

## **ZONING BOARD OF APPEALS**

**JANUARY 3, 2007**

A regularly scheduled meeting of the Zoning Board of Appeals of the Town of Trumbull was held in the Town Hall on Wednesday, January 3, 2007.

Attendance: Richard Puskar, Chairman; Michael Muir; Carl Scarpelli; Joseph Vitrella; and alternate Frederick Garrity

Staff Present: James Cordone, Town Attorney; Joan M. Gruce, Planning and Zoning Administrator/Clerk

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Chairman called meeting to order at 7:35 p.m.; Mr. Vitrella read the call as filed in the office of the Town Clerk, published, and listed herewith:

The following is a brief summary of the hearing. The complete record is on tape, on file in the office of the Zoning Board of Appeals.

07-01) Chairman read letter from Mr. and Mrs. Corica who asked for time to hire an attorney, and asked to postpone until next month. Atty. Evans represented Mr. and Mrs. Evans, who were present; they would agree to continue the hearing, but would also like to speak this evening. Two letters to Richard Eigen, ZEO, dated Oct. 9 and Oct. 17, 2006 from Atty. Evans were submitted. Copies of surveys and photos were also submitted. Bill Evans indicated Corica's failed to secure approval for a soil erosion plan, the retaining wall diverts water onto Evans' property, and trees have been killed. The retaining wall is over 3 feet high and located too close to the property line. When the property was surveyed, lot line markers were put in and were buried by the fill. There is a police report in which Mr. Corica states the property line is straight, but the markers were moved by Corica's, and it is not straight any more.

Mrs. Evans indicated they now have a swamp on their property because of the changes on Corica's property. They contacted different people at the Town Hall, they said something would be done, but nothing was done. Mr. Evans added that if you disturb over ½ acre, a plan should be submitted, but it was not. In October of 2005, he had a meeting with Jim Cordone and Harry Eberhart (former ZEO); he said the water has to be controlled, but nothing was done. Then they spoke to Dick Eigen (current ZEO), and he said he doesn't enforce the fence regulation. They asked if the CO could be held up, but Bob Dunne (Building Dept.) indicated a temporary CO was already issued and he is only concerned with structures. Brian Smith (Engineering Dept.) indicated the Corica's should replace line markers and put in a swale. Mr. Evans cannot sell his house with all the water damage now on his property.

Atty. Evans indicated over 200 truckloads of fill and gravel were brought in, the erosion problems were not addressed, and when there were setback problems with walls and a shed, Corica's just moved the stakes.

Nan Neidermeier, 140 Old Dike Road, indicated that there is water damage to the Evans' property, and there is now a smell from the stagnant water which will probably get worse.

Upon motion made (Muir), seconded (Scarpelli), and carried unanimously (all present voting), it was voted to continue Application #07-01 to February 7, 2007 at the request of the Corica's, and with consent of the Evans.

07-02) Jeff Hallquist appeared, and indicated he received a previous variance, but a different design was finally constructed. The bilco door must be located here, and requires a variance. The depth of the basement was increased; pictures were submitted.

Michelle Charland, homeowner at this address, spoke in favor.

07-03) Atty. Frederick F. Ehram represented the applicant, and indicated it is a triangular-shaped lot which is zoned Industrial I-L2. He submitted a court decision, Chevron Oil vs. Shelton ZBA, which states the justification for ZBA to grant the variances. If they are not granted something, this would be considered a taking. In the cited case, the owner could not use 85% of his property without variances. The subject property is 2 acres, and they are planning a single structure.

Wayne Jacobsen, P.E., SBA, submitted photos of the site. He indicated that only 6% of the lot can be used if they conform to the setback requirements. He submitted a conceptual plan. The elevation rises and the building is two stories, 28' high. There will be garage door access on the lower level, and car only access on the second. Because of the shape of the lot, only 5,500 sq. ft. can be developed instead of the permitted 32,000 sq. ft.

Keith Romano spoke in favor of the application, and indicated there would be lighting during the hours they are open, and minimal lighting at night for safety reasons. The proposed hours of operation are 6:00 a.m. to 8:00 p.m.

Atty. Ehram added there will be no overnight parking.

Edward Talbott, Spring Hill Road, is opposed. He would like to keep the area rural, does not want chemicals going into his well, and the value of his home to go down.

Mrs. Mezick, Monroe, is opposed because no one will want to buy her home.

Rae Ciardi, 29 Pinewood Trail, indicated Spring Hill Road is hideous, and the buildings should look better.

Atty. Ehram indicated the zone was change to I-L2 to meet the new Plan of Conservation and Development. Sewers and public water are available. The yellow lights on Technology Drive that people complained about were directed by Planning and Zoning to be that color.

