

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

AGENDA:

#108-1 Christ Iannucci at 13 Brownson Drive

#108-2 John Guedas, Broadbridge Hill Development, at 159 Long Hill Avenue

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; Chairman; Ralph Matto, Bob Harbinson, Linda Adanti, Jamie Jones, and Ed Conklin.

Mr. Glover: Alright, good evening lady and gentlemen and welcome to the January meeting of the Shelton Zoning Board of Appeals. We have a very short agenda in terms of number of items on the agenda, we only have two items on the agenda tonight. Our meeting consists of a hearing. When you speak in front of the Zoning Board of Appeals you're actually giving testimony. Anyone who wants an opportunity to speak, will sometime during the evening have an opportunity to speak. Our regulations require that you have notified your abutting neighbors by registered mail. And you should have receipts showing that you did notify your abutting neighbors. And they require that you have four pictures of the property with one of the pictures showing that the house was placarded, so the picture of the yellow sign should be on one of those pictures. Those are our requirements. For us to have your hearing, you will have to have those items. If you don't have those items then we will continue your hearing until you can bring them in. With us tonight on, all the way down on the end is Bob Harbinson, Ralph Matto, Linda Adanti, Lori Michalak, I'm Gerry Glover, to my right is Jamie Jones and to his right is Ed Conklin. There's not too many people in the room, if you can't hear me I, or can't hear anyone I would suggest that you move closer to the front of the hall so that you can hear. During this hearing we record the hearing. That represents our record which will be transcribed probably next week by our clerk. The tape recorders will pick up conversations in the hall other than the hearing. So if you're talking in the back, the tape recorder, the recording will be garbled and she'll have a hard time transcribing the tape. Whatever we decide at the end of the evening or whenever we do make the decision, it's the tape, it's the record that goes to court if you appeal our decision. We don't go to court, the record does. So it's important that the record be clear. So I would appreciate it if while you're in the hall you don't talk on your cell phones, you don't have conversations. You can go out in the hall if you need to do that, but we'll pick up that on our tape recorder in here and it will not give us a clear hearing. Jamie?

#108-1 13 Brownson Drive, Chris Iannucci of 31 High Ridge Road, Shelton, CT is seeking to waiver Section 45.6.6 by varying the maximum size of an accessory dwelling unit from 900 sq. ft. to 1276 sq. ft.

Mr. Glover: Is uh, the applicant here?

Mr. Iannucci: Yes

Mr. Glover: Would you come forward please? Have a seat. Is he with you?

Mr. Iannucci: Yes, it's my son Christian.

Mr. Glover: Are you going to speak Chris?

Mr. Iannucci: No, I'll be speaking.

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

Mr. Iannucci: Yes, I am Chris Iannucci from 31 High Ridge Road in Shelton

Mr. Glover: And Mr. Iannucci, can you tell us what you want to do and why you can't conform with the regulations?

Mr. Iannucci: Okay, current property owners are asking for permission to add an in-law addition to their home that exceed the allowable living space for in-law additions of 900 sq. ft. to 1276 sq. ft. Property owners have completed the necessary B100 test and have received approvals from Valley Health for the expansion of their current septic system which was approved October 23, 2007. Property owners received approval from

Inland/Wetlands Commission December 4, 2007. The septic contractor has taken out permit for installation of system October 25, 2007.

Mr. Glover: Go ahead

Mr. Iannucci: Certified letters were sent to neighbors on both sides and rear of property owners. First certified letter lacked some information so owners sent an addendum certified to the first letter to assure all the information was accurate. I also have a sworn affidavit to submit with the certified letters.

Mr. Glover: Alright, do you have the receipts?

Mr. Iannucci: Yes. There's two letters. These are the originals, there were two certified letters sent

Mr. Glover: Alright, you sent two, one to

Mr. Iannucci: Yeah, because the information on the first letter wasn't totally accurate, it lacked some information and I had to have them send out another one.

Mr. Glover: You sent one to the Kaffins

Mr. Iannucci: to the Kaffins

Mr. Glover: The Kaffins

Mr. Iannucci: to the Addenbrookes and also the Curcios

Mr. Glover: You only said you sent two

Mr. Iannucci: No, three. This is the second copy, or the second letter sent

Mr. Glover: Alright, so I have two receipts. Is there a third?

Mr. Iannucci: Yes, actually we're still waiting on, you have three here

Mr. Glover: I don't need the green card. I just need the receipt you sent it

Mr. Iannucci: Oh, not a problem, not a problem at all

Mr. Glover: They don't have to respond

Mr. Iannucci: Oh, okay, I assumed you needed three cards

Mr. Glover: I just have to know that you sent it

Mr. Iannucci: Okay, we have three of these

Mr. Glover: Alright, do you have pictures?

Mr. Iannucci: Yes, I do, I'm still continuing here

Mr. Glover: Well, let me wait and get the pictures

Mr. Iannucci: Alright, no problem. Just pass them down?

Mr. Glover: Yeah. Before you carry on, Mr. Iannucci?

Mr. Iannucci: Yes?

Mr. Glover: You don't own the house. Who owns the house?

Mr. Iannucci: Karen and Joseph Reilly

Mr. Glover: and

Mr. Iannucci: I'm their representative

Mr. Glover: You're their representative

Mr. Iannucci: Yes I am

Mr. Glover: Why are they not here?

Mr. Iannucci: I felt I could take care of it for them

Mr. Glover: Did they give you a letter or anything to speak on their behalf?

Mr. Iannucci: No they did not.

Mr. Glover: Alright, go ahead please

Mr. Iannucci: Uh yeah, the property owners have prepared an up to date survey from NOK Associates, dated December 13, 2007. Plan shows location of first floor addition off rear garage and plan also displays expansion of current driveway to accept two additional off street parking locations. I'm also submitting photographs and let's see, because residence is served by septic and well, expansion of footprint is limited. So large floor area of addition is over existing garage, 480 sq. ft.

Mr. Matto: So you're adding three bedrooms to the existing

Mr. Iannucci: I'm adding three bedrooms, yes, we designed a septic system that will accept 7 bedrooms and the health department has approved that. And then in closing

Mr. Glover: Hang on

Mr. Iannucci: Okay

Mr. Glover: Do you have

Mr. Iannucci: That's the original here

Mr. Glover: do you have anything (unclear)

Mr. Iannucci: This is it

Mr. Glover: you have to give your name and address

Mr. Christian Iannucci: Christian Iannucci, 31 High Ridge Road, Shelton, CT

Mr. Glover: Your last name is?

Mr. Christian Iannucci: Iannucci, he's my father

Mr. Iannucci: He's my son

Mr. Glover: That's fine

Mr. Matto: And are you the builders or

Mr. Iannucci: I am the contractor, yes

Mr. Matto: You're the contractor

Mr. Iannucci: Yes

Mr. Matto: this, this Marie Urso-Pernice, she's the mother-in-law of the people that live

Mr. Iannucci: She is the um, yes, mother of Karen Reilly and there's two aunts

Mr. Matto: and the

Mr. Iannucci: There's two aunts

Mr. Matto: two aunts

Mr. Iannucci: Yes

Mr. Glover: Alright, so, so this, so the house is owned by Joseph and Karen Reilly

Mr. Iannucci: Correct

Mr. Glover: Is that correct? And they're bringing a mother, a parent

Mr. Iannucci: Absolutely

Mr. Glover: And two aunts

Mr. Iannucci: Correct

Mr. Matto: So they're not blood relatives, it's just the mother

Mr. Iannucci: They are, they are blood relatives

Mr. Matto: The mother's a blood relative, but would the sister also be a blood relative

Mr. Iannucci: Yes they are, yes they are. I think there's a letter, the letter is in the certified letters that explains who the

Mr. Matto: Do we know how big the existing house is?

Mr. Iannucci: It's approximately 1840 sq. ft.

Mr. Matto: 1840, does the, does the zoning state that other than maximum size of 900, does the zoning also state that the existing house has to be twice as large as the addition?

Mr. Iannucci: Not that I'm aware of, not that I'm aware of

Mr. Glover: I think the zoning regulation calls for a percentage of the living space of the house not to exceed 900 sq. ft.

Mr. Matto: It can't be any more than a third of the size of the total structure. And if it's 1800, 900 would be 1/3 the size, but you're looking for much larger, 1276 sq. ft.

Mr. Iannucci: Well, and again, the overall objective was to design an in-law living space so that the exterior maintains the appearance of a single family home from the road.

