

Board of Zoning Appeals – Hearing Room, Municipal Building 54 Hill Street, Shelton, CT.
Tuesday, April 15, 2008 at 7:30pm

AGENDA:

- #308-1 Elisa Ferreira & Jose Silva at 15-17 Liberty Street
- #408-1 Robert Araujo at 138 Walnut Tree Hill Road
- #408-2 Thomas J. Casey at 50 Armstrong Road, Lot 1
- #408-3 Thomas J. Casey at 50 Armstrong Road, Lot 2
- #408-4 Edward Mill at 57 Brownson Drive
- #408-5 Nicholas J. Tiberio at 26 Keron Drive
- #408-6 PBS Enterprises, LLC at Bridgeport Avenue, Map 105, Lot 40
- #408-7 DML Development, LLC at 163-169 Coram Road
- #408-8 Jeff Purcell at Wall Street, Map 117B, Parcel 21
- #408-9 Kevin Russo at 7 Plum Tree Lane

Possible Decision on:

- #308-5 Joseph Martinelli at 99 Indian Wells Road

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, Ed Conklin and Jack Fitzgerald.

Mr. Glover: Good evening ladies and gentlemen and welcome to the April meeting of the Zoning Board of Appeals. We have a pretty long agenda tonight, so we're going to try to go as quickly as possible. When you appear before the Zoning Board of Appeals you're actually giving testimony. It's a hearing. We keep the record on our two recorders here and sometime next week Lori will transcribe it. The recorders are sensitive enough so they'll pick up any conversations that are in the room and when they do, it'll make for an incomplete or a garbled record. So I would appreciate it if, if you need to talk on your cell phone or you need to talk to someone else in the room, please take it out in the hall because the record is important because that's what goes to court if you disagree with us. Our, our regulations require that you have posted your property. That you have notified your neighbors and that you have taken pictures of the property. You are required after you've done that to supply us with four pictures of the property and with the receipts or evidence that you did notify your neighbors. When your hearing is started we will ask for those papers. If you have complied with that we can go on, if you haven't complied with that we will continue your hearing until next month when you can bring that information in. To my left is Commissioner Ralph Matto. Next to Ralph is Commissioner Jack Fitzgerald. Lori Michalak is our clerk. I'm Gerry Glover. Next to me is Jamie Jones and Ed Conklin. Anything else I should tell these people?

Clerk: No

#308-1 15-17 Liberty Street, Elisa Ferreira and Jose Silva of 15 Liberty Street, Shelton, CT are seeking to waiver Section 24, Schedule B, Standards 2, 3 and 4 by varying the minimum lot area per dwelling unit from 7500 sq. ft. to 5174 sq. ft., dimension of square on lot from 60 ft. to 50 ft. and lot frontage from 60 ft. to 48 ft. for a single family home to be built adjacent to existing two family.

Mr. Glover: Ladies and gentlemen, we work without a microphone here. This auditorium is provided with microphones up on the stage. We unfortunately can't go up on the stage because we can't look at your maps and deal with the information that you give us so we're down here without a microphone. It is a public hearing. If you cannot hear at any time feel free to come closer, come on up closer so that you can hear the hearing. Ms. Silva? Alright, good evening, could you give your name and address for the record please?

Ms. Silva: Fatima Silva for Jose Silva, 15 Liberty Street, Shelton, CT

Mr. Glover: Do you need her to speak louder?

Clerk: It might be okay,

Mr. Glover: Do you have some pictures for us?

Ms. Silva: We do have pictures for you.

Mr. Glover: Thank you very much. We have the receipts from, from last month when you

Ms. Silva: Oh okay, then there were just two additional ones that were in fact received

Mr. Glover: So all your neighbors have been notified now

Ms. Silva: Correct, not for this month, last month

Mr. Glover: I understand

Ms. Silva: cause that's what you told us

Mr. Glover: Well, we started last month and we, we continued it to this month. They have been notified. Now I want you to understand because there was some confusion last month. You did have a hearing here some time ago, three or four months ago

Ms. Silva: in December

Mr. Glover: Yeah, and the Board held that hearing, made a decision on that hearing and that hearing is closed and put away in the town clerk's office

Ms. Silva: okay

Mr. Glover: You've, you've reapplied and this is now a new hearing.

Ms. Silva: Okay

Mr. Glover: So you have to assume that we don't know anything about anything because it's brand new. And, and it's my responsibility to create a record and this record has nothing to do with the last record. Okay?

Ms. Silva: Okay

Mr. Glover: So any pertinent facts that you think we know, we really don't officially know them. So you're going to have to tell us. Okay?

Ms. Silva: Okay.

Mr. Glover: So you've given us your name and address. Can you tell us what you want to do and why you can't comply with the zoning regulations in the City of Shelton?

Ms. Silva: Yeah, we don't have enough frontage so therefore we've applied for a variance for the frontage. We, minimum dimension of square on lot and actually the minimum lot area. We do own more than sufficient property, but it slopes down tremendously on the side of the home that's already been built. So instead of taking any property, of the sloping property, we're basically confining the house to the level property that's adjacent to the house on the other side. There are other homes in Shelton

Mr. Glover: Alright, you have a parcel of land right now that's all one

Ms. Silva: correct

Mr. Glover: one piece of land. And it's at the intersection of Liberty and Wall Street

Ms. Silva: correct

Mr. Glover: And what you're trying to do is you're trying to create another lot

Ms. Silva: correct

Mr. Glover: off of this lot

Ms. Silva: yes

Mr. Glover: Okay. And it's a rather big parcel, especially for being in the downtown area

Ms. Silva: yes

Mr. Glover: but a great deal of this parcel is topographically distressed because it goes down in elevation so quickly to the, to the Wall Street side

Ms. Silva: Correct, and down to I guess it's Union

Mr. Glover: And down, down to Center Street

Ms. Silva: Center Street, yes

Mr. Matto: Gerr, this has always been one lot?

Mr. Glover: Yes

Mr. Matto: It's never been divided

Mr. Glover: I don't think this was ever split. I think it's

Ms. Silva: No, this was actually purchased separately, the lot, the portion that is adjacent on the property, if we're looking at just the two family home that's there, apparently it was larger. The back of it that's now a parking lot for the street behind it, was also attached. And later on the portion, which I believe is now also here at a hearing, was up, was all put together and then they redivided it up and that portion is now a separate lot that's also here to be heard and they put these two together but they were not all, this whole thing was not purchased together, not originally, because some of it was bought from Ousatonic Water Company years ago.

Mr. Glover: but you bought it as one piece

Ms. Silva: We bought it as one piece

Mr. Glover: Right and, and your piece, the lot next to you is Lot 21 Wall Street

Ms. Silva: Correct, which when we purchased it we were told that we purchased that as well and we started paying taxes on it, but we since have clarified that and we received our tax money back.

Mr. Glover: Does that answer your question Ralph?

Mr. Matto: Yes

Mr. Glover: So we have a large piece that has a two family home on it

Ms. Silva: Correct

Mr. Glover: And you wish to subdivide it and put a single family home on the other piece

Ms. Silva: Correct, what is existing there now is a barn

Mr. Glover: Correct. And when, and when you do that, you need variances for the size of the lot from 7500 to 5174, and the dimension of the square on the lot from the required 60 to 50, and the frontage of the lot from the required 60 to 48

Ms. Silva: Correct

Mr. Glover: Is that right?

Ms. Silva: yes, our setbacks are all fine. Those are three that we need, correct. But one of the concerns of this Board was, not only this lot, but was the parking of the existing home, and we were denied last time and I brought a copy “the Board denies without prejudice” so that we could re-submit because we needed to identify sufficient off street parking for the existing two family home. So I want to include this in, that was (unclear) out last and that was what we were concerned with, or the Board was concerned with, was parking for the existing home. So we went back, had topos done and what we suggested was extending the retaining wall that’s there behind the two family home and creating more parking there. So it has, it doesn’t really infringe, there’s no parking on the driveway per se, so there’s ample parking for the two family and there’s sufficient parking for the new home on the property without having to have off street parking, which is, which was a concern to the street.

Mr. Matto: So an engineer designed that whereby it’s

Ms. Silva: Correct. There are homes, and I had said this before, there are homes in, in Shelton that were built on lots that were much smaller, and I brought you copies of those

Mr. Glover: We don’t need them because it’s not relevant to this

Ms. Silva: Okay

Mr. Glover: We, the Board, this Board does not set precedent. So if they were allowed to be, or even if they had variances, those were variances that were specific to those properties. So those alone don’t make it, make us, don’t require us to give you this

Ms. Silva: right

Mr. Glover: Okay? And we know that there are other lots that are, that are smaller, but the, the Planning and Zoning Commission is, sets precedent, once they do it once they have to keep doing it

Ms. Silva: Correct

Mr. Glover: But we’re the appeals board and we’re specific to you.

Ms. Silva: Okay

Mr. Glover: or to you parcel. And we, if you had two parcels here, you had one and your neighbor had one that were identically the same, identical, we could in theory okay one and deny the other

Ms. Silva: Okay

Mr. Glover: Okay? So the fact that you have other pieces in other parts of the city that are of equal size is irrelevant to us

Ms. Silva: Since you told me I had to bring up everything that I had brought up before

Mr. Glover: No that’s okay, just so the record is straight, okay?

Ms. Silva: okay

Mr. Glover: Now, there’s an old barn on this property

Ms. Silva: There is and it would have to be demolished

Mr. Glover: That's in poor shape

Ms. Silva: No, actually the barn is not in poor shape. There's a shed behind it that's in poor shape, but the barn is not

Mr. Glover: Okay, and your intent is to take that building, that structure down

Ms. Silva: Correct

Mr. Glover: and to put this house where that structure is

Ms. Silva: Further, more forward, it's too far back.

Mr. Glover: The house that you're going to put has a one car garage underneath it

Ms. Silva: Correct

Mr. Glover: Okay and you show sufficient parking for what is now you're calling the first parcel, which is the existing two ½ story frame house

Ms. Silva: Right, it's the two family home next door, correct, which was a concern.

Mr. Glover: And, and I suppose you're, you have, you're citing that there's a topographical difficulty here and there's an irregular shape to this lot

Ms. Silva: Correct

Mr. Glover: That doesn't give you enough frontage in the front

Ms. Silva: Correct, and we needed to give the space for the driveway for, and we don't, that driveway's not a common driveway for both homes. It's separate just to the two family home. So they're staying very separate. We're not combining them or making it one needs to be existing for the other one to work. We're making them completely separate so that people are not, you know, move your car out of the way so we can get out, it's a separate entity.

Mr. Glover: And it's not realistic to, to assume that you can buy more property from, from your neighbor

Ms. Silva: No, this neighbor no, no there's no way. Even if, yeah I could buy from this neighbor, which is the actual, our property where I could put, I could actually buy back here and have more than sufficient, because we have the land, so that we wouldn't need one of the variances, but it really doesn't make sense.

Mr. Glover: right, I agree. Does the Board have any other questions of the applicant?

Mr. Conklin: The house has parking for two cars off the street right, the new structure?

Ms. Silva: Yes, yes

Mr. Conklin: One underneath and one to the side?

Ms. Silva: correct

Mr. Glover: And both of these houses are served by public water and public sewers

Ms. Silva: Correct

Mr. Glover: Any other questions from the Board? (no) Is there anyone in this room who is in favor of this application? (no response) Anyone in favor of it? (no response) Is there anyone opposed to this application?

Mr. Shuster: I'm opposed to it.

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

Mr. Shuster: Edward Shuster, without the C, S-H-U-S-T-E-R

Mr. Glover: And Mr. Shuster, you own the property abutting this to the rear

Mr. Shuster: That's correct, actually two properties

Mr. Glover: I, I can see that. And you are opposed to this why?

Mr. Shuster: The comfort level as far as the existing proposed building, I know she's going to say she's not going to put the shed back, but the distance and then if you put porches or decks on the rear, it's just not going to be comfortable there. And now with the, she has informed the Board that she's going to take the retaining wall and make parking behind the two family house, I don't like that either. That's uncomfortable as far as I'm concerned with traffic, cars, children, people, pedestrians

Mr. Glover: Do you, do you realize that the retaining wall that she's talking about does not, does not go toward your property?

Mr. Shuster: I believe it's between our properties

Mr. Glover: No, it's away from your property. She's going toward Center Street

Mr. Shuster: I'm not aware of any wall there on the, that'd be the south side of the building. I know there is a wall between Fairmont Place properties and her property and I believe that's what she's talking about

Mr. Glover: No

Mr. Shuster: leveling that

Mr. Glover: No, she's not

Mr. Matto: Is that shown on the map, Gerr?

Mr. Glover: Take a look at the map. It is an A-2 survey and it does show an existing retaining wall behind the house and they're not encroaching toward your property

Mr. Shuster: Oh, okay, I'm thinking of this wall here. So your saying just one, one width parking, how many cars?

Ms. Silva: 3 maximum, that's all we need

Mr. Shuster: You're just going to run them behind the other

Ms. Silva: No they're here

Mr. Shuster: Oh, they're going to be behind the house

Mr. Glover: Mr. Shuster, you have to talk to the Board. You can't have a discussion

Mr. Shuster: Oh, I'm sorry

Mr. Glover: Your questions are, how many cars are going to be behind the house?

Mr. Shuster: Behind the house, exactly

Mr. Glover: Do you understand the relationship of the retaining wall now?

Mr. Shuster: I do is that, but where the parking lot is going to be I don't fully

Mr. Glover: think they can do it

Mr. Shuster: no

Mr. Glover: Okay. Alright the other, your other point, you talked about a deck going on the back of the house

Mr. Shuster: correct

Mr. Glover: a deck would be part of the structure. They can't go any further toward the back than the zoning permits them to go. They can't go back there

Ms. Silva: which is less than the barn. The barn is further back

Mr. Glover: But the point is, is that she has the right to go back a certain distance and she can do that. She can do that.

