

Board of Zoning Appeals – Hearing Room, Municipal Building 54 Hill Street, Shelton, CT.
Tuesday, August 19, 2008 at 7:30pm

AGENDA:

#708-1 Fairchild Heights Residence Association Inc. – Appeal

#708-6 N. Purchack/Shelton Car Wash at 811 River Road

#808-1 Jay Sanderson at 10 Abbey Lane

Possible Decision on:

#708-4 George F. Sherman at 122 Coram Road, Lot 1

#708-5 George F. Sherman at 122 coram Road, Lot 2

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, Linda Adanti, Phil Cavallaro, Ed Conklin, Jack Fitzgerald and Jamie Jones.

Good evening ladies and gentlemen and welcome to the August meeting of the Shelton Zoning Board of Appeals. We meet monthly to consider variances and appeals. Tonight we have, we welcome back Commissioner Ralph Matto and Commissioner Linda Adanti, Lori Michalak, I'm Gerry Glover. To my right is Jamie Jones and to his right is Phil Cavallaro. We really do have a relatively short agenda tonight. The first thing on the agenda is the Fairfield Heights, or Fairchild Heights Residents Association which is a continuation from last month. When you speak in front of the Zoning Board of Appeals, these are hearings. You're giving testimony. It is recorded by two tape recorders and later on transcribed by our clerk. The tape recorders are relatively sensitive and they pick up noises that are in the hall. So if you're going to have conversations within the hall, please don't. Please go outside and have your conversations. If you have cell phones please turn them off and try to, or put them on vibrate. We need your cooperation so that we have a good record. If you're here for a variance, as I think that only one is, your property should have been placarded. You should have notified your abutting neighbors and you should have four pictures of your property, one of them showing the placard in the picture. If, if you have them we will be able to go on with your hearing, if you don't, if you don't we'll postpone it or continue it until next month when you can. Alright, Jamie do you want to read Fairchild Heights please?

Mr. Jones: Sure

#708-1 804 Bridgeport Avenue, Fairchild Heights Residence Association, Inc. of 46 Hemlock Drive, Shelton, CT for an appeal of the Shelton Planning and Zoning Commission Decision of Certificate of Nonconformity (May 15, 2008): Fairchild Heights Manufactured Housing Community.

Mr. Glover: Alright, um, for those of you who were here last month, this hall is wired with a microphone but it's up on the stage behind us and this Board very often deals with letters, maps, pictures so it's very inappropriate and inconvenient for us to sit back up there and to have communication with you. If at any time you can't hear what's going on in the meeting, because this is a public hearing, raise your hand or move forward. The first one, Fairchild Heights Residents Association, there were a number of people who are interested in that, feel free to come forward, sit around the table or closer to the table. I will direct the meeting and tell you when you can talk or when you cannot talk, but don't, don't sit back there if you have an interest and you can't hear it. Come forward. Alright, Attorney Smith? Do you want to come forward Mr. Lonardo? Rick, are you for the City?

Mr. Schultz: Yes

Mr. Glover: Why don't you come up too. Alright, um, Rick you're representing the Planning and Zoning Commission?

Mr. Schultz: that's correct Mr. Chairman

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

Mr. Schultz: Richard Schultz, 112 Country Woods Lane in Southbury

Mr. Glover: Ordinarily we would have the applicant speak and then the opponent speak. The real opponent here is the Planning and Zoning Commission. We had started this last month and where we ended up last

month is Mr. Smith gave some testimony. Attorney Lonardo, is that correct?

Atty. Lonardo: Yes

Mr. Glover: he gave some testimony and at the end of the testimony Mr. or Attorney Smith, I'm sorry, had asked if he could give a rebuttal and I told him no because it was going to be continued. And I told him we would start there. I'm going to start with Mr., or Attorney Smith, with any rebuttal that he wants to make and then if you have other, another witness if you want to call that one and then Rick I'm going to go to you and ask you questions so you can tell us what happened with the Planning and Zoning. Attorney Smith?

Atty. Smith: Good evening. For the record, my name is Patrick Smith of Zeldes, Needle and Cooper. I represent Fairchild Heights Residents Association. In rebuttal to Attorney Lonardo's argument I would point out that, he had focused in on 41.10 and also had circulated a statute to the Board, 21-68. Both of these statutes, the ordinance rather, in the Shelton ordinances and statute, the Connecticut statute, focus on the replacement of existing mobile homes with other mobile homes that may, excuse me I have a little cold, that may or may not be larger or of a different size. That is not the issue here. The issue here is empty lots that are going to have mobile homes put on them. So 41.10 which says any trailer lawfully existing on the effective date of this paragraph and user occupied as a dwelling may continue to do so, so used or occupied but may not be replaced by a new trailer unless located in a trailer park that complies with the provisions of this paragraph and any applicable ordinance in the City of Shelton. Statute says in relevant part, the replacement of a mobile home, mobile manufactured home in a mobile manufactured home park with mobile manufactured home with the same or different external dimensions that is built in compliance with federal mobile manufactured home construction and safety standards, as amended from time to time, shall not constitute an expansion of non-conforming use. These are off the mark. Okay? We have empty lots that have been approved by the, the Planning and Zoning Commission, 31. These do not justify the placement of mobile homes onto those empty lots. What these are allowing, non-conforming mobile homes lots or parks to do is to replace old or other then existing mobile homes with new different and larger mobile homes. What we have here are empty lots that have been abandoned and intentionally abandoned. And if they've been intentionally abandoned pursuant to 41.5 they are no longer a non-conforming use. I have a witness here, the President of Fairchild Heights Residence Association, who would like to go through the 31 lots in terms of showing you how they've been abandoned and how they've been intentionally abandoned. Under Connecticut law, not only do you have to abandon it but you have to show your intent. The case for that, if you'd like to know it, would be Castera v. ZBA of City of Milford, 41 Conn., AB 77, 1996. So there's two parts. There's a voluntary discontinuance of the use and two, that voluntary discontinuance is accompanied by an intent not to re-establish that use. And I've brought Miss Dickle here and I have a chart if I may use the easel, to show the Board how all of these lots have been, for a minimum of 5 years, abandoned and intentionally abandoned. So I'm just going to grab the board and introduce Miss Dickle. This is Miss Nancy Dickle, the President of the Homeowner's Association, representing approximately 48 of the unit owners in the park. And she's going to speak concerning the specific 31 lots to demonstrate that in fact there was an error in granting the non-conformity and thereby expanding this park's units from 108 to 139, which is approximately a 22% expansion of the amount of homes that can be within this park. Miss Dickle?