Mr. Matto: Right, but you're, but you're just looking for a variance from 900 to the 1276

Mr. Iannucci: And the added square footage in question is 396 sq. ft. which is behind the garage in this back

Mr. Matto: Yeah, well we don't care where it is

Mr. Iannucci: right, okay

Mr. Matto: but the point I'm bringing out is it appears to me you should be looking for two variances. One for 1276 sq. ft. the difference from 900 to that, and the other is that

Mr. Iannucci: I'm going from 9 to 1276, so it's an additional 396

Mr. Matto: Yeah, but it's, it's no longer only a 1/3 larger than the structure. In other words, if the, if the structure was 2500 to start with

Mr. Iannucci: right, right, right

Mr. Matto: then the 12 would be like a 1/3 of it

Mr. Iannucci: right, right, right

Mr. Matto: I'm just (unclear) I'm not on the zoning board, I don't know exactly

Mr. Glover: I think you're right that it's a 1/3 and so it would be, 1800 feet would be the original house

Mr. Matto: We'd give you 900

Mr. Glover: No, it'd be 600 Ralph, 600 is a 1/3 of 1800

Mr. Matto: Well, it's 1800 now, so you can add, if you split that in two you can add 9, see three 9's are 27

Mr. Glover: Is it a half or a 1/3?

Mr. Matto: I was told that the addition cannot be anymore than 1/3 of the total structure

Mr. Glover: I think it's the total, it can't be

Mr. Matto: or, or over 900 sq. ft.

Mr. Glover: right, you can't be, I think the, I think the regulation is a 1/3 of the structure, the original structure or to a maximum of 900 sq. ft., meaning if it was an 1800 sq. ft. house, they could have 600 sq. ft. That would be a third of 1800

Mr. Matto: alright, but either way the max is 9

Mr. Glover: is 9

Mr. Matto: and even with the max it's not, they wouldn't be a, you know, it would be much much larger

Mr. Glover: right

Mr. Matto: and that, I'm just questioning that if this should get approved, is Planning and Zoning going to say well what about the other variance that's needed for, for size, you know, for the three to 1. Have you been to Planning and Zoning at all?

Mr. Iannucci: Yes, that's how I ended up here

Mr. Matto: And what did they, what was their

Mr. Iannucci: I talked with Pat and he suggested that

Mr. Matto: Pat Tisi

Mr. Iannucci: Right

Mr. Matto: And he suggested

Mr. Iannucci: because you're going above 9 and he said you have to go for a variance

Mr. Matto: Alright, so you didn't go through Planning and Zoning, you just went to talk to

Mr. Iannucci: I went as far, I got as far as Planning and Zoning, everything was all signed off, ready to go and he said stop right here, he says you're exceeding the allowable square footage

Mr. Matto: so you didn't go to the Board, you just spoke to Pat Tisi

Mr. Iannucci: Yes, exactly, nothing

Mr. Matto: You didn't have a meeting or anything

Mr. Iannucci: No, nothing

Mr. Matto: Well, I don't know

Mr. Harbinson: What's the lot size?

Mr. Iannucci: Excuse me?

Mr. Harbinson: The lot size

Mr. Glover: what's the size of the lot

Mr. Iannucci: It's approximately one acre

Mr. Glover: And the septic system is in the back?

Mr. Iannucci: Yes, the new system will be in the back and then it will come around to the side

Mr. Glover: And the reserve is where?

Mr. Iannucci: Um, the reserve, the septic, this was drawn by Frank Septic & Excavating and this is what the health department approved. They were going to remove the entire existing system and upgrade with that.

Mr. Matto: I have confusion with this thing, I don't see it to be an accessory apartment because I don't see any kitchen, it's strictly bedrooms

Mr. Iannucci: Well there is a kitchen, on the first floor.

Mr. Glover: There are two floors to this

Mr. Iannucci: The first floor plan, the lower section behind the garage, in the back of the garage there is the kitchen area, which is we're going to have a stove and a sink, no dishwasher, whatever, but, what classifies a kitchen for an in-law? I mean, if we didn't have a stove would a hot plate, I mean is, what do you do?

Mr. Glover: If you have cooking facilities

Mr. Iannucci: Any sort of cooking facilities, anything, hot plate, a microwave?

Mr. Matto: If you didn't have a kitchen it wouldn't be an accessory apartment

Mr. Iannucci: Yeah, I wouldn't even be here, I know that

Mr. Matto: it's just an addition to the house. And if this were just an addition to the house without a kitchen and your septic was okay, approved, and it didn't infringe on any

Mr. Iannucci: Well, we're adding bedrooms, so the septic wasn't going to handle

Mr. Matto: Yeah, I know that, I understand that. I'm saying, you got the approval, that's fine, but if it wasn't an accessory apartment, it was just three bedrooms and the sewer got approved, you're, yeah you're done right there

Mr. Iannucci: It's the kitchen that's the real issue here

Mr. Matto: Yeah, the kitchen makes it an accessory apartment. And I could be wrong, more than likely maybe I am wrong, but I don't see whereby my mother-in-law's two sisters are blood related to me, you know what I'm saying? So that's where I'm confused.

Mr. Conklin: Yeah, I thought the regulation was direct blood line of, father and mother, brothers and sisters. Aunt and uncles I thought were not included

Mr. Glover: Mr. Iannucci, is there, is there a door that's common to the main house, the existing house?

Mr. Iannucci: Actually there's an entry off the first floor addition there into the garage area.

Mr. Glover: without going through the garage?

Mr. Iannucci: We're going to have to incorporate some sort of an alcove there or a mud room that backs into the laundry room of the existing house. Right here, we're going to have to make some area here.

Mr. Glover: Somehow this has to be

Mr. Iannucci: this will be doable

Mr. Glover: Somehow this has to connect to the house

Mr. Iannucci: Yes, yes, we'll have to some way do that. That is doable

Mr. Glover: I think it's part of the regulation, it has to be

Mr. Iannucci: Yeah, it is, yeah

Mr. Glover: Because as it's shown now, it's just a separate apartment.

Mr. Iannucci: Yeah, we have access, that, it's a raised ranch and basically that back room there is a laundry room right now, so it's a matter of just framing the walls and fire code sheetrock into the garage with a fire door and all that

Mr. Matto; And is that, that kitchen downstairs is that a, I don't know if it's a window or not, is that a sliding door or is that a window? In other words you got to have access, you've got to have an outside door, alright, that is a door okay

Mr. Iannucci: There's an entry door on the left hand side. That's the main entry to the in-law addition, that was the point I didn't want to have two front doors in front of the house

Mr. Glover: You can't

Mr. Matto: right, what does it do, go into the kitchen?

Mr. Iannucci: It goes into the kitchen

Mr. Matto: Yeah, okay, okay, I

Mr. Iannucci: There's also an elevator in here also

Mr. Matto: Oh really, huh

Mr. Iannucci: One person's handicapped

Mr. Glover: Alright, so you have an outside door from the side and the other method of egress is through the garage

Mr. Iannucci: right

Mr. Matto: Garage or front door if necessary, meaning they'd have to be able to have that other door we're talking about

Mr. Iannucci: The door that I have to actually frame out part of the garage to enter into the

Mr. Matto: This apartment's got to have access to the rest of the house

Mr. Iannucci: Yeah, we can do that

Mr. Matto: from the inside

Mr. Glover: When you do that, will you lose a garage?

Mr. Iannucci: It'll shorten it, but um

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

Mr. Iannucci: 22 feet

Mr. Glover: alright, so, and you're going to have at least 4

Mr. Iannucci: 4 feet

Mr. Glover: So you're going to end up with a garage that's probably 17 or 18 feet

Mr. Iannucci: for a small vehicle

Mr. Conklin: this is also going to add to the square footage of the apartment

Mr. Iannucci: Now do I count the stairwell in the square footage and the elevator shaft

Mr. Glover: Yes

Mr. Iannucci: I was told by Paul, or Pat I mean, I'm sorry, that that wasn't something you include in the square footage

Mr. Conklin: The elevator's part of the accessory

Mr. Glover: And so is the, so are the stairs

Mr. Matto: Square footage is the total expansion. So if it gets approved we have to mention all that stuff in the approval, or do you intend to draw another plan that shows

Mr. Iannucci: Oh, I can certainly sketch the area in question

Mr. Glover: So this has three bedrooms and a sitting room

Mr. Iannucci: Yes

Mr. Glover: on the top floor

Mr. Iannucci: And there's no door in the sitting room

Mr. Glover: Oh,

Mr. Iannucci: That's something the health department picked up on, they want to make sure there's

Mr. Glover: that you don't make it a bedroom

Mr. Iannucci: yeah, they said no door on there

Mr. Glover: But you have three bedrooms upstairs, part of this is over the garage isn't it

Mr. Iannucci: that's correct, a good portion of it.

Mr. Glover: And one bath upstairs?

