

MEMBERS PRESENT: Howard Haberman, Fred Katen, Ed Mead, Nanci Seltzer

ALTERNATES PRESENT: David Hulme

STAFF PRESENT: Linda Stock, Zoning Enforcement Officer; Rose Elliott, Clerk; Emmeline Harrigan, Assistant City Planner

The meeting was called to order at 7:00 p.m.

A. CONSIDERATION OF AGENDA ITEMS

1. **35 Wilbar Avenue cor. Walker Street** (Zone R-12.5) Martin & Karen Juliano, owners – request to vary Sec.3.1.4.1 front yard setback from 30' to 26.8' to construct one story addition. CAM required. Map 45, Block 513, Parcel 6.

Martin Juliano, 35 Wilbar Avenue, said they would like to construct a one story addition and a covered porch off the back of the house. They would keep the same line as the existing house. When they applied for a permit, they discovered that the entire Walker Street side of the house was currently non-conforming, sitting at 26.9' where 30' is required. The hardships are the non-conforming house on the pre-existing, non-conforming lot and the fact they have two front yards. Building coverage would increase from the existing 18.3% to 22.8% where 30% is allowed. Lot coverage would increase from 26.54% to 31.2% where 45% is allowed.

Chrmn. Katen asked when the house was built to which Mr. Juliano answered 1941.

Ms. Stock added the 28.8' setback on the plans will include any overhangs.

FAVOR:

Susan Mingione, 40 Wilbar Avenue, stated she is in favor of the proposed addition as it is in keeping with the architectural character of the neighborhood.

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

DISCUSSION:

Chrmn. Katen stated the addition would follow the setback already established. Mr. Haberman added there is enough room for the addition in the rear of the property.

Mr. Haberman made a motion to approve with Ms. Seltzer seconding. The hardships are it is a corner lot and the existing house is already non-conforming. The motion passed unanimously with Ms. Seltzer, Messrs. Hulme, Mead, Haberman and Katen voting.

2. **1080 West River Street** (Zone RA) John L. Grant, appellant, for James Ahrens, owner – request to vary Sec. 3.1.4.1 front yard setback from 30' (granted by variance in 1981) to 23.4' to construct one story addition and porch. Map 114, Block 905, Parcel 7B.

John Grant, JLG Design, 11 Ettadore Park and James Ahrens, 1080 West River Street, are requesting a variance for a one story addition on the front of the house.

They would like to also take an existing deck and change it to a porch. The hardship is the large out-croppings of bedrock on the property. When the house was built in 1981, it was granted a variance to allow it to be built 30' back due to the outcroppings. The addition will stay in line with the porch and will go no farther out than the deck already does. The existing deck is currently half of the width of the house and will be removed and replaced with a porch. The other side is the addition.

Chrmn. Katen confirmed a variance was granted in 1981 and now a second is being requested.

Mr. Grant stated all the information available in the file showed that when the original house was built, it was built into the front yard setback. We are just requesting to allow the front setback to remain as is.

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

DISCUSSION:

Chrmn. Katen stated they are just extending what is already existing and this is the only way they can do it. Mr. Haberman agreed and said it is clear there is a hardship. Mr. Mead said if the house was built at the required setback they wouldn't be here. Ms. Seltzer asked if the porch was going to be enclosed to which Chrmn. Katen said it would be open.

Mr. Haberman made a motion to approve with Mr. Hulme seconding. The hardship is the location of the house on this odd shaped lot. The addition will not extend any further than the porch is now. The motion passed unanimously with Ms. Seltzer, Messrs. Hulme, Haberman, Mead and Katen voting.

3. **18 Lenox Avenue** (Zone CDD-2) Michael D'Angelo, appellant, for Naugatuck Junction, LLC, owner – request to vary Sec. 5.5.4.2 to allow café within 1500 feet of existing facilities serving or selling alcohol. Map 18, Block 11, Parcel 27.

