

TOWN OF SOUTHLINGTON  
ZONING BOARD OF APPEALS  
TUESDAY, OCTOBER 27, 2009

Chairman Joseph LaPorte called the Public Hearing and Regular meeting of the Southington Zoning Board of Appeals to order at 7:00 o'clock, p.m. in the Town Council Chambers with the following members in attendance:

Robert Salka, Edward Kuklinski and Patricia Potter

Michael Milo, Alternate

Others: Frank Vinci, Zoning Enforcement Officer

Absent: Paul Bedard, Commissioner  
Joseph LaRosa, Alternate  
Ronald Bohigian, Alternate  
Robert Sherman, Alternate

The Chair seated Alternate Michael Milo for Paul Bedard for this evening's meeting. A quorum was determined.

The Pledge of Allegiance to the American Flag was recited by everyone in attendance.

Mr. Salka explained to the audience the procedure to be followed in the presentation of an appeal. He advised that should their appeal be approved, they file it with the Town Clerk's Office before proceeding with the project.

JOSEPH LAPORTE, Chairman, presiding:

Public Hearing Items:

A. Appeal #5741A, Application of D & J Corporation to vary the side yard setback to 10' where 25' is required for a proposed propane tank under Sections 7A-00 & 15-04 of the Zoning Regulations, 213 Wedgewood Road, property of David C & Donna N. Alexander in an R-40 zone.

MR. VINCI: Will you please state your name and address for the record?

SCOTT PUTNAM: Scott Putnam and my address is 20 Sherry Drive in Southington.

I am here, this propane, I just want to specify it's an underground propane tank. So the only thing that will be visible is a small filler cap that goes about the ground. It's about 16" around, it's about, I don't know, depending on how deep you put the tank; it's about 6" above the ground to 12. It's just an access so they can fill the tank.

It's a completely underground tank. The cover is painted green so it blends in. You can barely see it with the grass. It's about 16" around.

They currently have an above ground hundred gallon tank for a stand-by generator and a gas fireplace. They'd like to use --- the above ground is unaesthetic, they'd like to go to a below ground tank. They're going larger so they can; they want to switch their house, the furnace. Once they get a new furnace, they want to convert their whole home to propane. They currently have oil.

That's why they want the 250 gallon or the 500 gallon size.

THE CHAIR: I do have one of these tanks. That's all it is. That's all you show. About 16" above. Paint it green with the grass -

MR. PUTNAM: They come green now.

THE CHAIR: -- and nobody knows it's there.

MR. PUTNAM: They come green rather than the tan.

THE CHAIR: Any questions for the applicant?

MR. SALKKA: And, again, that's the only place that you really can put that tank?

MR. PUTNAM: Well, we'd like to put it; the regulations are --- because of the house, we can't put it further on the side yard. There's a well on that side of that house, so we have to stay 25' away from the well.

If you go behind with the tank, way to the back of the property, it's too long a run for them to fill it from the road. The line is too long.

And, then there's a pool on the other side. That's where all the utilities are now on that side of the house. So that's why it's kind of in the side yard as it shows on the map there.

The well is in the back yard on that side of the property.

The safety regulations say you have to stay 10' away, so that's why we're keeping it 10' from the property line so it doesn't limit the neighbor's property at all. That's why we're -- -it worked out good. We'll at least be able to keep it 10' away from the property line, so it meets all the safety requirements for setback.

MR. SALKA: Is there any kind of a safety issue with regards to getting behind the house? From a fire - obviously, I don't think you can drive over it. I don't know. But I'm assuming you can't drive over it.

THE CHAIR: Well, we've got 15' between the house and the tank, right? From the house to the tank?

MR. PUTNAM: You have to be 15 and we're more than 15' from the house.

THE CHAIR: From the house.

MR. PUTNAM: Yes.

MR. SALKA: How far will it be? I mean, is it just 15'?

MR. PUTNAM: It's on the map. I think the house, I think, what does it say on the map? I don't have it with me.

MR. SALKA: It's saying 15' from the house. I just want to make sure it's -

MR. PUTNAM: Yah, its 10' from the --- there's 40' there. The tank is only 3' wide and it's um, about 12' long.