Mr. Iannucci: yes

Mr. Glover: I see there's a pocket door

Mr. Iannucci: pocket door for separation for the toilet area for privacy

Mr. Glover: And downstairs there's another full bath

Mr. Iannucci: Correct

Mr. Matto: This handicap lady

Mr. Iannucci: and that's over a crawl space

Mr. Matto: not at this point, not at this point in a wheelchair or anything

Mr. Iannucci: No she's not

Mr. Matto: I'm looking at that toilet there, I just can't picture her getting in there. There's no dimensions

Mr. Iannucci: No, she's not wheelchair ridden as of yet, but she's failing as we speak so

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

Mr. Iannucci: This plan we have is an older plan

Mr. Glover: Did the Valley Health give you a, did you give a plan to the Valley Health that showed a reserve area for that septic system? A 7 bedroom system is a big, it's a big system

Mr. Iannucci: Yes, between installers, Tom Bartomelli, Frank Septic and Gary from the Health Department all went through it, and they were going to use all TP's and all that, so we can install a portion of the system prior to pouring the foundation in the back of the garage so we can get a cement truck in there

Mrs. Adanti: How many bedrooms are in the existing

Mr. Iannucci: It doesn't show uh, this expansion of the driveway

Mr. Glover: Alright, so you have a different plan

Mr. Iannucci: Yeah, I don't know (unclear) I had to make a couple changes

Mr. Glover: Linda, did you have a question?

Mrs. Adanti: Yes I did. How many bedrooms are in the existing house?

Mr. Iannucci: Four, three upstairs and one down

Mr. Glover: How many people live in the existing house now?

Mr. Iannucci: Four, husband and wife and two children college age

Mr. Glover: Are there other in-law apartments in the neighborhood?

Mr. Iannucci: Not that I'm aware of, although I didn't scout around, but there may be

Mr. Glover: The, the house now, the basement is it a family room?

Mr. Iannucci: It's a family room yes

Mr. Glover: In the existing?

Mr. Iannucci: there's a family room, a large family room. There's a bathroom, a half bathroom. There's one bedroom and there's a laundry, a large laundry room. And I would have to enter that laundry room off that, the back of the garage as you're referring to to go into the apartment.

Mr. Glover: Alright, does the Board have any other questions for the applicant? (no) Alright, is there anyone else in this room who is in favor of this application? (no response) Anyone in favor? (no response) In terms of opposition, we have a letter. Jamie could you read that please?

Mr. Jones read memo: "To: Gerald Glover, Chairman, Board of Zoning Appeals. From: Richard D. Schultz, Planning and Zoning Administrator. Date: January 11, 2008. Re: ZBA Application #108-1. The Shelton Planning and Zoning Commission at their January 8, 2008 meeting discussed pending application #108-1 requesting a variance to increase the maximum floor area of a proposed accessory dwelling unit on property located at 13 Brownson Drive. After discussion and review of the application, the Commission noted the following: 1. It appears that no hardship can be shown. 2. The Commission determined during the formulation and adoption of the Accessory Dwelling Unit Regulations that the maximum floor area of 900 square feet was reasonable, consistent with the comprehensive plan of zoning for the entire community and would not have a negative effect on the safety, welfare and property values on adjacent neighborhoods. 3. The Commission is concerned that more property owners in the future will be requesting similar variance requests because of family needs but would rather revisit regulations to determine if a larger floor area is needed instead of ZBA granted variances. cc: Planning and Zoning Commission."

Mr. Glover: Alright is there anyone else in this room in opposition? (yes) Would you come forward please? You can move over there. Have a seat. Please give your name and address for the record?

Mrs. Addenbrook: Gail Addenbrook, 17 Brownson Drive

Mr. Glover: And Mrs. Addenbrook you have the property adjacent to this

Mrs. Addenbrook: I do, to the right

Mr. Glover: And this addition impacts you because you're on that side

Mrs. Addenbrook: probably the most, yes

Mr. Glover: And can you tell me your objection please

Mrs. Addenbrook: Sure, yes, I've listened to everything because a lot of these things I didn't know before. And I'm going to skip my order. I only have three things. I'm going to address the septic first because

Tape had to be changed

Mrs. Addenbrook: I think it's important that you know that the, the way Brownson Drive comes down, the slope of the homes is going downhill. So this house, Karen's house, is above me and comes down and I'm below them. And this addition, I think is going, I think is going to be about 32 feet from, from my house

Mr. Glover: 38 feet

Mrs. Addenbrook: 38 feet and this, and then behind all of the homes on Brownson, including theirs and mine, even though we both have over an acre it is not a usable acre. There's a ditch, and it is a ditch, it's a runoff

Mr. Glover: it's a stream?

Mrs. Addenbrook: Well, it's not, it's not spring fed, it's just a ditch. But that protects her house and my house from the water coming down. So I know when I had my septic system, I couldn't, you know, we were restricted. So with this addition I was very concerned how, how the septic would work inasmuch as this area, and I don't know the area because I don't know what his plan showed you as far as what was approved, but the little area that's in that 38 feet, this little, it goes from the road and it was designed to go, I've lived there for 23 years, it was designed to run off, it holds water. And it was designed, it had a pipe in it and stone to take the water into the stream, otherwise it would come over literally and flood me. About, the first owners were fine, they maintained the property and it all worked. And then when they bought the house, her first husband decided he was going to take all the vents off the house, all the gutters and put them into this little ravine, because he wanted to grow grass, which was fine except that it flooded me again. It's a low lying area. It accumulates a lot of water. So when he left it became a real mess. The trees were hanging this way in this ravine. It is not maintained, it has never been maintained until now, until this came about. We had literally looked at trees hanging this way, big chunks of wood sitting in water because all these drains that her ex-husband had put in were all destroyed. It, cans, bottles because the recyclables, it goes down, so they don't see this. When they walk in the house they're not looking at what we look at which is garbage and swing sets and, so we, I put up a fence, I put up a bigger fence in one part and then a little white fence to save the neighborhood. Now, my concern with the septic is, if this area has been approved for septic I'm amazed because it's just so wet there. And all of these drains, as we speak, those drains are still all coming into this area. They put tons of stone and it looks wonderful and it's been cleaned up of course, now there's still cans and bottles back in there in the short period of time, and you know, aesthetically for me I'm very concerned what is this property between houses going to look like after all this construction. You know, there's a broken deck on the other side of their lot (unclear) sitting there, that's been a year sitting all, it's not, it's just the property's not taken care of so I'm very concerned about this addition and what's it going to do. What am I going to look at, because I'm going to be looking at, I don't know what I'm going to be looking at. It's going to be much higher than me and it's going to be closer to me and now I have, you know, I'm worrying about a septic that's going to come around into what, this is so new, this stone, I don't know, we haven't had a big rain for me to really know what's going to happen in there when it rains. It looks like a dry well to me. I

just saw a lot of stone going in there and it's very very very close. And also, I have another question. The driveway, if the driveway's going to be expanded, which way is the driveway going to be expand, I don't understand which way it's going to go. Is it going to come toward me? Is it, my house sits back so when I come out of my driveway I'm looking at the back of their house

Mr. Glover: This is their house

Mrs. Addenbrook: right

Mr. Glover: This is your property

Mrs. Addenbrook: Okay

Mr. Glover: You apparently have a shed

Mrs. Addenbrook: I do

Mr. Glover: toward the back of your property

Mrs. Addenbrook: right

Mr. Glover: that's this dotted line here represents your shed. They're adding to the driveway over on this side

Mrs. Addenbrook: Wow, that's getting really close. So that's coming even more into this, it actually starts to slope down there. This is the existing driveway, they're going to go more this way

Mr. Glover: Correct

Mrs. Addenbrook: Wow

Mr. Glover: And their septic system is here and back here

Mrs. Addenbrook: Yeah, well, I, you know, I really have, I mean I heard them say it was approved, but I just can't believe that that was approved in there. It's, it's been so wet for so long with wood soaking in it, it has just been filled. And I'm really amazed that that would qualify, it still with the drains of their house going in there, as a, is that what you call a reserve septic? Or yeah, I'm really amazed. That's a wet area. That, the builder put in pipes and everything to take the water out of that area. It's like a trench. It's like a big trench that goes between the two homes. So I'm amazed. You know, I don't know how that will impact me because my driveway, if it, you know, when it rains a lot now, my shed, I have water. That's how wet it is back there. My floor is literally wet back there. That's a very wet area back there

