

Board of Zoning Appeals – Hearing Room, Municipal Building 54 Hill Street, Shelton, CT.
Tuesday, October 21, 2008 at 7:30pm

AGENDA:

- #1008-1 D. Thomas for Teresa Kleczkowski at 82 Soundview Ave.
- #1008-2 A. Joseph Mingoello for Charmaine Borowski at 93 Indians Wells Rd.
- #1008-3 John Guedes, Broadbridge Hill Development, at 159 Long Hill Ave.

Possible Decision on:

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

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, Linda Adanti, Phil Cavallaro, Ed Conklin, Jack Fitzgerald, Bob Harbinson, Jamie Jones and Ralph Matto.

Mr. Glover: Good evening and ladies, lady and gentlemen and welcome the October meeting of the Shelton Zoning Board of Appeals. I think that we have a short agenda tonight, but you can never tell. When you speak to the, appear before the Zoning Board of Appeals you are giving testimony. It creates a record. That record is the record that goes to court in case, in the event of an appeal, in the unlikely event of an appeal. I'd ask you please to refrain from having cell phone conversations or conversations in the room because they will be picked up by our tape recorder and it will make the transcription of the record hard for our clerk during the month. Our regulations require that you have notified your neighbor and that you have taken four pictures of the property with one of the pictures showing the property was placarded. When you are called for your hearing I will ask you for the pictures and I will ask you for the receipts proving that you notified your abutting neighbors. If you have them we'll be able to go on with the hearing, if you have not then we'll continue the hearing. Jamie?

#1008-1 82 Soundview Ave., Assessors' Map 101, Lot 50, Teresa Kleczkowski, c/o Dominick Thomas, Esq., of 315 Main Street, Derby, CT is appealing a decision by ZEO as to issuance of a stop work order dated July 15, 2008.

Mr. Glover: We have some correspondence from Attorney Thomas that, Jamie would you read this into the record please?

Mr. Jones: Sure. "October 20, 2008. Chairman Gerald Glover, Zoning Board of Appeals, City of Shelton, 54 Hill Street, Shelton, CT 06484. RE: Appeal of Teresa Kleczkowski RE Action of ZEO 82 Soundview Avenue, Shelton. Dear Chairman Glover: The purpose of this letter is to request the Zoning Board of Appeals continue the public hearing on the above captioned matter to its November meeting since my client is still out of the country due to health reasons. Thank you for your attention. Very truly yours, Cohen & Thomas, Dominick J. Thomas, Jr., cc: Teresa Kleczkowski Thomas Dingle, ZEO."

Mr. Glover: Alright does the Board have any problem with continuing this hearing for Attorney Thomas? (no) No objection to it? (no) Alright, then we're going to continue this until next month. If anybody's here for this matter we'll be here the third Tuesday in November.

#1008-2 93 Indian Wells Road, A. Joseph Mingoello, Mingoello & Hayes Architects of 90 Huntington Street, Shelton, CT is seeking to waiver Section 34.1 location and bulk standards by varying the maximum floor area as a percent of lot area from the maximum 30% to 80% for renovations to a residence.

Mr. Glover: Good evening

Mr. Mingoello: Good evening

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

Mr. Mingoello: Joseph Mingoello, of Mingoello Hayes Architects. Our office is located in Huntington Center in Shelton.

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

Mr. Mingolello: Yes I do.

Mr. Glover: Alright. And can you tell us what you want to do and why you can't conform?