Mr. Shuster: And you can allow an allowance as far as that's concerned

Mr. Glover: Yes, but she hasn't

Mr. Shuster: I mean if you're allowing the frontage, you can allow the rear

Mr. Glover: Yes, but she hasn't asked for that. She has not asked to go any closer to the back. She can go, minimum setback to the rear is 25 feet and she is going to be 30.3 feet from the property line in the rear and she can't go, she can go back to 25 feet but she can't go beyond the 25 feet

Mr. Shuster: And what's that going to you know, produce. I mean, I'm uncomfortable with 25 feet or 33 feet, but is there any buffer zone as far as fencing

Mr. Glover: There's no required buffer zone, and I'm sorry I'm not being sarcastic, I'm sorry that you're uncomfortable with the 25 feet, but that's the zone and that's the regulation, she can go within 25 feet

Mr. Matto: and she doesn't need a variance for that, it's legal

Mr. Glover: Whether your comfortable or I'm comfortable, she has the right to do that

Mr. Shuster: Well, I'm opposed to it so

Mr. Glover: Yeah, okay, so you're opposed because you think that she might put a, another structure on the back of this that will encroach on your property, and you're questioning whether

Mr. Shuster: the pedestrians and traffic from

Mr. Glover: and you're questioning whether she can get three cars to the back of the house

Mr. Shuster: That would encroach on the dimensions in the backyard

Mr. Glover: That would, but it's a driveway and it's not a structure, driveways aren't structures, driveways and

patios, they're on the ground they're not structures, they're driveways. So, if she wanted to pave the backyard she could pave the backyard right to the property line

Mr. Shuster: right to the property line

Mr. Glover: yeah, she could, it's legal. She's not doing that, but she could do that.

Mr. Shuster: Just a thought, how close to the building can she pave?

Mr. Glover: right to the building

Mr. Shuster: Right to the building

Mr. Glover: Yeah,

Mr. Shuster: and park cars right to the building

Mr. Glover: Yeah

Mr. Shuster: I didn't think that was legal, from Nippy Russell's days

Mr. Glover: Well, I can't comment on that. There were, Nippy Russell was a fine man and there were a lot of things that were done differently in Nippy Russell's days. Alright, thank you. Anyone else in opposition? (no response) Does the Board have any other questions? Jack, did you look at this? It's Mr. Shuster's thought that they can't get three cars behind that house

Ms. Silva: I'd just like to add that the wall between Mr. Shuster's house and this house is a tall retaining wall. That if somebody were to drive their car through the wall, they would do a lot of damage to the car because it's not flat, we're not going onto his property, to build a big ditch there.

Mr. Glover: What do you think Jack?

Mr. Fitzgerald: It looks alright to me.

Mr. Glover: Alright. Any other questions from the Board? (no) Then I'll declare the hearing closed. Thank you very much.

Ms. Silva: Thank you.

Mr. Shuster: Thank you.

Mr. Glover: Thank you Mr. Shuster.

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

#308-1 "In the application of Elisa Ferreira and Jose Silva of 15 Liberty Street, Shelton, CT for a certificate of approval for a single family to be built adjacent to an existing two family house at the side of 15-17 Liberty Street, R-4 zone, and which requires variances in minimum lot area per dwelling unit, minimum dimension of square on the lot and minimum frontage,

The application for variances is approved.

Inasmuch as the property consists of an overly large parcel in comparison to the rest of the neighborhood which can't be fully utilized due to the topography of the entire parcel,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval of variances to in minimum lot area per dwelling unit from 7500 sq. ft. to 5174 sq. ft., minimum square on the lot

from 60 ft. to 50 ft. and minimum frontage from 60 ft. to 48 ft., at the above is granted (Section 24, Schedule B, Standards 2, 3 and 4) in this instance.

Stipulations: The parking area as presented to the Board for the existing multi-family home, must be approved by the city engineer and produced before the building permit for the new dwelling is obtained.

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.”

#408-1 138 Walnut Tree Hill Road, Robert Araujo of 138 Walnut Tree Hill Road, Shelton, CT is seeking to waiver Section 24, Schedule B, Standards 8 and 9 by varying the setbacks from the rear property line from 30 ft. to 7 ft. and from the left side yard from 30 ft. to 16 ft. for a single story addition and detached cabana.

Mr. Araujo: Good evening

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

Mr. Araujo: Robert J. Araujo, 140 Walnut Tree Hill Road, Shelton, CT

Mr. Glover: Mr. Araujo, can you give us some pictures and some receipts?

Mr. Araujo: Sure, I have two receipts

Mr. Glover: And these are your only neighbors?

Mrs. Araujo: yes

Mr. Glover: Okay

Mr. Araujo: And the photographs

Mr. Matto: You moved from 138? Did you move from 138?

Mr. Araujo: Well, we live next door, 140

Mr. Matto: Next door to this

Mr. Araujo: Yes, we own 138 also.

Mr. Glover: Alright, can you, can you tell me or tell the Board what you want to do and why you can't comply with the zoning regulations?

Mr. Araujo: We're modifying the existing footprint. My mother recently lost her leg and became handicapped and is forced to live with us now. We have to add a mother-in-law apartment to the building that has to be on one floor. As we've gone through many iterations with architects, this is the configuration that worked for a handicap accessible mother-in-law apartment, as well as my wife has had three back surgeries and we have to plan for a structure that can also be handicap accessible. So we're looking to modify the existing footprint of the structure to fit both of those needs.

Mr. Glover: Alright, you have a, your home or this home is on the corner of Walnut Tree Hill Road and Valley Road

Mr. Araujo: and Valley Road

Mr. Glover: The home fronts on Walnut Tree Hill Road

Mr. Araujo: The home fronts on Walnut Tree Hill Road

Mr. Glover: And it's a lot that's about 250 foot, has about 250 feet of frontage

Mr. Araujo: Yes

Mr. Glover: But the existing house from Valley Road is 172.9 feet

Mr. Araujo: Yes

Mr. Glover: So the house is located on the lot to the extreme right as far as it can possibly go

Mr. Araujo: Yes

Mr. Glover: Alright, the, the addition that, the piece of this proposed construction that comes in conflict is the proposed addition over on the side that's 14x35

Mr. Araujo: Yes

Mr. Glover: What is that?

Mr. Araujo: That addition would actually be and I can show you if you'd like to see

Mr. Glover: Don't because if you show me I have to keep it

Mr. Araujo: Okay

Mr. Glover: and if you can describe it, it's better

Mr. Araujo: Okay, that is a portion of the mother-in-law apartment, where in the existing structure if I can point to the back of the existing property, the existing structure here we're going to make into a mother-in-law apartment and then bring the a, this will actually be a bedroom and a bathroom, a handicap bathroom at that point

Mr. Glover: So the, the part that is encroaching onto Lot 39

Mr. Araujo: Right, which is 1-4-0

Mr. Glover: I'm sorry?

Mr. Araujo: That's 1-4-0 Walnut Tree Hill Road

Mr. Glover: Oh, okay, 140. The part that's encroaching is the bedroom for your, your mother and bathroom

Mr. Araujo: Yes, bedroom and bathroom

Mr. Glover: And, and it's got to be on the first floor obviously

Mr. Araujo: Right, we're trying to make this all on one floor so she can come in, our, our intent is to make her as self sufficient as possible.

Mr. Glover: Now your other problem, or other challenge here is the proposed cabana.

Mr. Araujo: Right, that's again, this is a cabana, storage shed, we want to come up within 6 feet of the property

Mr. Glover: There's a hole punched in this, but what does this say here? There's a square here that says something, I don't know what it

Mr. Araujo: Let me put my glasses on

Mrs. Araujo: It's probably the existing pool

Mr. Glover: Right here, what does this say? Does that just point to this?

Mr. Araujo: Yes, that just points to a proposed deck

Mr. Glover: Okay, so that, that's a proposed deck that

Mr. Araujo: Yes, that's a reference to the reference line to this proposed deck

Mr. Glover: Fine. I didn't, I didn't know what

Mr. Araujo: There's an existing pool here

Mr. Glover: right

Mr. Araujo: And there's a patio here. We're going to put a proposed storage shed and cabana in that area, and we want to come within 6 feet. Now this has not been designed. We're going to make this architecturally pleasing to this structure. So whether this ends up being a single structure or two structures that's not

Mr. Glover: Are there some utilities in here that prevent you from pushing that in closer? Is there a reason why you can't bring it in here?

Mr. Araujo: Yeah right here, if I can borrow your pen, right here there's the existing septic system, leeching fields are here and leeching fields are here. So if I bring that up, I go into an existing septic system

Mr. Glover: So your proposed cabana and storage shed needs to be near the pool, obviously

Mr. Araujo: Yes

Mr. Glover: and it can't come closer to the house because of the existence of a septic system

Mr. Araujo: well I'd go into the septic system, leeching fields and create that entire mess

Mr. Glover: okay

Mr. Matto: What's the size of the building? The accessory,

Mr. Glover: 20 x 30

Mr. Matto: is how big?

Mr. Glover: 20 x 30

Mr. Araujo: 20 x 30

Mr. Matto: So it's 600 sq. ft. And what is the existing structure?

Mr. Glover: There is none

Mr. Araujo: You're talking the out building? Right now it's 20x30 that's the plan. And whether we make that a single structure or two structures that's what we're doing with the architect now. So we would use this footprint

Mr. Fitzgerald: And where's your mother-in-law staying

Mr. Araujo: This is right here, it actually, if I can, there's a structure right here existing so it would actually be an "L" to wrap the (unclear)

Mr. Matto: and that would be the in-law

Mr. Araujo: right, the mother-in-law apartment

Mr. Matto: How big is it? I want to know how many square feet it's got

Mr. Araujo: That I believe is 850 sq. ft.

Mr. Matto: And how big is the existing dwelling now?

Mr. Araujo: The existing dwelling is

Mr. Matto: Is it 1600 or more?

Mr. Araujo: I believe it's 1800, 1850

Mr. Matto: Okay, so half of that would be another 9, oh, okay. I just want to be sure that Planning would accept what you're doing, you know, this way the variance wouldn't change as far as size goes

Mr. Glover: Alright so, your hardship here is that you have a large lot and the existing dwelling, when it was built, was pushed all the way over to the extreme side away from Valley Road

Mr. Araujo: Correct

Mr. Glover: and in order to put an in, put the rooms that you need they would appropriately go on the side that's too close to the property line

Mr. Araujo: exactly

Mr. Glover: Okay, any other questions from the Board? (no) Is there anyone in this room in favor of this application? (no response) Is there anyone in this room who is opposed to this application? (no response) Any opposition? (no response) Final questions from the Board? (no) Then I'll declare the hearing closed. Thank you.

Mrs. Araujo: Thank you

Mr. Araujo: Thank you very much.

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

#408-1 "In the application of Robert Araujo of 138 Walnut Tree Hill Road, Shelton, CT for a certificate of approval for a single story addition and detached cabana to be located on the property of the applicant at 138 Walnut Tree Hill Road, R-1 zone, and which requires variances in minimum setbacks from the rear property line and left side yard,

The application for variances is approved.

Inasmuch as the position of the existing house located to the extreme side of the lot makes it difficult to add onto the house without a variance, and

Inasmuch as the existence and location of the septic system and leeching fields prevents the cabana from being placed anywhere else on the property,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval of variances in minimum setbacks from the rear property line from 30 ft. to 7 ft. and from the left side yard from 30 ft. to 16 ft., at the above is granted (Section 24, Schedule B, Standards 8 and 9) in this instance.

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

#408-2 50 Armstrong Road, Lot 1, Thomas J. Casey of 50 Armstrong Road, Shelton, CT is seeking to waiver Section 24, Schedule B, Standards 4 and 9 by varying the minimum lot frontage from 135 ft. to 29.46 ft. and setback from the right side yard from 30 ft. to 18 ft.; and Section 24.2 by varying the location of square to not lie within front setback line for a single family house.

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

Mr. Casey: I'm Tom Casey, 50 Armstrong Road.

Mr. Swift: Jim Swift, engineer. I've prepared the plan for the applicant

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

Mr. Swift: I do. I have receipts of the mailing. I do have, some of the cards were returned.

Mr. Glover: Let's read the second part of this so we do both at the same time.

#408-3 50 Armstrong Road, Lot 2, Thomas J. Casey of 50 Armstrong Road, Shelton, CT is seeking to waiver Section 24, Schedule B, Standard 4 by varying the minimum lot frontage from 135 ft. to 20.54 ft. and Section 24.2 by varying the location of square to not lie within front setback line for a single family house.

Mr. Glover: Alright, is there anyone in the hall that has an interest in this and wants to come forward so they can hear better? Uh, your pictures Jim?

Mr. Swift: Yes, first photo shows the posting

Mr. Glover: Alright, so you have a big piece of property here is that right?

Mr. Swift: We do, we have a parcel of 3.3 acres, which zoning regulations under the definition of creating rear lots, or lots that have minimum frontage as you see on this lot before the proposed subdivision, regulations recognize that those lots are sub dividable into additional parcels at a future date. Which is why they request that the frontage be increased from 30 feet to 50 feet and that's the reason for that requirement. As you can see being 3.3 acres the zoning regulations recognize that we are a sub dividable parcel of land so they have provided 50 feet of frontage on this lot. Our hardship and our application, well first of all, to describe it, we contemplate creating two lots which are, for a lack of a better term, flag lots to the back, but we are requesting variances so that they conform to some of the provisions of a frontage lot, but that is just sort of a pro forma request. These lots are sub dividable with the addition of construction of a road down into the site. And that is the basis of our hardship. These lots, or this lot I should say, was created fairly early on. There's some additional requirements that the engineer has for building roads, although we could actually build a road, we think the house, the existing house is pretty much in the wrong spot for that and would be of concern. The second issue I'd like to point out to the Board is that should we build a city street into our

property to access a second lot, as is you know, seems to be contemplated by the definition of, or the requirement for the 50 feet of frontage, it would affect our neighbor, which would be I guess to the west and that house would by nature, that would change their setback on that side of their house from a side setback to a frontage setback. And although it may or may not be accomplished at this time, that's probably not what our neighbor to that direction had contemplated.

Mr. Glover: The, the existing house is going to stay where it is?

