

WETHERSFIELD ZONING BOARD OF APPEALS
PUBLIC HEARING
January 24, 2005

The Wethersfield Zoning Board of Appeals held a public hearing on January 24, 2005 at 7:00 PM in the Town Hall, 505 Silas Deane Highway, Wethersfield, Connecticut.

PRESENT: Morris R. Borea, Chairman
Bruce T. Bockstael, Clerk
Frank A. Falvo, Jr.
Steven F. Clarke
Gina P. DeAngelo, Alternate

ABSENT: Thomas J. Vaughan, Jr., Vice Chairman
Matt Cholewa, Alternate
Craig S. Pinney, Alternate

Also Present: Fred Valente, Assistant Building & Zoning Official

Chairman Borea opened the meeting. Before the meeting started, the public was welcomed to speak regarding anything except specific cases in the past or on the night's agenda. The following audience member wished to speak.

Commissioner Clarke entered the meeting at 7:10PM.

Ms. Sandy Wieleba, 168 Forest Drive, Wethersfield, CT appeared before the Board. She stated that back in March of 2000 her neighbor requested a variance to be allowed to park a commercial dump truck on the premises of his parents' home. At that meeting he was asked if he was running a business and he indicated that he was not. When asked why he purchased the truck he said it was to tow a boat to Florida. He indicated that his hardship was financial. Ms. Wieleba stated that at that meeting she presented a two page letter identifying her objections to the application being granted, and the Board did deny his variance that night. She stated that it is now almost five years later and you would never know that this variance was denied. She stated that since that time she has been threatened by the applicants' father, been given the finger by the applicants' mother, and the younger brothers have vandalized her property. (Ms. Wieleba showed pictures to the Board where the younger brothers play basketball damaging her property and where the applicant has run over her property with his truck). Ms. Wieleba also showed to the Board an advertisement from the phonebook which shows that the applicant is running a business. She stated that in a snowstorm she hears the trucks leaving the property complete with floodlights, plow blades and snow blowers. The trucks are parked in the street, but not just one; there are now up to four trucks.

She stated that in 2004 she requested that her taxes be reduced and presented the Board of Tax Review a two page letter with the reasons. She stated that she did not realize that the Town Assessor took it upon herself to forward a portion of the letter to the Building Department. The applicant's mother came into the Town Hall and demanded a copy of the complaint against her and the neighbors. Ms Wieleba stated that when she came home for lunch the applicants' mother was waiting for her on the front lawn of her house screaming obscenities at her, and giving her the finger. Ms. Wieleba stated that she did not know what was going on so she called Lt. Poisson who informed her to tell the Town Manager not to release the paperwork since it was not a complaint, he also advised her to put cameras on the house, which has been done. The applicants' mother has also told the Town Manager that her son operates a business and occasionally has to bring home his truck and park it in the road and they are willing to pay the tickets.

Ms. Wieleba stated that every July 4th her house is bombarded with fireworks which has burned up sections of her front lawn. She stated that one night the applicant parked his car with his high beams directed at her house and traced a red dot on all her windows. She stated that to this day she does not know if it was from a laser pen or from a pistol. She stated that last July 4th was the worst since the paperwork was circulating the neighborhood. She stated that the applicants' father and brother set off fireworks which were aimed at her house; luckily her son had soaked the front

lawn, trees and roof with water prior to this event. Following this display the brother and two high school friends set up lawn furniture placed them in the road and lit a small fire in front of her house. She stated that she watched them from the house and heard them repeatedly threat "Don't worry; she will get hers when the flood light gets shut off". She stated that she was up until 1:00 in the morning watching and waiting for them to carry out there threats. The following morning there were many fireworks under the bedroom window, the roof and the side yard. She stated that she was later informed that a complaint was made with the Town because the floodlight was on all night. A 25 lb statue of the Blessed Virgin Mary has also been stolen from her front lawn, it has never been found and the Police have closed the case.

Ms. Wieleba stated that since October 31, 2004 the commercial dump truck has been parked either in the front lawn, in the driveway or on the road. No tickets have been issued. She stated that this is a total of 86 days and no tickets, adding that this totals over \$2,150 worth of fines that have not been issued. Almost five years and the truck still remains. She stated that in the past Police did issue tickets to him but they no longer will do that. Adding Lt. Poisson had informed her before that she had the right to call and report the truck, however, now she is being called names for doing this. She added that the truck makes it impossible for her to back out of the driveway and the applicants' mother said that he will not stop parking there. (Pictures were shown of where the truck is parked with relation to her driveway).