Mr. Mingolello: Well, the building, you know, this is The Maples and we're in a planned development district. Our proposal is to remove the existing summer home that's there. I'm here to represent, representing Mrs. Borowski, she is the property owner. And she lives in Illinois, in, I'm sorry, Indiana. And they use this as a summer home so they would like to make some improvements. The cottage is quite old and in very bad condition so they would like to remove it and build a new summer home. We have met all the regulations in terms of setbacks from all sides of the property, lot coverage we've met that setback; height we're under by 10 feet; and the only thing that we would like is a, some relief in terms of the floor area ratio. The requirement is 60% as a max and we're at 80%. So we're asking for a waiver of 20% in this case. I can take you through, through the plan quickly. This here is the existing which we're going to remove and you can see the footprint. We've actually pulled this house back to inline with the setback at the street. We've pulled it inline to exactly, we actually pulled it out to the setback, just inside the setback on the left side and on the other side we pulled it in a foot and a half. And we've pulled it in a foot and a half from the water's edge. Um, just to give you a quick rundown of the plan and why we would like to, we'd like to make it a two story building. And Mrs. Borowski has a very difficult time climbing stairs and if this is the top of the sheet or right here is Maples, Indian Wells Road, the entrance is here, it's just a half a flight, a few steps up, we've got a kitchen, a dining room, and living room and a screened porch with views of the water and we've created a bedroom and a bathroom for her. And then on the upper level, the second story, take a stair up which is in the middle of the stair, master bedroom on one side, a bedroom and a bathroom that's shared by both bedrooms. And then the elevations look as such. What you would see from Maples, from Indian Wells Road, this is the front elevation. And I believe, let's see that's the water elevation on this side. So it's a simple relatively, a two story building and again we're just looking for some, some relief in terms of the F.A.R. Are there any questions that the zoning board has?

Mr. Fitzgerald: What is the dimension from the property line to the building?

Mr. Mingolello: from the property, from the street it's 10 feet, that's the setback okay? From the, as looking at it from Indian Wells Road, the right side we're, 5 feet's the setback, we're back 5 plus. The left side the setback is 3 ½ feet, we brought it in another foot, it's 4 foot 5 inches. And then the water's edge the setback is right at the wall and we've brought it back to almost 2 feet, 1 foot 10 inches back. So overall we've shrunk the footprint, okay, but we've taken it up a full floor in renovating it.

Mr. Matto: So there's no variances needed other than the size

Mr. Mingolello: Just the F.A.R., the floor area ratio as a percentage of the lot area

Mr. Matto: right, right

Mr. Mingolello: That's all

Mr. Glover: How much would you have to shrink it to comply?

Mr. Mingolello: Considerably. We'd have to go from, the requirement would be 1212 sq. ft. would be the max, and we're at 1618 sq. ft. I'd have to shrink it 204 sq. ft. to comply with the F.A.R.

Mr. Glover: And the reason it complies now, it's pre-existing but it's a very small cottage now.

Mr. Mingolello: Well, they're all very small down there absolutely. They're all tiny little lots

Mr. Matto: Does the footprint, another words, assuming, I'm not saying it should be, but assuming it's a one story, the footprint is legal

Mr. Mingolello: That's correct, absolutely

Mr. Matto: so the second story adds that extra square

Mr. Mingoello: That's right and most of the homes down there are two and three stories

Mr. Matto: yeah, that's right

Mr. Mingoello: I mean they're going up because the lots are so small

Mr. Matto: yes

Mr. Glover: Now this is next to Martinelli's?

Mr. Mingoello: Yes it is

Mr. Glover: And is Martinelli's that brown house that's going up?

Mr. Mingoello: No, that's Joe, he's about oh about 4, he's 99, that's 93. There's a James Martinelli and a Joe Martinelli. They're brothers

Mr. Glover: Okay, so this is not next to the house that we gave for a variance

Mr. Mingoello: No it's not, no. It's a couple doors down.

Mr. Glover: One, one of my concerns and I know that this is not the same Martinelli, but one of my concerns with Martinelli's was that it was like 40 feet tall

Mr. Mingoello: That's correct

Mr. Glover: and it was like 4 feet from the property line

Mr. Mingoello: um hum

Mr. Glover: and this one

Mr. Mingoello: Well, we brought it back in at 5, and yeah you're right I think on one side it was about 4 feet

Mr. Glover: And this one's 3 ½ feet on one side and 5.08 feet on the other side

Mr. Mingoello: No, no, we're 5 feet, 4 feet 5 inches, where now it's 3.3, 3 feet, 3.3 feet is the existing right now, okay? And we've brought it back to 4 feet 5 inches

Mr. Glover: Alright, so both sides though are 5 feet from the property

Mr. Mingoello: Roughly, yes

Mr. Glover: And so the next house next to this is going to be no more than 5 feet from the property line some day

Mr. Mingoello: some day

Mr. Glover: So you're going to have houses that are 40 feet, 30 and 40 feet high and they're only going to be 8 and 10 feet apart.

