

TOWN OF SOUTHTON
 ZONING BOARD OF APPEALS
 TUESDAY, SEPTEMBER 13, 2011

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

Jeffrey Gworek, Patricia Potter and Bryan Wysong

Alternates: Juanita Champagne

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

Absent: Ronald Bohigian, Alternate
 Michael Milo, Alternate
 Matthew O'Keefe, Alternate

The Chair seated Juanita Champagne for the vacant Vice Chairman seat. A quorum was determined.

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

ROBERT SALKA, Chairman, presiding:

APPEAL #5868A, Application of Paul Dlugos for a 6.5' front yard setback variance to 33.5' where 40' is required & a 7.5' side yard setback variance to 12.5' where 20' is required under Sections 7A-00 & 15-04 of the Zoning Regulations, 34 Todd Road, property of Timothy E. McGrail & Gale Stiles in an R-20/25 zone.

THE CHAIR: Will the applicant please come to the mike and state your name and address for the record?

Let me just clarify tonight's proceeding if I can break in. We normally do this ahead of time. When your application is called, will the applicant please come forward and state your name and address for the record. Go through what the applicant would like to have done for him. Once that is completed, anyone speaking in favor of that application will come forward and give their name and address. And, speak.

When they're completed, anyone opposing the application again will come forward and state their name and address. The applicant has right of last rebuttal.

And, also, if your application is approved this evening, you will get a formal letter in the mail. Please file the appropriate paperwork with the town departments before starting any work on your application.

Thank you. And, go ahead.

PAUL DLUGOS: Hello. Paul Dlugos. 152 Old Turnpike Road. On the applicant for the two variances regarding Todd Road. I'll be speaking on behalf of Gail and Tim McGrail, the homeowners.

The purpose of these variances is to accommodate a proposed 60' by 30' covered porch to be constructed on the front of the home.

After having this property surveyed, it is evident that it is not in compliance with the current zoning regulations for the R-20/25 zone in which it exists. The existing home sits only 11.5' from the property line and I believe regulations call for 20.

The proposed porch will actually step in 1' from the corner of the house which again leaves us with a requested variance for 7.5 feet on that side yard setback.

Also, the front wall of the existing house sits 39.5' from the road where regulations call for 40'. So, again, to accommodate this porch we're requesting a 6.5' front yard setback variance.

The McGrails have spoken with just about all of their surrounding neighbors and none seem to oppose their plans. In fact, Gail has provided me with these letters of approval from her immediate neighbors including the one who is most affected by the side yard setback.

The McGrails feel that the addition of this proposed porch will be an asset to their home by not only increasing its curb appeal but also providing them with the feature of another usable space.

At this point, I have nothing left to say. I would like to submit the letters of approval. And, also in there is a picture of the porch located to the immediate right of their house which is pretty much identical to what the finished product will look like.

THE CHAIR: Would you like those read into the record?

MR. DLUGOS: If you feel it necessary, sure.

MS. POTTER: There was a picture, I'm sorry. I was looking for the picture.

(Pause)

MR. LIBRANDI: "To Whom It May Concern". I'm sorry, "From the Desk of James E. Dillon and Patricia J. Dillon, 28 Todd Road, Milldale, Connecticut 06467.

To Whom It May Concern: We reside at 28 Todd Road in the Milldale section of Southington on the property which abuts the McGrail's property at 34 Todd Road.

We write this in support of the McGrail's application for granting of a variance/special exception by the Southington Board of Appeals to allow the construction of a porch on the front of their existing dwelling. It is our opinion that the addition of a porch will be a positive thing and will in fact add to the attractiveness of the dwelling as well as the neighborhood in general.

Respectfully, James E. Dillon and Patricia J. Dillon."

This is just entitled: "To Whom It May Concern: We write in support of the McGrail's application for the granting of a variance/special exception by the Southington Board of Appeals to allow the construction of a porch at 34 Todd Road on the front of their existing dwelling. It is our opinion that the addition of a porch will be a positive thing and will in fact add to the attractiveness of the dwelling as well as the neighborhood in general.

Sincerely, 42 Todd Road, John DiNello, Milldale, CT 06467."

ATTORNEY SCIOTA: The same letter is proposed three more times. Just give the names of the person.

MR. LIBRANDI: It's um: Walter J. Hushak, Brenda Anderson and 48 Todd Road, Fran --- what's the last name? Ingriselli.

THE CHAIR: Thank you.

Do you have anything more for your presentation?

MR. DLUGOS: I have nothing more to say.

THE CHAIR: Any comments from the Board?

MR. GWOREK: It's just a covered porch. Not enclosed?

MR. DLUGOS: Correct. Covered porch on piers wood deck.

THE CHAIR: And, it's already a nonconforming structure because of the side yard and the front yard already.

MR. DLUGOS: That's correct. Yes.

THE CHAIR: And, we have a picture of 42 Todd Road. So the porch is similar in design, almost identical.

MR. DLUGOS: Almost identical.

THE CHAIR: Because it's got the offset and everything else.

MR. DLUGOS: Yes.

THE CHAIR: Okay.

Thank you.

MR.DLUGOS: Thank you.

THE CHAIR: Anyone here speaking in favor of this application?

(No response)

Is there anyone opposing this application?

(No response)

Hearing none, this application is closed.

APPEAL #5869A, Application of CT Dept. of Transportation for a 336 sf variance to reduce the lot size to 22,170 sf where 22,500 sf is required under Sections 7A-00 & 15-04 of the Zoning Regulations, 1251 Mount Vernon Road, property of Luis Rodriguez & Zulma Arroyo-Cruz in an R-20/25 zone.

MR. IRELAND: Good evening. My name is Derek Ireland. I represent the Department of Transportation. The address is 2800 Berlin Turnpike in Newington.

