

TOWN OF SOUTHTON
ZONING BOARD OF APPEALS
TUESDAY, July 28, 2009

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

Robert Salka, Paul Bedard, Edward Kuklinski and Patricia Potter

Robert Sherman, Alternate

Others: Frank Vinci, Zoning Enforcement Officer

Absent: Michael Milo, Alternate
Joseph LaRosa, Alternate
Ronald Bohigian, Alternate

A quorum was determined.

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

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

JOSEPH LAPORTE, Chairman, presiding:

Public Hearing Items:

A. Appeal 5716A, application of Chyloe Lucca for special exception approval for location to allow applicant to apply to the State of Connecticut for a restaurant liquor license under Section 4-01.32A & 11-04 of the Zoning Regulations, 2176 West Street, property of Victor J. Basile III LLC in a B zone.

MR. VINCI: Will the applicant or the applicant's representative please state your name and address for the record.

MR. BOVINO: Good evening, Chairman and commission members. My name is Sev Bovino, Planner with Kratzert, Jones, representing the applicant, Chyloe Lucca.

For orientation purposes, this map on the board here, this is West Street. You're familiar with the McDonald's site that is

across from ESPN. It was in operation until early 2009 and then they closed.

So the owner has this applicant who would like to have a restaurant, which is the same as the previous use, except they'll have liquor associated with it.

And, the applicant is going to do internal improvements to make it a sit down restaurant. The drive up window will be eliminated. And, he will be explaining the operation.

In the meantime, we did get comments from the planning department and we responded in writing to all the comments. Basically, it has to do with additional trees on the property. And, it has to do with the grease trap which we are willing to actually install a new one when the restaurant gets a building permit.

We are showing the appropriate parking. And, there is agreements - some of the comments have to do with the sightline easement which we checked and there is no problem getting out of the property. This is a one way in, one way out type of arrangement. It's one way coming from the north into the parking lot and then out.

And, there's two lanes of traffic heading south and two lanes of traffic heading north with a dedicated left turn lane into the property.

In regard to the drainage, there was some questions about the drainage and it is underground storage in the front of the property. We've provided a note on the plan that that area will be cleaned and inspected before opening up the restaurant.

And, the applicant will contact the health department to abandon any existing septic system that's on the property here because now the town installed a sewer line on the south side of this property, so we are going to tie into the public sewers.

The applicant will make a brief presentation and then if you have any questions, I'll be glad to answer them.

Chyloe?

CHYLOE LUCCA: Good evening, my name is Chyloe Lucca. 69 Lido Road, Unionville, Connecticut.

Like Sev said, we are applying for a restaurant liquor license. Our idea is to open an upscale restaurant. Real nice social atmosphere. And, I enclosed a floor layout which you can kind of see we have a small lounge area, a bar that seats 14 maximum, and a dining area.

We're shooting to shoot a or serve more of a health oriented food and hiring an executive chef to offer nicer meals towards the evening.

THE CHAIR: What kind of food do you have or are you going to have?

MR. LUCCA: During the day, we're looking at the name Rhapsody, it's, we're kind of going off a wrap theme. We're going to do cuisine wraps, crepes, um, you know from multicultures and stuff like that.

Then towards the evening, we're going to shift from our lunch type menu to the dinner. So we're kind of working out the dinner menu right now.

THE CHAIR: So, wraps are what? Something that's already that's already made and you just throw them in the microwave or something? What is that?

MR. LUCCA: No, I don't --- there is, depending on the type, I mean, we could have gourmet ones with, you know, we'll have a chef back there, so depending on the order, we'll put it all together and serve it out. Even crepes.

There's going to be probably a pub menu, too, where we will have pub fare.

THE CHAIR: And, then in the evening, you are going to have what type of meals?

MR. LUCCA: More of a dinner type. Seafood. You know, different specials that kind of revolve around the menu. We're currently looking at different chefs to see what kind of ideas they have. But the whole theme is going to be more of an upscale type of look and feel.

THE CHAIR: So, it's not going to be a watering hole.

MR. LUCCA: No, absolutely not.

THE CHAIR: All right.

Any questions for the applicant?

MR. SALKA: Sev, just one question. There's a lot of traffic on that road and there's a lot of restaurants. One up the road there, there's a family restaurant up the road just past the ESPN on the left, I think.

Is there a light somewhere --- isn't there a light just before your establishment on the Southington side, on the south side?

MR. LUCCA: Yes, there is.

MR. SALKA: So you know, there is a light there, correct?

MR. LUCCA: Yes.

MR. SALKA: Maybe a hundred feet or something south or -

MR. LUCCA: Yes, right where ESPN actually closed off that road. I think it's Birch. There is a light right there.

MR. SALKA: Okay.

THE CHAIR: Did you say you were able to take a left out of there?

MR. BOVINO: There's a right in, right out of the site. There's one way circulation on the property.

THE CHAIR: And, when you come out to the highway there, the road?

MR. BOVINO: There is a --- yes, they take a left -

THE CHAIR: They can take a left.

MR. BOVINO: They can take a left and there is a dedicated left lane heading north.

The property to the south, the light is probably 300 feet away, when this property gets developed then, you know, there may be an agreement at the time that will allow this property to get to the light. But right now there's no development there.

THE CHAIR: Any more questions for the applicant?

MR. SALKA: The only concern I have is again is the traffic on that road. I mean it moves fast and you're saying you are going to allow left hand turn out of that driveway and you've got a left hand turn heading north. It could be a problem getting out of that driveway but that's not our --- that could be a problem getting out of that driveway.

MR. BOVINO: Yah. There is a gap generated by the light which is only 300 feet away ---

MR. SALKA: That's the only saving grace. That's why I asked about that light.

MR. BOVINO: Yah.

MR. SHERMAN: Sev, did the police drop that no left turn out of that driveway? Because -

MR. SALKA: Because there was a no left turn when -

MR. SHERMAN: No left turn, which I assume was the public safety people that put that on there.

MR. BOVINO: There is a left turn. You can turn left.

MR. SHERMAN: There is now?

MR. BOVINO: Yah. It's how McDonald's was operating. This is not a fast food where you know you're going to have that kind of traffic. You're going to have a different kind of traffic.

MR. VINCI: Mr. Chairman, I gave a copy of the usual conditions that the Board usually places on liquor establishments and he's aware of it. Did you want to talk to them? The bar seats.

THE CHAIR: I want what's on here, yah.

MR. VINCI: Okay. Well, the first one was no exotic dancers, male or female, public or private.

The second one is the number of bar seats shall not exceed

-

MR. BEDARD: You've got 14?

MR. LUCCA: Yes. Fourteen. And, we will not have exotic dancers.

MR. VINCI: And, there won't be a service bar.

No live entertainment or live entertainment will be limited to --- what are your plans as far as entertainment?

MR. LUCCA: Yah, we didn't want to rule out live entertainment. You know, upscale menu, we were possibly looking at possibly entertaining the idea of having like a saxophone or some three piece, at the max, entertainers.

