

**ZONING BOARD OF APPEALS  
December 1, 2010**

A regularly scheduled meeting of the Zoning Board of Appeals of the Town of Trumbull was held in the Council Chambers of the Trumbull Town Hall on Wednesday, December 1, 2010.

Members Present: Richard Puskar, Chairman  
Michael Muir, Carl Scarpelli, Joseph Vitrella and alternates William Malmstedt, Richard Mayo and Dennis Miko

Also Present: Fred Bietsch, Zoning Enforcement Officer

A quorum being present, the Chairman called the meeting to order at 7:30 p.m.

In the absence of Commissioner Savino, alternate Dennis Miko was designated as the fifth voting member for tonight's meeting.

**PUBLIC HEARING**

Application #10-36 – Cortland Developers  
45 Twin Circle Drive

Variance of Art. III, Sec. 1 with respect to insufficient minimum yard requirements to construct a 30'x50' dwelling 35' from the front property line.  
HEARING CONTINUED FROM NOVEMBER 3, 2010

David Bjorklund, of Spath-Bjorklund Associates, represented the applicant.

The site is part of a two lot subdivision located at the end of Twin Circle Drive. A variance is needed to be able to meet the conditions of approval placed by the Inland Wetlands and Watercourses Commission. The conditions of approval require that the house be moved forward to create additional space between the dwelling and the on-site wetlands. Mr. Bjorklund advised that the terms of the IWWC approval has now created an environmental hardship for the applicant.

A copy of the wetlands approval was submitted for the record.

Application #10-29 – Robert Whitehead  
5206 Madison Avenue

Pursuant to Art. II, Sec. 1.1.2, Par. 3(b) and Art. IV, Par. 2 appeal of violation notice from the Zoning Enforcement Officer, dated July 12, 2010 concerning an unauthorized temporary storage structure and parking of commercial vehicles in a residential zone. HEARING CONTINUED FROM SEPTEMBER 1, 2010.

The applicant's representative, Attorney Peter Gelderman, addressed the Commission.

Mr. Gelderman classified the existing structure as a legal non-conforming garage, as it was placed on the property prior to adoption of the current regulations. The regulations in effect in 2006 did not classify a garage as an accessory use. They were categorized as a principal use and were not required to be located on the same lot as the house. He stressed that the existing structure was constructed as a permanent garage and not a temporary storage facility. Examples of free standing portable garages were submitted for the record. Attorney Gelderman then advised that the applicant is now in compliance with the second part of the violation, as all commercial vehicles have been removed from the property.

Upon inquiry, Mr. Gelderman confirmed that the subject structure is not attached to a foundation or to any footings.

The following was submitted for the record for the purpose of establishing that the structure was put up prior to the adoption of the current regulations: An affidavit signed by Mr. Whitehead stating that the structure was put up in 2006 and an invoice confirming that the structure was purchased in 2006.

#### Public Comment

John Pezzullo, 14 Meadow Ridge Drive spoke in opposition indicating that commercial vehicles continue to come and go onto this property on weekends and late at night.

William and Dianna Drenosky, 20 Meadow Ridge Drive, commented that the trucks coming and going from this location are causing diesel fumes to drift onto neighboring properties. Mr. Bernowski submitted a petition from area residents in opposition.

The Zoning Enforcement Officer emphasized that he considered the structure to be a temporary storage facility. He informed that the regulations define a garage as a structure being utilized in connection with a house. This structure exists at least 400 feet from the principal dwelling. A garage must also meet building codes, which require a foundation, footings and inspection by a building official. A building permit is required for a garage and no permits were ever taken out prior to the placement of this structure. The regulations also mandate that an accessory structure be in harmony with the neighborhood. Mr. Bietsch then submitted photographs indicating that commercial vehicles are still contained on the property.

Attorney Gelderman rebutted that the zoning regulations do not provide a definition of a garage and what it should look like. He commented further that the regulations in effect in 2006 did not limit Mr. Whitehead's ability to place a garage at this location.

Application #10-38 – William G. Bovan  
66 Pondview Avenue

Variance of Art. III, Sec. 1 with respect to insufficient yard requirements to construct a 15'x23.5' sq. ft. addition 22.3' from the rear property line, at its closest point.

Attorney Andrew Skolnick, of Milford, CT, conducted the presentation on behalf of the applicant.

The first floor addition consisted of a bedroom with a handicapped accessible bathroom. A photograph of the backyard was submitted for the record. The submitted plans indicated that the shape of the lot to be neither square nor rectangular. The house itself is situated in such a way that no viable alternative location is available. Mr. Skolnick commented that the design of the addition was completely in character with other homes in the area.

Application #10-39 – Natalie Vinhais-Luysterborghs  
4 Prospect Avenue

Pursuant to Art. V, Sec. 6.4 with respect to the modification of an existing variance relating to the rebuilding of a retaining wall on the E/S property line.

The applicant, along with her father Joseph Vinhais of 8 Prospect Avenue, made the presentation.

The requested modification related to variance #08-33, which was issued in November of 2008. The original variance required that the existing retaining wall along the E/S property line be rebuilt. The applicant informed that the abutting E/S property owner will not allow access onto her property, which must be obtained, if the wall is to be reconstructed. Photographs of the E/S property line were submitted.

