: It was Bartomeli

Mr. Glover: and now you want to expand that non-conforming use to sell bulk mulch

Mr. Mucci: Correct

Mr. Glover: Um, just mulch?

Mr. Mucci: Um, well that's why I had made this list. I'll give it to you. I mean right now we're selling the mulch; hydro-seed, seed

Mr. Glover: So you want to sell, you want to sell plants, shrubs, grass seed, hydro-seed, mulch, fertilizers, bark mulches, landscape block and stone, filter fabric, top soil, drainage pipe and border edging; all landscaping stuff

Mr. Mucci: correct

Mr. Glover: And your plan is to sell this, not retail, but wholesale?

Mr. Mucci: Mostly wholesale, but I mean if somebody walks in, a homeowner wants a load of mulch which they do a lot of times, they come with a pick-up truck and stuff, you know, we sell it to them. But I mean, I'm not selling bags of it, we're selling it, you know, by the yard

Mr. Glover: Right. Right now you access this property from Access Road?

Mr. Mucci: correct

Mr. Glover: You have a gate in the front and back

Mr. Mucci: right

Mr. Glover: At one time somebody used to come in the back

Mr. Mucci: Not through, ever through the back

Mr. Glover: Nobody ever came through the back? That was the other landscaping

Mr. Mucci: Well, PLR is right, there's a landscaper, that's Pauly, he's up in the back of me

Mr. Glover: Okay, so yours just comes through the front

Mr. Mucci: Correct

Mr. Glover: And you're next to

** Tape had to be changed **

Mr. Glover: So Barry, how,

Mr. Mucci: Does everybody got one?

Mr. Glover: What do you have?

Mr. Mucci: you can have that

Mr. Glover: I'm interested to know how people are going to get in and get out of here and what impact that's going to have on the Viking Tool and on Walmart if any, and on people going to Crabtree Hass's annual balloon sale down the road, where they sell a car or two as well as balloons. How are we getting in and how are we getting out.

Mr. Mucci: Alright, we're coming in, coming out through the gate that we have here.

Mr. Glover: Yep?

Mr. Mucci: My construction equipment is 99% on the job sites. Like right now I'll keep the dump trucks there we park them in the rear of the building. Right now I have them parked on the front area. I have different pictures. This is some of the bins that shows, those are in the front and that's where the dump trucks are parked. From now on the trucks will be parked in the back. I cleaned out the rest of the back of it.

Mr. Glover: Where's the, where does the industrial zone start and the retail zone, where does one stop and one start? Obviously there's retail

Mr. Mucci: Well, because of Walmart

Mr. Glover: that's retail

Mr. Mucci: Right, under PDD. And I didn't want to go for a PDD, so I'd rather just expand for my use variance.

Mr. Glover: And have you been selling this mulch now?

Mr. Mucci: This year? No

Mr. Glover: Any year?

Mr. Mucci: Yes

Unidentified people talking.

Mr. Glover: Folks, if you're going to talk, you're going to have to go out in the hall. Sir? If you're going to talk you're going to have to go out in the hall, because we'll pick you up on our tape recorders.

Mr. Mucci: I've been selling it for the past 6 years

Mr. Glover: Alright, so I mean, what you're intending to sell now, are you going to expand over what you sold for the last 6 years? Is your operation going to change from what it was last year or the year before, or the year before that?

Mr. Mucci: Really, I don't think it's going to really expand a lot more. You know, I hope to pick up more, a lot more contractors.

Mr. Glover: Are you going to

Mr. Mucci: I never advertised or anything before

Mr. Glover: Are you going to, do you sell plants and shrubs and trees now?

Mr. Mucci: No, I was told to have as much stuff as I could to let you guys know what I'm selling there or what I'm not going to sell, so I had to go under a garden center. So if you go under a garden center this is all, you know, and if it ever does expand out, you know, I don't have to come back and forth and say, okay listen, I'm going to sell bushes now.

Mr. Glover: Alright, there's two acres of land here, right?

Mr. Mucci: correct

Mr. Glover: And there's a building on it, but the building is not very big. Of that two acres, how much is usable? How much is not ledge, or trees, or under water?

Mr. Mucci: Probably a good acre

Mr. Glover: so half of it is usable, more or less?

Mr. Mucci: Yeah, an acre, yeah for all my equipment and everything, acre and a quarter, acre and a half, because I park the vehicles in the back.

Mr. Fitzgerald: Is it ledge or water?

Mr. Mucci: Actually, neither. All the way in the back of the property up on the hill there's some woods and that goes, actually that's not even my property, that's Walmart's property, and that's ledge.

Mr. Glover: Here's what, here's what I'm trying to, I'm not sure I have any objection to it at all, but we're in an industrial zone. Walmart is in there on a planned, a PDD, next to you is Viking Tool which is a factory

Mr. Mucci: right

Mr. Glover: Next to that is I think Blanchette's and then we have the car dealerships from there all the way down to the corner of Nells Rock

Mr. Mucci: right. And Viking Tool has no problems with it. They had signed a letter.

Mr. Glover: I'm not worried about whether Viking Tool has a problem with it. We're going from a, we went from industrial to a construction yard, from a construction yard to a retail yard now. And although you're, you're saying that you're going to sell it to, in bulk and mostly to contractors, once we change the use on this so you can sell all of this, this can become a garden center. This

Mr. Mucci: absolutely

Mr. Glover: The whole thing can be a garden center

Mr. Mucci: right

Mr. Glover: And, are you telling me now that, that's not your intent at this point because you don't want the public in there?

Mr. Mucci: No, well, no, two different, I don't want the public going through there, but I'm not going out of construction either. This is where I keep all my equipment and where I come back and forth. So no, I'm not looking to make this into a full time garden center at all. This is to off-set different things, as times go and different things change, you know, different businesses one feeds the other. And this is just an extra feed

Mr. Glover: And I want you to understand, appreciate our position

Mr. Mucci: No, I do, listen I've been to different boards and I appreciate this Board

Mr. Glover: we're, we, we're being asked to forever change this to a garden center and anything can happen to you and anything can happen, I mean you can go out of business, you can move out of the area. We're being asked to take this two acres and forever make it a garden center. It doesn't stay with

Mr. Mucci: well, unless I come in with a PDD and then

Mr. Glover: it doesn't stay with you, it stays with us, so we're being asked to be the zoners here when we do a use variance. And as usual, we're not worried I don't think, about today, we're worried about 10 years from now for what it might become. So, using that as a platform, that's why I'm asking, asking these questions. You know, how much is usable, how big can this become? How does the public get in here? Does it become a Glorias? Does it become a Trombly's or Trembly's or whatever it is up in, Twombly's, up in Monroe?

Mr. Mucci; But is that a bad thing?

Mr. Glover: Well, it might be a bad thing in an industrial zone. It may be a bad thing on Access Drive. It may be a bad thing on Bridgeport Avenue as

Mr. Mucci: I see a lot of worse things on Bridgeport Avenue

Mr. Glover: Well, as Bridgeport Avenue changes, maybe the city will want a McDonald's in there instead of landscaping, who knows. Alright, are you going to sell food here too?

Mr. Mucci: No

Mr. Glover: Okay, those are my questions and we do have a letter here from the Planning and Zoning Commission which it says that they're in receipt of our use variance and

Clerk: No, that's to them

Mr. Glover: It's what?

