

**MINUTES OF PUBLIC HEARING
HELD BY THE ZONING BOARD OF APPEALS
LINCOLN CENTER HEARING ROOM
JUNE 27, 2007**

MEMBERS PRESENT: James Stevenson, Chair
Kathleen Maffe, Vice Chair
Robert Haley

ALTERNATES PRESENT: Paul Harnois (sitting)
Susan Shanbaum (sitting)

MEMBERS ABSENT: Robert Schneider, Secretary
Albert Gionet

ALTERNATE ABSENT: Edward Slegeski

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 7:04 p.m. Ms. Shanbaum read the legal notice for the application when the call was made.

PETER KEGLER – application #2326 – request a variance to Article II Section 18.05.12(f)(2) to permit a sign 96 sq. ft. (50 sq. ft. permitted) at 96 Elm Street, Historic zone.

Peter Kegler, 187 Federal Road, Chaplin, CT stated that a 50 sq. ft. sign would be too small of scale for the size of the building. The length of the building is 124 feet. The sign they are seeking a variance for is 96 sq. ft. Mr. Kegler distributed copies of the sign to the Board.

Mr. Pellegrini stated that the building is in the Cheney Historic District and is subject to the design review standards in the Historic Zone regulations. The Cheney Commission approved the sign at the location, with the dimensions and colors shown on the copy distributed to the Board. There are no outstanding staff comments.

CHERYL DUNCAN – application #2329 – request a variance of Article II Section 4.01.01 to reduce the western front yard setback to 18'+/- (25' required) to build an addition at 15 Robin Road, Residence A zone.

Joe Grillo spoke on behalf of Cheryl Duncan to request the addition of a front porch on her cape cod style home. In response to a question from Mr. Stevenson, Mr. Grillo stated it would be an open front porch with spindle railings and tongue and groove flooring.

In response to a question from Ms. Shanbaum, Mr. Grillo stated the small extension that already exists will be removed and the porch will extend directly from the house. In response to a question from Ms. Maffe, Ms. Duncan stated that her mother is living with her and would like a front porch.

Mr. Pellegrini stated there are no staff comments.

HIGHLAND OAKS CORPORATION – application #2330 – Request a variance to Article III Section 6 to allow three rear lots and to Article II Section 3 to reduce the minimum lot frontage to 27' for proposed lot 54, 27' for proposed lot 83 and 41' for proposed lot 84 at Abigail Circle, Residence AA zone.

Attorney Stanley Faulkenstein, 113 East Center Street, spoke on behalf of the applicant. He explained that last year Planning and Zoning Commission approval was received for a six lot subdivision. At that time, there was opposition from neighbors concerned with blasting. David Viggiano, the home builder, decided three lots would be better and would eliminate most if not all of the required blasting. He is seeking a variance to reduce the minimum lot frontage and to allow three rear lots. Attorney Faulkenstein presented a petition signed by 20 neighbors within the Highland Oaks development and on Dale Road who are in favor of this request.

In response to a question from Mr. Stevenson, Attorney Faulkenstein stated he did not know if the Planning and Zoning Commission is in favor of this request, since a variance is required before his client can go before the Planning and Zoning Commission for the rear lot approval.

Mr. Don Holmes, a professional engineer with Holmes and Henry, explained that when Highland Oaks received the original approval for six lots, a number of revisions were made to obtain the approval and address neighbors concerns. Since then, the client has had conversations with residents on Dale Road and as a result has designed a plan that is less intrusive, with three larger houses on one-acre lots and a shared driveway. The lots lack the 120' frontage required. The driveway is 20 feet wide and ends in a roundabout. Each driveway comes from the roundabout.

In response to several questions from Mr. Haley, Mr. Holmes stated nothing had physically changed with the land and they have decided to eliminate the public road so the Town is not responsible. Most likely there will be some blasting to get the utilities installed, but less than with the other plan. Mr. Holmes stated that the road follows the land formation more closely than a Town road would.