Mr. Swift: Yes, the existing house is going to stay where it is and that is one of the requests for our variance. I'd like to point out that should we revert to a subdivision with building a city street, that in that case we may need to demolish the house, but that it can be done and that all of the property can be subdivided with that provision of demolish of the house.

Mr. Fitzgerald: are there houses actually under the power line?

Mr. Swift: No, there's a, there's a private, there's a private power line that goes in just as service to the houses. That's house service only and that can be relocated

Mr. Matto: Is there any reason why, for instance lot #2 you're looking for a front lot vs. a rear lot? It seems to qualify for either.

Mr. Swift: Not in, not in particular. We could have asked for relief for the 20 foot width of the right of way as opposed to the 30 foot width

Mr. Matto: Now it's only a 10 foot variance vs. a 110 foot

Mr. Swift: Well, that's correct and, and this just seems to be once we enter into this sort of a variance we just kind of, you have to ask for either the frontage, let's see if I can say this right. It didn't seem to make any difference, you know. The only difference is if we

Mr. Glover: Actually it would change the setbacks on Lot 2 from 30 to 40, but there doesn't appear to be a problem anyway with

Mr. Swift: It's not a problem.

Mr. Matto: (unclear) anyways don't it

Mr. Swift: and it would increase the setback requirement variance on, on lot 1

Mr. Matto: Lot 1 yeah, yeah

Mr. Glover: Because lot 1 would then be a rear lot

Mr. Swift: That's correct, yes

Mr. Glover: So you're, you're considering these both front lots with insufficient frontage

Mr. Swift: Yes, and that the square will be moved back

Mr. Glover: and the square would not be on the setback line

Mr. Swift: but I believe it's, I believe it's 6 one, half dozen of the other, because the lots seem to have plenty of room to their neighbors

Mr. Matto: because Lot 1 you need, you need the variance to start with

Mr. Swift: Yeah, exactly and it would just make it worse. And I think the photos show that the layout of the lots seem to be very comfortable

Mr. Glover: So, so lot 1 the setback for the existing house is going to change from 30 to 19

Mr. Swift: correct

Mr. Glover: Okay? I think you asked for 18, but it's going to be

Mr. Swift: Yeah, I do that just to give us a little

Mr. Glover: but if it were a rear lot it would be 40

Mr. Swift: that's correct

Mr. Glover: to 19, so it would be a bigger variance

Mr. Swift: It would be, it would increase to

Mr. Matto: and I think the thing to be brought out Gerr, is that there is 50 foot existing between the two and they could legally put a 50 foot strip asphalt in there and get two lots anyway

Mr. Swift: Yes, that's correct

Mr. Matto: and you know, why have the city pave more road

Mr. Glover: Are these city sewers, city water?

Mr. Swift: These will be septic systems. We did take a look. I examine the soils for, we didn't do deep tests, but we did quick examination of the soils and my experience tells me, first of all the existing house is in working condition and has no problem there. Lot 2 has a vast abundance of land that I feel would be easily accommodate a septic system

Mr. Fitzgerald: Which way, which way does the lot slope?

Mr. Swift: It slopes very gently to the rear of the property and you can see that there's actually a stream, a water course leading all the way to the rear of the property where there is a water course and that kind of divides that water course just on the other side of that is you know, Route 8 right of way, but

Mr. Fitzgerald: So it lends itself for a septic system in the back

Mr. Swift: Yes it does, it lends itself very well. We don't anticipate any issue with the inland/wetlands because all of our construction can easily be outside of the 50 foot inland/wetland upland review area, including septic systems and, and not even that, but if you look at the photographs we already have grass and usable area pretty much up to the water course anyways. So I see no inland/wetlands issues on this application.

Mr. Matto: so a gentler slope is much less than (unclear)

Mr. Glover; And you did say there's city water, public water?

Mr. Swift: In the existing house, yes there is.

Mr. Glover: so this lot 2 would also be served by

Mr. Swift: it would also be served, yes that's correct.

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

Mr. Conklin: No

Mr. Glover: Any other questions from the Board? (no) Anyone in favor of this application?

Mr. Mucci: I'm in favor

Mr. Glover: Come on over here. Mr. Mucci, would you like to give your name and address for the record?

Mr. Mucci: Yes, my name is Barry Mucci, I reside at 61 Armstrong Road in Shelton. I'm a contractor/developer here in Shelton, some of you know me. I see a lot of different subdivisions, different lots, different interior lots. I don't see any problem with this at all, you know, since the houses next door to it are going to be building around a ¼ acre lots, you know, 35 to 40 houses next door, so (unclear) add one extra house for himself. The house I believe he's going to add is for his father-in-law or his father. You know, I think it's going to work out fine for him.

Mr. Glover: Thank you. Sir, did you want to see this map?

Mr. Tristine: Well, I see this one here, I mean, I don't have a problem with him building a house there

Mr. Glover: I'm sorry, you have to give your name and address

Mr. Tristine: My name's John Tristine, I live at 56 Armstrong Road. I'm a this property here

Mr. Glover: You're up to this property here

Mr. Tristine: Yes, I don't have a problem with him building a house there. I do have a problem with the driveway right next to my backyard here. I would prefer the house and the driveway to go up along this way and stay away from my property if possible. I don't see why it couldn't be put here rather than put over here where the driveway's, because that's my recreation area. I have a pool back there, kids back there, and it's basically my

Mr. Fitzgerald: do you own this lot over here too

Mr. Tristine: No, that's somebody else, just here. I don't have a problem with the house, I just wish it was over here and the driveway went this way instead of along my fence

Mr. Glover: You'd rather, you'd rather have the house flipped, so that the

Mr. Tristine: yeah, I'd rather have it over in this area here and have the driveway away from my property because I don't want to have cars coming in and backing out, pointing out toward my house at night. That's, that's the only problem I have, otherwise I don't have a problem with him building a house back there, just

Mr. Glover: Is that something you could accommodate?

Mr. Casey: I have no problem with that

Mr. Swift: Yes, we could easily accommodate that, yes sir.

Mr. Glover: But you have no objection

Mr. Tristine: I have no objection to the house if it was just moved over and not against my fence there you know, because I really don't want a car coming in at night. I'd rather have the house on the other end of the property and close to my fence. And this way, you know, if somebody's coming out of the driveway the lights are shining on my house you know, leaving at night, or cars coming in and out

Mr. Matto: Well normally in an R-1 zone, the house has to be 30 feet at least from the property line

Mr. Tristine: Well, okay, he's got a lot of land right, that's what I'm say, if it would be possible to put it over this side and move the road this way

Mr. Matto: If you get your minimum here that everybody else has you would be satisfied with that, or more

Mr. Tristine: I'd like to have more is what I'm saying. Other than that, I don't have a problem with him building a house there

Mr. Swift: It wouldn't be an issue I don't think to plant some evergreen, some pine trees along that line

Mr. Casey: Yeah, I don't think that'd be a

Mr. Glover: Would that, would that serve you too, if they did

Mr. Tristine: That'd be fine, like I said just push it this way a little more toward the outside, the other end of the lot, I'd be a very happy guy

Mr. Fitzgerald: What about hedges?

Mr. Tristine: If he wants to put some hedges, that'd be great

Mr. Casey: Yeah, some pine trees

Mr. Tristine: Yeah, that'd be fine

Mr. Glover: Alright, so you could be a pine tree buffer there so that the headlights don't shine on his

Mr. Swift: Absolutely

Mr. Glover: Alright are there any other questions? (no) Anyone else

Clerk: in favor

Mr. Glover: in favor? (no response) Is there anyone opposed to this? (no response) Alright, we have no opposition. Does the Board have any final questions? (no) Then I'll declare the hearing closed. Thank you.

Mr. Swift: Thank you, have a good night.

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

#408-2 "In the application of Thomas J. Casey of 50 Armstrong Road, Shelton, CT for a certificate of approval for single family house located on the property of the applicant at 50 Armstrong Road, Lot 1, R-1 zone, and which requires a reduction in minimum lot frontage and location of square to not touch the front setback, and minimum setback from the right side yard

The application for variances is approved.

Inasmuch as the applicant cannot acquire additional frontage, and

Inasmuch as the variance allows the applicant full use of a large parcel of land which will provide more than enough area to conform to the standards of the zoning regulations in terms of area,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval of variances in minimum lot frontage from 135 ft. to 29.46 ft. and location of square to not touch the front setback, and minimum setback from the right side yard from 30 ft. to 18 ft., at the above is granted (Section 24, Schedule B, Standards 4, 9 and Section 24.2) 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.”

#408-3 “In the application of Thomas J. Casey of 50 Armstrong Road, Shelton, CT for a certificate of approval for single family house located on the property of the applicant at 50 Armstrong Road, Lot 2, R-1 zone, and which requires a reduction in minimum lot frontage and location of square to not touch the front setback

The application for variances is approved.

Inasmuch as this parcel is a large parcel exceeding 80,000 sq. ft., and

Inasmuch as the applicant cannot acquire additional frontage, and

Inasmuch as this land area would not be used to its fullest without this variance,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval of variances in minimum lot frontage from 135 ft. to 20.54 ft. and location of square to not touch the front setback, at the above is granted (Section 24, Schedule B, Standard 4 and Section 24.2) in this instance.

Stipulation: The applicant shall plant a buffer of trees along side the driveway abutting the adjoining neighbor.

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.”

#408-4 57 Brownson Drive, Edward Miller of 57 Brownson Drive, Shelton, CT is seeking to waiver Section 24, Schedule B, Standard 8 by varying the setback from the rear property line from the minimum 30 ft. to 10 ft. for a 24x30x20 detached garage.

Mr. Glover: Mr. Miller, would you like to give your name and address for the record please?

Mr. Miller: Edward W. Miller, Jr., 57 Brownson Drive, Shelton, CT

Mr. Glover: And would you envision Mr. Salemme speaking here too?

Mr. Miller: Sure

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

Mr. Salemme: Mike Salemme, 40 Golden Hill Lane in Shelton

Mr. Glover: And do you have some pictures, Ed?

Mr. Miller: Yes, oh I'm sorry

Mr. Glover: And some receipts?

Mr. Miller: Yes

Mr. Glover: And these are all your neighbors?

Mr. Miller: Yes

Mr. Glover: Alright, so you're going to add a 24x30 garage on the back of your property, that's what you would like to do?

Mr. Miller: Yes

Mr. Glover: And you're going to do that right at the end of the driveway?

Mr. Miller: It's, it's a few feet in so that you'll be able to park one car here and two cars in here, and we had to keep it over this way to keep it from going into the property line. This is all woods back here.

Mr. Glover: Okay, what does the garage look like? Is it a one story garage?

Mr. Salemme: Uh, it's, the house is an unusual shape, it's got a 22 pitch roof on one side and it's going to conform with that. You can get an idea from looking at that

Mr. Glover: Alright, so you're going to have some rooms above it

Mr. Salemme: There is going to be storage above it

Mr. Glover: Okay

Mr. Miller: Just storage, unfinished

Mr. Glover: Is there a stairway to it

Mr. Miller: yes there is

Mr. Salemme: Yes

Mr. Glover: Is it going to be sheetrocked, insulated?

Mr. Salemme: The main, first floor is going to be sheetrocked and insulated, the upstairs is going to be unfinished.

Mr. Glover: So the upstairs is unfinished. There's no bathroom in it?

Mr. Salemme: There's no plumbing at all, no

Mr. Glover: It's not going to have its own electric meter, you're going to bring electricity from some other structure that's there now?

Mr. Miller: Correct

Mr. Glover: How big are the doors in this?

Mr. Miller: 16 foot, one door, 16 foot by 8 feet high

Mr. Glover: by 8 feet high. And what are you going to park in the garage?

Mr. Miller: two regular private passenger vehicles

Mr. Glover: No, no commercial vehicles

Mr. Miller: No

Mr. Matto: and the roof height is allowable?

Mr. Salemme: It's allowable.

Mr. Miller: What we tried to do is keep the roof lines similar to the roof lines of the home to make it look like it's always been there.

Mr. Glover: Alright, there's no other logical place to put this

Mr. Miller: No, the well is over here and the septic field is over here

Mr. Glover: So you have, there's a septic tank to one side of your house and a well at the other side, so you can't put this in those areas

Mr. Miller: Correct

Mr. Glover: Okay. So this is the only logical and actually the only place you can put this

Mr. Miller: That's right

Mr. Glover: And when you do it you're going to be 10 feet from the rear property line?

Mr. Salemme: Or a little more, but 10 I wanted to use for a buffer

Mr. Glover: Are you assuming that or do you know that?

Mr. Salemme: We know that. It's probably going to be 12, but I just wanted to be safe and we're asking for 10 foot.

Mr. Matto: if you were to go up on the roof with skis would you end up on the other lot, is it lining up that way

Mr. Salemme: No actually because it's just the back corner, the roof pitch has a little more area, so if a kid was to go up there and have some fun he'd still land on

Mr. Matto: He'd be on his own lot

Mr. Glover: The soil in the back goes up

Mr. Salemme: correct, it does

Mr. Glover: So you're going to be building into the bank

Mr. Salemme: Uh, on the right side, yes

Mr. Glover: And when you build this the only part that's going to be non-compliance is the rear corner, the rest of it is in compliance

Mr. Salemme: the rest of it is in compliance, yes

Mr. Glover: It's not like the whole building is in the setback

Mr. Salemme: No

Mr. Glover: or outside the setback, I'm sorry. Ed, any questions?

Mr. Conklin: I think more of it is due to the irregular shape of the lot than anything

Mr. Glover: Right

Mr. Conklin: If it were square, he wouldn't even be here

Mr. Glover: Alright, is there anyone in this room in favor of this application? (no response) Is there anyone in this room who is opposed to this application? (no response) Are there any final questions from the Board? (no) Then I'll 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. Conklin, unanimously voted thAtty. Thomas:

#408-4 “In the application of Edward Miller of 57 Brownson Drive, Shelton, CT for a certificate of approval for a 24x30x20 detached garage to be located on the property of the applicant at 57 Brownson Drive, R-1 zone, and which requires reduction in setback from the rear property line

The application for a variance is approved.