This application for a variance has been made in conjunction with State Project 131-198 which is the reconstruction of Mount Vernon Road here in Southington.

The State is proposing to acquire 336 square feet in fee from the property located at 1251 Mount Vernon Road in order to soften the curve in Mount Vernon Road thereby enhancing safety to the traveling public.

The Department is proposing a reduction in lot size from the existing 22,506 square feet to 22,170 square feet in lieu of the 22,500 square feet required in the R-20/25 zone.

The Department of Transportation is requesting the variance of Section 7A-00 to make the property a legal nonconforming lot.

With respect to hardship, the property is located on the inside of a curve on Mount Vernon Road and the proposed acquisition will facilitate the realignment of the road and the softening of the existing curve in Mount Vernon Road.

Under Connecticut General Statute 14-28, the Department of Transportation is required to make an application for a lot size variance whenever a proposed acquisition will result in a lot that does not conform to the area requirements of the existing zoning regulations.

A failure to grant the variance may result in a total acquisition of the subject property thus denying the homeowner the use and occupancy through no fault of their own.

THE CHAIR: Okay. Does the Board have any questions?

(No response)

How, in that location, how wide is Mount Vernon Road? I know they've already completed a portion of Mount Vernon Road and this is really an extension of that. And, we have a number of applications that will talk to that, as well.

How wide is the road at that point? It looks like it's going to 26 - 25 feet, I guess, without my glasses?

MR. IRELAND: Are you talking about the actual right of way or the pavement portion?

THE CHAIR: The pavement portion, to start.

MR. IRELAND: I would have to look at the construction plans. As far as the right of way, the acquisition or the proposed acquisition is trying to get to a 25 foot right of way from the baseline of the proposed road.

THE CHAIR: Okay.

I really don't have any questions other than that one. And, again, the option here is not a very --- not much of an option for the homeowner here. So, um, again, we are not talking a significant variance either way. So, I have no further questions and if there's none from the Board, thank you very much for your presentation.

Is there anyone here speaking in favor of this application?

(No response)

Anyone in favor?

(No response)

Anyone speaking opposing this application?

(No response)

Hearing none, this application is closed.

Thank you.

APPEAL #5870A, Application of Jerzie Joe's Sports Bar & Grill Inc. for special exception approval to allow applicant to apply for a restaurant liquor license under Sections 11-04, 15-05 & 4-01.32A of the Zoning Regulations, 202 Newell Street, property of Marques LLC in an I-2 zone.

MR. MARQUES: Hi, Joe Marques, 202 Newell Street, Southington.

We're trying to change our business from an LLC to an incorporated. We're asking to try to get a new liquor permit and asking for the possibility of outside entertainment.

THE CHAIR: Okay. Do you want to add some more? What kind of entertainment?

MR. MARQUES: We have an area and we're just looking to have the possibility of having bands or DJs.

THE CHAIR: Okay. Questions from the Board?

MS. CHAMPAGNE: You say outside entertainment, do you mean having a band or whatever set up outside?

MR. MARQUES: Correct.

MS. CHAMPAGNE: I just need a clarification on that.

THE CHAIR: Now, this is in an industrial zone.

MR. MARQUES: Yes.

THE CHAIR: And, it's um, I took a look at it through Google Earth and it doesn't look like there is a whole lot around it. Um, right now. Other than, I think, this big industrial complex there.

Okay, go ahead, Trish.

MS. POTTER: I was going to say, how close is your closest neighbor?

MR. MARQUES: Maybe 300 feet, 400 feet. I'm surrounded by Yarde Metal and it's industrial.

(Pause)

THE CHAIR: What do you have now? I mean, is there any --- do you have a liquor permit under the LLC?

MR. MARQUES: Correct.

THE CHAIR: You are switching it over -

MR. MARQUES: To an incorporated.

THE CHAIR: Okay. But you already have a liquor permit there.

MR. MARQUES: Correct.

THE CHAIR: So, you are asking for the outside dining and you are asking for the music outside -

MR. MARQUES: Correct. We are trying to turn it into an incorporated.

THE CHAIR: Okay.

MR. WYSONG: I guess I have a procedural question. Under the LLC, they were granted an appeal-- I'm looking for the date and I don't see it - '07?

ATTORNEY SCIOTA: May 8, '07.

MR. WYSONG: It had a restriction on the music.

MR. MARQUES: There was when I first opened up and applied.

MR. WYSONG: You are now applying, reapplying as a permittee under not the LLC but under an incorporated.

MR. MARQUES: Correct.

MR. WYSONG: Then do we need to consider that the prior permittee had a restriction on the music. Does that necessarily carry over?

ATTORNEY SCIOTA: These run with the land. So what he's asking for is two things: number one, he's changing a permittee and the second thing is he's asking for relief from the restrictions that were put on in '07. You have restrictions in '07 saying that there shall be no music and no amplified outside. This is the patio.

MR. WYSONG: Their restriction is for the land and not in conjunction -

ATTORNEY SCIOTA: Right now he has a liquor permit --- he has a liquor permit right now and he wants to change the permittee. But he is also asking for the patio conditions that you have in the '07 permit - the patio conditions say no outside entertainment. They also say no amplified music or loudspeakers. I assume you are asking for relief from those, too.

MR. MARQUES: Correct.

ATTORNEY SCIOTA: Two. He's asking for the change of permittee and for relief from those, too.

MR. WYSONG: Thank you very much.

ATTORNEY SCIOTA: You're welcome.

THE CHAIR: Well, one of the things, I mean, we typically this Board has not approved any, as far as I know, any outside music or entertainment. Um, this one here is a little bit unique because it is in an industrial zone and not in a business zone where we typically get all of these.

But my concern is that you're not that far away from a lot of housing, homes. Off, you know, on the other side of Newell Street.

