

TOWN OF SOUTHTON  
ZONING BOARD OF APPEALS  
TUESDAY, MARCH 8, 2011

Chairman Robert Salka called the Public Hearing and Regular meeting of the Southington Zoning Board of Appeals to order at 7:02 o'clock, p.m. in the Town Council Chambers with the following members in attendance:

Edmund Costello, Jeffrey Gworek, & Bryan Wysong

Alternates: Matthew O'Keefe  
Juanita Champagne

Others: Rob Librandi, Zoning Enforcement Officer  
Mark J. Sciota, Deputy Town Manager/Town Attorney

Absent: Patricia Potter, Commissioner  
Ronald Bohigian, Alternate  
Michael Milo, Alternate

The Chair seated Juanita Champagne for Patricia Potter for this evening's meeting. A quorum was determined.

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

Vice Chairman Edmund Costello 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.

ROBERT SALKA, Chairman, presiding:

PUBLIC HEARING ITEMS:

A. APPEAL #5835A, application of Leroy Voisine for special exception approval to allow a public autobody shop in the I-2 zone under Section 5-02.3, 11-03 & 15-03 of the Zoning Regulations, 106 Lazy Lane, property of Paula D. Konikowski, Trustee, in an I-2 zone as shown on plans.

Mr. Costello advised he would be recusing himself from this item and left the room.

The Chair seated Mr. O'Keefe for Mr. Costello for this item.

MR. VOISINE: Good evening. My name is Leroy Voisine and I live at 57 Mark Drive, Plantsville, Connecticut.

I am looking for special application for an autobody shop at 106 Lazy Lane. I've been in business for 21 years and been doing autobody work for 40 years.

My business before was at 5 Townline Road, Plainville, Connecticut. On January 27<sup>th</sup>, my building collapsed due to snow. I'm looking to relocate.

THE CHAIR: Do we have any questions of the applicant?

You were given sort of a questionnaire by the Zoning Enforcement Officer with a staff review.

MR. VOISINE: Correct.

THE CHAIR: And, let the record show that the responses are in writing and we'll put it down as an attachment to his documents. Is that okay?

MR. VOISINE: Fine.

THE CHAIR: Okay. Do we have any questions of this applicant on the autobody shop for this location?

MR. WYSONG: The regulations, 11-03, speak of notification of adjoining property owners. Has that been done?

MR. VOISINE: Adjoining property owners?

MR. WYSONG: Um, perhaps the Chairman could quote it verbatim or I'll get it out.

Property owners within 250'. I guess my question is, has that written notification been afforded the property owners that adjacent?

MR. VOISINE: I don't think there's any property owners 250' from the building.

MR. WYSONG: There may not be.

MR. VOISINE: No, there isn't. There's vacant lots across the street. Probably about 7, 8 acres on the left side of 106 Lazy Lane which is an open lot. Further up the hill, there is a home. And, the police station is way past 250'.

MR. WYSONG: Who is behind you? A moving company?

MR. VOISINE: There is a moving company. McCabe's Moving.

THE CHAIR: And, wasn't, was this an autobody shop previous?

MR. VOISINE: Yes. It was. Back in 1955, I believe, it was an autobody shop. It was called Micky's Autobody. Michael Milaro was the one that owned it. He's deceased now four years or five years ago.

THE CHAIR: Okay.

MR. VOISINE: I actually used to go there back in the 80's and help him out with some of his cars.

MR. WYSONG: Thank you.

MR. GWOREK: What is the use for that existing house that pictured on the plot that's kind of -

MR. VOISINE: The house right now is vacant. I guess she wants to rent it out for an office.

MR. GWOREK: Okay.

MR. VOISINE: The Trustee.

THE CHAIR: There is normally some stipulations that we put on if you're selling like used cars or you've got an autobody shop where you're working on vehicles. And, I'd like to just run for the Board -- I don't know if you have them in front of you --- but what I'd like to do is review them and we may, we'll probably add them on to this particular application.

The first one is no automotive work will be done outside the building.

MR. VOISINE: Correct.

THE CHAIR: No problem with that?

MR. VOISINE: No problem.

THE CHAIR: No cannibalized vehicles outside the building.

MR. VOISINE: No, sir.

THE CHAIR: No outside storage of equipment, parts or any material.

MR. VOISINE: No, sir.

THE CHAIR: Are you going to be - are there going to be any vehicles for sale?

MR. VOISINE: No.

THE CHAIR: Okay.

