

TOWN OF SOUTHTON
ZONING BOARD OF APPEALS
TUESDAY, AUGUST 10, 2010

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

Paul Bedard, Patricia Potter & Edward Kuklinski

Alternate: Ronald Bohigian

Others: Frank Vinci, Zoning Enforcement Officer
Mary Savage-Dunham, Town Planner

Absent: Robert Salka, Commissioner
Joseph LaRosa, Alternate
Michael Milo, Alternate
Robert Sherman, Alternate

Mr. Bohigian is sitting for Mr. Salka this evening. A quorum was determined.

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

Mr. Vinci 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 5797A, application of Nicholas R. Spratto, Jr. to vary the side yard setback to 11.5' where 15' is required for a proposed (existing) 10' x 14' shed under Sections 7A-00 & 15-04 of the Zoning Regulations, 49 Wyndcrest Court, property of Nicholas R & Elisabeth E. Spratto in an R-12 zone.

MS. SPRATTO: Elisabeth Spratt, 49 Wyndcrest Court, Milldale. We're looking for the 3.5 foot variance. Before we purchased the shed, I called the Town last August and there is no number in the phone book for zoning to call. So, I called the Clerk's Office and they transferred me. I don't know who I talked to and I didn't think I needed to remember who I talked to.

He told me any shed had to be 20' from the back property line and 10' from the side. Our lot is very show and I have a photograph to show you. (Passed in photo.)

So, we went and purchased a shed figuring that it had to be 10' from the side and 20' from the back. I said to him, there's no with what we have in the back, that it will fit in the backyard.

That's when I said to him, how far from the side. He said 10.

So, we bought that shed and we put it 11.5' from the property line thinking we were giving ourselves some leeway there. So, it's not very far from the house as it is. If we move it over, our 40" lawnmower will not fit in there.

When I got the Agenda for tonight, it referred to certain sections in the Town's zoning. And, I actually pulled one up to see what it was talking about and it actually says in an R-12 zone it says 15' from the side, which is not what I was told. But 20' from the rear. But all the paperwork we're getting is saying 15' from the - 10' from the rear. So, I was told one thing. This says one thing. And, then the paperwork says another thing.

MR. VINCI: Mr. Chairman, if I may, the regulations cited in the legal notice and the Agenda is incorrect as far as the regulation. The regulation is accessory structures and it is in Section 2. It requires: accessory structures when located in the rear yard to be a minimum of 10' from any property line. Anything that's not located in the rear yard has to be in the side yard and meet the appropriate setback.

And, again, this is cited correctly, actually it is.

MS. SPRATTO: This says: 7A-00 which you referred to and it says 20' in the rear yard. I have it here if you'd like to see it.

MR. VINCI: Right. Yah, the side yard setback in that zone is 15' -

MS. SPRATTO: And, the rear is 20.

MR. VINCI: And, the rear is 20. Yes.

MS. SPRATTO: But this paperwork says 10 that we got from the Town.

MR. VINCI: Well, the --- what papers do you have?

MS. SPRATTO: Ten, the permit, 10 x 14 shed minimum of 10' from all property lines.

MR. VINCI: Right. That was your permit.

MS. SPRATTO: Exactly. But this says 10' and this says 20' and I was told 10' from the side yard. We were told one thing. The permit says another and then this says another. Three different things.

THE CHAIR: Can we see the permit?

MR. VINCI: I'll make a copy of it.

The permit that was issued for this particular shed said 10 by 14 shed, rear yard, minimum 10' from all property lines. So that was what the permit was issued for. Shed in the rear yard, 10' from all property lines. Okay?

This section here refers to side yard setbacks. In the R-12 zone, the side yard setback is 15'. That's where they located the shed and that's why they need a variance from that section of the regulations.

MS. SPRATTO: But if you look on that, the rear yard setback says 20'.

MR. VINCI: Yes, but you didn't put it in the rear yard.

MS. SPRATTO: But what I am saying to you is ---

MR. VINCI: This is for primary structures. We have for sheds; we have another section in our regulations that says a shed can be in the rear yard a minimum of 10' from any property line.

MS. SPRATTO: What we didn't understand was, when we went and applied for this variance, we were thinking front yard/rear yard. We clearly, we can't even put a shed in our rear yard. No one ever said anything about that. We didn't even think that there was a terminology side yard.

MR. VINCI: Well, it's right on the building permit.

MS. SPRATTO: But to us the rear yard is not it's not in the front yard. We never even thought that there was a whole separate thing for the side yard.

MR. VINCI: Obviously, you were very confused on this. You didn't, you didn't go out to violate the regulation. You put it where you thought -

MS. SPRATTO: Clearly, we would have dug the whole 3.5' further in, had we known.

THE CHAIR: It was an honest mistake.

MS. SPRATTO: You know, for 3.5', we certainly wouldn't have gone through all this had we known. For 42", we would have just put the gravel 3.5' closer to the house.

I don't know if anyone wants to see any photographs, but you know, that's about it. Certainly, it is not going to look any different or affect anything any differently by moving it 3.5' to the right.

THE CHAIR: Any questions for the applicant?

(No response)

Have you finished your presentation?

MS. SPRATTO: I guess so, yah.

THE CHAIR: Thank you.

Anybody here to speak in favor of the applicant?

SPEAKER: I live right next door.

THE CHAIR: Go right up to the podium.

MR. VINCI: State your name and address, please.

SHARON CAMPEDI: 37 Wyndcrest Court. My husband, in fact, helped them dig the area and we have no objection to where it is.

It is a beautiful shed. And, we have no problem with it.

Thank you.

THE CHAIR: Thank you.

Anybody else speaking in favor of the applicant?

MICHAEL FORGIONE: 46 Wyndcrest Court. I live directly across the street from the applicant. And, it is a beautiful structure and I have no issues with it.

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

(No response)

Anybody here opposing the applicant?

(No response)

Anybody here opposing the applicant?

(No response)

If not, this appeal is closed.

B. APPEAL 5798A, application of Anneliese Dadras for special exception approval to keep a family flock of chickens (12) under Sections 3-01.31B & 15-05 of the Zoning Regulations, 235 Shuttle Meadow Road in an R-80 zone.

MS. DADRAS: I'm nervous.

MR. MACDONALD: She's nervous.

I'm Matt MacDonald and this is Anneliese Dadras.

MS. DADRAS: I'm Anneliese Dadras.

THE CHAIR: Calm down.

MR. MACDONALD: 235 Shuttle Meadow Road.

THE CHAIR: You could explain.

MR. MACDONALD: We'd like a variance for chickens. We have, I guess we needed a picture of the coop. And, we are here with the measurements of where the coop would be. And, then we have pictures of the coop. And, the run.

MS. DADRAS: One is with the run and the other is just the coop itself.

MR. MACDONALD: It's actually built for 13 chickens.

MS. DADRAS: Fifteen.

MR. MACDONALD: Fifteen chickens.

THE CHAIR: But you are only going to have 12, right?

MS. DADRAS: Right. But we just wanted to make sure they have enough room to live in.

THE CHAIR: For the chickens to live in?

MS. DADRAS: Yah. You could get them like 10 big or 15 big. So we just got the 4 x 6 instead of the 3 x 5.

THE CHAIR: What did you remove that was there? What did you remove?

MR. MACDONALD: Nothing.

MS. DADRAS: We didn't remove anything. That's just our building.

MR. MACDONALD: Oh, you mean what was removed here? It was the pool, the swimming pool? That was removed.

MS. DADRAS: We got permission to do that last year. But they didn't take it off of the thing, yet.

THE CHAIR: No roosters!

MR. MACDONALD: No, no roosters.

MS. DADRAS: No, not at all. We like our sleep. We like to sleep.

We just wanted eggs and compost.

MR. MACDONALD: Yah. We have no one around us. We have um -

THE CHAIR: I was up to your house last week.

MR. MACDONALD: Oh, okay.

THE CHAIR: I have seen it.

Any questions for the applicant?

(No response)

Any questions for the applicant?

(No response)

Have you finished your presentation? Have you finished your presentation?

MR. MCDONALD: Oh, yes. Yes.

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

(No response)

Anybody here opposing the applicant?

(No response)

If not, this appeal is closed.

C. APPEAL 5799A, application of Denise M Chymbor for a variance to keep four adult dogs where 3 are allowed under Section 2-11K 7 15-04 of the Zoning Regulations, 37 Wedgewood Road, property of Michael Chymbor in an R-40 zone.

MR. VINCI: Mr. Chairman, just for the record, I have a letter in opposition that came in just the other day. So, when we get to that point, I'll read it into the record.

THE CHAIR: Okay.

MR. VINCI: Please state your name and address?

MR. CHYMBOR: For the record, it is 37 Wedgewood.

MR. VINCI: It's 37 Wedgewood Road.

MR. CHYMBOR: I must've misheard.

I'm Mike Chymbor. Michael Chymbor. Denise is my wife. We both reside at 37 Wedgewood.

The issue was we had three dogs. The dogs are Yorkshire Terriers. We have two Yorkies and one Maltese.

And, recently, my mother in law lost her house and had to move in with us. She's 82. And, she had one dog. She also has a Yorkie. So that's the reason why there are four dogs there.