And, once we grant it, there is no way for us to monitor the noise level. At least that is what we understand when we talk with the Police Department about it. They really can't --- if we say yes, you can have a live band - there is no way to say well, what decibel level - at which point do we shut it down. We have no way to control that.

MR. MARQUES: Well, I'm sure the town has a decibel level.

THE CHAIR: Well, I am not sure they do. That's -

ATTORNEY SCIOTA: The answer is: no. What we do is we have a Nuisance and a Breach of Peace Ordinance which deal with sound and time. A certain time of night. But we do not have a specific noise ordinance.

THE CHAIR: That has been an ongoing concern that we've had as a Board because once we start, it's not - this Board is not a precedent setting Board which means we could grant a variance here and not to someone else, but we've got to make up in our own mind does this, because it's in an industrial zone, does it override all the ones we've turned down in a business zone asking for exactly the same thing that you are asking for. And, I think that is what the Board needs to decide --- which way they want to go on it.

Because you know, there is development in that area. And, who is to say that there isn't going to be more development in that area. Once you've got it, it stays there forever. It goes with the property and there is no way for us to pull it back and say no, you cannot have it now.

MR. MARQUES: We are totally surrounded by industrial where we are. All around us. Every piece of property, commercial and industrial property.

THE CHAIR: Well, when --- if I look at it, yes, you've got Yarde Metal. Um, but you're right off of Redstone Street, right? And, off of Redstone Street you've got Garden Drive, you've got Brookside Drive.

MR. MARQUES: That is blocked by Yarde Metals' property.

THE CHAIR: Sorry?

MR. MARQUES: That is blocked by Yarde Metals' property.

THE CHAIR: It's blocked by it?

MR. WYSONG: How up to date is your picture here?

THE CHAIR: You've got all of this over in here. Here is the location it is.

MR. WYSONG: Okay, Yarde Metal just built a building here.

THE CHAIR: Right.

MR. WYSONG: That's now a building.

THE CHAIR: Yup.

You've got all of these houses over in here and I think that is what we need to concern ourselves with.

Explain to us --- explain to me --- to the Board what hours of operation you are looking at. You know, so we can really get an idea of what you're talking about.

MR. MARQUES: Like this past weekend, I had a retirement party. Somebody rented out my pavilion and they wanted to have a DJ. I was unable to let them have a DJ because of my stipulations.

Afternoon. Evening. I book the pavilion and rent it out for catering and for parties. Pretty much afternoon, early evening.

THE CHAIR: What about Saturdays and Sundays?

MR. MARQUES: It would mainly be say Thursday, Friday, Saturday and Sunday. It would not be all the time. I would just like to get the capabilities of doing that.

MS. POTTER: How often would you say that you've had functions during the summer months?

MR. MARQUES: How often?

MS. POTTER: Fifteen times a summer?

MR. MARQUES: It depends. Ten, fifteen times.

MS. POTTER: I mean, if they build something in the stipulation like we did at the golf course, of course, you could do it fifteen times instead of having it like a straightforward all the time.

MR. MARQUES: It would not be all the time.

MS. CHAMPAGNE: I take it this isn't year-round. This is an exposed pavilion.

MR. MARQUES: No.

MS. CHAMPAGNE: And, it would be four or five months.

MR. MARQUES: It is something else I can offer somebody that wants to rent the pavilion.

MS. CHAMPAGNE: Do you have entertainment inside now or no?

MR. MARQUES: No. It's basically a sports bar theme inside.

THE CHAIR: Any other questions of the applicant?

MR. GWOREK: What about the option of a stipulation instead of this one, you know, hours of operation, drinking is 11:00 to midnight. Now what is the noise ordinance? Is it 10:00 at night?

ATTORNEY SCIOTA: There is no noise ordinance.

THE CHAIR: That's the problem we have in this town right now. And, again, we've had so many applications, for just that reason, there is no way to control it. So, until we do have a noise ordinance in town -

ATTORNEY SCIOTA: This is an industrial zone and in industrial zones we don't usually have a noise ordinance anyway because factories can operate 24 hours a day in an industrial zone.

MR. MARQUES: Yarde Metals operates 24 hours a day. It runs all day and all night.

THE CHAIR : Okay. Any other questions?

(No response)

Thank you.

Is there anyone here speaking in favor of the application?

(No response)

Is there anyone opposing this application?

(No response)

Anyone opposing?

(No response)

Hearing none, this application is closed.

APPEAL #5871A, Application of Pattison Brothers Construction LLC for a 1 4.5' side yard setback variance to 15.5' where 30' is required under Sections 7A-00 & 15-04 of the Zoning Regulations, 1774 Mount Vernon Road, property of Bell City Rifle Club in an R-80 zone.

MIKE PATTISON: I'm Mike Pattison from Pattison Brothers Construction. I'm here to briefly outline what we're looking to do with Bell City. I live at 363 Winding Ridge in town.

The current building is nonconforming. Its approximate 4.5 feet from the side yard setback. The proposed addition is approximately 16 feet from the rear of the building out the full width 27 feet wide and as it goes further back it pulls away from the side yard setback by a foot or so to 15.4 feet.

This is to accommodate a new and updated bullet trap system to enhance the maintenance and upkeep and more importantly the safety of the range. The current bullet trap system has approximately a 4 foot backstop area and the new updated version are a minimum 11 feet. So we are proposing a 16 foot addition to accommodate the new bullet trap system and possibly storage on the back side. Right now there is a wood frame storage shed that we would have to remove or move back.

This is a concrete block structure with a wood truss roof.

That's all I have.

THE CHAIR: Okay.

MR. PATTISON: As far as the new upgraded bullet trap, it is going to be done in a two phase process. The addition will be done and we're still researching the best possible scenario as far as the bullet trap area.

THE CHAIR: Okay. Is that it?

MR. PATTISON: Yup.

THE CHAIR: Do we have any questions?

MR. LIBRANDI: Where is the shed going to be relocated to?