Miss Dickle: Okay, good evening to all. I know Patrick started off with the map and I have about 20 pictures that I have labeled with the addresses and that will show discontinuation. The photos itself will prove that they've been paved and otherwise been altered, changed in use, by the intention of the homeowner, I mean of the landowner. So let me start off by saying good evening to all of you. I'd like to begin tonight first by addressing the Chairman, Gerry Glover, and members of the Zoning Board of Appeals, our heartfelt thank you for understanding concerning the recent loss of my mother and allowing me the opportunity to speak this evening about the decision of the P&Z, Planning and Zoning, concerning non-conforming use status of Fairchild Heights, Inc. It's essential that the ZBA understand that it's never been the intention of the homeowners association to prevent Fairchild Heights, Inc. from operating his business. It's unfounded to think that I personally have an agenda. Let me make it clear, I've resided in this community for 31 years and right tonight I do not have a lot that is in question. I am here because the proposed 31 additional mobile home manufacturers, they will greatly impact and affect my neighbors, my friends and my community. Now based on the input from residents, the new homes would have a negative impact. They would not enhance our quality of life. I hope tonight that you will acknowledge and have the consideration for our convenience, safety, property values, public health, welfare and what could become a serious overcrowding issue. Now first of all, I want to give you a little background so that I can show you exactly how this came all about. So I'll present you a letter, each of you, I hope there's enough, that was dated April 18, 2008, written by Richard

Schultz on inspection on the subject property with the owners to document conditions of our community. I'll give enough chance for each one of you to get a copy, so that way you can look under because I turned right to the page for you so you wouldn't have to flip it. Under findings, Page 2, produced photos that were taken January 2008 and many were taken August 2008 of this year to show the fact that it still exists presently in our community. Okay, now, I've labeled them to try and not make so much confusion. Okay? Now, here you can start and you can just go about and do, because like I said I put sticky labels and I tried to do it. Now, this has a big bearing on the proposed non-conforming law that he's trying to propose because it will impact our community by bringing in new homes. Alright, now, first of all, it was stated that there was no proper street sign identification posting. Alright, now if you look at Exhibit 1, or whatever, you can clearly see that posting anything on a utility pole is illegal. And I also, if you take the next page, there's a statute that says Section 23, 65a of general statutes, it carries a \$50 fine, which means it's illegal and it's happening in our community. There's pictures there that shows evidence of junk yards and storage conditions and with the new homes an increasing garbage, and we already have an existing issues with rodents and skunks. We have only one fire hydrant located in front of the park to serve the current homes, not let alone the 31 new additional ones if granted. Fairchild Heights, Inc., is very much aware of road conditions, concerning pot holes, drainage, cracks and all of our streets are dead end. Due to the growing development on Bridgeport Avenue, it has become a challenge for each and every one of us daily to exit or enter our community. Erosion problems seen on photos. You'll see several of them. There's now a letter here stating for Mr. Doolan himself, and I'll, you can each have a copy of that, okay?

Atty. Smith: Nancy, why don't you state when you took those photographs

Miss Dickle: Well, they're dated right on the thing. They're dated on the front and they're dated on the backs. Okay? So if you simply turn them, right, some are, a few of them are January 2008 and some of them are as current as (unclear). Now I deleted the person's identity to, for their privacy, but in his own admission in a letter to residents dating back February 3, 2004, there were 16 vacancies in Fairchild Heights that he was hoping to fulfill in the next two years, which actually never took place. In the letter, if you read it, it claims that there is not enough room for 32 additional vehicles. So I ask you if 16 vehicles as he states would have caused a problem to keep roads open, then I would like to ask this board this evening to explain 31 new homes times 2 vehicles equals 64 vehicles. Now also based on the fact that our community is half sewer and septic, current maps are inadequate locating pipes. And there's actually, if you look at some of those things you can, you could just on those photos. Now what my concern is, is if a septic system is damaged or a failure occurs it can lead to contamination of storm water runoff with each organisms as E-Coli which can migrate and contaminate surface and ground water supplies, drinking supplies. And number 9, here's a picture of just one, because I don't want to overwhelm you with so much information, overcrowding our community with 3 additional homes will decrease the value of our real estate. Because realistically do you want to move into next door to somebody that you can say hello and shake your hand? I don't think so. So now I'm going to present the photos that are up in question on this map prior to Mr. Schultz's arrival at our mobile home park that were erected. Okay? Now here would be the things and what I actually did for you because I thought it would be a little hard for you to see, there's 29 that are mentioned in this, did you give them the, a copy of the letter? Okay. I have 20 of it not, 20 pictures of the ones that are in question. I have the address and I asterisked that they were discontinued for more than a year. I showed you why I believe it to be a concern and when it was actually, remember, the main word here is discontinue, and with his own intention, okay, Mr. Doolan has altered, changed the use and he's discontinued the mobile home lot. And Mr. Doolan is here this evening and he knows through the years that him and I have been close people who've talked about our community and our concerns. And his main reason why he wanted to separate people was because of the, due to the problems that was arising from neighbor to neighbor because when you're on top of each other naturally not every neighbor loves each other. So I wanted to

Atty. Smith: Nancy, if I may. This is an affidavit that I'll hand to the Board that accompanied our appeal. But for the ease I'll give it out because she's going to move through the affidavit as to each property.

Miss Dickle: These are all mixed up so whatever home you want to start at because right up there it will show you that this is 40 Hemlock, it doesn't say, you can see it says 40 Hemlock, it says 40 at the post office, again I will show you that the driveway was intentionally paved and that it's a small lot, it doesn't take anybody to notice it, how small the lot is and it's been discontinued for more than 1 year, and actually for 10 years. Okay? So if you go through all of the photos there's 20 pictures of 20 lots that have all been discontinued, changed or altered by Mr. Doolan's own intention. It has nothing to do with the residents there, his own intentions okay? So I'll give you the time to look through, if you have any questions and you would like me to

point out anything or give you any kind of information, I'll be more than glad to.

Atty. Smith: I think while he's doing that Nancy, why don't you go through the affidavit and map here

Mr. Glover: Before you do that, you have a number of pictures here

Miss Dickle: And you're more than welcome to have them

Mr. Glover: We have to have them

Miss Dickle: You're more than welcome to

Mr. Glover: The, some of them have sticky notes right on them

Miss Dickle: right in the back of the labels you'll see that when the dates were taken

Mr. Glover: But do they have addresses on them?

Miss Dickle: Yes, you'll see

Mr. Glover: Okay, some of them do and some of them don't

Miss Dickle: Well, the only one that doesn't is the septic tank cover which is on 40 Hemlock Drive. Here let me see, because I know I have them, now see here overcrowding, this is 1 and 3 Fir Drive, Okay? Then over here it says, notice pavement, it says 40 Hemlock Drive and then it will show you what the issue is and that it was discontinued for that amount of years.