Inasmuch as the lot's irregular shape prohibits the applicant from positioning the garage in a conforming area, and

Inasmuch as only one corner of the proposed structure is non-conforming,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval of a variance in minimum setback from the rear property line from 30 ft. to 10 ft. at the above is granted (Section 24, Schedule B, Standard 8) in this instance.

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

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

#408-5 26 Keron Drive, Nicholas J. Tiberio of 26 Keron Drive, Shelton, CT is seeking to waiver Section 24, Schedule B, Standard 9 by varying the setback from the left side yard from the minimum 30 ft. to 15 ft. for a 20x24x19 garage.

Mr. Glover: Good evening

Mr. Tiberio: Good evening

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

Mr. Tiberio: Yes

Mr. Glover: And do you have some receipts that you notified your neighbors? And could you please give your name and address for the record?

Mr. Tiberio: Nicholas Tiberio, 26 Keron Drive, Shelton

Mr. Glover: And Mr. Tiberio, you want to build a two car garage

Mr. Tiberio: Yes

Mr. Glover: in the back of your property

Mr. Tiberio: correct

Mr. Glover: And when you build the garage you're going to be 15 feet from the property line

Mr. Tiberio: That's what I'm requesting

Mr. Glover: And you're required to be 30 feet from the property line

Mr. Tiberio: correct

Mr. Glover: What's the purpose of the garage?

Mr. Tiberio: The garage if you look at the pictures and the topography I've been dealing with, especially in the winter, very hilly driveway plus drainage problem that's lifting the driveway up, winter has been creating all kinds of ice problems. It's also now taken away the front entrance to my house. The stairway has now dropped almost 4 inches. The back part of the property is the only flat area on this piece of property that I have to the rear. I'd like to utilize my rear entrance to get into the house.

Mr. Fitzgerald: Is this served by sewage or

Mr. Tiberio: Sewer, city sewer, yes sir

Mr. Glover: When you say your rear entrance, you mean you're going to come in

Mr. Tiberio: Where the deck is, I have a rear entrance to the house, a full rear entrance to the house

Mr. Glover: I understand

Mr. Tiberio: But

Mr. Glover: not a rear entrance to the garage, a rear entrance to the back

Mr. Tiberio: No, a rear entrance to the house

Mr. Glover: Okay, fine

Mr. Tiberio: Right now to the back, you see on the back property, I have a hill. I've got almost 50 feet difference in elevation from the lower part of my property to the upper part. It's 4 levels. On the 50 feet no matter where, how I go into the house I have to go completely up. What I'd like to do is change everything to the rear of my house with the garage. The reason I'm requesting the setback of 15 feet is so that I have some area in front of the garage for my vehicle. If I stay within the line it's putting it within almost in front of the garage 8 feet from my house. It will also

Mr. Fitzgerald: Do you have a topographic map there with you?

Mr. Tiberio: Not with me

Mr. Glover: There's some pictures here Jack. I'm assuming you're going to extend your existing driveway to the back of the house

Mr. Tiberio: No sir, that's, if you look at that, that's over almost 50 feet right there. What I'm asking for

Mr. Glover: on this side

Mr. Tiberio: Right on that side straight into the garage

Mr. Glover: Okay

Mr. Tiberio: And actually what the neighbor to the left side requested, what I'm possibly going to do is just

rotate so it's just a straight into the garage, straight in and out of the garage, rather than the angle, which will take the door away from the right side neighbor, that'll just make it straight in and out by rotating this. And also taking it another 20 feet further.

Mr. Glover: Your garage is 24 by 20, isn't it?

Mr. Tiberio: That's correct. The red line is representing the setback

Mr. Glover: But your garage is 24x20

Mr. Tiberio: Correct

Mr. Glover: the, the doors to your garage are they going to be on the 24 plane or the 20?

Mr. Tiberio: The 20

Mr. Glover: The 20

Mr. Tiberio: Correct

Mr. Glover: Okay, so that when you rotate this, you're actually rotating it away from that 15 feet setback

Mr. Tiberio: Correct, well it's, the corner will still touch that 15 foot, but it'll it just be the corner, it'll be much less square footage on it. You see where the setback line is, what it'll be doing is just having less square footage over the setback. Instead of the 15 feet by 20, it'll be far less, the corner will just touch it.

Mr. Glover: will you be able to get by the 21x24 structure on the end of your house?

Mr. Tiberio: Yes, it puts me 28 feet from the front door to the house

Mr. Glover: Will they be able to swing in

Mr. Tiberio: 17 foot, I'll be able to swing in. If I bring it any closer that's going to make it very difficult. But it's the only, this is the only flat area on the whole property. Everything else here is ledge. This is one level, two levels, three levels, four levels, and as you can see by the picture it's

Mr. Glover: Alright, so what, what you're saying is you have a very unusually shaped lot

Mr. Tiberio: Correct

Mr. Glover: that is, that has a topographical problem

Mr. Tiberio: Correct

Mr. Glover: And that you feel that the only spot that you can put this garage in is where your contemplating putting it

Mr. Tiberio: That's what I'm requesting, correct.

Mr. Glover: And is this garage one story?

Mr. Tiberio: Yes, 19 feet to the peak

Mr. Glover: So there's no storage

Mr. Tiberio: No, no, no, it's all truss

Mr. Glover: Okay

Mr. Tiberio: There's no attic in it.

Mr. Glover: Yeah, fine. Alright, does the Board have any other questions? (no) Is the garage going to be, match the house?

Mr. Tiberio: Exactly

Mr. Glover: siding and stuff like that?

Mr. Tiberio: There's an addition that was put onto the house, it's going to match exactly, that's shingles, roof line also

Mr. Glover: Is there anyone in this room who is in favor of this application? (no response) Is there anyone opposed to this application? (yes) Would you please give your name and address please?

Mrs. Emnie: Both?

Mr. Glover: Yes, if your both going to speak

Mrs. Ermrie: Probably, Karen Emrie

Mr. Emrie: Arthur Emrie

Clerk: With an "E" or an "I"

Mrs. Emrie: E

Mr. Glover: And are you the neighbor over here? On this side?

Mr. Emrie: on the right, yes, that side, yes

Mr. Glover: Okay, so he's not, he's not encroaching on you

Mr. Emrie: Well, if it's not going to be, if it's going to be turned, the garage is there going to be a variance on that side?

Mr. Glover: No, he's not requested a variance on that side, so he's not coming, he's not coming within

Mr. Emrie: If he twists the garage will it be a problem as far as footage there?

Mr. Glover: No, not for you. You mean to the side line?

Mr. Emrie: Yes

Mr. Glover: No, he hasn't asked for that and he's on record as saying this is the only flat part that he can put it on so he can't go closer to you, because if he comes back I'm going to say didn't you say that was the only part that you can put it on. So no, the answer to your question is no, he's not going any closer to you. He's encroaching on whoever's back here.

Mr. Emrie: I understand that. I just think it's a little too much for that size property, too much structure for that size property.

Mrs. Emrie: I think that's our, we're more concerned with cosmetic

Mr. Emrie: and driveways and everything else

Mrs. Emrie: You know, we're talking half acre properties and I just can't see a need for a four car garage on a

half acre property. You know, I don't know of anyone that has a driveway or garage in their backyard and the people on the Broc Terrace Ext. are going to be more affected by it because their property is there, it's a ranch, and on the backyard is very narrow and then they have a strip this way

Mr. Glover: On the Broc side of

Mrs. Emrie: Yes on the extension, Broc Terrace Ext., it's a dead end street. And so, no matter what way they look at they're going to see garage, you know, and then even across the street, our garage is basically is kind of right at their front window when they go out of our driveway. And now Mr. Tiberio's is going to be, you know, in other words these people across the street are going to have two driveways, you know, at their front window. So basically, I think, and I don't understand, we've never done this before, I don't even understand that a variance that, compliance is 30 feet and now make it to 15, I don't understand

Mr. Glover: He has to give us an exceptional reason why he can't

Mrs. Emrie: to, to do this, yeah

Mr. Glover: Right

Mrs. Emrie: I mean,

Mr. Emrie: All our houses are, on our street are all garage in the front or underneath the house

Mrs. Emrie: we're a typical

Mr. Emrie: it's a typical, what you want to see. You don't want to see other things in backyards and other stuff

Mrs. Emrie: You know, and we're up a little, we're a little higher

Mr. Glover: yeah, the road goes up doesn't it?

Mrs. Emrie: Yes, it's a big hill

Mr. Emrie: and he's below us

Mrs. Emrie: We're, you know, up a little higher so that therefore, you know, bedroom windows and, you know, that kind of thing and the people like on Broc Terrace Ext. like I said, I mean they're going to be looking at you know, a garage in their backyard basically.

Mr. Matto: These are people that their properties touch his property also

Mrs. Emrie: Yes more, I think they're more affected than we are actually because it's a ranch and they're

Mr. Matto: and they touch his property also

Mrs. Emrie: Yes, absolutely, yes

Mr. Matto: Have you written letters to these people?

Mr. Tiberio: They've been on the property and they've expressed their concern

Mr. Matto: but I mean they touch your property, did you send them

Mr. Tiberio: Yes, and they walked the property also

Mr. Matto: yeah, okay

Mr. Tiberio: As a matter of fact, I was with them today to go over any other concerns and their only concern was the rotation on this side the property owner, and the property owner to the rear was only concerned that I was not going to put apartments in the, in there. It was just going to save me from putting it closer to the house and have, having the driveway right up, paving right up to the property and to the rear

Mr. Matto: So they're obviously not against it

Mr. Tiberio: They're not against it, they just wanted the rotation of that, that's the concern they expressed. If I turn, if put the, if I put the garage over here then I'm just going to have the driveway to the side and the doors facing the back, use this as parking and pull into there, pull out and go out. This was just letting it come straight in. I'm going to have the driveway over here. And this will probably be closed off eventually. Maybe just a piece in the front to utilize that.

Mr. Glover: What will you do with the existing garages?

Mr. Tiberio: Well, eventually I hope to maybe close those off and make that part of my basement.

Mr. Glover: and take that driveway out?

Mr. Tiberio: That driveway's probably going to come out anyway. It can't be repaired because there's natural water that comes in here. If you look at the photograph, the driveway's just lifting up. When it rains, all the water just comes out of here and they told me the curtain drains really aren't going to, the whole property is ledge and the ledge is actually exposed. If you look in the picture, you'll see spots. The ledge is actually exposed right here.

Mr. Glover: Will you be able to get your driveway through there?

Mr. Tiberio: It will be on top of the ledge, it won't sink.

Mrs. Emrie: And that's another problem, as far as blasting goes. Years ago they were blasting in the area and, you know,

Mr. Tiberio: We won't blast, that's cost prohibitive

Mrs. Emrie: I can't imagine if that was the case, you know, being right next door, I can imagine that would be a real disaster.

Mr. Conklin: This and the existing garages, the new and existing are going to be strictly residential, no commercial use

Mr. Tiberio: No commercial use, no

Mr. Glover: alright, is there anyone else in opposition to this application? (no response)

Mr. Tiberio: Is that one your copy or, I think that one's my copy

Mr. Glover: It's mine now. Once you give it to me it's mine, sorry. Do you need a copy of it?

Mr. Tiberio: No

Mr. Glover: Okay, I mean you have, I have two copies now. I have one that was with the application and the second one you showed you. Any final questions from the Board? (no) Alright, then I'll declare the hearing closed. Thank you.

Mr. Tiberio: Thank you.

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

#408-5 “In the application of Nicholas J. Tiberio of 26 Keron Drive, Shelton, CT for a certificate of approval for a 20x24x19 garage to be located on the property of the applicant at 26 Keron Drive, R-1 zone, and which requires a reduction in the setback from the left side yard

The application for a variance is approved.

Inasmuch as the parcel is an irregularly shaped lot that is topographically distressed, and

Inasmuch as it is the only place the garage can be place on the property due to the topography,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval of a variance in minimum setback from the left side yard from 30 ft. to 15 ft. at the above is granted (Section 24, Schedule B, Standard 9) in this instance.

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

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

#408-6 Bridgeport Avenue, Map 105, Lot 40, PBS Enterprises LLC c/o Dominick J. Thomas, Esq., of 315 Main Street, Derby, CT is appealing a decision by ZEO for failure to certify pre-existing non-conforming lot as a building lot.

Mr. Glover: Atty. Thomas would you like to give your name and address for the record please?

Atty. Thomas: Attorney Dominick Thomas, Cohen & Thomas, 315 Main Street, Bridgeport, get it right, Derby, CT for the applicant PBS Enterprises who own property that is question today which has a deeded 15 foot easement to Bridgeport Avenue.

