

**MEMBERS PRESENT:** Howard Haberman, Nanci Seltzer, Rich Carey

**ALTERNATES PRESENT:** David Hulme, Joseph Tuozzola

**STAFF PRESENT:** Emmeline Harrigan, Assistant City Planner; Rose Elliott, Clerk

The meeting was called to order at 7:05 p.m.

#### **A. CONSIDERATION OF AGENDA ITEMS**

1. **76 Warfield Street** (Zone R-7.5) William Bruce, owner – request to vary Sec. 3.1.4.1 rear yard setback for accessory structures from 5' to 0.5' for deck/pool; side yard setback for accessory structures from 4' to 1.8' for deck; distance from dwelling from 8' to 5.4' from deck and 6.8' from pool to allow pool and deck to remain. Map 84, Block 343A, Parcel 8B.

**William Bruce**, 76 Warfield Street, informed the Board that the pool, deck and shed were there when he purchased the home. He was unaware permits were not pulled for these items until he attempted to obtain a permit for central heat and air. The hardship is the placement of the house on the lot and the size of the lot. There is really no other place to put them.

**Acting Chrmn. Haberman** asked how long have they owned the home to which Mr. Bruce replied 23 or 24 years.

**Ms. Seltzer** confirmed he had not replaced the pool in all these years.

**Mr. Bruce** answered he has replaced the liner in the pool three times. He added he thought he could move the pool to be compliant but was told that because of the small backyard, anywhere he attempted to move the pool would require a variance.

**Acting Chrmn. Haberman** agreed there would still be issues because of the small backyard.

FAVOR:

**Zane Spiller**, 66 Warfield Street, confirmed the pool has always been there.

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

DISCUSSION:

**Acting Chrmn. Haberman** said the hardship is the placement of the house on the lot. These structures have been there for 25 years. Mr. Tuozzola wondered if the deck could be scaled back or a smaller shed purchased. Ms. Seltzer said there is no way to move things around in the small backyard and they were there when he purchased the home. It is not his fault and he shouldn't be penalized. Mr. Carey added the Board has approved similar previous applications and the hardship is the size of the lot. Acting Chrmn. Haberman agreed and added to ask the applicant to incur the expense of cutting back the deck or getting a smaller shed would not be fair.

**Mr. Carey** made a motion to approve with Mr. Hulme seconding. The hardship is the placement of the house and the size of the lot. He added they have been there for 25 years. The motion carried unanimously with Ms. Seltzer, Messrs. Carey, Haberman, Hulme and Tuozzola voting.

2. **1585 Boston Post Road** (Zone CDD-5) Tina DeNapoles, appellant, for TKM-OP, LLC, owner – request to vary Sec. 5.5.5 to allow second restaurant liquor permit in shopping center containing 40,742 sq. ft. where 60,000 sq. ft. is required. Map 100, Block 805, Parcel 13.

**Tina DeNapoles**, 126 Big Oak Road, Stamford, said she is there on behalf of the tenant, Laos Szechuan, which is a small, authentic Chinese restaurant. They are seeking a variance to allow them to obtain a beer and wine permit. They have wonderful food and want to be able to serve a glass of beer or wine with their meals. Since opening their doors in 2007, they have found they have lost many repeat customers because of that. Her tenants are being penalized because there is another restaurant in the shopping center. The next closest restaurant is Tengda, which is over 1,700 ft. from this location. Both the tenant and landlord are suffering here. Economically, the last thing Milford needs is another business closing their doors. They are not asking for a full liquor permit, only wine and beer and it would be for on-site consumption only.

**Acting Chrmn. Haberman** confirmed they were not looking to add a bar or expand the hours to which Ms. DeNapoles said that was not their intent. She added the actual space was only about 2,000 sq. ft. and they are only looking to keep the clientele they currently have.

**Mr. Tuozzola** asked if she thought they were losing that much business because they couldn't serve beer or wine.

**Ms. DeNapoles** said yes. People come in to eat but when they find out they can't have a glass of wine with their meal, they don't come back. Losing even one client in today's economic climate is a lot. This request come make the difference between them staying in business or not.

