

**MINUTES OF PUBLIC HEARING
HELD BY THE ZONING BOARD OF APPEALS
LINCOLN CENTER HEARING ROOM
MAY 24, 2007**

MEMBERS PRESENT: James Stevenson, Chair
Kathleen Maffe, Vice Chair
Robert Schneider, Secretary
Albert Gionet
Robert Haley

ALTERNATES PRESENT: Edward Slegeski
Paul Harnois

ALTERNATE ABSENT: Susan Shanbaum

ALSO PRESENT: James Davis, Zoning Enforcement Officer
Mark Pellegrini, Director of Neighborhood
Services and Economic Development
Ginger MacHattie, Recording Secretary

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

AML HOLDINGS – application #2308 – request a special exception under Article II Section 24.02.02(a) and Article IV Section 5.03.02 to allow an automobile repair and service use; and request site location approval under Section 14-54 of the Connecticut General Statutes for an automotive repair business at 429/445 Oakland Street and 15 Gleason Street, General Business zone.

Mr. Dan Delaney, civil engineer with Fuss and O’Neill, Inc., spoke on behalf of the applicant and described the site to the Board and described the special exception request. He said the minimum site requirement is 30,000 square feet; the proposed location is 90,000 square feet and all setbacks are larger than required. The building will be 11,000 square feet with 51 paved parking spaces. The applicant will connect to a sanitary sewer on Karen Drive through an easement and stormwater drainage meets all requirements. The lighting on the site will consist of two light poles in the parking lot with down-light shoebox fixtures and light fixtures mounted on the building.

Mr. Delaney said the applicant proposes evergreen trees for screening along the southern and eastern portions of the property as well as extensive shrub plantings. Mr. Delaney stated that this is a suitable location for this business because there are similar businesses in the area, it is in line with Manchester’s Plan of Conservation and Development, and it is a suitable structure for that location. As far as neighborhood compatibility, the structure is largely screened from view of the neighbors, has adequate parking and access, will be off of a major roadway, and is a low

traffic generator. Both the Eighth Utilities District and Manchester Fire Department have signed off on the emergency access presented in the plan.

Mark Vertucci, Traffic Engineer with Fuss and O'Neill, described the site traffic relative to the road network. The driveway is approximately 600' south of the intersection with Tolland Turnpike and will be directly opposite the U-Haul driveway. The trip count of an average tire store for peak a.m. hours is 20 and for peak p.m. hours is 29 trips. Mr. Vertucci said he reviewed accident data for this location and found no accident patterns. Town staff and State DOT personal have reviewed the traffic study and site plans and all concerns have been addressed, he said.

Eric Kemp, Pelletier Builders, described the structure to the Board. The building will have two entrances and several overhead doors. It will be a metal structure with metallic finish and some masonry. Doors will be pre-finished white.

In response to a question from Mr. Haley, Mr. Kemp stated that he was not aware of outdoor tire storage.

In response to a question from Mr. Gionet, Mr. Kemp stated that in some places of the structure there is one bay door in the front and two bay doors in the rear, in order to bring in more cars. Mr. Kemp stated that he was not contracted to design lift locations and does not know how many lifts there will be.

Frank Bernstein, owner of the property, stated that there is an area in the center of the building for receiving goods. Tires will be received there and there is an area among the floor plan for storage. There will be no outside storage of tires.

There was discussion among the Board members regarding an emergency access drive to the property through Gleason Street. The Fire Department reviewed the plans and had no comments regarding the need for emergency access, Mr. Pellegrini said. However due to traffic in this area there was some concern about how emergency vehicles would get into the driveway. Mr. Stevenson suggested putting an emergency access driveway off of Gleason Street.

IN OPPOSITION

Ms. Patricia Pelkey, 16 Karen Drive, stated that her property directly abuts this location. She is concerned about a number of things including oil, noise from pneumatic equipment, the number of lifts, lighting surrounding the business and its impact, fencing, the number of vehicles housed, and the buffer between this property and her property. She stated there are twenty-four auto repair businesses in town, and asked why we need one more. She stated that this will not benefit the neighbors in any way, shape, or form.

Mr. Delaney explained that the light fixtures have zero spillover. They will be used during business hours only and motion detectors will be used for security around the building. Mr. Delaney stated the applicant is trying to leave as much wooded area as possible for a buffer zone. There will be approximately eight or nine employees.

Mr. Bernstein explained that there will ten lifts on one side of the building, one on the other, for a total of eleven lifts. The oil tanks are double walled and contained inside the building. There will be a maximum of two tanks. Pneumatic equipment is standard in automotive use.