Mr. Glover: This, this map shows a stream bed of fresh stone

Mrs. Addenbrook: They just put it in

Mr. Glover: that goes down this side

Mrs. Addenbrook: they just put this in

Mr. Glover: and comes onto your property

Mrs. Addenbrook: oh, well. Well, this was just done. This was just done. I don't know when he did it, but they just did this just a couple months ago. This was new. This was a pit. This was a filthy wooden, tree fallen pit area up until a couple of months ago, with, it used to have, you know, I know it used to have the white PVC because all of these homes have white PVC going out into the stream. I do too. And then that broke down when her first husband, and he dug it all out and he put that big black stuff and that worked really well until the other trees started falling down, they didn't take care of them, big chunks of wood in there and

bottles and some, like I said, all this water, all this stagnant water and I, you know I was going to address it before at some level because it was just terrible, filthy and cans you know, I, I. These are not people that take care of their property. There's just not a nice way to say it, so I am concerned. So let's move on with that. That's my septic concern. Um, the um, as far as the in-law setup, I don't, I don't, I feel persons living next door to this huge setup that it would not be in my best interest that's for sure. I can't speak to the neighborhood. I don't think it's, I don't think it's good for the neighborhood. There is nothing like this in the neighborhood. The parking is going to be horrendous. It's pretty bad there now. I can't even imagine with this size house what, what this is going to become. And that's, you know, it's just really not good. It's very very close to me, that's all, I can't, if this were you know, 100 feet away from me I would be less concerned. But they're doing it on this side of the house and how the slope of the land I'm really concerned that I'm going to have water issues, that the septic's going to be an issue. It's very very close to me and the way that water runs down the hill there, um, I don't, you know, I don't know. But I guess if you have, I guess this is all I can say, because if you have the proper documentation from the people that say they septic is going to be okay in something that's been so recently done, I guess I have nothing, I have no recourse there, but that's my feeling about the septic. It hasn't even rained. I mean last year it was drought-like and we had water in there even then. So, a couple inches of rain and that water just sits there and I don't know how it will support the septic. And like I said, her acre and my acre, most of our acres are, go up beyond the stream in the hill we have very little usable land. And also, if the house is sold, you know what if that house sells, I mean is it, is it an apartment now? Or is it an in-law setup? What's it going to become you know, when it's sold, you know, and then the neighborhood certainly doesn't support that at this point. I guess that's it.

Mr. Matto: What happens ma'am, if it's approved as an accessory unit and these people move out, it can't be rented to other people. It has to, it has to forever be a family situation

Mrs. Addenbrook: How do you know, I mean, how would I know? You know, how do you really know?

Mr. Matto: Well, according to Planning and Zoning laws if you get, if you get the approval

Mrs. Addenbrook: Right

Mr. Matto: once a year you have to notify the city as to who lives there

Mrs. Addenbrook: Right, well, you know, I understand and I understand the regulations are the regulations and whatever you decide is what you decide, and even if I'm not happy with it I always have recourse as well. You know, I'll just sell my house. But, it's to me this is just not a good thing for, not only me it's just not a good thing in that neighborhood for this sort of a setup. This house is very close to my house, you know, very very very close. There's a lot more room on the other side. I don't know why they didn't do it on the other side, but anyway, that's about it.

Mr. Matto: Is the other side dry?

Mrs. Addenbrook: Yeah, the other side is dry. Well you know, the other side, the man on the other side, Mr. Kaffin, has done a tremendous amount of work on his property. It's really beautiful. It's set way back. He doesn't, the stream or the ditch, the ditch the builder put in there is, it is amazing how much water it takes away. We would all be flooded without it. It's in our, we can't do anything to alter the stream or the flow or you know, we have to be very careful about that. So you can't, you can't dump in it, you can't have your septic near it, you know, it's very protected. But Mr. Kaffin had, his house goes way way back so I'm really, I'm really surprised he's not here, but you know, um, well maybe he doesn't have a problem with it because it's on my side. But anyway, thank you for listening.

Mr. Glover: Thank you. Is there anyone else in the room who is in opposition to this application? (no response) Alright, Mr. Iannucci, you're back up

Mr. Iannucci: Yeah

Mr. Matto: I got another question I think. It appears you're a septic tank installer licensed, are you also a builder?

Mr. Iannucci: I'm a home builder

Mr. Matto: So you're going to build the house and do the septic

Mr. Iannucci: Yes, we're going to install the septic. In fact, Gary from Valley Health

Mr. Matto: Yep

Mr. Iannucci: wants the septic installed prior to construction

Mr. Matto: Oh yeah, yeah, okay

Mr. Glover: Why does he want that?

Mr. Iannucci: He wants to be sure it's done, that's what he told me

Mr. Glover: Okay

Mr. Iannucci: to make sure you're going to do that

Mr. Matto: and is there a hardship involved

Mr. Iannucci: and getting back to that area between both houses, the owner, just in the past month cleaned all that out. I don't know to what extent. I didn't look at it. I didn't walk it, but they were in there cleaning it. I don't know anything beyond that

Mr. Glover: Was this, what's identified here as a stream bed with crushed stone

Mr. Iannucci: that's correct

Mr. Glover: was that there when Gary did his test?

Mr. Iannucci: yes it was

Mr. Glover: Alright, so the health department is, is aware that you're going to put a field near that

Mr. Iannucci: absolutely, we got a B100, we did a B100 right in this general area here

Mr. Matto: you're going to remove 4 feet of earth and replace it with the

Mr. Iannucci: it's a major system, it's a major system. We're putting all TP's in here

Mr. Matto: within your application, is there a hardship spelled out in any way?

Mr. Glover: Hang on, no Ralph, there is none

Mr. Matto: so

Mr. Iannucci: When you say hardship, what do you mean by that?

Mr. Matto: Well we usually can't approve something unless there's a hardship. We can't just change the zoning laws and we just want

Mr. Iannucci: I was under the impression that it was more about, you know, you don't really care about the amount of family members, it's more about the overall appearance

Mr. Glover: No

Mr. Iannucci: that's what I was told, that it was more about what it looks like from the road, the attractiveness of it

Mr. Glover: let me tell you what it's about

Mr. Iannucci: and that was the thinking, because we don't care what happens, you know when they move in today, again, what she was saying 20 years from now, it's more about what it looks like when it's all said and done

Mr. Glover: well, that's a, that's a secondary issue. You're here for a variance

Mr. Iannucci: right, right

Mr. Glover: We operate under State statutes, not city laws

Mr. Iannucci: right

Mr. Glover: under the State statutes, the Planning and Zoning is the agency that makes the laws. They're the ones that say it can only be 900 sq. ft. They're the ones that say the structure has to be 30 feet from the side yard. They're the ones who make the regulations

Mr. Iannucci: right

Mr. Glover: When you go to Pat Tisi with this plan he's restricted to his regulations. His regulations say 900 sq. ft., therefore, he can't give you any more than 900 sq. ft.

Mr. Iannucci: right

Mr. Glover: you can go to the whole Planning and Zoning Commission, they can't legally give you more than 900 sq. ft. So they have to direct you to the Zoning Board of Appeals. The Zoning Board of Appeals, in order to grant a variance, has to have, satisfy two requirements; one, that there's a hardship that goes with the land, not with the people that live in the house; and that whatever you're doing is in harmony with the rest of the neighborhood. Those are, those are State statutes. Okay?

Mr. Iannucci: right

Mr. Glover: So what Commissioner Matto was asking you

Mr. Matto: What's the hardship?

Mr. Glover: what is your hardship? What is the hardship that would, that would, because you're asking us to allow you to, you're asking us to vary the regulations specifically for you.

Mr. Iannucci: right, exactly

Mr. Glover: and in order to

Mr. Iannucci: and it's not about three people living there

Mr. Glover: no, it's not

Mr. Iannucci: no it's not about that

Mr. Glover: In order to vary the regulation specifically for you, you have to satisfy a hardship and be in harmony with the rest of the neighborhood

Mr. Iannucci: right, that's why I was hoping the overall design would've blended well with the neighborhood

Mr. Glover: The, in terms of harmony, there, there may be other in-law apartments in the neighborhood, but I doubt that they're more than 900 feet

Mr. Iannucci: I have one on my own street

Mr. Glover: Okay

Mr. Iannucci: a 2,000 sq. ft. in-law on a 1,300 sq. ft. ranch. It's there. It's beautiful, but it's there

Mr. Glover: right and it's a two family house

Mr. Iannucci: it's a 2, yeah it's a two family house, right, yeah

Mr. Glover: It's a two family house

Mr. Iannucci: yeah

Mr. Glover: And when the Planning and Zoning made these regulations, one of the things that they were trying to preserve, protect, is that this is an R-1 zone which means that it only allows single family houses. And they, they want to make sure that when the mother and the aunts move out, that Mrs. Reilly doesn't rent it to the local college kids

Mr. Iannucci: right, absolutely

Mr. Glover: to sit in there and

Mr. Iannucci: absolutely, I understand that totally

Mr. Glover: So that their regulations are 900 feet because through their making of the regulations, they decided that 900 sq. ft. was large enough to accommodate in-laws, but not large enough, but anything larger than that might allow it to become a two family house and have it, have it as a rental property later on

Mr. Iannucci: yeah, no, we don't want that

Mr. Glover: So, Commissioner Matto is asking you do you have a hardship?

Mr. Iannucci: It was just more about having three family members living in that space, comfortably, that's their real family hardship, but I didn't think that was your overall decision, that wasn't your concern

Mr. Glover: Those are our parameters

Mr. Iannucci: do you know what I mean?