Michael D'Angelo, 19 Hauser Street, said he has a one story, 1,300 sq. ft. building that cannot be expanded. There are other outlets serving alcoholic beverages within 1500 feet of the proposed location. If his building had 2,000 sq. ft., a liquor permit could be obtained as of right. It is bounded on the north by a parking lot for a garage on Bridgeport Avenue, on the east by a shopping center, which is entranced on Naugatuck and to the south by a multi-family residence. The building is located on a parcel of land that does not permit the building to be expanded to comply with the exception to the 1,500 ft. rule. The lot is an undersized lot in a commercial zone. The size of the lot and location of the building restricts the size of the building. If the lot were more typical in size, the building could be expanded to satisfy the size requirements. The granting of the variance would not impair the integrity of the zoning regulations or be detrimental to the public welfare. He spoke of his history in the restaurant business. This restaurant will bring in organic, locally grown seasonal food. He has read the concerns of the neighbors and does not propose a typical restaurant with a consumer bar. They will only have a service bar, no longer than 8' in length, where drinks will be served by wait staff to patrons sitting at tables. Dinner will be served from 4 p.m. to 10 p.m.

Chrmn. Katen confirmed it would only be a service bar for the diners and would close at 10 or 11 p.m. to which Mr. D'Angelo said that was correct.

Mr. Haberman asked if there would be anything outside to which Mr. D'Angelo said there would be no outside seating.

Mr. Mead asked if there would be musical entertainment.

Mr. D'Angelo said nothing has been planned, it is a very small operation. He just wants to have a full service restaurant for dinner.

Mr. Mead confirmed it would be a full liquor restaurant not just wine and beer to which he was told by Mr. D'Angelo he was correct.

Mr. Haberman asked if it were a restaurant now.

Mr. D'Angelo answered it is a luncheonette.

OPPOSITION:

Janet Kasowitz, 19 Lenox Avenue, is opposed to the application because she doesn't want it to open a door. She explained if his business should fail down the road, what would be allowed there. She would not be opposed to a restaurant with those hours where you brought your own bottle of wine, but not a bar. The neighborhood is disruptive enough as it is. People race up and down the street till 2 a.m. in the morning. Patrons going outside to smoke would be directly across from her house.

Debbie Navarette, 23 Lenox Avenue, said if there weren't so many bars in Devon already, she would be in favor. However, within the 1500 foot radius, there are 7 to 9 bars. It is a residential area. There are also children that cross through that lot constantly to and from school, church, the bowling alley. It is not the right spot for a place like this.

Richard Navarette, 23 Lenox Avenue, submitted a petition of opposition to the Board. Part of the parking problem is the spaces around the restaurant are already shared with a body shop and a used car business. Most of the time during the week, the parking lot is filled from the bank and the post office. At night, there are quite a few cars that are left there for repair. On Friday, Saturday and Sunday, the bowling alley has children's parties. On Friday and Saturday nights at 2 a.m., it is unbearable. Drunks walk on the street, on their property, urinating on the houses. He is afraid the serving of food will cease within a month and it will turn into another café just serving liquor.

Victoria Callas, 49 Lenox Avenue, said she has improved her property considerably in the two years she has lived in Milford. The noise there is unbearable and another restaurant/bar is unacceptable.

Vivian Schultz, 29 Lenox Avenue, said another place where alcohol is served is not needed. After the bars close, there are many instances of vandalism and her property has been hit several times. The parking lot is an issue also with people cutting in and out of the lot.

Renaldo Monaco, Jr., 51 Lenox Avenue, said he has had 3 or 4 cars parked in front of his house hit by patrons of the surrounding bars. He is also worried that it may start out as a restaurant serving dinner but may end up as a bar serving liquor a few months down the road.

REBUTTAL:

Mr. D' Angelo said he understands the neighbors' concerns. All he is proposing is a café/restaurant with only a service bar. The nature of the proposed establishment is for a locally grown, organic sustainable restaurant; basically a health food restaurant. Typically the people that this type of restaurant will attract are not people who drink or smoke excessively. He said the amount of noise would be a minimum and the hours he plans on keeping would have the restaurant closing by 11 p.m. He would monitor the situation.

Mr. Haberman asked Ms. Stock if this is granted, is there is anything from preventing this from becoming a full bar in the future to which Ms. Stock answered that would be up to the State for the particular license. She added this is not in a residential area. The people in opposition across the street are in a residential zone. This restaurant is located in a CDD zone.