THE CHAIR: Three piece max.

MR. SALKA: Mr. Chairman, I have really one question. When you asked about the menu, about what this is really going to be, I guess it's not going to be - the bar is pretty good sized. IT seats about 15 people from what I can see here. The bar area is as big as the dining room.

And, I'll be quite frank. The applicant is very vague on the menu. I don't know whether this is going to be another Slider's with wings. He says it's going to be upscale, but I haven't really heard a menu. You know, he's not very clear; this is the kind of menu. It's going to be steaks and it was kind of vague.

I'm just wondering you know, we've got the layout. It is a very large bar. He wants to; the applicant wants to allow the possibility of entertainment. We don't know what the menu is going to be. You say it's upscale. I certainly take him at his word. But normally, if you are going to open this kind of a restaurant, you have a pretty good idea of what your menu is going to be.

MS. POTTER: Well, he said it's going to go off the word: wraps.

MR. SALKA: I'm not really hearing --- upscale. Upscale to me doesn't say wraps.

MR. LUCCA: Okay, I have a menu scratchpad with a lot of the menu items we're having. It should've been enclosed with the package and I apologize if it wasn't.

MR. SHERMAN: Generally, every restaurant that comes to us brings their formal menu.

MR. LUCCA: So, if you want, I can pass this around.

THE CHAIR: We've got two questions here, the menu and the traffic.

We should table this.

MR. SALKA: I'm just wondering what changed between the Friendly's no left turn and now?

MS.POTTER: It's not Friendly's, though. It's McDonald's.

MR. SALKA: McDonald's. I'm sorry. It was a no left turn coming out of there. It has nothing to do with McDonald's or anybody else. There was no left turn. Now, why isn't that there anymore? Or, is it?

I think--- I'm only answering your question, Mr. Chairman. I think there is a couple of unanswered questions here.

THE CHAIR: Well, I suggest then that we table this. Can I get a motion?

MR. VINCI: Well, maybe the applicant can respond to ---

MR. BOVINO: The applicant has the menu as he indicated. If you don't have a copy, he will provide it for you.

The reason he's a little vague on the menu is because he has to - first of all, he's trying to put this deal together with the owner and he has a chef lined up to discuss the details of the menu.

In regards to the left turn, if you think you want to make a no left turn there, you can stipulate that.

THE CHAIR: I don't know if we have the right.

MR. SALKA: I'm not sure if that is in our purview if it's already there.

MR. BOVINO: Okay. Just I heard he was concerned about the left turns.

MR. LUCCA: And, the idea is, too, we definitely don't want to be a Slider's.

A lot of our colleagues, we actually were managers at ESPN, so we want to get it towards the higher clientele there. We understand the needs of that.

I don't know if you are familiar with like Wood 'N Tap? It would be kind of like, you know, a lot of people go into the bar area just to order regular food at lunchtime. So we are really going to try catering towards the business professional lunch and get them in and within the allocated time that they have for lunch. Serve the food.

Frank, I think, has the menu that we have you know pinned down for lunch and dinner. But you know, aside from that, we're also going to have, depending on the chef we bring in with their specials, so we didn't want to get locked into specific food items if they have a certain specialty.

But if --- it's definitely upscale. That is the direction we want.

MR. SALKA: Because I read through your business plan, whatever you want to call this. You know, it's pretty detailed. And, there is a lot in here, a lot in here about stocking the finest wines and spirits and there seems to be an awful lot in here about the liquor part of it and not much in there, and the entertainment part. Not much in there about the food part.

Sounds like the primary thing you're saying is this is supposed to be a food establishment.

MR. LUCCA: Correct.

MR. SALKA: And, yet, the business plan talks an awful lot about the liquor and maybe that's because that's what the application is for.

MR. LUCCA: Right. We're just going in line with being upscale. A lot of the people, business professionals that come to ESPN they want to go somewhere nice and be able to get a nice

cocktail. So we just want to let them know that they could go there but we're definitely not focusing on a party place or a Slider's or even ----

MR. SALKA: Is this business plan what you're really going to be doing? Because, and it says in here the --- along with the free wifi, the bistro will also offer room rentals and presentation equipment for business meetings and stuff. Is that all part of your business plan?

MR. LUCCA: That was the original part of the plan. It was to really like I say cater towards the business professional. Make it a very social atmosphere where you can in, have a good lunch.

We are going to offer free wifi.

The idea with the room rental was to have a meeting room for professionals. A lot of times at ESPN people are trying to find a nice place to go where they could have an outside meeting. Have food. Rent that out.

It doesn't look like at this point we're going to have room to do that but that was in the original business plan to have that option.

THE CHAIR: I am still going to suggest that we table this.

MR. VINCI: Mr. Chairman? If I may, the zoning regulations don't define a restaurant. However, he has to meet the state requirements as a restaurant.

MR. SALKA: Right.

MR. VINCI: We don't define restaurant. We don't say what kind of food he can have. He has to meet the state requirements.

MR. SALKA: Yah, I agree with that. But also the concern is he's asking for a liquor license and I want to make sure that we're granting a liquor license to what we think we are granting a liquor license for.

MR. VINCI: Understood. Understood.

MR. SALKA: And, when I read the business plan, you know, the business plan doesn't necessarily match the layout here and we just were presented with a menu now.

And, again, that could change. We're granting a liquor license that is going to go with this building.

MR. LUCCA: One more thing, too. A lot of, in a restaurant and seating area, we're, it's kind of like a boundary. A lot of people actually like going into more of a lounge area where they

can watch maybe a high definition TV, watch a game or something like that.

You know, and in our layout here, we were trying to minimize the cost of construction by using existing walls and stuff like that. So that's why the lounge area is about a third of the size of the dining room area. But we just have to add more of a diversitility option.

MR. SALKA: Mr. Chairman, can I make a motion that we table this?

THE CHAIR: A second?

MR. VINCI: You are going to continue the public hearing.

MR. SALKA: Yah, continue the public hearing.

MR. BEDARD: Second.

(Motion passed unanimously on a voice vote.)

THE CHAIR: All right. Continue the public hearing.

MR. VINCI: That would be four weeks from now. I think it's the 28th of August.

THE CHAIR: Okay.

MR. BOVINO: I have a question for the Board. Is there anything that you're looking for from the --- that the applicant can provide so it can help you make a decision on it?

MR. SALKA: I guess the question I would really like to just understand, you know, he's got a business plan that doesn't really ---he's changing it as we're going. And, again, that's, I can understand that.

But what I'd like to do is we have a package that we're voting on. We're applying a liquor license to this package. And, I'd like to make sure that the package matches what we are going to approve so that we can go forward we approve the liquor license, we know exactly what the package is, we know what the menu is, we know what the --- somewhat of the what the business plan is. I don't think we need this kind of detail.

MR. BOVINO : Is there anything else that he can provide you to make you more comfortable with it? In other words, right now, you have doubts about the matching of the floor plan with the business plan.

MR. SALKA: With the business plan, yah.