In response to a question from Mr. Gionet, Mr. Bernstein stated that there would not be a limousine service, just a tire store and automotive repair service.

In response to a question from Mr. Haley, Mr. Bernstein stated the hours of operation are 8:00 a.m. to 5:30 p.m., Monday through Friday, and Saturday, 8:00 a.m. to 3:00 p.m.

David Baum, 8 Karen Drive, spoke in opposition to the application. He stated there is too much traffic in the area and this business will bring more. He is concerned about the landscape buffer especially during the winter when there are no leaves on the trees. Mr. Baum mentioned noise pollution from pneumatic tools and asked if the doors will remain closed all day. He asked if air compressors will be in the building or outside and if they will be muffled. Mr. Baum stated that after the Big Y was built, the property values in the entire area were depressed. Any facility located here will hurt property values.

Stacey Boswell, 26 Karen Drive, stated that she moved to Karen Drive because of the neighborhood. Her children are free to roam. She is concerned with the safety of the children in the neighborhood and stated that they get curious and is concerned that there is no formal barrier besides trees.

Mr. Pellegrini stated that the Town's traffic engineer has done a lengthy study and has no outstanding concerns. The traffic on Oakland Street will affect this business; this business will not affect the traffic on Oakland Street. The remaining staff comments concern the storm water management plan. The engineering department has extensively reviewed the calculations and is recommending as a condition of approval that they be satisfied the drainage calculations be corrected. There were staff modifications recommended as well.

RISHIMA & PRIYAL, LLC – application #2320 – request a variance to Article IV Section 7.02.02 and to Article IV Section 7.02.03 and Article IV 8.06 to change existing use to permit sale of alcoholic liquors under package store permit, at 276 Oakland Street, Residence A zone.

Attorney Stephen Penny addressed the Board on behalf of the applicant. Currently, the applicant owns a convenience store at this location and would like to reduce the size of the grocery section and add a laundromat and a package store. This property is located in a Residence A zone on Oakland Street, which is a major arterial roadway. Variances were granted for this property in 1958, 1964, and 1968 and it has been commercially used for decades. The property is a non-conforming use in the Residence A zone.

Mr. Penny explained the applicants needed to obtain variances both because the use is nonconforming and the nonconforming regulations do not allow for the addition of alcohol liquor sales. Mr. Penny contended this was a long established neighborhood commercial

business on Oakland Street in a location that does not favor single-family homes, which would otherwise be allowed in the existing zoning district. Mr. Penny said that arguably this should be a Neighborhood Business zone considering the existence of the nonconforming convenience retail store and the gas station abutting it to the south, but this might be considered spot zoning and is contrary to the Town's proposed Land Use Plan in its Plan of Conservation and Development. Nonetheless, he contended the proposed activity is consistent with the area and would provide necessary neighborhood services. He also stated that in his opinion alcoholic related uses would not change the character of the neighborhood.

IN OPPOSITION

Charlie King, 299 Oakland Road, owned this property when it was Pero's Fruit Stand and still owns the property adjacent to it. Mr. King said when he sold the property in 2002, the applicant knew this property could not be used as a package store. Mr. King is of the opinion that the store has been downgraded since he sold it.

Mr. Pellegrini reviewed the plan he received that shows a new building façade and floor plan. The three locations would be broken down as follows: 1,800 square feet for the package store, 1,200 square feet for the grocery store, and 780 square feet for the laundromat. The zoning regulations have specific provisions that are restrictive on alcoholic liquor sales, he said. The Board could impose conditions on the size of the various uses, but the variances would run with the land.

GREGORY & SHARON MAINVILLE – application #2321 – request a variance to Article II Section 4.01.01 to reduce the front yard setback to 37.5' (40' required per subdivision plan) to build an addition, at 74 Braeside Crescent, Residence aa cluster zone.

Gregory Mainville, 74 Braeside Crescent, stated that he needs a variance of 2.5' to build a new open porch addition on his home. The reason for the application is because he saw another in the neighborhood and liked it.

PETER DAIGLE – application #2322 – request a variance of Article II Section 4.01.01 to reduce the side yard to approximately 5' (10' required), at 20 Tower Road, Residence A zone.

Peter Daigle, 20 Tower Road, would like to extend his garage and add additional space above the garage. Currently the front line of his garage is set back from the front line of his house. He is proposing to extend the garage, making a straight line across the building. The second floor addition would then cover the whole garage.