DISCUSSION:

Chrmn. Katen said he felt it would just acerbate the situation in the area by adding another restaurant. Do we give a variance and make it a more densely populated area? He didn't feel it was keeping with Milford. Ms. Seltzer said this would not benefit the residents nor the businesses of downtown Devon. She didn't feel adding another similar type of business would benefit anyone. She worries that in this tough economic time, that if this business should fail, something else would come in that is less controlled. It would be a difficult lifestyle for these residents of the area as well as the other businesses. Mr. Haberman added he felt it was a great idea for a restaurant but although he doesn't live in that area, as a Board member he has to consider the people who do live there. Ms. Stock commented that Mr. D'Angelo does not own the property. Should the property owner add a couple of hundred square feet to the building, they don't have to come before the Board. It is the size of the building that is in question. The Regulations state that if your structure is 2,000 sq. ft., you don't have to keep with the 1,500' rule. Mr. Mead commented the people in opposition spoke of vandalism after the bars close and added that has been ongoing for years. This gentleman wants to close his business at 11 p.m. His business won't have any effect on the vandalism in the neighborhood. The building is small so it wouldn't be able to accommodate a lot of patrons, maybe two dinner seatings.

Ms. Seltzer made a motion to deny with Mr. Haberman seconding for all the reasons stated. The motion carried 4-1 with Ms. Seltzer, Messrs. Hulme, Haberman, and Katen voting in favor and Mr. Mead against.

4. **14 Holbrook Street cor. Milford Point Road** (Zone R-10) David & Barbara Stach, owners – request to vary Sec. 3.1.4.1 front yard setback from 25' to 9' to construct covered porch and foyer; to 8' to stair and bay window. CAM received. Map 15, Block 242, Parcel 2.

David Stach, 14 Holbrook Street, said they received a variance in 2005 for this application. They were unable at that time to begin construction due to his four daughters going off to college. They are reapplying to have the same application approved again. The hardship is the non-conforming lot.

Mr. Mead asked if everything is the same as the 2005 application to which Mr. Stach answered in the affirmative.

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

DISCUSSION:

Chrmn. Katen stated the application was approved 3 years ago and the applicant hasn't been able to begin construction until now.

Ms. Seltzer made a motion to approve with Mr. Mead seconding for all the reasons stated. The motion carried unanimously with Ms. Seltzer, Messrs. Hulme, Haberman, Mead and Katen voting.

5. **47 Kent Street thru Warfield Street** (Zone R-7.5) George W. Adams, Esquire, attorney, for BAMF Homes Limited, owner – request to vary Sec. 3.1.4.1 lot size from 7,500 square feet to 6,806 square feet. Map 23, Block 343A, Parcel 12 & 12A.

George Adams, 300 Bic Drive, attorney, passed out paperwork to the Board and explained the applicant is looking to decrease the lot area from the present 9,756 sq. ft. to 6,806 sq. ft., where 7,500 sq. ft. is required. The purpose is to have two roughly equal sized lots, one facing Kent Street containing 6,806 sq. ft. and the other facing Warfield Street, containing 5,906 sq. ft. This will be accomplished by taking 2,950 sq. ft. from 47 Kent Street and adding it to 46 Warfield Street, bringing the size of 42 Warfield Street up from 2,950 sq. ft. to 5,906 sq. ft. The same type of variance was granted for the property next door in November of 2007. This variance will allow for a lot line adjustment and be developed in accordance with the rest of neighborhood. It was originally divided in 1912, prior to the Zoning Regulations. The entire neighborhood is developed with lots facing Kent or Warfield Streets, but not both. It would be bring this lot into compliance with the rest of the neighborhood. The hardships are the creation of the merger policy in the Regulations decades after these lots were created, the "L" shaped lot not favored by Subdivision Regulations and by the present lot being a thru lot fronting both front and rear on a public street.

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

DISCUSSION:

Chrmn. Katen confirmed they wanted to take 1 conforming lot and 1 non-conforming lot and create two non-conforming lots to which Atty. Adams agreed.

Chrmn. Katen asked the hardship.

Atty. Adams said the "L" shape of the lot, which is a thru lot and is not the same as anything other lot in the neighborhood.

Ms. Seltzer stated since she was not on the Board in November when a similar application was approved, she asked if the history was the same.

Mr. Haberman explained the history to her.