MR. SALKA: So there is access to the rear ---

MR. PUTNAM: There will be access. Plenty of room. The tank is only 3' wide. And, it's going in the direction of that property line. So there'll be plenty of room to access it without driving over it.

MR. SALKA: Okay.

MR. PUTNAM: I think they're rated H-10 loading to drive over it which is small vehicles, cars, tractors, small things. They're not rated for H-20 loading which is for heavy equipment.

But there is plenty of room if you had to get a piece of equipment in there to work on the home.

MR. SALKA: Okay.

THE CHAIR: Any questions for the applicant?

(No response)

Have you finished your presentation?

MR. PUTNAM: Yes.

THE CHAIR: Thank you.

Anybody here to speak in favor of the applicant?

(No response)

Anybody here opposing the applicant?

(No response)

If not, this appeal is closed.

B. Appeal #5742A, Application of Richard Ferreira & Suzanne E. Zelina to vary the side yard setback from 20' to 17' for a proposed deck off back of home under Sections 7A-00 & 15-04 of the Zoning Regulations, 263 Little Fawn Road in an R-20/25 zone.

MR. VINCI: Will the applicant state your name and address for the record.

RICHARD FERREIRA: Richard and Suzanne Ferreira. 263 Little Fawn Road, Southington.

THE CHAIR: You can explain.

MR. FERREIRA: We have a deck to be built and we're learning about the zoning and the requirements and the property lines. We had a gentleman come out and do the surveillance of the property and we found that that the lot is kind of like pie-shaped. It cuts into the requirements for the deck.

So, we are asking for a 3' variance so we can have the deck the desired measurements.

THE CHAIR: That's a good-sized deck.

MR. FERREIRA: We have a good-sized family.

THE CHAIR: Oh, yah.

MS. FERREIRA: And, a small house.

This way, it will give us more space.

THE CHAIR: You're butted up against what--is that a fireplace?

MR. MILO: Fireplace.

THE CHAIR: What are you butted up against?

MR. FERREIRA: That's a hatchway.

MS. FERREIRA: That's the only reason why we can't go that way because there's a hatchway there. It kind of prevents us from going the other way.

MR. SALKA: How close is the --- it looks like the abutting property is probably, I guess around 40' from the property line. The house next to you on the left?

MR. FERREIRA: The one that would be impacted by the deck?

MR.SALKA: Yah, Number 275?

MR. FERREIRA: Is that the one where we have a letter from them?

MRS. FERREIRA: Yes, there is a letter from them.

MR.SALKA: I haven't seen a letter from them.

Do we have a letter?

MR. VINCI: I do have.

MS. FERREIRA: Yes, they're okay. They don't really mind 3' for the deck in the back and that's what they wrote.

THE CHAIR: At the same time you're saying you can't live with something --- 21 x 20?

MS. FERRIERA: My concern is, if we're going to do it, we're spending the money; we might as well do it. The whole deck is not 17' off, right? Isn't the deck farther?

MR. FERRIERA: I think it's a 20 by 24. And, the 24 is the length going 3' past the 21 minimum requirements.

MR. SALKA: It looks like the deck is 17' from the property line. The house is 21.1.

MR. MILO: Was there a reason why you didn't line it up with the house and make it nice and straight? And, go deeper on the deck?

MS. FERRIERA: Well, we wanted it bigger. Because we couldn't go any other way because the hatchway -

MS. POTTER: Frank just said, it's 18 - it's less in the front and then its more n the back.

MR. FERRIERA: There's less in the front and it would -

MS. POTTER: You're only asking for it in the back half of the deck.

MS. FERRIERA: Yes, right.

THE CHAIR: That's minor.

MR. VINCI: The deck, at the front of the deck, there's the house and its 8' from the property line. And, at the back end it is 17'. So it's a little bit of a pie shape.

MR.SALKA: Well, it is an irregular shaped lot. The other house is substantially a distance --- I think you have a letter there or something?

MR. VINCI: I do. I found it.