Ms. Wieleba also stated that no personal property tax is being paid to the Town for the equipment that he has. (Paperwork was shown from the Assessor's Office).

Ms. Wieleba stated that she is here before the Board tonight to see what else can be done to finally resolve this situation. Speaking with the applicant or his family is not getting anything done, and the Police will not do anything to enforce the ordinance.

Chairman Borea stated that this Board has limited authority. He stated that this Board grants or denies variances and basically that is what this Board does. Chairman Borea questioned the paperwork that shows that he is paying taxes on a 2004 truck. Ms. Wieleba stated that this is correct, however, he is not paying taxes on the trailers or the lawn equipment; he also now has four trucks parked on the street. She stated that he is using a public road as a commercial parking lot. Chairman Borea questioned if she knows where the other vehicles are registered. Ms. Wieleba stated that they own a two- family home in Hartford, but on Hartford records they are only paying taxes for one trailer, not the trailer that has the plate on it. She stated that she does not know where the other trailer is registered, adding it looks like they have one plate for two vehicles.

Chairman Borea stated for the record that she is telling the Board that they are parking the commercial vehicles overnight even though the variance was not granted. Ms. Wieleba stated that this was correct. Chairman Borea questioned if she has complained to the Building Department, she stated that she has.

Mr. Valente stated that they have been out there a number of times, they have turned it over to the Police Department, and summonses were issued. Mr. Valente stated that if the vehicle is parked on the street the Police should be issuing tickets. He stated that at this point they have turned this matter over to the Police and after so many summonses the applicant may have to go to court. Ms. Wieleba stated that the Police are not enforcing this rule.

Commissioner Falvo, Jr. stated that someone is dropping the ball on this matter, either the Police Department or the Building Department.

Chairman Borea questioned if he has a home office variance. Mr. Valente stated that he does not. He stated that at this point it has been turned over to the next level and it is in the Police Departments hands.

Commissioner Falvo, Jr. stated that even if it is turned over to the next level someone has to do something for her. He stated that even though it was turned over to the Police Department it should be the Building Departments job to make sure something is being done. Mr. Valente stated that he is not a Police Officer; that once this is turned over to the Police Department it is up to the Police Chief, Detective, etc. to follow through on this matter. Commissioner Falvo, Jr. questioned that if the Police Department does not do anything; then nothing happens. He stated that he finds that hard to believe.

Chairman Borea stated that he understands her problems and concerns; however, this Board has limited jurisdiction; he stated that he does however have some thoughts and can speak with her after the hearing is over.

Ms. Wieleba stated that by coming here tonight she will have retaliation.

Mr. Valente stated that he will look into the business being run out of the home, and stated that he will call the Police Department again and encourage them to do something.

Mr. James Wieleba, 168 Forest Drive, Wethersfield, CT appeared before the Board. He stated that they have been getting a lot of threats on their street. He stated that he has almost been hit by the truck once; and his mother too. He stated that the applicant purposely tries to run over the lawn; and scare and intimidate. He stated that he does not know what will come next; if the applicant will really try and hurt them or just keep up this joke of his to try and scare and intimidate them.

Chairman Borea said again, that he understands, but there is really nothing that this Board can do except talk with Mr. Valente and to have the Building Department follow this issue the best they can. He stated that they should really be letting the Police Department know about these problems so that it is documented.

APPLICATION NO. 5898-05 Lou Rizzuti, Fiderio & Sons seeking a variance to erect a front porch a portion of which will be over the building line at 194 Windmill Hill, north side, A-1 Residence Zone. (§3.7.B.4).

Mr. Lou Rizzuti, representing Fiderio & Sons appeared before the Board seeking a variance to erect a front porch. Mr. Rizzuti stated that the variance is necessary because the street is virtually a circle in front of his clients' home. He stated that the line is actually only 2' from the corner of his home.

Chairman Borea questioned how much of a variance is needed, adding that it looks like 3' according to the plan. Mr. Rizzuti stated that a 6' to 8' variance is needed.

Commissioner Bockstael corrected him stating that an open porch is allowed to go out 6', and stated that according to the plans it looks like you are looking to go out 3' beyond the allowed 6'. Mr. Rizzuti stated that this was correct, therefore only a 3' variance is needed.

Chairman Borea questioned if the hardship is because of the shape of the lot. Mr. Rizzuti stated that this was correct.