Atty. Adams added the smaller lot is doubling in size by 2,950 sq. ft. by only giving up 696 sq. ft.

DISCUSSION:

Chrmn. Katen said on the surface it looked like two non-conforming lots that were in character with the rest of the lots in the area but was still creating a non-conforming lot. Ms. Seltzer said it does balance out the smaller lot but she was not comfortable in creating a non-conforming lot. Ms. Stock agreed that they are taking one conforming lot and making two non-conforming lots. She said there is a third option, where they could take a portion of the larger lot and add it to the smaller lot, but still leave the larger lot conforming. It wouldn't create the straight line they were proposing but would create a larger lot size. Ms. Seltzer agreed that would be a better scenario. Chrmn. Katen said it would still be one non-conforming lot and one conforming lot, however, the non-conforming lot would have more square footage. Mr. Haberman said he voted for the similar variance in November of 2007. He is not in favor of creating non-conforming lots but sometimes it just makes sense. This is one of those times because it does create two equal sized lots, without jogs, and would be more conforming with the neighborhood. All the lots in the neighborhood are that size. It is the lesser of two evils. Chrmn. Katen said if we voted to deny without prejudice, they could redo this application and go over with staff to see how they could keep one conforming lot and one non-conforming lot, but make it more palatable for the area.

Ms. Seltzer made a motion to deny without prejudice with Mr. Mead seconding. The opportunity to maintain one conforming lot is an overwhelming desire of this Board. The motion failed to carry 3-2 with Ms. Seltzer, Messrs. Mead and Katen voting in favor and Messrs. Hulme and Haberman voting against.

Mr. Haberman made a motion to approve with Mr. Hulme seconding. The application is in keeping with the neighborhood. We have approved a similar application in the past and it will prevent having that one little lot with one little house on it. Mr. Hulme agreed and said it was sensible zoning. Chrmn. Katen said the third option is a good compromise and still maintains the integrity of one conforming lot and one non-conforming lot. Because we have approved something like it in the past does not set a precedent. Ms. Seltzer said we need to continue to adhere to the Regulations which clearly state you cannot take a conforming lot and a non-conforming lot and make two non-conforming lots. Mr. Haberman said if someone doesn't change their vote, then it will be denied and it will continue to be an "L" shaped lot, which he did not want to happen. Mr. Haberman withdrew his motion to approve and Mr. Hulme withdrew his second.

Ms. Seltzer made a motion to deny without prejudice with Mr. Mead seconding. The motion carried unanimously with Ms. Seltzer, Messrs. Hulme, Mead, Haberman and Katen voting.

6. **55 Smith's Point Road** (Zone R-7.5) Thomas B. Lynch, attorney, for Barry Shapiro and Barbara Blank, owners – request to vary Sec. 5.8.7.3 Sewer Facilities to allow new single family dwelling with septic system where sewer is required. CAM required. Map 3, Block 90, Parcel 14.

Thomas Lynch, 63 Cherry Street, attorney, and **Paul Holub**, Oxford, architect, were representing the owners. The variance is to build a new single family dwelling with a septic system. The Regulations state that if you are in a flood area, you need to be tied in to the City sewers. The current house was built in 1915 at the end of Smith's Point. The owners purchased the home in 2006 and plan to raze the structure and build a new structure consisting of 3,700 sq. ft. There are no sewers in that area. They checked with the Engineer's office and were told the City sewers along Milford Point Road end approximately at the entrance to the Audubon Society site. The existing home is serviced by an antiquated septic system. He explained the proposed plans with the Board. The hardship is the non-availability of City sewers in the area. The plans were reviewed in April by the Health Dept. and there is a permit issued by them. The removal and implementation of a modern engineered system would conform to standards. Should the variance be granted the next step would be to have the plans reviewed by the Planning and Zoning Board for Coastal Area Management Site Plan approval.

Paul Holub, Oxford, explained the existing system is antiquated and explained what the proposed system would be.

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

DISCUSSION:

Mr. Haberman asked if the City planned to extend the system. **Ms. Emmeline Harrigan**, Assistant City Planner, explained she discussed the plan with Engineering and they indicated the public sewer system ends approximately at Francis Street and because of the change of elevation, they would have to angle the pipe so severely that they would need a substation. It was not feasible for the number of homes there.

