

Minutes of Public Hearings of Zoning Board of Appeals December 11, 2007

**MEMBERS PRESENT:** Howard Haberman, Fred Katen, Edward Mead, Joseph Tuozzola, Sr.

**ALTERNATES PRESENT:** David Hulme, KathyLynn Patterson, Ronald Spangler

**STAFF PRESENT:** Peter W. Crabtree, Assistant City Planner; Rose Elliott, Clerk

The meeting was called to order at 7:07 p.m.

**A. CONSIDERATION OF AGENDA ITEMS**

1. **66 Warfield Street** (Zone R-7.5) Zane Spiller, owner - request to vary Sec. 3.1.4.1 side yard setback from 10' to 4' to erect attached garage. Map 23, Block 343A, Parcel 5.

**Zane Spiller**, 66 Warfield Street, is looking for a variance for an attached garage. If he puts the garage in the backyard, he has three times the expense for putting in a driveway and the cost to have it cleaned during the winter, as he has a bad back. When he comes out of his house he would like to go right into the garage.

**Chrmn. Katen** asked if it would be attached to the house to which Mr. Spiller answered he was attaching it to the house with a breezeway. If need be he would attach it directly to the house.

**Mr. Tuozzola** asked if the garage was already there.

**Mr. Spiller** answered the garage is not there.

**Chrmn. Katen** asked what the hardship is.

**Mr. Spiller** said he is getting ready to retire and it would be a great expense to him to construct the driveway to the rear of the property and have it cleaned in the winter.

**Mr. Mead** asked if he is proposing a two-car garage to which Mr. Spiller answered in the affirmative. Mr. Mead said if it was only a one-car garage a variance wouldn't be needed because of the width of the lot.

**Mr. Spiller** agreed.

**Ms. Patterson** asked if a tandem garage could be built.

**Mr. Spiller** answered it would be difficult pulling the cars in and out.

**Mr. Tuozzola** asked how far was it to the neighbor's house on the right.

**Mr. Spiller** answered 19'.

**Mr. Mead** asked how tall it would be to which Mr. Spiller answered there would be no storage above it.

FAVOR:

**Bill Bruce**, 76 Warfield Street, said Mr. Spiller is getting older and both he and his wife drive a car. They have been good neighbors and he needs a garage to keep the cars out of the elements. It would be expensive for him to put the garage in the rear, where there isn't much room anyway. He talked with the other neighbors and they are in favor of it.

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

#### DISCUSSION:

**Chrmn. Katen** said he had not heard a hardship. He understands the reasons but had not heard a hardship. Mr. Tuozzolo thought the garage could be back further but he didn't see a problem with it. Mr. Mead agreed if it was moved to the rear of the property he would need a variance from the house and the shed. The lot is small and that's the hardship.

**Mr. Mead** made a motion to approve with Mr. Tuozzolo seconding. The hardship is the width of the property. He added he drove by it and believes it will fit into the neighborhood. The motion carried 4-1 with Ms. Patterson, Messrs. Mead, Tuozzola, and Haberman in favor and Katen against.

2. **9 Barrow Street cor. Katydid Lane** (Zone R-12.5) Linda M. Vargo & Manuel Souza, owners – request to vary Sec. 3.1.4.1 front yard setback from 30' to 17'; vary Sec. 4.1.1.4 distance between accessory structure and dwelling from 8' required to 2' to erect detached accessory structure. Map 58, Block 713, Parcel 88.

**Linda Vargo and Manuel Souza**, 9 Barrow Street, are looking to put a carport 2' from the house and 18' from the road. They currently have a one car garage. There are three cars in the family. Their daughter is back from college and their son, a marine who just came back home, will be getting a car in the future.

**Chrmn. Katen** asked where the one car garage is now to which Ms. Vargo answered it is a raised ranch and is underneath the house. Chrmn. Katen asked why couldn't the carport be put somewhere else.

**Mr. Souza** said the rear yard is not firm, they have had water problems there for a long time. They have tried to correct the drainage problem but the way the house is situated on the street, whenever a hard rain comes, it just settles there.