Mr. Matto: Yeah, I have a mother-in-law and I have a father-in-law, but I don't know of any aunt or uncle in-laws, do you know what I'm saying?

Mr. Iannucci: yeah

Mr. Matto: I question that.

Mr. Iannucci: Yeah, they're her aunts

Mr. Matto: Yeah, but I'm saying the aunt isn't considered aunt in-law, you know

Mr. Iannucci: Right, I agree, I know where you're coming from

Mr. Glover: You said that the house had two college age children

Mr. Iannucci: Yeah, 22 and 19

Mr. Glover: And they live at home?

Mr. Iannucci: Uh, yes they do

Mr. Glover: So it's safe to assume that the husband and wife have a car and each of the kids have a car

Mr. Iannucci: Um, yeah I think so

Mr. Glover: And the aunts, how many cars do they have?

Mr. Iannucci: They don't drive

Mr. Glover: They don't drive at all?

Mr. Iannucci: No, one has Alzheimer's, one's almost wheelchair ridden, no they don't drive. And again, regulation requires two off street parking spaces, so that's (unclear)

Mr. Matto: So no more motor on the wheelchair if she gets one

Mr. Iannucci: No

Mr. Glover: alright, the existing house, the existing house shows a picture window down this end of

Mr. Iannucci: that's in the rear of the property, yeah

Mr. Glover: It's in the rear of the house

Mr. Iannucci: Yeah

Mr. Glover: Is that a living quarters or a bedroom?

Mr. Iannucci: That's a laundry room, a large laundry room with a slop sinks, with a closets

Mr. Glover; With a picture window in it?

Mr. Iannucci: Yeah, a picture window. It's a walk out you know, it's a raised ranch with 8 foot back walls. There's no concrete knee wall there or anything.

Mr. Glover: No, on the second floor

Mr. Iannucci: On the second floor there's a picture window in the master bedroom

Mr. Glover: Okay

Mr. Iannucci: in that corner

Mr. Glover: okay, it's a master bedroom

Mr. Iannucci: it's a master bedroom, yeah

Mr. Glover: And, and, underneath that master bedroom is where you're going to connect these two

Mr. Iannucci: connect these two, right

Mr. Glover: and that's connecting to a mudroom you said?

Mr. Iannucci: that connects to a laundry room

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

Mr. Harbinson: I got, not so much a question as an observation, there was a reason for 900 sq. ft. And I don't, I don't feel we should arbitrarily without legitimate hardship changing that.

Mr. Glover: I think you're probably right Bob. Alright, any other questions from the Board? (no) Anymore comments from you?

Mr. Iannucci: No

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

Mr. Iannucci: Thank you.

#108-1 Later that evening during the work session the Board, upon motion by Jones and seconded by Mr. Conklin, unanimously voted to deny the application for a variance in maximum square footage of an accessory dwelling unit at 13 Brownson Drive, since no hardship within the purpose and intent of the zoning regulations was demonstrated.

#108-2 159 Long Hill Avenue, John Guedas, Broadbridge Hill Development LLC, of 1425 Nobel Avenue, Bridgeport, CT is seeking to waiver Section 23.1, Schedule A/2B by allowing 5 residential units in a commercial zone; Schedule A, Use Line 62D by allowing an access way in a residential zone connecting to a commercial building; Section 24.1, Schedule B by varying the minimum lot area per dwelling unit from 15,000 sq. ft. to 6,584 sq. ft.; and Section 24.8.3 by allowing accessing parking in commercial zone by way of driveway through residential zone, no part of residential setback can be used for parking or loading, for a proposed mixed use development consisting of commercial and residential use.

Mr. Glover: Please give me your name and address for the record please?

Atty. Rizzio: Raymond Rizzio, I'm an attorney, 1 Post Road, Fairfield, CT. I have all my mailings and I have some pictures. We have

Mr. Glover: Does one of them show it placarded?

Atty. Rizzio: No, this was taken, and then we couldn't get out until it was dark out but someone ran out to get one today. I do have all the mailings.

Mr. Glover: Do, I mean it's, it's your call. I mean, if you don't have the picture I can continue it if you want to continue it, or we can go on.

Mr. Todice in audience: I'll contest the sign is there

Mr. Glover: Thank you

Mr. Guedas: The sign, I posted the sign myself so

Mr. Glover: I'm, that's, you know, you wrote me a letter asking me to continue the hearing

Mr. Guedas: Right, and

Mr. Glover: if it's your desire to continue the hearing

Mr. Guedas: no, we'll just proceed

Mr. Glover: we can continue the hearing

Atty. Rizzio: we're happy to proceed, I don't want to have, I don't want to procedurally put myself in a (unclear) situation. We have all our mailings. We've mailed everything with regard to the certifications. I have the green cards and I know Mr. Guedas could testify to the fact that the um

Mr. Glover: That the sign's up

Atty. Rizzio: yes

Mr. Glover: And we have a neighbor who has already just spoken and said he can affirm that it was done

Atty. Rizzio: Thank you very much

Mr. Glover: so I don't see that as a problem sir.

Atty. Rizzio: Okay. I guess

Mr. Glover: Before you, before you start, just for our procedure, this is a use variance because it's a different use of the land, and the regulations, zoning regulations of the City of Shelton require the Zoning Board of Appeals when they get an application for a use variance to convey a whole copy of that application to the Planning and Zoning Commission so that they can comment on it. That has been done. It was given to the Board. So we've complied with that part of our technical duties.

Atty. Rizzio: Chairman, members of the Commission, my name is Raymond Rizzio, as I stated I have an office at 1 Post Road in Fairfield and another office in Trumbull, Connecticut. Before us and I'm representing today Mr. John Guedas, Primrose Development. John probably being one of the most, other than probably Scinto, probably giving, probably bringing the most significant development to the town of Shelton in the last 3 or 4 years. As you know he's developing the whole Canal Street project, basically hoping to revitalize the downtown. I think probably in total development in excess of 50 million dollars in the Canal Street area. So as you can see he has a significant investment in preserving the beauty and character of the town of Shelton and also hoping to provide a gateway to what we believe is going really jump start downtown. And certainly Bridgeport Avenue in this area we believe is, is one of the pathways and main guides into, into the town. And Mr. Guedas purchased this property over on Long Hill Avenue. The property, this is, I've done this for 25 years and the question always comes is, as I heard the Chairman specifically explain hardship and you know, how it applies. This, believe it or not, is probably one of those few classic cases of hardship that you'll have before you. And it's one of the most unique pieces that I've come across. And why is it so unique? It's unique because it's got a split zone. The split zone is then based on topography. There's existing conditions which already have a mixed use, (should I keep going?)

Clerk changing tape: go ahead

Atty. Rizzio: there's existing conditions that already bring these mixed uses into play on the site. It's in an area that has mixed, a number of mixed use parcels. And it requires someone who needs, if there were strict enforcement of the regulations, which is what the State requires, it would require, it would create a great hardship on the applicant. And it's hardship that's not self-created. So now, those are your basic guidelines as a ZBA. Now, why is our property so different? This is our property right here, residential, commercial, residential. The property currently has on it, if you saw the map, it has an enlarged, can I just take those pictures, the pictures will help tell my story, and help, basically it has, this is, would effectively be the commercial all the way back to along where this building is here. This building has, used to be a, the person who ran a landscaping business and then had, lived on the second floor. So there's a mixed use quality to this property for a long time. The property has a parking lot down below and it has access from, also from above. As you can see that's how they get into this property which was used for residential purposes on the second floor and business purposes on the first floor, and this has gone on for a number of years. The property also is next to a property that has mixed use. Colonial Village which is a condominium project is in a