IN OPPOSITION

Michael Nimarowski, 23 Tower Road, has lived across the street from this property since 1951. He stated that this was originally a one-family home and has since had a series of additions built onto it. All other homes in the area are one-family homes. Mr. Nimarowski stated this home has

more than one family dwelling in it. He stated that the house does not need to be enlarged anymore. He also stated that junk is stored on the property near the in-law apartment. Although the address is 20 Tower Road, they use 18 and 20 Tower Road for mail purposes. He would like to live peacefully in the home he has bought and paid for. He urged the Board to give him some consideration.

James Davis received a call from Mr. Nimarowski and went to the site to investigate and take photos. Mr. Davis did notice the different address labels with 18 and 20 Tower Road listed. As the photos show, the site is clean and maintained in a neat orderly manner. There is only one set of utilities servicing the property, as allowed for residential properties.

In response to a question from Mr. Gionet, Mr. Davis explained that the occupant of the in-law apartment does not have to be a relative. Regulations allow for the renting of rooms to not more than three persons.

B. J. ALAN/GRAHAM CORNELIS – application #2323 – request special exception under Article II Section 9.14.02(e) for outdoor sales of sparklers and novelty items at 385 (aka 395) Broad Street, General Business zone.

Graham Cornelis of BJ Alan was present to request a special exception for outdoor sales for a limited period. In response to a question from Mr. Gionet, Mr. Cornelis stated that the tent has not been erected yet. In response to questions from Mr. Schneider, Mr. Cornelis stated that the hours of operation will be 10:00 a.m. to 8:00 p.m. seven days a week and will be operating from June 22 through July 4, 2007. Mr. Cornelis stated that he did receive the memorandum from the Fire Marshal regarding the conditions of the previous year's activity. In this memo the Fire Marshal noted there was litter and debris at the site of the tent and storage containers were removed. Mr. Cornelis stated he has hired a different company and will meet the requirements.

Mr. Davis recommended the following conditions: no signs other than on the tent, the property be maintained in a clean, debris-free manner, and all items be removed by July 7, 2007.

B. J. ALAN/GRAHAM CORNELIS – application #2324 – request special exception under Article II Section 9.14.02(e) for outdoor sales of sparklers and novelty items at 480 Oakland Street, General Business zone.

Graham Cornelis of BJ Alan stated his company operated at this location last year and had a problem with cardboard and paper. He has added a recycling container to address the debris issue. The tent will be smaller this year because there is now a business operating at this location.

Ms. Maffe stated concerns that the business's window displays are not family oriented. She asked the applicant how he plans to screen the window displays from families entering the property. Mr. Cornelis stated he may have to address this with the property owner.

Mr. Davis recommended the following conditions: no signs other than on the tent, the property be maintained in a clean, debris-free manner, and all items be removed by July 7, 2007.

AMERICAN PROMOTIONAL EVENTS, INC. – application #2325 – request special exception under Article II Section 9.14.02(e) for outdoor sales of sparklers and novelty items at 286 Broad Street, General Business zone.

Mr. Kent McGlaughlin of Amercian Promotional Events, Inc. requested a special exception to erect a temporary tent at this location between June 19 and July 6, 2007. Actual sale dates would be June 20 through July 4, 2007. Personnel will remain at the tent 24-hours a day. The applicant plans on erecting a tent, but will have no containers or other receptacles on the site. There is an agreement in place with Stop & Shop regarding the use of trash receptacles.

JAY PITCHELL – application #2271 – request a modification of a condition of the special exception approval to increase the number of cars permitted to be sold from 18 to 24; and site plan modification approval at 333 Main Street, Business III zone.

Mr. Jay Pitchell, 333 Main Street, stated he has a plan that will satisfy the Town’s requirements for access across the lot, which was the primary reason for the Board’s denial of his previous request. He said he proposes to take the concrete island out under the canopy and leave that area open for traffic flow from one side of the property to the other. Mr. Pitchell showed a plan that contained a new location for the handicap parking space which met Town standards.

In response to a question from Mr. Stevenson, Mr. Pitchell stated that the concrete will be removed and the area will be paved. The canopy will remain.

The Chair closed the public hearing portion of the meeting at 9:12 p.m.

I certify these minutes were adopted on the following date:

Date

James Stevenson, Chair

NOTICE: THE CASSETTE TAPE RECORDING OF THIS PUBLIC HEARING CAN BE HEARD IN THE PLANNING DEPARTMENT.

OFFICIAL TAPE NO.: 484, 485

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