The abutting property owner, Genevieve Everlith, along with her son, Charles Everlith, came forward. Mrs. Everlith indicated that she needs some guarantee that she will not be held responsible for any damage or liability that may occur during construction. Both parties agreed to work together to generate a legal agreement that would hold Mrs. Everlith harmless for any damages and liability that may occur on her property. It was also noted that any damage incurred to Mrs. Everlith property will need to be addressed.

Application #10-40 – Laura A. Phillips and James G. Phillips, Jr.  
5 Spinning Wheel Road

Variance of Art. III, Sec. 1 to construct a 16'x10' addition, on a corner lot (Greenbriar Road), 26.3' from the rear property line at its closest point.

Mr. Phillips approached and presented his plans for the subject addition. The requested variance will allow for the expansion of the existing master bedroom.

Upon inquiry, Mr. Phillips confirmed that the second addition, shown on the plans, was constructed under a previously approved variance.

Application #10-41 – Sandeep Modi  
83 Johnson Street

Variance of Art. III, Sec. 1 to increase an existing non-conformity with construction of a second story addition, with a 1' overhang, 45.6' from the front property line.

The presentation was conducted by the applicant, Sandeep Modi of 9303 Avalon Gates.

Mr. Modi indicated that he wished to purchase this home but that it would be contingent on being able to construct this proposed addition. The applicant indicated that the home currently does not meet the needs of his family. Mr. Modi commented that he is currently renting and would like to remain in Trumbull and within the school district of which Johnson Street is included.

This concluded the Public Hearing

### **REGULAR MEETING**

Tonight's applications were then considered and the Commission took action as follows:

Application #10-36 – Cortland Developers, 45 Twin Circle Drive

MOTION MADE (Vitrella), seconded (Scarpelli) and unanimously carried (Puskar, Miko, Muir, Scarpelli, Vitrella) to approve Application #10-36, as presented and plans submitted.

Application #10-29 – Robert Whitehead, 5206 Madison Avenue

MOTION MADE (Vitrella) and seconded (Scarpelli) to approve Application #10-25.  
Vote: In Favor: 0 / Opposed (5): Puskar, Miko, Muir, Scarpelli Vitrella – Appeal Denied

The Commission unanimously determined that there are existing factors, which indicate commercial vehicles are located on this property and that the existing storage enclosure does not meet the criterion, which defines a permanent structure. The applicant failed to provide sufficient evidence to indicate that the Zoning Enforcement Officer acted improperly.

Application #10-38 – William G. Bovan, 66 Pondview Avenue

MOTION MADE (Vitrella), seconded (Scarpelli) and unanimously carried (Puskar, Miko, Muir, Scarpelli Vitrella), to approve Application #10-38, as presented and plans submitted.

Application #10-39 – Natalie Vinhais-Luysterborghs, 4 Prospect Avenue

MOTION MADE (Scarpelli) and seconded (Vitrella) to approve Application #10-39.

MOTION MADE (Muir), seconded (Scarpelli) and unanimously carried (Puskar, Miko, Muir, Scarpelli, Vitrella) to amend the original motion to include the following specific conditions.

1. A legal agreement, between the applicant and the abutting neighbor on the E/S property line (Genevieve Everlith), shall be established, within the next thirty days, holding Mrs. Everlith harmless to any damage or liability, which may occur on her property, as a result of the reconstruction of the retaining wall.
2. All conditions of approval placed on the original variance (#08-33), are to be complied with.

Vote (Original Motion as Amended): Unanimous (Puskar, Miko, Muir, Scarpelli, Vitrella) – MOTION CARRIED

Application #10-40 – Laura A. Phillips and James G. Phillips, Jr., 5 Spinning Wheel Rd.

MOTION MADE (Vitrella), seconded (Scarpelli) and unanimously carried (Puskar, Miko, Muir, Scarpelli, Vitrella), to approve Application #10-40, as presented and plans submitted.

Application #10-41 – Sandeep Modi, 83 Johnson Street

MOTION MADE (Vitrella), seconded (Scarpelli) and unanimously carried (Puskar, Miko, Muir, Scarpelli, Vitrella), to approve Application #10-41, as presented and plans submitted.

Schedule of 2011 Meeting Dates

MOTION MADE (Muir), seconded (Scarpelli) and unanimously carried (Puskar, Miko, Muir, Scarpelli, Vitrella), to approve the Zoning Board of Appeals 2011 meeting date schedule, as presented.

Election of Officers

Chairman – Carl Scarpelli nominated Michael Muir, which was seconded by Richard Puskar. There being no further nominations Mr. Muir unanimously elected to the position of Chairman.

Vice-Chairman – Carl Scarpelli nominated Richard Puskar, which was seconded by Michael Muir. There being no further nominations Mr. Puskar unanimously elected to the position of Vice-Chairman.

Secretary – Carl Scarpelli nominated by Michael Muir with a second by Richard Puskar. There being no further nominations Mr. Scarpelli was unanimously elected as Secretary.

There being no further business to discuss a motion was made by Commissioner Vitrella and seconded by Commissioner Scarpelli to adjourn. The December 1, 2010 meeting of the Zoning Board of Appeals adjourned at 8:30 p.m. with unanimous consent.

Respectfully submitted,

Helen Granskog  
Clerk of the Zoning Board of Appeals