Ms. Seltzer made a motion to approve with **Mr. Haberman** seconding. The reason for approval is as stated. The motion carried unanimously with **Ms. Seltzer**, **Messrs. Hulme**, **Haberman**, **Mead** and **Katen** voting.

7. **847 East Broadway** (Zone R-7.5) **Kevin J. Curseaden**, attorney, for **William C. & Pamela T. Doolittle**, owners – request to vary Sec. 3.1.4.1 front yard setback from 20' to 16'; side yard setbacks from 10' to 3' (to building) and 2' (to overhang); other side from 5' to 2.12' to building (no overhang); vary Sec. 4.1.5 paved area setback from 4' to 3.59' and 2.47' to construct new 3 story single family dwelling. CAM received. Map 7, Block 475, Parcel 27.

Kevin Curseaden, attorney, said the applicant was denied without prejudice last month and are back this evening with revised plans. The length of the building was reduced by 2' and the overhangs removed. They are requesting a 3' variance for the western side of the property. The current home is placed on an angle on the property. They want to straighten the home on the lot. The current setback is 3.05' on the western side. The existing setback on the eastern side is 1.74'. They are increasing the setback and reducing the non-conformity on the eastern side by a little more than half a foot to 2.12' from 1.74'. They are also increasing the front yard setback from 15.15' to 16', making it more conforming. The hardships are the size and the shape of the lot and a 5' wide passway that is owned by Milford Railway Co. The property also narrows from 30' to

12.55'. They tried to take the Board's comments into consideration. The porch on the beachside is a screened porch not a solid wall. They reduced the length of the structure by 2' to keep it in line with the adjoining property owners' porches. The owners have talked with the neighbors and worked hard to make this project work, to keep it non-intrusive and in character with the neighborhood. One of the concerns at the last meeting was that firemen and emergency personnel would not have access to the beach, but a few lots down, there is a 5'-6' public passway. The house is an old beach house that has been in the family for a couple of generations. It is not worth rehabilitating, they have to take it down. It will be an improvement to the neighborhood and all the building codes will be updated.

Chrmn. Katen stated they seem to have taken heed of the Board's suggestions to which Ms. Stock agreed they paid attention to the Board and tried to adhere to their concerns.

FAVOR:

Bill Doolittle, 847 East Broadway, owner, grew up in Milford and worked hard over the last year trying to consider the immediate neighbors concerns and well as the esthetics of the City. They have been away from Milford for a long time and they are hoping to be able to return. He thanked the Board for their attention and guidance.

OPPOSITION:

Ellen Kelly, 851 East Broadway, said she is surprised at what is happening with the house. She never met or talked to Mr. Doolittle. She met his wife but never talked about the house and the changes. Safety is her only concern. It is a tiny house, very close to the neighboring houses. The passage way is several feet over and if there is a fire, several houses would be in danger. That is her main concern.

Carl Leshavo, 850 East Broadway, said his concerns are the size of the house in relation to the lot. The variance will make the house bigger. His house is directly across the street from this house and will block any views of Long Island Sound. All the new houses in the area are going too high. Safety is an issue as the beach access way is three houses away.

REBUTTAL:

Atty. Curseaden said they are increasing the distance between the houses on the eastern border by more than $\frac{1}{2}$ ' and reducing the setback on the western border by only .05'. The house will be safer when it is built to today's building codes. The height of the proposed house will not be any higher than the neighboring houses and the peak of the existing house is higher than the proposed house. He passed out photos to the Board.

The hearing was closed.

DISCUSSION:

Chrmn. Katen said the applicants listened to the Zoning Enforcement Officer, they made changes and they addressed the Board's concerns.

Mr. Haberman made a motion to approve with Mr. Mead seconding. The hardships are the size and the shape of the lot. Adjustments were made at the request of the Board and he did not see a reason not to approve it. The motion carried 4-1 with Messrs. Hulme, Mead, Haberman and Katen voting in favor and Ms. Seltzer against.

8. **338 Bridgeport Avenue cor. Bilyard Street** (Zone CDD-3) Joseph Codespoti, appellant, for The Miranda Group LLC, owner – request to vary Sec. 5.1.4(8) required parking from 50 to 8 to allow outdoor patio. Map 24, Block 383, Parcel 1.