**Mr. Haberman** asked about the side yard.

**Ms. Vargo** answered there is no access to the side yard, no driveway. Also, the yard is not firm.

**Chrmn. Katen** asked how long it has been up to which Mr. Souza said it was put up a year ago. A complaint was filed against them and a letter was received from the City. They then applied for a variance. They were taking the structure down to do drainage work around the house and were told to wait until they were done to apply for the variance. He added it would also help in the wintertime to protect the car from snow.

**Mr. Haberman** asked if they were going to widen the driveway.

**Mr. Souza** said the driveway was just done and there is 3' or 4' of yard between the driveway and the carport.

**Mr. Crabtree** added fabric covered structures are treated like permanent structures and all the regulations apply.

**Mr. Mead** asked if the one car garage was being used now to which Ms. Vargo said she is not using the garage now because she has been using it for storage. She normally does park her car there.

**Mr. Tuozzola** asked how many cars they have to which Mr. Souza answered three. Mr. Tuozzola confirmed they were asking for this variance for shelter for this car and the applicant agreed.

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

#### DISCUSSION:

**Chrmn. Katen** stated he saw no hardship. The garage will be placed on grass, they need to travel over grass to get to it and it could be moved to somewhere else on the property without a variance. Mr. Tuozzola said it was a temporary structure and in the past, applications for these types of structures located in the front yard have been denied. Mr. Haberman said he doesn't see a hardship. It would be a convenience but there are other areas on the property it can be placed. If work was done regarding the drainage problems, that should resolve those issues and the structure could be placed elsewhere. Mr. Mead said the way the house is located, this structure would be in the front yard. The existing garage is being used as storage. They can put the storage items in the shed and use the garage for a car. Mr. Spangler said this type of variance has come before the Board many times and he doesn't see a problem with it, although he added he hasn't heard a hardship.

**Mr. Spangler** made a motion to approve with no second.

**Mr. Haberman** made a motion to deny with Mr. Mead seconding. The reason for denial is there was no hardship shown. Mr. Mead added the structure is in the front yard. If they utilize the garage under the house better, and move the structure in the backyard, they can use that for storage. Mr. Tuozzola said the Board has been consistently denying these temporary structures in the front yard. The motion carried 4-1 with Messrs. Mead, Tuozzola, Haberman and Katen voting in favor and Mr. Spangler voting against.

3. **91 Merwin Avenue** (Zone R-7.5) Bruce J. Kerzner, appellant, for Kerzner Family Limited Partnership, owner – request to vary Sec. 3.1.4.1 side yard setback from 10' to 5' to construct attached garage and allow dwelling to remain and 10' to 4' to construct 3 story addition. CAM received. Map 59, Block 795, Parcel 47.

**Bruce Kerzner**, 965 Red Fox Road, Orange, owner, stated he was before the Board last year and was granted approval for this same application. He thought he had until December to pull the permit but was told by the Planning and Zoning office that his variance has expired in August and he would have to reapply. The hardship is the lot is a narrow lot and has been in the family for 60 years. This variance was granted in the past and he asked that it be approved again.

**Mr. Crabtree** said this variance was previously approved. When they looked at the file, they realized the variance had expired. It was too late to ask for an extension, he needed to reapply. Nothing has changed.

**Chrmn. Katen** asked if this is the same application that was approved before to which Mr. Kerzner said that was correct.

**Mr. Tuozzola** asked when the variance was granted and confirmed there were no changes.

**Mr. Kerzner** answered August of 2006 and said the Building Dept. asked him to reduce the height of the roofline from a 12 pitch to a 6 pitch, which he did.

**Mr. Mead** asked why he let the variance lapse.

**Mr. Kerzner** said he thought he had one year from the date it was filed on the land records not the date of the approval.

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

#### DISCUSSION:

**Chrmn. Katen** said this is the same application.

**Mr. Tuozzola** made a motion to approve with Mr. Haberman seconding. The reason for approval is this is just a re-approval as stated. The plans are the same. The motion carried unanimously with Ms. Patterson, Messrs. Mead, Tuozzola, Haberman and Katen voting.