MR. VOISINE: Actually, like I said, I'm a one man operation. I have been on Town Line Road for 21 years in Plainville and never had a problem with the town or never had a problem with the Department of Motor Vehicles. Most of the cars today are worth anything. If they're complete cars, they're worth \$300 at the junkyard. So, I - believe me, spare parts, people come down and beg for the stuff. So, they pay top dollar for all of it.

And, most of the stuff I do is restoration work. Once in a while I will do a customer, every day vehicle. But most of it is restoration.

My stuff is valuable, so everything is kept inside.

THE CHAIR: And any --- will there be any outside storage, at all?

MR. VOISINE: No.

THE CHAIR: Okay.

MR. VOISINE: I might have a couple of cars parked there maybe a week, the most. But that's about it. Very limited.

THE CHAIR: And, I just want to make sure. Let's see, the dumpster, you responded about the dumpster outside the building?

MR. VOISINE: Correct. It's going to be in the back. But the ground is frozen right now. We're hoping to, as soon as the weather breaks, install a fence around it.

THE CHAIR: And, you are also going to, you're going to install the oil tank inside the building.

MR. VOISINE: The oil tank will be inside.

THE CHAIR: Okay, good. Okay.

Okay, with those stipulations, you have --- and the other, the other big one and the reason we put them in is not because of your operation but if you decide down the road to sell it and it becomes another autobody shop, a lot of times these stipulations will go with the application, with that piece of property.

The other one is there will be no banners or other signage outside of the building other than what would normally be up.

MR. VOISINE: It'll just be my business name on the top of the building.

THE CHAIR: Okay. So those will be stipulations that we'll put on at the time of approval when we bring it up. Okay?

MR. VOISINE: That's fine.

Is there any other questions of the applicant?

(No response)

Are you done with your presentation?

MR. VOISINE: Yes, sir.

THE CHAIR: Okay.

Thank you.

MR. VOISINE: Thank you.

THE CHAIR: Is there anyone here to speak on this application for this application?

(No response)

Is there anyone here opposing this application?

(No response)

Hearing none, this application is closed.

Thank you.

Mr. Costello re-entered the meeting and was reseated by the Chair.

B. APPEAL #5836A, application of Rohn W. & Angela M. Heidgerd to increase existing side yard setback variance to 6.5' where 20' (already varied to 8') is required to build an addition under Sections 11-13 & 15-04 of the Southington Zoning Regulations, 37 Belleview Avenue, property of Rohn W. & Angela M. Heidgerd in an R-20/25 zone.

THE CHAIR: Will the applicant please state your name and address?

MR. HEIDGERD: Rohn Heidgerd, 37 Belleview Avenue.

MS. HEIDGERD: Angela Heidgerd, 37 Belleview Avenue.

THE CHAIR: Thank you.

MS. HEIDGERD: Just a little background. We moved into our home in 1998. We had it inspected. There were two additions on the home at that time. A family room and a downstairs bedroom.

Over the years that downstairs bedroom has grown mold around the edges. And, it just, our two children are actually forced to share an upstairs bedroom.

We approached a builder this past fall with hopes that we could build a bathroom down in that area and perhaps fix that room up a little bit so that we can inhabit it.

I do have --- I wasn't able to get the letter from the builder in time, but I have a copy for you now.

THE CHAIR: Okay.

MS. HEIDGERD: I have here a copy of a zoning appeal back in 1991 from the previous homeowner. He was given the same variance that we're asking for today. A 6.5 variance.

I think he built both of those rooms in 1991. And, I think he just built them himself. They weren't from an approved contractor. So, the two rooms.

From our builder's recommendation, I think, I guess we're forced to really tear down both of those additions. They just were not built well. And, I think we're going to be forced to rebuild the bathroom and another bedroom for us to inhabit if you approve the variance.

What we're --- it's not clear --- I hope that its clear to you is that we're already --- the current room is 6.5 feet from our neighbor. We just want to tear down and build this in the same footprint. We're actually going to take some square footage off the back of the ---

when we tear down the family room in the back, we're going to take some square footage off and then build up to make the house look a little nicer from the street.

You do have one letter from my neighbor's to the righthandside of us where our home right now is 6.5 feet from their property line. You have a letter from them in support of this.

MR. HEIDGERD: Basically, the existing bedroom as stated by the builder was built on one course of cinderblocks. We were unaware of that when we moved in. We thought it was on a cinderblock foundation but --- a full cinderblock foundation.

Upon further investigation, when we started to try to do the process, we noticed it was on one cinderblock.

And, the backroom, we thought was built on a slab foundation. With the footing and the foundation walls. It's actually just a four inch slab that it's built on. I'm not sure how those things were approved and went through.