Joseph Codespoti, 504 Boston Post Road, Orange, said the applicant would like to add a 18'x27' patio facing Bridgeport Avenue. This building was erected in the 1930's, prior to the Zoning Regulations and has always been used as a café in one form or another. They are proposing to add this patio for outdoor use primarily during the summer months. There are more than 8 parking spaces on the property. There are 16 parking spaces, however, some of them cannot be counted because on the west side, the property line goes through the parking spaces. There is also a hair salon on the property that they had to account for. It does sound like a large reduction but this property has always been used for this purpose and the building does predate zoning.

John Miranda, 251 East Main Street, Stratford, owner, stated he has owned this property for 6 years. He has remodeled the property. It has a full menu but they also have catered events and a lot of sporting events. The intent is not to add an abundance of new clientele, but to keep the clientele he currently has. Come April or May when the weather starts to get nice, he loses 25-30 customers who go to the outdoor seating places. He has seating for about 50-60 patrons, he is allowed 88. This would add 15-25 outdoor seats. The kitchen is open to midnight but he could have the patio close at a earlier hour. Primarily it is to allow the patrons to stay in his place of business during the summer months. He said there are 24 parking spaces. There is a 12' right of way in the back that his attorneys are trying to acquire through a Bridgeport Land Trust that no longer exists. There are six parking spaces there that they use. There is an auto body/car sales shop to the left and a transmission shop to the right. He has had a verbal agreement with both owners for the past 6 years for the use of their parking. The auto body/car sales shop, Sandoval Car Sales, can fit from 15-20 cars. He helps plow their lot and they try to do what they can for each other. Brangaccio Brothers Transmissions has about 25 spaces. His busiest day of the year is the Daytona 500. It is their yearly anniversary and they run a large buffet. It is the one day of the year that he reaches 70%-80% capacity. There has never been a parking issue. He owns the home behind this establishment and his employees park there. He is just trying to compete with the other establishments in town with outdoor seating.

Ms. Seltzer said she didn't see the required placard posted to which Mr. Miranda said there was one on the telephone pole in the front and one on the fence.

Chrmn. Katen said he had a problem going from 50 parking spaces to 8 parking spaces.

Ms. Seltzer said she lives in the area and felt the addition of this patio would cause a hardship to the people in the neighborhood. The patrons of this establishment would be intruding further into the neighborhoods looking for places to park.

Mr. Mead asked if the patio were granted, would they be allowed to serve liquor outside to which Ms. Stock answered yes. The patio would have to be fenced in but yes, they could serve liquor.

Mr. Mead asked how the patio would be controlled.

Mr. Miranda said it would be a concrete slab surrounded by lampposts and a 4' wrought iron fence and arborvitae. It would only be taking away 3 parking spaces.

OPPOSED:

Agnes Bedell, 95 Hackett Street, read a petition into the record.

Harold Camacho, 20 Bilyard Street, said the establishment has changed hands many times. Parking has always been a problem. The neighbors have endured patrons parking on their lawns, blocking driveways and parking on the wrong side of the street. Noise has always been a problem too. Mr. Miranda has improved the property considerably but there are still problems. The patio will attract even more people.

Doug Bays, 18 Bilyard Street, agreed with Mr. Camacho when he said Mr. Miranda runs the establishment well. However, the parking does spill over into the neighborhood. Reducing the parking will only add to the problem. In the summertime, the back door is often open and you can hear the noise. By adding an outside patio, it would only increase the noise factor.

Eileen Gerwin, 18 Bilyard Street, said parking is a major concern. She has had to call them many times to ask them to close their doors because the bands are so loud. Because of the parking and the people walking on the neighboring streets, alarms have been tripped and bottles are left. If you ever drive down Bilyard Street on a Friday or Saturday night in the summertime, there is no place to park. With the patio open, the smokers' will go out on the patio and the noise level will become a factor all year round.

Michael Ward, 30 Bilyard Street, said every time the establishment has an event, he has at least 5 cars parked in front of his house.

Lisa Drugo, 30 Bilyard Street, said there is no parking for her own cars. If they have to go out and come home, the street is blocked. When the bar closes, there are after hour parties held on the street, so she has to pick up bottles and garbage the following morning.

Jack Norris, 28 Judson Place, said parking is a problem.