It's dated October 26, 2009. To Whom It May Concern: This is to inform you that we Brad and Carly (Inaudible) owners and occupants of 275 Little Fawn Road, Southington, Connecticut do not oppose Richard and Suzanne Ferriera's application for a variance concerning the building of a deck on their property.

We share a property line with Richard and Suzanne on the side they want to build and we take no issue with it.

If you need any further information or if you have any questions, feel free to contact us.

Thank you, Brad and Carly (Inaudible).

THE CHAIR: Thank you.

MR. SALKA: This is an open deck? There's no roof on it?

MR. FERREIRA: No. We have a relative that's a builder, a contractor, and on contractor's / builder's perspective, the 24' is measurable, I guess the way they build the lumber, it's easier to build, the way they -

MR. MILO: No waste.

MR. FERREIRA: They just do it a certain way and we are going by his recommendations and just trying to abide by all we need. With the kids and the family and a proposed --- we also have a proposed hot tub at some point to go on there.

There is going to be extra sonatubes needed. It's going to need to be structurally supported and when we add the table, the chairs, the umbrella, the barbeque grill and proposed hot tub at some point, maybe a couple of years from now, but there is not a lot of room. With just the deck.

So every little foot that we have is an advantage to allow us to have the room we need. I'm sure there'll be toys and other things like that.

THE CHAIR: Okay. So this deck is to remain open.

MR. FERREIRA: Yes.

THE CHAIR: Okay. Any other questions of the applicant?

(No response)

Have you finished your presentation?

MR. FERREIRA: Yes, sir.

THE CHAIR: Thank you.

Anybody to speak in favor of the applicant?

(No response)

Anybody here opposing the applicant?

(No response)

If not, this appeal is closed.

Continued Public Hearing Item:

A. Appeal #5738A, Application of Michael Miller & Greg Maloney for a special exception approval to allow applicants to apply to the State of Connecticut for a café/pub license under Sections 4-03.32A, 11-04 & 15-05 of the Zoning Regulations, 1678 a/k/a 1672 Meriden Waterbury Road, property of Southington Center LTD in a B zone.

MR. VINCI: The applicant's representative is here. State your name and address for the record, please.

ATTORNEY DENORFIA: Good evening, Mr. Chairman and Commission members. Attorney Andrew Denorfia representing the applicants Mike Miller and Gregory Maloney.

As Frank said, this is a continued public hearing in which the applicant sought special exception approval for a café pub license under Sections 4-03.32A, 11-04 and 15-05 of the zoning regulations for 1678 a/k/a 1672 Meriden Waterbury Road.

As you recall, after the last public hearing, the commission had some reservations about the application. My clients had taken those reservations and comments very seriously and in listening to the commission as well as researching prior approvals at the application, the applicants have made some substantial changes that hopefully the commission will be appreciative of.

The first change is that the applicants are requesting a restaurant liquor license instead of a café/pub liquor license. The applicants feel that the restaurant liquor license will satisfy the 15-05 in the zoning regulations in that it will be in harmony with the surrounding area.

To give the commission a little history, in 1982, 1984 and 1996, the ZBA approved the location per special exception approval for a restaurant liquor license as it was a bona fide restaurant. The applicants, as you know, submitted a proposed menu last week which included things such as hamburgers, chicken wings, even some Irish food, corned beef and will also be expanding the menu to include some seasonal items, steaks, et cetera, as obviously, the market warrants.

The second change is that in conformance with having a restaurant now at the location, they've done some substantial changes to the layout. Which, as you can see, I'm going to point here, as you walk in, they added many more tables in the front. They have added a 6' high wall that will now separate the dining area from the bar area which is in conformance with the state liquor requirements. Against that wall, they now will have three tables where customers can further sit.

Also, the bathrooms will be handicapped accessible.

And, following that up, upstairs was also where the commission seemed to have some reservations and again my clients, I think, have made some substantial changes to the application. The first being, removing all of the pool tables that were upstairs. They are now going to have booths against the wall as you can see which will allow more seating in the area.

There was proposed originally quite a few video games. Now they are going to have, they would like to have three in the corner away from the dining and also on the other side, they would like to have a few dart tables which as they mentioned last week, they would like to have some leagues. Dart leagues which can bring in some people during the week. That's normally when the leagues are, which maybe people would come in and have a drink, have dinner, and then participate in their leagues.

