

MEMBERS PRESENT: Rich Carey, Howard Haberman, Ed Mead, Nanci Seltzer

ALTERNATES PRESENT:

STAFF PRESENT: Linda Stock, Zoning Enforcement Officer; Rose Elliott, Clerk

The meeting was called to order at 7:02 p.m.

Acting Chairman, Howard Haberman, informed the applicants there would only be four Board members at this evening's meeting. He explained that a unanimous decision would be needed for the application to be approved. Chrmn. Haberman gave the applicants the option of going forward this evening or to be heard at next month's meeting. However, the latter would require the applicant to resend the notices to the neighbors at their own expense.

A. CONSIDERATION OF AGENDA ITEMS

1. **78 Carrington Avenue** (Zone R-12.5) Ron D'Aurelio, appellant, for Joseph & Nancy Sticca, owners – request to vary Sec. 4.1.8 existing setback lines from 50' to 47'5" to construct front porch and stairs. CAM required. Map 45, Block 513, Parcel 22.

Ron D'Aurelio, architect, 42 Cherry Street, told the Board his clients are requesting a variance to extend into the front yard setback to build a front porch and stairs. It will be a wrap around porch on a two-story house, only 5' wide. The neighboring houses and the houses on the street are all in line. Even though the front yard setback is 30' and they have 53', they do not meet the uniform front yard setback. The hardship is that all the houses on the street are set so far back from the road beyond what is required.

Chrmn. Haberman confirmed the proposed 5' porch meets the setback for the front yard of 30', but it doesn't meet the setback that has been established by the other houses on the street.

Mr. D'Aurelio said that was correct and added that the neighboring houses are approximately 54' back. If his client's house were back 1' more, they wouldn't require a variance.

Ms. Seltzer asked for clarification of the hardship to which Ms. Stock complied.

Chrmn. Haberman asked if this house would be extending out the furthest on the street with this porch to which Mr. D'Aurelio answered the houses start to vary further away from the property.

There being no one to speak in favor or opposition the hearing was closed.

DISCUSSION:

Mr. Carey didn't see a problem with the application and added it would be hard to tell if a variance was even granted; it's only 7 inches. Mr. Mead noted the front yard setback is met, it is only the way the houses were originally built that creates the need for a variance.

Mr. Carey made a motion to approve with Mr. Mead seconding. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Carey and Haberman voting.

2. **100 Woodmont Road** (Zone LI) Jack Rawlinson, appellant, for L & S Properties, LLC, owner – request to vary Sec. 5.3.5.1(1) minimum sign setback from 15' to 5'; vary Sec. 5.3.5.1(2) maximum sign area from 40 sq. ft. to 60 sq. ft. CAM required. Map 90, Block 809, Parcel 23A/1.

Jack Rawlinson, Archer Sign Services, 316 Boston Post Road, said he is accompanied this evening by Bill Young and Todd Nelson, who are the two partners in the Bath Fitter business and Charles Zubin, the building owner. He submitted photographs to the Board. A variance is being requested to vary the front yard setback and the size of the sign due to the hardship caused by a tree located next door that blocks the visibility of the business. It is a very big tree so even in the winter it would impact the visibility of the sign. The proposed sign would be 8½' from the back edge of the sidewalk and would not be an unusual sign for the area and referenced one photo. The sign at 55-69 Woodmont Road is a 64 sq. ft. sign and located no more than 5' or 6' from the back edge of the sidewalk. The Connecticut Stone sign is 187 sq. ft. and just less than 80' high.

Chrmn. Haberman confirmed he wants to place the sign closer to the road, 5' from the property line and make it larger. The hardship is the blocking of visibility by the neighboring tree. The closer, larger sign will be more visible to people traveling from the thruway to which Mr. Rawlinson said that was correct.

Ms. Seltzer asked if they could split the variance to which Chrmn. Haberman said the Board could do that.

Chrmn. Haberman stated the proposed sign would still be blocked by the tree.

Mr. Rawlinson said that was correct but added by making it somewhat larger will make it somewhat more visible.

Mr. Mead asked if the photo was to scale and if the sign would be lit to which Mr. Rawlinson said it is pretty much to scale and yes, it would be an internally illuminated sign.

Ms. Seltzer asked if he would consider the variance for just the location and not the size?

Mr. Rawlinson said he hoped the Board would consider granting a somewhat larger sign and the front yard setback waiver.

Todd Nelson, 541 North Roast Meat Hill Road, Killingworth, vice president of Connecticut Bath Works said they would like to have the larger sign and located to the front of the property.

Ms. Seltzer asked if he wanted all or nothing to which Mr. Nelson said yes.

FAVOR:

William Young, 355 Isinglass Road, Shelton, clarified the setback is from the property line which is already setback 7' from the inside of the sidewalk.

Charles Zumin, property manager of the building, Penny Lane, Woodbridge, represents the owner and said Mr. Nelson and Mr. Young have made a significant investment in moving their business to this property. Their business is growing in a

weak economy and anything we can do to give them every advantage to succeed would be good for them and the town.

There being no one to speak in opposition the hearing was closed.