But as you can see, the builder suggests that those be demolished and rebuilt.

THE CHAIR: Do we have any questions for the applicant?

(Pause)

So what you're saying in your presentation is that there already was a variance given and up to where the footprint is now, you're going to replace those structures in the existing footprint. Did you say it was going to be less square footage than what is currently there?

MR. HEIDGERD: We would be building a second story to that, part of that. If you look at the plot plan, you'll see that the one that's more of a rectangle right on the side of the main house would be the second floor.

The one in the back would be a shed roof coming off of it. So, it would be basically right around the same square footage.

THE CHAIR: The same footprint?

MR. HEIDGERD: There is a weird little space -

THE CHAIR: I saw that. It almost looks like two separate structures with a space in between them.

MR. HEIDGERD: It is bizarre the way it was built.

THE CHAIR: Okay.

MR. HEIDGERD: That would be filled-in. But other than that, we are not going any closer to the neighbors.

THE CHAIR: And the neighbor on the right, this letter is from the neighbor that's on the right. Obviously, what they're going to see is going to be a much larger, in fact it's going to be a much larger footprint only from the sense of it's going to be one complete side wall that they're going to be looking at. Where now, number one, it's not as high as your home. Both structures I don't think are as high as your home. Plus, they've got that gap in-between so - I just want to make sure that you know that we all understand that it is going to look bigger because it's two stories and it's a solid, contiguous piece of building.

MR. HEIDGERD: Yes. The way it presently stands, it's a pretty bizarre looking house. And, I think it would be more aesthetically pleasing if we were to go ahead with it.

MS. HEIDGERD: They have a pool and you know, from their backyard, the way it looks right now, it's just you know, a normal looking Cape with just these weird additions off of it. So, I think, you can see from their letter, they would be happy to look at a more aesthetically pleasing structure no closer to their home than it is right now.

THE CHAIR: And, the building material will be basically the same as the existing home? The same color? Same roofing and all of that?

MR. HEIDGERD: Yes, the siding would be exactly the same.

MR. GWOREK: Are there currently windows on the structure now facing south towards your neighbor, or no?

MR. HEIDGERD: There are windows on the second floor looking out. So we would just have windows on that second floor, also. I believe we are only putting one little window in the bedroom down there and that octagonal looking window in the bathroom in the back. There would be one more window, an octagonal windows.

MR. GWOREK: Have they seen, have your neighbors seen the proposed design? And, they don't have -

MS. HEIDGERD: Yes, we showed it to them.

MR. GWOREK: All right.

THE CHAIR: So, the hardship really is the construction of the existing structure with the mold and with the safety of the kids.

MR. HEIDGERD: Yah, right now -

THE CHAIR: That's the hardship that we've got here.

MS. HEIDGERG: Right.

MR. HEIDGERD: My daughter has been sleeping upstairs in my son's bedroom and it's to the point where she needs to get her own bedroom. I don't feel right moving her into that bedroom.

THE CHAIR: Based on some of these pictures, I can understand why.

Okay. Have you finished with your presentation?

MS. HEIDGERD: Yes, we are.

THE CHAIR: Any other questions of the applicant?

(No response)

Hearing none, is there anyone talking in favor of this application?

Miss Vicky?

MS. TRIANO: Mr. Chairman, it's nice to see everybody. I'm the other neighbor. I'm on the other side. And, I have lived at that house can we say over 50 years and just leave it at that.

I just want to say that it's amazing to me that this structure passed inspection in '91 or whenever it was done. It is obvious that there were many, many problems there. And, I have been living next to Rohn and Angela as long as they've been there, of course, and they have always been excellent neighbors and I'm sure that they would do nothing to hurt our neighborhood or our people.

I would hope that the Board would see fit to allow them to clean up this mess. And, at great cost, by the way, to stay in our humble neighborhood, if you will, and give approval for this appeal.

Thank you.

THE CHAIR: Thank you.

Anyone else speaking in favor of this application?

(No response)

Is there anyone opposing this application?

(No response)

Anyone opposing?

(No response)

Hearing none, this application is closed.

Thank you.

C. APPEAL #5837A, application of Daniel J. & Anne Mullin for a front yard setback variance of 20' where 40' is required in the front yard to install an above ground swimming pool under Sections 7A-00, 2-01 & 15-04 of the Southington Zoning Regulations, 61 Alpine Trail, property of Daniel J. & Anne Mullin an in R-20/25 zone.

MR. MULLIN: Good evening, Daniel Mullin. I live at 61 Alpine Trail in Plantsville, Connecticut.