So the applicants recognize that years ago there was some problems with the location. They've taken quite a bit of, I believe, steps to stop any problems including applying for a restaurant liquor license. They've been in business for over ten years in Meriden. As you can see by the letters that were submitted last week, and I also have another letter of recommendation to submit this week, as well, um, they realize that, and I've explained and Frank has explained and they know from their own research that any place whether it's a bar, a restaurant, that has problems, even one, in the town, doesn't last very long.

I mean, you look at any place, for example, at this location. If it had problems, it was gone. I think that they realize that in order to - the amount of money it takes to run an establishment like this, as well as putting their reputations on the line, they want to run a good, clean business that's going to be family friendly and a place where people can have a drink as well as food throughout the evening.

In addition to that, just to reiterate which was brought up at the last meeting, they would request the live entertainment which would be a, I believe the commission has been going with a three piece band. That's fine for my clients right now. Obviously, if something changes in the future, they would have to come back in front of the board. Maybe they will have karaoke, as well.

They looked at, the applicants looked at many of the surrounding towns. They looked at Wallingford. They looked at Meriden, as they've already been there, and they chose Southington. I think in doing that they're showing that they want to be good neighbors. They want to bring a good business to town. Something that the commission as well as the fellow members of the town can be proud of.

So, we believe this new revised application has taken into account the commission's comments as well as the research that we've

done, is in compliance with the zoning regulations. Specifically, 15-05 in that the nature, location, size, intensity and the site layout is in harmony with the surrounding area.

My clients are here. Again, if you have any questions or if I can be of any assistance.

THE CHAIR: I've just gone one. Right now, one of them. I noticed on the first plans they gave us, the tables, just on the print here, are very small. All of a sudden, they made them larger. Is it because they're going toward more of an eating establishment?

ATTORNEY DENORFIA: Correct.

THE CHAIR: And, a drinking establishment?

ATTORNEY DENORFIA: Correct. Correct. Before when you have smaller tables, that might've been a two person table whereas now obviously those have to be bigger. They were going to have a smaller group and they would be probably more against the wall here where there's four seats, maybe two people can sit there.

MR. MILO: How many tables, how many people sit at these tables? You can have a ten table or six? How many at a table?

FROM THE AUDIENCE: Six, roughly.

MR. MILO: Six, will give you 36 people.

ATTORNEY DENORFIA: They're estimating six for the round.

THE CHAIR: Are these tables, they can be moved all over the place? I see a lot of room.

ATTORNEY DENORFIA: I don't, I don't know how --- you know, there could be maybe a little bit of configuration in terms of a two, one, you know, type of layout. I don't know with servers having to come in as well as --- I don't know how many more you could really cram in.

THE CHAIR: What is pointed out here is there are six tables. That's what we're going to go by. Six tables.

ATTORNEY DENORFIA: That's correct.

THE CHAIR: And, whatever booths you have here.

ATTORNEY DENORFIA: That's right.

THE CHAIR: That's exactly what we're going by.

ATTORNEY DENORFIA: Correct.

THE CHAIR: And, you've got less seating at the bar this time.

MS. POTTER: You had 13. Ten now.

MR. VINCI: Mr. Chairman, if I may. You are not so hung up on there just being six tables, but you're hung up on that being the dining area. So if they go out there and they start putting six tables down, and they find they have room for more, and there's customers that want to occupy those, you don't have a problem with that.

THE CHAIR: Right, right.

ATTORNEY DENORFIA: There'll be at least six. I think that in doing their measurements and that's why in terms of the seats at the bar, um, they measured the exiting bar and they felt that ten probably is where they could be without overcrowding the bar area.

So, that's why it's lower than the 13 which was original.

THE CHAIR: Okay, let's stay downstairs, first until all the questions are answered. And, then we'll go upstairs.

MR. SALKA: I think significant improvement is on the first floor than what we saw at the last meeting. And, I also notice on the front page that the number of surveillance cameras and stuff like that I think is a good addition.