MR. BOVINO: Is there anything else that he can provide you so that you can feel more comfortable with the ---

MR. SALKA: I'd like to have an answer to the question on the left hand turn there? I think that could be a potential hazard. So, just from your perspective, Sev.

MR. VINCI: We can work that out with the Town Engineer and the Planner.

MR. SALKA: Okay.

MR. BOVINO: So maybe he can provide you with a little bit more details on the menu, maybe?

MR. SALKA: With the menu would be helpful as well.

THE CHAIR: We don't want a watering hole.

MR. SALKA: No, exactly. That's my point.

B. Appeal 5717A, application of TA Operating LLC d/b/a Travel Centers of America for special exception approval for location to allow applicant to apply to the State of Connecticut for a restaurant liquor license under Sections 4-01.32A & 11-04 of the Zoning Regulations, 1875 Meriden Waterbury Road, property of HPT TA Properties Trust/HPT TA Properties LLC in a B zone.

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

APPLICANT: My name is David Rusinak. My home address or business?

MR. VINCI: Home address.

APPLICANT: 130 Garden Court in Wethersfield.

I work for Travel Centers. We've applied for a beer and wine license. The idea behind a beer and wine license is not to have a bar. We don't have a bar at all. It would be table service only. It won't be a service bar. Where any kind of beer and wine will be served. There is no sit down bar there at the site.

Our purpose is not to have a hangout. For obvious reasons, that's the last thing we want. Our purpose is just to maintain a competitive edge with any other restaurant on the same road that's there.

THE CHAIR: Okay. The Travel Center. Okay. You have multiple eating establishments in there, too? Right along side of it?

APPLICANT: We have the full service restaurant which is mine. We have a Taco Bell and a Popeye's.

THE CHAIR: I guess this is family oriented.

APPLICANT: Yes, sir.

THE CHAIR: You come off the highway and you can jump back on the highway, right?

APPLICANT: Yes, sir.

THE CHAIR: You have a truck stop right next to you.

Questions for the applicant?

MR. BEDARD: Do you know what percentage of your sales historically have come from residents of the Town of Southington?

APPLICANT: We estimate it to be about thirty percent.

MR. BEDARD: So, seventy percent of your patrons are travelers?

APPLICANT: Travelers, whether they be families traveling or the truck driver.

THE CHAIR: As far as the truck driver, you said you don't want a hangout there. How do you control that? How would you control that? Not to be a hangout?

APPLICANT: To be very frank, when this idea first came up, I was rather skeptical, myself. Because it's kind of a scary thing to have an 18-wheeler on the highway and somebody has been hanging out at the bar all night long. So therefore, the concept of no bar was there. Table service, only.

With rare exception, most drivers do come in and out, they're on time frame. If I had to name my largest complaint is that somebody was there for 15 minutes and the food wasn't on the table, yet.

They, the training of the crew, I mean, is going to be a very important part. To be able to recognize the signs that there is a problem whether it be somebody's attitude, something happening when they came in or something is happening when they're there. Learning how to count drinks. Making sure that all those things are in force is very, very important.

THE CHAIR: Don't truckers, when they pull into that truck stop, too, don't they, actually some of them have sleepers. They don't just pull in and pull out. Some of them stay for a few days.

APPLICANT: They come in and sometimes some of them are there for days. They have a load on Friday, they drop it. And, they might not have a load to go until the following Monday.

THE CHAIR: You see, my problem mostly is the safety.

APPLICANT: Oh, I agree.

THE CHAIR: I mean, the people coming in and drinking and jumping right back on the highway. The truckers come in. Some people could have one drink and that would make their head spin. Some need five. It's a very, very dangerous thing to have people, especially truckers and travelers drinking.

I've never of a truck stop, I'll tell you, where they have a liquor.

MS. POTTER: Does the other truck stop ---

APPLICANT: This is my first experience with it. Companywide, there are quite a few Travel Centers that do serve beer and wine. Some are only beer and some have beer and wine. None of them have anything besides beer and wine.

I can't give you a number. Out of the 160 restaurants that we have, I, you know, I can't give you a count.

THE CHAIR: But to me, beer and wine is still liquor.

APPLICANT: It is. One beer, one shot is the same.

MS. POTTER: Does the other truck stop in Connecticut, does that serve alcohol?

APPLICANT: Willington? No, it doesn't.

MS. POTTER: It does not.

MR. VINCI: Mr. Chairman, I do have a couple of letters in opposition if you want me to get those out? Then the applicant can respond to that, too.

The first letter is from the Chief of Police.

"Joseph LaPorte, Chairman, Zoning Board of Appeals Re: Appeal No. 5717A, Application of TA Operating LLC d/b/a Travel Centers of America.

Dear Mr. LaPorte: This letter will serve as a notice to your Board that the Southington Police Department objects to Item B on your upcoming agenda referred to as Appeal No. 5717A.

As all of us are aware, alcohol does inhibit judgment and due to the transient nature of the Travel Centers' clientele, if an incident were to occur it would be difficult for the Police Department to investigate an incident due to the coming and going that occurs at the Center.

Furthermore, the serving of alcohol at an establishment, a truck stop, would not be in the best interests of public safety wherein operators would be exiting the Center and getting into a tractor/trailer type of vehicle.

For those two reasons above cited, again the Department objects to a restaurant liquor license at 1875 Meriden Waterbury Road, property of HPT TA Properties Trust / HPT TA Properties LLC in a B zone.

Should have any questions, do not hesitate to contact my office.

Very truly yours, Chief Jack Daly."

The second letter is from resident Margaret Anderson.

"Zoning Board of Appeals Re: Appeal 5717A.

Dear Mr. Chairman and Board Members: I am writing in opposition to appeal #5717A requesting a special exception approval for a restaurant liquor license.

I cannot think of a worse possible combination than tired truckers, 80,000 lb. vehicles, and alcohol. This is a true recipe for disaster. Public safety should be of the highest concern as you consider this application.

As a resident of Marion, I witness on a daily basis the poor judgment of 18-wheel drivers entering and exiting not only the truck stop, but also I-84 rolling stops, running traffic lights, unsafe lane changes.

Let's not impair this judgment further by adding alcohol to the mix.

I urge you to vote no.

Respectfully, Margaret M. Anderson."

THE CHAIR: Is that the last one?

MR. VINCI: Yes.

THE CHAIR: What do you have to say?

APPLICANT: What do I have to say? They are valid concerns. I have them myself sometimes when I was thinking this through. But the more that I thought it through, I have faith in myself as the Manager and in my crew that we can keep things under tap.

Like I said, this is in no way meant to be a place for a driver to come in and sit down for three, four or five hours and just be drinking beers all night.

It's the intention is to come in, have a drink or two with your meal, and then leave. Having the right to be able to turn somebody down for one more drink when they want it is something that every bar owner, restaurant owner has the right to do.

Without cause. He can just say I'm sorry, but you know, you had two drinks and that's it. It's a very touchy thing.