We're not breeding them. We're not boarding them. We receive no money for them.

Of course, we did not know the regulation otherwise; we wouldn't have brought the four dogs in. I know that is no excuse but if we knew about it, we wouldn't have done that. They are family pets. They are house dogs. They stay in most of the time primarily.

And, there have been no complaints that we're aware of.

So, one of the dogs is sickly and we would agree that if one were to pass away, we would not replace it with a fourth dog.

But we are seeking an exception for that reason to keep the four.

THE CHAIR: Questions for the applicant?

MR. KUKLINSKI: How old is the oldest one?

MR. CHYMBOR: Eight, eight years.

MR. KUKLINSKI: He's got a few more years, then.

MS. CHYMBOR: I haven't had one list past eight years. I'm not saying it couldn't or that it could.

MR. CHYMBOR: Like I said, we have a letter from a Vet stating that the oldest one is sickly. And, certainly wouldn't be able to withstand a move to another house or be put up for adoption or anything like that.

MR. VINCI: "Zoning Board of Appeals, Town of Southington, 75 Main Street, Southington, CT. Re: APPEAL 5799A, application of Denise M Chymbor for a variance to keep four adult dogs where 3 are allowed under Section 2-11K 7 15-04 of the Zoning Regulations, 37 Wedgewood Road, property of Michael Chymbor in an R-40 zone.

Gentlemen: I would like to state my objections to the above request for a variance at 37 Wedgewood Road. This abuts the back of my property at 70 Shagbark Drive.

1. This request is in violation of the protective covenants of Wild Oak Ridge. Thus, the attached which states the following:

"Item A. All livestock, poultry and animals are prohibited with the exception of one dog or one cat or one of each per lot."

I don't think it is appropriate for the Zoning Board of Appeals to supersede existing protective covenants.

2. If the board approves this request, I would now have 7 dogs abutting my property. And, if the protective covenants were followed, it would only be 3.

3. I have, I already have issues with barking dogs from neighboring yards including barking coming from the applicant's premises. This would only make it worse.

It is currently a rare day that I can go out in my yard and not be annoyed by barking dogs.

4. This request always raises health issues because of additional amounts of dog waste. I am assuming that there certain health requirements for kennels defined as four or more animals.

Would these requirements be required of this applicant?

5. If this appeal were approved, it would restrict the exception to just four dogs or would the applicant now have a kennel status and be able to have more than four?

6. If approved, can the approval be limited to just the current 4 dogs and if one of them expires, the 3 dog rule would go back into effect? Thus, no replacement of any of the 4 dogs.

Please give my objections consideration when making your decision on this appeal.

I would like to have this letter read into the Minutes of the meeting regarding this appeal. "

And, the attachment is the protective covenants for that particular subdivision. And, they're noted in Item 8, it limits one cat, one dog per each property.

THE CHAIR: But our rules state 3 dogs.

MR. VINCI: Well, that's correct, Mr. Chairman. The covenants -

THE CHAIR: That has nothing to do with us.

MR. VINCI: The covenants are a civil matter and they would have to be enforced civilly.

Our town regulations allow for 3 dogs.

THE CHAIR: Have you finished your presentation?

MR. CHYMBOR: Yes.

THE CHAIR: Any questions for the applicant?

(No response)

Anybody here to speak in favor of the applicant?

(No response)

Anybody here opposing the applicant?

(No response)

If not, this appeal is closed.

MR. CHYMBOR: We don't get a chance to rebut?

THE CHAIR: I'll reopen it.

MR. BEDARD: I'll make a motion to reopen the public hearing.

MS. POTTER: Second.

(Motion passed unanimously on a voice vote.)

THE CHAIR: Go ahead.

MICHAEL CHYMBOR: Just want to state that the house, the dogs are in the house 95% of the time so I don't think the noise that the person is complaining about can be attributed to us in the fact that we have 4 dogs. I think that is somewhat overstated.

And, as noted, we would not replace the dog and we would observe the 3 dog limit if and when one passes.

I just want to state that for the record.

Thank you.

THE CHAIR: Thank you.

Anybody to speak in favor of the applicant?

(No response)

Anybody opposing the applicant?

(No response)

If not, this appeal is closed.

D. APPEAL 5800A, application of Marek P. & Urszula Dura to vary the side yard setback to 16' where 30' is required for a proposed 11' x 16' shed under Sections 7A-00 & 15-04 of the Zoning Regulations, 47 Ledge Road in an R-80 zone.

MR. VINCI: You have in front of you, Mr. Chairman, a site map from our GIS and then it shows the overall property and also it abuts Plainville on the north side. You have a site map. Another map showing the location of it. A rendering of the shed itself. And, then a photo of the property looking at it from the house, where the shed would be on the lot and then farther down you see the access road which actually dissects the subject property.

URSZULA DURA: I'm Urszula Dura and this Marek. Our property is long but it is very narrow. And, that is the reason for the shed in the front yard. It will be 6" from the property line and zoning requires 30'.

The backyard is very, it is pretty much a wooded lot. We have a very limited backyard and we have pictures of that, as well. We don't want to put it in the backyard; we just want to keep the backyard for our kids to play in.

And, the shed is pretty much just for the tools and the lawn mower.

THE CHAIR: This is a rear yard? A rear yard, right? Is this a rear yard, Frank?

MR. VINCI: No. The location is going to be the front yard.

THE CHAIR: Right. The location. But this house goes all the way to -

MR. VINCI: Yah, this house is probably a tenth of a mile off the main road of Ledge Road. This goes back into a private drive which goes all the way back. The private drive you can see on the site map on the second page, the private drive would access one more property that is located in Plainville, and actually goes right through the subject property.

So this, the location of this is probably --- well, it says right here, 60' to the building line. So, it's probably, it could be 100' from the front property line.

THE CHAIR: What's that pipe for?

MS. DURA: That's our back yard. A well.

THE CHAIR: That's a well there? If you can see that?

MR. VINCI: Yup. And you can see that the -

MS. DURA: The shed will be 70' from the private road called (Inaudible) Drive, but we have actually have 200' to our property line from the shed.

THE CHAIR: And, another reason you don't want it back there is because you've got a hill?

MS. DURA: There's a hill and then it's just woods. Uneven.

We have a picture from MapQuest showing the other property and the shed is going to adjacent to a Connecticut Light & Power property and not the property in Plainville.

MR. DURA: You can see, we are pretty far away from the neighbors. There's only one house which is like - I don't know, 100 yards, a thousand feet away from us. The woods are between.

THE CHAIR: Any questions for the applicant?

(No response)

Questions for the applicant?

(No response)

Have you finished your presentation?

MS. DURA: For now. Yes, thank you.

THE CHAIR: Thank you.

Anyone here to speak in favor of the applicant?

(No response)

Anyone opposing the applicant?

FROM THE AUDIENCE: I oppose the applicant.

Good evening. Brian Stoller, 138 Ledge Road. My property borders theirs on the north by over 700' of it. The applicant speaks as if they're going to build the structure. The applicant has informed to inform you that they have already built the structure. It already exists. And, I have very big concerns about it.

Number one, it will be an eyesore in the front. Okay? It's something I'm going to have to drive by and look at every day. I can show you other sheds of a similar size in the immediate area and all the neighbors now have junk around it. I have photos here to substantiate what I'm telling you. The bottom line is when you give them an inch, they take a yard. Okay?

This applicant has numerous done changes, renovations to their property, over eight of them that I have listed.

THE CHAIR: We just want to talk about the shed. Okay?

MR. STOLLER: All right.

THE CHAIR: Just the variancy.

MR. STOLLER: All right. The structure has already been partially erected. It has no foundation. I'm concerned that it could fall over the embankment.

They have also have a second structure that was erected.

I would not have a problem with them moving the structure to where their first structure was erected. It would be out of sight. It would be in a safer location. It'd be less apt to fall down the embankment, thus on to the private road, Roberge Drive which in 1987 the courts awarded me full control of that road. There is a 47 page memorandum filed in Plainville and Southington. Okay?

It's already been erected. There has been numerous water problems up at that end. The concern about additional problems that this may cause.

This structure also eliminates their, where their septic system -- they don't have a reserve field. Okay? This is a very large home with 3, on the record, on the field card, it shows 3 bedrooms. But according to when the house was For Sale, it shows 4 bedrooms. I'm a licensed physical damage appraiser and casualty adjustor. I did an appraisal on this house in 2004. And, at the time that I entered it, there were 6 bedrooms. A fellow who owned it at the time, his name was Jerry (Inaudible) he had 6 people living there.

My concern is with the septic system. And, we just recently had the inspector from sanitation out there yesterday. There is no reserve. In the event they need a reserve, they're going to have to move the structure because there is no other property left for them to put a reserve.

They do have a very narrow piece of property. It's next to the Northeast Utilities which is also we have wetlands in the immediate area. We have state wetland bordering on the north. Okay.

My other concern is, too, if you allow them to put this up, there was work done last year. This town awarded, allowed them a building permit for siding. It took them 13 months to do the siding. For 13 months to do the siding. For 13 months I had to deal with this on my property. I pulled off over 4 or 5 20 gallon big garbage cans of this material -

THE CHAIR: We're getting into something here we don't want to get into.