Clerk: That's the one I sent to them.

Mr. Glover: Oh, I'm sorry, they didn't send us a letter did they?

Clerk: No

Mr. Glover: Well, they didn't send us a letter but they called me.

Mr. Mucci: Oh, okay, cause Rick told me they had no problem with it

Mr. Glover: Rick called me and he told me that they had received the application and the Board had considered it and they had no problem. He didn't give anything in writing, but he did, and that's why when I saw this I thought maybe that's what it was

Mr. Mucci: That's what I thought it was too.

Mr. Glover: Yeah, but, I have been notified by Planning and Zoning that they've received and I have been notified that they talked about it and I've been notified that they have no problem with it. But just because the Planning and Zoning Commission has no problem with giving a use variance, doesn't mean that we have to. Sometimes that means pass the buck so they're not in trouble, we are.

Mr. Mucci: Listen, I wouldn't even be here unless there was somebody that kept on calling, you know, to complain about it. And where they're selling mulch and top soil and it's not even a legal spot

Mr. Glover: Do you plan any further buildings on here, storage

Mr. Mucci: No

Mr. Glover: alright, so basically then, other than the trees which you haven't been selling

Mr. Mucci: no

Mr. Glover: trees and shrubberies that you do not sell at this point, you're really going to continue on something that you've been doing

Mr. Mucci: yes

Mr. Glover: and been asked to make it legitimate

Mr. Mucci: Uh huh

Mr. Glover: And you've gone to the people who've asked you to make it legitimate and they've looked at it and said we have no problem with it, but you have to go to the Zoning Board of Appeals and see what they say

Mr. Mucci: Correct

Mr. Glover: Are you going to sell fertilizers here?

Mr. Mucci: Yes

Mr. Glover: How are you going to store the fertilizers so the rain doesn't wash the chemicals into the

Mr. Mucci: Inside my garage

Mr. Glover: Okay, so the chemicals are going to be stored inside

Mr. Mucci: Absolutely

Mr. Glover: And they're going to be stored inside existing buildings

Mr. Mucci: correct, there's no new construction. I don't plan on putting any construction

Mr. Glover: Okay, does the Board have any other questions from, for Mr. Mucci?

Mr. Matto: There's none left, Gerr

Mr. Glover: I took all the questions? Is there anyone in this room who is in favor of this application? (no response) Is there anyone who is opposed to this application? (no response)

Mr. Glover: Barry, help me out with this one? What would your hardship be? I know that's a dirty question, but

Mr. Mucci: I'm

Mr. Glover: your hardship would be that you've been doing this?

Mr. Mucci: I've been, I've been doing it, it's been, actually been, like I said, been sold out of 445 Access Road for I would say 16 years now.

Mr. Glover: Alright, so this is an activity that's been going on for 16 years and nobody's said anything. Now all of a sudden somebody, some other individual has complained to the Planning and Zoning or Zoning Enforcement Officer

Mr. Mucci: Yep

Mr. Glover: and they've had to take an action on it and their attitude is we know you've been selling it, but now you've got to stop because you didn't go about it the right way, or your predecessor didn't go about it the right way.

Mr. Mucci: Right

Mr. Glover: So you have an investment in here that's been going on without any complaints other than just recently

Mr. Mucci: correct

Mr. Glover: And uh, you just want to legitimize it

Mr. Mucci: that's exactly what I want to do.

Mr. Glover: alright, final questions from the Board? (no) I declare the hearing closed. Thank you very much.

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

#307-2 "In the application of Mucci Construction, LLC, of 445 Access Road, Shelton, CT for a certificate of approval for a garden and construction material center to be located on the property of the applicant at 445 Access Road, IA-3 zone and which requires a use variance

The application for variance is approved.

Inasmuch as the applicant has been selling bulk wholesale woodchips for several years, and

Inasmuch as there are other retail business in the immediate surrounding area,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval for a use variance at the above is granted (Schedule A, Line 24) in this instance.

This approval is stipulated for the bulk wholesale of woodchips only.

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."

#307-3 39 Suren Lane, Edward Reilly, II of 131 Osborn Road, Naugatuck, CT is seeking to waiver Section 24, Schedule B, Standard 9 by varying the setback from the left side yard from 30 ft. to 9 ft. for a 24x28 addition.

Mr. Glover: Mr. Reilly? (no response) Alright, let's go on.

#307-4 35/37 Wakelee Avenue, Natalia K. Wittmer of 35/37 Wakelee Avenue, Shelton, CT is seeking to waiver Section 24, Schedule B, Standard 2 by varying the minimum lot area per dwelling unit from 5,000 sq. ft. to 1,666 sq. ft. for a three family dwelling.

Atty. Cusey (phonetically spelled): Good evening, my name is Attorney John Cusey, I represent Natalia Wittmer, and this gentleman is

Mr. Serola (phonetically spelled): Peter Serola, I'm assistant to the attorney

Atty. Cusey: He's helping me.

Mr. Glover: And your address please?

Atty. Cusey: 95 North Main Street, Waterbury, CT

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

Atty. Cusey: Yes, I do sir, receipts, they haven't all come back yet unfortunately

Mr. Glover: That's all right, we have 1, 2, 3, 4, 5, you have 5 abutting neighbors?

Atty. Cusey: Yes, she does. This gentleman here is a neighbor, he came voluntarily today.

Mr. Glover: Alright, so we have 5 abutting neighbors

Atty. Cusey: Correct

Mr. Glover: Alright, you can have these because this just shows that you, that somebody signed for them. I just need evidence that you did send them, this accomplishes that

Atty. Cusey: These are the photographs here

Mr. Glover: Alright, you have an existing two family house now?

Atty. Cusey: Well that's, that's kind of the issue. It's a two family house with an in-law apartment. There is, the assessment card in the town here shows that it's a two family/in-law apartment

Mr. Glover: Is it a legal in-law apartment?

Atty. Cusey: It is a legal, there's a certificate, we got the compliance certificate and here's the certificate of occupancy. And we also, do you have the Assessor's card? Oh, here it is, I have it. Here's the Assessor's card too, which shows the in-law apartment.

Mr. Glover: And who is, who is Pamela Underhill?

Atty. Cusey: Former owner of the property

Mr. Glover: former owner of the property

Atty. Cusey: Yes sir

Mr. Glover: and you purchased the property now, or the applicant

Atty. Cusey: She purchased it, the applicant did in '05, in May of '05. We talked to the, well I haven't personally spoken to the Fire Marshal, but she has and he indicates to her that there would be certain requirements, a hard wire system, lights, you know, alarm systems, things of that nature that would have to be installed in the premises.

Mr. Glover: Alright, so you have a two family house then with an in-law apartment

Atty. Cusey: Correct, yes, sir

Mr. Glover: And you want to make it a three family house

Atty. Cusey: We'd like to make it a three family

Mr. Glover: In doing that, are you going to add onto the house?

Atty. Cusey: No, we won't add on, there'll be no exterior modifications, no changes

Mr. Glover: Are you going to add bedrooms?

Atty. Cusey: No, it's going to be exactly the way it is. It's got the kitchen and bathroom and bedroom now, so it'll stay exactly the same.

Mr. Glover: Then why would you want to change it?