Mr. Glover: Okay, hang on a minute

Miss Dickle: Okay sweetheart

Mr. Glover: We need to have, the sticky notes are apt to become dislodged from these

Miss Dickle: okay, so if you'd like me to write on the back of them

Mr. Glover: Well, just I need you to write on the back of them so we can identify them, because if they become dislodged, I'd be surprised if at the end of this situation here if one of the parties doesn't appeal this to a superior court

Miss Dickle: Okay

Mr. Glover: When it goes to superior court, moving this information from here to there is apt to remove these, dislodge these sticky notes and

Miss Dickle: I have them in a computer

Mr. Glover: but you're giving them to me because it's evidence now, and we're not going to be taking anything out of your computer after tonight, so

Miss Dickle: So if you'd like me to

Mr. Glover: you've got, in this paper here, you've got a list of houses and it says #2 Horseshoe Drive

Atty. Smith: allow me to correct that, that's a list of lots

Mr. Glover: Alright, I'm sorry, a list of lots

Miss Dickle: is this mine?

Mr. Glover: Hang on a minute, it's a list of lots with, with what you say is either paved parking space, whatever you think is the evidence that you think

Miss Dickle: this might help if you, I penciled all of the photos that are a thing. The ones that don't have a pencil mark, they were existing on the map here. There's 29 listed here, I have 20 photos. So if you wanted to go through the pencil mark that I have there, those are the existing photos that you have presently. But if you want me to

Mr. Glover: Do you, do you have more to say?

Miss Dickle: Well, I basically would like to just say that due to what I have presented here tonight I can safely say that there is enough cause presented tonight to argue that there has been intention to alter, change the use and definitely discontinue more than one year. And in conclusion, I ask this Zoning Board of Appeals to make the only decision and have the wisdom that this certificate of non-conformity not make allowances for a community already burdened with existing problems. If existing problems are still occurring today, imagine what 31 new homes will add to the mix, and could possibly become a new problem for the City of Shelton. Thank you.

Mr. Glover: Do you have anything else right now?

Atty. Smith: No, I'm concluded.

Mr. Glover: What I'd like you to do is, you can sit here and listen because we're going to talk to Mr. Schultz

Miss Dickle: Certainly

Mr. Glover: and um, but I want you to listen, it's his turn

Miss Dickle: Certainly

Mr. Glover: Okay. And while you're listening could you, if you could put the addresses on the backs of these then we will know what they represent. Alright?

Miss Dickle: will do. And I hope I didn't offend you by calling you sweetheart, I do that to everybody

Mr. Glover: You didn't offend me. Rick? Good evening

Mr. Schultz: Good evening Mr. Chairman. I have made copies of my report to my commission along with exhibits that were part of the report. And I've made two copies of the A-2 survey prepared by the applicant. I'd like to pass out copies of my report and the two copies of the maps because we'll be referring to them. And by the way all parties have copies of everything I'm presenting tonight.

Mr. Glover: Let's do some changing here. Let's have you two move down. This is the same map that she has up on the board.

Mr. Schultz: Essentially, I'm providing copies of all exhibits and correspondence of the record that was presented to the Planning and Zoning Commission of which all parties have a copy of. But let me just go back a little bit on how this all came to be. Our office started receiving calls about activities within the mobile home park including work on the sanitary sewer system, work on existing homes, etc., up in city hall. For the members that don't understand the certificate of non-conformity process, within the City of Shelton we have a mechanism whereby the property owner of a pre-existing non-conforming business activity, etc., has a right to make an application to the Planning and Zoning Commission. And the purpose of that is to officially identify whether or not the City of Shelton recognizes it as a pre-existing non-conforming activity use, etc. I advised the property owner that it was time to make this type of application because the zoning department could only take this so far. I personally have dealt with the certificates of non-conformity including Mohegan Gas Station, which is in a residential zone, Johnson Power Equipment on River Road, before it went to housing and Burre's Farm off of King's Highway, which they repair and restore farm equipment, which is also in a residential zone. So I have personally processed this but for the newer members that haven't dealt with it, it's quite involved and extremely emotional. You know, having a gas station in the middle of a residential zone

and they want to make improvements, that can get your attention. Having said that, they made the application and I took this on as the department head because my staff had never been involved with the certificate of non-conformity, it's quite involved. And what I did is I asked the property owner to undertake an A-2 survey. Very important. It establishes the meets and bounds and for a park like this, this is so much information that would be impossible for the Staff to assemble. So first and foremost this A-2 survey was very critical. It shows you where the roads are. It shows you where the sites are. It shows you where they have their accessory facilities office, where they store their sand, etc. So this is the base map that you really need to look at because eventually you're going to have to refer to this map and say, you know, you collectively have counted so many sites and you're either going to be in agreement with the Planning and Zoning Commission, in total, in part, or what have you, that's your call. Because essentially you're here to determine if the Planning and Zoning Commission, based on my report, made a conclusion that is fair and consistent with the, you know, local zoning and applicable ordinances. So you have, you have the A-2 survey here. I conducted a site walk and if you refer to my memorandum, I'll read it. "The subject properties identified as 804 Bridgeport Avenue contains an area of approximately 13.7 acres and is located in an industrial IA-2 district." All mobile home parks by the way are a prohibited use. Modern zoning started in 1952 and one of the prohibited uses within the City of Shelton is mobile home parks. "The manufactured housing community is a pre-existing non-conforming use and is currently before the Planning and Zoning Commission to officially acknowledge the non-conforming land use and determine the total number of house sites. The original park was established in the late 40's by Mr. Fairchild of Bridgeport. That's where the name comes from. The trailer park contained a total of 151 sites which were served by a private community subsurface septic system. This system was abandoned in 1973 after the State constructed the Route 8 expressway and the City authorized an installation and hookup to the Bridgeport Avenue municipal sewer line. Property subsequently sold to Ward Doolan, in '62 and continues to be owned by family members. Staff inspected the subject property on April 18th '08 with the owners to document as-built conditions of the community, specifically the following site information was established: 1. Staff has determined the total numbers of sites currently existing served by both municipal sewers and electricity and maintained for occupancy is 139." Attached to this document you do have a, a report if you will, from the water pollution control authority. And it's dated January 30th '08 and they recognize 141 hookups. Now, this is important because I have to solicit different departments that are applicable, Water Pollution Control being one. And the sewer administrator indicated to me to put in my report that he recognizes 141 sites. Is that right or wrong? That's officially from his office. Because that's a bone contention that you're going to hear, or already have heard. "2. Staff has further determined that the total number of existing trailers, mobile homes and manufactured homes currently existing within the community is 108 and that 31 sites are vacant. This is a combined total of 139 sites." Once again, another issue as my commission had to determine, as we have to do with all these pre-existing non-conforming uses, is the voluntary abandonment. Very, very difficult. We tried to do it with Shuster's Garage right on here on Center Street and we were advised repeatedly by Corporation Counsel, you know, play this one very carefully because the City has a lot to lose if you arbitrarily or emotionally make a decision like that. And just for your information my Commission backed off on the Shuster Garage. Our future range plans said to abandon that use, but it's not that simple. You just can't use your planning document to say eliminate it. So, my Commission takes this very seriously and they've been dealing with it, especially in downtown where you have a lot of pre-existing non-conforming activities. The owners, okay, "Staff has determined...", okay, finally, "Staff has determined that the sites are adequately served by roads and proper street sign identification," you heard a little bit about that tonight and you're going to have to research that on your own, "there was no evidence of junkyard conditions." I've had follow-up inspections. There are issues that have to be addressed, they're not insurmountable, but they have to be addressed. My department has backed off a little bit because of this appeal. You know, normally when you have an appeal we back off and see how things proceed. So there are some issues up there, the owner is aware of it and I'm sure it will be taken care of. "It is the intent of the ownership to replace the older homes with modern manufactured homes when possible." We've seen the evolution of Woodside Mobile Home Park. You had older homes there. My Commission actually rewrote the zoning regulations to allow the reorganization of that whole mobile home park and that's what you have now. But this different. This is pre-existing non-conforming and they're asking you how many sites are officially recognized by the City of Shelton. "The owner filed a certification of license sure in the land records on 12/17/86, which identified a total of 151 sites." This is attached to this document. This information was reported to Assistant Corporation Counsel and is recognized as an important document in determining the total number of sites. This was brought up before the Planning and Zoning Commission. So you have two important documents that are attached; from the Water Pollution Control and the document filed in the land records. "In conclusion, all of the 139 sites inspected have been maintained including provision for electrical and sewer service hookup and are capable for occupancy." I want you to note, I want you, I wanted to be perfectly clear I did not go out

