

**MINUTES OF PUBLIC HEARING
HELD BY THE ZONING BOARD OF APPEALS
LINCOLN CENTER HEARING ROOM
OCTOBER 24, 2012**

MEMBERS PRESENT: James Stevenson, Chair
Albert Gionet, Vice Chair
Robert Haley, Secretary
Edward Slegeski

ALTERNATES PRESENT: Armando Darna
Sandra Stough (sitting)

ABSENT: Michael Stebe

ALSO PRESENT: James Davis, Zoning Enforcement Officer
Renata Bertotti, Senior Planner
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.

BRENDA CARRON-LANG – application #2012-093 – request a variance to Article II Section 16.14 to allow retail sales for an antiques and collectibles co-op at 95 (a.k.a. 95M-1) Hilliard Street, Industrial zone.

Ms. Brenda Carron-Lang, 95M-1 Hilliard Street, is proposing to open an antique co-op. She said vendors rent a space in a shelving unit or small room and display their wares. Proposed hours are Wednesday through Sunday from 10:00 a.m. to 6:00 p.m. She said a co-op's busiest day is usually Sunday and businesses located around the proposed business are not open.

In response to a series of questions from Mr. Gionet, Ms. Carron-Lang said there will be 158 cubbies and thirteen little rooms. The shelving units are 4' wide. She said numbers 85 and 95 Hilliard Street are a communal parking area. The building is "L" shaped and the parking area is a communal lot. She said there is a cement barrier that separates one parking lot from the next. The owner of 81 Hilliard and the Hobby Shop share the parking lot next door. The barriers are situated on 81 Hilliard's property line. Ms. Carron-Lang talked to Pete Smith, the owner of 81 Hilliard Street, who signed a letter saying he had no intention of ever moving them. The parking lot was paved up to those barriers and Mr. Smith is fine with that.

Mr. Gionet said he looked at 81 Hilliard Street and said he did not know where one could park a car.

Ms. Carron-Lang said her customers will park on the other side of the barrier.

Ms. Elaine Smith, Property Manager, explained the barriers are basically a few feet over the line.

Mr. Gionet said on one side of the barrier he saw many used cars.

Ms. Carron-Lang said that is Mr. Smith's business and he just has cars parked there. Her parking will be on the lot for 85 Hilliard. She wants to paint lines on the 85 side and part of that is Pete's property.

In response to a series of question from Mr. Haley, Ms. Carron-Lang said she needs 26 parking spaces. She expects five to ten customers at a time. Ms. Carron-Lang said displays can rent one or several spaces.

In response to a question from Mr. Stevenson, Ms. Carron-Lang said each person has one car. The most in the parking lot for people working will be six total at the other businesses. There are 32 total spaces less the six for employees. Ms. Carron-Lang said she has a lease but there is nothing about parking in the lease.

In response to a question from Mr. Stevenson, Ms. Smith explained that the property owner owns all of the spaces and the tenants use whatever they need. The same person owns numbers 85 and 94 Hilliard Street, she said.

Ms. Carron-Lang said Pete Smith owns to the right of where the toy shop is. There is a community parking lot for the "L" shaped building. There is a woodworking shop, redemption center, wicker business and her business.

In response to a question from Mr. Stevenson, Ms. Carron-Lang said she does not have a formal lease that allows a certain number of parking spaces.

Mr. Stevenson noted testimony that none of the businesses are open on Sunday but said he believes the Hobby Shop is open on Sunday.

Ms. Carron-Lang said the Hobby Shop is located on the other side of the cement barrier. When asked if the Hobby Shop uses parking on the other side of the barrier, Ms. Carron-Lang said it is not their property to use.

Mr. Haley expressed concern about the handicap spot and the three parking spaces going up the ramp.

Ms. Carron-Lang explained that the entrance sits on a hill and the previous tenant had a handicap spot at the bottom of the hill. When her paving company came to talk about lines, the representative told her that it would be better to have the handicap space at the top and do three spots graduating up the hill, which would move the handicap spot to the top of the hill near the door.