07-04) Atty. Ray Rizio represented the applicant. He indicated the site used to be the Golf Digest building, it was turned into medical offices, it is filled, and he has received requests to increase the space. The variances revolve around the uniqueness of the property; it borders the Merritt Parkway, and they lease parking spaces from the church next door. He indicated that the person most affected to the rear is Judith Mucherino; she was present to speak in favor, but had to leave and left a letter to submit for the record. Landscaping in the rear will consist of a 6' berm with a 6' fence on top and 12' high evergreens. He submitted pictures showing this area, and indicated that none of the existing trees will be disturbed. The 40,000 sq. ft. addition will go towards the front, but there is a large R.O.W. in this area on Park Avenue. The parking garage is 25' high and will be brick-faced. There will be a footbridge connecting the parking garage to the building. A site map was submitted, a letter from the neighboring church in favor, and a letter from Mrs. Mucherino in favor at 189 Plattsville Rd.

Dr. Bob Russo, who will be a major tenant, spoke in favor. He indicated there are no cardiologists, no ENT's, and no radiologists currently in the building, and this is needed.

Atty. Rizio indicated the shape of the property supports a hardship, and this application is consistent with the master plan.

Mr. Muir suggested putting the parking garage further away from the rear line, and consider underground galleys for storm water retention. Atty. Rizio indicated they could turn the garage, but he would need 15' from both north and south.

Deborah Cox, Economic Development Director, read a letter in favor and submitted it for the record.

Joe Tivadar, 139 Plattsville Road, was opposed. The house has been owned in his wife's family since the 50's. They did not get in touch with any of the neighbors, nor did they post a pink notification card. The building management does not address concerns expressed by the neighbors, and the screening from neighbors is in poor condition. He submitted 3 photos showing the sparse screening. The garbage trucks are noisy, and he asked where the dumpsters would be located. He suggested landscaping which was agreed to by the applicant. This will have a big impact on the neighbors and the wetlands.

Susan Tyler (unknown address), opposed.

Peter Patrick, 76 Autumn Ridge, Fairfield, concerned about traffic.

Sam Boyarsky, 200 Autumn Ridge, Fairfield, opposed because of traffic.

Victor Bardinelli, 99 Plattsville Rd., opposed because of screening and asked how parking could be done in the lower level if it is a detention pond.

Chuck Dittman, 115 Plattsville Rd., opposed because of lack of screening and lighting could be a problem; include south side in landscape plan.

Lori Dittman, 115 Plattsville Rd., opposed because of environmental impact, traffic, noise, and lights.

Atty. Rizio indicated they will need a DOT permit, and the levels of service will be better, as far as traffic is concerned, after the proposed improvements to the rotary. The landscaped buffer in the rear will include the following: a six (6) foot high berm installed along the rear property line, with a solid dark green six (6) foot fence on top; four (4) foot

high arborvitae planted as close together as feasible along the residential side of the berm, and on the 5520 side of the berm twelve (12) to fifteen (15) foot high alternating blue spruce and white pine shall be installed (as approved by Tree Warden). Landscaped screening will continue along a portion of the south side as well. The dumpsters will not be on the easterly property line. A chain will be installed to keep people out of the parking lot at night, and they will agree to do the plantings prior to construction.

07-05) Atty. Rizio indicated this has been a separate lot since the 1920's, independently owned, and taxed separately. He submitted a copy of the record map, the assessor's field card, the tax bill, and the Town's planimetric. The property was put in a trust in '95. The lot was approved prior to zoning which is why variances are required. There is not enough parking in the area, so they will construct a two-car garage under the house. Architectural plans were submitted for the proposed home; photos were submitted. The proposed house does not overpower the neighborhood. There has been no attempt to abandon this lot over the years. They agreed that they would have at least a one-car garage.

Henry Howard, 27 Hillside Avenue, spoke in favor, and indicated that the height of the proposed home does match some of the existing homes, including his.

Pete (lives next door), spoke in favor, and indicated a new house will make his property value go up.

Atty. Rizio submitted a petition with signatures in favor.

07-06) Jon Eckman indicated the current owners purchased the property in 2004, and the building has been vacant since then. There are other properties in the area that have received variances for such use, and they will agree to the same conditions as were imposed at that time. He agreed to file a Declaration of Covenants and Restrictions to limit classroom use to 50%, and submitted a copy of a previous approval with those conditions.

07-07) Mr. Chase indicated he was here in October, and the application was denied. He revised the plan by removing the breezeway, and it will now be 7' from the side property line. This is against the rear properties of the neighbors; pictures were submitted. One of the homes in the immediate area was granted a variance for 6 feet from the side for a garage.

Thaddeus Farnham, 65 Chestnut Hill, indicated he was a neighbor, and spoke in favor.

The public hearing closed at 11:06 p.m.

The meeting was reconvened to act on the following:

**07-02) Jeff Hallquist Builder, LLC.** 24 Plumtree Lane. Upon motion made (Vitrella), seconded (Muir), and carried unanimously (all present voting), it was voted that application for a variance of Art. III, Sec. 9, with respect to insufficient minimum yard requirements to install bilco door 41' from E/S property line, is hereby APPROVED, and will become effective upon recording of certified notice thereof in the Land Records in the name of the record owner.