MR. PATTISON: We would keep it at the back side of the building but it has to be spun around because right now the doors open facing the back of the property. So we'd just have to spin it and still use it as a storage out building.

THE CHAIR: In researching this with the Town Planner and stuff, I was made aware that there is an outstanding -

MR. PATTISON: Health code violation?

THE CHAIR: --- um, some items that need to be taken care of on the range itself.

MR. PATTISON: There was uh --- there was an inspection about four years back that did a swipe inside the range.

THE CHAIR: A swipe meaning? Looking for lead content?

MR. PATTISON: Levels of lead, yup.

THE CHAIR: Okay.

MR. PATTISON: And, they gave us an outline to make some upgrade changes. New tile floor, new ventilation system. HIPPA approved vacuum to clean the range. So, everything is in place now. There is a log kept at the range and it is cleaned every three week.

The only thing they did not do is follow up with a reinspection. So that is booked for Friday at 10:00 am. This Friday.

THE CHAIR: Okay. What I would suggest for this Board is that we would continue this public hearing until the next meeting and by that time you should be able to come back to us and tell us that that's been taken care of. It's been stated approved, et cetera. Does that work for you?

MR. PATTISON: Yup.

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

ATTORNEY SCIOTA: You do want to let people speak if they want to speak.

THE CHAIR: Yes, I'm sorry. Yes. Okay.

All right, is there anyone here speaking in favor of this application?

(No response)

Is there anyone opposing this application?

Please come forward and state your name and address for the record, please.

DOROTHY SZAK: I live at 1913 Mount Vernon Road. I don't, I can't say that I am opposed to this application, but I do have a couple of questions.

On this variance, are they supposed to post the intent in a visible area?

MR. LIBRANDI: Yes.

THE CHAIR: For this meeting, you mean?

MS. SZAK: Yes.

THE CHAIR: Yes.

MS. SZAK: Well, it's not.

MR. PATTISON: It was posted but we lost the sign in a wind storm.

MS. SZAK: No. No. I have a photograph if anybody is interested because I live on that road and the neighbors --- I'm nervous. I've never done this before.

THE CHAIR: Go ahead, it's all right.

MS. SZAK: I'm all in favor of them having the rifle range enclosed. They demolished a building. So, you were talking about noise previously, the noise factor in our area is out of control as far as the shooting. And, if they're not in compliance --- it looks like this is a great variance that they're asking for. It's not a simple couple of feet.

So, I am opposed to any expansion by any rifle range.

Thank you.

THE CHAIR: You're welcome.

Anyone else opposed to this application?

(No response)

Should we just -

MR. LIBRANDI: The issue with the sign, I went out there today also and I couldn't see it.

You can come by the office and get another one for the next meeting.

MR. PATTISON: I had it -the fence is kind of angled toward the gate and I had it at the most visible spot on the fence. I put it right on the chain link and it did blow away.

MR. LIBRANDI: So you can just come by the office tomorrow.

THE CHAIR: We'll continue the public hearing. I would put it up --- get to the office and put it right up because it has to be up there for so many days. And, make it visible from the road.

MR. PATTISON: Okay.

MR. PATTISON: As far as the range goes, um, normal hours of operation start at 10:00 and it is over at dusk. So as far as shooting go one early in the morning or late at night, it doesn't happen.

The indoor range is 22's only. And, that is 24/7. Members can go in there around the clock.

THE CHAIR: And, that is what you are asking for the variance for.

MR. PATTISON: Yes.

THE CHAIR: It's the indoor -

MR. PATTISON: The indoor range, only.

THE CHAIR: Right. And, isn't that --- uh - what I got --- what I took from what you had said - is this a requirement now or -

MR. PATTISON: The new, upgraded bullet trap is more, like I said, more of a safety.

THE CHAIR: Right. Okay.

MR. PATTISON: We have 4 feet of an existing backstop area. There is no updated trap that will fit in that space that we've got. So --- and like I said, its 22, only. It's not center fire.

THE CHAIR: Okay, thank you.

Can I have a motion --- do we just take a motion, Mark, to continue the public hearing?

ATTORNEY SCIOTA: The Chairman can continue the public hearing at his own discretion.

THE CHAIR: Can I have a motion?

MR. WYSONG: I move that we continue Appeal 5871A, application of Pattison Brothers Construction.

THE CHAIR: Okay. Is there a second?

MR. GWOREK: Second that.

THE CHAIR: Can I have a roll call vote on this, Rob, please?

MR. LIBRANDI: Commissioner Champagne: Agree to continue.

THE CHAIR: This is, this is to continue the public hearing.

MS. CHAMPAGNE: Right, yes.

MR. LIBRANDI:	Commissioner Wysong:	Yes
	Commissioner Gworek:	Yes
	Secretary Potter:	Yes
	Chairman Salka:	Yes

Motion passes.

THE CHAIR: Okay. Thank you. The next meeting then we will revisit this again.

Under Continued Public Hearing.

Can we have the next application, please?

APPEAL #5872A, Application of Spice Bar & Grill LLC for special exception approval to allow applicant to apply for a restaurant liquor license under Section 11-04, 15-05 & 4-01.32A of the Zoning Regulations, 16 Eden Avenue, property of RSZ LLC in a CB zone.

RON NEWMAN: Hi, Ron Newman, 299 Barberry Road in East Haven.

I'm just basically going to apply for the same thing that they had there. A restaurant license and different food and minor changes on the inside just for cleanup and a little bit of a face lift.

(Pause)

THE CHAIR: Now, you went through that kind of fast.

MR. NEWMAN: I'm sorry.

THE CHAIR: Go through this again. What is, you are asking for a liquor license?

MR. NEWMAN: Under a restaurant license.

THE CHAIR: There is already one there?

MR. NEWMAN: There was one there, I think.