My application today is as you just heard a request to waive the variancy requirement of a 40' setback. Our house, initially when we built it wasn't a corner lot. Although, there was a right of way. But when we initially moved in and built the house, there was a farm behind us, a horse farm.

And, I think it was about three years later they put in a new development and made it a corner lot. Which I guess then means we have no side yard and you have to follow the same setback requirements for the front.

And, looking at the layout and having a septic system that virtually eliminates a good majority of what you would call the back yard. Between us and our next door neighbor at 51 Alpine, there's virtually no distance between the property lines and where the septic system ends. So there is really no room to put a pool there.

That only leaves what used to be the side yard and it's now the front section on, I believe its Trotter's Crossing. That is really the only place we have to put a pool.

We've asked neighbors. We've had three neighbors submit letters saying that they have no objection to this. The neighbor directly across from us that would be looking out their front yard into or seeing the pool, the neighbors directly behind us and a neighbor diagonal that would be driving by every day.

So, again, this request is to have the variance so we can put the pool as shown as I hand drew on the drawing.

THE CHAIR: Is that it?

MR. MULLIN: That's it.

THE CHAIR: Okay. Any questions of the applicant?

MR. GWOREK: How far back is the --- I see this hand sketched septic drawing: how far back is the leaching field? All the way -

MR. MULLIN: There's uh, there should be another plan on there. But, the leach field goes back and then we have the reserve leach

field and you're then within 10' of the property line behind. So, uh, I can't really put it back there. So my only option is along that Trotter's area.

MR. WYSONG: What's the nature of your leach field? Do you know what it is constructed of?

MR. MULLIN: I believe it's just the tubes and there's rocks and sand and to be honest with you, I don't know.

MR. WYSONG: We have the builder's coordinates for the corners and the distribution boxes, B-1 and B-2.

MR. MULLIN: Yup.

MR. WYSONG: But I don't know what's between the distribution box and the ends of the field. Whether it's a pipe this big (indicating) that is, you've got to stay 10' away from or whether it's a gallery.

MR. MULLIN: I believe they're 16" infiltrator tubes that run from the D-1 and D-2 outwards. Yah, it says on that.

MR. WYSONG: Oh, there it is. Sixteen inches. Okay.

And, you have to stay 10' away from that?

MR. MULLIN: Yes, from the end.

MR. WYSONG: That's the question. From anyplace?

MR. LIBRANDI: From any structure. Yes.

MR. WYSONG: That leaves you approximately 30-some feet to the back line. Probably the reserve leach fields.

MR. MULLIN: Well, yah. On the next page, you can barely see it there, but they show the reserve tubes there and then that takes up that far back area. If you look closely. And, it didn't come out because it's the blue drawing. But the reserve is there.

THE CHAIR: How far is the actual pool, the side of the pool, from the property line, where you're placing it?

MR. MULLIN: Where I'm placing it, it's -

THE CHAIR: I know it says it is supposed to be 40, but what is it?

MR. MULLIN: In the drawing, it's over, just over 20.

THE CHAIR: Okay.

MR. MULLIN: So, I believe I have to be 20' from --- or 20, I guess is what I'm asking for instead of the 40.

THE CHAIR: Because again, you're constricted because you've got two front yards.

MR. MULLIN: Exactly.

THE CHAIR: And, I think one of the - I don't know if it's been approved, yet, on the zoning regulations about -

ATTORNEY SCIOTA: Not yet.

THE CHAIR: Huh?

ATTORNEY SCIOTA: Not yet. They're looking at it.

THE CHAIR: They're working on it basically saying your front yard is where your front door is. And, I am assuming your front door is on Alpine Drive.

MR. MULLIN: Yes, it is.

THE CHAIR: We've seen a number of these.

MR. COSTELLO: I took a ride by here today. You have fencing up?

MR. MULLIN: Yah, a little picket fence.

MR. COSTELLO: And, there are some white pines along there. Are there trees along there?

MR. MULLIN: They're trees. They're not white pine. I think they're pear.

MR. COSTELLO: But it is kind of wooded along that fence line?

MR. MULLIN: Yes. Yah, and the back corner is wooded. Yes, it's fairly wooded.

MR. COSTELLO: Okay.

THE CHAIR: So you are saying there is some foliage there?

MR. COSTELLO: There is --- there is some screening along Trotter's and then also on the property line between your property and Mr. Crispino.

MR. MULLIN: Well, it's Berlow now. Crispino was the farm. That was when I used to have horses coming up to the back there.

MR. WYSONG: You've drawn: you've sketched the pool in on the application, oblong. That's probably east and west access.