MR. STOLLER: But the point is, well, --

THE CHAIR: Let's just stay with the shed. That's all we want.

MR. STOLLER: Well, okay. The problem is that nobody has a tendency of making sure these things get finished, these projects.

THE CHAIR: That's not our problem.

MR. STOLLER: There is negligence there.

MR. BOHIGIAN: Does he want to enter the picture into so we can see it?

(Pause)

MR. STOLLER: Also, I had a question regarding - to the Board in regards to where they instructed Mr. & Mrs. Dura to put the sign for this. I believe I am the only one here to oppose this. The sign is located and placed a half mile from their property. It was placed at the corner of Roberge Drive & Ledge Road. It was placed in front of a house, House #37.

Okay, on the sign, the sign very clearly states and reads and I quote: "A Public Hearing will be held to act on a variance or special exception in Connecticut - in connection, I'm sorry - in connection with this property." This property. Okay? This is the sign, the only one sign that I'm aware of was posted half mile from the home.

I have aerial views and all of the approval maps that substantiates that my claim. Okay? You flip that picture over in the back; you'll see what I'm talking about about the sign.

THE CHAIR: When was this picture taken?

MR. STOLLER: Pardon?

THE CHAIR: Oh, this picture was just taken recently?

MR. STOLLER: I just took that last week. Last week.

THE CHAIR: Whose shed is that right there?

MR. STOLLER: Okay, that's the shed --- you're looking at --- what're you looking for? The shed or ---

THE CHAIR: I'm just looking at a picture here.

MR. STOLLER: The shed in the back there --- let me explain. Let me explain. The shed in the back there is owned by the fellow that owns 37 Ledge Road. That is an example of all the junk that got cluttered around it. And, I just helped him clean that up. It was worse a couple of weeks ago. He had tons of piles.

Now, the structure that was erected is on the opposite side of that page you're holding.

THE CHAIR: The notice is right under where it says: 47. There's a 47 and then the notice is right underneath it.

MR.STOLLER: Yah, but that's a sign --- that's a number stuck on a tree a half mile away from the home. I can show you on maps exactly - exactly where it's located.

THE CHAIR: I don't get it.

(Pause)

MR.STOLLER: Here we go. Pass this forward, please. This is where the sign or was posted and this is the property here next to mine. Pass that down.

(Pause)

Down in the corner where it says: BING. That's where they posted the sign. That little circle. And, their house is next to mine in the orange.

(Pause)

It's a half mile.

MR. VINCI: If I may, the property has an address of Ledge Road. If the applicant where to the property --- the sign on their property, nobody would see it except for this gentleman right here. He is the only one that goes past the property.

Here is a photo of the sign on a tree out at the entrance to the driveway there. I took a picture of it. I thought it was the best location for it. I'm comfortable with that location for that sign for the particular application.

MR. STOLLER: I'm personally not comfortable with it because the people that border, abut his property, were not made aware of this, this hearing, unless they read it in the paper. There was no sign posted.

Now, I've filed several variances in the Town of Plainville. And, I've had to put them on all three corners. So that it can be seen from the street. From my property line, the private road coming in. I just, I personally feel that ---

THE CHAIR: The sign was out there and people who really wanted to get at the sign, it was out there.

MR.STOLLER: I wanted to bring that up with you.

THE CHAIR: Okay.

MR. STOLLER: Because -

MR. BOHIGIAN: Can we ask the applicant if that's truly a picture of their property?

MR. STOLLER: Ask the applicant.

(Pause)

MS.DURA: After he finishes, then I will explain everything.

THE CHAIR: Okay, you can rebut.

MR. STOLLER: If she'd like to verify the authenticity of that, I have no problem with her looking at the photos to verify it.

THE CHAIR: Are you all done? Are you through?

MR. STOLLER: Any questions?

THE CHAIR: Questions?

(No response)

No?

Nope.

MR. STOLLER: I wonder if I can get the photo back. Is that a problem?

THE CHAIR: No, we'll get it back to you.

MR. STOLLER: Okay.

THE CHAIR: Anybody else to oppose the applicant?

(No response)

Go ahead and rebut.

MS. DURA: I just want to address the sign issue. I was advised by Frank's co-worker to put it on a main road and that's the reason for that location. We didn't know where to put it. On that tree, we have our - 47, our number on the house. We decided that was the best location for the sign. So people on the main road could see it that there's a zoning appeal.

When it comes to the picture that my neighbor showed you, it was an honest mistake. My husband did start the construction, but he didn't think that we needed a permit because it - we didn't require -- - have a foundation shed.

When he called the town to complain, that when we stopped the construction and we came to the town to clear it out and ask for a permit.

This is not a good location of the shed because it's right on the property line. We are proposing a different location which you have pictures of which is 16' from the property line.

MR. BOHIGIAN: Where is that on the property line now?

MS. DURA: This shed is right on the property line which according to the zoning requires 10'. This is right on the property line.

MR. BOHIGIAN: So where is it in relation to the picture he submitted?

MS. DURA: I -

MR. BOHIGIAN: Because there is nothing showing here.

MR. DURA: We marked it on the picture.

MR. BOHIGIAN: Yah, but where, where is the one that you've already started compared to this?

(Undertone comments)

MR. VINCI: Mr. Chairman? If I may?

THE CHAIR: Go ahead.

MR. VINCI: Regardless of where the shed was initially, we have a proposed plan where it is going to be in the future.

(Pause)

(Undertone comments)

This is where it is proposed and this is where it was.

(Undertone comments)

THE CHAIR: Okay.

MS. DURA: When it comes to the septic, Scott from the health department was at our house on Thursday. The neighbor complained that there was a septic odor on the property. Scott walked the property and there was nothing that he noticed and he said that there is nothing that he can do and everything is fine.

MR. DURA: He just keeps bothering us since we moved there.

THE CHAIR: Okay, we're just going to talk about the shed.

Okay? Are we all set?

Anybody else to speak in favor?

(No response)

Anybody else opposed this?

(No response)

If not, this appeal is closed.

E. APPEAL 5801A, application of Patricia J. Brown to vary the front yard setback to 17' where 40' is required for a 7' x 13' addition off back of existing house on a corner lot under Sections 7A-00 & 15-04 of the Zoning Regulations, 146 Raynor Street at the intersection with Eastview Road in an R-12 zone.

JOHN ROSA: From J. Rosa Construction, Townline Road, Wolcott, Connecticut. This is Patricia Brown from 146 Raynor Street, Southington, Connecticut.

We are proposing to put a kitchen addition, approximately 7' by 12' exactly behind the location of the kitchen now. It is a corner lot. And, the structure will not encroach any further on the property line than the existing structure.

MR. VINCI: This is the complete plan for the record.

(Pause)

THE CHAIR: The building line, you're just going to follow the existing structure, right?

MR. ROSA: That's exactly right.

THE CHAIR: Nonconforming.

MR. VINCI: It is, Mr. Chairman. And, they're not going any closer and maintaining what is existing and moving away a little bit.

THE CHAIR: Any questions for the applicant?

(No response)

Any questions for the applicant?

(No response)

Have you finished your presentation?

MR. ROSA: Yes, we have.

THE CHAIR: Thank you.

Anybody here to speak in favor of the applicant?

(No response)

Anybody here opposing the applicant?

(No response)

If not, this appeal is closed.

F. APPEAL 5802A, application of Bonnie R. Granger & James A. Rio to vary the front yard setback to 43' where 50' is required for a handicapped ramp & front porch addition under Sections 7A-00 & 15-04 of the Zoning Regulations, 702 Flanders Street in an R-40 zone.

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

MS. GRANGER: Bonnie Granger.

MR. RIO: James A. Rio.

MS. GRANGER: 702 Flanders Street.

THE CHAIR: You can explain.

MS. GRANGER: My mother is 92 years old. We put an addition on for the in-law apartment when we bought the house 6 years ago. That addition, the original front of our house, is within the now 40 - whatever the footage - 50' setback.

We want - the addition and the mudroom to our current house is set back from the front of the house. So that is where the 50' starts.

We want to put a handicapped ramp on for my mother. She's getting ---it is getting hard for her to get into the house. We wanted to put a covered roof with a small porch there with a handicapped ramp that comes up from our driveway. It covers basically the existing concrete that is there now. And sidewalk. And, will be almost a walkway. It will be almost identical to what's there now except she will not have to maneuver those stairs.

And, because of the new setback since this house was built umpteen years ago, it requires a variance.

THE CHAIR: Okay. Questions for the applicant?

(No response)

Questions for the applicant?

(No response)

Have you finished your presentation?

MS. GRANGER: Yes.

THE CHAIR: Thank you.

Anybody here to speak in favor of the applicant?

(No response)

Anyone here opposing the applicant?

(No response)

If not, this appeal is closed.

G. APPEAL 5803A, application of Moes Real Estate Holding LLC for special exception approval to allow applicant to apply to the Tate of Connecticut for a restaurant liquor license under Sections 4-03.32A & 15-05 of the Zoning Regulations, 750 Queen Street (former Shaw's Plaza) property of Southington/Route 10 Associations LP in a B zone.

