

WETHERSFIELD ZONING BOARD OF APPEALS
PUBLIC HEARING
February 27, 2006

The Wethersfield Zoning Board of Appeals held a public hearing on February 27, 2006 at 7:00 PM in the Police Department Community Room, 250 Silas Deane Highway, Wethersfield, Connecticut.

PRESENT: Thomas J. Vaughan, Jr., Vice Chairman
Bruce T. Bockstael, Clerk
Gina P. DeAngelo
George McKee
Earle R. Munroe, Alternate
Frank Dellaripa, Alternate

ABSENT: Morris R. Borea, Chairman
Matt Cholewa, Alternate

Also Present: Brian O'Connor, Chief Building & Zoning Official

Vice Chairman Vaughan, Jr. opened the meeting at 7:00PM. Before the meeting started, the public was welcomed to speak regarding anything except specific cases in the past or on the night's agenda. There was no one present who wished to speak.

Commissioner Bockstael stated that they will be hearing Application No. 5940-06 last, as the applicant is waiting for her Attorney.

APPLICATION NO. 5938-06 Mary and Mark Raymond seeking a variance to construct an addition a portion of which will be over the building line at 323 Hartford Avenue, west side, B Residence Zone (§3.7).

Mr. Gary Vivian, Cactus Design, 43 Old Pewter Lane, Wethersfield, CT appeared before the Board on behalf of his clients Mary and Mark Raymond seeking a variance to construct an addition. Mr. Vivian submitted plans which show the existing site plan and the proposed site plan; adding that the larger plans are to scale, however, the smaller plans are not to scale.

Mr. Vivian stated that this home was built in the early 1800's before zoning regulations were in place; therefore, it is quite a bit in front of the 40' set back property line. He stated that they are proposing to add an addition on the side of the home; adding that the home is turned 90 degrees so it really is the back of the home where they are proposing to put the garage addition. He stated that the proposed addition is 570 square feet on the north side of the home; he stated that there is about 300 square feet in front of the 40' set back. He stated that they wanted to keep it back from the front of the home; adding that it is about 21' from the property line and the adjacent properties on both sides are about 20' to 25' back from the property line. He added that this is the only logical place to put the addition with the new garage being in the rear of the home.

Vice Chairman Vaughan, Jr. questioned if the home is already non-conforming. Mr. Vivian stated that this was correct, a little more than half of the home is non-conforming.

Commissioner Bockstael confirmed that the variance that is needed is about 19'. Mr. Vivian stated that this was correct. Commissioner Bockstael questioned if the Historic District Commission has reviewed the design. Mr. Vivian stated that they have not; because of the storm last month his hearing was cancelled; adding that they will be looking at the design next month.

Commissioner DeAngelo questioned if this design is in line with other homes in the area. Mr. Vivian stated that it is.

Vice Chairman Vaughan, Jr. questioned if Mr. & Mrs. Raymond have spoken to their neighbors about this addition. Mr. Vivian stated that they have and there are two letters from adjoining neighbors who are in favor of this application.

Mr. O'Connor stated for the record that this application was postponed from last month at his request because of the snow storm.

Commissioner Bockstael confirmed that they received two letters in favor of this application from:

1. Mr. David Wurzer, 311 Hartford Ave., Wethersfield, CT
2. Mr. Robert George, 331-335 Hartford Ave., Wethersfield, CT

There were no further questions from the Board.

The following audience members wished to speak in favor of this application:

1. Mrs. Billye Logan, 318 Hartford Ave., Wethersfield, CT
2. Mr. Denis Walter, 326 Hartford Ave., Wethersfield, CT

There was no one in the audience who wished to speak in opposition to this application.

APPLICATION NO. 5939-06 Carol Groll seeking a variance to convert a single family residence to a two family residence (renewal) at 72 Carson Avenue, east side, B Residence Zone (§3.2).

Ms. Carol Groll, and Mr. Jeremy Groll, 72 Carson Avenue, Wethersfield, CT appeared before the Board seeking a renewal variance to convert a single family residence to a two family residence.

Vice Chairman Vaughan, Jr. questioned if there have been any changes since the last variance was granted. Mr. Groll stated that there have not been any changes.

Vice Chairman Vaughan, Jr. read the previous stipulations placed on this variance and questioned if there were any problems with the stipulations. Mr. Groll stated they do not have any problems with the stipulations.

Commissioner Munroe questioned if there were any changes in usage of the property and questioned if the property has a separate entrance. Mr. Groll stated that there is not any changes and stated that there is not a separate entrance; adding that this is a raised ranch with a kitchen in the basement.

There were no further questions or comments from the Board.

There was no one in the audience who wished to speak in favor of or opposition to this application.