there with a shovel. I was asked to, through my chairman, by some of the residents did you check for the sewer hookup line and I don't do digging in a situation like this. I have to rely on the, the director of Water Pollution Control. And you're going to have to determine if it's accurate or not, I mean that's your position, just like my Commission did. And lastly, the recommendation. "Based on the inspection of the community, review of all documentation, discussion with Assistant Corporation Counsel, it is recommended that the Commission approve the Certificate of Non-Conformity with the following conditions:" And keeping in mind the City has never officially imposed any regulations up there. We've always had three mobile home parks in the community, Fairchild, Woodland and Sunnyside. Woodland did a complete upgrade. That leaves Fairchild and Sunnyside. And in all likelihood after this matter is cleared up, the owner, which is the same for Fairchild, I mean for Sunnyside, is going to do a certificate of non-conformity. And hopefully it won't come before your board. "1. The total number of sites shall not exceed 139." Once again, it's before you to determine what the number is going to be. "2. All future installations of manufactured homes shall be subject to securing permits from the Wetlands, Zoning and Building department, WPCA and other municipal departments as deemed necessary." One good thing that has happened, we have pretty good communication with the residents that live there and the owner, because work is still being done on occasion without the proper permits, because this is has been going on for decades. You change a, a fuel tank, you know it requires a building permit. You know, a lot of people do it even in single family homes, some things aren't done. But, we, the owner recognizes that certain steps have to take place and that's why that was included. "All remodeling of homes shall be subject to securing a building permit in all municipal departments." Putting on a new roof, just like across the street, putting on siding, installing a shed. I mean these are all little things that you don't think about, but it does impact the quality of life in this community and the owner is aware of it and has agreed to, to adjust. "4. All sheds and accessory structures shall be subject to securing permits. 5. All future installation of propane tanks shall be subject to securing building permits and other departments. 6. Conformance with all applicable State statutes." And lastly, I just want to state that I had to work directly with Assistant Corporation Counsel. He has found laws in the Shelton Zoning Regulations, and these regulations were adopted I believe in the late 70's, as I recall. And sometimes regulations are inconsistent with the State statutes or case law. He believes that may be the case. So, after your decision, we will be working on the amendment of that particular regulation. It may mean repealing the whole thing. It may mean substantial rewriting it, because it's just, it's just not correct in its existing condition. And we all know zoning regulations have to be looked at every year as the laws change, and the way we enforce it. It's also ambiguous, it's hard to enforce. So I just want to make that statement that I did work with some very closely. We have a letter here because my Commission asked me to either attend or write a letter that it reviewed my report and they didn't see anything out of the ordinary that would put the City of Shelton in an awkward position. So, essentially that what's you have. The Commission dealt with this at 2 meetings. They didn't have a public hearing like you're having. They felt good about that in so far as that if this, if the Planning and Zoning's decision was appealed it would go to a public hearing format. So they felt good about that, because it's a difficult decision to make. And you know they have two page agendas. They have a lot on their, on their agendas, and you know, you have new members on our board that have never dealt with the certificate of non-conformity. And in this case it deals with a lot of residents. And it is very sensitive. So essentially that's been an overview. That's what my Commission had to deal with and we all know how the checks and balances work and you're step number 2 and my Commission has complete faith in you. And they know you'll do the right decision.

Mr. Glover: Rick the a, there's been a lot of talk here between the State statute I think it's 21.68 and our Statute 41.5. 41.5 talks about 12 months and 21,

Atty. Smith: I'm sorry, if I may just clarify it, we're talking about 41.10 and 21-68, right Tom?

Mr. Glover: No, I'm talking about 41.5 which deals with the 12 months of discontinued use

Atty. Smith: That's correct, yes

Mr. Glover: okay, discontinued use. I'm not talking about 41.10. 41.5 is discontinued use and 21-68 is a State statute, that apparently also deals with mobile homes. Um, did the Board think about the State statute and our zoning regulations?

Mr. Schultz: Absolutely, that's why I made that comment. I worked directly with Assistant Corporation Counsel and he felt comfortable enough to advise my Commission, based on the State statutes and what were in our books, to go in the direction that Staff was recommending. Remember the Corporation Counsel,

Assistant Corporation Counsel was working with me directly. I was sharing with him what I saw, you know, and what I eventually wrote in my report because we knew that in all probability the Commission's action would be challenged. But I can't go into anymore detail, I mean

Mr. Glover: No, you're not a lawyer

Mr. Schultz: that's right

Mr. Glover: I understand. I'm not asking for a legal opinion. I'm just saying those are the two

Mr. Schultz: Yeah, those are the two

Mr. Glover: that are here. The reason you're here, and this was put on the record last month, is because our Planning and Zoning Commission acts as Zoning Enforcement Officers when they ratify or allow certificates of occupancy. That's why we're here because they, that's the capacity that they acted in. They do make the zoning regulations though and you're a zoning enforcement officer as well as the zoning administrator. When you make a decision on any certificate of compliance, zoning compliance, don't you use the zoning book?

Mr. Schultz: Oh, absolutely

Mr. Glover: Don't you use the zoning regulations?

Mr. Schultz: absolutely, that was, that was spelled out carefully, that there's some uneasiness because of the language and how it may conflict with the State statutes or case law. And that's why we have those two sides before my Planning and Zoning Commission. And it was overwhelming, you know, and it wasn't really a public hearing. They didn't want to have a public hearing. They wanted to make a decision so it could go to the next, the next step if it was appealed.