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

BRUCE DEMENSKI: My name is Bruce Demenski and I reside at 24 Windham Drive right here in Southington.

THE CHAIR: You can explain.

MR. DEMENSKI: Moe's Grill is a chain of 400 restaurants around the country. My partners and I have bought the rights to develop 13 restaurants in Connecticut. One of them is already open in Fairfield.

We are working now on our second location here in Southington on Queen Street. What we are asking for is the ability to have beer at the restaurant.

We are a fast casual restaurant. We kind of compete against Chili's, Applebee's, those kinds of places. And, just for firsthand knowledge, down in Fairfield, I've had people call the restaurant or have come into the restaurant and asked if we had --- do we serve beer there. And, at the moment we're going through the process of getting the license from the liquor authority and don't have it in there. And, those people have turned around and left. So, we do lose business by not having the alcohol in there.

It's more of a family environment. It's more of a situation where folks come in and they just want a beer with their dinner. We don't have a bar. We don't have any kind of other situation.

THE CHAIR: So you are just going to serve beer and wine?

MR. DEMENSKI: Exactly.

THE CHAIR: Just beer and wine.

MR. DEMENSKI: Yes.

There is no bar at all.

THE CHAIR: You are open for business now? You are already open?

MR. DEMENSKI: The one in Fairfield is open. We're waiting to see how this all goes before we execute the lease here.

THE CHAIR: We do have some stipulations.

MR. VINCI: I'll read them, Mr. Chairman.

They are the typical ones that we have apply to restaurants and cafes.

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

There is going to be a service bar, only. So the second would be: service bar only.

Three will be no live entertainment or entertainment shall be limited to --- are you planning any entertainment?

MR. DEMENSKI: The only thing that and I'm not sure how this would underneath it. For Cinco DeMayo, we do a big Cinco DeMoes kind of celebration and sometimes other franchisees have had them bring in a couple of piece of mariachi band playing.

I mean, if you have a problem with that, that's fine.

MR. VINCI: I mean, we could limit it to three musicians.

THE CHAIR: Yah, we'll do that.

MR. DEMENSKI: Okay.

MR. VINCI: Four, any significant change in the floor plan as determined by the zoning enforcement officer shall require a new application. So that's so that you don't present something before the Board tonight and then next month go out and do something totally different. If you want to change the layout, you have to come back before the Board.

MR. DEMENSKI: Okay. Yah, it's not a final version. But its - I don't really see anything significant changing in it.

MR. VINCI: And, five, any change in the management/permittee shall require a new application. The Board wants to know who they are dealing with.

MR. DEMENSKI: Okay.

MR. VINCI: Mr. Chairman, when I did the legal notice, I referenced a liquor license. Are you applying to the state for a beer and wine license? Is that what you are -

MR. DEMENSKI: Exactly.

MR. VINCI: Okay, so we can modify that to beer and wine.

THE CHAIR: Any questions?

(No response)

Any questions for the applicant?

(No response)

Have you finished your presentation?

MR. DEMENSKI: Yes, sir.

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

(No response)

Anyone here opposing the applicant?

(No response)

If not, this appeal is closed.

H. APPEAL 5804A, application of The SKLE Holding Corp. (Southington Elks Club) for special exception approval to host their annual Octoberfest to run in conjunction with the Apple Harvest Festival October 1-10, 2010 under Sections 4-01.31A & 15-05 of the Zoning Regulations, 114 Main Street, 50 feet south of the intersection with Columbus Venue in a CB zone.

MS. VOORHEES: My name is Cynthia Voorhees and I live at 35 Windsor Way in Southington.

I am representing the Southington Elks Lodge regarding the appeal to hold our annual Octoberfest to run in conjunction with the Apple Harvest.

We have run this event for many years. We have no major changes for this year. As in years past, the parking area will be secured and used for our members and guests. Our food will be prepared in our kitchen, indoors, and served outside in our food service tent.

Our beer and wine tent outside of the building utilizing a separate table set up for us to sell tickets and beer and wine. The table will be manned to implement a wristband system that requires positive ID for every person showing proof of age.

Tents will be set up on the property with chairs and tables for people to sit and enjoy themselves. We'll have crafters both inside and outside the building.

And, the main building will be surrounded by plastic orange snow fence. We will have people monitoring all the entrances and exits at the front and rear of the property.

THE CHAIR: We have no problems here.

MR. VINCI: We have not, Mr. Chairman. We have a number of conditions that we place on this application normally.

(1) Applicant shall obtain all necessary permits from 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 property during and after the festival.

(4) A certificate of liability insurance in the amount of at least \$2 million should be filed with the Town Manager prior to the start of the festival.

(5) All fire lanes must remain open at all times.

(6) The hours of operation shall be the same hours of operation as the Apple Harvest Festival.

THE CHAIR: All set? Okay.

Have you finished your presentation?

MS. VOORHEES: Yes.

THE CHAIR: Okay, anybody here to speak in favor of the applicant?

(No response)

Anyone here opposing the applicant?

(No response)

If not, this appeal is closed.

I. APPEAL 5805A, application of DRC Properties, LLC to appeal the Cease and Desist Order concerning outside storage and the erection of storage structures without permits & approvals under Section 15-03 of the Zoning Regulations, 1449, 1455 and Parcel 137 on Assessor's Map 031 Meriden Waterbury Road, Milldale, CT property of DRC Properties, LLC in a B zone.

ATTORNEY JENNIFER COPPOLA: Ciulla & Donofrio, LLP. Our address is 137 Washington Avenue in North Haven, CT. 06473

MR. CRISPINO: Dennis Crispino, one of the owners of both of these properties. And, I reside at 658 Wolcott Road in Bristol, Connecticut.

ATTORNEY COPPOLA: As a first order of business, through communications with my client, he has decided to withdraw the appeal of DRC properties. So that is the first appeal that you have down.

DRC will contact staff to file the necessary applications with respect to that property.

So, we are in fact, only proceeding on the Fourteen- 0- Three Group Appeal this evening.

THE CHAIR: Okay.

J. APPEAL 5806A, application of The Fourteen-O-Three Group, LLC to appeal the Cease and Desist Order concerning the outside storage and erection of storage structures without permits & approvals under Section 15-03 of the Zoning Regulations, 1405 aka 1403 Meriden Waterbury Road, Milldale, CT property of The Fourteen-O-Three Group LLC in a B zone.

ATTORNEY COPPOLA: First I just want to address briefly what the cease & desist order consists of and I think that it is important that you hear from Mr. Crispino regarding the nature of Fourteen-O-Three Group's business and also located at the property and also the history of the business.

The cease & desist order states you have violated your approved site plan SPR #630 by constructing more than 12 large accessory buildings without first obtaining the necessary permits and approvals, by increasing the scope of your outside storage area and by having outside storage in excess of 7' in height. In addition, some of the aforementioned activities have encroached into a regulated wetland area.

So, we are essentially dealing with two issues. We are dealing with the issue of the construction of what's alleged to be more than 12 large accessory buildings without necessary permits and approvals and also the second portion of the order concerning the encroachment into the regulated wetland area.

The regulations that are cited in the cease & desist order are the regulations that provide the definition for outside storage which is permitted as an accessory use in a business zone which this business is located in. Section 2B-01.34. Section 4-3 which identifies permitted uses, special permit uses which allows a special exception in a business zone. Section 8-00 which addresses special permit uses. Section 9-00 which addresses site plan review. Section 14-02.1 which contains zoning permit requirements. Then section 14-02.2 which contains building permit requirements.

I just have two exhibits for you if I may just offer those. The first is the approved site plan which was approved by planning & zoning for the property again located at 1405 Meriden Waterbury Road in August of 19 ---

(End of Tape #1, Side A)

And one revised through June 18th of this year.

(Beginning of Tape #1, Side B)

(continuing)-- So if those could just be marked as Exhibits A & B, please.

(Pause)

With respect to the first portion gain of the cease & desist order concerning the construction of the accessory buildings issue. The buildings in question are Quonset huts or hoop houses as they may be called by some folks.

It is the applicant's position with respect to some of these hoop houses and also the storage that exists generally on the property that it was in existence at the time prior to the site plan approval being issued in August of 1985.

And, I would at this point just like to again introduce Mr. Crispino. He is going to provide you with some introductory remarks regarding the nature of the business. And, also the history of the property as it's developed specifically with respect to the Quonset huts and the outside storage.

MR. CRISPINO: Fourteen-0-Three is a partnership between by brother and me and its better known as the operating business of Superior Products. It was established in 1967 at this location. And, we've been in business nearly 43 years.

The nature of our business has not really changed too much over the years. The volume has grown, the business has expanded. But it started in 1967 as a construction materials business. We were providing road and bridge products and it developed into site and sewer products and in 1977 is when we brought in equipment rental business and put the two businesses together.

So the types of materials that we sell have never been attractive. They are not considered sexy. They are lengthy and bulky in size. And, they never really were a type of product that could be properly stored or efficiently stored inside a building.