Mr. Glover: Are you, you are appealing a decision from the Zoning Enforcement Officer

Atty. Thomas: Correct, which is why there’s no need to post or publish

Mr. Glover: You did need to post it and you did not need to take pictures of it

Atty. Thomas: What I have for you so you can understand what we’re talking about, is Live Earth maps showing you the site. For those of you, I have a couple of them, for those of you that are familiar with the, with the streets there it’s, that side street you see coming out is Sullivan Avenue. And here’s a second one from a different angle, it’s a little, it was taken on the 3-D, printed off the 3-D version so it’s a little bit more head on, but they’re both basically showing the same four lots. And my apologies for not having multiple copies of this, this is the Assessor’s map. You can pass it down so orient yourself. There are, this is a, a situation where my client went in and purchased two lots in 2006. The two lots they purchased were the one that is outlined in black on one of the aerial photographs that you see, and the adjacent one going toward, I guess the best way to say it, downtown Shelton, would be the one where you have, there’s four lots here and you see three houses, they purchased the one in between the lot and what you see as a parking lot. Okay? It’s where they purchased it

Mr. Glover: The one with the brown roof in the front

Atty. Thomas: Right, exactly. That's what they purchased. The day before they completed the sale, they went to Planning and Zoning and Planning and Zoning has a form, which I think you have attached to the appeal, and they went to Planning and Zoning and asked if the lot was a pre-existing non-conforming building lot. The deeds on it date back to the 40's and 50's, these three, those three houses that you see date back into the, as best as anyone can be determined probably immediately post World War II, you know late 40's maybe early 50's. And they have a deeded 1954, all of them have a deeded 1954 easement for both utilities and access to Bridgeport Avenue. None of them ever had access to Bridgeport Avenue, none of the four lots, as you can see by the Assessor's map they're all landlocked by the parcel in front. Um, at that time the ZEO signed off saying it was a pre-existing non-conforming lot, therefore eligible for a building permit as long as it complied with the zoning requirements for setback and everything for a non-conforming lot

Mr. Glover: As long as the structure

Atty. Thomas: The structure, I'm sorry, the structure complied with it. They purchased the property, they rehabbed the existing house, sold it and then decided to sell the other lot. When the individual entered into a contract with them, it turned out that his lawyer was the Corporation Counsel, Tom Welch, who then informed him well, there's this ordinance 35, I think it's 33-34, I'm sorry, sub G, and this ordinance basically said, and I have a copy of it here for you, but it basically says, it defines frontage as the requirement of 20 feet between the boundary and a, and a, a city street. Two regulations, two sections thereafter it states that the source of this ordinance is Connecticut General Statutes, 8-27, which I have a copy for you. Connecticut General Statutes 8-27 is a statute which basically says, gives the permission of a town to pass ordinances which ordinances are for the purpose of, for safety and welfare of preventing the issuance of building permits for the erection of buildings or structures on lots abutting unaccepted highways or streets. So, my position was that, and that's why I'm here before you, because that's where you have to, you have to go to your Board when the ZEO acts, because what happened is when we went back in again, despite the fact that we had ZEO Tisi's, um

Mr. Glover: determination

Atty. Thomas: determination, we went in and ZEO Dingle based on the opinion said no. Now I will tell you this, there is a zoning regulation that makes reference to the ordinance. And there was a suggestion that we could simply come in, because it's totally confiscatory you know as it exists, and vary it. But it does no good because the ordinance is a Board of Alderman ordinance. My position is that the ordinance applies as it states in the statute, because the ordinance as you can see and I wish I had made copies for all of you, but you can see from the ordinance, it clearly states in there that this section is enacted under the provision of Section 8-27 of the General Statutes. And that section refers to unaccepted city streets, or paper roads. For those of you that, for instance might be familiar with Oxford, this is a very significant thing that you would have if they passed an ordinance, because Oxford is constantly throughout there are these paper roads that were developed by what they call wood roads. That were developed by the industries down here who bought properties up there and they went up there and cut wood. And there were these roads and they got names and they were called paper roads, and the opinion is that they're not city streets. In this case here, we have four lots that basically pre-existed zoning. The four lots were given a right of way to, in the deed, to, and there's no dispute of that, to Bridgeport Avenue. Subsequent to that point, as you can see from the photographs, the driveway to the four lots was actually paved. It was actually repaved again by our clients once they purchased it and they renovated the house. The driveway is used by the three existing houses. Uh, our position, and again I discussed it with Assistant Corporation Counsel Sous, and I don't know whether you've had communications with him, but our position is that the ordinance, if it is to remain where it is, does not apply because this is not a situation where we are asking for a certificate of zoning approval as our step to go for the building permit based on a lot that abuts a paper road, or a, as the statute says, an unaccepted highway or street. We don't abut, we abut four other lots and we have a right of way, an easement that's a right of way. So therefore, if the ordinance is to remain the way it is, then that would be the, we felt this was the most appropriate way to approach it and say it simply doesn't apply to us. If the ordinance is determined to apply to us, which I don't think it does because the language in the statute is clear, then it would be totally confiscatory. The town would be taking it even though, strangely enough in this case, there are three existing houses on the property on a paved driveway. So there is no question that this is an approved road, I'm sorry, there's no question it's an approved lot and there's no question that there's an existing right of way that is recorded on the land records and the easement document from 1954, I believe. So, our trail here is because we had to go back to Mr. Dingle, he then checked off the "No" box on the form and at that point it's our

requirement to appeal to a, to a, this Board. I will tell you one other thing that I discovered. In looking at it there are other towns that have acted under 8-27, but I haven't found anyone that put the ordinance in their ordinance book. They put the ordinance, the regulation, in their zoning book, which would then allow for the logical way to assume, and I would be before you for a variance, alleging that there is no safety concern obviously because you have already three houses and a paved driveway, there is no health, you know, there's perfect access for emergency vehicles and it would be totally confiscatory. But, Shelton chose to put it in the book, the black book of ordinances.

Mr. Glover: Alright, you have, you have a driveway that services three existing houses now

Atty. Thomas: Right

Mr. Glover: And it goes by two houses and there's, there's this vacant pre-existing non-conforming lot

Atty. Thomas: Right

Mr. Glover: and then to the fourth lot that your client renovated and sold

Atty. Thomas: Yes

Mr. Glover: Okay. So at the present time there are three houses that someone deemed is safe and this right of way is sufficient to serve them

Atty. Thomas: Yes

Mr. Glover: Okay, the question then becomes can we do a fourth lot and use that right of way, the same as the other three are, I understand what you're, but that's what you're in affect doing

Atty. Thomas: Uh, the use issue at this point is something that would follow after you acted, because I mean for instance, we still have to comply with all the requirements of the 10 foot setbacks, you know, we have to comply if we're going to use it, we have to do all that

Mr. Glover: But it is a pre-existing non-conforming lot

Atty. Thomas: Oh yeah, there's no question about that

Mr. Glover: And there's another lot that's in front of it that doesn't belong to these people, that fronts on Bridgeport Avenue

Atty. Thomas: No, you're right, that's Roanik, I don't even know if it shows it on the, when I gave you the

Mr. Glover: It shows it on the Assessor's Map

Atty. Thomas: Yeah, the Assessor's Map, it's Roanik Enterprises

Mr. Matto: If that, if that lot were beyond the last structure, that's one issue. If the lot is prior to the last structure on that road and gets driven by all the time, it makes no difference even who owns the road, that guys got the right to use it.

Atty. Thomas: Yeah, I mean there's no question of the right to use it. The 1954, I think it was, easement, basically gave all of these lots two things. It gave them the right to put easements, I'm sorry, utilities within that 15 foot easement of ingress and egress; plus it gave them the right of ingress and egress to Bridgeport Avenue.

Mr. Matto: Plus they got the right to repair it if they'd like

Atty. Thomas: Right, and which is what they've done. The, my whole point is that Statute 8-27 refers to lots abutting, you know, unaccepted city streets. This is not one of those situations where a lot's on a, you know,

a paper road, for lack of a better word a paper road. This is a lot that has, that's abutting four other lots and, and has an easement that says together with the right in common with others to pass and re-pass on foot and all manner of vehicles upon a land of the grantor lying southerly the land herein conveyed and said right being 15 feet in width measured from the westerly boundary of it, and then it goes on to describe it, and it describes giving all four of those lots that, giving the fourth one a 15 foot strip across the other three, giving the third one a 15 foot strip across the other two and so on down the line to get everybody to Bridgeport Avenue.

Mr. Glover: Dominick, the problem here is the ordinance. That's the problem, which is a Board of Alderman ordinance

Atty. Thomas: Right

Mr. Glover: which we don't have the authority to waive

Atty. Thomas: Right, exactly

Mr. Glover: which we don't have the ability to waive, however, the reason that you're here is you're appealing a decision of the Zoning Enforcement Officer

Atty. Thomas: saying that the ordinance doesn't apply

Mr. Glover: And from your testimony, one zoning enforcement officer said that it, that it complies

Atty. Thomas: correct

Mr. Glover: and based on that knowledge your client bought the property

Atty. Thomas: correct

Mr. Glover: and he repaired one house and ended up with a parcel of land, well non-conforming, a pre-existing non-conforming lot which he wishes to sell

Atty. Thomas: Correct

Mr. Glover: and at that point another zoning enforcement officer said it wasn't a lot

Atty. Thomas: It, no, he did not say it wasn't a lot, no one has ever said that

Mr. Glover: well, he said it didn't comply because of the ordinance

Atty. Thomas: he said it didn't comply to get a building permit because of the ordinance

Mr. Glover: because of the ordinance, okay?

Atty. Thomas: yeah

Mr. Glover: So the hardship on your client is the difference in opinion on two zoning enforcement officers

Atty. Thomas: If I was here for a variance, that would be it. I mean, I'm not here for a variance, it's not a question, I'm really here

Mr. Glover: You're here to appeal a decision of Tom Dingle

Atty. Thomas: decision for a legal, this is what as affectionately refer to what you people sitting as the appellate court, rather than the, your normal variances, I wouldn't expect a decision, I mean, from you today. Certainly, I would expect you to ask for Corporation Counsel's opinion on it, because my position is that when you read the ordinance as it sits, and when the ordinance says unequivocally it is based on 8-27 and when 8-

27 says any ordinance passed under this regulation pertains to those lots that, you know, to prevent building permits for safety reasons on lots, on unapproved streets that abut unapproved city streets, this is not a questionable lot. This is a lot that has an easement. So my position is 35 whatever the, 34(g) whatever the subsection is in the ordinance, doesn't apply to this lot. And if it doesn't apply to this lot then the action of ZEO Dingle was incorrect.

Mr. Glover: But now the problem with the ordinance issue is that the Board of Alderman has the ability to make the ordinance but they don't have the ability to vary the ordinance

Atty. Thomas: That's absolutely right

Mr. Glover: It's a law

Atty. Thomas: because four years ago they were given the opportunity to look at a modification that would have done it. If in fact your determination is that the ordinance applies to the lot, I'm going to be very honest with you, then you have no, cannot approve my appeal. In other words, if the ordinance applies you don't have, if you say this ordinance applies to this lot, then I lose because, because you can't vary a Board of Alderman, you can't vary a town ordinance

Mr. Glover: But you're not asking me to vary a town ordinance,

Atty. Thomas: I'm asking you to say it doesn't apply

Mr. Glover: you're asking me to say that Zoning Enforcement Officer Tom Dingle made a bad decision, made a wrong decision

Atty. Thomas: because the ordinance doesn't apply to this type of lot

Mr. Glover: Right

Atty. Thomas: this isn't the typical situation

Mr. Glover: Has anybody approached the Board of Alderman?

Atty. Thomas: I, not that I'm aware of. I will tell you this, several years ago the issue came up peripherally in a case that I was involved in, not as clear cut as this. This one is so obviously, what the, the other existing house is, at that time I submitted to the Board of Alderman and the Mayor, a draft of the ordinance that permitted the Board of Alderman to vary it upon the recommendation of the Planning and Zoning Commission and the other option suggested was simply for them to abolish their ordinance which would have left Section, and I'm not sure offhand, 41, it's in the book, there is a section that really mirrors the ordinance and then refers to it. That, if that existed by itself, then I would be here before you with my pictures and my placard and everything else applying for simply a variance and this would be a classic variance case because it's, of its confiscatory nature and because of the existence of the other houses. But my position then is, here is that it simply doesn't apply because of the strict language of 8-27.

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

Atty. Thomas: Oh, and the only other thing is if you are going to consult with Corporation Counsel I would request that you keep the hearing open so that I can respond at the next meeting.

Mr. Matto: So all four lots are the owners of the land that is the road

Atty. Thomas: No, all four lots have an easement over a portion of that. The longest easement is the fourth lot, the last one. Then the third lot has an easement over the other two and the, and the property going down to Bridgeport Avenue

Mr. Matto: but the easements are all over these four lots

Atty. Thomas: The easement's over the four lots and then over the property going right down to Bridgeport Avenue

Mr. Matto: so if the four lots were one person he owns the whole road

Atty. Thomas: At, at some point I'm going to assume from looking back in the 30's or 40's somebody may have owned the entire piece back then. And it's a piece by the way that's split by the commercial and residential zone. That's probably why it, what happened happened. Bridgeport Avenue being commercial, the lots in the back being residential and they have, those lots in the back by the way, have no frontage or no access to a road because in back of them is the City of Shelton Intermediate, old Intermediate School property.

Mr. Glover: Is the parcel in question in a split zone?

Atty. Thomas: The parcel in question is split. If you look at your

Mr. Matto: right now

Mr. Glover: Yeah R-1 and C

Atty. Thomas: It's R-1 and CB-2

Mr. Matto: is now, but more than likely this is before zoning

Atty. Thomas: Oh these lots, yeah, it would be before zoning

Mr. Matto: there was no zoning then.

Mr. Glover: Alright, any questions from the Board? Alright, I'm going to hold the hearing open so that we can discuss it with the Corporation Counsel

Atty. Thomas: Assistant Corporation Counsel

Mr. Glover: Yeah, the Assistant Corporation Counsel because Tom Welch

Atty. Thomas: was disqualified

Mr. Glover: was disqualified. Alright, we're going to continue this.

Atty. Thomas: Thank you.

#408-7 163-169 Coram Avenue, DML Development LLC, Richard M. Licursi of 7 Nod Hill Road, Oxford, CT is seeking to waiver Section 24.1, Schedule B, Paragraph 2, Line 2, by varying the minimum lot area per dwelling unit from 3600 sq. ft. to 1581 sq. ft. for a multi-family dwelling.

Atty. Reale: Good evening. Attorney Matthew Reale on behalf the applicant who is DML Development, LLC. Along with me this evening is David Martin a member of that LLC. He drew the short straw as his other member of the LLC is on vacation with his kids. I have site location photos and photos of the unit in question, along with adjacent neighbors certified mailings, and a brief, brief memorandum supporting the position of the applicant.

Mr. Glover: This is up by the old Rasbach Studios

Atty. Reale: It's actually adjacent to the, what is it, the ceramic studio now.

Mr. Glover: Okay.

Atty. Reale: This application is based upon a request for a reduction of the minimum lot area per dwelling unit. As it exists the property has three units and a lower level unit which would be the fourth unit, if you approve this application would be, is existing as is with two bedrooms, full bath, two exits, separate electric, separate gas meter, only we can't use that unit because we need to come to you for a variance with regard to the minimum lot area. It's a non-conforming structure as is in that the three units require 3600 per unit and there are only 2100, approximately 2100 per unit as it exists.

Mr. Glover: Alright, so it is presently a three family house

Atty. Reale: That's correct

Mr. Glover: And it's your client's desire to finish off the basement into a fourth unit.

