

TOWN OF SOUTHTON
ZONING BOARD OF APPEALS
TUESDAY, JULY 12, 2011

Chairman Robert Salka 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:

Jeffrey Gworek and Bryan Wysong

Alternates: Matthew O'Keefe
Juanita Champagne

Others: Rob Librandi, Zoning Enforcement Officer

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

The Chair seated Juanita Champagne for the vacant Vice Chairman seat and Matthew O'Keefe for Patricia Potter. A quorum was determined.

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

Chairman Salka explained to the audience the procedure to be followed in the presentation of an appeal advising 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 5858A, application of Krishna P. Kandel for a special exception approval to allow applicant to apply to the State of Connecticut for a restaurant liquor license under Sections 4-01.32, 11-04 & 15-05 of the Zoning Regulations, 151 Queen Street, property of Walter S. Wood LLC, in a B zone.

THE CHAIR: Will the applicant please come forward and state your name and address for the record, please.

KRISHNA KANDEL: Krishna P. Kandel is my name. Residential address for business address?

THE CHAIR: Your home address.

MR. KANDEL: 70 Kent Street, Apartment 23, West Hartford, CT
06119

THE CHAIR: Okay.

MR. KANDEL: It's like, I just in the restaurant business.
That's where -

THE CHAIR: Can you speak up a little bit?

MR. KANDEL: Oh, I'm sorry.

THE CHAIR: That's okay.

MR. KANDEL: Yah, that's the (inaudible) restaurant at 151 Queen
Street. I mean, like, I'm buying that restaurant. And, I would like
to have my name on the liquor service license. We turn over the
permit and it's not in my name because it's in the previous owners'.

THE CHAIR: Okay. So there's already a liquor license there that
is valid?

MR. KANDEL: Yes.

THE CHAIR: Okay.

MR. LIBRANDI: Are you changing the floor plan at all?

MR. KANDEL: No.

MR. WYSONG: What is the current name of the restaurant?

MR. KANDEL: (Inaudible).

MR. WYSONG: Okay.

MR. KANDEL: (Inaudible).

THE CHAIR: So you are not changing anything within the
restaurant itself?

MR. KANDEL: No, like uh, not really. I'll stay with it how it
is.

THE CHAIR: Linda, is that microphone on? I don't think it's on.

(Stenographer turned the microphones on.)

It is now.

STENOGRAPHER: Better.

THE CHAIR: Now, we will be able to hear you.

STENOGRAPHER: Sorry.

THE CHAIR: Okay, go ahead, I'm sorry.

MR. KANDEL: Are you asking me questions about the floor plan change or anything? I am not --- I am not planning to change anything. No.

THE CHAIR: Well, we have a copy, I believe, of the layout of your, of the restaurant.

MR. KANDEL: Right.

THE CHAIR: And, when I was going through it, I just want to make sure we're looking at the same document.

Is there a service bar?

MR. KANDEL: Yes, service bar.

THE CHAIR: Just a service bar.

MR. KANDEL: A service bar.

THE CHAIR: All liquor will be consumed within the restaurant?

MR. KANDEL: Right.

THE CHAIR: There is going to be no outside dining at this point?

MR. KANDEL: No.

THE CHAIR: And, has the zoning enforcement officer gone over with you our typical stipulations that we put on the restaurants? And, I'll just read them to you, okay?

(1) No exotic dancers, male or female, public or private.

(2) The number of bar seats -- you don't have a bar. All you have is a service bar.

MR. KANDEL: That's right.

THE CHAIR: Okay.

(3) No live entertainment. Do you have any live entertainment? Are you planning any live entertainment at the restaurant?

MR. KANDEL: No.

THE CHAIR: Okay.

(4) Any significant changes to the floor plan or the permittee will require a new application.

MR. KANDEL: No.

THE CHAIR: Well, that's just a stipulation saying that if you make changes within based on the floor plan that you provided, you'll have to come back to this board and resubmit so we can look at the new floor plan.

MR. KANDEL: Okay.

THE CHAIR: Okay?

(5) And, any changes to the management or permittee will require a new application, as well.

MR. KANDEL: Okay.

THE CHAIR: You have no problem with those?

What are your hours of operation?

MR. KANDEL: I think it's going to be 11:00 in the morning until 10:00 in the evening.

Probably like a little longer on the weekend.

THE CHAIR: Okay, but it's all confined within the restaurant anyways.

Okay.

Any questions of this applicant?

MR. O'KEEFE: Seems pretty straightforward.

THE CHAIR: Right.

Bryan, any?

MR. WYSONG: No.

THE CHAIR: Okay, thank you, sir.

MR. KANDEL: You're welcome.

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

(No response)

Anyone opposing this application?

(No response)

This application is closed.

Thank you.

B. APPEAL 5859A, application of Mark Adams for a 19' front yard setback to 21' where 40' is required and a 9' side yard variance to 6' where 15' is required for a 2nd story addition on existing structure under Sections 7A-00 & 15-04 of the Zoning Regulations, 7 Stoughton Road, property of Mark D. Adams, in a R-12 zone.

MARK ADAMS: Mark Adams, 1085 West Center Street. Southington. Owner of the property at 7 Stoughton Road, Southington.

I'm looking to do a second story addition. I'm not changing the out --- we are cantilevering over the front 16 inches to give it a decent colonial look. Other than that, the foundation size isn't changing, at all. It is going to stay exactly as it is.

THE CHAIR: Okay.

MR. ADAMS: We'll take the three 8 by 10 bedrooms that are on the first floor and putting larger ones upstairs.

MS. CHAMPAGNE: So there is absolutely no change to the footprint?

MR. ADAMS: No.

THE CHAIR: It's already nonconforming, pre-existing nonconforming.

MR. ADAMS: Correct. Actually, I am not sure what the town has on record --- I don't know where they came up with the 19 feet, but I measured it last night and it's actually a 40 foot setback from the street.

MR. O'KEEFE: It's from the property line and not from the street. The street is not necessarily the property line.

MR. ADAMS: It's right where the mailbox is. I don't know where they would ---

I've got pictures of the house.

MR. LIBRANDI: Yah, the town has a right of way to a certain amount of feet. Um, it does ---

MR. ADAMS: It's actually about 40 feet 7 inches.

MR. LIBRANDI: From the curb itself, right?

THE CHAIR: Yah. Well, the town has a right of way, so that's where they measure it from and not from the house to the street curb.

But anyway, it's already nonconforming, pre-existing nonconforming. It's really an odd shaped lot when you look at it.

And, you're not really changing the footprint. You're just going up.

MR. ADAMS: Correct.

MR. WYSONG: In the discussion of changing the footprint, I think the front which is shown in the architectural drawings requiring footings and foundation essentially changes the footprint, but it's just the porch.

MR. ADAMS: Yah, it's just a cover over the front door.

MR. LIBRANDI: And, there is a regulation on projections if you non--- or if you are going out up to 5 feet and 10 across which would equal 50 square feet. We do allow that even if the property, even if the house doesn't um, go within the required setbacks.

THE CHAIR: So we are really talking from the house foundation and not necessarily from the 5 foot front porch.

MR. LIBRANDI: Yes.

THE CHAIR: Is that what you are saying?

MR. WYSONG: And, he has garrisoned the second floor.

MR. LIBRANDI: Yes.

MR. WYSONG: Which I think by definition is a projection. But it's within the allowable limits?

MR. LIBRANDI: The second floor?

MR. WYSONG: Yes. Sixteen inches.

MR. LIBRANDI: Yes.