4. **52 Lamplight Lane** (Zone R-5) Scott Savo, appellant, for Louis & Jean Gardino, owners – request to vary Sec. 3.1.4.1 to construct addition with rear yard setback of 17' and deck and stairs with a 14' rear yard setback, where 20' rear yard setback is required for both. Map 54, Block 323, Parcel 33K.

**Scott Savo**, Savo Builders, said he and Jean Gardino, owner, 52 Lamplight Lane, are requesting a variance for an addition and deck. There is currently a rear deck that is 12'x15' which will be removed for a one story addition with storage below, 12'x18'. The owners cannot use both bays of their garage because they use one for storage. Mr. Gardino's mother is sick and may quite possibly be moving in with them in the future, so they would like more living space. The addition will not be going any further out than the existing deck but only 3' to the left of where the deck is now. The 14' rear yard variance is for the stairs.

**Mr. Haberman** asked if there was any consideration given to placing the stairs on the left so a variance would not be needed to which Mr. Savo said they could do that. They had discussed doing that.

**Mr. Tuozzola** asked what was the size of the proposed addition.

**Mr. Savo** said the addition is 18' with a 6' deck. Overall, the structure would be 24' but the addition itself is 18'. It would be one room, 12'x18', with cathedral ceiling. Also the right side wall will have no windows.

**Mr. Mead** said the existing house is already non-conforming in the rear of the property.

**Mr. Savo** said they have the documents to show when the deck was built, no variance was required. He didn't do the work so he doesn't know why. The original deck on the house was only 8', increased to 12'.

**Mr. Haberman** asked what was the hardship to which Mr. Savo answered there is limited storage space so they need to use one bay of the garage for storage. They only have 1,000 sq. ft. of living space and there are 3 bedrooms. If the mother comes to live with them, the space will be even tighter.

**Chrmn. Katen** stated that none of those statements are legal hardships but added the existing setback is about the same.

OPPOSED:

**Bruce McManus**, 58 Lamplight Lane, stated the proposed deck would block the sun from his patio. The deck extension will also overlook his backyard. His quality of life would be affected.

REBUTTAL:

**Ms. Gardino** said the deck is not going to be on Mr. McManus' side of the property. They will never see us. The extension is not going out any further than the deck already does, it is not going to block any sunlight.

The hearing was closed.

DISCUSSION:

**Mr. Mead** said the proposed addition would be going in the same footprint. Doesn't see why it shouldn't be approved. Mr. Crabtree said the deck application in the file, signed by Richard Vaczek, shows the deck with a 16' setback. They are allowed to encroach 4' so it was a proper permit to issue. The Gardino's require a variance for both the deck and the addition. Mr. Tuozzola commented the stairs could be moved to the inside of the property and he felt that would be a better fit. Mr. Haberman added he didn't have an issue with it as long as the deck goes to the left and doesn't extend farther into the setback.

**Mr. Tuozzola** made a motion to approve the application with the condition that the stairs be incorporated to the left side so the setback would be 17.1' for both the deck and the addition with Mr. Haberman seconding. The motion carried unanimously with Messrs. Mead, Tuozzola, Haberman, Spangler and Katen voting.

5. **148 Clark Street cor. West Clark Street** (Zone CDD-1) Richard & Debra Bourt, owners – request to vary Sec. 3.16.4.2(1)(a) front yard setback from 20' to 6' +/- to allow fence enclosure to remain; vary Sec. 4.1.7.2 fence height in front yard from 4' to 53" (see thru fence to remain). Map 53, Block 305, Parcel 1.

**Richard & Debra Bourt**, 148 Clark Street, stated their hardship is the odd-shape of their property, which is triangular in shape. His whole property is one big front yard. Currently there is a 42" picket fence around the property. The proposed 53" fence is a steel see-thru fence that will keep their pets in. The taller fence will better protect the pets and the public.

**Mr. Haberman** asked if they were replacing the existing fence to which Mr. Bourt answered it is an existing pen. There is a fence that is already on the property and a pen inside the fence. It is a penned-in enclosure with pets in it.