The only other thing I can say is that within a half mile or walking distance there is Billy O's, the Manor, there's a package store and there's Sam the Clam's. So if there was a driver that did want to go out and have as many drinks as he wanted, you could very easily do that. And, he can also hop in his truck and get back on the highway.

So, it's not to say that I would rather have somebody come to my establishment and get drunk and do it. I'm just saying that if the opportunity was sought, then the opportunity is there.

MR. SHERMAN: Mr. Chairman, I don't believe it would be prudent to override the Chief Safety Officer's judgment in town, that being the Chief of Police, who has expressed his opposition to it.

And, I don't recall the Board ever overriding his judgment on matters of safety in the past.

I think it's a matter with, as you alluded to, about everybody is different. So if you have someone coming in there, be it a truck driver or an automobile driver, and they're tired, which many people are when they stop there. They're travelling a long a distance. Maybe one drink is too many.

And, maybe you wouldn't notice that. It's an extremely bad intersection. Probably one of the worst in town for being busy and chaotic. And, we have managed over the years to keep liquor pretty much away from that area. We've had two or three requests for it and turned them down because of that. Because we didn't want to mix the trucks with alcohol.

But I think it's better impressive that the Chief of Police has expressed an opposition to it. And, my suggestion is that the Board pay attention to that.

THE CHAIR: Thank you.

Any more questions for the applicant?

(No response)

Have you finished your presentation?

APPLICANT: Yes, sir.

THE CHAIR: Okay, thank you.

Is there anybody here in favor of the applicant?

(No response)

Anyone here opposing the applicant?

DICK FRAZIER: Good evening, I'm Dick Frazier, 1305 Marion Avenue. Having just driven seven hours back from the State of Maine, on interstate highways, so I'd be here for this meeting tonight, I can attest to its constant interaction of the traffic out there.

I almost got creamed by one truck pulling in front of me. For whatever reason, I don't know. Maybe the guy didn't see me.

It's an area where you just need full control of your faculties. And, I, 70 percent of the people coming in, are coming in off that super highway and to tempt them to --- to even encourage them to do anything to impair their ability to deal with the traffic out there, I think is ludicrous.

And, I ask you, please, do not approve this.

Thank you.

THE CHAIR: Thank you. Anyone else opposing the applicant?

(No response)

MR. VINCI: Just one comment I'd like to make, Mr. Chairman. The applicant was correct that there are a number of drinking establishments, restaurants within close proximity to this.

But we have no control over that. We can't penalize a lot of good business owners from operating a bona fide restaurant in close proximity to them.

But the truckers would have to make a concerted effort to go to these places. They could go out of town. We can't eliminate alcohol from the town completely. But we can limit it at this location.

Alcohol at this location would just make it too convenient.

MR. SALKA: We've turned down two liquor license permit requests for that general area over the last probably four or five years.

MR. SHERMAN: I don't believe there has been any recent -

MR. SALKA: Right.

MR. SHERMAN: - liquor permits in that area. I've been on the Board for 20 years and I don't recall -

MR. VINCI: The last one was the English Pub. Rochambeau Mall.

THE CHAIR: Okay. Anybody else opposing the applicant?

(No response)

(End of Tape #1, Side A)

(Beginning of Tape #1. Side B)

Rebuttal?

APPLICANT: (From the audience) No

THE CHAIR: This appeal is closed.

C. Appeal 5718A, application of Matthew Boggio & Laura Tarantino to vary the side yard setback from 15' to 11' for a one story addition off the back of an existing dwelling under Section 7A-00 of the Zoning Regulations, 54 Parkview Drive, in an R-12 zone.

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

MATTHEW BOGGIO: 54 Parkview Drive, Plantsville. We're looking for a variance to add a master bedroom on the back of our house due to Laura's mom moving in with us. We need more space. And, I've developed this floor plan for a room for her to use until she no longer needs it.

The reason for the width of this and the proximity to the back is she is an elderly woman in her late 80's and may end up in a wheelchair because of a hip problem. So, if you notice, most of the doors are 3.0 so a wheelchair can be brought through. To and from.

There is a shower here that is accessible --- that will be handicapped accessible, as well.

In the top quadrant kind of, we added a little bit of space for our kitchen as well just to accommodate more family members coming over to visit us as well as her.

As far as our hardship is, we have a garage that is approximately 10' off of this addition. And, the side yard would be the only place, if need be, a vehicle to get into the backyard without disturbing either side of the neighbors houses. We wouldn't have to disturb them to get some kind of thing back there if we needed to take a tree down or do some work in the backyard.

So the accessibility between the addition and the garage is tight where we wouldn't be able to do that. Along that side yard where we do have an 11' setback, we have maintained that through the new addition and therein lies our hardship for why we want to do it this size.

And, again, the reason the addition is the way it is drawn is because I want to make it accomodatable for a wheelchair, as well.

THE CHAIR: Frank, this predated zoning? This is nonconforming.

MR. VINCI: It is nonconforming. Mr. Chairman, the existing house was only 11' off, so the addition in the back will not go any closer to the property line than presently exists.

THE CHAIR: It's not going to go any closer.

Any questions for the applicant?

(No response)

Have you finished your presentation?

MR. BOGGIO: Yes.

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

(No response)

Anyone here opposing the applicant?

Do you want to speak in favor?

(No response)

Anyone opposing?

(No response)

This appeal is closed.

D. Appeal 5719A, application of Joseph J & Tina Maciejko for a variance to allow a 16 x 16 foot shed where 200 sf is allowed under Section 2-01AA1 of the Zoning Regulations 2092 Mt Vernon Road, in an R-40/R-80 zone.

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

JOSEPH MACIEJKO: 2092 Mount Vernon Road. Before I begin, I have letters from my neighbors as well as photos.

(Handed in)

I'll give you a moment to look at the photos.

MR. VINCI: Just to give you a little background, Mr. Chairman. The applicant had applied for a pool and during the review of the pool, it was determined that there was a shed on the property and not on the map that was submitted with the pool. It turned out that the shed was put up years ago without permits. So he is here hopefully to correct that.

THE CHAIR: Okay.

MR. VINCI: I have a couple of letters from neighbors. Would you like me to read that into the record?

"July 26th, 2009. To Southington Zoning Board of Appeals from Jeff and Karen Johnson, 10 Boulder Ridge, Southington, CT.

Joseph and Tina Maciejko are our neighbors. Their shed is located 12' from our property line and the size of it is in no way an issue to us.

Sincerely, Jeffrey Johnson and Karen Johnson.

Southington Zoning Board of Appeals Dear Mr. Chairman and honored members of the Board: We are neighbors of Joseph and Tina Maciejko of 2092 Mount Vernon Road. We have become aware of a variance regarding the size of their shed. The size of their shed is not and has not been an issue to us. We see firsthand how the size of the shed is necessary.

We support Joseph on his appeal and the dimensions of the shed do not bother us in the least.

Tyrone Lucas and Cheryl Lucas, 2102 Mount Vernon Road."