MR. WYSONG: I would have one question of the applicant. Have you looked at alternative designs?

MR. ADAMS: We looked at a lot of alternative designs. But the water table is at 2 feet.

MR. WYSONG: Let me clarify why I am asking the question. In a neighborhood of modest houses, the front appearance of this house will be quite large and from a design standpoint there may be alternative designs that will give you essentially the same second story floor space without presenting a front face of two stories plus a roof.

So my question is more of a concern for you as a homeowner when you have it built, will you be happy with the way it looks and when it's time to resell it, will you be happy with having the most impressive house on the cul de sac?

MR. ADAMS: Actually, my son is moving in there. So ---

(Laughter)

MR. WYSONG: That's the only reason for my concern. My concern for you or your son as a homeowner of what will be a very nice looking house, I think.

MR. ADAMS: Yes. It has been in the family since 1953. So ---

THE CHAIR: Well, I think the one advantage you have to the point was that it's on a cul de sac, it's the end of the cul de sac and it's not necessarily in a straight row where it would truly stand out as -- - we've seen a number of those come in where it really is out of place for the neighborhood.

But I think it being on a cul de sac at the end of the cul de sac helps you out there a little bit on the size of it. That's my comment.

MR. O'KEEFE: Yes, basically, you have only 43 feet of frontage and when you add the side yard you buildable footprint is almost nothing.

THE CHAIR: That's why it is a very very odd shaped lot when you look at the cul de sac.

Okay. Any other questions of the applicant?

(No response)

Thank you, sir.

Anybody speaking in favor of this application?

(No response)

Anyone opposing this application?

(No response)

Anyone opposing this application?

(No response)

Hearing none, this application is closed.

Thank you.

C. APPEAL 5860A, application of Apple Harvest Committee for special exception approval to host the annual Apple Harvest Festival September 30-October 2 & October 7-9, 2011 under Sections 4-01.31A & 15-05 of the Zoning Regulations 75 Main Street (Town Green & surrounding area), property of Town of Southington & others in a CB zone.

THE CHAIR: Will the applicant please step forward and give your name and address for the record, please.

JAMES CHAMPAGNE: Jim Champagne, 434 Mulberry Street. I serve as the Festival Coordinator. We have appeared previously this year before the Parking Authority. So we have the Parking Authority's blessing for the use of the Bank of America parking lot and the Riccio Way parking lot.

This map suggests our footprint, our actual location of the tents. As you know, the downtown area is closed to vehicular traffic and so we maintain the tents on Apple Ally as well as on the Green and in the Riccio Way parking lot.

We also use on the second weekend of the Arts & Crafts Festival the Bank of America parking lot.

So not much has changed. We are landlocked. We don't have any place to go. So we kind of maintain the same design each year.

(Pause)

THE CHAIR: And, based on the 2010 approval, there is really not change to the footprint, basically. And, has Rob gone through with you the letter that you get and all the conditions?

MR. CHAMPAGNE: Yes.

THE CHAIR: Rob, we probably should just read, go through them when if there are no further questions. So we can get them into the record just so we have them. And, then the letter will go out as it normally would.

Do we have any questions of the applicant on this?

(No response)

MR. O'KEEFE: I would think after 40 years we're a little bit used to it.

MS. CHAMPAGNE: We should have it right.

THE CHAIR: Right, we have seen it before. They do a super job for the town. This is the Town of Southington.

Okay.

And, Rob, would you just go through the conditions just so we have them on the record? I don't know, I'm sure, I don't know if the hours have changed, but when he goes through the hours, just let us know if there are any changes.

MR. CHAMPAGNE: The hours are the same as last year, no change.

THE CHAIR: Okay, good, thank you.

MR. LIBRANDI: (1) The applicant shall obtain any necessary permits from the property owners and the Town of Southington.

(2) The applicant shall conform to all health, safety and fire regulations.

(3) The applicant shall be responsible for policing a cleanup of private and public private property during and after the festival.

(4) Any carnival noise generating activities shall be restricted on Sundays to hours after 12:00 noon.

(5) No alcoholic beverages shall be served on the properties controlled by the applicant.

(6) All fire lanes must remain open.

(7) The festival shall be limited to the following days and hours.

THE CHAIR: You have to change the days.

MR. LIBRANDI: To the hours of the 2011 Festival.

(8) Apple Harvest Committee shall be allowed to rearrange the booths within the described areas.

(9) There shall be no change for municipal parking without permission from the town.

MR. CHAMPAGNE: Correct. Agree with all of them.

THE CHAIR: Okay. Good.

No further questions?

(No response)

Thank you.

MR. CHAMPAGNE: Thank you.

THE CHAIR: Anyone speaking in favor of the application?

(No response)

Anyone opposing this application?

(No response)

This application is closed.

Thank you.

D. APPEAL 5861A, application of Jerome J. Dlugos for a 2.5' front yard setback variance to 57.5' where 60' is required to build an addition under Sections 7A-00, 11-09.6 & 15-04 of the Zoning Regulations, 368 Long Bottom Road, property of Martha M. Rogers, in an R-80 zone.

JERRY DLUGOS: Jerry Dlugos, 154 Old Turnpike Road.

You are aware of what we're here for. We're here for a variance. The rear --- the house predates the zoning regulations. The house was built in 1835.

The rear addition does not meet the setback requirements. We do have a picture of this in 1990 (sic) and it shows just a one lane dirt road in the front. And, when the two lane roads went it, whether they widened it or not, I have no idea.

But as far as the neighbors, there are no neighbors. It's all Roger's Orchards property.

Across the street, I believe the New Britain Reservoir owns that property which used to be part of Rogers but they sold it to the New Britain Water Works.

THE CHAIR: Any questions?

MR. WYSONG: I have none.

THE CHAIR: It's really a minor variance.

MR. O'KEEFE: Yes. Just as a comment, it looks like a classic variance.

THE CHAIR: Exactly.

Okay. That was easy.

Okay, thank you.

MR. DLUGOS: You're welcome.

THE CHAIR: Anyone speaking in favor of this application?

(No response)

Anyone opposing this application?

(No response)

Hearing none, this application is closed.

E. APPEAL 5862A, application of John & Wendy Fusari for a 6' front yard variance to 26' where 32' exists and 40' is required under Sections 7A-00 & 15-04 of the Zoning Regulations, 16 Whitlock Avenue, property of John M. & Wendy G. Fusari, in an R-20/25 zone.

JOHN FUSARI: Hi, I'm John Fusari and this is Wendy Fusari, 16 Whitlock Avenue.

We are asking, as was stated earlier, for 26 where 32 exists on the nonconforming lot that we have. We would like to go out 6 feet across the front of the house, only one story on the front part, first floor, only.

It is a Cape but we are not concerned with the upstairs at all.

THE CHAIR: Okay. And, what is the reason again?

MR. FUSARI: Oh, I'm sorry. Ultimately, we'd like to open up the first floor area for better flow on the first floor and a little more space in the living room. Going 6 feet across the front, across the whole front would actually open up so we could have the other room up front which would be used for a lot of different things, a bedroom and another area. It would allow for a front corridor for closets and still have a closet but also a flow from the living room to that other room.

MS. FUSARI: This is basically because ---

THE CHAIR: Just state your name and your address.

MS. FUSARI: Wendy Fusari, 16 Whitlock Avenue. This is basically because our house is or we have become kind of the central gathering of the family and we, as silly as it sounds, can't fit both of our families in our living room right now. So, comfortably.