So we have had outside storage since the beginning. The nature of the business has been consistent. Ad, what we had found is that a lot of our products over a period of time were breaking down either through ultraviolet rays --- some of our plastic pipe products that are more popular today --- over a period of time they breakdown. We sell things like poly (inaudible) products and all these things require some form of cover to product to protect them from both rain, snow, freezing and ultraviolet rays which really do a lot of damage to these products.

So in --- as an extension of our outside storage, we began in the early 80's putting up these temporary structures. And, they were basically intended to do nothing more than just protect the products that we sell.

And, here we are now in 2010 and we have an issue with these structures. Now, I think our purpose for being here and appealing it is trying to understand really how we got to this level at this point

now since these structures have been in place for nearly 25 years - some of them. There are some more recent ones and the most recent one was back in the 2003 area.

So, I'm just here to explain that we've been in business this many years. We employ over 145 people. We're a significant taxpayer in town. We don't consider ourselves rebels. We're certainly far from that. We're kind of low key. And, we provide a service to the entire State of Connecticut to contractors and every construction job site pretty much going on, we're servicing them in one capacity or the other with one type of material.

And, as Jennifer pointed out, we have been made aware with the site plan that we just recently did and we had a soil scientist come out and identify the existing wetlands because there was an issue as to where the wetlands were because it appears as though they are changing over a period of time.

We had them flagged. We had Kratzert, Jones come out and survey the flags, map the flags. We know that was one of the pieces of evidence that shows the new existing site plan and it does show that one of the tents - minimally one of the tents is within the buffer zone. Not in the wetlands, but in the buffer zone.

So we are in the process right now of submitting a separate application for wetlands, as well. To see if we can have that tent stay. We think it's more advantageous to leave it where it is versus dismantling it, but that will be, I guess, a decision of the wetlands. We are addressing that separately.

I think that's it.

THE CHAIR: So, over the years, say from 1980, you'd add a building every now and then?

MR. CRISPINO: We, depending on, you know, the different products that we carry, we realize now we have to cover this and we'd put up another tent.

And, again, we were, our classification of this is that these are expansions of the outdoor storage. I think we recognize now as we are getting familiar with all the regulations that the biggest problem with these structures is that they do exceed the height restriction of our originally permitted outside storage.

THE CHAIR: It looks like the biggest, the size, what is the size generally?

MR. CRISPINO: Some of them are very big. Some of them are 75' long.

And, in some ways we feel --- personally, I feel it's more attractive to look at these tents than to look at the material.

THE CHAIR: Well, you never thought that you'd need a permit or anything? You just -

MR. CRISPINO: No, because it's more of an extension of our already approved outside storage.

THE CHAIR: You do pay taxes and stuff on these.

MR. CRISPINO: I don't know that.

ATTORNEY COPPOLA: That raises sort of ---there are a lot of interesting questions with this.

THE CHAIR: Oh, yah.

ATTORNEY COPPOLA: And, how this thing developed. I did take a look at the property card and there are three separate property cards and I would actually need I think to speak to the Assessor, so I don't want to speak out of turn, but it appears to me that some of these accessory buildings are in fact being taxed based upon again the square -you received, I think you probably marked it as Exhibit B, the revised site plan which is revised through June, based upon the square footage of those buildings. It does appear and also there is a map, an assessment map that is available on line and it appears that some of these structures are in fact being taxed as buildings.

And, they are buildings by the definitions in your regulations. They certainly are. I think the biggest factual issue here and I am going to be very candid with you, is that they have an approved site plan from 1985. At that time there certainly was outside storage on the property. I think you've heard Mr. Crispino's testimony that outside storage has always been since the inception of the business. It has been a necessary part of the business because of the nature of the product that they sell.

I mean, some of the pipes that they sell and I think he confirms this, are 20' long. And, those construction materials, as you might imagine, I mean, some of them are very large.

Now the issue that we have is that we have this approved site plan and if you look at the approved site plan from 1985, there is only one note on it which suggests to me and request has been made through our client from a copy of the letter of decision because they have been unable to locate it from that time period. But there is one notation regarding outside storage. In fact, only one notation on the approved site plan and it is on the right hand side of the site plan, again from 1985, which says: no outside storage nor loading and unloading shall be done outside of exist (period) stockade fence. So not outside storage shall be done outside of existing stockade fence.

It suggests to me that, and again I wasn't around working in the zoning office back in 1985 and I don't know what their procedure was, but I know from working --- because I am primarily a municipal

attorney, I know that when there are conditions of approval, that are listed in the letter of decision, in the nature of restrictions on outside storage and such, when revised plans are submitted and the final plan is approved and signed off on by your ZEO or your Planning & Zoning Chairman, that notations would include all requirements of conditions of approval.

So, again, based upon Mr. Crispino's testimony, there is certainly an argument here that the outside storage use to some extent appears to be a pre-existing nonconforming use because that section that's an issue and it's the first section you have cited, your outside storage definition, in the cease & desist order, was adopted in fact in 1984-85.

That raises another issue. We had made inquiry as to whether or not the town keeps a chart of amendments to the zoning regulations so we can identify exactly when the present language was adopted and what did in fact exist at the time that the plan was approved. And, I guess there is no comprehensive chart that was kept, but my client was advised that it was passed in 1984.

And, again, Mr. Crispino did testify that some of these Quonset huts were in place at the time that the site plan approval was issued.

And, you have, he did, on the second plan that you have, he did mark for you based upon invoices - and this is one that is revised through June of 2010 - he did mark for you with respect to certain Quonset huts when they were acquired and that is based upon invoice reference that he had.

MS. POTTER: How tall are these buildings?

ATTORNEY COPPOLA: How tall are they? I've been out to the site. They vary in height. Some of the newer ones, they look to be probably about 15' high.

MS. POTTER: So over half of -

ATTORNEY COPPOLA: I would estimate that they are about 15' high.

(Pause)

THE CHAIR: Questions for the applicant?

(No response)

Are you all set?

MR. CRISPINO: I'd like to clarify for the record, too, so I don't omit something that in 2002 we did receive a letter from Frank Vinci bringing the structures to our attention. And, at that time what was requested of us is to submit a site plan showing that the

structures are on the property and the location of the structures and we had gone through that process.

What had happened is that when we submitted the site plan, it got kicked to the building department who at that time was Pat DellaVecchia, and he came down to our facility and wanted a lot of data on the structures. And, at that time, this was, you know, 2002, a lot of these things we have had already in place over 20 years and the information, the data that he was looking for, we were unable to obtain.

He was looking for engineering. Load capacities. A lot of stuff that --- these are just hoop tents. And, I think actually even at that time two of the companies that we bought them from had already gone out of business. One company called Trampoline out of Florida and another company, I don't know if it was a marginal business or whatever, but for whatever reason, both of the companies we could not obtain the data.

So we kind of got to a standoff where we couldn't provide the data to Pat to get the information to get these approved as an official building.

The fact of the matter is, it just went away. I mean, we never heard from the town again. Until 2009. That's when we received another letter. Since that time, we had some meetings with the town. We have been diligently working on it. Obviously, not fast enough.

And, we were, you know, the biggest problem was the soil scientist and getting the engineer out to go through another site plan.

But the fear, to be honest with you is, if we go and submit the site plan which is your request, we're going to end up getting on this same path. And, it's a path for failure. Because the data is not available. And, so, that's kind of what happened in 2002. That was the first we heard of problems with the structures.

And, then we heard again in 2009. So, I just wanted to admit that - omit that we weren't notified prior to 2009. It was in 2002.

THE CHAIR: And, this was through the building inspector?

MR. CRISPINO: It actually came from Frank Vinci, the first letter in 2002. They said they needed a site plan. We had Kratzert come out. We paid several thousand dollars to survey the property. And then it went to the building department because they are structures now, building structures, as they deem it. And, that's where it just died. Right there.

We're in like a Catch-22 now. Because again, our definition is an extension of the outside storage. We are calling these temporary

tents. And, obviously, the building department is calling them buildings or structures ---

THE CHAIR: And, that's all that are out there, like a structure. They are not cement blocks and all that stuff?

MR. CRISPINO: There is no masonry.

THE CHAIR: Okay.

MR. CRISPINO: There's no, you know, they're just --

THE CHAIR: Quonset huts. Oversized Quonset huts.

MR. BOHIGIAN: You know, you are calling them temporary. But how long have they been up there?

MR. CRISPINO: Some of them date back into the early 80's. And, we've replaced some tops on them since that time. You know, they wear, the material wears and it is upgraded.

So now we have all uniform white tents out there. I think they're a little more appealing but you know, again, there is no question that they exceed the height restriction that was allowed originally for our outside storage but you know, we're --- again, it's the type of business that we're in that we feel we need this exception so to speak in order to survive.

And, you know, we think we're providing a positive service to the town. We employ quite a few people. We're very giving in the town. A lot of our, you know, customers come from the Town of Southington and I don't know, I guess from a business person's standpoint, I guess the question is why now?

We've done nothing different really to make and effective change. We try to maintain our property. We have two maintenance people full time to pick up garbage and replacing, you know, painting. You know, we are pretty diligent about our facility in the type of environment that we're in. We're in a construction related environment.