THE CHAIR: So, you are a new permittee.

MR. NEWMAN: Correct.

THE CHAIR: Okay. And, the layout is going to change significantly or -

MR. NEWMAN: No. Very minor. I just added another entrance to the dining side and adding a hall way going to the restrooms from the dining room.

THE CHAIR: Okay.

MR. LIBRANDI: Is the number of seats staying the same?

MR. NEWMAN: Yes, it is.

MS. CHAMPAGNE: Is it staying the same because the dining area is getting smaller or because I see there is additional seating in the proposed layout based on the existing layout.

MR. NEWMAN: Yah, what I wanted to do was there was a hallway as soon as you walk in and I'm assuming they use it for a pickup window for the pizza place. I just want to eliminate that hallway and add seating to that area which they have booths which I am just changing to bar stool height tables. Basically, the same amount of seats, just a different type of seating.

THE CHAIR: Okay. Questions of the applicant?

MS. POTTER: Bar stays 13?

MR. NEWMAN: Yes.

THE CHAIR: We typically have for our stipulations that we normally put on --- Rob, do you want to run through those stipulations?

(Pause)

MR. LIBRANDI: I'm sorry, Mr. Chairman. Do you have them there?

THE CHAIR: I have them here.

I'll go through them and just read them. Now, you said the number of bar seats --- how many bar seats will you have?

MR. NEWMAN: About a dozen. I think they have 11 there now but a dozen is where it would be comfortable.

THE CHAIR: Okay, so if we had 12 that wouldn't -

MR. NEWMAN: That's fine.

THE CHAIR: The stipulations basically say:

- No exotic dancers, male or female, public or private.
- The number of bar seats shall not exceed 12.

This is a service bar?

MR. NEWMAN: Correct.

THE CHAIR: This is a service bar?

MR. NEWMAN: Yes.

THE CHAIR: Okay. So it is a service bar, only.

No live entertainment or entertainment --- is there any live entertainment with this?

MR. NEWMAN: No, not at the moment. I wasn't sure if it was going to be --- it wouldn't be like a weekly thing but with bands possibly once a month maybe or something small.

THE CHAIR: Like -

ATTORNEY SCIOTA: You said it's a service bar. But it's got 12 seats in front of it.

THE CHAIR: Well, that's what I'm asking. A service bar would be

-

ATTORNEY SCIOTA: A service bar is when the waitress comes up and gets the drinks from the bartender and brings them to the table.

MR. NEWMAN: I'm sorry.

ATTORNEY SCIOTA: This is a full service bar.

MR. NEWMAN: Correct.

THE CHAIR: Okay, so it's a full service bar. That's with the 12 seats.

We need to know from an entertainment standpoint - in the stipulation we either say in the stipulations there will be no entertainment and then if you change that, you have to come back or if there is going to be entertainment, it'll have to be of a limited size. That's what we do.

MR. NEWMAN: All right. I'll have some entertainment of a limited size. That's fine.

THE CHAIR: So, you know, what we normally would say is:

Shall be limited to three um --- what would you call them --- musicians. Okay?

Any significant changes to the floor plan as determined by the Zoning Enforcement Officer shall require a new application.

MR. NEWMAN: Okay.

THE CHAIR : Any changes in the management/permittee shall require a new application.

MR. NEWMAN: Okay.

THE CHAIR: And, there is no outside dining or anything like that.

Okay, so there is no other questions?

Thank you.

MR. NEWMAN: Thank you.

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

(No response)

Is there anyone opposing this application?

(No response)

Seeing none, this application is closed.

Thank you.

APPEAL #5873A, Application of Town of Southington for a 9' front yard setback variance to 31' where 40' is required under Sections 7A-00 & 15-04 of the Zoning Regulations, 1207 Mount Vernon Road, property of Linda M & John J. Pernal in an R-20/25 zone.

ATTORNEY SCIOTA: Mr. Chairman, if I may speak on this particular application. This is the Mount Vernon Road construction that you heard about earlier. The state handles the part where we talk about reducing the lot size and the town handles the part for the variances. In this case it is a front yard variance.

The road is going to be constructed and therefore it is coming toward the house. Therefore, we're looking for a 9.1 foot variance in this particular case.

THE CHAIR: I don't think we have any questions on this application.

Is there anyone speaking in favor of this application?

(No response)

Is there anyone opposing this application?

(No response)

Hearing none, this application is closed.

APPEAL 5874A, Application of Town of Southington for a 1'2" front yard setback variance to 38'10" where 40' is required under Sections 7A-00 & 15-04 of the Zoning Regulations, 1039 Mount Vernon Road, property of Peter & Denise Tabaka in an R-20/25 zone.

ATTORNEY SCIOTA: The same thing, Mr. Chairman, it's the same project.

THE CHAIR: Okay. Again, this one is a minor variance anyway.

Questions?

(No response)

Anyone speaking in favor of this application?

(No response)

Anyone opposing this application?

(No response)

Hearing none, this application is closed.

APPEAL #5875A, Application of Town of Southington for a 32 front yard setback variance to 8' where 40' is required under Sections 7A-00 & 15-04 of the Zoning Regulations, 1286 Mount Vernon Road, property of Elvira & John J. Hackett in an R-20/25 zone.

ATTORNEY SCIOTA: Mr. Chairman, this one is a large variance and it's mainly a large variance because the house is already close to the road. It's really a 4 foot; the road is going to be 4' closer to the house. So that's the --- the full 32, the house is currently nonconforming.

THE CHAIR: Questions?

Is there any ---Mark, on this one, I drive by it, is there any concern on the safety issue being that close to the road?

ATTORNEY SCIOTA: Well, there is always concern and that's what goes into the design of the project. I'm not a designer, but speaking with the engineer both from the state and from the Town of Southington, this would be the best course that the road took and they went through the ramifications and this the one they recommend.