**Chrmn. Katen** confirmed the other fence has been there for years.

**Mr. Bourt** said that was correct.

**Chrmn. Katen** asked how long the pen has been up to which Mr. Bourt answered 5 years. Chrmn. Katen then asked why they are before the Board now.

**Mr. Bourt** said there was a formal complaint made to the City about the pet goats. Federal inspectors have already done their inspection to issue an exhibitor's license to enable them to bring the pets to agricultural fairs, which they passed.

**Mr. Crabtree** added if this variance should be approved, they would have to go before the Planning and Zoning Board for a Special Exception.

**Ms. Bourt** said people have gone past the house over the last five years and never knew they had goats there.

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

#### DISCUSSION:

**Mr. Tuozzola** said it hasn't been an issue before so why should it be one now. Chrmn. Katen added it seems whoever complained is not present at the meeting.

**Mr. Tuozzola** made a motion to approve with Mr. Haberman seconding. The reason for approval is the fence has been there for about 5 years and hasn't been an issue before. The motion carried unanimously with Messrs. Mead, Tuozzola, Haberman, Hulme and Katen voting.

6. **20 Falmouth Street** (Zone R-12.5) Thomas Lynch, attorney, for Warren Field, Jr., owner – vary Sec. 3.1.4.1 side yard setback both sides from 10' to 6.5', includes 18" eave projection each side. Map 19, Block 249, Parcel 5.

**Attorney Thomas Lynch**, 63 Cherry Street, said this is a re-hearing of an item that was denied without prejudice in October of this year. The neighbor to the left had voiced an objection to the placement of the house and the Board's intention at that time was to grant this variance as long as the house was moved. The applicant has now split the difference for the setbacks on the left and right sides. The hardship is it is a narrow and deep lot; certified under Sec. 6.4.2 of the Zoning Regulations in June by Linda Stock.

#### FAVOR:

**Diane Niarkus**, 24 Falmouth Street, said she was opposed originally until she was shown the plans for the house and now she is in favor of the application. She feels it would enhance the street and the value of all the homes on Falmouth Street.

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

#### DISCUSSION:

**Chrmn. Katen** said the applicant is back because of the Board's request and they have done everything the Board wanted them to do.

**Mr. Mead** made a motion to approve with Mr. Tuozzola seconding. The builder was willing to split the difference and centered the house on the lot. He thanked the

builder for accommodating the Board. The motion carried unanimously with Messrs. Mead, Tuozzola, Haberman, Spangler and Katen voting.

7. **180 Gulf Street** (Zone R-12.5) Daniel G. Blanchet, owner – vary Sec. 3.1.4.1 to divide 22,966 sq. ft. parcel into 2 lots (A & B). Lot A, vary lot area from 12,500 sq. ft. to 11,841 sq. ft.; Lot B, vary lot area from 12,500 sq. ft. to 11,125 sq. ft. Lots A & B, vary lot width from 80' to 55'+. CAM required. Map 55, Block 510, Parcel 47A.

**Attorney Theodore Schumaker**, 300 Bic Drive, said they are before the Board for a variance to split the lot into 2 lots. He stated the existing lot has 120' frontage and configured in a manner that it flares out in the rear. The proposed division of the property will result in each lot having less than the required width. The hardship is the configuration of the lot and the fact that the neighborhood lots are similarly sized as the two proposed lots. The character of the neighborhood would not be changed.

**Daniel Blanchet**, 172 Gulf Street, passed out paperwork to the Board. He lives at what is known as the Treat House. He purchased it several years ago and refurbished it. It took him two years to refurbish the house where others would have just torn it down. He showed pictures of how his home looks now. He said he does good things in the community. He wants his neighbors to know they play a large part in what he does in the neighborhood. He purchased the property next store and explained the lot is .54 acres and irregular in shape. It is twice the size of properties in the area. To obtain the best and reasonable use of the property, he is requesting to divide the lot into two single family lot parcels. There would be no drainage problems. The homes will meet the required setbacks for an R-12.5 zone. There would be off-street parking, new sidewalks and an additional tax base for the town. This area is a melting pot of different sized lots and structures. His proposed two parcels would not be setting a precedent. The homes would be of colonial design and would fit into the neighborhood. The essence of the regulations have been met. He repeated the hardships and added the highest and best use would be to divide the parcel and build two single family homes.