DISCUSSION:

Ms. Seltzer said she cannot go along with the size of the sign and since they said it was all or nothing, she is voting no. Mr. Carey said it is not up to the applicant to decide, it is up to the Board. Mr. Mead added he is fine with the sign. Chrmn. Haberman added his only concern is the size of the sign. He didn't know whether the neighbor's tree was necessarily a hardship, although he did understand it posed a problem.

Ms. Seltzer made a motion to split the decision with Mr. Mead seconding. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Carey and Haberman voting.

Ms. Seltzer made a motion to approve the setback of the sign with Mr. Carey seconding. The hardship is the location of the building and the required placement of the sign would not allow it to be visible to its customers. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Carey and Haberman voting.

Ms. Seltzer made a motion to deny the increase of the size of the sign with Mr. Carey seconding. The reason for denial is the 40 sq. ft. permitted by the Regulations is a sufficient size for the sign. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Carey and Haberman voting.

3. **548 Naugatuck Avenue** (Zone CDD-2) Naim Mohamad Daud, appellant, for Naugatuck Junction, LLC, owner – request to vary Sec. 5.5.3 to allow grocery beer sales within 950' of package store where 1,500' is required. Map 18, Block 11, Parcel 20.

Naim Mohamad Daud, 548 Naugatuck Avenue, said he has a small grocery store, about 85 sq. ft. and he would like to allow his new business to grow and also protect it by allowing his customers to purchase beer from the store. His customers have asked him for it and he would like to oblige them.

Chrmn. Haberman confirmed he has a grocery store that he would like to sell beer in but is unable to do so because he is too close to the nearest establishment that sells liquor to which Mr. Daud said that was correct. Chrmn. Haberman asked what the hardship was.

Mr. Daud said his English isn't so good and asked if his friend could speak for him.

Rick Lawless, 1 Mayflower Place, he and his family have been an advocate of Naim and his family for about 3 years; Naim has been in the country about 5 years. The hardship is he is growing his business organically. His customers wanted lotto tickets so he got a lotto machine. They wanted an ATM machine, so he got an ATM machine. They are now asking to purchase beer. He didn't see this as competing with the liquor store down the street. His place is very small and will have one double reach-in cooler

with six packs of beer and single beers. He is sure they will be relatively expensive compared to the liquor store as a convenience for the customers. The hardship is there is a lot of traffic in this little commercial mini-mall where he and a couple of take out restaurants are located and his customers are asking him to sell beer. Naim is a hardworking guy and deserves a chance to grow his business.

There being no one to speak in favor or opposition the hearing was closed.

DISCUSSION:

Mr. Carey said he can appreciate the applicant wants to grow his business and he would like to sell beer but in order for us to grant the variance a hardship has to be shown and there is no hardship. Chrmn. Haberman agreed and reminded the Board that monetary issues cannot be a hardship.

Mr. Carey made a motion to deny with Mr. Mead seconding. The reason for denial is there is no hardship. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Carey and Haberman voting.

4. **349 Wheelers Farms Road** (Zone RA) Max L. Rosenberg, attorney, for Pyramid Shriners, owner – vary Sec. 5.3.4.1 sign area from 9 sq. ft. allowed to 23 sq. ft. Map 96, Block 914, Parcel 25.

Chrmn. Haberman noted for the record, the paperwork that needed to be submitted prior to the meeting, was just submitted to the Board by Attorney Rosenberg.

Attorney Max Rosenberg, for Pyramid Shriners, spoke of what the Shriners represent and said they would like to put up a relatively small sign on their large property to inform the public of the various charitable events occurring. The hardship is it is a loss of a benefit to the public. He submitted drawings of what the proposed sign would look like to the Board. He added there are other smaller properties with much larger signs in the neighborhood.

Mr. Haberman confirmed they wanted a 23 sq. ft. sign where a 9 sq. ft. sign is permitted. The hardship is you are a charitable organization and this is a benefit for the public to which Atty. Rosenberg agreed. Chrmn. Haberman continued that the hardship needs to be with the property itself.

Atty. Rosenberg said the other hardship is there is no identifiable feature for the Shriners that would allow the public to recognize this property as the Pyramid Shriners.

Chrmn. Haberman said you are allowed to have a 9 sq. ft. sign to identify the Shriners.

Atty. Rosenberg said this wouldn't serve the purposes of the charity because a 9 sq. ft. sign wouldn't be visible from the road nor allow them to use replaceable letters, like a church sign advertising a charitable bingo night.

Mr. Mead told the applicant that the map shows the sign to be located on the left side of the building by the transformer, while the photos submitted show it to be located on the right side of the driveway, closer to the neighboring house.

Atty. Rosenberg said the picture shows where the sign maker thought it would best be suited on the property. They would be willing to move it to whatever location the Board

would recommend as long as it is visible from the street and serves the same purpose. However, he would prefer to put the sign where it is shown in the picture. The Board then reviewed the map and picture.

Chrmn. Haberman asked if the Board could proceed with the application. Does the Board have to vote on what was shown on the map or can they change it here to which Ms. Stock answered the variance request is only for the square footage of the sign so it doesn't matter.