Dave Viggiano, 339 Main Street, East Hartford, CT, stated that the revised plan would reduce damage to the land, reduce blasting, and preserve a buffer of trees providing a more pleasing aesthetic look. In response to a question from Mr. Stevenson, Mr. Viggiano stated that the homes would now be 3,000 to 4,000 square feet as opposed to around 2,500 in the original plan.

IN FAVOR

Tom Pastor, 205 Garth Road, lives on property bordering the land in question and supports the proposal. He believes the proposal will better maintain the value of the neighboring properties. Mr. Pastor asked what is different in terms of blasting with this new proposal. He stated he would like to see restrictions on blasting stay in place with the new proposal. Mr. Pastor also stated he would like to see the tree buffer stay and is all for mandating a 20' buffer.

Wayne Carroll, 30 Chilstone Lane, supported the plan. His major concern was with storm water runoff and if too many trees are cleared there may be a problem. He stated a tree buffer in the area would be nicer than the original plan.

Phil Gordon, 69 Dale Road, spoke in favor of the application. He said he was the person who organized the neighborhood against the original application. He said his home suffered damage during drilling and blasting for the Highland Oaks development in the past.

In response to a question from Mr. Stevenson, Mr. Holmes stated there would be no blasting needed for the driveway, but probably some will be required for the utilities. He did not know about the presence of ledge. Mr. Holmes would not state there would be no blasting, however, he did say there would be much less blasting needed. In response to a question from Mr. Haley, Mr. Holmes stated that a no-blasting rule would not work with this project.

Mr. Pellegrini said this was an unusual proposal. A six-lot subdivision was approved with conditions on blasting activity imposed by the Planning and Zoning Commission. The variance is required because the lots do not have the minimum 120' required frontage and the rear lot regulations only allow one rear lot. The public street previously approved would not be required if the variance is granted, he said. If the Zoning Board of Appeals approves the variance the applicants must submit the new plan to the Planning and Zoning Commission for approval of the proposed rear lots.

Mr. Pellegrini stated that there are a number of staff comments from Engineering and Water and Sewer. He received an e-mail from Mark Carlino the Director of Public Works/Town Engineer stating that the private drive would decrease disturbance to the earth, compared to building a public street.

DYNAMIC AUTO, LLC – application #2331 – request a variance to Article IV Section 5.03.02 to reduce the eastern side yard setback to 5' (25' required) and the rear yard to 4' (30' required); and request a special exception approval under Article II Section 9.14.02(e) for outside storage and Article IV Section 20 and Article IV Section 5.01.02 to expand a service station to permit an 8½" x 43' storage trailer at 308 Middle Turnpike West, General Business zone.

Attorney Stephen Penny, 202 West Center Street, spoke on behalf of the applicant. He described the .344-acre property which is in the General Business zone. The property has been used as a gas station and repair facility. In 2005, a special exception approval was made to allow the sale of 9 vehicles. The applicant is requesting approval to locate an outside storage unit on his

property to store used tires until they are picked up. This will eliminate the necessity of storing them along the side of the building and avoid theft. Attorney Penny noted the storage unit looks similar to containers used at construction sites. The container would be screened from neighboring properties by a fence and buildings. The hardship here is that the building has existed for 50 years.

In response to questions from Ms. Maffe, Attorney Penny stated that tires, metal tubing used for exhaust, and repair equipment would be stored in the container. The general debris and 50 gallon storage barrels would be removed from the property. Tires would be picked up on a weekly basis. Attorney Penny stated the dumpster needs to be relocated as it is currently in the wrong location.

Mr. Haley stated that none of the cars are parked according to the original plan. There is no handicap parking because the dumpster is in front of the handicap spot. Mr. Haley counted thirteen vehicles marked for sale, a snowplow, two unregistered vehicles, and three registered vehicles. Attorney Penny stated he is amenable to stipulating striped parking spaces as a condition of approval of the outside storage.

Mr. Pellegrini showed a photograph of the storage containers in use at the Manchester High School construction site as an example of what the applicant is requesting. Mr. Pellegrini stated he prefers a permanent structure rather than a metal container if permanent storage is necessary.