MR. MACIEJKO: As you can see from the photos, the shed is well suited to hold many large outdoor items that we own. As you can see from the photos 8 and 9, photos from our garage. We

don't have the capacity in our garage to hold any more, any additional items of any kind of outdoor nature.

Our garage, most homes have extra wide garage bays, and our lot is large but we're limited on side yard. It's very narrow. We can't store hardly anything in the garage. We have some shelving for some items but most of the large items, of course are in the shed. Our lawn tractor, lawn aerators, the thatchers, snow blowers, decking and siding from a home construction. Gas and propane tanks we keep in the shed away from the children, as well as the bicycles of the children, summer toys, summer and winter tires, large patio set.

The shed is very - pretty close to capacity and now we have a pool installed a couple of weeks ago. And, now there are additional items as far as pool equipment, vacuum, hoses, winter cover, solar pool cover, as well as chemicals also I want to keep away from my children. So the shed will be all season.

I did build the shed seven years ago without a permit and that's fully my fault. I am negligent for that. When we first moved here in 2001, I was completely new to this area. Actually it was our first home here. We were newlyweds when we moved in.

I knew permits were required for additions and decks which in 2001 I got a permit for a deck that I built off of the house. Those were structures that are physically attached to the house or actually part of the house.

The shed was just, I just thought of it as just a shed to store items in. It was a little over 100 feet away from our house. Almost --- as you can see from the photos, it's pretty much in the woods. Behind it, behind the shed I own another probably 100 plus feet so it's all basically woods and wetlands so no one could ever build anything as it is.

And, also two years ago I applied for another permit for an addition that I built and the issue of the shed never came up then.

Last year I applied for a permit for another deck that I built to replace the first deck because I tore it down and I built the addition and replaced the decking where it made the deck actually bigger. And, the shed never came up then, as well.

And during all the construction I have and inspectors going in and out at various stages of inspection and early this month I had the pool permit applied for. That's when the issue came up as to the shed.

I think the main issue was the shed was thought to be too close to the property line. It was supposed to be at least 10' away and they thought it was less than 10'. But Jim Butler of

the building department came over and measured. It was greater than 10' away. He told me just to apply for the permits.

The other day I spoke to him and I told him I would apply for the permits and he told me to fill out a zoning application permit and a building permit. The next day I brought those forms in and the plot plan showing where the shed is located as well as the drawings and he said everything was in order with the shed. Just to anchor it down on the four corners.

I was going to submit those and I realized it was over 200 square feet. I had to apply for a variance and that's why I'm here today.

With that, I basically request the approval to keep my shed at its current size. It is a tremendous asset to our family for storing all the various items and basically keeping them away from our children because they're always in the garage. I don't want any kind of sharp items or dangerous items in there. My wife also feels the same way. To keep them far away in the shed and out of reach from them.

THE CHAIR: So you are aware that this is a self imposed hardship?

MR. MACIEJKO: It is self imposed.

THE CHAIR: Okay. Bob, you're good at this stuff. I'll give it to you.

MR. SALKKA: Give my usual speech. The problem is, it's a done deal. And, it's not; I guess it's not even an issue that the building department or somebody had missed it on two or three previous occasions. It's not maybe something that they were looking at.

But the bottom line is, is as the Chairman said, it's a self imposed hardship. You've got a lot of stuff. We've had, I don't know how many people come in for oversized sheds because they've got a lot of stuff. That's self imposed. That's not our problem. That's basically yours.

The problem is the shed is here, been here for I don't know how long.

MR. MACIEJKO: Seven years.

MR. SALKKA: The issue I've got and the concern that I have is we have everybody start throwing up 256 and 300 sf sheds, not telling us and coming in and saying well, it's already here. Been here. Nobody's caught it. Now, you know, what do we approve? Because it's already been there. It's like a Catch-22.

And, I know, you know, Frank goes out and then he's the bad guy as he sees it out there. When in fact, they put it up prior to even asking for approval.

But as the Chairman said, it's really a self imposed hardship. And, when you look at the sheds in the area, yours looks like on those three properties, yours is the largest shed compared to the other two.

So, that's my speech on self imposed hardship.

THE CHAIR: This whole thing would give you a special privilege that's not afforded to other property owners. You understand that, right?

MR. MACIEJKO: Will I basically lose my shed? Will I lose my shed now?

THE CHAIR: No. Nobody said you'd lose your shed.

MR. MACIEJKO: I'll lose the capacity.

THE CHAIR: It's up to the Board.

Any other questions?

MR. VINCI: Well, Mr. Chairman, if I may. I mean he is entitled to a shed.

THE CHAIR: Right.

MR. SALKA: Yes.

MR. VINCI: So he can, you know, 200 square feet.

MR. SALKA: Right.

MR. VINCI: We're not going to say you have to take your shed away. But if the Board doesn't approve your application, then you'll have to cut it down in size a little bit. To 200 sq. ft.

THE CHAIR: Any more questions for the applicant?

(No response)

Have you finished your presentation?

MR. MACIEJKO: Yes, sir.

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

(No response)

Anyone here opposing the applicant?

(No response)

If not, this appeal is closed.

E. Appeal 5720A, application of Anna Mullins to appeal the ruling of the Zoning Enforcement Officer concerning the operation of a tree service business at this Central Business zoned location under Section 15-03 of the Zoning Regulations, 756 Main Street, Plantsville, opposite the intersection with South Main Street in a CB zone.

MR. VINCI: Just to give a little background before Mrs. Mullins speaks, back in May, early May, staff observed a tree service operation, something new to the area that we hadn't seen in the past.

A letter was sent to Mrs. Mullins on May 12th requesting that that tree service be removed. Didn't hear anything from her. A little over a month after that, I issued a cease and desist order. And, the only contact I had was when Mrs. Mullins filed for an appeal claiming that there is a nonconforming use there.

That's basically the history. I made a copy of my zoning enforcement file with some photos of the operation and so on and so forth.

And, we have a letter from the Town Attorney and then something from the Town Planner.

MS. MULLINS: My name is Anna Mullins and I reside at 756 Main Street, Plantsville.

My father bought the property in 1947. Previous to that, he bought acres of woods on West Street. The main question is, did he sell and store wood at the rear of 756 Main Street before zoning.

I did contact Attorney Sciota and he and I were unable to gain aerial maps from the engineering department at the time of zoning. The two maps obtained were one in 1948 and one in 1970. And, I believe my father bought the property a year before, in 1947.

I did save an article mentioning the flood of '55 and my dad's name was mentioned having lost timber in the river.

Mr. Vinci is aware of the follow-up with Attorney Sciota. My understanding is the use of the rear for wood use is grandfathered in. There is still wood on the property and there's also --- I don't know if it's a log splitter - my son mentioned it that he saw it way in the back.

I realize boundaries will have to be set up and any other stipulations to be met and complied with.

THE CHAIR: Frank, do you have a letter there you want to read from the Town Attorney?

MR. VINCI: From the Town Attorney?

THE CHAIR: Yah.

MR. VINCI: Yah, sure, I'll read that in.