So, this is just to accommodate the family gatherings as we've become the center hostesses. We have tried to move which I think we've stated. And, we've tried to sell our house. We looked into going out back where there is no issue as far as the variance, but there is the sewer pipe which would be extensive work to move. So going out back wasn't an option.

In like a two year process, we are looking at this as our last resort. And, we have a signed letter from our immediate neighbors saying that they are fine --- they don't oppose.

THE CHAIR: These are your neighbors on the right and the left?

MS. FUSARI: Yah, across and if you're facing the house, on the left.

THE CHAIR: Okay.

MR. LIBRANDI: Can we add this as an exhibit?

THE CHAIR: Yes.

MR. GWOREK: How is the - how is the roofline going to tie into the existing structure?

MR. FUSARI: Um, I don't know if I can explain it right. It's like an A.

MR. WYSONG: It's currently a Cape.

MR. FUSARI: Correct.

MR. WYSONG: And, it would remain a Cape.

MR. FUSARI: Correct.

MR. WYSONG: Are you adding dormers to the second floor rooms?

MR. FUSARI: No.

MR. WYSONG: So, you are going to end up with dead space between the first and second floor underneath the new roof line?

MR. FUSARI: I don't think so.

MRS. FUSARI: No.

THE CHAIR: Well, how are you going to --- I guess the question is: How are you going to come off of the front of that roof in order to add this extra footage in the front of your home?

MR. FUSARI: Well, I guess -

THE CHAIR: Do you have an architectural drawing of what this is going to look like? Because one of the problems that we have as a Board is um, if we were to grant it, we're really granting it without knowing what it is --- we know you want to add feet or footage to the front of the home. That's all we know. We know it's a Cape. But we don't know what the roof line is going to look like. We don't really have an idea other than what you are telling us. Sometimes we go by that and what really happens is the thing is changed dramatically and what we approved is not or what we think we are approving is not what we get.

So, I mean, for one, I would like to see an architectural drawing of what this is ultimately going to look like. Because right now you have a white Cape, big tree in the front. But I'm not quite sure what it is going to look like.

MR. FUSARI: Well, you know, the contractor gave us a rough draft of it. You know. Well -

MRS. FUSARI: We submitted -

MR. FUSARI: That's the floor plan. That's the floor plan. But the roof was you know, basically with a door in the middle and you know, this A-frame. But you know -

MS. FUSARI: Because it's a Cape, like the roof, I feel like, you know, it slopes to the front. The first floor.

MR. WYSONG: Well, back to my question. You'll end up with a triangle of space between the old roof and the new roof and the 6 foot extension.

MR. FUSARI: Well, I guess, yah.

MR. WYSONG: My question was: Are you intending to utilize that space on the second floor, i.e. closets.

MS.FUSARI: Yah.

MR. FUSARI: Yah.

MR. WYSONG: Will you have, which means you will have to have access through or from a bedroom into that space or dormers from the existing bedrooms out the front of the house.

MR. FUSARI: We hadn't planned on the dormers, but I guess I misunderstood the first time.

MR. LIBARNDI: How many stories is this? Two and a half?

MR. FUSARI: The Cape?

MR. LIBRANDI: Yes. Because on the plans it says 2.5 story wood frame.

MS. FUSARI: I don't understand what a half story is.

MR. O'KEEFE: It would just be the first floor, second floor and a partial attic.

(More than one person speaking at the same time.)

I'm questioning whether it's a Cape because as I look at the plan, it says: House #16, Whitlock, 2.5 story wood frame.

MS. FUSARI: It is absolutely a Cape.

MR. WYSONG: Here's an existing picture.

THE CHAIR: It's a Cape with a partial dormer on the back, correct?

MR. FUSARI: Correct.

THE CHAIR: If you look down there you'll see it has a partial. But let me show you what I think what we're asking for from your builder and he certainly should be able to provide it before you ---

(Showed drawing)

MR. FUSARI: Oh, yah.

THE CHAIR: But this is the kind of thing that we're --- when we approve it, we know what we're looking at. You can see the porch in the front.

You know, to Commissioner, you know when he was asking about the frontage and stuff. I think this is really what we need to look at. Otherwise we're just approving a concept without knowing what the ultimate end product is going to be.

MR. FUSARI: Yah. And, I -

THE CHAIR: It's not a criticism. It's just for us to approve it, I think ---

MR. FUSARI: I guess we weren't sure because we are pre-existing, nonconforming. We weren't sure we would be able to do it, at all. So we didn't go that extra step. So, I didn't know.

But we can certainly get that for you.

THE CHAIR: Okay.

MR. FUSARI: We have a contractor who is just kind of waiting.

MR. WYSONG: You may wish to consider dormers then. The only reason I would suggest either dormers or a gambrel roof on the house would be useful space is accessible through a dormer - the sidewalls of the dormer. You can put a hatch in and access into that triangular space.

You'll be buying attic space which I doubt - I doubt if it exists in the house to any extent at all as currently constructed.

That may be an option that you want to exercise with your builder when he makes his drawings.

Then we'll know.

THE CHAIR: What I would like to do is read this letter into the record and then we can maybe take a motion to continue the public hearing and then you can come back with, you know, those drawings.

Okay?

"To Whom It May Concern: We are aware that our neighbors, John & Wendy Fusari are seeking a variance for the purpose of extending 6 foot out across the front of their house on the first floor only.

We do not oppose the granting of such.

Sincerely, Dave Kirchuck and Gary and Linda Molman".

(Undertone comments)

MR. WYSONG: I move that we continue the public hearing on this appeal pending a or some drawing, sketch indicating what the house will look like.

MS. CHAMPAGNE: Second it.

(Motion passed unanimously on a voice vote.)

MS. FUSARI: Can I ask what that means?

THE CHAIR: At the next meeting, when the next meeting is scheduled, just bring those drawings when you come back. You don't have to reapply. And, everything that you've submitted will be part of this. We are continuing it. We are no starting over again.

MR.FUSARI: Okay.

THE CHAIR: So, we'll just pick up where we left off.

MR. WYSONG: Mr. Chairman is there anything the Board should be doing to assure this applicant that a drawing isn't wasted effort and that we are not going to fine or we haven't yet detected something that would cause us to deny the appeal?

(Chuckle)

MR. GWOREK: I just feel the general aesthetics. We need to know what we're looking at.

THE CHAIR: Yah, I think before we do that, that should have been part of the initial proposal. And, I really, you know, if the drawing comes in and it's totally unacceptable to us, we would deny it.

MR. WYSONG: Yes.

THE CHAIR: I mean, I can't ---

MR. WYSONG: But, he's asking for a 6 foot variance.

THE CHAIR: Well, then we would have to vote. Then it would come down to a vote and it's either yes or no without seeing it.

So, I'd like the motion just to stand. Then at the next meeting --- just get together with the zoning enforcement officer.

MR. LIBRANDI: There is only one meeting in August. I don't know if they were planning on doing anything, construction, as soon as possible.

I know they have been waiting.

MR. FUSARI: Well, I can certainly get in contact with the builder and see if we can get something ready for that.

MR. LIBRANDI: Because the next meeting is August 9th.

THE CHAIR: I'm sure it will take a while to get the drawing.

Okay?

Thank you.

MR. FUSARI: All right.

F. APPEAL 5863A, application of Joseph Geladino for a 13' front yard setback variance to 27' where 40' is required under Sections 7A-00 & 15-04 of the Zoning Regulations, 101 Matthews Street, property of Joseph Geladino, in an R-12 zone.