THE CHAIR: Okay.

Is there anyone speaking in favor of this application?

(No response)

Is there anyone opposing this application?

(No response)

Hearing none, this application is closed.

APPEAL #5876A, Application of Town of Southington for a 2' front yard setback variance to 38' where 40' is required under Sections 7A-00 & 15-04 of the Zoning Regulations, 1289 Mount Vernon Road, property of Peter & Gisela Anderson in an R-20/25 zone.

ATTORNEY SCIOTA: Once again, this is a 2' variance for the same reason.

THE CHAIR: Okay. Questions?

(No response)

Is there anyone speaking in favor of this application?

(No response)

Is there anyone opposing this application?

(No response)

Hearing none, this application is closed.

APPEAL #5877A, Application of Town of Southington for a 1' front yard setback variance to 39' where 40' is required under Sections 7A-00 & 15-04 of the Zoning Regulations, 1317 Mount Vernon Road, property of Dana G & Kathleen C. Rickard in an R-20/25 zone.

ATTORNEY SCIOTA: This is Dana Rickard and Kathy Rickard. This is a 1.4 variance and this variance is for the same reason I mentioned before.

While this public hearing is still open, on behalf of the Town of Southington, I'd like to thank all of the property owners for working with me to get these variances and I appreciate the cooperation.

THE CHAIR: Questions?

(No response)

Is there anyone speaking in favor of this application?

(No response)

Is there anyone opposing this application?

(No response)

Hearing none, this application is closed.

APPEAL #5878A, Application of Jamie Chasse for a special exception approval to allow applicant to apply to the State of Connecticut for a limited repairer's license under Sections 5-01,11-03 & 15-05 of the Zoning Regulations, 45 Railroad Avenue, property of RJT Realty LLC in an I-1 zone.

JAMIE CHASSE: Hi, my name is Jamie Chasse. I'm the owner of Explicit Airbrush at 45 Railroad Avenue. I'm here today, just, we're seeking approval for a limited repairers license through the Department of Motor Vehicles.

It just was brought to our attention through the DMV that we need a limited repairer's license for any work that we would do to a car. Taking off a hood or a bumper or any kind of artwork we would do to a vehicle. By their law, you need to require us to have a license to do so. So, we're just seeking approval for that license.

THE CHAIR: Explain to me or to us exactly what it is you intend to do. Now, you do spray painting. You have what, one bay there now?

I know you came before this Board a while ago.

MR. CHASSE: Yah, when I first went to move, the zoning was residential. So we had applied for a variance for us to, you know, do the kind of paintwork we do, but it was restricted to no body work.

THE CHAIR: Right.

MR. CHASSE: The main concern was us getting approved and turning it into a body shop which is not the kind of work we do anyway. It's all custom paintwork. You know, it's kind of a fine line between custom artwork on a car or bike and you know general bodywork, you know, that a collision shop would do.

But you know, it's just basically we had the zoning changed to industrial because it was kind of like we're in an industrial area but you know the -

THE CHAIR: That whole complex is -

MR. CHASSE: Yah, you know, I think it used to be industrial and it got changed to residential. So, we're basically, you know, according to the DMV they're requiring us to apply for a license because if a customer comes in with a - say a Mustang or they want stripes put on the car, for us to do the job, and have it come out nicer, we like to take the hood off. Legally, you need a license to even do that. To remove any parts of the car.

THE CHAIR: Okay.

MR. CHASSE: So, that's the reason we're applying for the license.

ATTORNEY SCIOTA: I've taken hoods off cars before ---

(Laughter)

MR. CHASSE: You can do it at your house, but if you are running a business doing work for a customer, by the book with them, you need to have a license.

THE CHAIR: I guess the --- well, first of all, is there any questions from the Board?

MR. WYSONG: Confirming a question I would have, you're not changing the nature of your current business. You are just complying with a requirement of the State?

MR. CHASSE: Through the DMV, yah.

I mean, I was a little, when we got our variance before it was -- - we do put paint on cars. But our variance was no automobile type painting. That was the variance. I mean, sometimes, I'll, you know, somebody wants work done on their car, we need to put a ground coat down first and then we put the flame or whatever. There is some painting involved. So, that's just, you know, we have it zoned industrial and we're just looking to clarify that up so there is no problems in the future.

THE CHAIR: Okay.

MR. CHASSE: It's kind of anything we do - I say we do work on a car. We say on the car, put artwork on the car, we clear coat it. That was all approved before. Just they didn't want us more or less doing collision type work I guess was the stipulation before.

MR. WYSONG: Um-hum.

MS. POTTER: You are not going to have 10 cars with their hoods up down the road.

MR. CHASSE: Exactly. Everything we do is inside the shop. There is never anything left outside. There is no junk parts. You know.

THE CHAIR: Well, I guess the question we have is once this is approved, um, this approval will go with that, with that shop. Is that correct? If the permittee or the owner changes what is to prevent the new owner to doing bodywork at that location?

ATTORNEY SCIOTA: You are going to have a stipulation on here that is what we wants to do which is simply painting the vehicle.

THE CHAIR: That's what I'm asking. Thank you. Okay, that clarifies it.

I don't want to bind your hands, but I also want to make sure that we are protecting that location if you decide to sell to another and they come in and -

MR. CHASSE: Sure. Somebody just open up a collision shop instead of -

THE CHAIR: Then we've got cars lined up and we've got junk and parts and that is what we don't want.

MR. CHASSE: We do custom paint. So it ranges from on a helmet to you know, motorcycles to a car or you know, what have you.

THE CHAIR: So, the stipulation could be that um, you'll continue as a paint, a custom paint shop but thus us to bring you into compliance with the state regulations for that particular function.

MR. CHASSE: Yes.

THE CHAIR: Okay.

Any other questions?

Thank you.

MR. CHASSE: Thank you.