"Frank Vinci, Zoning Enforcement Officer, Town of Southington Re: 756 Main Street, Plantsville, CT.

Dear Frank: Pursuant to the above captioned ZBA application, I was asked to research this property. I have the following information:

I pulled the aerials of the Town of Southington from 1948 and those aerials show a barn with no activity on the exterior and trees in the area in question. Therefore, there was no wood milling operation on April 17, 1948.

The next aerial the town has in sequence is 1968. And in that aerial the barn, once again, can be viewed. Also, it looks to be a woodcutting operation and storage operation just to the north of the barn. I don't have any information as to when this evolved from 1948 to 1968.

I did review a newspaper article which is attached hereto which discusses the flood of August, 1955. In that article, it refers that timber from Ted Baron's property caused a logjam at West Main Street. So it could be construed that in August of 1955 an operation did exist.

As you know, there are two areas a property owner must cover in a legal nonconforming use. Number 1 is that the operation existed prior to May of 1957 which is the enactment of our zoning regulations: and two, to provide to the town the extent and scope of that operation. Since the only thing I can locate in the 1950's was that article, it could be construed that an operation existed but there is no way I can give an opinion as to what the extent and scope of the operation was. That information would need to be supplied by the property owner.

I hope this information is helpful to you and the Zoning Board of Appeals. If you have any questions, please do not hesitate to contact me."

THE CHAIR: And, you have something from Mary, too?

MR. VINCI: I have something from the Town Planner, as well, yah.

"Frank: Please provide this to the ZBA tonight as correspondence for the above referenced public hearing. When trying to prove a case about nonconforming use such as this case, the burden of proof is on the applicant and it's twofold.

The applicant must prove the use existed and must be able to prove the nature and intensity of the use. I do not believe that the applicant has met the burden of proof with regard to the nature and intensity, scope of the use.

And, because of that, I believe the appeal is not sustained. The applicant has not met the burden of proof."

THE CHAIR: Can you tell me how long the person that's doing the work there now has been there?

MS. MULLINS: Within the last year.

THE CHAIR: That's what I --- because I've been in town just about all my life and I've never seen activity back there like this.

MS. MULLINS: Because there were two barns that my father used for storage and in the back he had the sheds, too. So you wouldn't have seen it from the street. Those barns have burned.

THE CHAIR: Now, an activity like this belongs in a different zone. This is a CB, central business.

MR. VINCI: Right, yah.

THE CHAIR: I think a business like this would belong like in an I-1 or 2.

MR. VINCI: Well, it would. I mean, if this was a new business, yes, he could not located in the central business zone and that would be in --- yes, our I-1 or I-2 zone.

Mr. Chairman, I've been here as the Zoning Enforcement Officer for 22 years and I don't remember any wood operation at that location. But I wasn't here at the time of zoning. So I don't go back that far.

I did, early when I started here; we had a lot of complaints regarding the property back there with the unsightly materials and things. And, it was determined that there was some kind of a salvage business at that location in the past.

Because when I first started here there was a number of complaints I received about that. It was determined that the salvage business, that part of it, existed prior to zoning and there wasn't really much we could do to make it go away other than get the cooperation of the applicant.

I don't remember any wood out there when I went out on those occasions to look at the salvage yard activity.

MR. SALKA: Frank, when you say salvage, what are you referring to?

MR. VINCI: Like a junkyard. I mean, --

MR. SALKA: Okay. I just wanted to clarify. Okay.

MR. VINCI: Just there was all kinds of stuff back there. But it was determined that that was a legal nonconforming use and at that time we couldn't do anything about it.

But I'm not aware of, you know --- any wood activity.

MR. SALKA: Well, I think the point that Mary and that Attorney Sciota said was basically the nature and intensity of use. I think that's the key word and that is right now you go back there and there's trucks --- there's a lot of wood out, you can actually see it from the road.

And, the question is, was that intensity there back in 1957 when the --- or prior to '57. I think based on what you're saying, sounds like no. And, I think it's really, as Attorney Sciota said, it's up to the applicant to prove to us that that was the case.

And, I'm not sure that I've heard that, yet. The picture, there seems to be some gray area other than one article of 1955 and some logs jammed it up. That's all it says. That doesn't say that the intensity was there. It just says that there were some wood logs back there. That's it.

So, I think it's really up to the applicant to prove to us that the intensity and the nature that it is today was there prior to 1957. If it wasn't, then the burden of proof has not been met. I think that's what we have to go with.

THE CHAIR: Any more questions for the applicant?

MR. SALKA: I think she needs to respond if she can.

MR. VINCI: Did you want to respond to those comments?

MS. MULLINS: I don't know what kind of proof I could give that many years back.

I know he supplied a greenhouse in Cheshire in wood when they used to heat it up, but that's sixty years ago.

He didn't do it on a grand scale what's now there. No.

But it was in back of the barns. You can see on the aerial photo he used to cover it with tin.

MR. SALKA: Well, I think based on what you just said, that it wasn't to the scale, I think we have a sense that the intensity and the nature of what's there today wasn't there back in '57 when the zoning was --- prior to the existence of zoning.

I have no other questions.

THE CHAIR: Any more questions?

Do you want to continue with your presentation?

Are you all set on your presentation?

MS. MULLINS: Yes. Are there any other questions?

(No response)

THE CHAIR: Thank you.

Anybody speaking in favor of the applicant?

(No response)

Anybody here opposing the applicant?

(No response)

If not, this appeal is closed.

F. Appeal 5721A, application of Twinco Corp for special exception approval for a gasoline filling station in connection with retail development under Sections 4-03.32B & 11-03 of the Zoning Regulations, Spring Street (Assessor's Map #169 Parcel #015), 750 feet west of the intersection with Queen Street in a B zone.

And

G. Appeal 5722A, application of Twinco Corp for approval for a gasoline filling station in connection with retail development under Section 14-321 of the Connecticut General Statutes, Spring Street (Assessor's Map #169 Parcel #015), 750 feet west of the intersection with Queen Street in a B zone.

MR. VINCI: Will the applicant or the applicant's representative please state your name and address for the record?

ATTORNEY DENORFIA: Good evening, Mr. Chairman, members of the Board, my name is Anthony Denorfia and I represent the applicant. I'm an attorney with offices at 133 Main Street, Southington.

Mr. Chairman, can we hear both applications?

THE CHAIR: Yes.

ATTORNEY DENORFIA: Okay. Thank you. The applicant is an owner of a little over 20 acre parcel of land on the north side of the Spring Street. It's approximately 600 feet west of Queen Street. It's behind the Staples building and the railroad tracks. To the rear of the property is the old Pratt & Whitney site.

The proposal is to build a 115 sf BJ's Wholesale Outlet. As part of that, the applicant proposes or actually BJs proposes to construct a 12 dispenser gas station similar to the BJs --- that they have at other BJs, Costco and Shop Rite.

The site plan that you see before you shows Spring Street. It shows the building that's proposed. The parking lot, detention basin, with all kinds of landscaping.