MR. VINCI: Can I ask a question on that? On the bottom of the floor plan, there's a note that there will be a minimum of five surveillance cameras inside and --- then we stamped the item in and we blocked that. What is that?

ATTORNEY DENORFIA: Three outside.

MR. VINCI: Three outside. Okay.

THE CHAIR: Is the type of business like, I know they have one in Meriden, but they do charge coming through the door, I was up there there. Is that this same type of business or is this not?

MS. POTTER: They have a cover charge.

ATTORNEY DENORFIA: I think, I mean, I, going through my experience and I cannot, generally what happens with that is if you're going to have a band that night, for example, you may charge a couple of dollars at the door after a certain time. If people are obviously eating in there, you're not going to walk up to their table and request money. But many times and many places around here do that just to kind of put something to go for the charge or the fee the band charges.

THE CHAIR: Ready to go upstairs?

MS. POTTER: Yup. Ready to go upstairs.

THE CHAIR: What do we have here.

MS. POTTER: I was in the place on Sunday. And, I don't know what I thought the dart boards were doing, but you can't even see them. They're like, I didn't know they were there. I don't know what I was looking for. But I really was impressed. Like I said, they were only like this (indicating) wide on the wall with doors.

ATTORNEY DENORFIA: And, one thing, I asked that question about, you know, if you want to have a dart league, how does that exactly work? You don't want people running around or something.

MS. POTTER: Yah.

ATTORNEY DENORFIA: What they do is, especially the pointy-tipped darts, those are kept; those aren't put into the table. Those are actually removed so they would have to be requested.

And, as I said, the dart leagues, that's generally, I mean, that's not going to be on a weekend. Very rare. I don't think you would get the turnout.

MS. POTTER: Yah.

ATTORNEY DENORFIA: It would be, let's say a Tuesday night in February, whereas maybe you would have a couple people there, now you have 15 or 20 gentlemen or ladies that will come in and eat and play. Similar to a golf league or bowling league, et cetera.

MS. POTTER: I like the idea of the DJ booth being upstairs like that. I didn't realize I was in this building, but I was. When it was a consignment shop, actually my daughter went to Horizons and I would go fill time next door. So I, never realized, you know, so I think its good set up.

At first I didn't know because I didn't even remember being in the building.

ATTORNEY DENORFIA: Now that booth will also hold all of their TV equipment, cable boxes, that kind of thing. So, it kind of keeps it away from everybody and has a one central location.

MS. POTTER: Like I said, I didn't even realize I was in that building. Because after we left there, we shot down to the building and I said oh, I've been in there.

ATTORNEY DENORFIA: Right, right.

THE CHAIR: So, if you did have your band, it would be upstairs?

ATTORNEY DENORFIA: No. I believe it would be downstairs.

MR. SALKA: Juts to the left of the door when you come in, it says removable stage.

MS. POTTER: That's another thing, too. Everybody that's in that plaza will not be there at night when they're having their music. That's a nice place. There's plenty of parking, it's well lit.

MR. SALKA: It's not the revised plans, Mr. Chairman.

THE CHAIR: That's what I'm looking for.

ATTORNEY DENORFIA: They originally proposed a removable stage here.

THE CHAIR: I got it now.

ATTORNEY DENORFIA: It would be more of a permanent type fixture. Obviously with the dining tables that they're going to have, there is not just the room to have that. So, they'll be able to put --- they can put more than a three piece band in there, if need be. But I know that the commission has been limiting the bands.

THE CHAIR: Now, one other thing now. I've been at their place. I could hear the music from the outside. They have the doors open, okay? Would they keep the doors shut here when they're playing, when they've got this band going?

ATTORNEY DENORFIA: Yes.

MS. POTTER: Like I said, it's nice, too because there's not anybody around during the business hours on nights and weekends.

ATTORNEY DENORFIA: They want to be good neighbors. They're willing to work with, as you can see from the substantial changes with the commission and the town. So I think they're willing to do what's necessary.

MS. POTTER: I just think that it got such a bad rap before, everybody's afraid.

THE CHAIR: It's not that so much as far as the sound goes. If the door is open, you can hear it all the way out into the road.