Mr. Mingoello: that's correct

Mr. Glover: and they're all wood structures

Mr. Mingoello: uh huh

Mr. Glover: And there's no fire proofing between the two structures

Mr. Mingoello: Oh there is. Those walls, anything less than the composition of the walls that are adjoining the property lines they're a, they have to be 1 hour fire rated.

Mr. Glover: How do they get the windows in them?

Mr. Mingoello: They can, you can have a percentage, if you're 3 feet or less, you can't have any openings, okay, unprotected vertical openings is what the codes says. Okay? If you go to 5 feet and beyond, okay, you can have a percentage of the wall area, it can have unprotected vertical openings. But it still, you still need to have a one hour enclosure assembly

Mr. Glover: And, and how do they do that? How do you do that? I mean is there vinyl siding on these houses?

Mr. Mingoello: yes there is, but inside, underneath it is sheetrock

Mr. Glover: That's what I'm saying

Mr. Mingoello: Both sides, you've got to have two layers, you can have a one hour assembly and then what you apply on top of that

Mr. Glover: Okay, so the exterior sheathing is sheetrock

Mr. Mingoello: That's correct.

Mr. Glover: And the roof?

Mr. Mingoello: And the roof is a Class A roof. It's an asphalt shingled roof in this case.

Mr. Matto: So that sheetrock is the fire rated sheetrock, the thicker, yeah

Mr. Mingoello: That's correct

Mr. Matto: Alright, so it's safe

Mr. Mingoello: Yes, I mean it's to code

Mr. Fitzgerald: Is that one layer or two layers that you put on it?

Mr. Mingoello: It's a layer on the inside and a layer on the outside, it's two layers, 5/8^{th's}. It's has to be a one hour assembly, they call in the building code.

Mr. Cavallaro: So what percentage of unprotected vertical opening can you have? Or what's the maximum size?

Mr. Mingoello: It depends. For residence it's 25% I believe. Okay? It varies anywhere from 5% to 15 and then within a residence in an R-3 classification you can go up to almost 25%.

Mr. Harbinson: what sort of insulation are you going to be using?

Mr. Mingoello: It's probably going to be a fiberglass, or depending on how eco-friendly they would like to get in the assembly in terms of

Mr. Harbinson: Not a foam?

Mr. Mingoello: No, at this point it probably won't be a foam, no.

Mr. Glover: Are you, are you concerned at all that as this neighborhood develops from one story cottages to

homes 40, 30-40 feet tall all the way down that we aren't creating a safety hazard?

Mr. Mingoello: Are we creating a safety hazard? I mean if there's a fire on one building to the next, there's always that potential, but even if it's a one story building against a one story building if you're only a few feet away, there's always that potential, having a fire, certainly, traveling from one

Mr. Glover: It's easier to fight a one story building fire, than a 40 foot

Mr. Fitzgerald: (unclear) vinyl melt

Mr. Cavallaro: It's easier to get out of a one story building. What about egress windows, if, are they going to be on the common wall sides? Or can the bedrooms have egress windows in the front and back?

Mr. Mingoello: They have in front and back. There are no egress windows. The bedrooms, if you can look at the floor plan, the first floor, the window is, both windows are on the street side, this is the first floor. Okay? And this is the street. So you have a window right here in that one bedroom. You have a deck, a screen porch and you have windows, everything that fronts the water side is a lot of glass. And then when you go to the upper levels, you've got a bedroom here and that fronts the water and there's a larger opening here. So you know, the structure's here, okay, the existing structure on the opposite side. And then you've got the master which has a deck and, a sun deck, it has a sliding glass door onto it, so, so they have, all of these spaces have egress windows on the front and the back. There's one small window on the right side here and then there's a window down at the grade level on both sides.

Mr. Glover: And this is, up out of the flood plain, right?

Mr. Mingoello: Yes it is. This floor elevation is at the flood plain, that's correct. And we have a section to it right here. And this is a small section through it. This is the 100 year flood. Here's our first floor elevation. We have a crawl space underneath it to raise it up over the flood plain

Mr. Glover: Does that have to be ventilated?