Mr. Glover: they gave it to us

Mr. Schultz: Yep.

Mr. Glover: So, but typically, as a zoning enforcement officer, you make your decisions based on the zoning regulations of the town of Shelton, the City of Shelton

Mr. Schultz: That's right

Mr. Glover: And the same board that acts as our zoning enforcement officer makes those regulations and they can't break them. Correct?

Mr. Schultz: Oh, that goes without saying.

Mr. Glover: So, if 21-68 which is a State statute, is applicable, how is that, how does that come in conflict with what your Board's trying to do?

Mr. Schultz: That's

Mr. Glover: that's the issue

Mr. Schultz: That comes, that's the whole center of the, of the issue right here. And that's why my Commission didn't want to belabor it. The two meetings turned into three months. You know, Rick go back out do more research with Assistant Corporation Counsel, but they knew this was an extremely sensitive matter. They didn't want to prolong it. And there's, there's never a right answer. That's what I'm here to tell you. There's never a right answer. I remember on King's Highway, you know, some of the neighbors just couldn't believe it. And usually it's the new neighbors, they're not aware of the commercial activity.

Mr. Glover: of what's gone on in the past

Mr. Schultz: And it's just hard to digest. And that's what makes zoning so difficult. It's not always black and

white is what I'm getting at. There's a lot of gray.

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

Mr. Schultz: Also, Mr. Chairman, there's two copies here. One has my notes on it from the field and one is clean. This is what was submitted so it's important that you understand the two, because I put a lot of notes on it.

Mr. Glover: And we have an identical map I believe, marked up that's coming in with red pencil marks in the lots, the applicant feels that are important.

Mr. Schultz: But all parties have copies of these so, the correspondence has been you know, transmitted to everyone.

Mr. Glover: Alright, thank you.

Mr. Schultz: Okay

Mr. Glover: Attorney Smith, is there anything you want to add

Atty. Smith: All I'd like to say is that what is before the Commission tonight if I may say, Chairman and members of the Commission, is the application of 41.5 to the decision made at the lower level of the Planning and Zoning Commission. And the question is whether 41.5 precludes the issuance of the non-conforming use for the 31 lots. As I stated, case law in the State of Connecticut, indicates that not only do you have to abandon it, but you have to intentionally abandon it. And we have set forth in the pictures that are being submitted as exhibits and in an affidavit that each of you received, but was also with our appeal, evidence we believe that showed that we have facts that are in dispute with the findings of Mr. Schultz. And that our facts will indicate that in fact 41.5 prohibits the installation of the 31 lots that were granted in the certificate of non-conformance. I'd also like to point out to the Commission one last thing, and that is 21-68 State statute that allows you to put a larger home onto, in replace of a pre-existing home in a non-conforming mobile home unit lot will not make that mobile home property non-conforming. So it specifically contemplates the fact that conditions and changes in the entire property can or cannot effect whether this is non-conforming or not non-conforming. The non-conforming application, the application of a non-conforming regulations is not limited to the boundaries of Fairchild Heights Resident Park, can be affected by individual lots as is shown in that State statute, and also in 41.10. Thank you for your time.

Mr. Glover: Do you have anything else to add?

Atty. Lonardo: If I may

Mr. Glover: Briefly?

Atty. Lonardo: Briefly, a word not known to attorneys. If I may suggest a slightly different interpretation of 41-10, excuse me, 41-5. Okay? It says no non-conforming use of land, building or other structures, which has been discontinued for a year shall be resumed. And I would stress no non-conforming use as meaning the mobile home park as the non-conformity and not the individual lots. And to support that, I would ask you again to look at your own ordinances, 41-10 which says any trailer parks lawfully existing on the effective date of this paragraph are deemed to be non-conforming and may be continued. It doesn't say any lots are deemed to be non-conforming, it says any parks are deemed to be non-conforming. 41-10.1 says any person operating a trailer park shall submit to the Planning and Zoning Commission, a request for approval of the non-conforming status of said trailer park. So we're asking you to approve the non-conforming status of the park, not of the individual lots, not of the individual number of lots, but of the park itself. And if you accept that interpretation that the park is the non-conformity and apply that to 41-5, you'll see that there's no conflict. No one's ever suggested that Fairchild Heights as a mobile home park has ever been discontinued for a 12 month period. And under that argument, the non-conformity has continued since long before zoning was adopted in this town. Thank you.

Mr. Glover: Thank you. Do the Board members have any questions of anybody?

Mr. Matto: I got a couple questions

Mr. Glover: Go ahead Ralph.

Mr. Matto: Maybe because I wasn't here the first meeting. So how many, creating what year and when it was, what at one time was the most number of units on the property?

Atty. Lonardo: 151, as acknowledged by the State of Connecticut, which licenses mobile home parks

Mr. Matto: Okay, and zoning took place after this thing was established and there was 151 and the land is the same as it always was size wise

Atty. Lonardo: Land is the same size wise, exact same boundaries.

Mr. Matto: And where there were, where there were trailers at one point and a trailer or many trailers disappeared, where the trailer disappeared, was a permanent structure created at that, in that, on that same piece of land?

Atty. Lonardo: What do you mean by permanent structure?

Mr. Matto: Like a, like a shed or building, any buildings

Atty. Lonardo: No, there's still empty, identifiable and you can place a new mobile home on the lot and hook it up

Mr. Matto: right there, right there. Alright, so you have done anything that made the property change whereby that old trailer that was there could still go back there, or a new one, or whatever

Atty. Lonardo: The old one could be placed right on the same spot

Mr. Matto: there's no obstruction

Atty. Lonardo: a new one could be put on it, no obstructions

Mr. Matto: Okay, okay. So for that reason you feel there was 151 before and so as far as you're concerned there should be 151 available spots right now.

Atty. Lonardo: Well actually, 139 were identified at this point as still being lots that have sewer and electric hookup, etc., and water

Mr. Matto: But at the same time, 151 was, was the original amount that were there

Atty. Lonardo: That was the original amount and the water commission is taxing Mr. Doolan on I think 142, but 139 is what we would accept

Mr. Matto: Alright, and if 151 were there, it would be simply a matter of adding some additional pipes for sewer, water, etc.

Atty. Lonardo: Well, some of those, Mr. Doolan says were old 8x30 foot homes, single wides, smaller units, they don't even make them anymore. So you probably couldn't fit a home on some of those above and beyond the 139.

Mr. Matto: Okay, so you feel there's enough there to fit the 140 something you said?

Atty. Lonardo: 139

Mr. Matto: 139

Atty. Lonardo: as Mr. Schutlz recognized

Mr. Matto: They would be normal size units

Atty. Lonardo: They, they make units of appropriate size that would fit on those lots

Mr. Matto: Alright, that's my only questions

Mr. Glover: Any other questions from the Board?