In response to a question from Mr. Haley, Ms. Carron-Lang said the architect has been in touch with the Town regarding handicap parking. The spot will be either at the bottom where it was previously or at the top of the ramp.

Mr. Davis explained that Ms. Carron-Lang has been working with Mr. Greg Smith, Chief Building Official, on a code analysis. He was unaware of a parking issue. Mr. Davis would question whether three parking spaces would fit in that area and he would like to see something from the architect. Placing the handicap spot at the top of the ramp would make considerable sense. The slope can be no greater than 2:1. Mr. Davis believes by putting the handicap spot at the top of the ramp, two spaces will be lost. He recommended that before the parking lot be physically striped, the applicant get a parking plan approved.

In response to a question from Mr. Haley, Ms. Carron-Lang said there is a back entrance but there is no parking. The ramp is 30' wide and the 20' handicap spot is away from the double door entrance to the building. She confirmed that the handicap spot is sharing the same ramp as the entrance.

In response to a question from Mr. Stevenson, Ms. Carron-Lang said the previous retail use was Cane and Reed Wicker and before that it was a used furniture store.

Chairman Stevenson asked if any member of the public wished to speak either in favor of or in opposition to this application. No member of the public wished to speak at this time.

Ms. Bertotti said Town staff reviewed this application and has no technical comments outside of the parking requirements. She reminded the Board members that the variance runs with the land and the Board may want to consider restricting hours and days of operation. In addition, the Board should consider potential parking and traffic generation considering the informal parking agreement. Ms. Bertotti reviewed the proposed location of the on-site parking as well as the spaces that are somewhat encroaching.

In response to a question from Mr. Gionet, Ms. Bertotti said the applicant stated there could be 158 separate businesses or several cubbies and rooms could be rented to one vendor. The applicant also explained in her application that the vendors will not be on site selling their items.

In response to a question from Mr. Haley, Mr. Davis explained that this property is in the Industrial zone. This means there is not a strict calculation like there is in a retail zone. We applied the requirements for retail use to this business and came up with the 26 required spaces. The Industrial zone allows the proposed business to demonstrate how many spaces are needed. As the applicant testified, only six additional parking spaces are needed for the other uses on the property. Mr. Davis believes one handicap parking space is needed for the first 25. An additional handicap space is needed for 50 parking spaces, but Mr. Davis is unsure if the second space becomes necessary if there are more than 25 spaces or at the 50 space mark.

Chairman Stevenson closed the public hearing on this application.

CLAIRE CAMPBELL – application #2012-098 – request a variance to Article II Section 4.01.01 to reduce the side yard setback to 4' +/- (10' req.) to enlarge the existing garage at 91 Baldwin Road, Residence A zone.

Attorney David Blackwell spoke on behalf of the applicant, Ms. Claire Campbell, who is the owner of the property at 91 Baldwin Road. He explained that the construction of the garage was well under way when the owner became skeptical of the contractor's work. The contractor assured the owner that the garage would not require a variance, but he was not building it according to the specifications. The owner did not know that the plans the contractor filed were for enclosing the existing carport. The contractor simply drew a line in front of the entry to the garage and wrote 19'. The building permit issued by the Town is for a one car garage. Neither the Town nor the homeowner knew what the contractor was doing. When hiring the contractor, Ms. Campbell asked him to build a larger garage. She did not know he filed incorrect plans. Ms. Campbell contacted the Town to determine whether the contractor's work was consistent with the plans and specifications. When she determined they were not, she fired the contractor. Mr. Blackwell emphasized that the homeowner self reported when she became skeptical of the construction. She went to the Town for its assistance in ensuring that her contractor was in compliance. Once the contractor left the property, he left his tools and abandoned his pickup truck on the property. His contractor's home improvement license has lapsed and there is no way to locate him.