JOSEPH GELADINO: Joseph Geladino, 23 Corey Lane, Bristol, Connecticut.

THE CHAIR: Go ahead.

MR. GELADINO: As you can see, the print is in front of you, I'm trying to get this raised ranch on. Before I bought it, I came to the Town, the Town Planner's Office, the Town Attorney to make sure that this was an approved building lot. Now I'm trying to get the footprint on the building lot.

I was hoping because this was a paper road, it doesn't, from what I can understand, it's not going anywhere, that I initially wanted to use the side yard as the front yard and face it towards Matthews Street, the finished part of Matthews Street where it ends.

So, there was two ways I could've went. I talked to the zoning officer here and he wanted to --- um, we put our building line and then now it's up to you people.

It's a typical raised ranch. Two car garage, probably um, when we're done 2,000 square foot, up and down.

THE CHAIR: Rob, just to verify, this is, this piece of paper, this is all we have, correct?

MR. LIBRANDI: Yes.

THE CHAIR: On this.

MR. GELADINO: We brought six copies of the map.

THE CHAIR: Yah, we have the --- yah. I just want to make sure that these are the only two. Each commissioner has one of each.

MR. LIBRANDI: Would you say this is an irregularly shaped lot?

MR. GELADINO: Right.

It's an approved building lot but as you can see the rectangle is narrow and they did say, you know, the Town Attorney gave us a letter to the fact that we can build on it, so now we're trying --- this is as narrow as I can go to get a house on there.

That's why I was hoping I could have without even coming here was to use the side as the front. Facing, you know, I was going to change the design of it and just come in, you know, like a side garage. But we figured this was, after talking with the zoning officer here, he

figured this might be the best way to go. So, Sev Bovino drew it this way.

THE CHAIR: Okay.

MR. O'KEEFE: Have you considered pushing the house back. You have 5.5 feet on one corner to your rear setback. Because it looks like your deck would be conforming but half the house would be nonconforming and I'd almost rather see the house go back and put the deck over to the side.

MR. LIBRANDI: Do you want to show, post the plans?

MR. GELADINO: Yah.

(Discussion over the maps at the bench)

MR. O'KEEFE: Take this out, take this out and push this back. And, then put the deck off to the side. Now all of a sudden you are looking for a lot less of a variance. Because you're inside the box.

MR. GELADINO: I'll do that.

MR. LIBRANDI: So, it would be less nonconforming.

(Undertone comments)

Is there any issues with the land in that area over there?

MR. GELADINO: No. All the poles, everything is down now.

(Undertone comments/discussion over the map)

MR. LIBRANDI: Did you hear what he said?

THE CHAIR: I understand what you're saying is on the right hand, the rear right is 25.6 feet, I think, right, according to the chart, the drawing. And, it's 21.6 from the deck which is 8 feet, so it's really 29.6.

So you are suggesting pushing the whole house back.

MR. O'KEEFE: Right.

THE CHAIR: So, you've got the 20 feet and now he's down to much less of a variance.

MR. O'KEEFE: Correct.

(Everyone speaking at the same time)

THE CHAIR: He's down to 3 or 4.

MR. O'KEEFE: Or even push it back, you know, 6 feet or 7 feet and then you just have a corner that's a small variance and you've put a whole bunch of the front of it in.

THE CHAIR: That makes a lot --- I mean. It makes the variance a lot less and I think --- much less objectionable to do that.

MR. GELADINO: I don't have a problem putting the deck because that would actually --- work to my benefit because originally that is what I wanted to do. Using the side of the house as the front and then have where he's telling me to put the deck now, I was going to use that for the deck. That's why I really want, you know, if I could, just what his gentleman is saying. I could use the side of the house of the backyard and have my deck come off there where I have plenty of room. That's the way I intended to do it when I purchased the lot.

But after talking with the zoning officer, I didn't know which way he wanted to go.

MR. LIBRANDI: Well, you spoke with your engineer ---

MR. GELADINO: Yah.

MR. LIBRANDI: Who placed this on here.

MR. GELADINO: Right.

MR. LIBRANDI: I just gave recommendations on what you could do as it was placed here.

THE CHAIR: Yah, one of the, I mean, it's not the zoning enforcement officer's responsibility to place the house on -

MR. GELADINO: Well no, I'm trying to go to him, first. You know

-

THE CHAIR: Right.

MR. LIBRANDI: What I said was -

MR. GELADINO: I'm not saying that he gave his blessing to this. What I am saying is we talked to him first. I had the two ways to go and he suggested I put the box in where my buildings lines are in and that's when I back.

So there's two ways to go. One I could still keep the side of the house as the front, facing Matthew Street, the dead end, where it ends now.

THE CHAIR: Uh-huh.

MR. GELADINO: And, using the side where we're talking about putting the deck as the back yard. And, then I wouldn't need a variance if that was allowed.

MS. CHAMPAGNE: Does that then make the garage area the front of the house?

MR. GELADINO: Yah, but I would have a façade looking like a garage coming from the front, you know? We would have the garage doors. The garage doors would still be coming in on the side.

MR. WYSONG: I hear what you're saying but I think the front and the side and the back are defined by the property and not the way you place the house.

MR. GELADINO: Well, it's the matter of going for a variance, or not.

If we could have used the side as the front yard -- why I'm saying this is because of the lot being the way it is.

MR. WYSONG: I understand.

MR. GELADINO: Okay.

MR. WYSONG: My point is, the lot is the way it is. And, the front yard of any structure you put there is the front yard. It's defined by the lot and not how you place the house.

MR. GELADINO: I follow you.

MR. WYSONG: Okay. So, turn the house around, you still have a front setback from the road of 40 feet. I don't see how you can put a house in there any place and not have to go for a variance. Unless I am missing something.

MR. GELADINO: Maybe I'm missing something.

(Laughter)

MR. WYSONG: Well, on the plot plan, you have your setbacks defined.

MR. GELADINO: Right.

MR. O'KEEFE: I mean, if you were to move the house to this area, you'd be pretty close but then -

MR. WYSONG: All the way at the back of the line.

MR. O'KEEFE: If you were to go back and shift it, you'd be --- you'd be cutting it because it gets wider as you go back.

MR. WYSONG: Yah. But you have to go back quite a ways.

MR. O'KEEFE: Right. If you went back even 5 feet, came over 6 feet, you're bringing a lot of it into the buildable square.

THE CHAIR: Um-hum.

MR. O'KEEFE: And, I would want to really see 100 percent of the buildable square used before you were going outside of the buildable square if you could do that.

THE CHAIR: You are saying shift the whole property - the whole house to the left.

MR. O'KEEFE: Just this way and back.

THE CHAIR: This way and back.

MR. O'KEEFE: Yah.

THE CHAIR: Away from the street, away from Matthews Street?

MR. O'KEEFE: Away from Matthews Street.

THE CHAIR: Yup.

MR. O'KEEFE: And, to the north.

THE CHAIR: Got it. I mean, is there a reason you can't do that?

MR. GELADINO: It was probably the distance of um, the water and sewer. And, then the drainage. See our drainage tanks? I think that has something to do with it, too.

THE CHAIR: Well, the drainage is based on --- and that's only on your clean out and your roof gutters, correct?

MR. GELADINO: Yah, but -

THE CHAIR: I don't, is there anything back, what is to the north there? It looks like a big open space.

(Pause)

MR. O'KEEFE: Topographically, you are only 220 on one corner and 226 on the other.

THE CHAIR: So, there's no slope -

MR. O'KEEFE: There is a 6' slope from one end to the other.