Mr. Cavallaro: Yeah, I have one question. The sites you say have electric and water hookups. Are there like electric meters present on those sites?

Atty. Lonardo: Yeah

Mr. Cavallaro: who's paying the

Atty. Lonardo: the tenants of the

Mr. Cavallaro: Of the unapproved sites or the site without the homes on them

Mr. Glover: The 31 in question

Mr. Doolan: The meters are not turned on

Atty. Lonardo: There are sockets but no actual

Mr. Doolan: There's a meter there, yes, but it's not turned on because no one's paying the bill

Mr. Matto: So that I would think probably would prove that it was, it was in use at one point if the meter is still there

Mr. Glover: It's your application, do you have any final points?

Atty. Smith: No, I concluded my presentation, as long as we're all clear that the, and I believe we all are, that 41.5 has a one year limitation. So whether it was in use at one point in 1998 it disqualifies it, or rather (unclear)

Mr. Glover: Before we close the hearing, to any unfortunate judge who might get this after this Board is through with it, this may have been a complicated issue but it was a little more complicated by what Miss Dickle's personal problems, by attorneys who wanted continuances, by zoning administrators who were on vacation, and although we normally run this as a very clean hearing, the applicant says what he has and the opponent says what he has and then they give a rebuttal, this has been kind of mixed up because it was started and stopped. I think the record will be clear enough but I apologize to any future judge that has to go through this and see things that are repeated and see things that may be out of order. I believe that everyone has had chance to say everything that they want to say. I believe that the Board has asked all the questions that they need to ask and I believe that they have enough information to eventually make a decision on this property. So I believe that you had a fair hearing and I believe that we understand it and I will close this hearing. Thank you all.

Later that evening during the work session the Board, upon motion by Mr. Jones and seconded by Mr. Cavallaro, unanimously voted to table a decision until the next regularly scheduled meeting.

#708-6 811 River Road, N. Purchuck/Shelton Car Wash of 811 River Road, Shelton, CT is seeking to waiver Section 44.3 to allow a message sign.

Mr. Morrison: Good evening

Mr. Glover: Good evening. Hang on a second so we can hear this. Alright, if anyone has an interest in this and they want to come to the front, please feel free to do that. To our, to our obvious newspaper reporters, I don't want to waste your time. We won't be voting on this tonight, so if you're waiting here for that, please don't. But you're welcome to stay right to the end. Alright, could you give your name and address for the record please?

Mr. Purchuck: Neil Purchuck, my home address is 10 Relic Farm Road, Sandyhook, and my business address is 811 River Road, Shelton, CT.

Mr. Glover: Sir?

Mr. Morrison: John Morrison,

Clerk: Morrison?

Mr. Morrison: Morrison. My home address is 5 Chadwick Drive in Old Lyme, CT

Mr. Glover: Hang on one second, as we're seating two more members, so you get the full attention. Let the record show that Commissioner Fitzgerald has rejoined us and Commissioner Conklin has come to the meeting too. Alright, can you show me some pictures and perhaps some letters or some receipts that you've notified your neighbors.

Mr. Morrison: These are the notices to the abutting property owners. There's one here, the top one, we sent the notice to the address on file at the Assessor's office, got the letter back undeliverable at the address the town hall had on file

Mr. Glover: You are only required to send it, they don't have to read it. If they say they didn't get it, well that's their problem. Alright?

Mr. Morrison: Okay

Mr. Glover: Pictures please? And these are all your abutting neighbors?

Mr. Morrison: Yes

Mr. Glover: And the one that was undeliverable was

Mr. Morrison: JEM Realty

Mr. Morrison: And these are the pictures

Mr. Glover: Okay, notice in the window

Mr. Morrison: This is the actual notice in the window

Mr. Glover: That's fine. Alright can you tell us what you want to do and why you can't comply with the regulations of the City of Shelton?

Mr. Morrison: Sure, where this started, this is the existing sign at the car wash, it's doubled sided so you can see it traveling each direction down River Road. What we're trying to do is take this middle section where it says car wash and change it to a message center sign. They could display car wash, you can display a special for oil change. When this all started, the property diagonally across the street, and this is the sign at the Sports Center, this is the sign on the other side of the street and it's done here to scale to show you proportionally how big the sign that we're working within is compared to the one across the street. There was an assumption made that this sign was okay, that this message center would not be an issue at the location, the issue that zoning impacts the location, the height and the area of the sign was not going to be changed, we're going message center because this one across the street and a couple of gas stations in town. This sign was purchased in February of this year at a cost of about \$22,000.00. And not trying to do anything other than be a good corporate citizen, Mr. Purchuck came the normal route to have the sign professionally

installed, get a permit. When we applied for the permit, initially there didn't seem to be any issue with it. There's a difference of opinion even in the, in the town zoning department, land use department, over whether this sign is okay or whether it complied or did not comply with the section of your regulations that speak to moving signs. And we were advised to

Mr. Glover: Let me interrupt you for a second

Mr. Morrison: sure

Mr. Glover: Just to keep the record clear, you showed us a picture of the Sports Center

Mr. Morrison: Yes

Mr. Glover: and you showed us a picture of yours which it says Auto Spa

Mr. Morrison: Correct

Mr. Glover: The Sports Center sign is much bigger than your proposed sign

Mr. Morrison: That's correct

Mr. Glover: What doesn't show in the signs, but we need to put on the record, is that the Sports Center has a message center that says Laser Tag. From the picture we have no idea that Laser Tag Arena is an electronic sign from your picture.

Mr. Morrison: Oh, okay

Mr. Glover: Okay? So I think it's important to your, to your testimony that somebody else in the neighborhood has a bigger sign that already has an electronic message board on it.

Mr. Morrison: Correct, this portion of it has a changeable, animated

Mr. Glover: Right, but we would not know that

Mr. Morrison: I appreciate you pointing that out. And also this sign is 25 feet tall as it was approved by permit when it was done. Our sign is 14 feet tall, also approved by proper permit when it was done.

Mr. Glover: And so you purchased this sign for a great deal of money in February

Mr. Purchuck: Correct

Mr. Glover: thinking that it was, was within, complied with the zoning regulations

Mr. Purchuck: correct

Mr. Glover: and you were saying that within the zoning department the zoning, there was a difference of opinion between the zoning enforcement officers

Mr. Morrison: Correct

Mr. Glover: Did anyone one of them tell you that it was legal or okay or permissible?

Mr. Morrison: there was a pretty heated discussion between them, with a, with a difference of opinion on whether this sign was animated, whether the town had already approved them and whether the town had, the person who doesn't want this sign to be approved feels that the, that the ones that were previously approved kind of snuck through and informed us that the zoning regulations are going to be revised to prevent these in the future. Which to me kind of says that it didn't prevent them the way it is now, and that was the opinion of the other person in the office. And I don't

Mr. Glover: and when did they, when did that discussion take place?