In August of this year, the Building Department issued an enforcement order to this homeowner. In addition to the garage constructed in a manner inconsistent with the approved plans, the building permit had expired. The exterior sheathing and roof deck materials were exposed. In addition, there was a shipping container on the property. The homeowner has removed the shipping container and had the contractor's pickup truck towed from her property. She has also picked up the property so it is not in the state of disarray it once was.

Ms. Campbell lives at this home with her disabled son, a relative by marriage, and both of her handicapped parents. It is her parents' needs that bring her here today. Her father is in a power chair and her mother is in a wheelchair. Ms. Campbell wants to be able to get her parents into the handicap accessible van under cover of a garage. Originally, she wanted to enclose the carport, but that was too small. The covered space needs to be wide enough to accommodate the wheelchair van, plus 8' to the right of the wheelchair van. This kind of side access van is necessary because it is the type that fits two wheelchairs.

At present, Ms. Campbell brings her parents out through the carport into the driveway and loads them into the van. This means that she is exposing very elderly, infirmed people to the elements for a period of time while they are getting into the van. It is for this reason she is asking for a variance.

Although the contractor was in error to construct a garage that was not consistent with the specifications, he built it for a wheelchair van. If it had been a narrower garage, it would not be wide enough to accommodate the van.

An engineer has looked at the garage and its construction and said it is not the way he would have constructed a garage but it is structurally sufficient. Attorney Blackwell has spoken with the neighbors who do not like what they see presently but do not oppose the construction going forward. The neighbor to the south also wants the construction completed. He submitted an e-mail to Mr. Blackwell that he shared with the Board. The neighbor to the north is not pleased with what is going on and said the garage is overbearing and he does not like the scope of the construction.

The application states that the applicant is looking for a reduction of the side yard setback to 4', based on the Town's GIS system. After going to the Engineering Department, the applicant only needs a 6' setback. The garage is necessary for the wheelchair access van to be under a covered space. Impact to the neighborhood will be negligible and will actually improve the appearance of the neighborhood. There is no other available place for the garage due to the configuration, topography, and configuration of the house on the lot. In similar situations variances have been granted in other locations, which Attorney Blackwell listed. Ms. Campbell is aware that her property in its present state is an eyesore to the neighbors. Allowing her to move forward with construction, Ms. Campbell will complete the garage and present a home with curb appeal to the neighborhood.

In response to a question from Mr. Slegeski, Attorney Blackwell said the neighbor with concerns is present and will speak about his concerns during public comment.

In response to a question from Mr. Haley, Attorney Blackwell said at the point of the stop order his client was aware of the violation. She contacted the Town to ask if this project was in violation herself. Until she contacted the Town, she was skeptical and kept asking her contractor if a variance was necessary. The application says "alteration of carport making a large one car garage enclosing it." The building permit says "enclose carport and make a one car attached garage." Ms. Campbell had not seen the plans he submitted and only saw them after she had fired him. He said she went to the Town with assistance on this. If she had known she would need a variance, she would have asked for one and gone through the process correctly.

Chairman Stevenson asked if any member of the public wished to speak in favor of or in opposition to this application.

Mr. Will Drawhorn, spoke on behalf of his wife, Virginia, and daughter, Brittany, who is 24 years old and the owner of the home, which is listed under a special needs trust due to traumatic brain injury. The house the Drawhorns owned when Brittany was injured did not provide access to the entire house. They found a new home that would add to Brittany's quality of life and provide access to the entire house. A home is a person's biggest financial fall back; Brittany is only 24. His concern is about the garage. He has no problem with a garage if the garage goes by the pre-existing codes. He understands that the foundation has been sitting there for a number of years. Mr. Drawhorn decided he would put evergreens along his property line for privacy. The neighbor objected to the evergreens because they would block her from putting in a ramp along the property line. The garage has a door facing his property. If Ms. Campbell puts an exit out of that door with a ramp, she is right on the property line. His concern is for his daughter and her

quality of life. The room she is in cannot be expanded because of the garage. He said the view from his daughter's room will be the neighbor's garage.