Atty. Cusey: Well, she was advised basically by the Fire Marshal to seek a, a variance to go from two to three family.

Mr. Glover: Any particular reason

Atty. Cusey: He uh, see what happened a complaint was made evidently regarding my client and there were allegations in the complaint that were groundless like that there was no in-law apartment there, that there was no zoning compliance there. In fact, maybe you have a copy of that letter in your file, the complaint, maybe you don't.

Mr. Glover: I don't

Atty. Cusey: But that was the basis of everyone becoming alarmed and upset, from the Fire Marshal to the Zoning Enforcement Officer until they investigated and found that in fact it was a two family with the, with the in-law apartment

Mr. Glover: And did the, did the zoning office upstairs recognize it as a legitimate two family house with an in-law apartment

Mr. Serola: Yes, it's assessed

Atty. Cusey: Yes, it's on the assessment card, yes sir, no

Mr. Glover: I understand that, just yes they did or no they didn't

Atty. Cusey: Yes they did, yes sir.

Mr. Serola: The certificate of occupancy was

Atty. Cusey: Sh, sh, sh, sh, he's talking to me know.

Mr. Glover: And I have a certificate of occupancy here that was made out for '03 signed by Code Enforcement Officer, Joseph Ballaro, for 37 Wakelee, but it, it really doesn't say what it is. If it's rental property, if the whole thing is rental property, then you need a Certificate of Occupancy, you need this document every time you rent any

Atty. Cusey: Correct, every time it's rented

Mr. Glover: So this just shows that, that there is a rent there, it doesn't show that there's one, there's two or there's three, it just shows that there is one that's certified.

Atty. Cusey: And I think you're hitting the nail on the head, I think that's one of the suggestions to have it converted to a, made a three family, to eliminate that requirement.

Mr. Glover: Do you have any, any blueprints or designs of what the inside of this house looks like?

Atty. Cusey: I don't at this point, but we're not making any changes. There wouldn't be any changes made

Mr. Glover: We don't know what's there.

Atty. Cusey: We could return with a schematic drawing of the

Mr. Glover: If you have a two family house with an in-law apartment in it, and I can see, I see that it's on the Assessor's card that there's an in-law apartment there, but I don't know what the layout of it is. I don't know how it's laid out and so I don't know when you say that you're not going to make any changes, my question would be

Atty. Cusey: how would you know?

Mr. Glover: changes from what, because I don't know what's there

Atty. Cusey: you're right, I apologize

Mr. Glover: So I think that we really need to know what's there before we can decide whether we're going to go on

Atty. Cusey: Okay, that's fair

Mr. Glover: So, before we get too involved in this, would you like me to continue the hearing

Atty. Cusey: I would yes, so I can get you a floor plan and

Mr. Glover: otherwise, I have no idea what you're doing.

Atty. Cusey: That would be great, thank you.

Mr. Glover: So let's continue this hearing until next month and you can come back with a floor plan and then we'll know what we're staring with and we'll know what we're voting on.

Mr. Matto: Gerr, do you want the Fire Marshal to look at the plan before he hands it to you?

Mr. Glover: If you can, submit a copy to the Fire Marshal,

Atty. Cuse: I'll submit it to him.

Mr. Glover: I don't know what he'll do, but if you submit it to him he, because if we grant it and he doesn't like it, you're still in trouble.

Atty. Cusey: Thank you, appreciate it, thank you all.

Mr. Glover: Continued until next month.

#307-5 34 Mayflower Lane, Roberta McLoughlin of 34 Mayflower Lane, Shelton, CT is seeking to waiver Section 35.7.1b by varying the left side yard from 20 ft. to 14 ft. for a garage with family room above

Mr. Glover: Mrs. McLoughlin? Roberta McLoughlin, Mayflower Lane, Shelton? (no response) Next?

#307-6 374 Leavenworth Road, Bruce Kerns, Countryside Veterinary Hospital of 374 Leavenworth Road, Shelton, CT is seeking to waiver Section 41.4, Schedule A, Line 40 to allow an expansion of an existing prohibited use.

Mr. Glover: Alright before we start, how much erosion do we have on this Board? Jamie?

Mr. Jones: I'm recusing myself because I'm an adjoining property owner.

Mr. Glover: Alright, Phil are you in or are you out?

Mr. Cavallaro: I'm in, I'm not adjoining.

Mr. Glover: I know you're not. I don't think there's any reason why you have to, I just asked. Alright, let's let the record show that Commissioner Jones has recused himself because he's an abutting neighbor, and so he won't be participating in your fate. Could you please give your name and address for the record?

Dr. Kearns: Sure, I'm Bruce Kearns. I live at 42 Great Quarter Road, Sandyhook, CT. I own the, I own the lot 374 Leavenworth Road in Shelton, which is currently being used as the Countryside Veterinary Hospital, with a variance for non-conforming use granted in 1993. And we're looking to keep the same use, but simply expand the footprint of the building. And then do some arrangements on the site to make it so it's less of an impact on the adjacent wetlands area. The current building was originally used as a, before we went there, as a manufacturing factory of backyard sheds and outbuildings. And then we got approval from the Board to change it to a veterinary hospital back in 1993. And what's happened is the hospital has grown tremendously in demand. So we're now, we now have about 5,000 or 6,000 families as clients and about 10,000 patients that we're treating now with 5 veterinarians. So what we're looking to do is we're simply looking to add on

Mr. Glover: you have 5 veterinarians in there now?

Dr. Kearns: Yeah, yeah, I mean not at one time, we have 3 at any one time, but there's 5 that work out of there. So, so what happens is the building is a one floor metal clear span building that's on a slab. And so it doesn't really allow us to do anything more within the footprint once we get inside. So the only way we can expand it is to put a freestanding adjacent building that, you know, that would allow us to do the expansion. And that's really what we're looking at. And what we're, so what we're trying to do is build a wood frame adjacent building of about equal size, about 2800-3000 feet. We have some plans that we've laid out and it's use would be entirely for veterinary work. We're not looking to do any boarding out there. We're not looking at, you know, changing the kinds of services that we've been offering

Mr. Glover: Alright, so could you describe for me the services that you do offer?

Dr. Kearns: Sure, we do surgery, we do radiology, dentistry, medicine, we do ophthalmology. It's a general practices, it's dedicated toward small animals and exotics. You'll see in there the pictures of the current site. Now one of the things we did is, we became, about 7 years ago we became voluntary members of the American Animal Hospital Association, which sets the standards, actually the most stringent standards in the country for hospital care, patient care and hospital hygiene. And so we became voluntary members, we're

the only, actually we're the only hospital right now in Shelton that does maintain membership in that. And I've also become a, a diplomate of the American Board of Veterinary Practitioners, which sets the high standards for clinical practice. I'm the only one, second one in Connecticut to do that. So we're trying to keep that level of practice very high, but in order to do that we're either going to have to curtail growth and not support as many clients, or we're going to have to add more exam rooms. And that addition that we're looking on which is actually right here, this is the floor plan and then we also have some elevations. I'll put another one on this side. You know, we're looking to actually to again, to do a one floor, but basically to change the roof line so it also starts to conform better with the rural nature of the site. It's, this was, this is the existing building is behind that one. This is actually looking at it from the street. This would be looking at it from the parking lot. And this is the current building here. This is the current building here and we're looking to add exam rooms

Several conversations going on at once

Mr. Glover: You can't have a conversation with that gentleman. I know he asked you a question, but you can't have a conversation independent of us

Clerk: I can't do two at once

Mr. Glover: She is real good, but she's not that good.