**Atty. Schumaker** added the configuration of the lot allows for the proposed structures to be pushed back further into the lot if necessary for a width of 60' rather than 55'.

**Mr. Tuozzola** asked if the existing house is able to be remodeled to which Mr. Blanchet said that was his original intention until he began the renovations and came upon severe structural instabilities of the property. He had to make the decision that he would be better off constructing a new structure rather than rehabilitating it.

FAVOR:

**Cynthia Twiss**, 169 Gulf Street, speaking for herself and her husband Harry, said they moved to Milford 6 years ago. Mr. Blanchet has done a wonderful job with his home. He has kept the essence of the Treat House and included the neighbors in his decisions. Some of the neighbors think their property values will diminish. She thinks a multi-family building is what would cause the property values to go down in the neighborhood. She trusts Mr. Blanchet's word and believes him. He lives there

with his family and will have to look at whatever it is he builds there. He is truthful and honest and subdividing the lot will only add to the neighborhood.

**Ewa Zaniewska**, 172 Gulf Street, said her husband is meticulous. The houses will be in character with the neighborhood. The setbacks will be maintained and the community will benefit. The value of the neighborhood will not be decreased.

#### OPPOSED:

**Attorney Steve Studer**, 75 Broad Street, said he is representing Douglas & Joan Harrigan, the owners of the property at 188-194 Gulf Street, the multi-family property abutting the subject property to the south. Their property was built in the 1920's which predates zoning and is a legal, pre-existing, non-conforming use. There is no legal hardship to support this request. He submitted a petition with 23 signatures, from 15 different properties. If approved, the density would double and would constitute an over development of the property. The property was originally owned by the Milford Academy. Four variances are required to split this lot; two to create two undersized lots and two for the lot width. The property is clearly worth more with two lots than one lot. Legal hardships cannot be financially based. It is clearly a business venture for the applicant. There is no hardship. The property is generally rectangular in nature. The fact that you have a larger lot than the neighboring lots, is not a hardship. There are no ledges, wetlands or extreme topography. The City purchased the former Milford Academy property a few years ago, in part to, prevent the over development of the Gulf Street area. This application would do just that and should be denied. One colonial home is keeping more with the neighborhood than two.

**Douglas Harrigan**, said his parents have owned the Gulf Street apartment house, the neighboring property, for over 50 years and are opposed to the application. It is over development and will double the density of the property.

**Maureen Gerardi**, 183 Gulf Street, said the applicant is a gentleman who has meticulously and lovingly put the Treat House back together. He has improved the neighborhood with his home and his neighborly kindness. However, she and her husband are against the application. She worries that a precedent will be set and other homeowners will then come before the Board for the same variance. Mr. Blanchet gave the neighbors a tour of the house and told them the home was structurally sound. Now things have changed, unforeseen problems have arisen. It is an investment. Other neighbors have told her they don't want the variance to be approved but don't want to make an enemy of a great neighbor. She and her husband hope the Board will deny the application.

**John LaVecchia**, 198 Gulf Street, said there is no hardship that would justify the evolution from a single family remodeling project to a two home development project. The applicant is a wonderful and talented man. This has nothing to do with his character, his integrity or his intentions. He feels this will set a significant precedent for builders and homeowners alike.



## REBUTTAL:

**Atty. Schumaker** said his client will take down the existing structure and it seemed to him that the cost of building one structure would be less than building two separate structures. The profit that his client would realize would be less. This would counter Atty. Studer's comments that his motives are solely financial. He is also a neighbor as opposed to an absentee owner of a multi-family structure.

**Mr. Blanchet** thought it an injustice if a petition is passed around and neighbors are coaxed into signing something without knowing the exact facts of the petition. He sent out 14 letters to his neighbors and included his phone number so people could approach him and communicate effectively. He thought he had failed his neighbors in that they didn't feel comfortable in talking with him. In purchasing the property, his intentions were one thing and after discovery, they became another. This is typical in all projects. He stands by his decision to ask for the variance and feels it would enhance the neighborhood and be beneficial to the well being of his family and surrounding families.