In response to several questions from Mr. Davis, Attorney Penny stated that no petroleum products would be stored in the container. The rear portion of the container will be on the ground; the rest will be on bituminous pavement. The Fire Marshal stated that aluminum material is acceptable and is satisfied that there will be access all around the container.

SANDRA J. MORRIS – application #2332 – request a special exception under Article II Section 9.14.02(e) to permit outdoor sales (a food vending cart) at 385 Broad Street to October 30, and thereafter annually from April 1 to October 30, General Business zone.

Sandra Morris, 47 Edgerton Street, requested approval of outdoor sales to vend from a standard New York style hot dog cart Monday through Friday during lunchtime, through October 30, in the plaza next to Shaw's Supermarket. Ms. Morris has had her vending license in Manchester for six years.

In response to questions from Mr. Stevenson, she said there would be no picnic tables or seating areas and will be appropriate trash receptacles. Hours will be 10:00 a.m. to 3:00 p.m. In response to a question from Mr. Haley, Ms. Morris stated she would be bringing the cart home every night.

Mr. Pellegrini stated that Ms. Morris has received all other permits needed to vend in Manchester. Sgt. Beeler of the Traffic Division of the Police Department is satisfied with the proposed location of the cart. The Town traffic engineer requested Ms. Morris not serve anyone who stops on Broad Street; they must park in the plaza's parking lot.

In response to questions from Mr. Davis, Ms. Morris stated that the cart would not require any additional connections such as water or electricity. Ms. Morris stated she is seeking a two or three year approval. Ms. Morris indicated she is aware that signage is limited to her cart.

In response to a question from Ms. Maffe, Ms. Morris stated she would be at this location from about 9:30 a.m. until about 3:00 p.m. She would serve food from about 10:15 a.m. to 2:30 p.m., with setup before and clean up after.

422 NORTH MAIN STREET LLC – application #2333 – request a variance to Article II Section 16.15.02(g) and (j) to allow a health and recreation club and facility within 200’ of a residential zone boundary at 422 North Main Street, Industrial zone.

Attorney Stephen Penny, 202 West Center Street, spoke on behalf of the applicant. The site is a rectangular shaped rear lot with 15’ wide strip of land providing frontage on North Main Street along with a 15’ easement, to provide access to the site. The lot is 2.413 acres and bounded on the north by the Bonneville Apartments and a single family home, on the east by two residential properties, one of which is a multi-family house and the other contains condominiums, on the south by the Penn Central Railroad, and on the west by the rear yards of four single family residences.

The applicant’s property is zoned industrial and contains a 35,888 sq. ft. building built in 1956 as an industrial structure. The applicant acquired the building in November 2004 through a tax lien foreclosure. When they acquired the property, the building was in very poor condition, including visible breaches in the roof, several broken windows and doors, and extensive water damage. Attorney Penny submitted photographs of the interior and exterior of the building taken in 2004. A 2005 appraisal of the property by a professional commercial appraisal company indicated that the building was considered below average for its intended industrial use because of its lower than modern standards for clearance heights and its location outside of an industrial park setting.

The applicant is proposing to lease 14,400 sq. ft. of the building to Elite All-Stars, a competitive cheerleading and dance training facility. Of that area, 12,000 sq. ft. would be equipped with a customized spring flooring and tumble track. The remaining 2,400 sq. ft. would be used for reception, office, restrooms, and a parent lounge. Attorney Penny distributed a floor plan and materials describing the operation for the Board to review.

The applicant intends to use the portion of the building closest to the railroad track, furthest from the residential area. If approved, Elite All-Stars plans to hold about 18 classes per week, with 15-20 students in each class. Hours of operation will be 3:00 p.m. to 9:00 p.m. weekdays, and 10:00 a.m. to 4:00 p.m. on the weekends. In the summer the hours will be 8:00 a.m. to 6:00 pm. The applicant estimates approximately 6 employees and 20 students in the building at a time. There is adequate parking available.