Dr. Kearns: This is Richard Contois, he's actually a site engineer involved in it. He's here to help me with technical questions that would be over my head.

Mr. Glover: Let me ask you a few questions that probably aren't that technical

Dr. Kearns: Sure

Mr. Glover: You at one point rented part of this building to a landscaping company

Dr. Kearns: Right

Mr. Glover: Are they gone?

Dr. Kearns: Yeah they're gone, they've been gone for about a year

Mr. Glover: Okay, so they're gone, they're not coming back

Dr. Kearns: Right

Mr. Glover: So what we're looking at is an exclusive use as a veterinarian hospital

Dr. Kearns: Correct

Mr. Glover: Okay. You, I heard you say it, but let me just make sure, you're not boarding, this isn't a kennel

Dr. Kearns: correct

Mr. Glover: you're not keeping people over, dogs or cats overnight

Dr. Kearns: correct, I mean other than unless they're medical cases

Mr. Glover: I understand, but at that point they'd be inside, they wouldn't be outside barking all night

Dr. Kearns: That's correct

Mr. Glover: We're working with small animals, we're not working with cows and giraffes and (unclear)

Dr. Kearns: Correct

Mr. Glover: Well, you did say exotic

Dr. Kearns: We do do exotic

Clerk: Pot belly pigs

Mr. Glover: Pot belly pigs, yeah, Vietnamese Pot Belly Pigs, let's get it right. And you've been here for how long?

Dr. Kearns: Since '94

Mr. Glover: Okay, and what problems have you had with anybody since '94? With neighbors?

Dr. Kearns: None

Mr. Glover: With the City?

Dr. Kearns: The only issues have really been actually, when we had rented out to our, the people in back to use, because this originally was a garage back here and so they had actually, originally they were just going to store their equipment inside, then it started to encroach on the outside and then

Mr. Glover: But in terms of veterinarian use, what complaints have you had?

Dr. Kearns: None at all

Mr. Glover: You're on a straight road. It's a State road

Dr. Kearns: Correct

Mr. Glover: You have great visibility there, when people are pulling in they can see for quite a distance up and down

Dr. Kearns: sure, in fact there's a photo in there

Mr. Glover: so there's no problem with that

Dr. Kearns: Correct

Mr. Glover: And do you have enough parking?

Dr. Kearns: Well, the parking we did have to address. When we talked to, I think it was Planning and Zoning that required us to have a certain number of sites, lot sites, so we went to, yeah we already talked to the inland/wetlands because this is mostly wetlands back here. We're not going to impact on wetlands at all, but it does impact on the control zone. And so as a result of that we went to the inland/wetland commission and tried to, and worked with them in order to try to actually decrease the impact currently. Right now, there's really nothing that's ever been from the previous owners

Mr. Glover: Are you through with, are you through them?

Dr. Kearns: Yeah we are and they've already approved it

Mr. Glover: So you're okay with the wetlands

Dr. Kearns: Correct

Mr. Glover: And once you okayed, once you've been alright with them, obviously you're okay with the number of parking spaces because otherwise you'd be in here for a variance for parking as well

Dr. Kearns: right

Mr. Glover: What kind of lighting is going to be on the site?

Mr. Contois: For the record, Richard Contois, I'm a licensed land surveyor with L. Edwards Associates, 227 Stepney Road, Easton, CT. We're, I'm just trying to think where the lighting is, we have just a very small amount of lighting

Mr. Glover: I mean is the lighting, is the lighting going to shine in Bartomeli's window?

Mr. Contois: I doubt it because he's way up here. Plus there's a stockade fence that comes all the way down the side of the property about 6 foot high

Mr. Glover: There's no secret that I'm familiar with this property, I live in White Hills. There's no secret that I know the Jones's that are around the, and I know the Stockmal's across the street and I know the Bartomeli's over there. It's, it's not, you know, Phil lives up the street from you a little ways. None of us have a conflict of interest. I don't even have a pet so, but if I do it's going to be a giraffe

Dr. Kearns: You can change that though

Mr. Glover: What I'm concerned with is there a residence next to you. Is any of the lighting, the ambient lighting going to shine on them and disturb them?

Mr. Contois: I thought that we did have some lighting on here, but I don't see it now. Probably most of the lighting is going to be on the entrance area here around the front. I'm, you know, we may have one or two lights probably on the buildings themselves, because you're not really open

Dr. Kearns: No

Mr. Contois: except for the winter time during operational hours

Mr. Glover: What are your operational hours?

Dr. Kearns: Normally it's, well usually the staff gets there about 7:30, so we start seeing clients between, around 8:00 until, most evenings, until 6:00. There's one evening that may be 6:30, and that's Monday through Friday. And then Saturday we're there til noon.

Mr. Contois: So it's not, you know, there's not going to be a late night operation where the driveway needs to be fully lit, so it's just going to be some

Mr. Glover: I have to ask the questions

Mr. Contois: sure

Dr. Kearns: I can point out where they currently are. There's security lighting basically on this corner here. There's one on this corner as well on the existing building and then there's lighting that lights, there's a post here that lights the current walkway coming up and there's lights on each of the corners of the building as well as the sign. So there's really no lighting on this side of the building at present. I would imagine though, this is designed with the idea of this being staff parking over here, that there probably would be some, at least security lighting over here.

Mr. Glover: Is there going to be a dumpster?

Dr. Kearns: There is a dumpster and the dumpster is going to be placed right on the corner of the building

Mr. Glover: And you have, you're on a septic system, have you been through Valley

Dr. Kearns: We have through the health department as well and they're added on the number of channels to determine that

Mr. Glover: They're happy with it?

Dr. Kearns: yes, they've signed off on it as well.

Mr. Glover: This AC unit, does this go over on this side

Dr. Kearns: It does, that goes to the neighbor

Mr. Cavallaro: the lighting that you have now, is on all night, though, correct?

Dr. Kearns: I think it is. I believe it is. Yeah, I know the Shelton Police come down and turn around in here and they, so I believe it is on all night.

Mr. Cavallaro: The concern I would definitely have would be any high lighting on this side, maybe if it was kept to ground type lighting, low lighting

Mr. Glover: to light the sidewalk

Mr. Cavallaro: right, especially since that is going to be staff parking so they're going to come in when it's dark in the morning, that I would see, because I know this light does, you can see it visibly from quite a few areas. Not that it bothers, because it's all open land back here. But if that existed on this side of the building I think that would be an issue to Bartomeli's.

Mr. Contois: I believe that any pole lighting that we have is, you know, is standard down lighting not

Mr. Glover: not out?