The hearing was closed.

## DISCUSSION:

**Mr. Mead** said the owner bought the property to renovate, then after finding structural damage inside, he decided it would cost more to renovate it and decided to come up with a different plan to tear this house down and subdivide the lot, to recoup some of the money he had lost. Financial hardships cannot be used to approve a variance. He has a problem with the lack of frontage. Mr. Tuozzola said while the type of house he proposes to put there would probably be great, the fact remains the frontage is only 55' and is not acceptable. There are many other lots that are twice or three times the size of that lot and if this was approved, down the road the Board would be looking at another variance. Mr. Haberman said he didn't see the shape of the lot as being a hardship. Regardless of the shape, it would still be undersized. The fact that there are other lots there that are undersized doesn't create a hardship either. Although he recognizes it is a big piece of property, the intent of the City was to keep the area from being overdeveloped when it was zoned R-12.5. Mr. Spangler said the Board heard a lot about what a great guy Mr. Blanchet is but not a lot about a hardship. This Board is about hardships. Gulf Street is a high profile area and decreasing the frontage would not be doing justice to the neighborhood.

**Mr. Spangler** made a motion to deny with Mr. Haberman seconding. The reason for denial is there was no hardship found. The motion carried unanimously with Messrs. Mead, Tuozzola, Haberman, Spangler and Katen voting.

8. **10 Point Beach Drive** (Zone R-5) John Grant, appellant, for Dr. Brete Moran, owner – vary Sec. 4.1.4 front setback from 8' to 5' to allow 2<sup>nd</sup> floor deck projection. CAM received. Map 30, Block 637, Parcel 2.

Mr. Tuozzola recused himself.

**John Grant**, 11 Ettadore Park, representing Dr. Moran, said they are asking for a variance to construct a 6'x18' 2<sup>nd</sup> story deck above an existing 1<sup>st</sup> floor deck, also 6'x18'. The hardship is the lot is non-conforming in width and area. The house is also located close to the front property line making any front projection require a variance. The first floor deck is already at 5' so this 2<sup>nd</sup> floor deck would not be projecting out any further.

**Jim Denno**, project designer, 93 Sunnyside Court, said the first floor deck is already existing and the proposed deck will go above it.

**Mr. Haberman** stated there would be no access from the proposed deck to the ground to which Mr. Denno answered that was correct.

**Mr. Haberman** asked what the hardship was.

**Mr. Grant** answered the lot is non-conforming in width and area. The house is built close to the front setback line which makes anything added to the front of the house require a variance.

**Mr. Crabtree** stated the 2<sup>nd</sup> floor deck is not in a flood zone.

**Mr. Haberman** asked if there are similar 2<sup>nd</sup> floor decks located in the area.

**Mr. Denno** said there is a deck on a rooftop a few houses down and there's one or two down the other end of Point Beach Drive.

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

#### DISCUSSION:

**Mr. Haberman** said this is not a precedent setting item. It is a convenience but there is a hardship for anything you put on the front of the house because of the way the house is situated on the lot. It is not out of character with the neighborhood. Mr. Mead said this is better than putting the deck on the roof.

**Mr. Haberman** made a motion to approve with Mr. Mead seconding. The hardship is the location of the house on the lot. The motion carried unanimously with Ms. Patterson, Messrs. Mead, Hulme, Haberman and Katen voting.

#### B. TABLED BUSINESS

1. **35 East Avenue** – (Zone R-7.5) Frank Mingrone, owner – vary Sec. 3.1.4.1 side yard setback from 4' to 1' to allow accessory structure to remain. CAM received. Map 38, Block 558, Parcel 90A.

**Frank Mingrone**, 35 East Avenue, said the variance is for a side yard setback from 4' to 1' to allow his utility shed to remain. His hardship doesn't meet the criteria for a hardship but his lack of storage is a hardship to him.

**Chrmn. Katen** asked him what has happened since the hearing last month when this item was tabled.

**Mr. Mingrone** said he spoke with Mr. Crabtree and had a couple of lawyers look at the deck. The deck that was in question is no longer there. It was cut back, by the previous owners, to where it was supposed to have been cut. He knew nothing about it when he bought the house. He apologized for his outburst last month.