Mr. Mingoello: Yes it does. And it has to have flood vents

Mr. Glover: flood vents, I mean

Mr. Mingoello: That's correct, yes it does

Mr. Glover: So the tide can come in and the tide can go out

Mr. Mingoello: That's right, in case of a

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

Mr. Mingoello: Thank you very much.

#1008-2 During the work session the Board, upon motion by Mr. Conklin and seconded by Mr. Jones, voted four to one (Mr. Cavallaro, Mr. Conklin, Mr. Jones, and Mr. Matto voted in favor and Mr. Glover voted against) that:

"In the application of A Joseph Mingoello of Mingoello and Hayes Architects, 90 Huntington Street, Shelton, CT for a certificate of approval for renovations to residence to be located on the property of Charmaine Borowski at 93 Indian Wells Road, PDD zone, and which requires a variance in the maximum floor area as a percent of lot area,

The application for a variance is approved.

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

Inasmuch as the new renovated structure will have a smaller footprint than the existing structure, and

Inasmuch as the proposed structure will be in harmony with other renovated structures in the area,

Therefore, with due consideration for the public health, safety, welfare and property values, the approval of a variance in maximum floor area as a percent of lot area from 30% to 80% at the above is granted (Section 34.1 location and bulk standards) in this instance.

This certificate of approval is contingent on any windows installed on the sides of the structure facing another building or structure, shall be fire rated windows.

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.”

#1008-3 159 Long Hill Avenue, John Guedes of 1425 Noble Avenue, Bridgeport, CT is seeking to waiver Section 24, Schedule B, Standard 10 by varying the minimum setback from a residence boundary line from 40 ft. to 30 ft. for construction of a 109.25' x 48.25' retail building.

Mr. Glover: Good evening

Mr. Guedes: Uh, Mr. Chairman, members of the Board, unfortunately we, there was a confusion between myself and Nowakowski and Bymachow and the notifications were not sent out so we'd have to, you know, ask for a continuance.

Mr. Glover: Alright, before we do, is this the same property that's, that's in court?

Mr. Guedes: Yeah, uh, just that, and I know that, you know, again, I mean, this Board knows the history. Basically, I can't sit on a vacant property so you know, um, I met with the Chairman of the Zoning Commission and Tony Panico the consultant, and Rick Schultz, and ultimately the purpose, the reason why I'm before this Board again is to accommodate, you know obviously, the wishes of the Commission. I understand that they've sent a letter in support. For the most part, this particular request for the waiver is not, it's, there is a hardship. It's not a self-imposed hardship. The hardship is created not necessarily where, I'm not asking that the setbacks be waived. The building sits within the setbacks. If you're, if you recall the application at all from the previous, what happens is that the zone line cuts through a portion of the rear of the property. And what happens is in order to accommodate the wishes of the commission, I've had to push the building back, I think it's 4 or 5 feet and in turn what I'm doing is I'm encroaching into the, still within the setbacks of the building

Mr. Glover: buffer zone

Mr. Guedes: But I'm going into that, where the, we're passing the commercial line into the residential line. That's the only reason I'm here. I meet all of the other criteria.

Mr. Glover: We haven't seen, I haven't seen a letter from them, from the Planning and Zoning Commission. If they are supposed to, have you seen one?

Clerk: No

Mr. Guedes: They, I was informed at the meeting they scheduled for me, that they, they were going to send a letter out

Mr. Glover: I have no

Mr. Guedes: Because as you know I purchased the property going on two years ago, you know, it's like, I almost feel like rehabbing it and renting it out. I mean it's crazy. I mean it's, I've been trying for the past two years to develop that property. And as you know the history of it, it baffles me why they, you know, they filed an appeal against this Board, you know it's, I mean I've been involved with the city. I thought that when I got involved here I was doing something great for the downtown and it showed that I wasn't just interested in Canal Street. That, you know, my, you know I had a broader interest in the downtown. And I had an opportunity to pick up this property and figured, you know, start developing this portion, this side of the town as well, but you know, it, obviously I'm always at the mercy of others. And in this particular case I do want to proceed to develop this piece. I, you know, I was forced to obviously abandon the residential units, which again, makes no sense whatsoever to me. I believe that that whole stretch should be multi mixed use properties. I mean that's, you know, you want to have residents in order to help the businesses. And you know, for some reason it, you know, it's been a battle and again, as I said, you know uh

Mr. Glover: Are you telling me that, that you're going to not do the residential area on the upper part?

