

**MINUTES OF PUBLIC HEARING
HELD BY THE PLANNING AND ZONING COMMISSION
NOVEMBER 2, 2015**

ROLL CALL:

Members Present: Eric Prause
Horace Brown
Michael Stebe (Abstained 2015-101)
Andy Kidd

Alternate Member Sitting: Patrick Kennedy (Sitting)

Alternate Member Sitting (For 2015-101 only): Teresa Ike

Absent: Susan Shanbaum
Julian Stoppelman

Also Present: Mark Pellegrini, Director of Planning
Renata Bertotti, Senior Planner
Karen Logan, Recording Secretary

The Chairman opened the Public Hearing at 7:00 p.m. The Secretary read the legal notice for the application when the call was made.

TOWN FAIR TIRE – Request for Certificate of Location approval under Connecticut General Statutes 14-54 for a Department of Motor Vehicles limited repairer license at 19 Pavilions Drive. – Certificate of Location Approval (2015-101)

Attorney Stephen Penny presented the application for Town Fair Tire. He cited the Connecticut statute, reading from Section 14-54 governing the location approval for the limited repairer license. In order to obtain a limited repairer license, a Certificate of Location Approval must be obtained from the Planning & Zoning Commission, Attorney Penny said.

Attorney Penny went on to describe the site and proposed location at 19 Pavilions Drive, noting points of ingress and egress. He also discussed the hours of operation and the distance to the existing nearby schools and churches. He also touched on traffic concerns, noting that the applicant's business would not have a significant impact. He then asked the Commission to approve the applicant's request for the Certificate of Location Approval.

Mr. Prause asked for clarification of the definition of repair activities under the state statute. Attorney Penny replied that "changing of tires and tubes, including the balancing of wheels, shall not be construed as the repairing of motor vehicles." However, in the prior paragraph of the statute in the definition of limited repairers, "wheel alignment and balancing" are included. So balancing in the context of a job that includes wheel alignment is a minor repair, he said.

Changing or replacing a tire and balancing a wheel is not a repair.

Ms. Bertotti noted that there were no comments from staff. She recommended an approval with the condition that the activities that are approved for this location be limited to the sale and storage of tires and wheels, and performance of services relating to tires and wheels including, but not limited to, installation, mounting, balancing, alignment and repair. Attorney Penny said that the applicant agreed to this condition.

Mr. Prause called for public comments, but there were none.

Mr. Kidd asked if Jim Mayer, the Traffic Engineer, was asked to assess the potential traffic impact. Mr. Pellegrini clarified that Mr. Mayer had reviewed a traffic impact report with the previous application for the CUD Detailed Site Plan Modification, for Edge Fitness. He believed that Attorney Penny was referring to that report in his presentation.

Mr. Kennedy moved to close the public hearing on this application. Mr. Kidd seconded the motion and all members voted in favor.

LEAH PERSKY – Request a special exception under Art. II Sec. 5.02.01 to convert a 2-family to a 3-family at 57 Lockwood Street (a.k.a. 57-59 Lockwood Street). – Special Exception (2015 – 084)

Mr. Leonard Persky, former owner of the property, presented the request on behalf of the applicant, Leah Persky. He provided the background and history of the request, including information regarding the evolution of changes that have occurred without appropriate permits, inspections and approvals. He indicated that he was young and did not understand the process entirely, thinking all he needed for approval were the permits he received from Mr. Frank Conti, from the Town of Manchester.

Mr. Persky said he had originally planned for his mother-in-law to live in the apartment above the garage. However, due to health issues, his mother-in-law ended up renting one of the downstairs units and the family lived upstairs. When Mr. Persky decided to switch from oil to gas heat in 2013, he was advised to file an application for a special exception in order to address code violations, he said.

Mr. Prause asked what the square footage was of the three units. Mr. Persky said the lower apartments are 774 square feet each; the upper apartment is over 2,000 square feet.

Mr. Prause asked what the basement accessibility is. Mr. Persky responded that the basement is finished on one side, but not on the other. There is accessibility for each side in each of the units.

Mr. Brown asked about the relevance of the statements in the project description the Commission received: “In March 2013 the applicant was advised to file an application for a special exception in order to address the cited code violations. The matter is currently pending in the CT Superior Housing Court.” Mr. Pellegrini clarified that during the course of addressing certain building code violations, the matter of the zoning violation arose. Mr. Persky was unable to address the zoning situation until he was sure he was going to keep the property and had

caught up with taxes and repairs that were required.

Mr. Kennedy asked if the units were being lived in currently. Mr. Persky said that was correct. Mr. Kennedy also asked if the tenants initiated the report of code violations. Mr. Persky said that the situation was triggered by his decision to switch the property from oil to gas heat.

Mr. Prause asked if there were any permits for the in-law apartment. Ms. Bertotti replied that the in-law apartment is a permitted use in all residential zones. From her review of the building file it appears there was never a Certificate of Occupancy that was issued for an in-law apartment at this location. Mr. Prause asked if this Special Exception would be considered a two-family house with an in-law apartment. Mr. Pellegrini said that an in-law apartment requires some familial relationship with the owner of the property.

Mr. Persky noted that all of the activity took place during the late 1970's into the early 1980's. In his mind, he said, he was considering the property a two-family home with an in-law apartment. He later learned that once the unit is rented out, the property becomes a three family.

Mr. Stebe asked about the access for the second floor. Mr. Persky replied that there are two ways to get into the second floor unit; one is through a covered stairway up to the deck. Mr. Stebe asked about the parking area and if the deck in back of the house was connected to the garage. Mr. Persky said that it was not attached.

