

**MINUTES OF PUBLIC HEARING  
HELD BY THE ZONING BOARD OF APPEALS  
LINCOLN CENTER HEARING ROOM  
FEBRUARY 24, 2016**

**MEMBERS PRESENT:** James R. Stevenson, Chair  
Robert Haley, Secretary  
Edward Slegeski

**ALTERNATES PRESENT:** Sandra DeCampos, Sitting  
John Topping, Sitting  
Armando Darna

**ABSENT:** Albert Gionet, Vice Chair  
Kevin Dougan

**ALSO PRESENT:** Renata Bertotti, Senior Planner  
James Davis, Zoning Enforcement Officer  
Mark Pellegrini, Director of Planning & Economic  
Development  
Katie Williford, Administrative 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.

**ADRIAN DENNIS** – application #2016-001 - Request a use variance under Art. II Sec. 11.01 to allow residential use on the first story at 226 Center Street (a.k.a. 226-228 Center Street).

Ms. Fran Rokicki of 19 Anthony Road, Bolton, Connecticut spoke on behalf of the applicant. She said when the current property owners bought the property approximately 20 years ago, there was a chiropractor on the first floor of 226, but the upper level was rented to boarders. The other side was a two-story apartment. The owner never had a business; it was always rented out as residential, she said. Ms. Rokicki said they are having difficulty selling the property because banks will not underwrite loans for potential buyers because the property is not residential. She said Mr. Dennis plans to live on one side and rent the other side. The unit to the right is residential and the unit to the left used to be commercial, but now veterans live there, Ms. Rokicki said.

In response to a question from Mr. Haley, Ms. Rokicki said the attic is unfinished with nothing in it. Mr. Haley noted there were five mailboxes and three electrical meters on the building. Ms. Rokicki did not know why there were five mailboxes and said one of the electrical meters could be removed. In response to a question from Mr. Stevenson, she confirmed that the current owners have never rented out rooms. In response to a question from Mr. Haley, Ms. Rokicki confirmed there would be no more than two families in the building.

Mr. 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 came forward at this time.

Ms. Bertotti said staff did not have any technical concerns. The variance is being sought because the applicant wants to use the first floor for residential use, and business zones allow for

residential housing only on the second story, she said. She noted that there are several lots on the street that might not be able to accommodate parking for a full-sized commercial use.

Mr. Haley asked if the Board could make it a condition of approval that the property could not be used for a business going forward. Ms. Bertotti replied they could not, because business uses are permitted as of right in this zone. In response to a question from Mr. Stevenson, Mr. Davis said neighboring properties with businesses on the first floor might have variances or they might have been grandfathered in. He added that some multifamily properties have an owner's electrical meter, which might be why a two-family could have 3 electrical meters.

**CUMBERLAND FARMS** – application #2016-005 – Request a variance of Art. IV Sec. 13.10.11 to allow pump toppers with a message that will change more than two (2) times in a 24-hour period at 271 Main Street, 275 Main Street, and 13 Middle Turnpike East (a.k.a. 3 Middle Turnpike East).

Ms. Carolyn Parker of 3 Lorion Ave, Worcester, Massachusetts represented Cumberland Farms. She said Cumberland Farms currently has magnetic pump toppers and would like to replace them with LED pump toppers. Pump toppers are the price signs on the gas dispensers, she said. The proposed LED pump toppers incorporate the “Smart Pay” program which gives a 10 cent per gallon discount to customers who are members. Cumberland Farms does not feel this sign falls under the criteria of electronic message boards, which are only allowed to change twice in a 24 hour period. Ms. Parker displayed an example pump topper with a message set to alternate every 8 seconds. She said pump toppers are not meant to be seen from road and will be approximately 60 feet from either roadway.