**Ms. Seltzer** asked whether this beer and wine permit would affect the number of parking spaces required to which Ms. Harrigan answered Planning and Zoning doesn't differentiate between a restaurant that serves liquor and one that doesn't as far as the parking calculation.

**Ms. Seltzer** asked if there were any permits required for a restaurant where you could bring your own beer or wine.

**Ms. Harrigan** answered that would be something the State would regulate.

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

#### DISCUSSION:

**Mr. Hulme** said they are only trying to allow their patrons to have a glass of beer or wine with dinner, they are not opening up a full bar. He didn't see anything wrong with it. Mr. Tuozzola commented there was no opposition from the other restaurant in the

plaza. Ms. Seltzer said the Regulations are written for a reason and felt the Board needs to observe them. Acting Chrmn. Haberman said he could see both sides of the issue.

**Ms. Seltzer** made a motion to deny with Mr. Carey seconding. The reason for the motion is it does not meet the requirements of the Regulations and the Board needs to uphold the Regulations. Mr. Carey added their only hardship is economic. There is also the possibility the patrons could bring in their own beer and wine. The motion failed to carry 3-2 with Ms. Seltzer and Messrs. Haberman and Carey voting with the motion and Messrs. Hulme and Tuozzola against.

**Mr. Tuozzola** then made a motion to approve with Mr. Hulme seconding. The reason for the motion is the applicant's request is not for a full liquor permit. This small request could help their business stay in business. Ms. Seltzer said she felt this Board is a land use board and should not be taking the economic times into consideration. The motion failed to carry 3-2 with Messrs. Hulme and Tuozzola voting in favor and Ms. Seltzer and Messrs. Carey and Haberman voting against.

3. **146 North Street** (R-12.5) Christopher Bishop, owner, request to vary Sec. 4.1.4 Projections from 4' allowed to 10.5' to construct front porch and stairs. Map 76, Block 824, Parcel 4.

**Christopher Bishop**, 146 North Street, stated he is asking for a variance to construct a porch on his house that was built in 1857. He has applied to the historical board and received a Certificate of Appropriateness. His hardship is that it is a pre-existing, historical structure. They have designed the porch to be as shallow as possible. His neighbors are in favor of it.

**Acting Chrmn. Haberman** confirmed the house was set close to the front property line to which Mr. Bishop agreed. He then asked how wide the porch would be.

**Mr. Bishop** answered it would be 5' deep with two stairs in front.

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

#### DISCUSSION:

**Acting Chrmn. Haberman** said the hardships are the placement of the house on the lot and the fact that it predates zoning. It is a small porch and he didn't have an issue with it.

**Mr. Carey** made a motion to approve with Mr. Tuozzola seconding. The hardships are the placement of the house and the fact that the house predates the Zoning Regulations. This will have no impact on the area. The motion carried unanimously with Ms. Seltzer, Messrs. Carey, Haberman, Hulme and Tuozzola voting.

4. **25 Smith's Point Road** (Zone R-5) Vincent M. Marino, attorney, for James Steenson, owner – appeal the decision of the Zoning Enforcement Officer in the October 22, 2009 denial of a request for the issuance of a Certificate of Zoning Compliance. Map 3, Block 90, Parcel 6.