**07-03) Matthew E. Romano.** 6 Cutlers Farm Road. Upon motion made to approve (Vitrella), seconded (Garrity), and opposed unanimously (all present voting), it was voted that application for a variance of Art. II, Sec. 4, Par. E, with respect to insufficient minimum yard requirements to construct building 47' from Spring Hill Road, 39' from N/S property line zoned residential, 81' from Cutlers Farm Road; Art. I, Sec. 2, Par. I, with respect to insufficient minimum yard requirements to construct building on triangular lot 85' from point of intersection of side lines; and Art II, Sec. 4, Par. F, with respect to permitting parking other than for visitors in a front yard or side yard abutting residential zone, is hereby DENIED for the following reasons:

1. It is the same as what was presented previously.
2. A better design can be done than an unattractive building next to residential property in Monroe.

**07-04) 5520 Medical Center, LLC.** 5520 Park Ave. Upon motion made (Vitrella), seconded (Scarpelli), and carried unanimously (all present voting), it was voted that application for a variance of Art. II, Sec. 2, Par. C, and Art. IV, Sec. 4, with respect to insufficient minimum yard and buffer requirements to construct 40,000 sq. ft. building addition 15' from N/S property line, and 3-level parking structure 15' from rear property line, with respect to increasing maximum lot coverage for building to 23.8%, increasing maximum lot coverage for parking structure to 24.3%, increasing maximum building and structure coverage to 48.1%, increasing maximum parking levels to 3, and reducing required parking to 388 spaces, is hereby MODIFIED & APPROVED as follows:

1. The parking garage shall be located no closer than twenty-five (25) feet from the rear property line, and no closer than fifteen (15) feet from both N/S and S/S property lines.
2. Dumpsters shall not be located on the easterly property line.
3. A chain shall be installed to close the parking lot at night; it will be in place from 11:00 p.m. to 5:30 a.m.
4. Landscaping shall be in place prior to construction.
5. Evergreen landscape screening shall be installed along the rear property line to provide screening--size and species as per recommendation of the Town Tree Warden, Warren Jacques. Landscaping shall include the following:
  - a. A six (6) foot high berm shall be installed along the rear property line, with a solid dark green six (6) foot fence on top; four (4) foot high arborvitae shall be planted as close together as feasible along the residential side of the berm, and on the 5520 side of the berm twelve (12) to fifteen (15) foot high alternating blue spruce and white pine shall be installed (as approved by Tree Warden).
  - b. Evergreen landscaping shall be installed along the back portion of the southeasterly property line. Because of the wetlands, the berm will not be required.

c. A landscape bond shall be required which is part of the Planning and Zoning Commission approval.

6. A certified notice of variance shall be recorded in the Land Records in the name of the record owner.

**07-05) Kathy Perusse, Trustee of the Shirley M. Horvath Trust.** 42 Elberta Avenue. Upon motion made (Vitrella), seconded (Scarpelli), and carried unanimously (all present voting), it was voted that application for a variance of Art. III, Sec. 1, with respect to insufficient minimum lot area requirements (6,750 sq. ft.), insufficient minimum road frontage (50 ft.), and insufficient minimum yard requirements to construct dwelling 10' from both E/S and W/S property lines, is hereby APPROVED, and will become effective upon recording of certified notice thereof in the Land Records in the name of the record owner. The Board determined it would be in harmony with the neighborhood.

**07-06) 7 Cambridge Drive, LLC.** 7 Cambridge Drive. Upon motion made (Vitrella), seconded (Garrity), and carried unanimously (all present voting), it was voted that application for a variance of Art. II, Sec. 4, par. H(9), with respect to permitting educational uses in an I-L2 zone, is hereby APPROVED, subject to the following conditions:

1. A Declaration of Covenants and Restrictions shall be executed and filed on the Land Records, and shall state the following:

a. The use of the property at 7 Cambridge Drive for educational purposes shall be limited in the following respects:

1. Classroom use shall be limited to 50% of the premises.

2. There shall be no use of the premises for housing by any educational institution.

2. The above-referenced restrictions shall apply to the existing building at 7 Cambridge Drive and any additional building or buildings constructed on said property.

3. A copy of the filed document, showing volume and page, shall be submitted to the ZBA office.

4. A certified notice of variance shall be recorded in the Land Records in the name of the record owner.

**07-07) Theodore Chase.** 27 Francis Street. Upon motion made (Vitrella), seconded (Scarpelli), and carried unanimously (all present voting), it was voted that application for a variance of Art. III, Sec. 1, with respect to insufficient minimum yard requirements to construct attached two-car garage and addition 7' from N/S property line and 30' from front property line, is hereby APPROVED, and will become effective upon recording of certified notice thereof in the Land Records in the name of the record owner.

The effective date of action was set for January 24, 2007 (expiration of appeal period). Of those approved, FAILURE TO RECORD NOTICE WITHIN SIX MONTHS OF EFFECTIVE DATE SHALL NULL AND VOID THE VARIANCE. In the event of appeal or

appeals, time periods shall commence from date of final decision on the appeal or appeals.

Upon motion made (Muir), seconded (Scarpelli), and carried unanimously (all present voting), it was voted to adjourn at 11:25 p.m.

By: \_\_\_\_\_  
Joan M. Gruce  
Planning and Zoning Administrator/Clerk