Commissioner Bockstael questioned if this was an open porch. Mr. Rizzuti stated that it was.

Commissioner Clarke questioned if there is a porch there now. Mr. Rizzuti stated that there is not a porch there presently, only a concrete stoop.

Commissioner Clarke stated that this can easily be done and still kept within spec but only without having the bump out. Mr. Rizzuti stated that even the porch alone would set it over the line.

There were no further questions or comments from the Board.

The following audience member wished to speak in favor of the application:

1. Mr. Dave Edwards, 200 Windmill Hill, Wethersfield, CT - he stated that he is an architect and worked on this neighborhood when it was being built. He stated that he understands his hardship because he is on the edge of a cul-d-sac. He stated that he fully supports this application.

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

APPLICATION NO. 5899-05 Nathan Hale #58, AHEPA, INC. seeking a variance to erect an addition which does

not meet the requirements for landscape buffer, parking setback, minimum bedroom size and maximum number of units at 1532 Berlin Turnpike, east side, Special Residential Development Zone. (§3.4).

Mr. Guy Hesketh, P.E., 6 Creamery Brook, East Granby, CT, appeared before the Board on behalf of AHEPA, INC. seeking a variance to erect an addition. Mr. Hesketh stated that this site is located at the connector between Route 5 and 15. He stated that they would like to double the size of the elderly housing facility. He stated that they would like to have a total of 83 apartment units. He stated that as part of the proposal they would also like to do some site improvements. Mr. Hesketh showed to the Board the proposed plot plan. He stated that they are looking to acquire additional parcels of land; he stated that the existing parcel is a square parcel. He stated that they are picking up another parcel which is an L shaped parcel which surrounds the existing Nathan Hale Home and the apartments which are located to the east. He stated that there is also an area that Southern New England Telephone previously owned, which they are also acquiring and they are merging the two parcels together.

Chairman Borea questioned if this application is based on buying these parcels or is the application based on what they own now. Mr. Hesketh stated that this application is based on what they own now, adding that these parcels have already been purchased and closed on and titled as a single entity.

Mr. Hesketh stated that at looking at the site there is quite a grade difference between one end and the other. He stated that in order to facility the expansion that they are proposing they have to basically create a U shaped building to facility that many number of units.

He stated that because of the topographic constraints they have to tuck this building up as close as possible to the existing facility and then provide for parking in a ring format around the building to get the correct number of spaces that are required. He stated that in doing so, there are quite a few regulations that are not met.

Mr. Hesketh stated that the first is the requirement of a 15' minimum landscape buffer, he stated that their proposal, in a few areas, have less than that requirement. He stated that in the back there is a walk out basement which only has a total of a 10' separation between the edge of the parking area and the building itself; 5' of which will consist of a sidewalk. Therefore they are looking for relief to allow for a 5' landscaped area. He stated that other areas do meet the 15' landscape buffer requirement, however here they do not.

Chairman Borea questioned if this is the buffer between the parking and the building. Mr. Hesketh stated that this was correct.

Mr. Hesketh stated that the next requirement they do not meet is that parking spaces be 15' away from a building. He stated that their proposal calls for a minimum of 10'.

Chairman Borea questioned if they need that much parking because of the number of units that are being put it. Mr. Hesketh stated that regulations require 1 space per unit; however, they are proposing 93 spaces even though there are only 83 units. He stated that they need the additional 10 spaces for family gatherings, events in the recreation area etc.

Mr. Hesketh stated that the next regulation that they do not meet is the minimum square foot bedroom requirement and a minimum apartment size requirement. He stated that they are looking for relief from this. He stated that the regulations require the minimum floor area for units in a high rise elderly apartment complex be 500 square feet of floor area, plus 150 square feet for the bedroom for a total of 650 square feet. He stated that this project is partially funded through government programs under the HUD program. He stated that the HUD requirement differs from the Towns' requirement. He stated that HUD requires an apartment size of 543 square feet, inclusive of the bedroom, and that the bedroom size be 143 square feet.

Mr. Hesketh stated that the final requirement they do not meet is the minimum lot size. The requirement is a maximum density of 25 units per acre for a 55 and older high rise residential unit. He stated that they have a total of 3.254 acres on the site with a total of 83 units. Therefore a variance is needed to raise the density from 25 to 25.5 units per acre. Again, because of the HUD requirements and the number of units that are required under this proposal.