**Vincent Marino**, attorney, 1115 Broad Street, Bridgeport, said he is representing the owner, James Steenson. He submitted paperwork to the Board. The basis for the request is the portico was constructed more than three years prior to the Zoning Enforcement Officer commencing an enforcement action against the homeowner. It is a pre-existing, non-conforming use, built on the west side of the house, not subject to the Regulations. A Certificate of Zoning Compliance should be issued. It was constructed in the fall of 2004 by the homeowner and his friend, Walter Vernon. The Zoning Enforcement Officer commenced enforcement action on March 18, 2008. Under CT General Statute 8-13a, if a structure is existing on a piece of property for more than three years prior to the commencement of an action to enforce the local regulations, then the structure is to be considered pre-existing, non-conforming. The question for this Board is to determine whether the portico was constructed more than three years before March 18, 2008 or prior to March 17, 2005. If the answer is yes, under CT law, the portico must be deemed a non-conforming structure and a Certificate of Zoning Compliance should be issued. Affidavits were submitted from the homeowner and Walter Vernon, and supported by invoices from National Lumber, Home Depot and Centerville Lumber dated September 7, 2004, September 2, 2004 and September 4, 2004, respectively. An additional affidavit was submitted from Eric Cylwik, who re-sided the house in the fall of 2005 and affirmed the portico was there. He asked that the decision of the Zoning Enforcement Officer be overturned.

**Acting Chrmn. Haberman** confirmed Atty. Marino was saying the portico was built prior to March 17, 2005 and the enforcement action by the Zoning Enforcement Officer occurred after the three year period. He asked if this matter was ever before this Board to which Atty. Marino answered there was an application before this Board regarding the portico and the application was denied.

**Mr. Tuozzola** asked when that application appeared before the Board and why it was denied.

**Ms. Harrigan** answered it was before the Board on May 8, 2007.

**Atty. Marino** said it was denied because the Board didn't find a hardship.

**Ms. Seltzer** asked why a permit was not pulled for the portico.

**Atty. Marino** answered there is no reason stated but because there was a pre-existing portico prior to the home burning down, the homeowner was led to believe by the contractor that it did not require a new permit.

**Ms. Seltzer** asked when was the fire and how much of the home was consumed.

**James Steenson**, 25 Smith's Point Road, said the fire was December 23, 1999 and while it sustained mostly smoke damage, it was determined by the builder that because of the age of the home, it would be easier to just tear the whole house down and rebuild than trying to bring the old house up to code.

**Ms. Seltzer** asked when construction began and when it was completed.

**Mr. Steenson** said construction began immediately and was completed in June of 2001.

**Ms. Seltzer** confirmed that three years later the portico was built.

Mr. Steenson answered in the affirmative.

**Acting Chrmn. Haberman** asked if there had been any notice or letters received from the Zoning Enforcement Officer prior to March 2008 regarding the violation of the portico.

**Atty. Marino** stated there were letters issued prior to that date, however, his interpretation of the Statute is that it requires the commencement of an action for purposes of that time period. The operative date is the commencement of the lawsuit, which is March 18, 2008, making the anniversary date, March 17, 2005.

**Acting Chrmn. Haberman** confirmed with Atty. Marino that his belief is that it has to be three years prior to the commencement of a court action or an intention to go to court.

**Atty. Marino** repeated it is his position that the Statute requires the commencement of an action, which is the commencement of a lawsuit.

**Ms. Harrigan** stated the Coastal Site Plan Review was granted in 2000. There were notifications issued by the former Assistant City Planner, as early as 2006, of construction on the site inconsistent with what was approved.

**Mr. Carey** stated he thought an action would be when the Zoning Enforcement Officer sends a violation letter.

**Atty. Marino** stated that was not his understanding of the law. He believed that the commencement of an action is actually the returning of a writ summons and complaint to a court of jurisdiction. That would be the filing date of the lawsuit of March 18, 2008.

**Ms. Seltzer** asked if there was a portico on the original plan to which Ms. Harrigan said there was not.

**Atty. Marino** stated in answer to one of the Board members questions regarding other issues on the property that there was an underground propane tank that needed to be addressed and was part of a letter issued by the Zoning Enforcement Officer. The tank was addressed. The second issue in the letter was the portico. The homeowner believed he could address this issue by way of a variance. For whatever reason, the Zoning Enforcement Officer did not see fit at that time to bring an enforcement action.