Mr. Contois: not out, more down

Mr. Conklin: Or shaded on the backside

Mr. Matto: (unclear) parking area the city engineer I believe would get involved with the lighting along with the parking

Mr. Glover: Yeah, he would, but before the city engineer gets involved Ralph, they can't even think of having this unless we let them have this. I mean, they've got to get, we've got to allow them the use before

Mr. Matto: Well what I'm saying is if we do allow them to do it, then the city engineer can get involved

Mr. Glover: Right, but what I'm saying is, if there were big lights shining on the person next door then that would say I don't think I want this here. That's what I'm saying

Dr. Kearns: Sure

Mr. Glover: You know, you can work out with the Planning and Zoning what kind of lighting and stuff you're going to have. I just, I'm looking at a business that doesn't belong in this area, that's why it's a use variance. And I'm looking at a business that doesn't belong there and there's a house next to you. And we're going to expand your business and are we going to impact the house that's next door? So I ask about the lighting, that's all. And, so I'm not creating, I'm not allowing you to create a nuisance for over here. Okay? Where you put the lights afterwards, that's fine. I've done my thing. Alright? Alright, so we're being asked to allow a veterinarian hospital that already exists under a use variance, which we've already recognized 14, 15 years ago as a reasonable use, legitimate use of the property and we're just being asked to expand it to make it bigger. And when we do, we're making the use bigger, but we're not making

Tape had to be changed

Mr. Glover: We're not making the use different

Dr. Kearns: Correct

Mr. Glover: It's, we're not expanding it to be something that's not already being done there. There's plenty of egress in and out of here. There's plenty of sight through it and I have, and the building looks very attractive. It looks like it fits in there. Are there any other, any questions from the Board? (no) Is there anyone in this room who is in favor of this application? (yes) Would you come forward Mr. Jones? Terry would you give your name and address for the record please?

Mr. Terry Jones: Terry Jones, 606 Walnut Tree Hill Road, Shelton. I have a, how many letters do you need, 1, 2,

Mr. Glover: One, just one, just for the record. Do you want to read it?

Mr. Terry Jones: I will it's short and then I have a couple comments. Dear Commissioners, We write in support of Dr. Bruce Kearns application to expand the use variance and his building as pictured in these architectural drawings. His practice, Countryside Veterinary Hospital, has been well managed and has been compatible with our neighborhood. For the record, we would not support any future use different than a veterinary hospital, such as the kenneling of dogs or other animals. We presume the expanded use would not encroach on wetlands boundaries and the Means Brook flood plane. Sincerely yours, Terry and Jean Jones. By way of explanation, Dr. Kearns, has an outstanding operation and we think a credit to the, well to the City and specifically to the neighborhood. We always are looking way ahead, generations ahead, and that's why we say for the record that any time in the distant future, a different owner or whatever, we would not support something different there. I presume legally it would have to come to hearing again. But we do believe that it could be construed by some that an adjunct kenneling operation, not the recuperation of dogs that have had surgery, but people who just want to leave their animals, and we would not support that. It certainly could lead to a noise problem certainly for the neighborhood. And we're always, in regards to the latter on the Means Brook flood plane, I think their, it's prudent upon the wetlands there is a lot of flooding area around there, and I certainly applaud your efforts that, it sounds like you even reduced the run off. End of comments

Mr. Glover: Thank you, Mr. Jones. Anyone else in favor? (no response) Is there anyone opposed to this application? (no response) Any opposition? (no response) Final questions? (no) Then I'll declare the hearing closed. Thank you very much.

Dr. Kearns: You're welcome, thank you.

Mr. Glover: Nice looking building.

Dr. Kearns: Thank you.

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

#307-6 "In the application of Bruce Kerns, Countryside Veterinary Hospital of 374 Leavenworth Road, Shelton, CT for a certificate of approval to expand a prohibited use on the property of Bruce Kerns, Countryside Veterinary Hospital at 374 Leavenworth Road, R-1A zone, and which requires a variance to expand an existing prohibited use,

The application for a variance is approved.

Inasmuch as the expansion to the property is for an increase in the business that is already being conducted on the property;

Therefore, with due consideration for the public health, safety, welfare and property values, the approval for a variance to expand the existing prohibited use at the above is granted (Section 41.4, Schedule A, Line 40) in this instance.

Stipulations: 1. There will be no boarding of animals, with the exception of overnight “patients”. 2. Only low non-intrusive lighting may be installed on the side of the property bordering residential neighbors.

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.”

#307-7 376 River Road, Alexander Esposito of 312 High Meadow Road, Southport, CT is seeking to waiver Section 24, Schedule B, Standards 7 and 8 by varying the setbacks from the street line at River Road from 40 ft. to 13.25 ft. and at Dana Avenue from 40 ft. to 13.79 ft. and rear setback from 40 ft. to 18.34 ft for additions to restaurant.

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

Mr. Esposito: Yes, I’m Alex Esposito, my address is 312 High Meadow Road in Southport, CT. I’m the architect for Carmine Mancuso, he’s the new owner of the property. Also with us is Edwin Morales, who’s assisting me working on this project, happens to be Carmine’s brother-in-law as well. For the record, these are the receipts. We have two adjoining neighbors, the Riccitelli family and also Luquist family. Here’s some photographs.

Mr. Glover: Okay, and can you tell us what you want to do and why you can’t comply to the regulations?

Mr. Esposito: Carmine currently is the owner of the Brick Oven Restaurant in Bridgeport. He’s been in business 26 years. He made a decision recently, rather than to renew his lease, to purchase a property here in Shelton and relocate his business and this is the site of the former DiMauro’s restaurant, on Route 110, River Road. He’s purchased it and he wanted to, we’re going to do some considerable face lift to the building. A lot of exterior work, but he needs to expand the building a bit to make it function the way he needs to. He needs some additional, there’s a dining room there, which is adequate, but he needs some additional kitchen space. The toilets, the existing toilets do not meet code for handicap access. Carmine also has a take-out operation and we can’t have the take-out people going through the dining room. So we’re trying to find an arrangement where he can accommodate all of this. Given the configuration of the building now, let me jump to this floor plan, there’s an existing cooler and freezer. This is the parking lot side and to add here toward the interior of the site would interfere with that. Here’s the dining room. So the ideal place for him to expand would be off toward Dana Avenue. And here he can have the take-out operation so that there’s no conflict with the sit down dining. He also can get some handicap toilets as well, expand the kitchen, which now I guess is basically all storage back here. The other addition we want to do is there’s an existing vestibule on the front of the building. This is sort of a store front construction here. It’s not adequate, doesn’t meet handicap access requirements. So we want, it’s already in the setback, we want to expand it about 5 foot 3 inches, make a substantial masonry construction element out of it and this will give us wheel chair access to the building. That’s going to be the primary way that patrons are going to come and go.

Mr. Glover: You’re going to expand it out toward the road?

Mr. Esposito: Toward the road, let me show you that on the site plan. The existing building is the lighter brown and then the additions are darker. So this is what we’re doing here. That’s that entry vestibule that we’re expanding, would like to expand. And this would be the other, the major addition, which again would be

Mr. Glover: bathrooms?

Mr. Esposito: bathrooms

Mr. Mancuso: bathrooms and take-out

Mr. Esposito: and take-out entry and also expansion of the kitchen which is all back here. In the course of meeting with the Planning and Zoning staff, they made a recommendation that we add an arcaded element to the front of this covered walk-way. We think it's a great addition, but it again would be in the setbacks. I want to point out that this red line, that indicates the buildable footprint on this site. We have three streets, so we're 40 feet from each of those, there's a rear yard 40 feet, as you see very little of the existing building conforms to the setbacks as it is.