Mr. Hesketh stated that he did submit to Fred Valente a zoning analysis table showing which variances are needed and

how they comply with the zoning ordinance. He stated that the variances that they are looking for are really internal variances as they do not substantially impact any of their adjacent neighbors.

Chairman Borea confirmed that they will be putting both these buildings together; and questioned how these new units compare in size to the existing units. Mr. Hesketh stated that this was correct, they will be connected, and he stated that Peter Argiros can better tell him the size of the units inside as he did the design for that.

Mr. Peter Argiros, Architect, Colchester, CT appeared before the Board. He stated that in answer to the question on the size of the existing apartments there are 41 apartments in Phase I, and those are 540 square feet for the one bedroom apartments, and 415 square feet for efficiency apartments. He stated that what is being proposed under this HUD 202 Program is 42 apartments at 540 square feet.

Chairman Borea questioned how Phase I was built, and questioned if it was under a different HUD program. Mr. Argiros stated that HUD has made changes to their requirements quite a few years ago.

Mr. Argiros showed to the Board the layout plans of the proposed building. He stated that as far as the layout, there is a lower layout which is a walk out basement which is about 7,300 square feet which has services and a waiting or meeting room. The ground floor has common spaces, community, office and circulation spaces and the apartments. He stated the second, third, and fourth floors are all common space and designed the same. The only difference is two rooms that change in usage. The second floor has a laundry room and an office, and the third floor has a physical room and a library. He stated that the intent of the design is to have a passage come through into Phase I and the tenants can go from building to building. He stated that all the apartments are identical in size adding that there are two types of apartments. Type A is a handicapped apartment with a total number of four on the first floor and Type B which is basically an accessible apartment which can be converted to a handicapped apartment. Again, they are all 540 square feet, which is a HUD requirement. Mr. Argiros handed out to the Board HUD's requirements.

Commissioner Bockstael questioned the Town's minimum apartment size. Mr. Valente stated that it is 500 square feet for the apartment and 150 square feet for the bedroom for a minimum of 650 square feet.

Commissioner Bockstael questioned if HUD's maximum is their actual maximum or if it is the maximum they will fund. Mr. Argiros stated that this is their maximum and the maximum that they will fund. Mr. Argiros stated that they give a range of 450 to 540 square feet and that is the only range you can be in.

Commissioner Bockstael questioned Mr. Hesketh that on the parking that is creating the 10' problem, if four linear parking spaces were added and the 5th space taken out it should be able to be in compliance. Mr. Hesketh stated that they have looked into the prospect of moving the parking however, then they run into problems at other places with trying to get the proper radius needed for emergency vehicles.

Commissioner Bockstael stated that he still feels that if the parking were to be looked at they can potentially be in compliance with the setback. He stated that this is not the time to be trying to draw up plans. He stated that he does not feel comfortable bringing these cars really close to the building, adding that is why there is a buffer.

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 in opposition to this application.

WETHERSFIELD ZONING BOARD OF APPEALS
CHAIRMAN BOREA

Commissioner Bockstael, Clerk

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ABSENT: Thomas J. Vaughan, Jr., Vice Chairman
Matt Cholewa, Alternate
Craig S. Pinney, Alternate

Also Present: Fred Valente, Assistant Building & Zoning Official

DECISIONS FROM PUBLIC HEARING

APPLICATION NO. 5898-05 Lou Rizzuti, Fiderio & Sons seeking a variance to erect a front porch a portion of which will be over the building line at 194 Windmill Hill, north side, A-1 Residence Zone. (§3.7.B.4).

Upon motion made by Chairman Borea, seconded by Commissioner Falvo, Jr. and a poll of the Board it was unanimously voted that the above application **BE APPROVED** as submitted.

APPLICATION NO. 5899-05 Nathan Hale #58, AHEPA, INC. seeking a variance to erect an addition which does not meet the requirements for landscape buffer, parking setback, minimum bedroom size and maximum number of units at 1532 Berlin Turnpike, east side, Special Residential Development Zone. (§3.4).

Upon motion made by Chairman Borea, seconded by Commissioner Bockstael and a poll of the Board, it was unanimously voted that the above application **BE DENIED** without prejudice.

APPROVAL OF MINUTES

Tabled.

ADJOURNMENT

The meeting was adjourned at 8:05 PM.

WETHERSFIELD ZONING BOARD OF APPEALS
CHAIRMAN BOREA

Commissioner Bockstael, Clerk