THE CHAIR: Right.

MR. GWOREK: And, then it drops off hard after that.

THE CHAIR: Yah, 218.

MR. GWOREK: So, if he's got to chop down all these woods, I mean, the neighbors to the east of them, I mean, he's going to be overlooking all of them.

THE CHAIR: Well, right now, the house is sitting at what, about -
- between 218 and -

MR. O'KEEFE: Two twenty-two.

THE CHAIR: -- 222 versus 224 to 226 or 224.

I mean, he really has, if he moves it to the north and back, he doesn't really need a variance.

MR. GWOREK: He would need one no matter what.

THE CHAIR: What?

MR. GWOREK: He's going to need it no matter what.

MR. O'KEEFE: Well, depending on the size of the house.

MR. GWOREK: With this floor plan, it looks like he's going to need it no matter what. It's either a 3 foot variance or 13. I mean, it still a variance.

THE CHAIR: Yah. I mean, I can understand, I would just assume what Matthew said was move the house back and then it would be really a minor variance.

MR. LIBRANDI: Is there any reason why you wouldn't be able to move that back?

MR. GELADINO: Take the deck off? Is that the way we're talking?

MR. O'KEEFE: Take the deck off and move it back to the rear setback line.

MR. GELADINO: Yah, I'll do that.

MR. WYSONG: And, it'll still require a variance on the front unless you move it to the extreme end of the lot.

MR. O'KEEFE: But then the variance on the front is a 3 foot variance as opposed to a 13 foot variance and you've got an odd shaped lot.

MR. GWOREK: Then the drainage comes into issue. If he puts, does he have to move the drainage then?

MR. LIBRANDI: Where is he going to put the deck then if he does put a deck? Because—

VARIOUS: To the side.

MR. LIBRANDI: --- if he puts it on the side, is that going to obstruct the drain? The roof drainage over there?

THE CHAIR: I mean, the roof drain could be almost anywhere.

MR. O'KEEFE: He's going to move the roof drain. Five feet, you move the roof drain and if you're draining the roof drain it's under the deck, anyway.

(Pause)

And, you're just basically drawing the line this way.

MR. WYSONG: I would think it would be in your interest to have as small a front variance as possible on the outside chance that Matthews Street ultimately goes through. I don't know as commissioners we can sit here and say that would never happen. We can't.

So I guess my advice would be maximize your distance from the Matthews right of way in the event that a street is actually put in.

Does that make sense?

MR. GELADINO: So you don't like the idea of taking the deck and moving it back?

MR. WYSONG: No. I am all in favor of having as little variance on the 40 foot front as possible.

THE CHAIR: So you are suggesting what Matthew suggested which was moving the house back and taking the deck off.

MR. WYSONG: Well, when we say back, I'm losing track of back and forth.

MR. O'KEEFE: Moving it to the east.

THE CHAIR: Away from Matthews Street.

MR. WYSONG: Away from the Matthews Street right of way.

THE CHAIR: Correct.

MR. WYSONG: Then if Matthews Street ever goes through, your house will actually be 37 feet from the road instead of 27 or however far you can move it to the east. Does that make sense?

THE CHAIR: I think he's agreeing with us. It's just - as long as we're all -

MR. GELADINO: I'm agreeing. I liked his idea better because I'm stuck here. I'm out --- I got a letter saying I could build on the property and now I'm hearing --- but I'm just saying, I need to do something.

THE CHAIR: And, I think we are in agreement that if you move the house to the east as far back as you can and taking that deck and moving the deck, you will need a minor variance off of Matthews Street which is your front which then satisfies Commissioner Wysong's comments that he's making.

If they widen Matthews Street, you are in better shape than if --

MR. WYSONG: Widen it, there is no street there.

THE CHAIR: Put in a street.

MR. GELADINO: I'm hearing they are not going to do anything but we never know.

MR. WYSONG: You never know.

THE CHAIR: Right.

MR. WYSONG: Next week they could say -

MR. GELADINO: Could we try it the way this gentleman is saying?

THE CHAIR: Yes, that's exactly --- we'll you're both saying --- they're both saying the same thing.

MR. GELADINO: One is saying I'm moving it further down the line and one is saying I'm moving it to the north.

THE CHAIR: No, I don't think that's what they're saying.

MR. GELADINO: Maybe I am misunderstanding.

THE CHAIR : Yes.

MR. GELADINO: I'm hard of hearing but I'm -

THE CHAIR: They're both saying to move it to the east.

MR. LIBRANDI: Just remove the deck and push it as far back as you can go to meet the regulations.

THE CHAIR: But the point is - we need something definitive in order to vote. We can't just say move it back as far as you can and remove the deck. We've got to grant a variance based is it going to be 3 feet, 3.5 feet, 4 feet? We need that.

MR. GELADINO: I'll move the total distance of the deck to the east. I'll take that right off and bring -

THE CHAIR: Well, no. You see, that still doesn't do it. You could move --- on the side where your garage is, you've got 25.6 feet to the property line. Where the deck is, including the deck, you've got 29.6. If you take that 25.6 and move it back as far as you can to the 20'. That's what you're talking about, Matthew?

MR. O'KEEFE: Twenty feet. I'd even go another 2 feet just to clear it.

THE CHAIR: Okay, so he'll need a variance both front and back.

MR. O'KEEFE: A front and back variance, but they're smaller because it's at an angle -

THE CHAIR: You're right.

MR. O'KEEFE: -- you're only taking maybe 8 square feet but you're eliminating 50 square feet on the other side.

THE CHAIR: But I just want to make sure that we have that in the motion.

MS. CHAMPAGNE: Can I ask another question, too?

THE CHAIR: You certainly can.

MS. CHAMPAGNE: You know we're working with one style house here that has a larger footprint. Have you thought about a Cape? Where you can perhaps leverage the slope of the property and have a smaller footprint and potentially have a lesser variance. Is that an option?

MR. GELADINO: What's happening here is it is the width of the house. And, that's where I'm coming into a problem. A Cape generally is a little bit wider than this.

You see, on this style house you can have an overhang that doesn't count. Your footprint is your foundation and you have 18 inches of an overhang. So you gain 18 inches that isn't into the variance. Right?

MS. CHAMPAGNE: But it could be set back further and potentially eliminate or even significantly reduce the amount of variance that's needed. Just throwing it out as an option.

MR. GELADINO: I think I'm 2 feet going with this style house. But I'll bring it to the line like you're saying. Move it over the 10 foot. And, that'll minimize the variance.

MR. O'KEEFE: I mean, if you can move it over you know, even 8 feet, you don't need any variance on side. You have a small corner on the other side and you have a much smaller variance on the front.

THE CHAIR: Okay. So, how do we put that in a motion?

MR. O'KEEFE: I think he comes back with another plan showing us where it is.

THE CHAIR: Okay.

MR. O'KEEFE: I would be more comfortable seeing a plan rather than making a motion and then how do we enforce it?

MR. LIBRANDI: Yah, because we want to know exactly how many feet.

MR. O'KEEFE: I need to see it.

THE CHAIR: I agree. I don't like to --- I don't like to have this board be designing - I think we're giving him our recommendations. You know what we're asking for and you can come. I think the zoning enforcement officer understands what we're saying, as you do as well. Then come back with a final plan.

MR. GELADINO: When is your next meeting?

THE CHAIR: August 9th. We only meet once in July and once in August.

So, if you can come back with, you know, taking what the board has suggested to you, work with the zoning enforcement officer, and then putting it into a drawing so we know what we're voting on. So when we vote, we have a firm footage front and back.