#### OPPOSED:

**Linda Stock**, 50 Nicole Drive, former Zoning Enforcement Officer, said Attorney Marino is correct when he says the three-year period refers to when legal action began, not when she issued the order. The floor plans and elevations from 2000 do not show the portico. As-builts in 2000, 2001 and 2002, do not show the portico. It is also not shown on a permit issued in 2004, nor is it shown on any exhibits submitted for a CAM application in 2000. When the Steensons' built this new home, it did not include the portico but was added at a later date. She spoke of an undated photo taken when the house was completed that does not show any portico. She explained this issue began with the former Assistant City Planner, Peter Crabtree. When the portico was first discovered, the owners were ordered to remove it. They came before the Zoning Board of Appeals for a variance and they were denied. They never took an appeal of her order nor removed the portico and eventually the matter went to court. During the pretrial, the Court was looking to settle the appeal but the Steenson's attorney said he would like to apply for a Certificate of Zoning Compliance, which he did. She reviewed the paperwork but didn't feel it was sufficient. After checking on the receipts submitted,

she found one item was for a thermostat and the others were for decking materials. She didn't feel there was valid proof that the portico was in existence over three years other than the affidavits. They never took out a permit. She did not issue the Certificate of Zoning Compliance because she didn't feel the portico was there for longer than the three-year period.

**Acting Chrmn. Haberman** confirmed the permit issued in 2004 didn't indicate a portico to which Ms. Stock said that was correct. She added because there was no other valid information other than the affidavits and the receipts, she didn't feel she should issue the certificate.

#### REBUTTAL:

**Atty. Marino** agreed there isn't anything in the files that show the existence of the portico. No one is disputing that. The existing portico is larger than the pre-existing portico. The only question for this Board is whether there is sufficient evidence to determine whether that portico was there more than three years prior to the commencement of a zoning enforcement action. His evidence supports that conclusion. There is an affidavit from a gentleman that re-sided the house in 2005 that states the portico was there in the fall of 2005 as constructed. An affidavit from the homeowner saying that he built it September and October of 2004. An affidavit from Walter Vernon stating that he assisted Mr. Steenson in the construction of the portico. Mr. Steenson had materials on site from the construction of the home and used them for the portico. If you doubt the credibility of the homeowner in the affidavit then you deny the appeal. If you believe the three affidavits submitted, then there is only a narrow window when this portico could have been built. There is no question a permit was not pulled. Whether it was built rightly or wrongly is not the question. The question is whether or not the portico was there more than three years prior to March 18, 2008.

The hearing was closed.

#### DISCUSSION:

**Mr. Tuozzola** wondered why if this Board denied the portico in 2007, what has changed to have the Board consider approving it now. Acting Chrmn. Haberman explained they were not here for a variance but to appeal Ms. Stock's decision not to issue a Certificate of Zoning Compliance. Atty. Marino stated that Statute 8-13a says that if an action doesn't occur against a non-conformity within three years, it is then considered legal, non-conforming. The question is whether this portico was in existence three years prior to the lawsuit. Ms. Seltzer, in summing up the facts said, on February 13, 2004, there was a permit sought on a site plan that didn't show a portico. It came before this Board in 2007 for a variance to allow the portico to remain, which was denied. The portico wasn't on a plan in 2004 but suddenly appeared in 2007. This Board then sought action in 2007 against the owner to which Acting Chrmn. Haberman explained doesn't count, as it had to be a lawsuit. That occurred in 2008. She said this portico had to be in existence three years prior to that. The former Zoning Enforcement Officer made it clear that Atty. Marino was correct in stating the interpretation of the

filing of the lawsuit is the actual enforcement. Ms. Seltzer concluded by saying if Atty. Marino is correct and the former Zoning Enforcement Officer agreed, we are done. Acting Chrmn. Haberman added there are three people who signed affidavits that the portico was there. Mr. Hulme agreed if it has been in existence three years prior, than this Board is done. Ms. Harrigan answered Acting Chrmn. Haberman's question by saying the Board has to determine whether the attorney's timeline is more accurate than the Zoning Enforcement Officer's.