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

(No response)

Is there anyone opposing this application?

(No response)

Hearing none, this application is closed.

APPEAL #5880A, Application of Jamie Chasse for approval of location for a limited repairer's license under Section 14-54 of the Connecticut General Statutes, 45 Railroad Avenue, property of RJT Realty LLC in an I-1 zone.

MR. LIBRANDI: Mr. Chairman, this was brought to my attention from the --- I refer back to my --- the previous Zoning Enforcement Officer that we do usually do this in terms of automobile repairs. That this has --- the general statutes show that they have the authority of location. That they are approved with the state. That they have location of the property for that use.

ATTORNEY SCIOTA: So this is a separate application for location. The other one was for use and this is for location.

MR. LIBRANDI: I believe so, yes.

(Chuckles)

ATTORNEY SCIOTA: Are there two application fees?

MR. LIBRANDI: No. No.

(Laughter)

THE CHAIR: Whatever we need to do, you know.

MR. LIBRANDI: Just following the old -

THE CHAIR: Right.

(Pause)

So, again, this is to bring you back into compliance or make sure you stay in compliance with the state regulation for the business that you're in.

JAMIE CHASSE: Okay.

THE CHAIR: Any questions on this application?

(No response)

Is there anyone speaking in favor of this application?

(No response)

Is there anyone opposing this application?

(No response)

Hearing none, this application is closed.

7:49 o'clock, p.m.

REGULAR MEETING

Approval of Minutes - Regular Meeting of August 9, 2011

Ms. Potter made a motion to approve the Minutes of the August 9, 2011 meeting. Ms. Champagne seconded. Motion passed unanimously on a voice vote.

NEW BUSINESS:

APPEAL #5868A, Application of Paul Dlugos for a 6.5' front yard setback variance to 33.5' where 40' is required & a 7.5' side yard setback variance to 12.5' where 20' is required under Sections 7A-00 & 15-04 of the Zoning Regulations, 34 Todd Road, property of Timothy E. McGrail & Gale Stiles in an R-20/25 zone.

Ms. Potter made a motion to approve Appeal #5868A, application of Paul Dlugos for a 6.5 front yard setback variance to 33.5' where 40' is required. Mr. Gworek seconded.

Mr. Wysong commented the variance is very much in keeping with the nature of the neighborhood. Certainly it will not detract but will have a positive impact on the curb appeal of this particular house and brings it somewhat in conformance with the nature of the neighbors. Particularly across the street.

Ms. Potter said she didn't see any problems with it.

Motion passed 5 to 0 on a roll call vote.

APPEAL #5869A, Application of CT Dept. of Transportation for a 336 sf variance to reduce the lot size to 22,170 sf where 22,500 sf is required under Sections 7A-00 & 15-04 of the Zoning Regulations, 1251 Mount Vernon Road, property of Luis Rodriguez & Zulma Arroyo-Cruz in an R-20/25 zone.

Ms. Potter made a motion to approve Appeal #5869A, application of Connecticut Department of Transportation for a 335 square foot variance to reduce the lot size to 22,170 square feet where 22,500 square feet is required. Mr. Gworek seconded.

The Chair commented it is a minor variance. That road does need repair badly. We could probably say that for all of those applications.

Motion passed 5 to 0 on a roll call vote.

APPEAL #5870A, Application of Jerzie Joe's Sports Bar & Grill Inc. for special exception approval to allow applicant to apply for a restaurant liquor license under Sections 11-04, 15-05 & 4-01.32A of the Zoning Regulations, 202 Newell Street, property of Marques LLC in an I-2 zone.

Ms. Potter made a motion to approve Appeal #5870A, application of Jerzie Joe's Sports Bar & Grill for a special exception approval to allow the applicant to apply for a restaurant liquor license. Mr. Gworek seconded.

Discussion of the stipulations. Ms. Potter said she was having druthers because she really didn't like the idea of setting up the entertainment outside on a permanent basis. I wouldn't mind 15 times a year like we did with Hawks Landing. To me, I just think to open it up to whenever is just kind of --- but there is no way to judge the 15 times. Who is going to go out there to see if they did it 15 times or 10 times or whatever?

The Chair added that one thing we might do is have you withdraw your motion and we could continue the public hearing and spend a little bit more time thinking about this. It is up to the Board but that is one option.

Ms. Potter noted the houses and trailer park in the area. Also, she was not thrilled about liquor being served out there without knowing if they do it in the bottles or cups. I have so many fixed feelings. I know the way the economy is, I want them to get so they can get so many uses.

Ms. Champagne said it was her understanding he is already using the pavilion and liquor is already being served there. My only comment is that whether it's 15 times a season or one time, if we think it's going to be a nuisance on the 16th time, then why would not that 16th time have been the first time?

Ms. Champagne understood Hawks Landing approval but with that residential area, it is far different from this location.

The Chair said the question is really the entertainment/music because they are serving liquor out there.

Attorney Sciota explained the real meat that is in front of the Board tonight is if you want to allow outside entertainment. And, you do not have to make a decision right now. If you want to think about it, make a motion to table and spend two weeks visiting the area.

The Chair agreed with that suggestion. I think this needs a little more thought because it is really opening up something that we haven't opened up in the past.

Ms. Champagne asked if we could make a motion on the license transfer and then table the second part about the entertainment.

Attorney Sciota said it was one application and you can't bifurcate the application.

Discussion.

Ms. Potter made a motion to table to the next meeting.

Mr. Gworek noted on the existing patio permit it says approval good for one year with renewal annually. Has that happened?

Mr. Librandi stated they don't make them renew it unless there has been issues with the patio.

Mr. Gworek said that would apply to our concern with music and live entertainment, if they have to renew it and there's problems ---

The Chair said it was his understanding if we put a stipulation it has to be renewed annually; they have to come in and renew it annually.