Jason Hess, 25 Hackett Avenue, said the after hours parties last for at least an hour with screaming and yelling and car doors slamming. He takes exception to Mr. Miranda's comment that he hasn't been running at capacity. Last night there was overflow on the street for Monday night football. He asked if there would be live bands allowed on the patio if approved?

Brian Connery, 17 Bilyard Street, commended Mr. Miranda for doing a good job of cleaning up the property. However, he is very concerned about the parking, the noise and the litter. He is opposed to the patio as it will only contribute to all these existing problems.

John Rostick, 14 Cowles Street, said there is no peace in the neighborhood. He gets woken up in the middle of the night. He is opposed to the patio. The neighborhood has had enough.

REBUTTAL:

Mr. Miranda said there would be no live bands on the patio if approved. He thanked the neighbors for their comments and appreciates their concerns. He does stand for a good establishment. He is not looking to be a bad neighbor and he will address the matter of litter and noise on the streets. He has staff meetings all the time and has zero tolerance for drugs at his establishment. Whether the variance is granted or denied, he assured the neighbors he would always try to be a good neighbor.

The hearing was closed.

DISCUSSION:

Chrmn. Katen said the Board's decision will be made only on the variance request to change the parking requirement. It is a credit to Mr. Miranda and his establishment that everyone commented on his improvement of the property. However, the variance application stands strictly on its own. He felt going from 50 parking spaces to 8 spaces is not in keeping with what is right.

Ms. Seltzer made a motion to deny with Mr. Haberman seconding. The reason for denial is the level of parking left would be a hardship to the neighbors not the business. The motion carried unanimously with Ms. Seltzer, Messrs. Hulme, Haberman, Mead and Katen voting.

9. **79 Botsford Avenue cor. Joanne Drive** (Zone R-5) Tom Ivers, appellant, for Barbara Tobin, owner – request to vary Sec. 3.1.4.1 front yard setback from 10' to 8.57' to allow dwelling to remain and to 4.75' to allow bilco doors to remain. CAM received. Map 12, Block 107, Parcel 108.

Tom Ivers, Block Grant Coordinator, Community Development, said Barbara Tobin came to his office seeking help with renovations to her home. She was taken advantage of by a builder and was left with a partially built, substantial addition to her home that is now derelict and has been for over a year. What was originally approved as a renovation had gotten to a scale where it needed to be reclassified as new construction. A survey was done and it was determined that the existing front corner of the home encroaches 18" into the front yard along with the bilco doors that also encroach into the front yard by 3". The bilco doors cannot even be seen from Joanne Drive due to the topography of the site. The hardship is when the house was built in 1920, there was no Joanne Drive so only a 5' setback was required. When Joanne Drive was constructed in the 1970's, it created a second front yard.

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

DISCUSSION:

Chrmn. Katen said the house was built prior to the road.

Ms. Seltzer made a motion to approve with Mr. Mead seconding. The hardship is the fact that Joanne Drive was built after her home was built and Ms. Tobin needs to move on. The motion carried unanimously with Ms. Seltzer, Messrs. Hulme, Mead, Haberman and Katen voting.

B. TABLED BUSINESS

C. OLD BUSINESS

Ms. Stock informed the Board she is still waiting to hear if Silver Street appealed to the Appellate Court.

D. NEW BUSINESS

1.) 31 Maddox Avenue – request for an extension of time.

Ms. Stock explained the applicant has come upon unforeseen circumstances and is requesting an extension of one year.

2.) 6 Swift Street – request for an extension of time.

Ms. Stock explained the applicant is having a difficult time in finding a builder and is requesting an extension of one year.

Chrmn. Katen stated that in light of what is happening with the economy, both items should be approved. Both items were passed unanimously by voice vote.

E. STAFF UPDATE

Ms. Stock introduced Emmeline Harrigan, new Assistant City Planner, to the Board.

F. ACCEPTANCE OF MINUTES FROM SEPTEMBER 9, 2008 MEETING.

The minutes were approved unanimously.

G. ACCEPTANCE OF APPLICATIONS FOR NOVEMBER 12, 2008 MEETING.

The meeting was adjourned at 9:25 p.m.

Attest:

Rose M. Elliott
Clerk - ZBA