**Mr. Crabtree** said when an applicant comes into the office and they don't have a plot plan, in an attempt to help them out, the office will refer to an earlier plot plan from the file. There was a plot plan (with the expanded deck) in the file, and that is the plan that was given to Mr. Mingrone to use. He didn't know about the lawsuit and Mr. Mingrone didn't pick up on the fact that the deck wasn't that big. He did do an inspection and the deck was cut back. The issue regarding the deck is resolved.

**Mr. Mingrone** said he is responsible for putting the accessory structure up.

**Mr. Haberman** asked if the marshland is next to the shed to which Mr. Mingrone answered the shed is 6' to 8' away. His neighbor's deck, which is right up to the property line is next to the shed.

**Mr. Mead** said when he drove by the property, there didn't appear to be anywhere else to put the shed. He asked what was the size of the shed.

**Mr. Mingrone** answered 8'x10'.

#### OPPOSED:

**John Hughes**, 39 East Avenue, presented photos of the shed to the Board. He is opposed to the request because the shed is very close to the property line, only 9" away. He said Mr. Mingrone stores gasoline powered equipment and motorcycles in the shed. The shed is electrified and because he didn't receive a building permit for the shed, he doesn't know if that electrification has been inspected and approved. A fire in the shed is a possibility. A short circuit in the wiring with the heavy fuel load provided by the gasoline in the motorcycles could easily touch off a fire in the tree overhanging the shed. This could create a fire hazard to his third floor balcony and the balance of his house.

#### REBUTTAL:

**Mr. Mingrone** said he cannot guarantee his shed won't explode but he never thought that was an issue. Everything is contained.

**Mr. Katen** asked if he pulled a Building permit to which Mr. Mingrone said he did not. He added one of the photos of the shed is very incriminating.

#### DISCUSSION:

**Mr. Crabtree** said his opinion of the shed is it is a disaster. It's 6' from the wetlands and fuel is being stored in it. He is very uncomfortable with it. Chrmn. Katen said the other problem is the fact that the neighbor has his deck on the property line. If we are considering giving someone a variance for 1' while the other person is on the property line, we just opened up another can of worms. Ms. Patterson asked if Inland Wetlands would get involved with this. Chrmn. Katen said he is in favor of tabling the item to find out from the Building Inspection Dept. if it is a legal shed. How can we give you a variance within 1' and have it not be a legal shed.

**Mr. Mead** asked if there was an alternative place to put the shed.

**Mr. Mingrone** answered he could put it up against the house.

**Mr. Mead** said the way it is situated now, it is unsafe for both you, your neighbor and the wetlands.

**Mr. Haberman** made a motion to table the application with Ms. Patterson seconding. The motion carried unanimously with Ms. Patterson, Messrs. Mead, Tuozzola, Haberman and Katen voting.

**C. OLD BUSINESS**

**D. NEW BUSINESS**

1. **19 Hanover Street** – request for an extension of time.

Mr. Crabtree read the letter of request.

**Mr. Haberman** made a motion to approve the request for one year with Mr. Hulme seconding. The motion carried unanimously with Messrs. Mead, Hulme, Haberman, Spangler and Katen voting.

**E. STAFF UPDATE**

**Mr. Tuozzola** stated the Subway in the center of town has just remodeled their building and there is a new sign on the front of the building and a big Subway sign on the side of the building. He asked if permits were pulled.

**Mr. Crabtree** answered he hasn't issued a permit for a sign for Subway. He would check it out.

**Mr. Mead** said there are new owners.

**Chrmn. Katen** informed the Board the appeal on Silver Street by Mr. Ziebell has been denied by the Court.

**F. ACCEPTANCE OF MINUTES FROM NOVEMBER 13, 2007 MEETING.**

The minutes were approved unanimously.

**G. ACCEPTANCE OF APPLICATIONS FOR JANUARY 8, 2008.**

The meeting was adjourned at 9:17 p.m.

Attest:

Rose M. Elliott  
Clerk - ZBA