APPLICATION NO. 5941-06 Jeff Lamo seeking a variance to construct an addition not having the required side yard setback at 151 Wells Road, north side, A Residence Zone (§3.7).

Jeff Lamo, 151 Wells Road, Wethersfield, CT appeared before the Board seeking a variance to construct an addition not having the required side yard setback. He stated that currently there is a porch on the side of their home that is approximately 9.9' from the side yard. He stated that they would like to make this 8' wide and would like to increase the length by about 2' and make this a full basement addition with an entryway and a full bathroom.

Mr. Lamo entered into the record letters from both of his neighbors in favor of this application. He also entered into the record pictures showing the space between his home and his neighbor's home.

Vice Chairman Vaughan, Jr. questioned if the porch is already non-conforming and how much of a variance is needed. Mr. Lamo stated that the porch is non-conforming and that they are seeking another 2' to the side, which would make a

total of 7.9'.

Commissioner Bockstael confirmed that the previous variance was a little over 5'. Mr. O'Connor confirmed that the previous variance was a 5'6" variance.

Commissioner Bockstael confirmed that there are letters in favor of this application from:

1. Mr. & Mrs. Anthony Rossi, 145 Wells Road, Wethersfield, CT
2. Mr. & Mrs. Donald Hope, 155 Wells Road, Wethersfield, CT

There were no further questions or comments from the Board.

There was no one in the audience who wished to speak in favor of or opposition to this application.

APPLICATION NO. 5942-06 Tim Horton's (New England), Inc. seeking a variance to install menu boards, 1) exceeding the number permitted and 2) larger than permitted at 486 Silas Deane Highway, east side, General Business Zone (§6.3.F).

Mr. Michael Bolduc and Mr. Peter Prissette, 74 Nooseneck Hill, West Greenwich, RI, appeared before the Board on behalf of Tim Horton's seeking a variance to install menu boards. They stated that these menu signs are standard signs.

Vice Chairman Vaughan, Jr. questioned what is allowed. Mr. O'Connor stated that 1 menu board at 18 square feet is allowed. Mr. O'Connor stated that they are looking for a menu board at 30-33 square feet, and a preview board.

Vice Chairman Vaughan, Jr. questioned if there are any signs on the property. Mr. Prissette stated that as far as menu board signs there are not.

Commissioner Munroe questioned if this has been approved by the Planning and Zoning Commission. He stated that this property was, about a year ago, being proposed for a Dunkin Donuts; however, Dunkin Donuts decided not to go with this property because of traffic issues. He questioned if this issue has been reviewed by Planning and Zoning. Mr. O'Connor stated that this has been reviewed by Planning and Zoning.

Commissioner Bockstael stated that he is also on the Architectural Review Board for Planning and Zoning. He stated that everything has been approved with the exception of the preview board. He stated that the menu board will be located in the rear of the building and there will be planting that is along the east side so it is their opinion that it is really not observable from the Silas Deane Highway and hardly at all from Church Street. He stated that almost all these types of businesses have this type of menu board so this is not really an exception.

Vice Chairman Vaughan, Jr. questioned how this compares with what was approved for Starbucks Coffee. Commissioner Bockstael stated that this is pretty close to what was approved for Starbucks.

Commissioner Bockstael read into the record a letter from Town Engineer Mike Turner referring to two (2) directional signs which has nothing to do with what is being heard tonight.

There were no further questions or comments from the Board.

There was no one in the audience who wished to speak in favor of or opposition to this application.

APPLICATION NO. 5940-06 Barbara Clancy appealing the decision of the Building & Zoning Official's denial to issue a Building Permit for the installation of windows in the Historic District at 33 Chesterfield Road, south side, B Residence Zone (§10.4.B).

Attorney Fred Odell, Wethersfield, CT and Barbara Clancy, 33 Chesterfield Road, Wethersfield, CT appeared before

the Board appealing the decision of the Building and Zoning Official denying a Building Permit for the installation of windows.

Attorney Odell submitted into the record informational packets with a memorandum to all the Commissioners. He stated that his client lives in the Historic District around the corner from him. He stated that he was approved a number of years ago for all vinyl windows and all vinyl siding along with one of his neighbors. He stated that apparently in the recent past vinyl windows have become an issue in Old Wethersfield no matter how old your house is. He stated that his client, Barbara Clancy, went to the Historic District Commission around April or May and presented a case to change her wooden windows to vinyl windows on her house which was built around 1960. He stated that this was denied. He stated that she was, however, already approved for vinyl windows on her breezeway.