Mr. Kidd asked if the upstairs unit is a single living space. According to the floor plans, it looks like there are two kitchens. Mr. Persky responded that was how the house was when he bought it, but his intention was to make the second story the family unit. Mr. Kidd asked where the stairway to the second floor was located, as the regulations prohibit any outside stairways on the front or the sides of the house. Mr. Persky asserted that the stairway to the second floor was located in the rear of the building.

Mr. Kidd asked whether there was sufficient parking for a three family home. Ms. Bertotti indicated that there were six parking spots, which is sufficient. Mr. Kidd asked whether this type of home aligned with the character of the neighborhood and if there were other two-family homes in the neighborhood. Mr. Persky replied that the only difference between his house and others from the front of the house is the two car garage, which is higher than the other buildings in the area. There are other two-family homes (eight), but no other three-family homes in the neighborhood. It is predominantly single family homes.

Mr. Kennedy asked the applicant if his family has been living in the home for 40 years and the purpose of the application request would be to legitimize the arrangement. Mr. Persky stated that was true and that there were no plans to change the living arrangements.

Mr. Pellegrini noted that there is a paved area large enough for the required number of parking spaces, but they are not marked. He said the Commission might want to consider adding the marked parking spaces as a condition of approval.

Mr. Prause asked Ms. Bertotti whether the size of the house had changed within the last five years. Ms. Bertotti said that the applicant stated that there had been no change in the size of the house in the last four years, but there was no way of verifying that fact independently.

Mr. Prause then called for public comments.

Ms. Mary Gulish, who lives at 57 Columbus Street, spoke first. Her home is directly behind 57 Lockwood and she stated that the tenants she spoke to said there were four apartments in the property. She characterized the neighborhood as quiet and mostly single-family homes. The property is unkempt and looks very different from any other property in the neighborhood. She asked that the Commission not approve this Special Exception.

Ms. Bertotti noted that her office had received two letters from neighbors - Mr. Rudolph Cabal, Sr. and Ms. Sherry Pelletier. Both letters spoke against approving the change, saying that there were no multi-family homes in the neighborhood and this property brings the real estate values down in the neighborhood.

Mr. Persky reiterated that the Quonset hut that imploded was replaced by the two story wooden barn several years ago. Ms. Leah Persky stated that she has lived in the property all her life. Now that she owns the property, she wants to do the right thing and do everything by the book.

Mr. Kennedy asked about the wording of the regulation, which speaks about converting a single family home to a duplex style. He said there did not seem to be anything written about converting a two-family to a three-family home. He asked if there were any other three-family homes in the neighborhood and Ms. Bertotti said there were none.

Mr. Pellegrini noted that the regulations do not spell out whether it is possible to convert a two-family to a three-family home and suggested that he would be more comfortable if the Town Attorney could take a look at the regulations in regards to this issue.

Mr. Kennedy moved to table the Public Hearing on this issue until the November 16th meeting so that the Town Attorney could review the specific language concerning the conversion of a two-family to a three-family home. Mr. Stebe seconded and all members voted in favor.

Mr. Kidd asked if it would be possible to look into some of the violations or disturbances mentioned in the comments made by some of the neighbors of the property. Mr. Prause asked for pictures of the property and Mr. Stebe asked for measurements of the parking area. Mr. Stebe also asked to hear from the Zoning Enforcement Officer.

MICHAEL & SALLY FLYNN – Request a special exception for an alternative compliance under Art. II Sec. 26.09.04 to locate a prefabricated 14' x 28' garage in the rear of the existing building at 230 Middle Turnpike West in the Form Based Zone. – Special Exception (2015-096)

Mr. Aaron Ansaldi of the Ansaldi Company presented the application. He described the proposed location of the prefabricated 14' x 28' storage garage and explained the process of creating the pad needed to install the garage. Ms. Sally Flynn introduced herself and spoke about the proposed storage garage. She described the look of the garage and explained that their business had grown such that they required a storage facility.

Mr. Kidd asked Ms. Flynn how the proposed prefabricated building is different from the building she and her husband were considering during the pre-application discussion they had with the Commission. She replied that under the regulations of the Form Based Zone, the building would

be required to be no further from the front property line than 25', which would place it in front of their business, but that location doesn't make any sense. Their request is to locate the garage behind their business so that they can use it for storage of parts and things.

Mr. Pellegrini offered some comments for the Commission's consideration. The first structure Mr. Flynn was proposing when he came before the Commission in 2014 was much larger and was intended to have bays and lifts. The Commission's concern at the time was that with a building of that size, there should be more of an effort to conform to the Form Based Zone regulations which include provisions for the maximum allowed distance from the front and side property lines. This proposal is for a much smaller accessory structure.

Mr. Brown noted that he understood the reasoning behind the Form Based Zone regulations, but he felt that locating an accessory building like a storage shed in front of the business, close to the street doesn't make sense. He would rather see the shed in back of the business.

Mr. Stebe asked if the structure required a foundation. Ms. Bertotti said that the structure would not require a foundation. Mr. Stebe then asked if the location of the structure would be completely behind the business building. Ms. Flynn indicated that the building would be behind the business. Mr. Stebe also asked if the structure would need electricity and how the electricity would be added. Mr. Ansaldi said that yes, the building would have electricity and that a conduit would be added to run the electricity to the structure.

Ms. Bertotti indicated the staff recommendation was that plans be modified to show a note regarding the slope stabilization.

Mr. Prause called for comments from the public. There were no public comments.

Mr. Stebe moved to close the Public Hearing. Mr. Brown seconded and members voted in favor.

The Chairman closed the public hearing at 8:45 p.m.

I certify these minutes were adopted on the following date:

December 7, 2015
Date

Eric Prause, Chairman

NOTICE: A DIGITAL RECORDING OF THIS PUBLIC HEARING CAN BE HEARD IN THE PLANNING DEPARTMENT.