MR. MULLIN: Yes. Only -

MR. WYSONG: Had you considered north and south access in order to give you more clearance from the lot line?

MR. MULLIN: Yes. The only problem there is that it slopes down and it costs me extra money to put or level it out when they install it. And, it just works out better walking towards the back.

MR. WYSONG: You have a playscape or something in the back area?

MR. MULLIN: A playscape in the back, back.

MR. WYSONG: Have you considered putting the pool where the playscape is?

MR. MULLIN: That would be close to the reserve septic area. So, I have to --- I can't be 10'.

MR. WYSONG: Is there restriction on reserve areas that are not used?

MR. LIBRANDI: Not that I'm aware of.

MR. WYSONG: In fact, I had a hard time finding anything about an above ground pool in our regulations. I was surprised that they were considered a structure.

MR. LIBRANDI: Once you touch the ground, any type of anything is considered a structure: any type of buildable dimension of construction is considered that. You know?

MR. WYSONG: If it were located in a reserve field ---

MR. LIBRANDI: That would be more of a question for the health department to see what's allowable in that area, to see if they can build something like that.

Usually, if they go near a septic tank or a leaching field, anything like that, they have to go to the health department first to see if it's doable or not and then they would come back to us with some type of documentation saying the health department would approve it.

MR. MULLIN: I believe they said I wasn't allowed but I don't know officially.

MR. WYSONG: I'm looking for the hardship here.

MR. MULLIN: The hardship is I have no pool and can't use a big portion of my yard to put up a pool, no pool.

You know, if it's any pool or structure, I can't even get one of those blow up Wal-Mart specials and put it out there then.

MR. LIBRANDI: I don't believe so.

MR. MULLIN: So, that's my hardship. I have to live with my kids.

THE CHAIR: Any other questions of the applicant?

(No response)

Thank you.

MR. MULLIN: When do you make the decision?

THE CHAIR: Hopefully, tonight.

MR. MULLIN: Oh. Thank you.

THE CHAIR: Is there anyone speaking in favor of this application?

(No response)

Anyone speaking in favor of this application?

(No response)

Anyone opposing this application?

(No response)

Hearing none, this application is closed.

D. APPEAL #5858A, application of Simone DelBuono for a 988 sf yard area variance for 122 Center Street, thus reducing the existing 4,958 sf non-conforming lot to 3,978 sf where 8,000 sf is required under Sections 7A-00 & 15-04 of the Zoning Regulations, 122 Center Street, property of Simone DelBuono in a CB zone.

THE CHAIR: Would you please state your name and address for the record, please?

MR. QUIRK: Good evening, Chair and Commission members. My name is Andrew Quirk, professional engineer and principal with Kratzert, Jones & Associates with offices at 1755 Meriden Waterbury Road.

And, I am here tonight on behalf of the applicant Simone DelBuono regarding the lot area variance for 122-130 Center Street. The two parcels are located at the intersection of Liberty Street and Center Street.

You may know the buildings in the area and the corner is the barbershop shown here in the brown and the building to the right, that's 122 Center Street. There are also 7 apartment buildings (sic) in that building. And, just to the west but adjoin the same building is 130 Center Street. That building is presently vacant.

The proposal here as it relates to the site plan applications that are being made, is an application to take the vacated 130 Center Street and re build on that site for a restaurant, office and storage.

Which brings us to this present application which is for a lot line revision to two existing nonconforming lots in terms of area. As you may know, many of the downtown CB zoned lots are existing nonconforming in terms of area and I understand that the Planner is looking at those lots to determine what might be a more appropriate minimum lot size.

Both of these lots --- the westerly lot is presently 2300 sf. And, the easterly lot is 4500 sf.

And, 122 Center Street, the easterly lot is an L-shaped lot. I've outlined that in green (indicating). It comes down along Liberty Street and it is a reverse L-shape to the west that comes around behind 130 Center Street.

What we are proposing is just to straighten that out so that there would be two rectangular shaped lots making the shape of the lot typical of the area: but in doing so, makes 122 a smaller lot.

They're both similar in size and shape at that point so it makes them more standard lots. In doing so, it allows for development along Center Street.

THE CHAIR: Because of the distance, could you just point out - I think I can see the green, but I am not as young as I used to be.

ATTORNEY SCIOTA: This is the existing lot that cuts this way.

THE CHAIR: Okay.

ATTORNEY SCIOTA: This is the existing lot that cuts this way.

What we want to do is we want to straighten this so this part of the 7 goes to this lot and this lot stays so you have two rectangular lots.