split zone, where you have all these condominiums or residential uses in this commercial, in this commercial zone and then you have other residential uses in the back. So, Mr. Guedas, who I got to tell you I've done this for 20 years, probably has the best foresight I can see in putting, in creating development opportunities, and development opportunities that are consistent but progressive. I mean I think if anybody ever asked, if you've been in the Birmingham development down on Canal Street and somebody asked could that be a beautiful residential apartment project 10 years ago everybody kind of would've laughed. I think everybody scoffed at it. If you go down there now it is something that I don't think anyone saw and I don't think anybody predicted in what was a heavy industrial zone, and now you have probably the most, probably I would think other than a whole different nature you have Mr. Scinto's 17 story high-rise, but you have Mr. Guedas' project that has an atrium that extends 4 feet high with interior plantings and landscape overlooking the river, that this city never, ever expected to see down there. And it's been probably the foundation to build upon. Now what he's trying to do is bring on a smaller scale the same kind of progressive thinking and development. And if you stick consistent and strict to your guns on the regulations it creates a hardship. And the hardship is because of the split zone and the hardship is because of the topography. Now, one of the variances we need is access to the property from a residential zone into a commercial area. That's already there. There's already a driveway that exists there. There's a driveway that acts as a commercial business and a residential business. So in developing this project Mr. Guedas says, what, what's the best way in putting a project together that will work with both neighborhoods, because clearly both neighborhoods are impacted. And I think the project that he's proposing, if you take a look, this would be the Bridgeport Avenue elevation is much, is much more conducive to, along the retail area, I mean along the commercial area a retail type building. But the retail type building when it goes up, you can't do retail that has a second, retail really doesn't work on a second floor. And we can't really push back because of the topography, this being ledge, and this being 10 feet higher in elevation than the front piece. So what he's done is he's ended up pushing the building back into where the ledge area is so you have this beautiful, which I think, classic kind of strip mall, strip center with not just those flat (unclear) type roofs, but the look of an office type building above it. And then what we do is we go to the back and say well we don't, you don't really like to see that though from a residential area. And you don't want to also see the back of a residential building or the roof of a residential building. So how do we make the elevations work on the flip side? We make them work on the flip side by bringing a nice residential character to the residential neighborhood. So when you're driving down Long Hill Avenue and you look down the driveway, which exists and goes to this business/home, you're going to see what we believe is a nice quality residential development. And that's the beauty of it. So you have two completely separate and distinct faces, two separate and completely distinct faces and identities and uses each consistent with the zones that they face. So our problem is if you put the residential up there, you're going to be looking at the back of residences on the commercial strip of Bridgeport Avenue. If you put all the commercial and nothing residential in the back, the residential properties, the people who have a significant investment in Colonial Village, the people who have their homes around the site, are all going to be looking at the back of a commercial building. In this matter, we end up with the best of both worlds. And it's driven by the topography and it's driven by the location and the pre-existing conditions that already exist. Mr. Guedas isn't creating this hardship. He's not cutting in, if you look at the site plans, this is not a new drive off of Long Hill Avenue. This drive exists and it exists and it goes down to this building that's here, and here. And then there's this parking lot that is up here, which frankly I don't think is anything worth preserving or keeping in its current state. So what happens is commercial Bridgeport Avenue, you're driving down commercial Bridgeport Avenue and you see a beautiful resid, a beautiful commercial building with some character to it, at a colonial nature which is what the town is basically looking for. You're driving down the residential area, you turn around and you see something that's consistent with Colonial, with Colonial Village, which are those, which is that face that I showed you before. And the two never meet

Mr. Glover: right, this is Bridgeport Avenue and that's Long Hill Avenue

Atty. Rizzio: correct. Both character, both consistent in character and use with the neighborhoods that they face

Mr. Glover: So these are all living space up here

Atty. Rizzio: This will be living space but from Bridgeport Avenue it'll look like it's an office, like there are offices above, above the properties. This is

Mr. Conklin: so it's going to be two floors on the, because I see windows

Atty. Rizzio: correct, correct, which is consistent with what you see in a residential area

Mr. Conklin: I just though they were going to be awful small if they were one floor

Atty. Rizzio: No, they're going to be about 1,050 sq. ft., each unit. So

Mr. Matto: Are they going to be condo type units or rentals

Mr. Guedas: They're going to be rentals

Mr. Matto: rentals. What's, in other words, in the land that you're using is commercial

Atty. Rizzio: correct, but we

Mr. Matto: and residential is not allowed in that zone, is that what you're saying?

Atty. Rizzio: residential is not allowed in the zone, but our property is a split zone

Mr. Matto: yeah, I understand that

Atty. Rizzio: the property is part residential, part commercial. So in the area that, yeah, in the area, partially in the area that we have to build in, in the area that we're going to have the building because of the topography, we're going to put the residences above the commercial

Mr. Matto: yeah, I understand that very well, but what I'm saying is you can't do both in either zone, that's your problem

Atty. Rizzio: correct

Mr. Matto: In other words, you can't do commercial in the residential and you can't do residential in the commercial

Atty. Rizzio: correct

Mr. Matto: Okay, have you attempted to get a zone change? What zone would allow it, a CB-2 I thought? What's downtown? Downtown I think is a CB-2 okay? And the only thing it allows downtown is no apartments on the first floor, just business, but apartments on the second or third or fourth floor. So that's why I'm concerned why you need a variance, if it's the same zone as downtown. That's what I thought it was.

Mr. Guedas: No, I don't believe it's the same zone as downtown

Mr. Matto: Okay, so it's not

Mr. Guedas: No. Let me just give you a little, a little history. Again, for the record, I'm John Guedas. I acquired this property about a year and some months ago. And the way this process started is that as soon as I acquired it I had meetings that were scheduled with Tony Panico and Rick Schultz concerning the appropriate way to develop this property. And the, we began a process, a lengthy process that involved a lot of meetings and we initially started out with 8 apartments and 5 retail shops and I was asked to cut that back and reduce the number of apartments and the number of stores so it went through redesign. We applied for I believe it was a PDD was it? A PDD. After going through the various meetings and various revisions and then just before the hearing it was recommended that I withdraw the application because the Commission was having some concerns that others, that other individuals within the area would be looking to do the same thing. And this was the way it was portrayed to me. You have to understand that my goal in the, you know, we've made a major commitment about 4 years ago in the downtown area. And I'm fulfilling my goals as far as the commitments I made and my greatest commitment to the downtown is to bring other interests in there. Meaning, it's not just Canal Street and it's not just Howe Avenue, it's the entire, I'm looking as part of the commitment we made to the entire downtown a rebirth. And one of the things that I looked at was, and I

continue to look, is okay how about the gateways leading into the downtown area. Such as, you know, the depressed areas of this section, Howe Avenue and others, and as some of these pieces are becoming available I look at them for the purpose of development. When you think about the investment, Attorney Rizzio said you know 50 million, the total investment that's being made on the Canal, on the Shelton river front exceeds 200 million dollars when we're looking at the various stages as we proceed. This here is a minor part of the overall program. But I did go through that process and then at one of the meetings it was suggested that possibly the best way to handle the development would be, that because of the uniqueness of the property that possibly we would, you know, be better off by going through the Zoning Board of Appeals to seek some of the waivers. And that, and then the Commission would at some time down the road visit the issue as to what's the appropriate development plan for this whole stretch because again, you know, if you go down this stretch what you have is you have you know, the old history. And that is retail on the first floor and residential on the second, I mean that was the wave of downtown's redevelopment. And, and basically obviously as you go, once you leave Constitution Boulevard and you head down you sort of have hodge podges. You know, there's really nothing there that's certain as to exactly appropriate development. Meaning that, you know, yes you have your businesses that spring up, you also as you go down you have the older buildings that have the residential on the upper levels, the retail you know, whether it's retail, restaurant, bars whatever it is, but retail services on the lower levels and so forth. So when I looked at this the, and again, you have to remember this has been going on for over a year. The house has been vacant for a year and a half or close to it. And we've been trying to figure out a method to appropriately develop this parcel in a way that it would not impact the adjoining properties, that they would benefit the overall development into the downtown. And the issue as to the appropriateness of putting in retail on the first level and offices on the second level, aside from the fact that while Bob Scinto has vacant space at, at his complex, no one's going to be able to compete with him. No one can construct new office space and be able to compete with him. Why? Because he has still the best amount of office space. Here, the problem we had was the, how to fit a building on this site that you could work with the topography in a way that it wouldn't impact the properties on the sides. And the, the grade difference between Bridgeport Avenue and Long Hill Avenue, it's actually from Long Hill Avenue to Bridgeport Avenue, it's about 18 foot difference in grade. From the new parking lot on Bridgeport Avenue, which the grade is being established as 102 and that's so that it's elevated above the flood plain from the river and to the back I believe it's what about 14 feet? So we're not talking about a small topographic difference, we're talking about a major, you know, difference. Now, the issue was well you know you can always grab the building and just push it back all the way, you know, and have all the parking lot in the front. The further you push the building back, the higher the building has to be because you're pushing it, continue to push it into the bank and you're pushing it closer to the residential properties in the back. So when I looked at this I said well the best scenario would be to keep, because of the fact that you did have the condominium development next door, because you did have the residential homes, some of them are multi-family, on Long Hill Avenue, that probably the best scenario would be to do a quality design for residential facing Long Hill with the commercial facing Bridgeport Avenue and that's really, you know, how this plan came about.

Mr. Matto: Where does, where does the zone line split? Does it split about half way back?

Atty. Rizzio: No

Mr. Guedas: No it's

Atty. Rizzio: no, it's up, up toward the top

Mr. Matto: up toward the top

Atty. Rizzio: The whole access-way is in the residential on the corner of the, the corner of the property is in the residential, the balance of it is in the commercial

Mr. Matto: okay

Atty. Rizzio: The existing building, which was used for residential purposes was fully in the commercial

Mr. Matto: Yeah

Atty. Rizzio: And like I said, next door to us we have residential in the commercial. And back here this zone line splits this residence also. So we tried to come up with like he said, a plan. And the other variance we needed was with regard to density. Not density, but the fact that we wanted five units instead of four. But I think what's important to note about that is we meet the density requirement. In the RS, in the zone, what is it RB-2?