Atty. Reale: Actually one step further. The fourth, ostensibly the proposed fourth unit is already finished off. My client purchased the property in 2005 and it had been finished for several years. As far as I can determine, for almost 20 years when they installed the electric, and there's separate electric units to each. So that fourth unit was existing; however, my client never used it as a lawful unit. So actually

Mr. Glover: So there are four meters

Atty. Reale: There's four meters and then actually a fifth electrical meter for the, you know, the electric to the house in total, and then there's also a separate gas meter for each floor or unit as well.

Mr. Glover: Okay

Mr. Matto: Was the fourth meter put in for an apartment, not an owner's meter

Atty. Reale: No it's, there's a separate meter in each unit. There's a top floor, third floor, second floor, lower level. Each has their own separate gas meter.

Mr. Matto: When did the last one go in, do you know?

Atty. Reale: I do not know

Mr. Matto: don't know

Mr. Glover: Has it ever been used as an apartment?

Atty. Reale: My clients have not used it as an apartment, prior to that I'm not sure. But I would assume that somebody put it in, a prior owner

Mr. Glover: Does it look like someone lived in it at some point?

Atty. Reale: Yeah, there's actually photos of the unit that I've submitted to the Board. You'll see it's a, it's a, you know, looks exactly like any other one of the rental units. It's just on the lower level and it takes up approximately half of the lower level. The other three units are approximately 1,000 sq. ft. and this unit is about 500 or so sq. ft.

Mr. Matto: Did you check to see how city hall has it registered, is it as a three family?

Atty. Reale: The tax assessor's office has 4 units. I've attached that to the memorandum.

Mr. Matto: it has it has four units

Atty. Reale: as four units and they've been taxed as four units. So it's essentially, although it's an application for a variance, I think a little more appropriate term would be an acknowledgement of an existing non-

conformity, non-conforming structure. And as it is now it's a non-conforming structure because the three units don't have the requisite 3600 sq. ft. per dwelling unit. It's only 2100, and we would be asking to go down to approximately 1580 sq. ft. per dwelling unit.

Mr. Glover: This a, the fourth unit in the basement, how many bedrooms does it have?

Atty. Reale: It's two bedrooms

Mr. Glover: It's a two bedroom

Mr. Matto: Is it a legal apartment? What I mean by that is, I here you say basement, does it have proper egress, does it have proper windows?

Atty. Reale: Yes it has, it has two exits/entrances. It's ostensibly everything's built to code

Mr. Matto: okay, so it's all walkout basically

Atty. Reale: yep, yep. If you look at the photos of the units it kind of walks you through it.

Mr. Matto: Why do you call it a basement, because there's no basement beneath it?

Atty. Reale: Well I called it a lower level

Mr. Matto: Lower level, okay, which is the lowest level

Atty. Reale: which is ground level, yes, that's correct

Mr. Matto: the ground level and the lowest level. There's no basement

Atty. Reale: It's the lowest level.

Mr. Glover: Well somebody has to read it into the record. Matt, do you want to read this into the record?

Atty. Reale: Can we waive the reading into the record?

Mr. Glover: No you can't

Atty. Reale: Gee, in the town counsel that let us do that

Mr. Matto: You said you had four meters, I see five there, did you take pictures of the wrong house?

Atty. Reale: The fifth, I should have looked at the number before I walked into the house. I'll read the "Memorandum in Support of ZBA Application, City of Shelton" into the record: "The applicant, DML Development, LLC, acting herein by Richard M. Licursi, member, and David J. Martin, Jr., member, duly authorized makes this application for a variance of Section 24.1 of the City of Shelton Zoning Regulations in order to decrease the presently existing nonconformity of the minimum lot area per dwelling unit from 2108 sq. ft. to 1581 sq. ft. (Section 24.1, Schedule B, Paragraph 2, Line 2). The purpose of this application is the approval of a plan to allow an existing addition unit to an existing three (3) unit multi-family dwelling property. If approved, there will be a total of four (4) dwelling units at the property. The purpose of this request is to legitimize and utilize an existing lower level unit as a lawful residential unit. The applicant purchased the property in April, 2005 and at that time the property was set up for four (4) dwelling units, with each unit having a separate meter for electricity service and gas service as well as two separate entrance/exits for each unit. In fact, the tax assessor records identify the property as four (4) dwelling units. (See Tax Assessors invoice attached). Since purchasing the property, the applicant has made improvements to the property that was otherwise in deplorable condition. In fact, there was a long time pending lead paint violation with the Naugatuck Valley Health District that the applicant resolved. The owner has made a commitment to maintain the property in a neat and clean manner, both inside and outside, and come into compliance with the requirements of NVHD and City of Shelton Building Department. Presently, the property stands out as an

exemplary multi-family dwelling house. From a legal perspective, this request meets the requirements established by Connecticut General Statutes 8-6(a)(3) in that, as will be discussed hereinafter, 1) the variance does not substantially effect the Comprehensive Zoning Plan and 2) adherence to the strict letter of the zoning ordinance does cause unusual hardship unnecessary to the carrying out of the general purposes of the zoning plan. Grill v. Zoning Board of Appeals of the City of West Haven, 206 Conn. 362 (1988). With regard to the first consideration, there will not be any negative effect on the Comprehensive Zoning Plan in that the additional dwelling unit will not change the use of the structure which will remain a multi-family dwelling as permitted in the zone. In addition, there will be no structural change to the existing dwelling. It has been held that if the use to be allowed under the variance is consistent with other uses in the area and is a permitted use in the zone, the first part of the statutory test is met. Eagan V. Zoning Board of Appeals of Old Lyme, 20 Conn. App. 561 (1990). Moreover, no other variances are sought for this property. With regard to the matter of hardship, it must first be pointed out that the existing dwelling in question is a valid and legally protected non-conforming structure as it relates to minimum lot area per dwelling unit requirements. The present requirements within the Commercial CA-3 District establish a minimum lot area per dwelling unit of 3600 sq. ft. This multi-family dwelling established for residential purposes prior to the zoning regulation was imposed, has 2108 sq. ft. per dwelling unit, which is approximately 1,500 sq. ft. less than the present minimum lot area per dwelling unit requirement. Pursuant to the provisions of Connecticut General Statutes 8-2, the multi-family dwelling is a valid and legally protected pre-existing non-conforming building. Furthermore, it could be reasonably argued that the 4th unit, consisting of approximately 500 square feet of living space as compared to 1100 square feet for each of the other three existing units, existed as part of the lawful nonconformity of the building and applicant, by requesting a variance, is simply attempting to bring the property in compliance with the stated zoning regulations as a non-conforming building, the same as the existing three units. In the event that this application is approved and the 4th unit is acknowledged, the lot area per dwelling unit will be 1580 sq. ft., approximately 528 sq. ft. less than the present existing nonconforming conditions. The granting of this variance and resulting acknowledgement of the existing 4th unit will be in keeping with the surrounding neighborhood which is a mixed use area consisting of commercial, retail and multi-family residential rental properties. Accordingly, it is consistent with the Comprehensive Zoning Plan and will provide continued utilization of the property for multi-family residential purposes. For all of the above reasons, it is respectfully requested that the application before the Zoning Board of Appeals be granted. DML Development, LLC, Richard M. Licursi, Member, David J. Martin, Jr., by Matthew C. Reale of Anthony and Reale” And attached is the tax bill with the four unit designation

Mr. Matto: Who asked you to get the variance?

Atty. Reale: Excuse me?

Mr. Matto: Who asked you

Atty. Reale: The building department's requiring us to get a variance

Mr. Matto: Not Planning and Zoning, the Building Department

Atty. Reale: the Building Department

Mr. Glover: For the purposes of a CO

Atty. Reale: correct

Mr. Matto: Did you go to Planning and Zoning?

Atty. Reale: No

Mr. Conklin: Where is this on record as a three apartment building?

Mr. Glover: It's as four

Mr. Conklin: Well that's why I'm asking, who's determining that it's three?

Atty. Reale: There's three C.O.'s in the building department, that's why I'm here to get the authorization

Mr. Conklin: okay, the building department only has three C.O.'s on record as, even though the tax assessor, how long has it been taxed as a four unit

Atty. Reale: As long as my client's had the property, since 2005. I imagine prior to that as well. And in order to use that luxurious apartment in the pictures that I showed you, I need the approval here prior to going to the Building Department to get a C.O.

Mr. Matto: I don't see Gerr, why he needs, to make it legal as they're saying, I don't see why he needs a variance because, you know, what's stating an apartment, if an apartment's 800 sq. ft., 900 sq. ft., it's sufficient, it don't have to be 1600 sq. ft.

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

Mr. Matto: I'm just wondering why he's not just going to Planning and Zoning

Mr. Glover: He's going, his variance is for the minimum lot per dwelling unit

Mr. Matto: minimum lot per dwelling unit

Mr. Glover: Right, by the code

Mr. Matto: but when it was built there was no such thing

Mr. Glover: I understand

Mr. Matto: Okay

Mr. Glover: Right now he's supposed to have 3600 sq. ft. per dwelling unit and he doesn't have that, what he has

Mr. Matto: Well who, who says that?

Mr. Glover: That's the zoning code

Mr. Matto: The zoning, okay

Mr. Glover: And right now he has, the way it is he has 2100 sq. ft., he does not comply now with the, with the zoning code

Mr. Matto: Did he, comply 50 years ago?

Mr. Glover: Probably, because there was no zoning

Mr. Matto: Before there was no zoning. Alright so suddenly, so everybody that, that was okay 50 years ago might have a problem and have to get a new, you know, it's ridiculous

Atty. Reale: I think the issue here is a little bit different in that respect. Because at some point from 50 years ago forward, somebody built this apartment on that lower level or the basement level

Mr. Matto; without a building permit

Atty. Reale: I'm not sure if they applied for permits or not

Mr. Matto: (unclear) the tax apartment does

Atty. Reale: but if I'm authorized, if that unit is authorized by this Board for the variance for minimum lot area per dwelling unit, then I have to go to Building and they'll sign off on, on giving me a certificate of occupancy, presuming it was built properly.

Mr. Glover: Let me ask the same question I asked before. Does it look like, as the owner of this building, does it look like anyone ever lived in here? Does it appear that it has ever been used?

Atty. Reale: Yes, yes it does

Mr. Glover: So it appears that this apartment was used at one time or another

Atty. Reale: yes

Mr. Glover: That, that's

Atty. Reale: Yes, absolutely

Mr. Matto: If that apartment was the pictures you showed us, I could see it was used

Atty. Reale: Yes, absolutely

Mr. Glover: Well, I want to get it on the record. It does appear, although you have never used it while you owned the building, it was there when you owned the building and it looks like someone had used it prior to this.

Atty. Reale: That's correct

Mr. Glover: someone had lived in that apartment

Atty. Reale: That's correct and that's our understanding of the history of that unit also.

Mr. Glover: In addition to that, the Tax Assessor has it as four units

Atty. Reale: That is correct

Mr. Glover: Anybody else have any questions on the Board? (no) Anyone else in this room in favor of this application? (no response) Anyone in favor of it? (no response) Is there anyone in this room who is opposed to this application? (no response) Any opposition? (no response) Final questions? (no) I declare the hearing closed. Thank you.

Atty. Reale: Thank you.

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

#408-7 "In the application of DML Development, LLC of 7 Nod Hill Road, Oxford, CT for a certificate of approval for multi-family dwelling located on the property of the applicant at 163-169 Coram Avenue, CA-3 zone, and which requires a reduction in minimum lot area per dwelling unit,

The application for a variance is approved.

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

Inasmuch as it appears the fourth unit has been occupied by tenants at sometime in the past and has it's own utility meter, and

Inasmuch as the property has been taxed as a four unit dwelling by the Tax Assessor,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval of a variance in minimum lot area per dwelling unit from 3600 sq. ft. to 1581 sq. ft. at the above is granted (Section 24.1, Schedule B, Paragraph 2, Line 2) 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.”

#408-8 Wall Street, Map 117B, Parcel 21, Jeff Purcell of 224 Beardsley Road, Shelton, CT is seeking to waiver Section 24.4, Schedule B, Standard 7 by varying the setback from the street line from 25 ft. to 10 ft. for a 42x38 single family home.

Mr. Purcell: Good evening

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

Mr. Purcell: Jeff Purcell, 224 Beardsley Road in Shelton

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

Mr. Purcell: Here's the five abutting property owners, the receipts. And here's some photographs.

Mr. Glover: Alright, this is a piece of property that's on Wall Street?

Mr. Purcell: Yes sir

Mr. Glover: It's on Wall Street. Do you, do you know, at one point there was a, a variance given for Mr. Savignano, is this part of that parcel?

Mr. Purcell: I do not know. I do believe that the, I brought a Tax Assessor's map that I put together for clarification to show you where the lot that I, that I'm going for the variance on is in orange. The two lots right here I believe are owned by Savignano, different first name for each lot. I think one of them is Greg and one of them is a different name I believe. But I wasn't aware of a variance.

Mr. Glover: Okay, so um, I think that these, this is not part of that situation. So you just purchased this lot not too long ago.

Mr. Purcell: I'm in the process of purchasing it now.

Mr. Glover: And you, when you do this, are you going to live in this house?

Mr. Purcell: That is the plan at this point in time.

Mr. Glover: And this is a single family house?

Mr. Purcell: Yes it is. It's a two story colonial with a two car garage on the first level

Mr. Glover: And you're looking for a setback from the front property line from the required 25 to 10

Mr. Purcell: Yes

Mr. Glover: And everything else complies

Mr. Purcell: Yes

Mr. Glover: And the reason you can't push it back is the topography?

Mr. Purcell: Yes, as, the farther you go back from Wall Street, the steeper the lot in terms of topography. And my engineer, Al Shepherd, you know, we sat down and discussed the possibilities here and one of the things that we wanted to do was have the off-street parking in a garage. And if we push the house back beyond the setback it makes it very difficult to build a garage because we would have to, the farther back we go on the lot the more disturbance we have to make and the more fill we have to, to use.