Attorney Odell stated that she came to him unfortunately long after the meeting, and he informed her that they would go before the Board and see what the problem was. He stated that they went back to the meeting at which time they turned her down. He stated that the major objection voiced was that she was using energy efficient glass which tends to taint the glass, so that when you look at the vinyl you can tell that the vinyl is inside the glass. He stated that other than that there were no wild objections. He stated that they went back to her contractor and received approval from her contractor to change the glass from the smoke glass to plain glass. He stated that they then went back to the Historic District Commission in October with an application that changed the smoke glass to plain glass. He stated that this was accepted by Mr. Cook and she received a notice to appear for a public hearing, which was also noticed in the newspaper. Attorney Odell stated that they showed up for the Historic District hearing with several witnesses; the contractor, himself and Mrs. Clancy to speak about the change in the glass. He stated that when he went up to speak he was told to sit down and that the Historic District Commission has made a decision not to proceed with this application. He stated that Commissioner Wolf read the opinion of the Commission that the application was not substantially different. Attorney Odell stated that he and his client tried to speak but was told to leave the room.

Attorney Odell stated that they waited for the minutes of the meeting. He stated that they expected that somewhere in the minutes to the meeting the Commission would have taken a vote not to precede with this application. He stated that they did not take a vote. He waited for the official minutes of the meeting which was sometime in early December. Once again, he stated that there was no vote on this application; they waited for the next meeting's minutes and again no vote. He stated that someone in the Historic District made a decision without the vote of the rest of the body. He stated that someone made an opinion, someone decided and someone instructed someone to do something. He stated that Barbara Clancy has a right to take an appeal from a decision of the Historic District Commission; however, there was no decision. He stated that whoever did what they did; they did it on their own. He stated that you cannot go to Court and say well we think they made a decision; they did not do it. They violated the Freedom of Information Act in what they did to her. He stated that before they told her and her Attorney not to speak they should have taken a vote not to hear this application. But they did not do that.

Attorney Odell stated that he has read the Historic District Act and the Statute. He stated that it reads if they do not act within 65 days following the application then the application is deemed to be approved. He stated that they did not act; and the 65 days have passed; therefore Barbara Clancy goes to the Town Hall and asks for a building permit and Mr. O'Connor denies the permit because there is no "Certificate of Appropriateness". He stated that Barbara Clancy tried to get the Certificate but the Commission did not act. He stated that this is the nature of the case.

Attorney Odell stated that Barbara Clancy was denied what she was entitled to. He stated that all the copies of the minutes and pertinent information is in the packets that he handed out at the beginning of the meeting.

Commissioner Bockstael questioned why this Board is hearing this application. He stated that he feels this should go before the Zoning Board. Attorney Odell stated that they are here because the Zoning Official refused to sign the building permit.

Attorney Odell stated that what the Historic District Commission did was pretty cheap. He stated that they figured that because they did not hear her application she would have to go to court just to get a hearing; however that could cost a few thousand dollars, just to have the Court say that you should have given her her day. The 65 day rule is in the Statute for a reason. He stated that he feels it is very clear that there was not action taken within the 65 days and

therefore this application is deemed approved.

Commissioner Bockstael stated for the record that he feels this application should be heard before the Zoning Board not the Appeal Board. Attorney Odell stated that he feels this is where he should be due to what the Statute reads. He stated that the Historic District goofed in not acting on this application and they are not going anywhere else. He stated that because this was not acted on it is deemed approved and she should receive her building permit. He stated that if this Board feels they do not have jurisdiction over this matter than do what you feel you need to do. Commissioner Bockstael stated that he does not feel that this Board can override the actions of another Board.

Commissioner Dellaripa questioned what they would vote on. Commissioner Bockstael stated that they would vote on the actions of the Chief Building Official.

Mr. O'Connor stated that basically what it came down to is that in Statutes in reads that he needs a "Certificate of Appropriateness" from the Commission that says "yes we are approving this" before I can issue a building permit. He stated that this is Statute, this is the law, and neither he nor this Board can go against that. He stated that there is a letter from Town Attorney Bradley regarding his opinion on this matter. He added that he feels that Attorney Odell's next step would be to go before the Building Board of Appeals. He stated that even then; he does not know how they can decide in favor, as it is in the Statutes that I must have that piece of paper before I can issue the building permit.

Attorney Odell stated that they are not appealing what the Historic District Commission did; it was what they didn't do. He stated that all the Building Official had to do was to look at the Statute. He stated that he could not show him where the Commission acted on this application. He stated that he is covering for their mistake and now this Board is going to shuffle it to another Board, and this whole thing will be going to Court. He stated that somewhere along the line there is something wrong with not allowing this person to have a hearing. He stated that everyone is looking the other way, adding that at some point in time that 65 days will be determined and that these people goofed up and everyone in the line of fire is fair game for this lady.