Mr. Drawhorn said the proposed garage is overbearing in appearance and he asked why Ms. Campbell cannot construct a single car garage. Ms. Campbell bought a side entrance van a month ago after she knew the situation with the garage. He feels the garage will reduce the value of his home and the appearance of the neighborhood. He expressed concern over fire, emergency vehicles, and the like. Mostly he is concerned for his daughter. Mr. Drawhorn also expressed concern about water runoff from the roof of the garage onto his property.

Attorney Blackwell thinks the garage will improve the value of the neighborhood. It will be completely sided and an attractive looking garage. He does not think it will have much of a difference on the neighborhood. Nobody will notice the slight intrusion into the side yard setback.

Mr. Slegeski said he does believe there will be an issue with water runoff because of the slope.

Attorney Blackwell said the slope will be the same and there will be no runoff problem.

Ms. Claire Campbell, 91 Baldwin Road, explained that originally she just wanted to enclose her carport and there was going to be a walkway along the side of the carport to a door that sits behind the garage. Once she expanded the garage, she abandoned the need for a walkway and there will be a door at the back of the garage that connects to a landing and stairs that go to that back door to the addition. She said there will no longer be a walkway.

Attorney Blackwell said that if Mr. Drawhorn wanted to complete the plantings he started, the applicant will have no objection.

In response to Mr. Gionet, Ms. Campbell said the one car garage was 11'8".

Attorney Blackwell said Ms. Campbell recently purchased a wheelchair accessible van, but it is the van she has needed for some time.

In response to a question from Mr. Gionet, Attorney Blackwell explained that because of the space needs she needs an oversized one car garage. He submitted pictures showing the amount of space needed for someone in a wheelchair to get in and out of the van.

Ms. Bertotti said Town staff has no outstanding comments.

The public hearing on this application was closed.

OUR COMPANIONS ANIMAL RESCUE – application #2012-101 – request a variance to Article II Section 16.13 to allow an animal rescue and training center at 34 Sanrico Drive, Industrial zone.

Ms. Susan Linker spoke on behalf of Our Companions Animal Rescue and explained she is requesting a use variance to open an office and program center. The property, 34 Sanrico Drive, is located in an Industrial zone, which does not expressly allow the use of training. The organization was founded in 2002 and is a non-profit animal rescue organization. Most recently a pet sanctuary was built in Ashford, she said. Other programs include K-9 behavior training, sterilization programs, Legislative advocacy work, volunteer and human education programs and rescue and adoption services.

Ms. Linker said the rescue and adoption services are at the sanctuary in Ashford and in foster homes. There is no intention to house or board animals at the facility on Sanrico Drive. Up until this point, the organization has not had a main headquarters. Dog classes and volunteer meetings were held wherever space could be found. It has become clear that the organization needs a professional place to house offices, staff, and businesses. After looking for about a year, the property on Sanrico Drive was discovered and seems perfect for the organization, she said. Geographically, the space is centrally located so clients and volunteers can access programs and is convenient to the Ashford facility. The organization is led by a Board of Directors and there are seven employees that work at the Ashford facility. In addition, there are about 100 volunteers that work throughout the state on various programs. If this variance use is granted, the space would be used for office space for volunteers and staff, human education for children and adults, animal display for adoption purposes, and training services. Dog training is a primary focus of the organization. She said behavior problems are a leading reason why animals become homeless so as a mission driven approach, classes and private training will be provided at this facility. Staff working in the office will be 3-5 people complemented by volunteers. The main office hours are 9:00 a.m. to 5:00 p.m. She said no changes will be made to the outside façade or the grounds. There are 20 parking spaces in the lease, which is more than enough. Dog training services are provided next door so this use is compatible with the neighborhood.

Parking will be needed for the main office use, which is Monday through Friday from 9:00 a.m. to 5:00 p.m. with a maximum of seven people at any one time. In addition, client activity is generally in the evenings and on weekends. The twenty parking spaces will be more than suitable for the organization's needs.