THE CHAIR: Okay, thank you.

(End of Tape #1, Side A)

(Beginning of Tape 1, Side B)

MR. QUIRK: (Continuing) . . . presently existing nonconforming. In terms of their area as are a majority of lots in the area. So, any type of development, anything with zoning in terms of lot area has this inherent hardship of them not conforming in terms of area. To do development of the lots raises this issue.

There is the odd shaped lot here (indicating) and this would make the lot typical in terms of shape. The only way in order to develop and continue development of the downtown lots is to take this vacated lot and bring it back in terms of development.

We did consider the alternative of a rear yard variance as opposed to the lot line or the minimum lot area variance and we felt that was more of a less desirable situation in terms of where this abuts other properties and having that rear yard variance better to make it --- it is already nonconforming in terms of area, so we conformed that to the other zoning regulations in terms of the rear yard variance which the proposed development would meet the rear yard setback.

With that, I'd be happy to answer any questions.

Also, the applicant is here if you have any questions for the applicant.

MS. CHAMPAGNE: To have some clarity on what we're looking at, what's brown, shaded in brown on the picture there, is that the existing structure?

MR. QUIRK: Yes.

MS. CHAMPAGNE: So we are just talking about the land itself.

MR. QUIRK: That's correct.

THE CHAIR: Any questions of the applicant?

(No response)

Right now, on the left piece of property that you're proposing, the brown is an existing structure. What is your thought on the two pieces of whatever they are in front of the building on the left?

You're going to make that contiguous? You are going to build there?

MR. QUIRK: Correct. And, this hatched area in orange, this hatched area here, this is the proposed expanded footprint.

THE CHAIR: Okay.

MR. QUIRK: In back this area here. There is parking in the back and we would like to retain a parking easement in favor of 122 to continue some of that parking over that area.

Presently, there is a mix of gravel, there's a concrete pad, there is a stop and things in this area here and the proposed change is from gravel to the proposed building.

THE CHAIR: Mark, have you had a chance to look at this?

ATTORNEY SCIOTA: Yes. This is not out of the ordinary. We have, as you know, we need 8,000 sf in our CB zones. Very few of our lots are 8,000 sf. These are, as Mr. Quirk said, one is about 3500 and the other one is 48. So that's not out of the ordinary when you want to rebuild something, know a building down and rebuild it. And, you have 7 - a lot that looks like a 7 - you want to straighten it out so you are able to get the building without getting a massive number of variances.

What you are trying to avoid --- you try to avoid the rear yard variance and you do that by doing a lot line. Normally, it's a lot line revision. If these two lots were both equal - say one was 9 --- each of them 9,000 sf, he wouldn't even be here. He would do a lot line revision and it wouldn't be an issue.

The reason why he is here is because he's making two nonconforming lots - although they're legal ---he's making one less legal by making it smaller and he's making one more legal by making it bigger. But they're both still legal nonconforming. So this is not something that's out of the ordinary in a CB zone.

THE CHAIR: Thank you.

Any questions?

(No response)

Thank you.

MR. QUIRK: Thank you.

THE CHAIR: Is there anyone here speaking in favor of this application?

(No response)

Anyone speaking in favor?

(No response)

Hearing none, anyone opposing this application?

(No response)

Anyone opposing?

(No response)

Hearing none, this appeal is closed.

Thank you.

7:37

**REGULAR MEETING****APPROVAL OF MINUTES** - Regular Meeting of January 25, 2011

Mr. Costello made a motion to approve. Ms. Champagne seconded. Motion passed unanimously on a voice vote.

**NEW BUSINESS:**

**A. APPEAL #5835A**, application of Leroy Voisine for special exception approval to allow a public autobody shop in the I-2 zone under Section 5-02.3, 11-03 & 15-03 of the Zoning Regulations, 106 Lazy Lane, property of Paula D. Konikowski, Trustee, in an I-2 zone as shown on plans.

\*\*\* Mr. Costello recused himself from this item and Mr. O'Keefe will be sitting for this application.

Mr. O'Keefe made a motion to approve. Ms. Champagne seconded.

The Chair commented one of the items we talked about on this particular application is it was an autobody shop and will remain an autobody shop. We did also talk about some stipulations for this particular application. And, the applicant had filled out a questionnaire from the Zoning Enforcement Officer. Those will be included as part of the stipulations in the Minutes.

Also, we spoke to the applicant about there'll be no automotive work done outside the building, no cannibalized vehicles on the property, no outside storage of equipment, parts or any material outside the building. There will be no vehicles offered for sale on this particular piece of property. If there was any outside storage, it would be fenced in. And, that there would be no banners or other signage on this particular piece of property.