Mr. Glover: And this lot has always been a separate lot, correct?

Mr. Purcell: I believe at one time it was, you know going back in the deeds, it may, it may have been at one, I think when the people bought this property here, they bought this property as well. And I'm not sure if it was or was not part of the, the same property. But this person who owns this property has owned it for quite a long time.

Mr. Glover: And does he have a separate deed for that piece of property?

Mr. Purcell: Yes

Mr. Glover: Okay, alright, so you're going to be 10 feet from the setback line, which means you're going to be about 20 feet from the street.

Mr. Purcell: Well one thing that I noticed, just to point out, if you look back on the Assessor's map, it seems that the, the way that the actual street, the lay of the street is pushed to one side of the taking. So it may in fact be more than, yeah we may benefit from that from the actual pavement

Mr. Glover: Okay, I understand

Mr. Purcell: You know, the other, the properties on the other side of the street have a much lesser taking between the a

Mr. Glover: but with the, with the 10 feet that you're going back, you'll have at least 10 feet in front

Mr. Purcell: It's at least, this would be the 10 and then it would be a little bit more than 10 to the actual pavement

Mr. Glover: Right, at least 10

Mr. Purcell: yes

Mr. Glover: Okay, and so you have at least 20 feet from the edge of the pavement to the house

Mr. Purcell: Yes

Mr. Glover: 10 feet being yours and whatever being the city's

Mr. Purcell: being the part that's not paved, the city taking

Mr. Glover: So it would be, it would be possible for you to park two cars in this driveway, not in the garage, and not be hanging out into the street

Mr. Purcell: Yes

Mr. Glover: Okay, does the Board have any other questions? (no) It appears you comply in every other way. You comply with the setbacks?

Mr. Purcell: Yes. We have all the required and proposed there. We, obviously we stayed quite a bit from the, away from the rear of the property line from what's allowed. It's more than double I believe

Mr. Glover: So you want to build a single family house and you have a topographical hardship on an existing lot.

Mr. Purcell: Yes

Mr. Glover: Any questions from the Board? (no) Anyone in this room in favor of this application? (no response) Is there anyone who is opposed to this application?

Ms. Rodrigues: I have a problem, um, I was going to have a problem

Mr. Glover: Well you have to give me your name first

Ms. Rodrigues: Oh, I'm sorry

Mr. Glover: Or else I have a problem

Ms. Rodrigues: My name is Kathleen Rodrigues and I'm 113 Center Street, LLC. I was going to have a problem before Mr. Purcell was going to buy this property anyway because if you go up on Wall Street there are no storm drains up there where this property is. And the water comes down from Wall Street and I have pictures here. It's very high up there and as you can see trees, dirt, leaves are coming down onto my property and there is not much property up there where he's buying. But I wanted to show you, I took pictures from roads. This picture comes down from the road. There is a huge gully where the water comes down and there's no storm drain on that road and the water just comes down, right down to my property and it's bringing, it's bringing all the water and everything else down there.

Mr. Glover: You're at 133?

Ms. Rodrigues: I'm 113

Mr. Glover: 113

Ms. Rodrigues: 113/115, if you can see, here's right from the road. That's that, those bricks are the, are the curb there. And it's just, this tree is actually hanging over on my property and my tenants can't park. And the dirt is in my parking lot and you can fall on it and I was going to do this and then you sent me that letter so that prompted me to come here instead. I propose if, you know, if this house does get built, whether it does or it doesn't, if there are storm drains and with the house that does get built that there's, I think they call it how you swale your property so that the water can't come down the hill, and that the, the drains on the roofs go into the storm drains

Mr. Glover: The drains on the roofs here go into underground now

Mr. Matto: That's an issue that will definitely be considered by the city engineer

Mr. Glover: right

Ms. Rodrigues: The man that lives right across the street from this property on Wall Street, his drains come right down so the water comes right across the street and right down on that property and everything just washes right down into my property

Mr. Matto: See if anyone, if anyone goes for a permit on this property, he must go through the city engineer and that's a total decision by the city engineer

Ms. Rodrigues: So there would be storm drains by the city put in

Mr. Glover: No

Mr. Matto: No, the city engineer will look at it and say yes you have a building permit or no

Ms. Rodrigues: Okay, how do we get

Mr. Matto: He's a professional, how you get that is, if he gets a variance he still has to go to Planning and Zoning for a permit and you can go up and make your complaint. But the city engineer you can be assured will check it before the permit is issued

Ms. Rodrigues: Can I go to the city engineer and ask for storm drains?

Mr. Matto: I don't see why not.

Mr. Glover: Sure

Ms. Rodrigues: Okay

Mr. Glover: But I don't think the city engineer has the authority to make him put it in

Ms. Rodrigues: No, I didn't think, no, no, not him put a storm drain but

Mr. Glover: the city

Ms. Rodrigues: the city, so I can go to the city engineer and put a storm drain in

Mr. Glover: Well you can go to the city and ask

Ms. Rodrigues: Ask, I'll ask, yes

Mr. Glover: You can request it

Mr. Matto: Yeah, and if they so no, then he'll probably say no there'll be no house there. It's not our decision

Ms. Rodrigues: Because it just doesn't seem fair that this is all coming down on my property like that

Mr. Matto: Maybe he has an easy answer for it, we don't know

Mr. Glover: Did you want to say something?

Mr. Purcell: Just about the roof drains that they're brought forward. Only the footing drains go back to here. The roof drains were brought forward

Mr. Glover: So in affect the construction of this house helps this woman because right now it's a topographical, it's a soil that comes down to her. You're going to put really a retaining wall, it's a foundation

Mr. Purcell: It's a foundation

Mr. Glover: you're going to put a retaining wall there and you're going to take up some of the area

Mr. Purcell: All of this area

Mr. Glover: Right

Mr. Purcell: and bring it into these rechargers

Mr. Glover: right

Mr. Purcell: which will overflow

Mr. Glover: And probably your garage

Mr. Purcell: there's a catch basin here in the driveway

Mr. Glover: there is a catch basin, okay. You're going to keep your garage above the road, above Wall Street so the water from Wall Street doesn't pour into your garage

Mr. Purcell: these are actually field shadow abatements that we did. So we made sure of, of all the drainage capabilities before we even came here. So, the elevation of the road is 116.5 here, 116.3 here and we're at 117

Mr. Glover: Right. So the construction of this house will probably help her problem. It won't alleviate the problem, but it will help you

Ms. Rodrigues: I realize that

Mr. Purcell: There's one other thing that, just so, just so you know, the tax assessor's map was a little askew with where the properties line up in the back. If this property here actually lines up exactly with the Czechoslovakian Club, your property doesn't, we only touch right there. So whatever's happening back here is on this property. If it's coming this way, then yes it's coming from this property. Just to show you that

Mr. Glover: Alright, is there anyone else in opposition? (yes) Would you come over here please so we can get your name and address and here your opposition?

Mr. Purcell: Here, you can look at that map.

Mr. Glover: You two can't discuss this. You can talk to him outside later, but right now.... Your name please?

Ms. Silva: My name is Fatima Silva, I'm speaking on behalf of my son, Jose Silva, 15 Liberty Street. My opposition to this variance is that there isn't a lot of parking on the street. We've had that problem discussed at this meeting prior from someone else. There is not a lot of parking. That lot is very dangerous. There is actually water coming from that property, a galley that comes from that property down into behind our property, so it's a hazard that, that lot is a hazard as it stands and I don't feel that you can, there's not enough property to be able to push back and only have 10 foot frontage. There's just, it, well I think it's really very expensive to do what he's planning on doing, but aside from that, I believe that the setbacks are not fair because this house would be built, or this garage would be built blocking the front of our home, because it should be 25 feet and now it's going to be sticking out in front of our home. So as you're coming up Wall Street our home will be blocked, instead of being back where it should be.

Mr. Glover: You're talking about the two family house?

Ms. Silva: Yeah, absolutely, aesthetically it's not going to look correct

Mr. Glover: Alright, thank you. Anyone else in opposition? (no) Any final questions from the Board? (no) Then I'll declare the hearing closed. Thank you very much.

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

#408-8 "In the application of Jeff Purcell of 224 Beardsley Road, Shelton, CT for a certificate of approval for a 42x38 single family dwelling to be located on the property of Alan Savitsky at Wall Street, Tax Map 117B, Parcel 21, R-4 zone, and which requires a reduction in setback from the front property line,

The application for a variance is approved.

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

Inasmuch as the structure cannot be placed any further back on the property due to the sloping topography of the lot,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval of a variance in setback from the front property line from 25 ft. to 10 ft. at the above is granted (Section 24, Schedule B, Standard 7) in this instance.

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

#408-9 7 Plum Tree Lane, Kevin Russo of 7 Plum Tree Lane, Shelton, CT is seeking to waiver Section 24.2, Schedule B(3), Definition – Section 5.25 lot area and shape to allow location of 150 ft. sq. on lot on convention subdivision layout for CRD approval within utility easement for a building lot.

Mr. Glover: Good evening. Alright, Ralph, hang on a second. Let's make sure the discussions are outside before you start.

Atty. Lynch: My name is Thomas Lynch and I'm an attorney with law offices located at 63 Cherry Street in Milford. And I'm here tonight representing Kevin Russo who's seated at the table with me. Kevin is the owner of the property located at 7 Plum Tree Lane here in Shelton. And this particular property has been the subject of numerous applications to both the Planning and Zoning Board and the Zoning Board of Appeals, and currently actually is the subject of a certain appeal that's pending in the Milford Judicial District. Just to read it into the record, the case I'm making reference to is docket #CVO84009169 Kevin Russo v. the Planning and Zoning Commission of the City of Shelton. So I'm going to be making reference to past actions and what's brought us here tonight.

Mr. Glover: Is that an ongoing action?

Atty. Lynch: It is a pending action and to be perfectly honest with you Mr. Chairman, the reason we're appearing before you here tonight, and as I'm speaking I'm handing you the notice letters and also the pictures of the sign that was placed. The reason that we're appearing before you tonight, or one of the reasons, is the result of discussions with both your Corporation Counsel and the Assistant Corporation Counsel because it's our belief that if we're successful in asking you to grant this variance, it is going to basically solve the legal question that arose and is the subject of the Planning and Zoning Appeal. So, let me go back to 2001. Meadow Wood Estates was developed by New Horizon Development back in 2001. This is the record subdivision map that was the result of the application that was brought to the board, the Planning and Zoning Commission back in 2001. Meadow Wood Estates is a CRD subdivision and I'm sure you all know what that is, but again, just for the record in Milford we call them cluster subdivisions. You put together a conforming map to show a maximum number of lots that you can have on this piece of property. And then because of topography problems or wetland problems, you can then develop the property to the maximum number of lots utilizing the CRD regulations and having smaller lots. So that's what was accomplished here. Meadow Wood Estates was approved by the Planning and Zoning Commission in 2001 and Mr. Russo owns the single family residence that's located on Lot #7. It's, when you come in from Meadow Street, it's the first house in the subdivision on the right hand side of the street. And as you can see from just a quick purview of the subdivision map, it's an oversized lot with respect to the other lots in the subdivision. It consists of 57,000 sq. ft., and as we all know in the CRD, they like to have 30,000 sq. ft. lots, but if you meet certain five standards that are set forth in your regulations you can actually have a lot that consists of a minimum square footage of 25,000 sq. ft. The ending of my discussion with you tonight is going to show a proposed re-subdivision of Lot #7 to two lots, one consisting of 30,000 sq. ft. and then the remaining parcel which would contain Mr. Russo's residence with 27,000 sq. ft. and that 27,000 sq. ft. lot meets all the zoning standards as prescribed for the CRD.

Mr. Fitzgerald: Is that near the power lines?

Atty. Lynch: Yes, a major issue throughout this whole discussion prior to tonight and also what I'm going to be speaking to you about. So this was the end result. Now, what happened was there was initially in conforming lot, or conforming subdivision map that was presented to the Planning and Zoning Commission in 2001 and Mr. Panico, your zoning consultant, took the position that you, that New Horizon Development could not develop the property into 8 lots because even though the conforming layout showed 8 lots, Lot #7 okay, showed the 150 foot square that is required under Schedule B of your zoning regulations, which is the subject of our application tonight to waive the 150 foot square to have it outside of the overhead utility easement area. And this is a very important point because the contention that I took in our presentation last fall to the Planning and Zoning Board, was that there is nowhere in your Shelton Zoning Regulations that says that the 150 foot square has to be outside of the overhead utility easement area. You do have a regulation that says that for the purposes of calculating minimum square footage of lots, you cannot include the easement area. And one of the things that I brought to the Board's attention and it's an exhibit in that case that I made reference to, is that replete over the town of Shelton, you have numerous, forget about the 125, the 150 foot square issue, there were a total of 10 subdivisions that I recited into the record, Emerald Ridge Court, Wellington Court, Day Break Lane, Meadow Street, a subdivision at 899 Howe Avenue, there was a four lot subdivision on Ridgefield Road, White Oak Road, Webster Drive and Whittier Lane. All of those were subdivisions here in town where the Planning and Zoning Board allowed the overhead utility easement area to be included in the calculation of the lot sizes. The most recent one is the Toll Brothers development on Wellington. I mean the power lines go right through that subdivision and they allowed lot sizes to be based upon the square footage of the entire parcel, even including the overhead utility easement. Now for some reason Mr. Panico took the position here that irrespective of the, the issue of including the lot within the easement, they took the position, the Commission after an opinion rendered basically from Mr. Panico, they took the position that this lot, which is shown as Lot #7 on the conforming subdivision map that you have to submit, that's the first step before you get to a CRD, you have to show that you can layout 8 lots. And the Commission's position was that they couldn't allow that because the 150 foot square for this Lot #7 fell within the utility easement area. Now, I hope this is close enough that you can see. But this swath that goes through the middle of the, the 14 acres is the utility easement for the CT Light and Power Company and the 150 foot square for this lot, Lot #7, since it fell within that area the Commission said that that was not permissible.

Mr. Conklin: How much of that square fell within it

Atty. Lynch: You know what, I would say approximately 1/3 of it. 1/3 of that square

Mr. Conklin: So you could still fit a house in that remaining 2/3?