Does that work for you?

MR. GELADINO: That works.

THE CHAIR: Can I have a motion then to continue the public hearing?

MS. CHAMPAGNE: I make a motion to continue the public hearing.

THE CHAIR: A second?

MR. GWOREK: I'll second.

(Motion passed unanimously on a voice vote.)

THE CHAIR: So you'll be back on the August 9th meeting.

FROM THE AUDIENCE: Can I ask a question?

THE CHAIR: We really can't because the appeal is closed.

Were you going to speak in favor?

FROM THE AUDIENCE: No. We have a question. So I guess I would have to be opposed, but we have a question.

MR. O'KEEFE: You just tabled it, so it is not closed.

THE CHAIR: We continued the public hearing.

MR. O'KEEFE: Right. So, it's not closed. You have an opportunity at the continued hearing because we haven't closed it.

FROM THE AUDIENCE: So we have to come back to ask the questions?

THE CHAIR: No. Come on, come on forward. Sorry about that.

Just state your name and address.

CHRISTINE MIKAS: My husband owns 90 Matthews Street across the street. Our question is: There is no road. The road ends at the house. So, is the town going to finish the road? Cul de sac it? Or just put a driveway up?

MR. WYSONG: Your house, your house is the last house on the left?

MS. MIKAS: Yup.

MR. WYSONG: Where the road just stops.

MS. MIKAS: Stops. It ends, its dirt.

MR. WYSONG: I turned around in your driveway. Thank you.

MS. MIKAS: All right.

I guess our question is: Are they going to make like a cul de sac? Finish it off? Just put the driveway down --- it drops all the way down.

MR. LIBRANDI: You may want to call the engineering department, but as of right now, I don't, I haven't heard anything in terms of finishing the road. Besides where that ends right now.

THE CHAIR: Are you asking about, if there is no road there -

MS.MIKAS: A road.

THE CHAIR: --- what is he going to do for a driveway? Where is the driveway going?

MS. MIKAS: Right, right.

MR. O'KEEFE: That, I think is an issue of the ownership of Matthews Street. Is it; does the town --- who owns Matthews Street? Does he have an easement? And, if the town doesn't own it, does he have an easement from the owner to get to his property?

THE CHAIR: Rob, do you know the answer to that? It was said that Mark Sciota, the Town Attorney or Assistant Town Attorney said that um, this was a building lot which means it has to have access to it if it's a building lot. But I think it is a very valid question. Where is the driveway going?

I mean, if you look at this, the driveway is running right of Matthews Street.

(Everyone commenting)

MR. GELADINO: Do you want me to speak? The way, if you look at our map here, I was coming is I was coming in straight, straight in, staying on our property and coming into the right where the driveway is.

I mean, you could um, before the next meeting, you people could talk to Mark Sciota because I would have never closed on this property --- I wouldn't spend this kind of money and then have to go through this.

MR. O'KEEFE: Or you can have the civil engineer show us where the legal access is.

MR. GELADINO: The driveway is marked on there.

MS. MIKAS: The other concern too is -

THE CHAIR: The driveway is running right down the center of what is identified as Matthews Street.

(Everyone speaking at the same time.)

STENOGRAPHER: Wait a minute. Only one can talk at a time.

THE CHAIR: It looks like the driveway is running right down the center of what is identified on the map as Matthews Street. And, it's starting right at your property line on the south side. Is that the way you read this?

FROM THE AUDIENCE: (Inaudible comments)

THE CHAIR: I'm sorry?

FROM THE AUDIENCE: There's no road running to the house. All it is is it's like trees and stuff. There is no road that goes through. At my house at 90 Matthews Street ends the road.

MR. LIBRANDI: Is there anything on the easement or on the deed that shows that the property has the right?

MR. GELADINO: No. We met with everybody at Town Hall. We were coming in straight at the end of the road, taking a right into our property. And, this is what was determined the whole time.

THE CHAIR: Okay.

MR. GELADINO: You can check with Mark Sciota. Go over this.

MR. LIBRANDI: I'll go over this.

THE CHAIR: Well, I think for the next meeting, and to your point as well, for the next meeting I think we have to understand that.

MR. O'KEEFE: I'd almost like to see the civil engineer show, identify where the access, where the legal access is. Because there could be legal access that could be on the southeast corner which would be right here and that would be access.

But the fact that you have access here doesn't necessarily mean that you can go down here and take your access there. Not without some kind of easement.

MR. GELADINO: See, when I, uh, before I purchased this I went up there. What happens a lot of times, these paper roads, they stop way short like this lady is saying.

Now, I, uh, at the time I was buying it, I wanted to make sure that I wasn't going to be responsible to run this road in. Now, they said if I run the road in 50 feet, I can go with a two family here.

So, if I am having to go through all of this to run a road in, I'm going to go for a two family. I can sell the lot several times over.

That's not what my intention was. My intention was to build a single family home there.

So, if I have to start going through all of this ---

THE CHAIR: Well, we don't -

MR. O'KEEFE: We are not asking you to go through anything. We are asking you to tell us where your right of way is.

MR. GELADINO: And, I believe our engineer has that marked so. That's the way, uh, after him doing his -

MR. O'KEEFE: What he has marked is a proposed driveway. But nowhere does it say that it's a right of way and the proposed driveway is not indicated to be on the lot.

MS. MIKAS: Just one more concern I have is that there's a separate building lot attached to her property. If a driveway goes straight down Matthews Street, would that possibly landlock her second lot?

MR. GELADINO: Going on one side.

THE CHAIR: We can only have one person talk at a time because she's trying to --- she has to record it word for word. So, let's have one person talk at a time.

But I think the point that we're asking for is that we need to understand --- we understand the building lot. I think we have agreement on the building lot. You are going to come back with the correct measurements.

And, we need to understand about the driveway, whether that's --- if it is a formal building lot, you've got to have access to it and we don't know what that access is, to your point.

MS. MIKAS: Right.

THE CHAIR: And, you need to know that, as well.

MS.MIKAS: Right. And, like I said, there's another lot we don't want landlocked because the driveway is going to be going down, supposedly, Matthews Street which -

THE CHAIR: Which isn't there.

MS. MIKAS: --- isn't there.

And, we were always told the town owned that for future expansion.

THE CHAIR: So that means, that must mean that there is an easement, but I think we need the engineer that laid this out -

MS.MIKAS: Okay.

THE CHAIR: Because I assume there is sewers that are going to be going back there. Did you mention sewers and water?

MR. WYSONG: There is water shown.

THE CHAIR: I'm sorry. Water.

MR. GELADINO: Are you talking to me?

THE CHAIR: Yes.

MR. GELADINO: Yah, it's on there. I have a sewer that's going to be a forced main. I have enough pitch but I was going to - to insure it, I was going to do a force main there.

THE CHAIR: No, but I mean, you do have an engineer that's already laid all that out.

MR. GELADINO: Yah.

THE CHAIR: So, he should be able to tell us whether it's an easement, whatever. Because he's got to go through with the water and sewers.

MR. GELADINO: Right.

THE CHAIR: Okay. So, would you make sure that happens for the next meeting when you come?

MR. GELADINO: Because I don't want to block, you know, these people off.

THE CHAIR: Right.

MR. GELADINO: That wasn't any intention of ours doing that. We were ---my intention was to just what the town told us and what my engineer found out was to go down, turn into my lot.

MR. O'KEEFE: Well, you also don't want to build a driveway and then find out that you couldn't build the driveway there and now you don't -

THE CHAIR: You have this house with no way to get to it.