Mr. Morrison: That discussion took place in May of this year when our initial application for just a straight forward over the counter application, it was submitted with the one that didn't seem to have a problem, got bounced back to the, with needing to go for a variance, we need to do it

Mr. Glover: But, am I understanding that at some point they said to you those kind of slipped through we're going to change the regulations so you can't have any more of those?

Mr. Purchuck: Those are on the minutes of the meeting where they declined the sign

Mr. Glover: Okay, so that's actually in the minutes

Mr. Morrison: It is in the minutes, yeah

Mr. Glover: but that, we've had them before but we don't want them anymore and we're going to change

Mr. Morrison: and we're going to change them in the future

Mr. Glover: the law sometime in the future, but up until we don't want you to do it, they're not giving you permission

Mr. Morrison: correct

Mr. Purchuck: It's an interesting

Mr. Glover: It's an important fact

Mr. Morrison: So that's

Tape had to be changed

Mr. Glover: Go ahead

Mr. Morrison: The a, this type of sign is a very effective sign to market, especially this business, it's ideally suited for Mr. Purchuck's car wash business

Mr. Glover: It's a car wash business?

Mr. Purchuck: It's a car wash and oil change

Mr. Morrison: So it's, from his standpoint he's investing in his business in a downward spiraling economy, spending a lot of money on the sign, it's been, you know, sitting on the shelf to make sure we do this the right way, and hopefully get proper permission to do it. We have extended the offer to, to make it available to the town to put community events on the sign, to make it available for Amber Alerts, trying to do everything we can to make it as good of an impact as it can

Mr. Glover: And to induce them to say go ahead

Mr. Morrison: Absolutely

Mr. Purchuck: We did, I mean that's

Mr. Morrison: and at the same time, you know, looking at the concerns of the zoning regulation, you know, certainly the good intention of the people in land use office with both opinions, this is not in a residential area. It's a commercial area. The property across the street is the, the propane?

Mr. Purchuck: Yeah, it's the propane

Mr. Glover: the dump? The landfill

Mr. Purchuck: I guess it would be

Mr. Glover: Which they now collect propane, is it propane? Methane

Mr. Purchuck: So there's no driveway, there's no distraction, there's no issues of

Mr. Morrison: Somebody building a house there and

Mr. Glover: And the Sports Center is just up from you on the other side of the street

Mr. Morrison: Yes, and you can see, in the pictures I submitted you can actually see, from where this line is, you can see the other sign. It's not like right across the street, but it's down the road and you can see it

Mr. Matto: And what does that mean, message center? Is that words keep changing or something or?

Mr. Purchuck: Yeah what we want to do is be able to have different specials during the week, be able to say you know, oil change special \$5 off,

Mr. Matto: So somebody could stop and look at that and actually read this message

Mr. Purchuck: Exactly

Mr. Glover: Ralph, that's an, that's an electronic sign that is lit and the message can be changed

Mr. Matto: Keeps changing, yeah

Mr. Glover: you can, they change it from inside and they can write whatever they want in it

Mr. Conklin: Is this going to be a fixed message or a scrolling message

Mr. Morrison: The sign has the ability to do either. We also had suggested that we make, you know, have it not change, you know, for a specific period of time (unclear) and not have it do any kind of blinking. You can get these things pretty exciting where they, there's quite a bit going on there.

Mr. Purchuck: And the Sports Center one has no limitations on it. It does blink, it does move. It, already they don't have any limitations.

Mr. Morrison: So compared to that we're going to have it a more conservative display. We're willing to put that in the condition of the approval. The nature of this business is that it's a spontaneous purchase. You know, a lot of people aren't necessarily making it by, but yeah by seeing that message or that there's no wait, you see now there's, I know I go by the oil change places they have the technicians standing out in the road holding a sign no wait. Again, it's a sign of the economy that they're paying them to sit there, they're going to make them hold a sign trying to get somebody to notice it.

Mr. Glover: So in, in your opinion, if you know, did the Sports Center get a permit for that sign?

Mr. Morrison: The Sports Center did get a permit for the sign. The entire property that the Sports Center is on and the development of the Sports Center from the site plan, was a

Mr. Glover: PDD or?

Mr. Morrison: there you go, and encompassed in the site plan application for the Planned Development District, to publish Sports Center were sign regulations. There's no place, as we reviewed this, at, kind of as the Planning and Zoning Commission mentioned, the regulations don't prohibit these signs. There are towns that do have regulations that prohibit them, that's a whole other issue.

Mr. Glover: It's another zoning, it's a different, a little bit of a different issue because in a PDD they can take a

certain zone and they can change the rules within, within that special zone. And for instance, we had one of the first PDD's here was Stop and Shop Plaza. And we had Burger King put in it. They had Burger King located in there. But for years they couldn't put another fast food restaurant in because they weren't allowed. They were just allowed in that PDD.

Mr. Morrison: Okay

Mr. Glover: so it's not really precedent setting that they allowed this sign in a PDD and they didn't allow it in yours. It's, I know that's hard to understand

Mr. Morrison: No, I do understand that

Mr. Glover: They have the right to do that

Mr. Morrison: right, and at the same time, if, if the car wash was in a completely different neighborhood, in a different environment, like the downtown area, even a commercial zone, there's different types of commercial zones. There's ones that have a lot of traffic and a lot of intersections. For the property that this one sits in I don't think it's

Mr. Glover: inappropriate?

Mr. Morrison: Yeah, I don't think it's inappropriate that, that we thought this could go there.

Mr. Glover: How many other message boards signs are there in Shelton, do you know?

Mr. Morrison: There's this one, there's one at the car wash and there was one, another one that was mentioned again in the minutes.

Mr. Glover: Which car wash?

Mr. Purchuck: He means the Sports Center.

Mr. Morrison: excuse me

Mr. Purchuck: There is an LED sign for the new gas station and although they are using it for numbers, it could be used for anything

Mr. Glover: it could move

Mr. Purchuck: right

Mr. Morrison: Isn't there another one also?

Mr. Purchuck: I'm not aware of

Mr. Morrison: I thought, I have the minutes from the meeting, actually I have it right here.

Mr. Purchuck: and there other gas station signs have LED's

Mr. Glover: I know they're getting electronic signs where they can change the numbers for the prices of the gasoline, but that's different from what you're doing, a little bit

Mr. Purchuck: A little bit

Mr. Glover: so you, part of your, part of your testimony is that you think that it's unfair to have one on one side of the street and not on the other side of the street

Mr. Purchuck: We do

Mr. Glover: And you're thinking that that helps them enhance their business and your business needs to be enhanced also

Mr. Purchuck: Absolutely.

Mr. Morrison: And our hope is that your judgment will be that doing this would not have a detrimental affect on the town or to the area

Mr. Glover: Alright, does the Board, go ahead

Mr. Purchuck: I was going to say that, we, I think one of the reasons that we want to do it is we get very stereotyped being a car wash and an oil change, but we actually offer a lot of different services, like battery replacement, and tire changing and lots of things that people don't know that we do and

Mr. Glover: Yeah, I didn't know you did tire changing

Mr. Purchuck: and it's very hard to get it across. And that really does give us an opportunity with the message sign.