**Mr. Hulme** made a motion to approve the appeal and overturn the decision of the Zoning Enforcement Officer with Ms. Seltzer seconding. The affidavits state that the portico was in existence three years prior to the action. That makes it pre-existing, non-conforming according to CT General Statute 8-13a. The motion carried 4-1 with Ms. Seltzer, Messrs. Carey, Haberman and Hulme voting in favor and Mr. Tuozzola voting against.

5. **817 East Broadway**(Zone R-7.5) Joseph J. Mager, Jr., attorney, for 817 East Broadway, LLC, owner – request to vary Sec. 3.1.4.1 side yard setback from 10' to 4.7' to construct two story addition to rear of house. CAM received. Map 27, Block 474, Parcel 50.

**Joseph Mager**, 87 River Street, attorney, said he representing the owner, 817 East Broadway, LLC., in obtaining a variance to construct a two story addition. They want to remove the deck at the rear of the house which is 6'x19', and install a two story addition in its place. The house built in 1920, predates zoning. The lot is long and narrow, 226' x 30'. It has 5,840 sq. ft. where 7,500 sq. ft. is required. He submitted paperwork to the Board. The hardship is the size and width of the lot and the construction of the house prior to the Zoning Regulations. Any type of construction would require a variance. This addition would not have any adverse impact on the neighboring structures.

**Acting Chrmn. Haberman** confirmed the addition of just over 5' on the rear of the house following the existing lines of the house.

**Ms. Seltzer** said the footprint would be no different than the current deck to which Atty. Mager said if they are saying the deck is the footprint, than yes.

**Mr. Tuozzola** noted the house is for sale and asked if it is the current owner requesting this or is being done to sell the home.

**Atty. Mager** stated the current owner has the house under contract to sell provided that the variance is granted.

**Mr. Carey** asked about egress from the rear of the house.

**Mike Tarantino**, 815 East Broadway, said there would be steps.

**Atty. Mager** clarified the deck is low to the ground, only one step down to the sand.

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

DISCUSSION:

**Acting Chrmn. Haberman** said there is a clear hardship shown and the addition is not very big. It will follow the existing lines of the house. Any egress from the home will have to conform to the Regulations or they will be back. Mr. Tuozzola said the request is reasonable and he had no problem with it.

**Mr. Hulme** made a motion to approve with Mr. Touzzola seconding. The hardship is the size and shape of the lot and the position of the house on the lot. The existing footprint of the deck will be kept. The motion carried unanimously with Ms. Seltzer, Messrs. Carey, Haberman, Hulme and Tuozzola voting.

6. **130 Merwin Avenue** (Zone R-7.5) Washington Cabezas, Jr., appellant, for Lufam Homes, LLC, owner – request to vary Sec. 3.1.4.1 side yard setback from 10' to 4' and from 5' to 2.3' to construct new single family dwelling with overhangs. CAM received. Map 59, Block 737, Parcel 19.

**Washington Cabezas, Jr.**, 1450 Barnum Avenue, Bridgeport, said he is looking for a variance to construct a new dwelling. The owner would like to demolish the existing home and the dilapidated detached garage in the rear. The proposed dwelling would be a three story, single family dwelling with four garage spaces on the ground level and living space on the second and third floor levels. He submitted paperwork to the Board. The lot is very narrow at 33 1/3' wide. The existing home is vacant, boarded up and structurally unsound. The garage is also unsafe and possibly sitting on City property. The proposed house will not be out of character with the neighborhood. The existing home cannot be refurbished and the first floor is also located below the flood plain. It is located at 9.4' where 11'-12' is required. The proposed home would be at 15' and would be pushed back from the front property line. They are only requesting a variance for the side yards; all other setbacks can and will be met.

**Acting Chrmn. Haberman** asked what the setbacks of the existing house are to which Mr. Cabezas answered 10' on one side and 2.6'.

**Acting Chrmn. Haberman** said the proposed house would be increasing the non-conformity considerably and asked why the need for the four car garage.

**Mr. Cabezas** answered it is not a need but a family might have three cars and the fourth would be used for storage. The footprint of 25' x 50' is to have usable living space. If the setbacks would be met, the house would only be 16' wide.