ATTORNEY DENORFIA: Understandable. Understandable.

THE CHAIR: I've been there.

(Undertone comments)

Other questions for the applicant?

(No response.)

Have you finished your presentation?

ATTORNEY DENORFIA: Yes.

THE CHAIR: Thank you.

ATTORNEY DENORFIA: Thank you.

THE CHAIR: Anyone to speak in favor of the applicant?

Go ahead, Frank.

MR. VINCI: The bar, number of bar stools, like that.

MS.POTTER: Ten.

MR. VINCI: Should we go through our stipulations here?

THE CHAIR: Let's go through the stipulations first.

MS. POTTER: Okay.

THE CHAIR: Okay.

MR. VINCI: And, they have a copy of the stips.

Attorney Denorfia, you might want to stay up here a minute. We are going to go through the conditions.

ATTORNEY DENORFIA: Okay.

MR. VINCI: The first is no exotic dancers, male or female, public or private.

- Number of bar seats shall not exceed ten.

The applicants are comfortable with that, ten?

ATTORNEY DENORFIA: Yes.

MR. VINCI: Service bar, only, does not apply.

- No live entertainment - entertainment shall be limited to three musicians. Is that where we're going?

THE CHAIR: Yes.

MR. VINCI: We'll add, doors to be closed during music or entertainment.

- Any significant change in the floor plan as determined by the zoning enforcement office shall require a new application.

- Any changes to the management/permittee shall require a new application.

THE CHAIR: Is that agreeable?

ATTORNEY DENORFIA: Yes.

MR. VINCI: Thank you.

THE CHAIR: Anybody here to speak in favor of the applicant?

(No response)

Anybody here opposing the applicant?

(No response)

This appeal is closed.

MR. SALKA: I know we closed it, but did we have another letter or is the same letter from last time?

MR. VINCI: Yes, he just handed me the letter. He referred to a letter.

MR. SALKA: Right.

ATTORNEY DENORFIA: That's a new letter. I'm sorry, I didn't -

MR. SALKA: Can we read it into the record?

MS. POTTER: Can you read it into the Minutes?

MR. SALKA: Make a motion to reopen the public hearing.

MS. POTTER: I'll second.

(Motion passed unanimously on a voice vote.)

MR. VINCI: This is from Tomasetti Distributers. October 26, 2009. To Whom It May Concern: It is my privilege to write this letter in support of Mr. Greg Maloney. And, Mr. Maloney and his family have been long time business owners at Maloney's Pub at 676 West Main Street and Meriden residents.

Maloney's Pub has been a responsible good business neighbor to the Meriden community over the years. Mr. Maloney has been highly conscientious about conducting his business in a reputable manner.

Personally, I know Greg to be a good businessman, extremely generous and a well-rounded hardworking individual. Greg treats all people with respect and has a strong desire to succeed.

It is without hesitate I write this letter in support for Mr. Greg Maloney. If I can be of any further assistance to you, please feel free to contact me at 203-630-4125.

Thank you for your time and consideration.

Anthony D. Tomasetti, President, Canada Dry Bottling Company, d/b/a Tomasetti Distributers.

THE CHAIR: Thank you.

This appeal is closed.

**REGULAR MEETING**

Approval of Minutes - Regular Meeting of October 15, 2009

Mr. Salka made a motion to approve the Minutes as presented for the October 15<sup>th</sup> meeting. Ms. Potter seconded. Motion passed unanimously on a voice vote.

**NEW BUSINESS:**

A. Appeal #5741A, Application of D & J Corporation to vary the side yard setback to 10' where 25' is required for a proposed propane tank under Sections 7A-00 & 15-04 of the Zoning Regulations, 213 Wedgewood Road, property of David C & Donna N. Alexander in an R-40 zone.

Mr. Salka made a motion to approve Appeal 5741A. Ms. Potter and Mr. Kuklinski seconded.

Ms. Potter stated as said before, you have one and it can't be seen. I don't see a problem with it.

Mr. Milo didn't see a problem with it.

Mr. Salka noted he is following the safety regulations about the distance from the house. There is still enough room to get to the rear of the house in the case of an emergency. I think it is positioned in the appropriate location on the property.