MR. GELADINO: This may, after I start doing the study and go back to Mark Sciota and see where we came up with all of these answers, I just may put the 50 foot road in and come back as a two family. That's the only way. If I have to spend another ten grand in engineering, I'm not going to do a single family house. You know, so I have to start looking out for my interest, too. It's a bad market and I'm taking a chance.

MR. O'KEEFE: But if you're looking for a two family and you're looking for a variance, you still need to come before us.

MR. GELADINO: Exactly. But I mean -

MR. O'KEEFE: And, a one family would be a viable alternative to a two family.

MR. GELADINO: No. You're right there, but - I'm just saying, they told me if I put a 50 foot road in, this was the information we got and then I can go for a two family. Maybe they meant I had to go all of the way to the end of the lot where you were talking before.

THE CHAIR: Well, I think you need to come back with some answers.

MR. GELADINO: Yah, I'm willing to come back with the answers.

THE CHAIR: Okay. And, I would think that you, you know, when you talk to the town engineering department they should be able to -

MR. LIBRANDI: Yah, they should be able to tell you.

THE CHAIR: Mark Sciota, I don't know why Mark would even get involved other than ---

MR. O'KEEFE: I don't think it would be the Town Attorney's job to identify where the access is.

THE CHAIR: Exactly.

MR. O'KEEFE: It would be your engineer and your attorney.

MR. GELADINO: When I originally went to Mark, okay, just to clarify something, I wanted to be assured that I could build on t his lot. Okay?

And, I had the assurance from the town that I could build on this lot. Then I closed.

MR. O'KEEFE: But it's not, I don't know that it's a question of building. It's a question of where you are going to build and how you get to where you are going to build is the question.

MR. WYSONG: I am not sure that is a question for this board.

THE CHAIR: No, I mean, I mean if it's ---

MR. O'KEEFE: If you ask me, that would be a planning question.

THE CHAIR: One thing we cannot do is we don't, can't create building lots.

MR. WYSONG: The appeal is for a variance on the location of the building. And, that this board can grant. Everything else is in somebody else's hands.

MR. GELADINO: I'll come back with all the information. I know what I need.

MR. WYSONG: It would be nice to know since your neighbor asked the question.

MR. LIBRANDI: You can just give a recommendation to find out exactly where or if he has an easement going to that house.

MR. WYSONG: For your protection.

MR. GELADINO: Yah. And, then I'll have these people call my engineer and they can sit down with him and I'll pay the time and they can understand what we're doing. I don't have no problem with that, either.

THE CHAIR: Just make sure you are working with them, that's all.

MS. MIKAS: Well, we just saw this thing sitting right in front of our yard and we had no idea anything was going on.

THE CHAIR: Well, that's why they're there. Exactly why they're there.

MS. MIKAS: We just kind of wanted to know that, you know, 84 wasn't going through there. You know what I mean? Something.

THE CHAIR: Good, okay.

MR. WYSONG: As I final comment, I would strongly suggest or suspect that Kratzert, Jones & Associates already has worked their way through all of these answers before they put it down on paper.

THE CHAIR: They should know. Right.

MR. WYSONG: That's where I would start.

THE CHAIR: Okay, we had a motion and a second and a vote to continue the public hearing, so we're all set there.

Thank you.

MR.GELADINO: Thank you.

8:00 pm.

REGULAR MEETING

Approval of Minutes - Regular Meeting of June 28, 2011

MR. O'Keefe so moved approved of the Minutes of the June 28, 2011 meeting. Ms. Champagne seconded. Motion passed unanimously on a voice vote.

NEW BUSINESS:

A. APPEAL 5858A, application of Krishna P. Kandel for a special exception approval to allow applicant to apply to the State of Connecticut for a restaurant liquor license under Sections 4-01.32, 11-04 & 15-05 of the Zoning Regulations, 151 Queen Street, property of Walter S. Wood LLC, in a B zone.

Ms. Champagne made a motion to accept Appeal #5858A with the stipulations that were stated by the Chairman earlier. Mr. Wysong seconded.

Stipulations:

1. No exotic dancers, male or female, public or private.
2. Service bar, only.
3. No live entertainment.
4. Any significant changes to the floor plan was determined by the zoning enforcement officer shall require a new application.
5. Any changes in management or permittee shall require a new application.

Motion passed 5 to 0 on a roll call vote.

B. APPEAL 5859A, application of Mark Adams for a 19' front yard setback to 21' where 40' is required and a 9' side yard variance to 6' where 15' is required for a 2nd story addition on existing structure under Sections 7A-00 & 15-04 of the Zoning Regulations, 7 Stoughton Road, property of Mark D. Adams, in a R-12 zone.

Ms. Champagne made a motion to approve #5859A. Mr. Wysong seconded.

Mr. O'Keefe commented that ordinarily he would not like something like this but given there is a footprint there already and they're

building over the existing footprint, I think it's much less offensive to the zoning regulations.

The Chair added it is pre-existing.

Mr. Gworek said his only concern would be adding another story and having windows on each side overlooking neighboring property. But it is a nice looking addition.

The Chair said that it is at the end of the cul de sac.

Mr. O'Keefe noted there is only 40 feet of frontage, so it's an odd shaped lot and it is adding on to the existing footprint.

Motion passed 5 to 0 on a roll call vote.

C. APPEAL 5860A, application of Apple Harvest Committee for special exception approval to host the annual Apple Harvest Festival September 30-October 2 & October 7-9, 2011 under Sections 4-01.31A & 15-05 of the Zoning Regulations 75 Main Street (Town Green & surrounding area), property of Town of Southington & others in a CB zone.

Ms. Champagne made a motion to approve with the conditions as read by the Chairman. Mr. O'Keefe seconded.

Conditions:

1. The applicant shall obtain all necessary permits from property owners in the Town of Southington.
2. The application shall conform to all health, safety and fire regulations.
3. The applicant shall be responsible for policing and cleaning up of private and public property during and after the festival.
4. Any festival noise generating activity shall be restricted to Sunday to the hours after 12:00 noon.
5. No alcoholic beverages shall be served on the property controlled by the applicant.
6. All fire lanes must remain open.
7. The festival will run the same days and the same hours as last year.
8. The Apple Harvest Committee will be allowed to rearrange the booths within the prescribed area.

9. There shall be no charge for parking on municipal parking without permission from the town.

The Chair said they do a nice job and they've been doing it for years. I think they have it down to a science now.

Motion passed 5 to 0 on a roll call vote.

D. APPEAL 5861A, application of Jerome J. Dlugos for a 2.5' front yard setback variance to 57.5' where 60' is required to build an addition under Sections 7A-00, 11-09.6 & 15-04 of the Zoning Regulations, 368 Long Bottom Road, property of Martha M. Rogers, in an R-80 zone.

Ms. Champagne made a motion to approve Appeal 5861A. Mr. O'Keefe seconded.

Mr. O'Keefe commented it is a classic variance. You can't add to the back of the property without coming over the front yard. So, when you look at the definition of hardship, I think it fits right in there.

The Chair said as far as the square footage, it is a minor variance.

Motion passed 5 to 0 on a roll call vote.

E. APPEAL 5862A, application of John & Wendy Fusari for a 6' front yard variance to 26' where 32' exists and 40' is required under Sections 7A-00 & 15-04 of the Zoning Regulations, 16 Whitlock Avenue, property of John M. & Wendy G. Fusari, in an R-20/25 zone.

The public hearing was continued to the August 9th meeting.