**Acting Chrmn. Haberman** noted what is proposed is very close to the property line.

**Mr. Cabezas**, in answer to a question, said he thought the owner would be alright with making the house a foot smaller to 24' wide.

**Mr. Hulme** asked if the house was made 1' smaller, would that still allow for the four car tandem parking to which Mr. Cabezas said probably not. It would probably have to be just a two car tandem garage.

**Mr. Tuozzola** said the adjacent property is an empty lot and he didn't feel the Board needed to be talking about narrowing the house because they didn't know how or when that property would be used.

**Mr. Cabezas** said the proposed house would be a big improvement to the neighborhood. It would be above the flood elevation and the dilapidated garage would be removed from City property, if it is in fact on City property.

**Ms. Harrigan** said in answer to Mr. Tuozzola's question, that this property has tidally influenced wetlands and under the jurisdiction of the Department of Environmental Protection. She added this will require a full Coastal Area Site Plan review by the Planning and Zoning Board.

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

#### DISCUSSION:

**Mr. Carey** said he didn't see the need to make the house narrower. In this section of Woodmont, all of the houses are of similar situations and are making the most out of the smallest properties. He thought it was more important to provide off-street parking because there is a problem with parking in the area. He felt it didn't make much sense to narrow the house by 1'. Ms. Seltzer said the hardship stated in the file is the narrowness of the parcel. The owners chose to purchase the property, knowing it was a narrow piece of land. She didn't think that was a hardship. They bought a narrow piece of land and they have to build within the regulations. Mr. Carey stated the hardship goes with the land. Acting Chrmn. Haberman thought the applicant could downsize their proposal.

**Mr. Carey** made a motion to approve with Mr. Tuozzola seconding. The hardship is the width of the lot. The additional off-street parking would help alleviate the parking problem on the street. It would conform to the other houses in the area as they are all of similar style and design. The motion failed to carry 3-2 with Messrs. Hulme, Tuozzola, and Carey voting in favor and Ms. Seltzer and Mr. Haberman voting against.

**Mr. Carey** made a motion to deny without prejudice with Ms. Seltzer seconding. This would allow the applicant to redesign their proposal and come back before the Board with a revised plan. The motion carried unanimously with Ms. Seltzer, Messrs. Hulme, Tuozzola, Carey and Haberman voting.

7. **36 Field Court** (Zone R-5) Mario Paniccia, appellant, for Philip & Gelsomina DiSora, owners, request to vary Sec. 5.8.6.2 construction of the lowest floor level at the regulatory flood protection elevation from 12' to 11.7' to construct 1<sup>st</sup> and 2<sup>nd</sup> floor additions. CAM required. Map 28, Block 513, Parcel 1.

**Mario Paniccia**, architect, 515 Washington Avenue, Bridgeport, informed the Board that the owners already have a building permit for the addition. The existing house is at elevation 11.7' where the requirement for any additions to the home are at elevation 12'. The hardship is that these two small areas amount to about 235 sq. ft. and the existing house is approximately 1200 sq. ft. In placing these two additions at 3 ½ inches higher than the rest of the existing house, to satisfy the flood requirements, would create a trip hazard. His company has done several studies on steps and they have found that one step creates a trip hazard. The other hardship is they can't raise

the house higher because the existing house's ceiling elevation on the second floor is low. They are requesting the variance to allow the little addition of the first floor to remain at elevation 11.7', to keep the floor even. Their proposal is to enlarge the first floor, add a second bedroom on the second floor and they are asking for the variance to allow them to build at elevation 11.7', 3 ½ inches lower than the 12' required. They have obtained an okay from the local Building Inspection Official and the State Building Official.

**Ms. Seltzer** asked if those letters of approval were in the file.

**Ms. Harrigan** said the letters are in the file and added she did review it with the local Building official and the State official. It is very clear when the State issues a waiver of the State Building code, it doesn't preempt local zoning requirements.