Mr. Guedes: Yeah. I've had to give that up so that I could proceed with the project. So, and as I said, the reason for this particular waiver was that I was asked to make the drives slightly larger, make, you know, in other words, the sidewalk in front of the building slightly larger with the intent to, and every one of these steps has caused me to, you know, move the building back slightly. And again, as I said, I kept the building, you know, it's, the setbacks are still met within the, the property line setbacks, but as I said, this particular property the zone line between the residential and the commercial does cut through the property and therefore, you know, it does go into that area slightly. There is no access from Long Hill. Basically, there is no use for that rear section, so it'll just be, and the building was knocked down a, you know, a story. Basically, the attic for now would be, you know, just strictly for storage. If I can pick up adjoining properties later on and then maybe we'll, you know, we'll be back with you know, turning it into some kind of commercial use. But as of right now the only interest I have is basically to begin to build a building on this site.

Mr. Glover: Was, was it your impression that the letter that they were sending us

Mr. Guedes: They're the ones that, I questioned this too, you know I said, this conflict going on

Mr. Glover: Yeah, I mean how can we grant a variance on something that's, that's already in

Mr. Matto: What is the commercial zone that's there now, it exists, is it CA, Gerr?

Mr. Guedes: It's in your, it's in your, it's listed on the map I believe

Mr. Glover: (unclear)

Mr. Matto: I was just wondering if it's the same as what's downtown, the commercial

Mr. Guedes: No, I don't think so

Mr. Matto: That's different

Mr. Glover: I don't, Ralph, I don't want to get too deeply into this because

Mr. Guedes: I understand

Mr. Glover: because we, we

Mr. Guedes: It's CB2

Mr. Matto: CB2?

Mr. Guedes: Yeah, and the zone, the residential zone is R-5, but again, as I said, the problem is that the zone cuts, you know, through the portion of it

Mr. Matto: Yeah, because like downtown you wouldn't have to do that, you can get apartments

Mr. Guedes: So as I said, my, my request is that I ask for a continuance so that we can provide the a, and at the same time, obviously we need to know that the Commission, if they're having me go this route, that they in turn should have sent a letter stating that, you know the reasons

Mr. Glover: Yeah, I, I would, you know, I'm not an autocrat here, but I would be inclined not to, I would be inclined to recommend that your application be denied without prejudice so that we could hear it again. But I would not be inclined to grant a variance on a site that's up in the air for the three other variances, without them, without, without some input from them

Mr. Guedes: No, I understand

Mr. Glover: I don't want to put you in the middle of it

Mr. Guedes: No, I know, what I'm asking is that you table it. I will meet with them again, explain and actually this probably worked out for the best because it gives us an opportunity, obviously what will happen is that by going this route, I will in turn withdraw the previous, I don't know how (unclear) somehow withdraw the previous, which means that we will not go, you know, through court. I don't, I mean for me it was, when, shocking how it was handled. But again, you know, I'm not going to question motives, but the only thing I ask is table this and then I will, you know, provide appropriate documentation for the next meeting.

Mr. Glover: Let's continue this until the next meeting.

Mr. Guedes: I appreciate that

Mr. Glover: Thank you

Mr. Guedes: Thank you and sorry for the, you know

Mr. Glover: No problem.

#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.

During it's work session the Board, upon motion by Mr. Cavallaro and seconded by Mr. Matto, voted unanimously to affirm the decision of the Zoning Enforcement Officer.

Modification to Zoning Board of Appeals Regulations

During the work session the Board, upon motion by Mr. Conklin and seconded by Mr. Jones, unanimously voted to amend Section D of the Zoning Board of Appeals regulations to include "In the event the abutting landowner is the City of Shelton, notification will be mailed to the Conservation Commission of the City of Shelton."

Approval of Minutes

During the work session the Board, upon motion by Mr. Conklin and seconded by Mr. Cavallaro, unanimously voted approve the minutes of the September 16, 2008 as submitted by the clerk.

Respectfully submitted,
Loreen Michalak, Clerk