This is the area that we're talking about right here which is the location of the gasoline filling station. (Indicating)

This application has been before the planning and zoning commission and the inland wetlands. We've received approval already from the inland wetlands agency and the planning and zoning commission for the kiosk building for the gas station and also a filling application on the site as material has to be brought into the property.

There's only two approvals that are remaining and one is from this Board which approves the gasoline filling stations and also the final approval of the site plan which we hope to have next meeting. The town traffic engineer is just reviewing the final plans and there are a couple of minor technical issues.

This proposal is for a 12 dispenser gas station or filling station. That is what a picture of it looks like. As I mentioned, it is to the rear of the property. It's approximately 500 feet from Spring Street. It's on the northeast corner of the site.

The kiosk, as far as the kiosk that's going to be there, it sells absolutely no products. The only thing they do is -- according to the BJs people is smile at the people and take their money as they come in. But that's it.

It's a self service facility. And, again it will have 12 pumps. It will only service members of BJs. So in order to get gas out of one of the dispensers, you have to have a card. You have to scan your card and then you can use your credit card.

This location is not on a town aquifer so we don't have to worry about that criteria.

Construction of the gas station will be state of the art. As you know, with the new environmental laws and environmental liability, all applicants are very conscious of this. Especially, when I went through the plan with BJS, will have the liner tank installation, the double wall fiberglass tanks, double wall piping with sumps. Numerous detection systems including a state of the art vidaroot system, a fire suppression system, emergency shut off safety valves, et cetera.

And, as I said, it will be monitored on a 24-7 basis. And, in addition to that, all employees who work here have to attend a First Responder Training course that BJs requires.

As far as the local requirements under the regulations, we feel that we've met all of those. The site is as I mentioned over 20 acres. So, we're over the 30,000 sf threshold.

There is no entrance to any public park or playground within 400 feet, nor are we within 400 feet of any school, hospital, church, public theater, library or building for public assembly.

As I mentioned, the uses around it are to the immediate north we have an industrial use and to the east we have retail. To the west we have the BJ's facility itself and to the south we have a mix of industrial and business uses.

We also believe that the proposed use, because of the mixture of commercial, industrial and warehouse in the area, is in harmony with the area.

With regard to the state criteria, I guess this Board has to consider the suitable location as far as it being a suitable location; it is not near any school, church, theater.

You have to consider the traffic which I mentioned is being reviewed by the planning and zoning commission. And, the planning and zoning commission has hired its own traffic consultant to review all of the information that we have presented.

And, because of the location itself and its proximity to I-84 plus the size of the structure, it is under the ultimate jurisdiction of the State Traffic Commission. There are various traffic improvements that are going to be proposed to the area. In addition to there has to be a light on the entrance coming in. Spring Street itself has to be widened and upgraded with the various improvements to the intersection, Spring Street, Queen Street, and also improvements that have to be made to the I-84 interchange. So there are a variety of traffic improvements which the experts have gone over with the consultant.

I guess that pretty much finishes my presentation. If you have any questions?

THE CHAIR: You did say that is about 500 feet?

ATTORNEY DENORFIA: Yes. Four hundred fifty to 500 feet.

THE CHAIR: How far away ---

ATTORNEY DENORFIA: As you can tell. That's ---

THE CHAIR: And, the building is a good distance away from the main building, right?

ATTORNEY DENORFIA: Yah. It's 600 feet over to Spring Street and it's about, I think from here to here it's about 450 feet from the roadways.

THE CHAIR: Any questions for the applicant?

MR. SALKKA: No. I mean, it's met, in reading through the regulations; it's met all of the requirements of the regulations. To me, it's an ideal location for it. And, again, with all the road improvements that are going to go in, I think it's going to be an improvement to that area anyway.

THE CHAIR: Any more questions?

MR. BEDARD: Just a minor question. I think it is an ideal location for it. But you stated that this particular outlet

would only serve BJs members. And, usually, the gas stations give just BJs members a lower price. But anybody can go there and pump gas. Is this outlet going to be different from other BJs outlets?

ATTORNEY DENORFIA: That is true? I'm sorry.

(Pause)

We have some BJs people here.

THE CHAIR: BJs people get a good discount.

SPEAKER: Apparently, we are confusing our attorney. Peter Huntly with BJs Wholesale Club. I'm vice president of development.

We have since recently changed our policy where all of our gas stations, our new gas stations and future gas stations will be members, only.

We do have current locations where they are open to the general public. But that's a recent policy change. And, our proposal here is that this would be for members, only.

(Undertone comments)

THE CHAIR: Okay, have you finished your presentation?

ATTORNEY DENORFIA: Yes.

MR. SHERMAN: Before Tony goes, are the changes, the dual left turn and the widening of Spring Street, are those cast in cement already or is that still up in the air?

ATTORNEY DENORFIA: Nothing is cast in cement yet because even with the planning and zoning commission approval, it has to go and the State Traffic Commission has the ultimate authority.

So they will be --- the approvals that are getting put on, stipulations that are getting put on by the planning and zoning commission and their consultant and I'm sure that the STC would adhere to but, the ultimate -

(End of Tape #1, Side B)

(Beginning of Tape # 2, Side A)

-- whenever it come to traffic, like you had that other application for the old McDonald's, the ultimate authority is, because it's a state road, the STC.

MR. SHERMAN: I was wondering, because this is such a unique application where this Board is charged with doing things that

they normally don't do. We don't usually care too much about traffic because it's not within our jurisdiction. The planning and zoning handles that.

However, in this case it is and I don't know whether we should be exposed to the planning and zoning traffic expert's reports before making a judgment on the gas station. Because once we determine that the gas station is suitable for that location, there is no, I mean, the planning and zoning would have to turn down the whole operation to oversee that.

ATTORNEY DENORFIA: My understanding with the STC, they've done a preliminary review and based upon the operation, their opinion, from the STC and this is my discussion with our traffic consultant, is that they do not consider this facility, this gas station, to increase the traffic to the extent where we would put in a 12 dispenser on a separate parcel of land because of the fact that you must be a BJs member in order to use it.

So they're not looking at it as a whole separate distinct traffic generator.

MR. SHERMAN: It's kind of a traffic neutral part of the operation.

ATTORNEY DENORFIA: That is my understanding after discussing it with Scott Hesketh. They had a preliminary meeting a few months ago out at the site with the STC. So they've pretty much looked at it at that time as a neutral -

MR. SHERMAN: I'm wondering if it would be appropriate for us to stipulate the acceptance of that traffic change or the traffic changes as they're making the dual lane and the left turn and widening of Spring Street.

Because if those don't come through -

MR. VINCI: Mr. Chairman, if I may? I would leave that up to the planning and zoning commission and the Town Engineer and the Town Planner to work that out with the STC.

MR. SHERMAN: Normally, as I say, we do. But our charge is the traffic and highway, the width of the highway and affect on public travel and that's part of our charge on the acceptance of the gas station. Not the BJs. That's the planning and zoning.