Mr. Mead asked if it was going to be lit.

Atty. Rosenberg said he did not know of any lights on the sign although it may be internally lit or have lights in the ground, but he was not sure. The sign is 5'8" high by 6' wide. The hardship is this is a benefit for the public and this would be a benefit to represent the building itself as identification.

OPPOSITION:

Patricia Kelly, 329 Wheelers Farms Road, the adjoining property owner said she hoped the Board would deny any increase in sign area. It is a residentially zoned neighborhood and their building is used for many parties. These parties make her life difficult. They do have benefits for charity but a lot of events involve drinking that go on to the wee hours of the morning. They do put signs out for every event and the building is clearly marked along with the flags that are flying. You can see it very clearly.

REBUTTAL:

Atty. Rosenberg said every function is a charitable function; he wouldn't call them parties. These are mostly little old men who ride around in little red cars with little red hats on their heads. He believed he was the youngest member in the Shrine by about 40 years. He added he would talk to the neighbor to see if there was some way they could help out or be more considerate as a neighbor. He was not aware there was anyone who had any problems with the Shriners.

The hearing was closed.

DISCUSSION:

Ms. Seltzer said she is aware of other events held there as the hall can be rented out. It is not just fundraisers there so she understands the neighbor's concerns. She didn't think 23 sq. ft. was that large. Chrmn. Haberman said the problem is they are located in a residential zone. Mr. Mead asked Ms. Stock when it changes from residential to commercial on the street to which Ms. Stock answered a little further down the road and across the street.

Mr. Carey made a motion to approve with Mr. Mead seconding. The hardship is it is a commercial establishment located in the middle of a residential zone. They need some method of signage and 23 sq. ft. is not excessive. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Carey and Haberman voting.

B. TABLED BUSINESS

1. **90 Heenan Drive** (Zone CBDD) Leo P. Carroll, attorney, for 90 Heenan Drive, LLC, owner – appeal the decision of the City Planner to rescind a Certificate of Zoning Compliance. Map 91, Block 807, Parcel 2.

Ms. Stock informed the Board they are waiting for an opinion from the City Attorney's office and was assured an opinion would be had for the June meeting.

Mr. Carey made a motion to table with Mr. Mead seconding. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Carey and Haberman voting.

TABLED.

C. OLD BUSINESS

1. 10 Silver Street

Ms. Stock told the Board this case has finally come to an end. The Ziebells need to remove the side addition, cut back the deck above the side addition, take the rear deck out along with the hot tub and return the property to the way it was previously. There will be a time limit to complete the work. Mr. Ziebell was in the office on April 14th and he did obtain a permit. He has to remove the first floor exterior 11'x19'x11' walls to leave an open deck. He will construct a 4'x5' mudroom in the front and he will demo the 6'3"x19' portion of the second floor deck, leaving only a 5' deck along the side. He has to take down the 8'x11' rear deck. He will be allowed to construct a 3'x5' rear landing with stairs and put back the 6' lattice on the lower deck. The Ziebells signed the stipulation on April 1, 2009 and a motion is needed to approve this settlement as it stands.

Mr. Mead made a motion to approve the settlement for 10 Silver Street, for the reason that the Ziebells will have to bring the property into compliance with the Zoning Regulations by removing the rear deck and the enclosed portion of the side deck as well as a portion of the 2nd story deck with Mr. Carey seconding. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Carey and Haberman voting.

D. NEW BUSINESS

1. **15 Wildemere Avenue** – Letter received from owners, Mike and Karen Mocciae, with request for an extension of time.

Ms. Stock read the letter of their first request for an extension to the Board.

Mr. Carey made a motion to approve a one year extension with Ms. Seltzer seconding. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Carey and Haberman voting.

2. **264 Broadway** – Letter received from owner, Maureen Barca, with request for a second extension of time.

Ms. Stock read the letter of request for an extension to the Board.

Mr. Carey made a motion to approve a one year extension with Mr. Mead seconding. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Carey and Haberman voting.

4. **81 Milford Point Road** – Request for an extension of time.

Ms. Stock read the letter of their first request for an extension of time into the record.

Mr. Carey made a motion to approve a one year extension with Ms. Seltzer seconding. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Carey and Haberman voting.

5. **460 Gulf Street** – Request for an extension of time.

Ms. Stock read the letter of the third request for an extension of time. This is a new property owner, so it is actually their first request for an extension.

Mr. Carey made a motion to approve a one year extension with Ms. Seltzer seconding. The motion carried unanimously with Ms. Seltzer, Messrs. Mead, Carey and Haberman voting.

E. STAFF UPDATE

Ms. Stock informed the Board that Emmeline Harrigan would be covering for her at the July meeting as she would be on vacation.

F. ACCEPTANCE OF MINUTES FROM APRIL 14, 2009 MEETING.

The minutes were approved unanimously.

G. ACCEPTANCE OF APPLICATIONS FOR JUNE 9, 2009 MEETING.

The meeting was adjourned at 8:17 p.m.

Attest:

Rose M. Elliott
Clerk - ZBA