In response to a concern expressed by Mr. Slegeski, Ms. Linker said the location will primarily be for cats and maybe a couple of dogs from the sanctuary. This is an animal protection organization and as such is a steward of good animal behavior and responsible pet ownership. There is a dumpster in the back that is part of the lease.

In response to a question from Mr. Haley, Ms. Linker said training is available for both clients and the general public. Much of the training work is done to prevent animals from becoming homeless. Training is also provided for people that recently adopted an animal. This location will be largely for the public. No subleasing is planned.

In response to a question from Mr. Stevenson, Ms. Linker confirmed there will be no overnight boarding or sale of animals.

Chairman Stevenson asked if any member of the public wished to speak either in favor of or in opposition to this application. No member of the public wished to comment.

Ms. Bertotti said there are no outstanding staff comments.

The public hearing on this application was closed.

COREY SCHMIDEK – application #2012-102 – request a variance to Article II Section 3.01.01 to reduce the front yard setback to 35' (40' req.) to add a front porch addition at 25 Bayberry Road, Residence AA zone.

Mr. Corey Schmidek, 25 Bayberry Road, explained he would like to add a front porch to his home, which is part of the original architect drawing. The inspector from the Town thought the porch might be in violation of the 40' setback requirement. Mr. Schmidek provided signatures in support of this application from all abutters that received the notice. He also provided current pictures of his home.

Chairman Stevenson asked if any member of the public wished to speak in favor of or in opposition to this application. No member of the public wished to speak.

Ms. Bertotti said there are no outstanding staff comments.

The public hearing on this application was closed.

RANDY JULIANI – application #2012-103 – request a variance to Article II Section 2.01.01 to reduce the side yard setback to 8' (15' req.) to construct a 24' x 32' addition to the existing garage at 593 Bush Hill Road, Rural Residence zone.

Mr. Randy Juliani, 593 Bush Hill Road, is requesting a variance for a 24' x 32' addition that will be 8' from his property line. In the planning stages, he found that because of the location of his septic and leach field, the only place for a garage would be right behind the existing garage. The proposed garage would be no closer to the property line than the existing garage. He has signatures from his neighbors supporting this application. All vehicle access would be through the front doors.

In response to a question from Mr. Stevenson, Mr. Juliani confirmed that he is not expanding the width of the garage, just the depth.

In response to a question from Mr. Gionet, Mr. Juliani said he collects antique cars and has three cars stored at a friend's house and needs to move them off of his property.

In response to a question from Mr. Slegeski, Mr. Juliani said all vehicles are registered, insured, and property taxes are paid; he runs at least one tank of gas through each vehicle every year.

In response to a series of questions from Mr. Haley, Mr. Juliani said he will store vehicles, tools and spare parts; no construction equipment will be stored. The roof line will stay the same in front. There will be a slight overhang from the soffit.

Mr. Davis added that based on the photograph provided, there will be a minimal gable overhang. Setbacks do not include roof overhangs, he said.

Mr. Stevenson asked if any member of the public wished to speak either in favor of or in opposition to this application. No member of the public came forward.

Ms. Bertotti read a petition in support of this application into the record. It was signed by Brad Shea, 596 Bush Hill Road, Donna Brooks, 601 Bush Hill Road, Star Lutzen, 588 Bush Hill Road, David Rodriguez, 24 Glendale Road, Charles Ishlib, 18 Winthrop Road, and Jeremy Rogers, 583 Bush Hill Road.

ST. JAMES SCHOOL FOUNDATION – application #2012-104 – request a variance to Article IV Section 13.05.02 to allow an identification sign at 97 Park Street and 120 Chestnut Street, Residence B zone.

Mr. Bill O’Neill, 525 Gardner Street, is a volunteer member of the St. James School Foundation. The Foundation would like to place a Thank You identification sign to thank the Jarvis family for its very generous support. The sign will be similar to the draft presented and the sign will be placed in front of Saint Mary’s to the east of the school.