F. APPEAL 5863A, application of Joseph Geladino for a 13' front yard setback variance to 27' where 40' is required under Sections 7A-00 & 15-04 of the Zoning Regulations, 101 Matthews Street, property of Joseph Geladino, in an R-12 zone.

The public hearing was continued to the August 9th meeting.

MISCELLANEOUS / OLD BUSINESS / NEW BUSINESS

Mr. Wysong commented that the Chairman had asked him to have Rob speak to the letter that I wrote you concerning the interpretation of garages and shed regulations as they now stand and a possible suggestion or thought process.

I would add to that the Town Planner has responded briefly to the copy that I sent her. She said that she would review it in depth and write up a response and comments. She added some brief thoughts on it.

At this point I would ask Rob for his comments. If the rest of the commissioners are curious about what I am talking about, I do have copies that I could pass out at this point.

The Chair added it had to do with the application that we had on the garage/shed on the oversize. It was 576 square feet, something like that at the last meeting.

Bryan wrote an in-depth analysis on it with some real questions I think are valid.

Rob, can you comment on it? I know we talked briefly this afternoon.

Mr. Librandi did say he spoke to the Chair earlier today on it. And, I was trying to figure out in terms of what we're looking for, was an exact definition of garage and what the square footage allowed is into the regulations. Is that what you were asking for?

Mr. Wysong said as he tried to make clear in the writing, he was concerned that the board pondered whether an auxiliary building square footage required applied if the auxiliary building was also a garage. Did it go by the garage rules or did it go by the auxiliary building rules.

And, I think within the board I felt there was both sides of the argument that were vocalized. But we didn't draw a conclusion.

I ran through the regulations to the best of my ability, came to the feeling that auxiliary buildings and garages are treated separately and propose that if somebody wanted to build a generous garage, they can't at this point, unless they somehow - their option is they build a garage and they build an auxiliary building. That struck me as kind of odd from an economic standpoint and from an aesthetic standpoint.

I personally would rather see a regulation that allowed a large garage as opposed to a compliant garage and a compliant auxiliary building.

Mr. Librandi said he was thinking about was in terms of maybe the ZBA writing up something to propose to the PZC or the Town Planner

about what differences or what we can define as the allowable amount for a garage and for an accessory structure or in terms of an all in one. We can draft up something. I can write something up.

The Chair commented he would like to see - to Bryan's point - if you and Mary would work together and write something up that we could take a look at and then if it's appropriate I think we should send it to the PZC because they're the ones that actually made the recommendation and the regulation.

I think there is a question of when you have a standalone garage, there's no firm square footage. It basically says generally we allow a --- well, generally isn't something that we can hang our hat on, number one.

And, number two is, if we approve this combination garage/auxiliary building, where do we draw the line? Is it 576 square feet, is it 622 square feet? Before you know it, we could have a small house.

And, it is very arbitrary.

Mr. Librandi said we could draft up something and then at the next meeting we could talk about it and see what needs to be changed. Think about it and then after a couple of meetings present it to the PZC.

Mr. O'Keefe added his thought would be a more specific definition of a garage and a more specific definition of an auxiliary building and a more specific definition of a mixed use building. Perhaps a statement that if you have a mixed use building, you then don't have the ability to have the other.

In other words, you can have the garage and the auxiliary building or you can have the mixed use building and then not a garage. Or an auxiliary.

Mr. Wysong pointed out when you get down to the lower paragraphs, that's essentially what it says.

Mr. O'Keefe stated if you had it in the text of the zoning regulations, it would be a lot clearer.

Mr. Librandi thought there was just a fear of the amount allowed for that mixed use building. If it's going to look almost as large as the main structure on the property.

Mr. O'Keefe said you don't have to define it that large, that's the beauty.

Mr. Wysong said it could be defined however you want.

He took the extreme case in his example. When you read through it I was taking the situation in an R-40 somebody builds a house with an attached two car garage. Perfectly allowable.

They modify the house and build a rec room in the two car garage. So now they have zero garages.

He wants to build then a garage separate. Well, under R-40, you can have three bays. Well, three bays are 12 by 24 and it comes out to 500+ square feet. So you can build a three bay separate garage and a 300 square foot auxiliary building. And, never come before the board.

Or, can he have some combination? Would you rather have a 700 square foot three bay garage with a bump out in the back as opposed to another building? So, it's the sum of what he is allowed today to do in one building in some maximum limit.

I think in this, I was saying the maximum limit to a three car garage. But the guy who wanted to build a two car garage could actually approach the three car garage size. That was my intent.

So when you read through with that in mind, you may understand my thought process advised Mr. Wysong. You can agree or disagree. It's no skin off my nose.

Mr. Librandi asked if he wanted an exact dimension of each parking space. You know how we go by 12 by 24 - do you want that defined in the regulations?

Mr. Wysong responded whatever works.

The Chair commented a very difficult task is being turned over to Rob and Mary. There are so many variables.

Mr. Librandi said they would review what other towns are doing in terms of mixed use buildings or accessory buildings, garages and how things are defined and what their situations have been.

If we switch it, we may get a new problem coming to the board.

Mr. Wysong said the size of the garage is almost defined. We sit here and casually say 12 by 24. That's 288 square feet.

And, then we say an auxiliary building is 300 square feet.

And, we can say an auxiliary shed can be used to store motor vehicles. So, you are really saying I don't want to build a 288 square foot garage, I'd rather build a 300 square foot auxiliary building but I am going to put my car in it. That's some of the idiosyncrasies of the way the regulations are written right now.

Mr. Wysong added he would like a regulation that would --- I guess my goal would be to make it clear enough so people don't have to

come before the ZBA when they want to do something other than the absolutely norm. It gives them some freedom to exercise the rights of their property while in keeping with the intent of zoning regulations with uniformity and good looks and good use of the property and neighbors' concerns. That would be my only argument for having it in the regulations.

Mr. Gworek said he was afraid of giving more power to the Zoning Board of Appeals by telling them what we want to see in the regulations because I think that's a dangerous slope.

Mr. O'Keefe pointed out we are not telling, we are asking.

Mr. Gworek didn't want to keep seeing revision after revision meeting after meeting what we want to see because we then get down that slope.

The Chair said when we see these things come before us, we have clarification. Our job is then to look at it and say, okay, is there a hardship? Is there a reason for us to modify the zoning regulation or to override the zoning regulation? That's what we're doing.

We don't dictate to the planning and zoning.

Mr. O'Keefe said that is not the intent. If they can clarify something for us then they make our job easier to enforce their regulations.

The Chair advised this is the board that recommended to the PZC that we increase the shed size for an R-40 and I think it make a lot of sense. They went ahead with that.

They can always tell us no. And, I'm sure they might.

Mr. Librandi said they may say that's a good idea, but let's do it another way.

The Chair added this is bringing it to their attention with a recommendation and they can do what they will.

Mr. Librandi asked if anyone before has ever applied for a larger than normal garage/shed/pool house, any type of mixed use.

The Chair said yes. We've had it a number of times. It came down to how big a variance was it, did it make sense, did it fit the property. Again, it was a decision we had to make. Not arbitrary, but again, we look at the zoning regulations saying is there a hardship here and does it make sense for this particular piece of property. We've had a number of them, yes.

Hearing no further comment, Ms. Champagne made a motion to adjourn which Mr. Gworek seconded. Motion passed unanimously on a voice vote.

(Whereupon, the meeting was adjourned at 8:20 o'clock, p.m.)

Robert Salka, Chairman
Zoning Board of Appeals