Mr. Glover: Alright, does the Board have any questions of the applicant? (no) Is there anyone in the room who is in favor of this application? (no response) Is there anyone in the room who is opposed to this application? (no response) Any final questions or comments from anybody? (no response) Then I'll declare the hearing closed. Thank you very much.

Mr. Purchuck: Thanks for your time.

Mr. Morrison: Thank you.

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

#708-6 "In the application of N. Purchuck/Shelton Car Wash of 811 River Road, Shelton, CT for a certificate of approval for an electronic sign to be located on the property of the applicant at 811 River Road, CB-2 zone, and which requires a variance to allow an electronic sign,

The application for a variance is approved.

Inasmuch as a larger sign with an electronic message board is located within the sight line of the proposed sign, and

Inasmuch as testimony indicated that there are other electronic signs within the city, and to deny the applicant a sign with a message board would be unfair and create a hardship to his business,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval of a variance to allow an electronic sign at the above is granted (Section 44.3) in this instance.

This certificate of approval is contingent on the following stipulations: 1) The electronic message shall not blink, flash or scroll, and the frequency of message change shall be limited to a minimum of one full minute.

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."

#808-1 10 Abbey Lane, Jay Sanderson of 10 Abbey Lane, Shelton, CT is seeking to waiver Section 24, Schedule B, Standard 9 by varying the setback from the left side yard from 30 ft. to 21 ft. for a 9x25 pool

deck.

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

Mr. Sanderson: Jay Sanderson, 10 Abbey Lane

Mr. Glover: And Mr. Sanderson, can I have some pictures from you and some receipts from you?

Mr. Sanderson: Absolutely

Mr. Glover: I know you've been dying to give them to me for an hour

Mr. Sanderson: That's alright, these things happen. Here's the pictures and the one green card receipt, the post office lost it so they gave us a copy

Mr. Glover: Okay

Mr. Sanderson: That's from the

Mr. Glover: So you have two neighbors?

Mr. Sanderson: Yes

Mr. Glover: alright,

Mr. Sanderson: And I was reading that piece of paper while I was sitting back there and I didn't realized that if either of them opposed, which neither of them do oppose, I should have brought extra proof, but I thought just those receipts were

Mr. Glover: No, you don't have to

Several talking at once

Mr. Glover: Alright, tell me what you want to do

Mr. Sanderson: I want to put a deck on the back of the pool and the pool was put back because of

Mr. Glover: The pool exists

Mr. Sanderson: the pool exists and I got a permit

Mr. Glover: That's fine

Mr. Sanderson: Yeah, the pool, I just put that up a few months ago and I want to put a deck behind the pool because of the septic tank and everything and it just, the setback which is what 30 feet, it ends up to be 21 feet the back of the pool, just to one property and that's Gus Fergau

Mr. Glover: And that's who you encroach on?

Mr. Sanderson: Yes

Mr. Glover: Okay

Mr. Sanderson: the other one is like 50 feet away on the other side

Mr. Glover: So obviously the house exists

Mr. Sanderson: Yeah

Mr. Glover: and the pool exists

Mr. Sanderson: yeah

Mr. Glover: and the lot exists

Mr. Sanderson: Yeah

Mr. Glover: And you want to put a deck and this is the only place to put the deck

Mr. Sanderson: Not the only place to put a deck, but it's probably the best place to put the deck. Well I figured, actually there might be a problem with the septic because we had to put the pool back

Mr. Glover: because of the septic system

Mr. Sanderson: because of the septic system, so that's why it's back so far in the yard

Mr. Glover: alright, so, it's probably the only place you can put this

Mr. Sanderson: Yes

Mr. Glover: And you're on Abbey Lane

Mr. Sanderson: Yep

Mr. Glover: And you have a very unusual lot, it's a pie shaped lot

Mr. Sanderson: Yeah

Mr. Glover: And with the shape of that lot it's very difficult to conform to the boundaries that we have today. It's an unusually shaped lot and that creates a hardship for you?

Mr. Sanderson: Yes

Mr. Glover: Its' an above ground pool?

Mr. Sanderson: Yes

Mr. Glover: Does the Board have any other questions for the applicant? (no) Quiet Board tonight. Is there anyone in this room in favor of this application? (no response) Anyone opposed to this application? (no response)

Mr. Conklin: This pool's set up, this pool is running, filtered and everything, and it's existing

Mr. Sanderson: It's all up

Mr. Cavallaro: None of that has to be relocated because of the deck does it?

Mr. Sanderson: No

Mr. Glover: Are there any other questions from the Board? (no) Then I'll declare the hearing closed. Thank you.

Mr. Sanderson: Thank you.

Mr. Glover: Have a good night.

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

#808-1 “In the application of Jay Sanderson of 10 Abbey Lane, Shelton, CT for a certificate of approval for a 9x25 pool deck be located on the property of the applicant at 10 Abbey Lane, R-1 zone, and which requires a variance in the setback from the side yard

The application for a variance is approved.

Inasmuch the irregular shape of the lot and existing location of the septic system create a hardship in that this is the only location the deck can be built,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval of a variance in setback from the left side yard from 30 ft. to 21 ft. (Section 24, Schedule B, Standard 9) in this instance.

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

Possible Decisions

#708-4 122 Coram Road, Lot 1, George F. Sherman, Jr. of 27 Tuxedo Avenue, Shelton, CT is seeking to waiver Section 24, Schedule B, Standards 1 and 8 by varying the minimum lot area from 7,500 sq. ft. to 7,347 sq. ft. and setback from the rear property line from 25 ft. to 16 ft. for a building lot.

#708-5 122 Coram Road, Lot 2, George F. Sherman, Jr. of 27 Tuxedo Avenue, Shelton, CT is seeking to waiver Section 24, Schedule B, Standard 1 by varying the minimum lot area from 7,500 sq. ft. to 6,000 sq. ft. for a building lot.

During the work session the Board upon motion by Mr. Cavallaro to grant the applications and seconded by Mr. Conklin, voted three to two (motion didn't pass), and therefore:

#708-4 “the application for variances in minimum lot area and rear yard setback in an R-4, was denied since no hardship within the purpose and intent of the zoning regulations was demonstrated.”

And

#708-5 “the application for variances in minimum lot area and rear yard setback in an R-4, was denied since no hardship within the purpose and intent of the zoning regulations was demonstrated.”

Approval of Minutes

During the work session the Board, upon motion by Mr. Jones and seconded by Mr. Cavallaro, unanimously voted to approve the minutes of the July 15, 2008 hearing as submitted by the clerk.

Respectfully submitted,
Loreen Michalak, Clerk