Mr. Glover: And I suppose you're going to tell us that that's a hardship?

Mr. Esposito: Well, we're hoping you would tell us that

Mr. Glover: Oh okay, is that what you're thinking is the hardship?

Mr. Esposito: Yes, that is the serious hardship of the site. Again, to bring this building up to snuff for code and so forth, there's no way we can add to this without requiring a variance. I also want to point out, and this is the proposed look of the building. This would be River Road with the arcade. These would be the sides. This is the addition. Also part of this would be some steps to get up

Mr. Glover: What's the material on the outside?

Mr. Esposito: This would be a stucco or EIFS, E-I-F-S, material

Mr. Glover: Okay

Mr. Esposito: also, and I think I have a sample, we have a tile, a terra cotta base that would be around the entry of the dining room

Mr. Glover: So you're going to be doing some extensive work in the parking lot, taking out the curbs and things that are in there now because it's

Mr. Morales: There are no curbs

Mr. Glover: Well, isn't there a curb in that front?

Mr. Esposito: Well, right now, it's really a sea of asphalt, as you can see here

Mr. Glover: right, but I mean isn't it difficult to pull up in front, isn't there something in the front

Mr. Mancuso: yeah, we're going to change that also.

Mr. Glover: Right, okay

Mr. Esposito: One of the things we intend to do, and here's the property line and this is all off the site. Here's the actual curb of the State highway. We're going to green all that up

Mr. Glover: So you're going to green the right of way

Mr. Esposito: Yes, so while we may not meet the full setback, perceptively we're going to have a

Mr. Matto: So what are you going to park, about 24 cars?

Mr. Esposito: I think we can get up to 26, 27. You need 14 by code.

Mr. Fitzgerald: And the in and out for the take-out was going to be where?

Mr. Esposito: on the side and we have some parking associated with that.

Mr. Glover: The take-out, what is it, pizza or?

Mr. Mancuso: Pizza, Italian food, basically

Mr. Morales: It's an Italian restaurant, so

Mr. Esposito: Also, we're going to provide an enclosed dumpster location here as well. And I think that's where they've been keeping it already. One other thing let me point out here, is the floor area ratio, we could legally go up to 50%, and what we're proposing would be added to the existing building and still keep us at 16.4%. So we're well under what the code would allow for a building footprint or square footage.

Mr. Glover: Will you, will you incorporate a bar?

Mr. Mancuso: Not a, not a full, it's a small little bar, just for the dining room area, not a full size bar.

Mr. Matto: Just a service bar

Mr. Mancuso: Yeah, kind of a service bar

Mr. Glover: So you've run this by the Planning and Zoning Commission in work sessions already

Mr. Esposito: Yes

Mr. Glover: And they've modified your plans, asked you to add that, we like this, we like that, and in the process of those modifications it's required you to push out into the setbacks more, beyond the setback. I mean I realize you can't build within the setback on this lot, but their modifications have suggested you should encroach more

Mr. Esposito: with this arcade, yes. We think it's a great idea but obviously we need dispensation to do it.

Mr. Fitzgerald: Are you knocking the building down?

Mr. Esposito: No, we're working within the existing building. The other thing I should point out though about that arcade, is much of it, not all of it, but much of it, see this dotted line here, that's that cantilever overhang on the building that's there now. So it's not like it's totally an encroachment that's not already there. If you can follow that, there's a dashed line there, that's this very deep overhang.

Mr. Glover: so you want to take an, you want to take an old unsightly building and modernize it and make it look well

Mr. Mancuso: Yes

Mr. Glover: And take an asphalt parking lot that looks like it's used for tag sales and put some grass in it and make it look nice. And your hardship is that nobody can build on this property, you can't build anything on this property because of the legal setbacks that are permitted, and the building that's already there already expands beyond the setbacks.

Mr. Esposito: Yes

Mr. Glover: So you're just encroaching a little bit more

Mr. Esposito: Right

Mr. Glover: You're making it look prettier

Mr. Mancuso: exactly

Mr. Esposito: And helping to make it functional.

Mr. Glover: What will your hours of operation be?

Mr. Mancuso: It would be from 11:00am to 10:00pm.

Mr. Glover: Alright, does the Board have any other questions? (no) Obviously there's city water and city sewers?

Mr. Esposito: Yes

Mr. Glover: Just putting it on the record. Questions from the Board? (no) Anyone else in this room in favor of this application? (no response) Is there anyone in this room who is opposed to this application? (no response) Anyone against it? (no response) Final questions? Final comments? (no)

Mr. Esposito: Mr. Riccitelli called me. He said that the variances didn't impact him in any way negatively and he's very much in favor of the improvements. Carmine, I think you spoke to the Luquist's?

Mr. Mancuso: Yes, I did and they were also in favor of it.

Mr. Glover: Alright, I'll declare the hearing closed. Thank you very much.

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

#307-7 "In the application of Alexander Esposito of 312 High Meadow Road, Southport, CT for a certificate of approval for additions for a restaurant to be located on the property of Carmine Mancuso at 376 River Road, CA-2 zone, and which requires variances in the setbacks from the street lines and rear property line

The application for variances is approved.

Inasmuch as the proposed additions and modifications improves an existing restaurant building making it more aesthetically pleasing to the neighborhood, and improves traffic flow and safety through the property,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval for variances from the setbacks from the street line on River Road from 40 ft. to 13.25 ft. and on Dana Avenue from 40 ft. to 13.79 ft. and from the rear property line from 40 ft. to 18.34 ft. (Section 24, Schedule B, Standards 7 and 8) 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."

#307-8 235 Thompson Street, Lot 1, Mary Driscoll of 235 Thompson Street, Shelton, 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 32,042 sq. ft. and square on the lot from 150 ft. to 130 ft. for a new front lot.

#307-9 235 Thompson Street, Lot 2, Mary Driscoll of 235 Thompson Street, Shelton, CT is seeking to waiver Section 24, Schedule B, Standard 9 by varying the setback from the left side yard from 30 ft. to 22 ft. for an existing house and 30 ft. to 10 ft. for an existing garage.

Mr. Glover: Good evening Mr. Lewis

Mr. Lewis: Hi

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

Mr. Lewis: Yeah, it's Tracy Lewis, I'm a licensed land surveyor. My offices are at 260 Main Street in Monroe.

Mr. Glover: And do you have some receipts and pictures for us?

Mr. Lewis: Receipts and the pictures, yes. And those will cover both applications.

Mr. Glover: Okay, you've got a lot on Thompson Street, a parcel on Thompson Street

Mr. Lewis: Right

Mr. Glover: And you want to sub-divide it?

Mr. Lewis: yes

Mr. Glover: This exists now?

Mr. Lewis: This is the existing house

Mr. Glover: with four acres?