Attorney Penny presented photographs of the building in its current condition and encouraged Board members to compare these photos to the ones submitted earlier. His client has made

considerable improvements to the property, he said. Attorney Penny stated that the hardship arises of the configuration of the land and the historic development pattern on the area. As a rear lot, it is unsuitable for many industrial uses. Providing a variance would not change the character of the neighborhood.

In response to a question from Ms. Shanbaum, Attorney Penny stated his clients have been trying to lease the building since November of last year. In response to questions from Mr. Stevenson, Attorney Penny stated that the parking area would be repaved and striped with a minimum of 26 spaces. In response to a question from Mr. Stevenson, Ms. Kim Tellerico, 27 Manor Lane, Southington, stated that no competitions would be held in this building; it will be solely for training purposes. In response to a question from Mr. Haley, Ms. Tellerico stated that the two units within the building do not share ventilation.

Attorney Penny added that noise would not be a concern in this location. There are very few windows and they do not open. The overhead doors facing the railroad track would not typically be used.

Crescent Deciantis, 400 North Main Street, was primarily concerned with noise. He asked if activities would take place indoors, if the windows would be closed, if there would be air-conditioning, and how much traffic would be generated.

Carol Vincent, 400 North Main Street, asked if loud music will be used and if summer hours would include weekends. She stated cars race in and out of the property late at night.

Olga Szabo, 400 North Main Street, stated that dance classes and cheerleading can be loud. She asked if the windows are soundproof.

Tony Bezzii, 400 North Main Street, questioned the impact of the lighting and wanted to know when the lights would be in operation.

In response to a question from Mr. Haley, Ms. Vincent stated there was a manufacturing company located at the property when she first moved to the area. There was a noise problem in the summer when they opened the garage doors and windows. There were heavy trucks in and out very early in the morning and late at night.

Andrea Davenport, 43 Marble Street, lives in one of the houses that are 14 feet from the building and is concerned about the noise and lighting.

Adam Rouleau, 43 Marble Street, is concerned about the lighting; however, he would choose a bit of lighting and SUV's over loud trucks and pneumatic tools.

Attorney Penny addressed the above questions with the following answers. All activity will take place inside the building and there will be no training outside. The windows do not open and there are no windows on the easterly side of the building. The interior of the office is air-conditioned. The garage doors would not be opened. The only sound generator is a home-sized

stereo system. Summer hours do not include weekends. The clientele will consist of toddlers through people in their 20's. Lighting will be on during the hours of operation.

Mr. Pellegrini stated this applicant is before the Board because their property does not meet the requirement of being 200' from a residential property for the special exception use, (i.e. recreation club or facility.) In order to apply to the Planning & Zoning Commission for a special exception they must obtain relief from the 200' criteria.

Mr. Haley asked what businesses could follow in this location if this were approved. Mr. Pellegrini stated any health and recreation club or facility. In response to questions from Mr. Stevenson and Mr. Haley, Mr. Pellegrini stated that a fitness center is included in that definition, but not an indoor tennis court or indoor driving range.

Mr. Pellegrini reminded the Board that any conditions placed on the special exception, such as hours of operation with the land.

TERRENCE MOORE – application #2334 – request a variance to Article II Section 2.01.01 to reduce the southerly side yard to 12' (15' required) to build an addition at 163 Oakland Street, Rural Residence zone.

Terrence Moore, 264 Capen Street, Hartford, requested a side yard variance to build an addition for two bathrooms to service two bedrooms. The area is currently a wooded area. This will not detract or devalue the neighborhood in any way, he said.

In response to a question from Ms. Shanbaum, Mr. Moore stated that he is the builder, but not the owner of the property. Steven Kaggwa, 163 Oakland Street, stated he is the owner of the property.

Mr. Pellegrini stated that a variance is not required for the entire addition only for the southwest portion of the addition. The property abuts an industrial zone, he said.

The Chair closed the public hearing portion of the meeting at 9:00 p.m.