Mr. O'Keefe amended his motion to include the stipulations stated by the Chair as did Ms. Champagne her seconded.

Motion passed 5 to 0 on a roll call vote.

\*\*\* Mr. Costello re-entered the meeting and was reseated.

**B. APPEAL #5836A**, application of Rohn W. & Angela M. Heidgerd to increase existing side yard setback variance to 6.5' where 20'

(already varied to 8') is required to build an addition under Sections 11-13 & 15-04 of the Southington Zoning Regulations, 37 Belleview Avenue, property of Rohn W. & Angela M. Heidgerd in an R-20/25 zone.

Ms. Champagne made a motion to approve. Mr. Gworek seconded.

Mr. Costello felt this was pretty straight forward. In terms of hardship, they're not really increasing the footprint. I don't see any problems with this application.

The Chair added obviously one of the hardships on this application is the way the original structure was constructed. If you look at the pictures, there's a lot of mold on the building and it's just not safe and healthy. I think that what they're doing here is a vast improvement over what's there now.

Motion passed 5 to 0 on a roll call vote.

One year to exercise permission.

**C. APPEAL #5837A**, application of Daniel J. & Anne Mullin for a front yard setback variance of 20' where 40' is required in the front yard to install an above ground swimming pool under Sections 7A-00, 2-01 & 15-04 of the Southington Zoning Regulations, 61 Alpine Trail, property of Daniel J. & Anne Mullin in an R-20/25 zone.

Mr. Costello made a motion to approve which was seconded by Ms. Champagne.

Mr. Wysong commented he wasn't seeing the hardship. I wish we knew whether you could to put an above ground pool on a auxiliary leach field, a piece of land set aside for some eventuality use in the future. I guess my view would be if it can fit in the backyard and the regulations say it ought to be there, if that is on top of an alternate field that you can build on, then what keeps the alternate field from being in the front yard which was the side yard before. Just flip them.

So, I don't see the hardship. I don't see that there is anything here that keeps a homeowner from having a pool. It's just it may not be quite where he'd like it to be. I will listen to arguments, certainly, of a different nature.

Mr. Costello said he didn't necessarily disagree. But I looked at the lot. I'm looking at the letters from the neighbors. That back line is wooded. There's some trees along that Trotter line. And, I just don't have a problem with where it is if the neighbors don't. So I am not going to argue the point. I don't disagree with it, but I

don't necessarily have a problem with where he's putting it after seeing the lot. That's why I made the motion.

Motion passed 4 to 1 with Mr. Wysong opposed.

One year to exercise permission.

**D. APPEAL #5858A**, application of Simone DelBuono for a 988 sf yard area variance for 122 Center Street, thus reducing the existing 4,958 sf non-conforming lot to 3,978 sf where 8,000 sf is required under Sections 7A-00 & 15-04 of the Zoning Regulations, 122 Center Street, property of Simone DelBuono in a CB zone.

Ms. Champagne made a motion to approve. Mr. Wysong seconded.

Mr. Gworek said he didn't see a reason not to do it. We're not approving where the new building is supposed to be. We're just straightening the property lines. It's the property right now and not a building issue. He didn't see any problems with it.

Mr. Wysong added the building is in pretty rough shape, too. It would be an improvement to the town if something happens to that building.

Mr. Costello said he is usually in favor of anything that's going to further the development of our CB zone. So I see no problem with this at all.

The Chair agreed with that. Again, we are taking two lots, one of them we're making it less nonconforming and we're taking another and making it more nonconforming. So it's a toss up. Anything we can do for downtown that's going to add --- as to the comments made about the building not being in great shape and that's true. So anything we can do for downtown, I think this goes along with that whole renaissance that we're trying to do. We've made great progress and this is just two more steps forward for these two pieces of property.

Motion passed 5 to 0 on a roll call vote.

One year to exercise permission.

#### **MISCELLANEOUS /OLD BUSINESS /NEW BUSINESS**

**A. Discussion of service through Town website to receive emails when agenda & minutes are posted to the website.**

Discussion followed regarding the members receiving their Minutes of the meeting, the Agenda and documents via email rather than regular mail as a cost savings method.

It was agreed that the members would receive their information via email with the proviso that any large maps would be sent regular mail supplemental.

**B. ZBA #5787 & #5788A - 2004 West Street.**

The Chair advised this was an item that came before the ZBA previously and it was turned down. Defeated. And, subsequent there was some litigation and it's now back before us. I would call on the Town Attorney to give us some background. You did receive some background in the Minutes of the previous meeting. I think Attorney Sciota can give us a heads up and explain exactly what this is about.