Mr. Lewis: With four acres right. And we're proposing a lot on this side of the house, 32,000, the required is 40,000. So we've asked for a waiver for that. We have over 300 feet of frontage on Thompson Street. This is the widest side of the lot in where they are most desirous to put a lot. We have an existing septic area on this side. We have city water. We have wetlands on this side, a wetland corridor that goes along Dolores's property. Just a general, our hardship is the general shape of the property, position of the house where it is now, being in the center. This is an older home, it's been there for a long time. So they're desirous to cut out a lot on this side. We've kept, one of the variances was for 10 feet to the garage, we kept a strip in back here because we have a septic area that's going to go kind of kitty corner, that's going to fit into this notch back here to make it, to make it work as far as the septic. We ask for the minimum square, front, frontage, or minimum square to fit would be 130, rather than the 150. And we have the required frontage for both lots. They are desirous to try and, they have their, they have four sons and daughters and they would like to get this lot for one of the family members. It's not set in stone that that's going to happen. She is right now, 87 years old and they would like to put a family member on this lot but that hasn't been resolved yet. So we're hopeful that that will work out. So that's what we're here tonight for is to ask for those variances in order to fit the lot on that side.

Mr. Conklin: Is there any reason why, they, if it's going to be a family member, they aren't making that a square lot, 40,000 sq. ft. to conform with the rest of the neighborhood which is all R-1 and one acre.

Mr. Lewis: Well we can't, we can't fit the 40, we can't fit the 40,000 on that side. One of the reasons, one of the things is we tried

Mr. Conklin: If you bring this back on a straight line, you could fit the 40,000 in there. Is there any reason why you didn't do that?

Mr. Lewis: She wanted to keep the garage. The driveway now comes in. This garage is for this house, so we were hoping to keep the garage with, with the existing

Mr. Conklin: You can build a new garage

Mr. Lewis: with the existing residence

Mr. Glover: If you did build a new garage, how many square feet would you have?

Mr. Lewis: With this piece here?

Mr. Glover: Yeah, approximately what, how much area

Mr. Lewis: That would probably be around 6500 square feet, I would say roughly. It's about 65, 63, 55, plus 60 times almost 100, probably around 5500 square feet, maybe 6000 sq. ft.

Mr. Glover: Which would bring you up to about 38 or 39,000 sq. ft.

Mr. Lewis: Yes

Mr. Glover: The remaining 4 acres, are they going for a rear lot after that?

Mr. Lewis: They may, they may do a future use of that in that nature in the back.

Mr. Glover: Is this a stone wall here?

Mr. Lewis: This is a stone wall, yes. This wall is more retaining. This lot is kind of up higher, maybe 4 or 5 feet higher than this driveway that's here now. Access, access from this area to the garage is a little more difficult from this lot than it is from this one, this is a very flat driveway that accesses the garage

Mr. Conklin: That's not that much off. I drive down that street all the time, it's not, that big of an elevation, 5 feet to 7 feet max

Mr. Lewis: Right, right, yeah, it's flat out to the road. This access to the road is fairly flat. I'm just saying that the difference between the driveway and the lot at this particular spot, this wall is more retaining and the lot is maybe 4 feet higher than the existing driveway.

Mr. Glover: Is the stone wall that's in the rear, is that a retaining wall too?

Mr. Lewis: Slight. This is very, this is a very low, this is a very low wall

Mr. Glover: So topographically it doesn't go up a lot

Mr. Lewis: No, no

Mr. Conklin: This whole area is fat

Mr. Lewis: Pretty flat and then it slopes toward this wall

Mr. Glover: So if they needed to, they could put this over there

Mr. Lewis: To move the garage

Mr. Glover: Either move it or rebuild it and have a more conforming lot. I can see the side yard for the existing house to the proposed, because there's nothing you can do about it, unless you're going to take the house down, but that's, to me that's extreme. The only, the square on the lot, again, you can't move closer to the house so you're stuck

Mr. Lewis: We're doing what we can with that, yes

Mr. Glover: But the total piece must be almost 5 acres isn't it?

Mr. Lewis: Yes, a little less than 5 acres

Mr. Glover: Yeah, that's the only, the only thing that I can see is, as Ed Conklin says, if we made him get rid of the garage and straighten that out, you'd at least have a lot that was 38,500 or 39,000 sq. ft. rather than 32, and they'd have to build a garage.

Mr. Conklin: I mean I'd rather give the variances on the garage on the other lot

Mr. Glover: Closer to the line

Mr. Conklin: closer to the line

Mr. Glover: than the bulk area

Mr. Conklin: right, and they can sell the garage as part of the next building lot. It's a far more conforming lot

Mr. Glover: right

Mr. Lewis: Well that's, I mean she is 87 years old, so that's a big thing for her to move the garage so, that's why we're here

Mr. Jones: If it's a family member that's going to be moving it, she could still use the garage even though it's on the other piece, you know

Mr. Glover: Yes, she could do that, you're right. If you made this, then we'd have to give you a variance for the garage probably, right?

Mr. Lewis: Right

Mr. Glover: because it'd be too close to the

Mr. Lewis: To the new line

Mr. Glover: this was pre-existing non-conforming here, so it would just, it would just to the new line, and she could still at 87 years old use that lot, use that garage. And if the family or whoever bought this piece of property they could either keep the garage later or raze the garage, take it down.

Mr. Lewis: I do have one letter from an adjoining neighbor. This, this is a new owner here. It's from J&D Country Builders. It references 235 Thompson Street. "It is our opinion that Mrs. Driscoll should be granted her variances. We are the adjoining landowners of 227 Thompson Street, Shelton, CT, and we feel there will be no negative impacts to the neighborhood or our property. We are in favor of the application. Please feel free to contact me should any questions arise. Doreen Lacella and Jim Fortier, owners of J&D Country Builders."

Mr. Conklin: Basically, they're contractors that purchased the lot next door to raze the house and

Mr. Lewis: Yeah, they're next door

Mr. Conklin: They're not really neighbors, they're not living neighbors

Unidentified speaker: they're on a swamp land

Mr. Glover: Okay, any other questions from the Board? (no) Is there anyone else in this room who is in favor of this application? (no response) Anyone in favor? (no response) Is there anyone who's opposed? (yes) Sir, would you, why don't you move a little closer so we can pick you up on the tape? Would you give your name and address for the record please?

Mr. Micanovic: It's William Micanovic, it's M-I-C-A-N-O-V-I-C, 226 Thompson Street.

Mr. Glover: So are you on the other side?

Mr. Micanovic: I'm directly across

Mr. Glover: Across the street, okay

Mr. Micanovic: First of all I heard that you said, we should've been informed, letters should've come out

Mr. Glover: No, because you're across the street, you're not abutting. Our regulations say abutting, and when we made our regulations, they're required to post it on the front lawn facing the street

Mr. Micanovic: Okay, they did that

Mr. Glover: so we, so we made it abutting, because if you're across the street, if you can't see the posting

Mr. Micanovic: I just caught it, to be honest with you, I work a lot so I just caught it.

Mr. Glover: That was, that was our thinking when we did that

Mr. Micanovic: And I said to my wife, I says we're going because he brought up, he brought up the letter about the contractor, like you said. That was, how he got away with building three houses there I'll never know.

Mr. Glover: Here?

Mr. Micanovic: Yeah

Mr. Glover: Oh, okay

Mr. Micanovic: Because that's always under water. I want to see what happens to this one house when we really get the water coming down

Mr. Glover: This one, or this one?