Attorney Sciota said the liquor permit doesn't have to be renewed annually but the stipulation allowing outside entertainment has to be renewed annually.

The Chair liked the idea of a motion to table with review of the stipulations for the next meeting.

Ms. Champagne and Mr. Wysong seconded Ms. Potter's earlier motion to table.

Motion passed unanimously on a voice vote.

APPEAL #5871A, Application of Pattison Brothers Construction LLC for a 14.5' side yard setback variance to 15.5' where 30' is required under Sections 7A-00 & 15-04 of the Zoning Regulations, 1774 Mount Vernon Road, property of Bell City Rifle Club in an R-80 zone.

Public hearing was continued.

APPEAL #5872A, Application of Spice Bar & Grill LLC for special exception approval to allow applicant to apply for a restaurant liquor license under Section 11-04, 15-05 & 4-01.32A of the Zoning Regulations, 16 Eden Avenue, property of RSZ LLC in a CB zone.

Ms. Potter made a motion to approve Appeal #5872A, application of Spice Bar & Grill LLC for special exception approval to allow

application to apply for a restaurant liquor license with the stipulations.

Stipulations:

1. No exotic dancers, male or female, public or private.
2. Number of bar seats shall not exceed 12 seats.
3. Live entertainment shall be limited to three musicians.
4. Any significant change to the floor plan as determined by the zoning enforcement officer shall require a new application.
5. Any changes in management, permittee shall require a new application.

Mr. Gworek seconded.

Ms. Potter noted there are people living in the area, across the street, just the two or three houses and then the one on the other side. Pretty much it is businesses all around.

He did say music on Thursday night. Discussion.

The Chair added it is being limited to inside.

Attorney Sciota commented that in a CB zone, we have residential right above some of our restaurants. I understand you want to be consistent, but when you are talking about residences in a CB zone, we have tones of residences in our CB zones. Be careful and consistent on your stipulations.

Motion passed 5 to 0 on a roll call vote.

APPEAL #5873A, Application of Town of Southington for a 9' front yard setback variance to 31' where 40' is required under Sections 7A-00 & 15-04 of the Zoning Regulations, 1207 Mount Vernon Road, property of Linda M & John J. Pernal in an R-20/25 zone.

Ms. Potter made a motion to approve Appeal 5873A. Attorney Sciota pointed out for the record it is 9.1 and not 9 feet. Mr. Gworek seconded.

Motion passed 5 to 0 on a roll call vote.

APPEAL #5874A, Application of Town of Southington for a 1'2" front yard setback variance to 38'10" where 40' is required under

Sections 7A-00 & 15-04 of the Zoning Regulations, 1039 Mount Vernon Road, property of Peter & Denise Tabaka in an R-20/25 zone.

Ms. Potter made a motion to approve Appeal #5874A. Mr. Gworek seconded.

Minor variance noted the Chair.

Motion passed 5 to 0 on a roll call vote.

APPEAL #5875A, Application of Town of Southington for a 32 front yard setback variance to 8' where 40' is required under Sections 7A-00 & 15-04 of the Zoning Regulations, 1286 Mount Vernon Road, property of Elvira & John J. Hackett in an R-20/25 zone.

Ms. Potter made a motion to approve Appeal #5875A. Mr. Gworek seconded.

The Chair pointed out he is concerned about the closeness of the house to the road. I am not sure there is anything we can do about it. I would ask the designers to consider some kind of option to protect that house. They do drive on that street pretty fast.

Attorney Sciota said on some of these the state is putting in boulders when the house is very close. I don't know if it is this one but I've seen some plans where they do that.

Motion passed 5 to 0 on a roll call vote.

APPEAL #5876A, Application of Town of Southington for a 2' front yard setback variance to 38' where 40' is required under Sections 7A-00 & 15-04 of the Zoning Regulations, 1289 Mount Vernon Road, property of Peter & Gisela Anderson in an R-20/25 zone.

Ms. Potter made a motion to approve Appeal 5876A. Ms. Champagne seconded.

Motion passed 5 to 0 on a roll call vote.

APPEAL #5877A, Application of Town of Southington for a 1' front yard setback variance to 39' where 40' is required under

Sections 7A-00 & 15-04 of the Zoning Regulations, 1317 Mount Vernon Road, property of Dana G & Kathleen C. Rickard in an R-20/25 zone.

Ms. Potter made a motion to approve Appeal 5877A. Ms. Champagne seconded.

Attorney Sciota added for the record it is 1.4 and 1 foot.

Motion passed unanimously on a voice vote.

APPEAL #5879A, Application of Jamie Chasse for a special exception approval to allow applicant to apply to the State of Connecticut for a limited repairer's license under Sections 5-01,11-03 & 15-05 of the Zoning Regulations, 45 Railroad Avenue, property of RJT Realty LLC in an I-1 zone.

Ms.Potter made a motion to approve Appeal #5879A. Mr. Gworek seconded.

Stipulations: Specifically what he requested to do and no bodywork or outside storage of any vehicles.

The Chair noted this brings it into compliance with the state regulations for their business which is custom painting.

Motion passed 5 to 0 on a roll call vote.

APPEAL #5880A, Application of Jamie Chasse for approval of location for a limited repairer's license under Section 14-54 of the Connecticut General Statutes, 45 Railroad Avenue, property of RJT Realty LLC in an I-1 zone.

Ms. Potter made a motion to approve Appeal #5880A with the same stipulations as on the above appeal#5879A. Mr. Gworek seconded.

Motion passed 5 to 0 on a roll call vote.

MISCELLANEOUS/OLD BUSINESS/NEW BUSINESS

Attorney Sciota advised that at the Town Council meeting last night Attorney O'Keefe was moved from an Alternate to a sitting member. He needs to be sworn in so he'll be at your next meeting.

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

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

Robert Salka, Chairman
Zoning Board of Appeals