Mr. Glover: CB

Atty. Rizzio: CB-2 and an RS zone, you had, your, the lots can be as small as 5,000 sq. ft.

Mr. Matto: That's R-5

Atty. Rizzio: and what you're thinking about is one unit per 5,000 sq. ft. We exceed that. We have one unit per 6,500 sq. ft. So we're not, even though we're seeking one more than we're permitted, my gut instinct was that when they, when they did the R-5, they didn't assume that there'd be 32,000 sq. ft. lots.

Mr. Matto: Well R-5, R-5 meant multi-family

Atty. Rizzio: right

Mr. Matto: and up until 5 or 6 or 7 years, in fact I built Colonial Village

Atty. Rizzio: right

Mr. Matto: up to 5 or 6 or 7 years ago, you could put, you could put like 6 point something in one acre. Now, now it's, it's just like R-3, you got to have so many square feet. You can have a two family, a one, a one family, and now they want to double that. That's all changed, that's why that happened

Atty. Rizzio: What I was trying to point out is we're consistent with your density, which is one unit per 5,000 sq. ft.

Mr. Matto: yeah, it doesn't sound like overboard at all

Atty. Rizzio: No

Mr. Matto: No, I just thought maybe it split in the center, I was going to say why not put the stores in the front with a flat roof and the apartments aren't going to have basements anyways because they're on top of the stores, put them on slab, but it doesn't split that way, okay

Atty. Rizzio: Well, so there's our hardship. I mean a hardship, topography, zone lines and regulations that don't address, you have split zone lots, but regulations that don't address split zone properties.

Mr. Matto: Yeah, it appears to me to be a pretty good hardship and it's typical for the whole area.

Mr. Guedas: I think the, the, and again as I said I've had various meetings, and the logic, you know, and in looking at it not as the applicant of this application, looking at it in the bigger picture and you know, the arguments that have gone, come back and forth is the appropriateness, and I understand that this Board deals with one issue and that is appeals on cases to provide relief to applicants based on hardships. But aside from that, the appropriateness of a mixed use leading into the downtown. And I know that it's not this Board's responsibility. It's the zoning commissions responsibility to look at this at the bigger picture. I don't think that the zoning commission, and if, if their thoughts are that you should not have mixed use leading into the downtown that's something that I am opposed to. I believe strongly that a good viable downtown, which is what everybody's seeking is to have good quality mixed use developments so that you have the combination of, and I'm not talking about the old apartments, I'm talking about new quality residential units to attract the right type of people into the downtown that can bring some extra spending dollars to accommodate the new shops that are going to be opening up as time goes on. And that's going to happen. We have, the Shelton riverfront development has 600 units on line. That's 600 families or couples, or individuals that will be moving in to the downtown. Right now we're, I believe the restaurants are already starting to see a difference with

the, you know 60 or 70 units that have been occupied at the Birmingham. Most of the people that are occupying the Birmingham are young professional people. They are people who work in Stamford and Norwalk and so forth, and you know, and I talked to them. I know that they're visiting the local restaurants you know, it's starting. Obviously there's other controversies going on concerning you know, the safety issues and so forth, but for the most part I believe strongly that this type of development in the Bridgeport Avenue, Howe Avenue corridors is the appropriate type of development. I don't believe that the, that any commission should be blind sided by limiting you know, this type of development.

Atty. Rizzio: And most importantly in this situation it's unique. And that's one of the things with hardship

Mr. Matto: that's exactly what I was saying, it's extremely unique whereby the commercial or vice versa, the residential parking conflicts with each other. You know, if the residential and commercial came off the same street, it might hurt the parking for the residential people

Atty. Rizzio: I don't see that there's any danger of precedent that this Commission sets here

Mr. Glover: we don't set precedent

Atty. Rizzio: I understand that, people are always worried about that what's going to happen next door, I don't see that here because when you grant you variances it's got to be a unique property. I think you'd have a tough time going around town and find something as unique as this where the access to the upper portion already existing goes to, comes from the residential. The access from the commercial comes from the commercial and it's all there

Mr. Matto: You should buy the whole strip right to the center and do this all the way down, it would be ideal

Mr. Guedas: you never know

Atty. Rizzio: On top of this, on top of this I'd like to stress is that although we have residential access, and this is where the variances also come in and being unique and being unique to this property, although our access comes from a residential street into a commercial property. Our access, the access will only be used for residential, service residential properties. So I think we keep within the spirit

Tape had to be changed

Atty. Rizzio: of your regulations, but we can't meet the letter of your regulations because of our split zone and I think that's what John has tried to do here, which I don't know that you're going to see ever, see another one of these because I don't think any, I've never seen anything else that sets up like this

Mr. Matto: Yeah, that's because of the brook, (unclear), the brook (unclear)

Atty. Rizzio: So I think we have a, I've been doing this a lot of times and I know sometimes you know, to try and justify and satisfy a legally defensible hardship is very difficult, and this Commission a lot of times acts in equity. You have to. You have judgment calls that you have. But here, I feel very strongly that this is something I can defend in court, I can defend, that I have a true classic hardship, that it's based on topography, it's based on a strict interpretation of the regulations and that these are the specific kinds of cases that ZBA's are established for. I know sometimes you give a little extra coverage for a guy on a deck. Or you give a little extra for a guy here and there because it's warranted within the neighborhood, not really classic hardship, more you guys are acting in your equity capacity.

Mr. Glover: We would never do that. We would never do that.

Atty. Rizzio: Other commissions in other towns

Mr. Glover: Other commissions in other towns

Atty. Rizzio: sometimes act in an equity capacity

Mr. Conklin: My questions, how do we ensure that these are kept as residential units?

Atty. Rizzio: We can do many things. We can first of all have a condition that they be kept for residential use only

Mr. Conklin: And you have no objection to us making those conditions?

Atty. Rizzio: No, we also have a, we also have no objection to a condition that there be no parking of commercial vehicles on the upper section. So we have a

Mr. Conklin: the access from a residential on Long Hill Avenue must be kept and maintained as residential units

Mr. Guedas: That's always been the intent, even with the

Mr. Conklin: Well, you could sell this in the future

Two talking at once

Mr. Guedas: we're not providing adequate parking for

Mr. Conklin: connection to a commercial building through a residential lot

Atty. Rizzio: Here's what we would agree to, we would agree and John maybe you can stop me if I'm wrong. And, it always happens to me to, I make representations in front of commissions and then I've got to come back next month, luckily John comes back, he's back before these commissions every month, but I make representations and my clients are gone and I'm back the next month and if the guy's lying I usually get the brunt of it. We can agree to a condition that, and John tell me if, there'd be no access of the, to the commercial properties from Long Hill Avenue. We can agree that there'll be no, I don't know how you want to say this, that the properties, the properties will be two distinct properties. The residential properties within the interior cannot, will not be able to access the commercial property

Mr. Glover: That those aren't going to become offices later

Mr. Guedas: no

Mr. Conklin: that's my fear

Mr. Guedas: No actually, if you, Mike is here and he can elaborate, but we made sure that all of the essentials such as trash, you know that everything was maintained separately. There's containers down below for the commercial. There's containers up above for the residential. So everything was set separately. There was no provisions, based on the topography, based how the building was set up, there was no provisions to have any connecting driveways. The only thing that we have is, we do have a set of stairs in case you know, somebody from the upper level wants to come down to one of the stores, shops or something

Atty. Rizzio: So they wouldn't have to drive around

Mr. Guedas: otherwise

Mr. Conklin: I saw the stairs and that's

Mr. Guedas: otherwise there is no, there is no connection

Atty. Rizzio: We'll agree to a signage that states no commercial parking, no parking for commercial, whatever you're comfortable with to ensure, because John's, he designed it this way, he's going to live with it and whatever makes the Commission feel comfortable with regard to any kind of notice to anyone that this is residential and this is commercial we're satisfied with those, we're happy to live with those conditions.

Mr. Glover: Just for the record, you're required to have 1 ½ parking spaces per unit, you have 5 units, you have 11 parking spaces, so you've got more than

Atty. Rizzio: Can I explain the reason for that?