Mr. O'Connor stated that he is not taking sides but that Barbara Clancy's contractor was installing these windows without a building permit and we stopped the job, and this is how this whole thing started. Mr. O'Connor stated that he does not feel that this is a zoning issue. He stated that Attorney Odell decided to come here to exhaust all avenues before he goes the next step, whether it is the court or whatever.

There were no further questions or comments from the Board.

There was no one in the audience who wished to speak in favor of this application.

The following audience members wished to speak in opposition to this application:

1. Mrs. Billye Logan, 318 Hartford Ave., Wethersfield, CT - She stated that she was at one time the Chairwomen of the Historic District Commission - she stated that it is her opinion that they did not hear this application because it was denied before for the vinyl windows and it cannot be heard again for another year.
2. Mr. Gary Vivian, 41 Old Pewter Lane, Wethersfield, CT - stated that he feels he needs to defend the Historic District Commission. He stated that he was at one time the Vice Chairman of the Commission and stated that the job they do is not easy. He stated that when something is denied, it's denied.

WETHERSFIELD ZONING BOARD OF APPEALS
VICE CHAIRMAN VAUGHAN, JR.

Commissioner Bockstael, Clerk

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PRESENT: Thomas J. Vaughan, Jr., Vice Chairman
Bruce T. Bockstael, Clerk
Gina P. DeAngelo
George McKee
Earle R. Munroe, Alternate
Frank Dellaripa, Alternate

ABSENT: Morris R. Borea, Chairman
Matt Cholewa, Alternate

Also Present: Brian O'Connor, Chief Building & Zoning Official

Voting Members are: Vice Chairman Vaughan, Jr., Commissioner Bockstael, Commissioner DeAngelo, Commissioner McKee, and Commissioner Munroe.

DECISIONS FROM PUBLIC HEARING

APPLICATION NO. 5938-06 Mary and Mark Raymond seeking a variance to construct an addition a portion of which will be over the building line at 323 Hartford Avenue, west side, B Residence Zone (§3.7).

Upon motion made by Commissioner Bockstael seconded by Commissioner DeAngelo and a poll of the Board it was unanimously voted that the above application **BE APPROVED**.

APPLICATION NO. 5939-06 Carol Groll seeking a variance to convert a single family residence to a two family residence (renewal) at 72 Carson Avenue, east side, B Residence Zone (§3.2).

Upon motion made by Vice Chairman Vaughan, Jr. seconded by Commissioner Bockstael and a poll of the Board it was unanimously voted that the above application **BE APPROVED** for the duration of dual residency of family member with the following stipulations:

1. The variance will apply to the Groll family only and shall terminate upon the departure of Carol Groll, at which time the home must be returned to a single family dwelling, including the removal of the kitchen in the downstairs;
2. There will be no rent charged at the property.

APPLICATION NO. 5941-06 Jeff Lamo seeking a variance to construct an addition not having the required side yard setback at 151 Wells Road, north side, A Residence Zone (§3.7).

Upon motion made by Commissioner Bockstael seconded by Commissioner Munroe and a poll of the Board it was unanimously voted that the above application **BE APPROVED** for a 5.5' side yard variance.

APPLICATION NO. 5942-06 Tim Horton's (New England), Inc. seeking a variance to install menu boards, 1) exceeding the number permitted and 2) larger than permitted at 486 Silas Deane Highway, east side, General Business Zone (§6.3.F).

Upon motion made by Commissioner Bockstael seconded by Vice Chairman Vaughan, Jr. and a poll of the Board it was voted by a vote of 4-1 with Commissioner Munroe opposed that the above application **BE APPROVED** as submitted.

APPLICATION NO. 5940-06 Barbara Clancy appealing the decision of the Building & Zoning Official's denial to issue a Building Permit for the installation of windows in the Historic District at 33 Chesterfield Road, south side, B Residence Zone (§10.4.B).

Upon motion made by Commissioner Bockstael, seconded by Vice Chairman Vaughan, Jr. and by a poll of the Board it was unanimously voted that the above application **BE DENIED** based on recommendation by Town Attorney Bradley.

APPROVAL OF MINUTES

Upon motion made by Commissioner Dellaripa seconded by Commissioner DeAngelo and a poll of the Board it was unanimously voted that [the minutes of November 28, 2005](#) **BE APPROVED**.

Upon motion made by Commissioner Munroe seconded by Commissioner DeAngelo and a poll of the Board it was unanimously voted that [the minutes of December 19, 2005](#) **BE APPROVED**.

ADJOURNMENT

The meeting was adjourned at 8:02 PM.

WETHERSFIELD ZONING BOARD OF APPEALS
VICE CHAIRMAN VAUGHAN, JR.

Commissioner Bockstael, Clerk