In response to a question from Mr. Haley, Mr. O’Neill said the shrubbery will be removed, the fence will be completed and the trees will be trimmed. The playground is for the school children, but the neighborhood use has been fine.

Chairman Stevenson asked if any member of the public wished to speak either in favor of or in opposition to this application. No member of the public wished to comment.

Ms. Bertotti said there are no outstanding staff comments.

In response to a question from Mr. Haley, Ms. Bertotti said the zoning regulations were amended in 2009. She is unsure if schools were allowed in residential zones at all before then.

Mr. Davis said schools are traditionally built in residential neighborhoods. Municipal uses would have covered schools.

The public hearing on this application was closed.

CARTA FAMILY LIMITED PARTNERSHIP – application #2012-105 – request a variance to Article II Section 6.01.01 to reduce the side yard setback to 1’ +/- (10’ req.) at 192 East Center Street, Residence C zone.

Attorney Michael Caron represented the applicant and explained that the purpose of this application is to reduce the side yard setback to install a generator. This is a business property used for a dentist and a doctor office. The business needs backup power to care for patients but there is no other place on the property for a generator. The front of the building faces East Center Street and it would not look nice there. There is a swale in front of the building which is lower than street level and collects water. He said standing water would pose a safety risk. The right side of the building has the same side yard but there is also a driveway for the neighbors and two or three residential units. In the back of the building there is a parking lot which is at maximum capacity. The gross leasable space in the building is 3,500 square feet; the foot print is 4,000 square feet. Zoning regulations require one parking spot for every 150 square feet which calculates to 23.33 parking spaces required; there are now 24 spaces.

Attorney Caron said the proposed generator will be 5' from the building on a concrete slab. Generators are available in wide skid or narrow skid; the applicant chose the narrow skid which is 34" wide. There is a 16" grass strip which is Town property and then the public sidewalk. He said the generator will be about 7' from the street. Attorney Caron distributed the generator's specifications to Board members. He pointed out page 4, which contains the overall dimensions of the unit, and pages 6 and 7 which show that the exhaust comes from the top of the unit. The decibel reading is 69; normal conversations are about 60 decibels, he said. The generator will only be used when there is a power outage. The applicant is willing to install a concrete ballast if desired or a picket fence for screening. This generator will have no impact on sitelines or intersections.

Mr. Darna noted the generator will be installed very close to the street and expressed concerns about the hazard of snowplowing. These machines do not like snow and need to be exercised every week. He would like to see some type of safety barrier.

Mr. Tris Carta, Carta Family Limited Partnership, said he wants some type of protection. Last year he lost 13 days of business due to power outages. The parking lot gets full; he parks his car off site. He would hate to lose a parking spot. Mr. Carta said he feels he needs a generator for his patients and would welcome any suggestions to protect the generator and keep the look of his building presentable.

Mr. Stevenson expressed concern with people walking by and thought a fence might be a good idea.

Mr. Davis said a fence can go up to but not on the property line. The exhaust pipe should be far away from the sidewalk side of the property line. He said in doing so, the access doors will be by the sidewalk.

Attorney Caron said the exhaust will be on top of the generator.

Mr. Darna said most of the controls are usually on one side and the doors can be reversed so they open against the building.

In response to a question from Mr. Stevenson, Mr. Carta said he would be willing to install a white vinyl fence.

Chairman Stevenson asked if any member of the public wished to comment either in favor of or in opposition to this application. No member of the public wished to comment at this time.

Ms. Bertotti said due to the proximity to the sidewalk and the property line, the Zoning Enforcement Officer recommended the generator be installed in the parking lot.

Mr. Gionet noticed a planter on the property that is touching the sidewalk and asked why the planter is okay but this needs a variance.

Mr. Davis said he is not sure; the planter was there when the Certificate of Occupancy was received. There are a few like that in Town.

The public hearing portion of the meeting was closed at 8:50 p.m.

I certify these minutes were adopted on the following date:

November 28, 2012
Date

James Stevenson, Chair

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

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