Mr. Micanovic: The one that's on the corner

Mr. Glover: Oh okay, we're not talking about this one. We're talking about

Mr. Micanovic: But he brought up, you know, he brought up that and we're talking about the three houses that they're building when he's telling about the contractor. As far as what you guys are saying, yeah, the elevation here is, I don't even think it's 5 feet, but you're saying it's 5 feet. And I know where that is, the garage. What I got concerns was is, about two years ago, one of the, one of the sons broke my back because I had a septic system put in and I was cutting some trees and I got all the paperwork with the wetlands and everything. And I threw some shrub in, he called the town, Mr. Cooke came down, made me push everything, all the little branches and everything else because he showed me he had to save a little four leaf clover. It cost me \$700 to push all the branches back out again. I said to him, I says give me a chance I'll cut it all up, no I want it done now, because one of the sons works for the town, so I'm a little tee'd. Then on top of it all he's telling me about my little stretch that is wetlands. I know that is a lot of wetlands. I want to know is how many houses are going to be built on there because I got a problem with that if the town can make me move a couple of shrubs, a couple of branches that I cut, stop the man from putting a 16,000 septic system in because my, across the street neighbor is ticked at me, for this reason I still don't know, but I don't really care. Yeah, I got, I'm opposed to this. I want to know how many houses and how it's done and if it means knocking this shed down and putting it over there, I really don't care. If it calls for 40,000, I want 40,000. I really don't care. And I know a lot of that land is wetlands and I want to know what's going to be done about it, just not left it open for later on maybe a year from now they start building another house.

Mr. Glover: What you're referring to is what's referred to as Lot 2 on that map. And Lot 2 on that map, there's nothing in front of us about Lot 2 on that lot. The only thing that's concerning Lot 2 on that lot is when they, when they make this property line here, this house will be closer to this property line than it's supposed to be

Mr. Micanovic: Cause right now we're talking only putting one house

Mr. Glover: That's right

Mr. Micanovic: All this over here is a lot of swamp

Mr. Glover: All that over there isn't, isn't before us, that's something in the future

Mr. Micanovic: So basically, what you're telling me is I got to keep an eye on it, just in case a year from now

Mr. Glover: Well it, I don't live there so I'm not going to keep an eye in it

Mr. Micanovic: You know what, I really, I never got so mad in my life, but the son just broke it off on me. I'm not particularly wouldn't be against anything, but now I am because of what he made me do. I got all the paperwork that I was supposed to do. Mr. Cooke came and everything else and didn't give me one leeway, and I'll be honest with you, if this is all granted I'm going to go see about a legal counsel and see what's going on because I got the short end of the stick and now because a city employee works for this and got everything done, click, click, click. It ain't going to happen, it's not going to happen.

Mr. Glover: Okay, anything else?

Mr. Micanovic: No, pretty much.

Mr. Glover: I think you got it

Mr. Micanovic: Okay

Mr. Glover: Anyone else in opposition? (no response) Does the Board have any final questions? (no) Then I'll declare the hearing closed. Thank you very much.

#307-8 Later that evening during the work session the Board, upon motion by Mr. Conklin and seconded by Mr. Jones, unanimously voted to deny the variances in minimum lot area and square on the lot to allow a new front lot in an R-1 zone, since no hardship within the purpose and intent of the zoning regulations was demonstrated.

#307-9 Later that evening during the work session the Board, upon motion by Mr. Conklin and seconded by Mr. Cavallaro, unanimously voted to deny the variances in the setbacks from the left side yard for an existing house and garage in an R-1 zone, since no hardship within the purpose and intent of the zoning regulations was demonstrated.

#307-10 80 Birchbank Road, Matthew & Merilee Westfall of 80 Birchbank Road, Shelton, CT are seeking to waiver Section 24, Schedule B, Standard 9 by varying the setback from the right side yard from 20 ft. to 16 ft. for a 12.0' x 27.2' attached deck.

Mr. Glover: Sir, could I have your name and address for the record please?

Mr. Westfall: Yes, Matthew R. Westfall, 80 Birchbank Road, Shelton, CT

Mr. Glover: And Mr. Westfall do you have some evidence that you notified your neighbors?

Mr. Westfall: Yes I do

Mr. Glover: And some pictures for me please?

Mr. Westfall: Yeah

Mr. Glover: I have three receipts, you have three neighbors

Mr. Westfall: Well, the railroad company

Mr. Glover: That's okay,

Mr. Westfall: I have a neighbor on each side and the river is the State of Connecticut, I guess

Mr. Glover: Okay, and these are your pictures?

Mr. Westfall: Yeah

Mr. Glover: And what is it that you want to do?

Mr. Westfall: We want to add a deck on the back of the house. That's the front showing the posting. That's the side, this is where the deck's going to go in this corner.

Mr. Glover: Is there an upper deck now?

Mr. Westfall: Yeah

Mr. Glover: So you're not coming out any further than the upper deck already extends?

Mr. Westfall: No

Mr. Glover: And you're not going any closer to the sideline than what's there?

Mr. Westfall: Correct. We're just filling in this corner with a deck. And there's no stairs going off it. We're going to have a doorway right there approximately.

Mr. Conklin: doorway from the main house onto the deck

Mr. Westfall: Right, this is like the kitchen and go right onto the deck

Mr. Glover: This is Birchbank Road

Mr. Westfall: Yep

Mr. Glover: You have 100 foot frontage here, according to that

Mr. Westfall: I think so, yeah

Mr. Glover: Alright, it's an R-1 zone and you have 16 and you're supposed to have 20. And you have 20 because you can have 20% of the frontage

Mr. Westfall: Right

Mr. Glover: And when you do this, you're not going to extend any closer than you do already on the side and you're not extending, you don't have any problem in the back, it's just that side

Mr. Westfall: That's right

Mr. Glover: Open deck?

Mr. Westfall: Open deck.

Mr. Glover: It's connecting to another deck?

Mr. Westfall: No

Mr. Glover: It's not?

Mr. Westfall: No, this deck is higher

Mr. Glover: So there's no stairs

Mr. Westfall: No stairs and there, yeah

Mr. Glover: No stairs down from the deck?

Mr. Westfall: No

Mr. Glover: Just coming out to the deck and it's

Mr. Westfall: From the kitchen area

Mr. Conklin: He's carrying on the same side line as the house

Mr. Glover: That's correct, he's not going any closer.

Mr. Glover: Alright, any other questions from the Board? (no) You have no other place to put this deck, right?

Mr. Westfall: No, that's it.

Mr. Glover: Anyone in the room in favor of this application? (no response) Is there anyone opposed to this application? (no response) Any opposition? (no response) Final questions? (no) Then I'll declare the hearing closed. Thank you sir.

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

#307-10 "In the application of Matthew & Merilee Westfall of 80 Birchbank Road, Shelton, CT for a certificate of approval for a 12.0'x27.2' attached deck to be located on the property of the applicants at 80 Birchbank Road R-1 zone, and which requires a variance in the setback from the right side yard,

The application for a variance is approved.

Inasmuch as the proposed deck will not encroach on the property line any further than the existing structure currently does,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval for a variance to in setback from the right side yard from 20 ft. to 16 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."

#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.

Later that evening during the work session the Board, upon motion by Mr. Cavallaro and seconded by Mr. Conklin, unanimously voted to table a decision until the April 17, 2007 meeting.

Approval of Minutes

During the work session the Board, upon motion by Mr. Jones and seconded by Mr. Conklin, voted unanimously to approve the minutes of the February 20, 2007 hearing as submitted by the clerk.

Respectfully submitted,

Loreen Michalak, Clerk