THE CHAIR: These are sort of out of sight, is that what you're saying?

MR. CRISPINO: Well, the structures, there are three that are visible from our west side lot. You can see them. There's three.

And, I think they're tidy. And, acceptable. But obviously, they're not within the regulations of the original approved outside storage.

THE CHAIR: So, we have to rectify this.

Okay, Frank?

MR. VINCI: If I might, Mr. Chairman, I'd also like to enter some things into the record.

You have a copy of the site plan, SPR #630, which was approved in 1985. There is two pages to that. Not just one. The second page indicates under notes:

- storage piles not to exceed 7' high.
- Two: 20' buffer to be left alone.
- Three: No storage to occur in the wetland area.
- Four: Wetland limits to be flagged as shown on the plan.

So there is two pages to that.

I would also like to enter into the record a packet that you have, the secretary has it before him and you all have a copy of the packet.

The first item in the packet is my cease & desist order to Fourteen-0-Group, LLC for the property located at 1405 aka 1430 Meriden Waterbury Road. And, we went over that, already. Constructing large accessory structures without permit and exceeding the 7' height requirement for outside storage. Encroachment into the regulated wetland area.

The second cease & desist order was withdrawn. So, we can go right by that.

There was a letter from me back in March, 2010, saying we met with you a year ago. We sat down with you. We formulated a plan. You were going to come in here and give us a site plan and go before the planning & zoning commission to see if we can get this site up to speed as far as the regulations.

The next letter was from - my first letter to them, recent letter to them, February 17, 2009, saying that we've noticed that there has been new buildings added and that there is excess storage going on, so on and so forth.

There is a letter here from the Town Planner regarding some of the meetings we have had and issues.

A letter from David Lavallee, our Assistant Planner and inland wetlands guy.

A memorandum from the building official which indicates that on our field inspection, April 1, 2010, there were a number of accessory structures, numerous he says here, and I counted probably 15 to 20 buildings that were out there. He notes that nearly all the structures were utility storage use without utilities which means

there were a couple, at least a couple that were electrified, so they had some utility.

The next item is from our GIS map which shows 2005, it shows all the buildings and storage and if you compare that to the map that was approved, the site plan that was approved in '85, you won't see those structures there because they weren't there.

This is an existing conditions map. The site plan shows what buildings were there at the time.

The next is another copy from the GIS and I noted on there a couple of the sizes of the buildings. Some of these are up to 4,000 sf. A hundred by 40' wide. So they are large structures that we're talking about.

Here is another picture of some storage. There's a lot of construction equipment. Booms and high equipment that they have there that they need in their business. Again, it exceeds their 7' high threshold.

And, then the last picture in the package shows you a couple of these structures here and gives you an idea of the height. They're large structures.

None of these structures have permits. Were erected without permits.

MS. POTTER: The one thing that bothers me is that you knew the 7' height limit, right? I mean, you've known all that time?

THE CHAIR: Who're you talking to?

MS. POTTER: I'm talking to Mr. Crispino. I mean, he knew it was in 1985 it was a 7' height limit and he still built them?

MR. CRISPINO: Well, I think the outside storage was 7' at the time and I think it is actually 8' now. But, honestly, I don't think that was taken into consideration at that time.

MR. VINCI: If I may continue, I'd also like to enter into the record a copy of the zoning regulations, which I gave the secretary a copy, and one section I'd like to read.

It's Section 14. And, it goes down to Section 14-02.1. Zoning permits. And, it says: no land shall be used and no building or other structure shall be constructed, reconstructed, extended, enlarged substantially altered or used in full or in part for any purpose until a zoning permit for the proposed work or use has been issued by the zoning enforcement officer.

So, you need a zoning permit. But even before you need the zoning permit, you need site plan approval. The planning & zoning commission regulates this type of use.

Again, with respect to this, we have been watching this grow for years. We made attempts to get the applicant in here. Unfortunately, timeframewise it just - it's gone too long.

Again, we met with the applicant. They indicated their willingness to get it up to speed. Get a current a site plan, get it before the commission. But we haven't seen it. We don't have it. Okay?

So we had no choice but to issue the cease & desist order at this point in time.

I don't know if there is anything the Town Planner would like to add.

And, one other thing. Here is a copy of the GIS which is our aerial photography map in 2005. So, it's probably a little different today. You'll see a number of structures.

I went back to 2003 and you'll see a few less larger structures. So, I mean, they're still being added.

I would like to enter this into the record, as well. Again, the purpose of this is not punitive but to get the applicant before the commission so we can straighten this out.

MS. SAVAGE DUNHAM: If I may, I would just add that I believe Mr. Vinci has letters in his office going back to 2000, 2001 covering the same information. So, that - the knowledge of the need for permitting for these structures and for the increase in use was communicated. And, the aerial photos do show structures being put up in 2003, between 2003 and 2005. So, it has continued.

All I would add to the record is just that some of these structures actually have cement foundations poured. So they are not just temporary structures and they may be viewed as temporary structures by the applicant, but these are things that would require building permits and zoning permits. And, certainly to install a 100' by 40' cement foundation is a good amount of work and those are the types of things that just for safety purposes we have regulations and codes in place. You know, the town inspects those things for the safety of the property owners as well as the public. So, I would just add that to the record. And, I have no other comments at this moment.

MR. VINCI: Okay. Just one other thing, Mr. Chairman. The height of the structures is not the issue. We're not saying that the structures exceed 7' in height in outside storage. What's inside there is inside. Those are buildings. Those are storage buildings.

The outside storage we're talking about, items that are on the ground that are piled up higher than 7' high or maybe equipment to that effect.

But the buildings themselves are not outside storage. They are storage buildings.

MS. SAVAGE DUNHAM: If I may just add for the record, town staff has been working with the applicant and I echo that the applicant has stated his willingness to come into compliance. We did meet with the applicant in 2009, in May of 2009 at which point they said, in very short order they would submit a site plan.

We met with them again in March of 2010 and had the same exact conversation at which point they said, we'll submit a site plan in very short order. We did inspect April 1st. There are a number of violations out there, some of them addressed and some of them not.

So, I would just express to the board that you know, the town has been trying to work with the applicant and we just had no other choice but to take this action at this point in time because it's been going on for so long.

THE CHAIR: Okay, thank you.

Do you want to continue?

ATTORNEY COPPOLA: I don't want to engage in a back and forth at all. We don't have a copy of the second page of the site plan, approved site plan from 1985. And, um, Mr. Crispino actually had sent an employee in May of 2009 for a copy of the approved site plan. He was told that it was not available. That's prior to the meeting that was mentioned that occurred in May of last year with staff and also the Town Attorney and someone from our office. And, again an employee of Mr. Crispino's, he was the one who actually went to get a copy of the plan.

That copy of the site plan that I gave you today was actually obtained yesterday from the zoning office and I believe only one page was given. So I would actually like to just take a look at that second page. I did not mean in any way to misrepresent to you what was contained on the approved site plan. Let me just say that. And, that's actually why I brought it up.

But as far as what has been going on, and I think Mr. Crispino will indicate this to you as well, in June of last year after meeting with staff, they did in fact contact an engineer who hired a soil scientist. They waited 6 or 7 months to get a soil scientist report. Until, I think, December or January of this year.

So, it was their understanding that they needed to address this wetland issue, first. I think that's actually indicated in one of the letters from staff from April 23rd, both the Town Planner and also the

Inland Wetlands Officer had said in correspondence dated April 23rd that I think you ZEO has provided you with a copy with. So, you know, they have been trying to move forward on this.

They do have, obviously, a revised site plan. They've been trying to figure out what they need to do as far as the inland wetlands are concerned. Whether or not they want to go the route of trying to apply to relocate the wetlands. And, they needed to get an opinion on that. So, they have been making effort on that end.

I think that Mr. Crispino understands that staff isn't seeing all this, but there has been some movement on that, as well.

And, just as far as the other comments that were made, again, the testimony has been that there was outside storage on that property at the time that the site plan was approved. Furthermore, there has been testimony that some of those Quonset huts were in existence at the time that that site was approved.

And, we do have a pre-existing, nonconforming use and pre-existing conforming buildings argument with respect to those structures.

And, I think that there may be a little bit of a misconception about the height of the structures. Some of them, I think, are - because I have actually been out there, are as high as 15'. But there are older huts that are nowhere near that. So, I don't know if perhaps you want to take site visit. I'm not sure whether or not you do that on these types of applications to just get a sense of what is out there.

You can see the age of some of the huts.

MR. CRISPINO: I just want to add, with regard to the communications with the town, we have been in good faith been in conversation with the town and try and bring this to a conclusion that works for both parties, hopefully.

And, we have a real dilemma with these tents and that is when we met with them in 2009, it was to discuss their concerns and at that point we were trying to put together a master plan that would eliminate all the tents. So we could put up a physical structure.

What we realized is we could not operate our business without a staging area. The building would have to be considerable. We would need to get our contractors in and out every day and where are we going to put our materials.

So, the obvious thing became that possibly this wetlands that overtime became marginal and possibly we could propose moving that to an alternate location so that we could use that part of the yard to stage our product, put up our building, and address all of that.