Atty. Lynch: Well, not only that, you also have an acre of land outside of the easement area. Keep in mind, you can't include the easement area when you're calculating the lot size. And as Bert Shepherd has shown on this map, this Lot #7, it says right here can, the uplands and without the easement area was 40,016 sq. ft. It was an acre of land

Mr. Glover: Yeah, your issue is the determination of 150 square is in

Atty. Lynch: Right. But I was talking until I was blue in the face and tried to be as professional as I could while I was doing it, but I was at loggerheads with Tony Panico because he was insisting under your Schedule B, where you have to have 150 foot square on a lot in an R-1 zone, I was saying to him it's not in your regulations. And it's not. There's nowhere in your regulations that that appears. It's a, it's a leap of faith to go from your Schedule B that says that you need to have 150 foot square on a lot to Section 5.25 of your regulations that says that you can't include easement area in calculating a lot. I mean there's a gap there. A gap of logic and, you know, they denied it. So we filed an appeal in court and met with

Tape had to be changed

Mr. Glover: Ralph, ask your question again

Mr. Matto: I forgot what it was

Atty. Lynch: underground easement or overhead

Mr. Matto: yeah

Atty. Lynch: The regulation says overhead. So after meeting with Attorney Sous and Welch and again with our suit pending in Milford court, the thought was alright, let's try to eliminate that legal technicality that I'm referring to by saying let's get a variance from the Zoning Board of Appeals to eliminate the need to keep the square out of the utility easement area, and by doing so, then all the pieces fall together. Because then you have 8 lots that all meet the minimums, and then we can go back to the Board, modify the CRD special exception that was granted and ask for a re-subdivision of Mr. Russo's lot based on the second sheet that's been submitted to your file. This is his existing Lot #7 on the subdivision map and we've proposed dividing it with a 30,000 sq. ft. Lot 7A and a 27,896 sq. ft. Lot 7B where his present four bedroom colonial exists. And if you look at,

Mr. Conklin: Going back to that, you're subdividing that less than 30,000 sq. ft.

Atty. Lynch: Which is permissible though, in a CRD

Mr. Conklin: That's, now it's permissible, it was not permissible at the time this original CRD was filed, was it?

Atty. Lynch: That's correct, that's true.

Mr. Conklin: So it does meet the, that CRD is a conservation residential development which is developed in its entirety, not just these two lots, so it would still have to meet the 30,000 sq. ft. because that 30,000 sq. ft. goes with that Conservation Residential Development, not the existing zoning laws.

Atty. Lynch: No, you've lost me

Mr. Conklin: Well the existing CRD, at that time the CRD required 30,000 sq. ft. If I remember right there were no caveats, that's, is that for

Atty. Lynch: Our application to the Planning and Zoning Board is to modify the CRD, so that's what makes this permissible. Because under today's

Mr. Conklin: but you are going to modify

Atty. Lynch: Right, exactly. The two applications that we had to the Planning and Zoning Commission, was a modification of the Special Exception that allowed the CRD.

Mr. Conklin: Okay, but aren't we putting the cart before the horse by granting this, before you get the modification?

Atty. Lynch: No, you are putting the gas into the gas tank, because we can't, a good try, but we can't, you can't get to point B without having your point A. And the point A is to have a conforming 8 lot subdivision to be presented to the Board. Mr. Panico's position is well, you can't do it because this 150 foot square falls within the easement area, so we're asking you waive, to vary that. And Rick Schultz and I sat down and put together this application. And I had a couple of different nuances that I was going to put to it and he said no, this was the way to do it. And I hate to keep harping on that issue about a legal technicality, but it really is. It really is and by getting this variance, it then eliminates that technicality and then the Planning and Zoning Board can act on, on its merits as to whether or not this subdivision, this re-subdivision meets the standards that they usually look at for a re-subdivision. Is it going to increase traffic, is it going to increase density, are there any wetlands concerns. Other than that, but for that, this should've been approved in 2001. So we are asking them to modify the special exception that they granted in 2001. It's a two-fold application.

Mr. Matto: Where does that subdivision start? Actually on Meadow Street?

Atty. Lynch: On Meadow Street yeah. It comes in off of Meadow and it comes and cul de sacs back here

Mr. Matto: So both parcels, left and right of that street are a part of that subdivision

Atty. Lynch: Actually no.

Mr. Matto: Okay so it's

Atty. Lynch: Those are houses on Meadow Street

Mr. Matto: Alright, so it's starts after them houses

Atty. Lynch: Yeah, this is the existing subdivision map. So these houses down here

Mr. Matto: They're not a part of

Atty. Lynch: they're not part of the subdivision right

Mr. Matto: And there was how many lots to start, 3, 4, 5?

Atty. Lynch: It ultimately ended up with 7

Mr. Matto: 7 lots

Atty Lynch: 7 lots. Your open space was down here where the pond was. The utility easement area was considered as open space and then there was an additional dedication, this was part of a law suit too because New Horizons actually balked at having to give this extra land to the town, but they lost on that issue. So, so actually there's three areas of open space, the ponding area, the easement area and then this portion which I assume was required as a buffer for these other two houses on here.

Mr. Matto: And Mr. Parcell bought that parcel from the subdivision people.

Atty. Lynch: Right

Mr. Glover: Alright, let me, just so we can be clear on the record. In March of 2003 an application was made to this board by New Horizon Development and the variance was sought was the location of square on the lot within the power line easement

Atty. Lynch: right

Mr. Glover: sounds familiar. And the hearing was held on 3/18/03 and subsequent to that the application was withdrawn

Atty. Lynch: right

Mr. Glover: So we have never rendered a decision

Atty. Lynch: exactly

Mr. Glover: on what you're asking us

Atty. Lynch: and, good point,

Mr. Glover: Hang on. In August of '03 Michael and Nichole Loiz came on the same lot and their variance that they were seeking was from the lot area from the required 30,000 to 27,259 for a building lot.

Atty. Lynch: Exactly, yep

Mr. Glover: that was denied and I believe it was appealed and the court upheld our decision on that denial

Atty. Lynch: Correct

Mr. Glover: Now you're back. You're asking for the same variance that was withdrawn in March '03 and, which we've never rendered a decision on

Atty. Lynch: right

Mr. Glover: never had the opportunity, and it has nothing to do with the square footage of the lot which was denied and upheld in court.

Atty. Lynch: And if I was representing the clients back then, I never would've done that because once the subdivision was approved, you now have a CRD in an R-1 zone and at that point you go by strict R-1 standards and you're asking the court, or asking you guys first to vary, to grant a variance for this and there's no hardship. I wouldn't be able stand before you and claim there was a hardship.

Mr. Glover: Right, and that's what we found.

Atty. Lynch: exactly

Mr. Glover: But I think it's important for this Board

Atty. Lynch: And I'm glad, and I'm glad that you, you laid that out

Mr. Glover: it's important for this Board to know that in, that at no time in the past did we render a decision on what you're asking. It was never denied. It was never approved.

Atty. Lynch: exactly

Mr. Glover: So,

Atty. Lynch: And I'm not asking the Board here tonight to split this lot. I've got to go back to the P&Z

Mr. Glover: I understand. Yeah, but they weren't asking for the split either, they were asking us to consider the 27 and change as a

Atty. Lynch: but in essence it would've been a lot split

Mr. Glover: right.

Atty. Lynch: You know what, you laid it out perfectly. I mean that's the time line and that's exactly what happened. And I wouldn't have advised, I don't know if Roger Spinelli owned it at the time, who is, Loiz is that Roger's

Mr. Glover: It's Roger's daughter

Atty. Lynch: Right, you know, I mean, I wouldn't have done it that way

Mr. Glover: and he, for whatever reason, we never had the opportunity to rule, make the determination on what you're asking for

Atty. Lynch: And based upon what's happened with these other subdivisions, and the fact that my client is carrying an oversize lot and can't, you know all the little legal buzz words about putting your property to the highest and best use, I claim that that's a hardship. I claim that you know, enforcing the regulation here, where it hasn't been enforced in other instances creates, you know, it's a confiscatory hardship.

Mr. Glover: And enforcing a regulation that doesn't exist in the zoning book.

Atty. Lynch: I, that was my argument last fall.

Mr. Glover: Alright, does the Board have any questions? (no) Is there anyone in this room who is in favor of this application? (yes)

Ms. Farrell: Yes, I'm in favor of the application

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

Ms. Farrell: My name is Lynn Farrell and I live at 25 Buddington Park in Shelton. And I'm in favor because I don't see where it's out of conformity with other matters in similar types of property.

Mr. Glover: Okay, thank you very much Ms. Farrell

Ms. Farrell: Thank you

Mr. Glover: Anyone else in favor? (no response) Is there any, is there anyone here who is opposed to this application? (yes) Would you come forward please.

Ms. Sirocco: I came the last time too. My name is Wendy Sirocco

Mr. Glover: Would you give your name and address

Ms. Sirocco: Wendy Sirocco, I'm representing Robert and Anthony Sirocco. I did bring pictures. I'm not really familiar with all this. Okay, I'm just concerned about privacy and the power lines and all that. And I mean, that's my point. It might not be important to anybody else, but it is important to me.

Mr. Glover: Now, you live behind this property?

Ms. Sirocco: I live, no, I'm, his house I believe is like right here. My house is here, his house is right here. You have that big huge house? Yeah. Now at the time that you (unclear) and sent my husband a letter, I was sick, so I didn't even get to dispute that. But I am disputing this. I think it's too close. I like my privacy. I have animals. I have children, I have grandchildren.

Mr. Glover: Alright now, hang on a second, just so I understand, your, your lot, your house is this one that's back here

Ms. Sirocco: Alright, where are we here

Mr. Glover: Your house is the one that's way back off Meadow Street, right

Ms. Sirocco: okay, my father-in-law's right in front, the little white house, and we're right in back

Mr. Glover: So your house is that square, that rectangle right there.

Ms. Sirocco: Yep, this is me.

Mr. Glover: that's your house

Ms. Sirocco: And my father-in-law, I don't even think they have him on here

Mr. Glover: Alright, now his existing house is on the lot right there

Ms. Sirocco: Right, the big house

Mr. Glover: And the, the lot that's in question

Ms. Sirocco: is where the power lines are

Mr. Glover: is up more, it's not

Ms. Sirocco: there's pictures right there you can see where the power lines are

Mr. Glover: yes, I know the area, I know the, I know the property

Ms. Sirocco: right, and that's my concern, the privacy

Mr. Glover: Your objection is you think you're going to lose your privacy

Ms. Sirocco: right and I have animals and you know, we have different complaints here and there of the animals, and your wife I believe was one who helped us with an animal at one point

Mr. Russo: She did yes.

Ms. Sirocco: Yes, thank you. And I've been very sick, so it's

Mr. Glover: Your yard is fenced

Ms. Sirocco: Yes

Mr. Glover: Okay. So your, your only issue is that if this variance is granted you're concerned with your privacy

Ms. Sirocco: right, I mean, where is this house going to go. It's going to go wherever you can see right into my, my

Mr. Glover: If he flips that around I think he can show you better on the.

Atty. Lynch: This house, right now your house is almost behind, if I was going to draw I would say your house is right here. Okay? The new house is going to be further up this way.

Ms. Sirocco: Where's his house right now?

Atty. Lynch: Right there

Mr. Glover: Right there

Ms. Sirocco: His house is right here

Atty. Lynch: that's Kevin's house now

Ms. Sirocco: And where is the power lines?

Atty. Lynch: The power lines are up here, it's not on his property

Ms. Sirocco: Alright, so where the big pile of dirt is, is where?

Atty. Lynch: I don't know about the big pile of dirt, the power lines are not on his property

Ms. Sirocco: Okay, so he's going to squeeze another house next to that big house

Atty. Lynch: He would go on this lot here

Ms. Sirocco: right next to the big house

Atty. Lynch: Yes

Ms. Sirocco: and you don't think that's too close? You don't think that's an invasion of my privacy?

Mr. Glover: It's not a, it's not a, it's not a question of whether it's too close or too far. If he is allowed to construct, if he's granted the variance, he has to build a house within those dotted lines that go around there, that's the setback lines.

Ms. Sirocco: okay

Mr. Glover: And by the zoning regulations, as long as he stays within those lines he is legally far enough away from your property. And so the granting of this variance or not granting of this variance, has no impact on where the house is going to go. Okay, thank you.

Ms. Sirocco: Thank you. That was my understanding thank you.

Mr. Glover: Are you clear on it now.

Ms. Sirocco: I think so yeah, that was my main question, like the last time. Thank you

Mr. Glover: Alright, anyone else in opposition? (no response) Is, does the Board have any questions? (no) Would the Board like me to hold this open to have a conversation with the Corporation Counsel?

Mr. Matto: Yes

Mr. Fitzgerald: I think that'd be a good idea.

Mr. Glover: Alright, then let's continue this until next month and we'll speak with the Corporation Counsel and then come back with, and we'll leave it open so that when I report what he said you can respond to it.

Atty. Lynch: Okay, thank you so much.

#308-5 99 Indian Wells Road, Joseph Martinelli of 99 Indian Wells Road, Shelton, CT is seeking to waiver Section 24, Schedule B, Standards 7, 9 and 13 by varying the required setbacks from the street line from 10 ft. to 6 ft. and from the right side yard from 5 ft. to 4 ft., and maximum floor area as a percent of lot area from 60% to 82% for a residence.

During the work session, the Board upon motion of Mr. Conklin to deny the application at 99 Indian Wells Road, and seconded by Mr. Jones, voted four to one in favor of the motion and denied the application for variances in setback from the side yard in a PDD/R-5 zone, since the Board felt that such a tall structure located so closely to the property line created a problem with the ability to maintain the structure after it was constructed, and more importantly the Board felt that reduce setback would create a safety issue being so close to the adjacent structures.

Approval of Minutes

During the work session the Board upon motion by Mr. Jons and seconded by Mr. Conklin, unanimously voted to approve the minutes of the March 18, 2008 hearing as submitted by the Clerk.

Respectfully submitted,

Loreen Michalak, Clerk