Attorney Sciota said most of what was discussed was in your January meeting. I believe we did an executive session. Most of that stuff says in executive session, obviously.

But this is a pending litigation matter where the parties all met in front of the Judge. The cases were put in front of him. The case really centered really around the two experts: our expert and the expert for the applicant. Both our expert and the applicant's expert in 99% of the time agreed with each other.

The Judge has asked us to come back here and as I mentioned in executive session, this is one where we're saying at this point we've informed the Judge per your direction that we got in executive session.

Now, we need a motion for approval tonight.

One aspect of this is there are two applications. One is for the statutory gas station aspect which is not per your regulations. It's per Connecticut State Statute. That one believe it or not does not require four votes. It requires three votes and that actually passed. The vote was to approve and the vote was 3-2. Obviously you need four votes per your regulations.

There were two different applications. One was actually the statutory gas station application which was approved because it got 3 votes. The other one was the actual placement itself which required 4 votes.

When it came to the litigation part of it, it revolved around the traffic issues and the traffic expert for us versus the traffic expert for them.

This, of course, isn't the only step. From here, they have to go to Planning & Zoning for site plan. There are a lot of issues that we still have with this application itself. When we get to site plan we can stipulate to that aspect of it.

The Chair added he is the only board member now who was on the board at the time this thing was rejected. I will reiterate what I said before is that I was convinced then and I am convinced now that it met the regulations and that's why I voted for approval the first time around and I will vote for approval on the second time around, as well.

Mr. Wysong admitted that reading Minutes verbatim of a meeting that you didn't attend is really difficult to do to get an idea of what was taking place at that meeting. Maybe Mark summarized it correctly when he said it was a discussion of traffic experts.

If you could kind of summarize?

Attorney Sciota pointed out he wasn't at the meeting, either, you are talking about. The only meeting I am telling you about is the executive session which there are no Minutes for. January meeting.

And, then the meeting that the Chairman is talking about, I was not at the meeting, either.

But the meeting that I had in the Judge's Chambers, which is issue number one in executive session which I reported back to you after that meeting, that one revolved around the experts.

I can tell you from reading the Minutes which I did also of that meeting we are talking about, it's pretty clear in there and you can read the Minutes that the experts ---and the expert is hired to say what their opinion is. They're not hired to say what we want them to say and sometimes the experts say what in essence doesn't help a case out. In this case the expert didn't help our case out.

The Chair added that basically they were all in agreement. We had a couple of members of the board that were not necessarily in agreement. The main focus was on the traffic flow as well as the turning capability of the north/south traffic.

But again, I reiterated my initial comment was that we rely on the traffic experts as well as I felt that the application met all of our requirements and it's very difficult to say no when it meets our requirements.

Attorney Sciota reminded the members, when it comes to the traffic flow on site, which is your turning lanes, that's site plan, which is the next step. They still have to go to site plan. This is for the location. Does a gas station in this area meet the harmony of the neighborhood as a whole? That's really based upon traffic. It's

obviously a business zone. It's based upon traffic. And, that's where the issue is.

But to say that the issues that you're talking about, the actual traffic pattern on the site, those questions aren't answered yet. That's your next step which is site plan.

Ms. Champagne clarified we are still about the package: the gas station, convenience store and Dunkin Donuts. That has not changed? Attorney Sciota said it had not changed. Once again, that gets review in front of the PZC, also.

Mr. Costello asked if he could get a general feeling as to why the others voted no. Were they concerned with the traffic?

The Chair said he wouldn't speak for them but my thought was that they were --- one of the commissioners was concerned about the traffic really on West Street, the turning into this particular parcel of property and the potential back up. And, again, the traffic engineers were saying that they didn't feel that that would be the issue because of the stacking within that particular piece of property. I think it was like 20-car stacking which is a fairly high number on a positive side versus some places we've got with 3 or 4. A couple of the commissioners were concerned about that. That's why they voted against it.

Mr. Costello made a motion to approve. Ms. Champagne seconded  
Motion passed 5 to 0 on a roll call vote.

As a general comment, the Chair reminded commissioners if they don't feel they have enough information to make a decision on an application a motion to table or a motion to continue the public hearing is always in order.

#### **ADJOURNMENT**

Mr. Costello made a motion to adjourn. Ms. Champagne seconded.  
Motion passed unanimously on a voice vote.

(Whereupon, the meeting was adjourned at 8:05 o'clock, p.m.)