Mr. Glover: Sure

Atty. Rizzio: We've done stuff the, 1 1/2 , we're in a two car world

Mr. Guedas: Let me just, one of the

Mr. Glover: No, no, I'm not being critical, I'm making points for you

Atty. Rizzio: Okay

Mr. Glover: You've got 5 units that have to have 1 ½

Atty. Rizzio: correct

Mr. Glover: You have 11, you have more than 2 for each unit, I'm not asking you to defend it, I'm

Atty. Rizzio: thanks

Mr. Glover: I'm putting it on the record

Mr. Guedas: And one of the things that I think in going through the approval process with the Canal Street development, the river front, we started out with the Birmingham with a 1 ½ to 1 ratio, which is what the requirements provided and we found it to be shy. And even though, it was then made part of the new approvals for the rest of the development where we're required to do 2 to 1 ratio, but basically in today's times, you need to have 2 to 1 as a ratio. The additional space is just to act as a visitor, you know, spot

Mr. Glover: Yeah, no, I understand, I'm being complimentary

Atty. Rizzio: Thank you

Mr. Glover: to say that the requirement is 1 ½ and you have 11, so you exceed that requirement

Mr. Guedas: And if you have any other questions, we'd be glad to answer them. But that's our proposal.

Mr. Glover: Let's wait until this gentleman comes to find out whether he's in, is there anyone else in this room who is in favor of this application? (no response) Is there anyone in favor? (no response) Is there anyone that's opposed to this application? (yes) Would you come forward please?

Mr. Todice: I'm John Todice

Mr. Glover: Mr. Todice, your address please?

Mr. Todice: 130 Wakelee Avenue, Ext.

Mr. Glover: And you object to this project?

Mr. Todice: I certainly do

Mr. Glover: Can you tell me why?

Mr. Todice: I ran for alderman this past term and I lost, but what is happening in my area which is the 2nd ward, we're getting over saturated by density. I own property adjacent to this project. This project went

before the Zoning Board a 1 ½ ago, I spoke against it, it was tabled, and you know, (unclear) pull your contract back, the proposal back after this. But this is just over saturation. We're over saturating the land. Each spot is supposed to have 5,000 sq. ft. per unit. This is a 50,000 sq. ft. area, by regular zoning code. We're maximizing the lot. The reason for it, the hardship is Mr. Guedas paid \$550,000 for this piece of property and the only way you can get something out of it is by doing this.

Mr. Glover: Anything else, Mr. Todice?

Mr. Todice: Well, I just think it's just too much for the neighborhood

Mr. Glover: Okay, that's fine. Did you have anything else to add?

Mr. Todice: no

Mr. Glover: Okay, let me, let me read this letter from the Planning and Zoning Commission

Mr. Jones read letter: "Memorandum. To: Gerald Glover, Chairman, Board of Zoning Appeals. From: Richard D. Schultz, Planning and Zoning Administrator. Date: January 11, 2008. RE: ZBA Application #108-2. The Shelton Planning and Zoning Commission at their January 8, 2008 meeting discussed pending Application #108-2 requesting a use variance to permit five (5) dwelling units within a mixed-use development located within a split zone on property located at 159 Long Hill Avenue. After discussion and review of the application, the Commission noted the following: 1. It appears that no hardship can be shown. 2. The Commission previously processed a PDD zone change for the subject property for the same mix-use development and was going to deny the request before it was subsequently withdrawn. The Commission continues to believe that the proposal is too intensive as a development and cannot support the mix use concept and inconsistent with the comprehensive plan of zoning for the area and could have a negative effect on the safety, welfare, and property values on the adjacent neighborhood. 3. There appears to be reasonable alternatives to the development of this parcel. cc: Planning and Zoning Commission."

Mr. Glover: Alright, is there anyone else in this room that opposes this application? (no response) Alright, rebut time.

Atty. Rizzio: This is actually (unclear) with regard to the density, it's clearly not a density issue. A density issue says you own one unit for 5,000 sq. ft., we have an excessively large piece of property, it's 32,000 sq. ft., we have, we have one unit for over 6,500 sq. ft. The density to me is not an issue here. The, if I can take a look at that letter, and this is the problem I think when a Planning and Zoning Commission I think that reviews applications without presentation. Because I don't know, I don't know of an application I said that can justify hardship more than this. The Planning and Zoning Commission if they wanted to avoid hardship could've clearly when they set out their zone map made sure that they didn't have split zone properties, which are inherent in itself creates a hardship. I don't think they necessarily acknowledged the topography, the changes in the topography. They, with regard to it, if no vote was taken, I don't know how anyone can say that they were going to deny anything without a vote. I think that's really, this is really out of character and I think it's way over reaching in stating what people were going to do or not do until they were formally called for a vote. And I don't think you have any authority to say what they thought they were going to do. Lastly, there appear, that it's out of character with the comprehensive plan. That is clearly not the case. I don't think there's a property that's more consistent with the comprehensive plan. Due to the zone, due to the split zone we are looking at property that faces on a commercial piece of property, on a commercial strip, and faces on a residential strip. Through Mr. Guedas' unique design, unique planning and careful thought, he's managed to achieve both looks for both sites on the same parcel of land. So what they have left us with which was a split zone, has allowed Mr. Guedas to turn around and give you a split development, meaning residential face, residential character and residential use in the location that abuts the residential neighborhood; commercial look, commercial character, commercial in identity on the strip of land that faces the commercial property. Your master plan states that in a residential zones they want to see a residential character. Where we face our residential zone, we're providing you a residential character. Where it faces the commercial zone, they do not want to see a residential in a commercial zone, therefore, what they are seeing, what appears to be is a, what is a retail strip with what appears to be commercial office above it. I don't think you can find a project that more satisfies the classic hardship test, one that in the same manner supplies, satisfies your master plan for development, satisfies your issues with regard to density and intensity of use and most

importantly, I don't think there is a reasonable alternative. I think the commissioner put it best, we have a piece that's residential where we can't put commercial. We have a piece that's commercial where we can't put residential. How do you satisfy both masters? This application is unique in enough that it satisfies both masters, satisfies the master plan. But for the split zone, but for the unique topography, this project would not be able to go this way. So when they say reasonable alternatives, I don't know how you can do any other reasonable alternative but mixed use on this site and not, without going for a change in zone. The problem is if you go for the change of zone, now you're going to create an island in the middle of two zones. So we believe that we've satisfied our hardship requirement. We believe we satisfy your master plan. We believe that we don't have any negative impact on the health, safety and welfare and we'll agree to accept any conditions that this commission would like to put on this property to, to, to ensure that the residential remains residential where it faces the, where it faces Long Hill Avenue and that the commercial remains commercial. To push the building all the way back and put a sea of pavement on the property, which would probably intensify the traffic, intensify the use of the site and would not require, would not require variances does not do justice to the residential area. You create more intense use, you create, the people in the residential area get to look at the back of a commercial building, which is typically where everybody puts their mechanicals, it's where they put the receptacle, they put everything. In this instance you're getting two faces. I don't know of many projects in town where you get two pretty faces that each take care of both sites. This is classic hardship. This is legally enforceable hardship, and this is not, most importantly, not self-created. Mr. Guedas didn't create the access way, Mr. Guedas didn't create the topography and his density, his increase from 4 to 5 units is based on the size of his piece. And that therefore, I think what happens is the R-5 regulations don't address the number of units when it comes to larger pieces. Frankly, if you look next door toward Colonial Village I think you have the same issues where you have in excess of 4 units on a similar type of parcel. So it's consistent with what's in the neighborhood and will have no negative effect on neighboring properties. I thank you for your time and your consideration.

Mr. Glover: Just for the record, it is served by City sewer and City water?

Atty. Rizzio: Yes

Mr. Glover: Thank you. Any other questions from the Board? (no)

Mr. Guedas: Thank you gentlemen

Mr. Glover: Thank you.

Atty. Rizzio: Thank you folks.

Mr. Glover: Does the Board have

Mr. Guedas: Are you all set with me though?

Mr. Glover: Hang on a minute. Ralph? Does the Board have enough information? Do you feel you have enough information, when it's time to vote on this at this point?

Mr. Matto: To vote on it

Mr. Glover: Do I leave the hearing open or do I close the hearing? I've heard enough, but how about the rest of you?

Mrs. Adanti: I'm fine

Mr. Matto: I think we should think about it a little bit.

Mr. Glover: Oh, I'm not going to vote on it tonight. I'm not going to vote on this tonight, because I want to review everything before we vote on it. But do you have, have you heard enough?

Mr. Matto: Oh you mean, enough to close it up?

Mr. Glover: Yes

Mr. Matto: Yeah, I think so

Mr. Glover: Ed?

Mr. Conklin: Yes

Mr. Glover: Jamie?

Mr. Jones: Yes

Mr. Glover: Alright, then I'll declare the hearing closed. Good night.

Atty. Rizzio: Thank you very much, have a nice evening.

Later that evening the Board, upon motion by Mr. Conklin and seconded by Mr. Matto, unanimously voted to table a decision until next month.

Approval of Minutes

During the work session the Board, upon motion by Mr. Jones and seconded by Mr. Conklin, unanimously voted to approve the minutes of the December 18, 2007 hearing as submitted by the clerk.

Respectfully submitted,
Loreen Michalak, Clerk