Motion passed 5 to 0 on a roll call vote.

One year to exercise permission.

B. Appeal #5742A, Application of Richard Ferreira & Suzanne E. Zelina to vary the side yard setback from 20' to 17' for a proposed deck off back of home under Sections 7A-00 & 15-04 of the Zoning Regulations, 263 Little Fawn Road in an R-20/25 zone.

Mr. Salka made a motion to approve Appeal 5742A. Ms. Potter seconded.

Ms. Potter didn't see a problem. It is so minor.

Mr. Salka said it is a minor variance and it is an irregular shaped lot.

Motion passed 5 to 0 on a roll call vote.

One year to exercise permission.

Continued Public Hearing Item:

A. Appeal #5738A, Application of Michael Miller & Greg Maloney for a special exception approval to allow applicants to apply to the State of Connecticut for a café/pub license under Sections 4-03.32A, 11-04 & 15-05 of the Zoning Regulations, 1678 a/k/a 1672 Meriden Waterbury Road, property of Southington Center LTD in a B zone.

Mr. Salka made a motion to approve Appeal 5738A with the stipulations read into the record, including the one about the doors being closed during music. Ms. Potter seconded.

Stipulations:

- No exotic dancers, male or female, public or private.
- Number of bar seats shall not exceed ten.
- Service bar, only, does not apply.
- No live entertainment - entertainment shall be limited to three musicians.
- Doors to be closed during music or entertainment.
- Any significant change in the floor plan as determined by the zoning enforcement office shall require a new application.
- Any changes to the management/permittee shall require a new application.

Ms. Potter said it was her opinion they've gone out of their way to try to meet our needs.

Mr. Vinci wanted to note that the applicant modified the application so that it is going to be a restaurant liquor license.

The Chair said they went from food 25% and drinking 75% and now it's reversed itself favorably.

Motion passed 5 to 0 on a roll call vote.

Miscellaneous/Old Business/ New Business

Mr. Vinci brought up the diner restaurant on Meriden Waterbury Road, 1763. The proprietor is here. Rochambault Mall, the one in the back there. The gentleman is going to be reopening that.

This came before us back in 2004. We approved it with conditions. There is a copy of the floor plan. I went down to the restaurant today and it's the same floor plan. No changes.

This is Mr. Faez Galle (sp) who will be taking of the restaurant. I brought a copy of the conditions/stipulations when I dropped by. They were:

- No live entertainment.
- No exotic dancers, male or female, public or private.
- No liquor to be served on the patio which is the deck area.

The applicant's attorney requested a service bar, only, beer and wine.

They did make mention about this counter. This is the only thing that gets a little bit confusing. I don't want to get into a situation where we were with Gene's Kitchen/Sliders where there was that counter area which the Board allowed them to have alcohol and it was determined by the State that that was a consumer bar. Once we did that, then it was a consumer bar.

During the presentation for the applicant back in 2004, Attorney Kania said and I'll read the Minutes here.

"At this point in time, what our application is for is for a restaurant beer and wine only and service bar only".

Farther down, he mentions that counter area. I do want to point out that the counters, which have stool seating that is not bar stool seating. The counter is seating for breakfast and lunch, whatever.

It was not the intent of this Board to allow alcohol at that counter. Again, we'll get into that situation where it becomes a consumer bar. I mentioned that to Mr. Galle and I explained that down the road if he wants to come back before this Board to eliminate that condition, the Board would consider it.

But for him to open now under this old permit, he has to conform to these conditions here.

Mr. Salka pointed out it is a food service bar.

Mr. Vinci said there is a service bar elsewhere on here. But just food, yes, food service. Mr. Galle is here and I made him aware of it.

I don't have a problem, so with your permission, I'll be happy to sign off on his application.

The Chair repeated the counter is for food only.

Mr. Salka made a motion to adjourn. Ms. Potter seconded. Motion passed unanimously on a voice vote.

(Whereupon, the meeting was adjourned at 7:40 o'clock, p.m.)

Joseph LaPorte, Chairman  
Zoning Board of Appeals

lyg