What was developing is we were discovering what the wetlands consisted of. They're fairly significant. We were told that because of its size, it would have to go to the Army Corp of Engineers. And, we realized that by doing that, it's going to be an expensive process. It's not an easy thing to have happen.

We also recognize that we are on two state highways: Route 10 and Route 322. And, in order to change curb cuts, this is going to be a long process. This is going to be several years to even get to a building proposal.

So the fear was, okay, if we do what the town was originally proposing: go for a site plan, and then we get rejected, then what do we do? In other words, are we out of business? If we can't get these tents approved while we're going through all of this, and we lose at planning & zoning, or run into technicalities of these buildings, or whatever, what do we do with all this material? How do we exist in business without cover on our product?

So this is why in the process of all this, we were right in the midst of all this conversation and then we got the cease & desist order. And, it's like, we're in the middle of all these issues and there was not a phone call, where do you stand? What's the status right now?

Sev Bovino was right in the process of doing a site plan. He had already delivered it, as a matter of fact, to Dave Lavalley, to get his opinion on the wetlands. Then we got the cease & desist.

So, our contention right now is we realize we have a problem. I mean, we're --- we can't go one way or the other. And, but, you know, in order to get these, you know, we figured that the best --- these structures have been in place for over 20-some odd years. And, what was the obligation of the zoning enforcement department to bring this to our attention prior to this period.

And, Frank is showing, you know, that we've been adding tents. We have been adding tents. We are not, we don't, we're not thinking this is a problem. And, until now. It's a problem.

And, so we didn't think we were violating anything by adding tents. We were just in the normal course of business, protecting our product. So we would like to eventually propose a master plan. We also realize that it's not going to happen in a very short timeframe.

So, in the meantime, what do we do? Are we, do we go through the process and potentially risk losing? Do we fight on the merits that you know, there was some obligation on the town's part to enforce your zoning 25, 30 years ago?

I mean, we're kind of in a tough spot right now. I mean, we don't want to be violators. We're honest business people. We're, you know, and uh, but, we're in a dilemma and if there is any guidance

that your committee can offer or a way out of this, we would be willing to listen.

THE CHAIR: Well, I am sure that down the road, you are going to work all this out. You're going to be working it out down the road. That's my feeling. I really believe that.

MR. CRISPINO: But the cease & desist -

THE CHAIR: Yah, I know.

MR. CRISPINO: I mean, do we stop doing business because of these structures that have been in the air for 25 years? I mean, what is our --- which way do we go?

THE CHAIR: We can't tell you what to do.

MR. CRISPINO: Yah, I know that. It's tough.

THE CHAIR: Okay. Any more questions for the applicant?

(No response)

Have you finished our presentation?

Okay.

Anybody here to speak in favor of the applicant?

(No response)

Anyone here to oppose the applicant?

Dean DelGiudice, 124 Norton Street. My basic concern is with the runoff caused by these structures and the additional structures that may be put up in the future.

The equipment and machinery, as well as the hazardous materials that are stored on the site, um, may cause contamination of the wetlands that actually connects with my property.

So, I am concerned basically about the runoff caused by these buildings and any more structures they'll put up.

Thank you.

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

BRIAN STOLLER: I'd like to make a comment. I am opposed, okay?
Brian Stoller, 38 Ledge Road.

I think I can offer some interesting insight on this. I work for EPCO, Eastern Pipe, who used to be their competitor for ten years. The pipe that he's talking about, you can order it from the supplier, wrapped in plastic. We had no structures on the Berlin Turnpike for

our pipe. There are alternatives to the IV damages. It's whether you want to pay for it or not. And, it might be wrapped when it's trucked to you. Okay. We all bought it from the same place. Charlotte in Atlantic States. And, other various companies.

Listening to him, sitting here for an hour listening to this, and, like I say, we didn't have any structures. We covered it with plastic, we covered it with tarps. We also would rotate our inventory so that there would be less and less UV damage.

These are things I think this board should just take into consideration. There are alternatives. Just common sense alternatives other than putting more and more structures. I didn't hear any of them mentioned here.

I also understand Quonset huts that they do require a foundation to erect. You do have to (inaudible) them. You have to put studs in the ground. You have to use, you know, special concrete. Very high psi concrete to secure them.

I just believe listening to their problem that there are alternatives, whether or not they want to pay for their alternatives when they buy, purchase their pipe.

Okay? Like I said, I just wanted to offer my expertise of being at EPCO for ten years.

THE CHAIR: Okay, thank you.

Anybody else opposed to the applicant?

(No response)

Rebut? Would you like to rebut?

MR. CRISPINO: We don't only sell pipe products. We sell concrete accessories and a lot of that is construction tubes, the big sonic tubes, a cardboard tube. There's some (inaudible) products.

The hazardous materials that the other fellow as referring to, these are construction chemicals, form oils, sealants. You know, so some of the stuff has to be protected. We sell poly. It comes in cardboard boxes.

We used to cover a lot of the stuff with Polycarp's and Polycarp's wither and breakdown in less than six months just being exposed to the elements.

So we are not an EPCO. We have a varied product line but there is certainly, if you look at the map, probably 80% of our materials are stored outside the tent. The tents only provide cover for a limited amount of products that only are required to be covered. So

we're not being piggish with the tents. It's only where it's necessary.

THE CHAIR: Okay, thank you.

Anybody else opposed to the applicant?

(No response)

I am going to close this public hearing. But I am going to ask for a table.

MR. KUKLINSKI: I'll make a motion to table.

MS. POTTER: Second.

(Motion passed unanimously on a voice vote.)

K. APPEAL 5807A, application of Michael Forgione & Allison Hobson to vary the rear & rear/side setback to 1' where 10' is required to install a 12' x 12' pre-made storage shed under Sections 2-01AA1 & 15-04 of the Zoning Regulations, 46 Wyndcrest Court in an R-12 zone.

MR. FORGIONE: Hi, my name is Mike Forgione, 46 Wyndcrest Court. This is my fiancée, Allison Hobson of 46 Wyndcrest Court.

We would like to ask for a variance and permission to place a 12 x 12 shed at the rear and side setback, one foot on each side.

The hardship is that we do not have a rear yard, per say. Just a side yard. The rear and the side yard seems to be the most efficient and usable location tucked away between some trees.

I do have pictures here to show you my rear and side yard.

(Passed around)

Basically, we are looking to put a shed on our new property and talking to different people, they thought it would be the best location. So we looked at our lot and our neighbors we talked to and they felt that was the best area for it.

The second batch of pictures shows a little bit more up close to where we would like it.

THE CHAIR: Questions for the applicant?

MR. BOHIGIAN: If I could see the pictures?

MS. POTTER: I'm sorry, what is behind your house?

MR. FORGIONE: There's um, behind my house on Clarke Street, there's a house. There's a lot of area but where it's tucked away it is kind of like in a corner. We have a long fence and then the corner lot and then there is a side yard, a side house on Wyndcrest and then the house on Clarke Street in the front.

MS. POTTER: How would it affect your neighbors?

MR. FORGIONE: Well, I think, we have a wood pile right there. It's stacked up. And, it actually would be sort of like a continuation of the fence. To kind of cordon off that area there.

Kind of creates that barrier with the area where they put the barrier as the wood pile. So that would be like where. And, it was tucked away between two trees where we felt that people on Wyndcrest might it. The shed is going to match the house. Where we would felt it would be, not having the backyard area, it would be the best everybody.

MS. POTTER: Are you planning on putting stuff outside of the shed?

MR. FORGIONE: Nope. Just the shed.

MS. HOBSON: Patio furniture.

THE CHAIR: What we've got here is like a 90% variance here you are looking at here.

MR. FORGIONE: Yah.

(Pause)

MR. BEDARD: I would personally like to be able to get out and take a look at the site given the fact that it is 90%.

If we can table it, if someone would want to second that.

MS. POTTER: I'll second it.

MR. BEDARD: Just take a look at it.

MR. FORGIONE: That'd be great. Yah, obviously, I'd love to show you guys.

I just feel that it was the best location so we thought we'd come tonight and state our case.

MS. HOBSON: Our goal is to preserve as much of the yard for kids to play in. So, yes, please come out.

THE CHAIR: Have you finished your presentation?

MR. FORGIONE: Yes.

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

ELISABETH SPRATTO: 49 Wyndcrest Court. We live directly across the street from them. And, where they want to put it really does seem to be like the most aesthetically pleasing spot. Where it would make sense.

And, on other note, I wanted to hand these in before and I didn't. Can I hand them in now?

(Passed in)

THE CHAIR: Anybody else to speak in favor?

DEMETRIOUS (Inaudible): New England Sheds from New Britain. I actually had a consultation with Mike and Allison. We met there and walked the property. They really do not have a backyard. I am not - I have never delivered any shed that actually never --- you know, there was no other idea. If you have the chance to go there, that is the only idea, they have in that little nook that they have in that corner over there.

I just wanted to throw that out there. He has it lined up where it is not going to harm anything. It's going to do well there for their family.

THE CHAIR: Okay, thank you.

Anybody else to speak in favor of the applicant?