MR. VINCI: Right. I think staff is comfortable with this operation at this location. And, they are the experts as far as determining the traffic generation and so on and so forth. I'd leave it to the site planners ----

ATTORNEY DENORFIA: As a follow up, by state statute, no building permit can be issued until PZC acts. And, in addition to

that, the STC has to act and give their sign off. If they don't sign off, until they sign off, they don't even start construction.

And, they are reviewing this entire proposal.

THE CHAIR: Okay, thank you.

Anybody to speak in favor of the applicant?

(No response)

Anybody here opposing the applicant?

(No response)

If not, this appeal is closed.

8:10

REGULAR MEETING

Approval of Minute - Regular Meeting of June 23, 2009

Mr. Salka made a motion to approve the Minutes of the June 23, 2009 meeting. Mr. Bedard seconded. Motion passed unanimously on a voice vote.

A. Appeal 5716A, application of Chyloe Lucca for special exception approval for location to allow applicant to apply to the State of Connecticut for a restaurant liquor license under Section 4-01.32A & 11-04 of the Zoning Regulations, 2176 West Street, property of Victor J. Basile III LLC in a B zone.

Mr. Salka noted the public hearing was continued.

B. Appeal 5717A, application of TA Operating LLC d/b/a Travel Centers of America for special exception approval for location to allow applicant to apply to the State of Connecticut for a restaurant liquor license under Sections 4-01.32A & 11-04 of the Zoning Regulations, 1875 Meriden Waterbury Road, property of HPT TA Properties Trust/HPT TA Properties LLC in a B zone.

Mr. Salka made a motion to approve Appeal 5717A. Mr. Bedard seconded.

Mr. Bedard said he was concerned that seventy percent of those patrons are travelers. I think that often if you're traveling, as somebody did say earlier on the Board, one drink can make the difference between good or bad judgment on the highway. So this overall, given the fact that 70 percent of these people are coming off the roadway and going back on to the road, that combination along with alcohol, to me is an issue.

Ms. Potter said the other truck stop in Connecticut does not sell alcohol.

Motion fails 0 to 5 on a roll call vote.

C. Appeal 5718A, application of Matthew Boggio & Laura Tarantino to vary the side yard setback from 15' to 11' for a one story addition off the back of an existing dwelling under Section 7A-00 of the Zoning Regulations, 54 Parkview Drive, in an R-12 zone.

Mr. Salka made a motion to approve Appeal 5718A. Mr. Bedard seconded.

Mr. Salka pointed out basically the set back is actually going to be less or more depending on how you look at it than the existing house which is already nonconforming. The hardship is with the reason for the addition.

And, again, it's going to be less of a setback than what the house is by only a foot, but it still less.

Motion passed 5 to 0 on a roll call vote.

One year to exercise permission.

D. Appeal 5719A, application of Joseph J & Tina Maciejko for a variance to allow a 16 x 16 foot shed where 200 sf is allowed under Section 2-01AA1 of the Zoning Regulations 2092 Mt Vernon Road, in an R-40/R-80 zone.

Mr. Salka made a motion to approve Appeal 5719A. Mr. Bedard seconded.

Mr. Bedard pointed out two issues. You have ignorance of the law or the local regulations and you have a self imposed hardship. And, unfortunately while I believe that the mistake here was an innocent mistake, as I think you had mentioned Mr. Chairman, allowing that to stand would probably encourage others to do the same.

Ms. Potter brought up a stipulation that if that shed falls down, nothing else can go up. It's already been up 7 years. It hasn't anybody. The neighbors sent letters.

The Chair said that is a special privilege now not afforded to other property owners.

Mr. Bedard said he was concerned that you are still setting that precedent or that example that okay, I'm going to put it up and ask for permission later. I think for most homeowners, a shed like that, the way they build them now a day's probably will last them for the entire time that they're in the house. So it's

not really a big deterrent to say, oh when that shed is no longer of any useful value to you, you can't do it again. I think you are still probably going to get your 15, 20 maybe even more years out of that shed. I still think it's a dangerous example to put out there.

The Chair said he has an option. He can cut it down.

Mr. Salka agreed. The other part of that was it really is a self imposed hardship with regards to what he has got in the shed. He really hasn't come to us in either case with a valid argument of why he needed 256 square feet.

Ms. Potter said once he found out it was not, he went through all the hardship of getting it to where he thought he should be and what he was told to do. He didn't try to hide it. I think he tried to make it right after he did it wrong.

The Chair said the only way to make it right is to take that 56 square feet off.

Motion failed 1 to 4 on a roll call vote with Mr. Salka, Mr. Kuklinski, Mr. Bedard and Chairman LaPorte being opposed.

E. Appeal 5720A, application of Anna Mullins to appeal the ruling of the Zoning Enforcement Officer concerning the operation of a tree service business at this Central Business zoned location under Section 15-03 of the Zoning Regulations, 756 Main Street, Plantsville, opposite the intersection with South Main Street in a CB zone.

Mr. Salka made a motion to approve Appeal 5720A. Mr. Bedard seconded.

Mr. Salka stated that he didn't feel we've gotten the burden of proof on that particular application. In fact, the applicant even when she said that it wasn't of the level that it is today, I think basically says that the intensity wasn't there prior to '57. I'm not even sure that whole thing was there in '57. So I don't think we've gotten that burden of proof on this particular application.

With everything that's going on down in Plantsville, or hoping to go on, to allow this to stay without that burden of proof, I think would be remiss on this Board.

The Chair agreed.

Ms. Potter said it was gone at one time and then brought back. Once it's gone, it's gone.

Mr. Salka agreed.

Motion failed 0 to 5 on a roll call vote.

F. Appeal 5721A, application of Twinco Corp for special exception approval for a gasoline filling station in connection with retail development under Sections 4-03.32B & 11-03 of the Zoning Regulations, Spring Street (Assessor's Map #169 Parcel #015), 750 feet west of the intersection with Queen Street in a B zone.

Mr. Salka made a motion to approve Appeal 5721A. Mr. Bedard seconded.

Mr. Salka said if you look at the regulations, this particular application and the one following, have really met all of the requirements in those particular stated regulations.

The Chair said he saw the one in Wallingford and they do a good job. Excellent job.

Mr. Salka also pointed out it's an ideal location. It's off the Queen Street. That whole revamping of that, I think it's going to be a real benefit to the town.

Motion passed 4 to 0 on a roll call vote.

G. Appeal 5722A, application of Twinco Corp for approval for a gasoline filling station in connection with retail development under Section 14-321 of the Connecticut General Statutes, Spring Street (Assessor's Map #169 Parcel #015), 750 feet west of the intersection with Queen Street in a B zone.

Mr. Salka made a motion to approve Appeal 5722A. Mr. Bedard seconded.

Mr. Salka said the same comments as above apply.

Motion passed 5 to 0 on a roll call vote.

Miscellaneous /Old Business / New Business

Nothing to report. Next meeting is the end of August.

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

Joseph LaPorte, Chairman
Zoning Board of Appeals