**Mr. Pannicia** said his clients are complying with everything else. The only issue here is the elevation.

**Ms. Harrigan** said the flood requirements, within the Zoning Regulations are required by the Federal government, when the government provides flood insurance to flood hazard properties within the City. It is clear that if you grant a variance tonight, the City is obliged to write the property owner and relay to them that any insurance implication is solely their burden.

**Mr. Pannicia** stated his clients were made aware of that.

FAVOR:

**Anthony Giannattasio**, 58 Rosebrook Road, said he spends a lot of time at the house in the summer months and is very familiar with the property as the applicant is a family member. It is an inconvenience and a safety risk.

**Saul Englander**, 32 Field Court, said this step would be a hazard.

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

DISCUSSION:

**Acting Chrmn. Haberman** said the Regulations allow the Board to approve the variance and the only caution they give has to do with whether the 3 inches is going to cause this property to be in any greater jeopardy of flooding. He didn't see that 3 inches would matter all that much. He didn't have a problem with it. Mr. Hulme added that the homeowner is aware of the flood insurance issue.

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

8. **12 Village Road** (Zone R-5) Thomas B. Lynch, attorney, for John Velky, appellant, for Diana Walsh, owner – request to vary Sec. 3.1.4.1 front yard setback at third floor from 10' to .8'; side yard setback from 5' to 1.5' and 10' to 8.5'; rear yard setback from 20' to 5.3'; request to waive Sec. 6.2.1 for expansion of a non-conforming two family residential use in a single family zone. CAM required. Map 60, Block 745, Parcel 19.

**Thomas Lynch**, 63 Cherry Street, attorney, said his clients, John and Susan Velky, have signed a contract with the owner, Diana Walsh, to purchase the house contingent

upon the approval of the variances requested this evening. If approved, a second and third floor addition would be added. He submitted paperwork to the Board. The property is being utilized as a legal, non-conforming two family residence. There were numerous commercial buildings in this area many years ago. Originally, this house was one of them. It was used as a pharmacy and a convenience store and around 1950, it was converted to residential use. There was an application in 1977 filed to allow a three family use, which was denied. An application was then filed shortly afterwards to legitimize a two family use, which is the current use. They are proposing the expansion of the second floor over the garage. The third floor will be a master bedroom suite with walk in closet and bathroom. One of the bedrooms in the first floor apartment to the rear of the garage would be eliminated so there could then be a three-car garage. This would provide two more off-street parking spaces. The first floor would remain the same except for the elimination of one of the bedrooms. All of the renovations will be done within the footprint of the existing structure. This is a variance for renovation of more than 50% of the entire of the house. The residence was built in 1900, prior to the Zoning Regulations. There will be no change in the footprint of the existing house and the renovated house except for a small area in the rear, which will be squared off for the three car garage. He said they have a petition signed by 28 neighbors in favor of the application.

**FAVOR:**

**Richard Austin**, 14 Village Road, said he is in favor of the application.

**Ellen Austin**, 14 Village Road, said her family moved there in 1956 and she is in favor of the application.

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

**DISCUSSION:**

**Ms. Seltzer** said the difference in size is less than 1% and she doesn't see a problem with it. Acting Chrman. Haberman agreed.

**Mr. Tuozzola** made a motion to approve with Mr. Carey seconding. The reason for approval is the additions are to the upper floor and it will remain a two family home. The plans look beautiful and can only enhance the area. The motion carried unanimously with Ms. Seltzer, Messrs. Carey, Haberman, Hulme and Tuozzola voting.

**B. TABLED ITEMS**

**C. OLD BUSINESS**

**D. NEW BUSINESS**

**E. STAFF UPDATE**

**F. ACCEPTANCE OF MINUTES FROM NOVEMBER 10, 2009 MEETING.**

The minutes were approved unanimously.

**G. ACCEPTANCE OF APPLICATIONS FOR JANUARY 12, 2010 MEETING.**

Minutes of Public Hearings of Zoning Board of Appeals Meeting held December 8, 2009

The meeting was adjourned at 9:04 p.m.

Attest:

Rose M. Elliott  
Clerk - ZBA