NICHOLAS SPRATTO: 49 Wyndcrest Court. We live across the street. I am in favor of the location that Mr. Forgione proposes.

THE CHAIR: Anybody else to speak in favor?

(No response)

Anybody here opposed?

(No response)

Anybody here to oppose the applicant?

(No response)

If not, this appeal is closed.

MR. BEDARD: I make a motion that we table this appeal tonight.

MS. POTTER: Second.

(End of Tape #1, Side B)

(Motion passed unanimously on a voice vote)

(Beginning of Tape #2, Side A)

6. TABLED PUBLIC HEARING ITEMS

A. APPEAL 5799A, application of Esaul Rodriguez for special exception approval to allow alcoholic beverages to be served on proposed patio at Puerto Vallarta Restaurant under Section 4-03.32A & 15-05 of the Zoning Regulations, 826 Queen Street, property of West Queen Developers, LLC at the intersection with Aircraft Road in a B zone.

MR. VINCI: He wasn't here last time, Mr. Chairman. We called him. And, he said he would be here this evening.

THE CHAIR: We'll give him one more time.

MR. VINCI: I would continue the public hearing.

THE CHAIR: One more time.

MR. BOHIGIAN: Motion to continue the public hearing.

MS. POTTER: Second it.

THE CHAIR: Continue it.

(Motion passed unanimously on a voice vote.)

8:40 pm.

REGULAR MEETING

APPROVAL OF MINUTES - Regular Meeting of July 13, 2010

Mr. Bedard made a motion to approve the Minutes as presented.
Ms. Potter seconded. Motion passed unanimously on a voice vote.

NEW BUSINESS:

A. APPEAL 5797A, application of Nicholas R. Spratt, Jr. to vary the side yard setback to 11.5' where 15' is required for a proposed (existing) 10' x 14' shed under Sections 7A-00 & 15-04 of the Zoning Regulations, 49 Wyndcrest Court, property of Nicholas R & Elisabeth E. Spratto in an R-12 zone.

Mr. Bedard made a motion to approve Appeal #5797A. Ms. Potter seconded.

Ms. Potter said it is a minor variance.

Mr. Bedard pointed out it was an honest mistake. Three and a half feet.

Mr. Bohigian said after reviewing it, he didn't see a problem with it.

Motion passed 5 to 0 on a roll call vote.

One year to exercise permission.

B. APPEAL 5798A, application of Anneliese Dadras for special exception approval to keep a family flock of chickens (12) under Sections 3-01.31B & 15-05 of the Zoning Regulations, 235 Shuttle Meadow Road in an R-80 zone.

Mr. Bedard made a motion for approval of Appeal #5798A. Mr. Bohigian seconded.

Ms. Potter noted it is 12 chickens, no roosters.

Mr. Bedard said it is a very much isolated location at the same time.

Motion passed 5 to 0 on a roll call vote.

C. APPEAL 5799A, application of Denise M Chymbor for a variance to keep four adult dogs where 3 are allowed under Section 2-11K 7 15-04 of the Zoning Regulations, 37 Wedgewood Road, property of Michael Chymbor in an R-40 zone.

Mr. Bedard made a motion to approval of Appeal #5799A. Ms. Potter seconded.

Condition: When the fourth dog dies, it will not be replaced.

Mr. Bedard commented they are four small dogs. It is not an issue where we have somebody breeding or boarding dogs or anything of that nature which is largely what the regs are designed to deter.

Ms. Potter recalled they said they wouldn't replace it.

Motion passed 5 to 0 on a roll call vote.

One year to exercise permission.

D. APPEAL 5800A, application of Marek P. & Urszula Dura to vary the side yard setback to 16' where 30' is required for a proposed 11' x 16' shed under Sections 7A-00 & 15-04 of the Zoning Regulations, 47 Ledge Road in an R-80 zone.

Mr. Bedard made a motion for approval of Appeal #5800A. Ms. Potter seconded.

Ms. Potter said we know where it is right now and it's not right. If they move it over, I don't have a problem with it, personally.

The Chair said they are going to move it. It is going to be moved over.

Mr. Bedard said the house sits well back from the road. The backyard does slope. There is a bit of a hardship from the topography standpoint there because of the slope.

Motion passed 4 to 1 with Mr. Bohigian opposed.

One year to exercise permission.

E. APPEAL 5801A, application of Patricia J. Brown to vary the front yard setback to 17' where 40' is required for a 7' x 13' addition off back of existing house on a corner lot under Sections 7A-00 & 15-04 of

the Zoning Regulations, 146 Raynor Street at the intersection with Eastview Road in an R-12 zone.

Mr. Bedard made a motion for approval of Appeal #5801A. Ms. Potter seconded.

Mr. Bohigian said it sits with the same dimensions of the house.

The Chair pointed out it is nonconforming now.

Mr. Bedard said it is nonconforming with no further encroachment.

Motion passed 5 to 0 on a roll call vote.

One year to exercise permission.

F. APPEAL 5802A, application of Bonnie R. Granger & James A. Rio to vary the front yard setback to 43' where 50' is required for a handicapped ramp & front porch addition under Sections 7A-00 & 15-04 of the Zoning Regulations, 702 Flanders Street in an R-40 zone.

Mr. Bedard made a motion for approval of Appeal #5802A. Mr. Bohigian seconded.

Ms. Potter said she didn't see a problem with it.

Mr. Bohigian said it sits in the same frame as the house. It doesn't extend past the house.

Motion passed 5 to 0 on a roll call vote.

One year to exercise permission.

G. APPEAL 5803A, application of Moes Real Estate Holding LLC for special exception approval to allow applicant to apply to the State of Connecticut for a restaurant liquor license under Sections 4-03.32A & 15-05 of the Zoning Regulations, 750 Queen Street (former Shaw's Plaza) property of Southington/Route 10 Associations LP in a B zone.

Mr. Bedard made a motion to approval of Appeal #5803A with stipulations which were already read into the record. Ms. Potter seconded.

Stipulations:

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

- (2) Service bar only.
- (3) Live entertainment limited to three musicians.
- (4) Any significant change in the floor plan as determined by the zoning enforcement officer shall require a new application.
- (5) Any change in the management/permittee shall require a new application.

Ms. Potter said it is just beer & wine.

Mr. Bedard said he has been to other Moe's locations. I think it's a great concept. I think it's a good addition for that plaza and frankly, for Southington. I think they do a nice job.

Motion passed 5 to 0 on a roll call vote.

H. APPEAL 5804A, application of The SKLE Holding Corp. (Southington Elks Club) for special exception approval to host their annual Octoberfest to run in conjunction with the Apple Harvest Festival October 1-10, 2010 under Sections 4-01.31A & 15-05 of the Zoning Regulations, 114 Main Street, 50 feet south of the intersection with Columbus Venue in a CB zone.

Mr. Bedard made a motion for approval of Appeal #5804A with the stipulations read into the record. Mr. Bohigian seconded.

(1) Applicant shall obtain all necessary permits from 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 property during and after the festival.

(4) A certificate of liability insurance in the amount of at least \$2 million should be filed with the Town Manager prior to the start of the festival.

(5) All fire lanes must remain open at all times.

(6) The hours of operation shall be the same hours of operation as the Apple Harvest Festival.

Mr. Bedard commented there have been no issues historically. This is a pretty popular part of the Apple Harvest Festival. The stipulations are not changing and they do a great job with it.

Motion passed 5 to 0 on a roll call vote.

I. APPEAL 5805A, application of DRC Properties, LLC to appeal the Cease and Desist Order concerning outside storage and the erection of storage structures without permits & approvals under Section 15-03 of the Zoning Regulations, 1449, 1455 and Parcel 137 on Assessor's Map 031 Meriden Waterbury Road, Milldale, CT property of DRC Properties, LLC in a B zone.

WITHDRAWN during the public hearing portion.

J. APPEAL 5806A, application of The Fourteen-O-Three Group, LLC to appeal the Cease and Desist Order concerning the outside storage and erection of storage structures without permits & approvals under Section 15-03 of the Zoning Regulations, 1405 aka 1403 Meriden Waterbury Road, Milldale, CT property of The Fourteen-O-Three Group LLC in a B zone.

TABLED during the public hearing.

K. APPEAL 5807A, application of Michael Forgione & Allison Hobson to vary the rear & rear/side setback to 1' where 10' is required to install a 12' x 12' pre-made storage shed under Sections 2-01AA1 & 15-04 of the Zoning Regulations, 46 Wyndcrest Court in an R-12 zone.

TABLED during the public hearing.

6. TABLED PUBLIC HEARING ITEMS

A. APPEAL 5799A, application of Esaul Rodriguez for special exception approval to allow alcoholic beverages to be served on proposed patio at Puerto Vallarta Restaurant under Section 4-03.32A & 15-05 of the Zoning Regulations, 826 Queen Street, property of West Queen Developers, LLC at the intersection with Aircraft Road in a B zone.

CONTINUED the public hearing.

Miscellaneous / Old Business / New Business

None

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

(Whereupon, the meeting was adjourned at 8:46 o'clock, p.m.)

Joseph LaPorte, Chairman
Zoning Board of Appeals