Mr. Slegeski asked why the applicant feels these pump toppers would not fall under the same limit of no more than two changes per 24 hours. Ms. Parker said they thought the message boards referred to by the zoning regulations would be ones on the roadway, on a main pylon sign. Mr. Slegeski asked why the message needed to change this frequently and Ms. Parker replied that the applicant is trying to show customers that the gas is 10 cents cheaper for members. Ms. Bertotti clarified that there are two different prices for members and nonmembers and the proposed pump toppers are intended to incentivize customers to become members. Mr. Stevenson said that would be an advertising sign, not informational. Ms. Parker said that when pump toppers were put on manually they weren't considered a sign and asked why they would be considered a sign now if they were LED. Mr. Stevenson asked what the hardship was and Ms. Parker replied that now, in order to change the prices on the pump toppers, Cumberland Farms has to shut the lanes down. Mr. Darna said he has friends who own gas stations who have had to change the price of gas three times in one day. Shutting down lanes and having people manually changing the prices is a hazard, he said. Mr. Stevenson said he thought the pump topper could just show one price. Ms. Parker said Cumberland Farms considered the hardship to be the interpretation of the regulations. No one had pulled a permit for pump toppers before, she said. In response to a question from Mr. Topping, Ms. Parker said the sign by the road only shows the regular price, but the state requires you to show three prices (regular, premium, etc.). Each of the four pumps would have LED toppers, which are strictly for showing gas prices, and the main sign by the road will stay there and will remain static, she said. Ms. Parker said a coating of film can be put over the LED to make the light less bright. Mr. Haley asked if the pump toppers have the capacity to show both prices at the same time in a static display, and Ms. Parker said they do not.

Mr. 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 came forward at this time.

Ms. Bertotti said there were no comments from staff. She said this type of sign fits the definition of electronic message boards that was adopted by the Planning and Zoning Commission recently as part of the new sign regulations, and electronic message board signs are allowed to change no more than twice in 24 hours. She said the pump toppers are on the pumps, and the alternating message is just for member and non-member prices. The positioning of this sign is allowed, but the frequency of the change needs a variance. She recommended that if the Board grants the variance, they consider the film coating to reduce brightness.

**TMI HOSPITALITY** – application #2016-006 – Request a variance of Art. II Sec. 8.06.08 to decrease the lot size of 121 Pavilions Drive to accommodate the proposed hotel on the adjacent parcel, 109 Pavilions Drive.

Ms. Haley Busch of Fuss & O’Neill, Inc., 146 Hartford Road, Manchester, spoke on behalf of the applicant. She said that 121 Pavilions Drive, the subject of the variance application, is where the existing Fairfield Inn & Suites is located. The proposal is to reduce the lot size at 121 Pavilions Drive from 3.51 acres to 2.56 acres to construct a proposed hotel on the 109 Pavilions Drive lot. The reason for seeking the variance is that there is a milder, flatter slope and the topography narrows to the north, which limits construction ability at 109 Pavilions Drive, she said. Both properties are in the CUD zone, and hotels are permitted. Additional approvals will be required for the proposed hotel on 109 Pavilions Drive, she said, including a detailed site plan, erosion and sedimentation control plan, and lot line revision.

Mr. Haley asked if the proposed lot area reduction of 121 Pavilions Drive will affect any of the existing structure or driveways. Ms. Busch said the Fairfield Inn and Suites at 121 Pavilions Drive has an existing site drive and the proposed hotel on 109 Pavilions Drive would have its own entrance; a small amount of pavement out in the field that’s not being used for anything would be impacted. Mr. Stevenson asked why the two hotels wouldn’t share the existing drive. Ms. Busch replied that having two separate entrances with separate signage for the different hotels was intended to help prevent confusion for guests. She said the applicant had considered a shared drive but decided against it. In response to a question from Mr. Topping, Ms. Busch said the proposed plan is not necessarily cheaper, but building on the lot as-is would make it difficult to have appropriate access to the back for fire access. Mr. Haley asked if, without the variance, the applicant would build a smaller hotel. Ms. Busch replied that the construction would create more disturbance to the site to accommodate the same size hotel.

Mr. 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 came forward at this time.

Ms. Bertotti said staff had no outstanding comments. She clarified that the applicant claims their hardship is the topography of the lot, and if the variance is denied they would propose a different layout with greater site disturbance. She said the Planning and Zoning Commission would be looking at the site layout and configuration of driveways when they consider the other applications associated with this proposal. Conditions of approval should not be based on site design or driveway locations because site design is not part of this variance application, Ms. Bertotti said.

**DAVE LOMBARDO** – application #2016-011 - Request a special exception under Art. II Sec. 9.14.02 (e) for outdoor food vending from a truck at 176 Tolland Turnpike.

Mr. Lombardo of 128 Joshua Hill, Windsor, Connecticut, presented his application. He said nothing has changed on the plan; he was just requesting approval to remain at the same location for a longer period. Mr. Slegeski asked if Mr. Lombardo had filed for personal property inside the trailer. Mr. Slegeski asked if Mr. Lombardo filed his personal property taxes in November. Mr. Lombardo said something was sent to him that he paid. Mr. Slegeski asked if Mr. Lombardo had missed the filing date and Mr. Lombardo said he was not aware of that but if there was something he had to do, he would do it. Mr. Slegeski asked if the Board had approved storage in the garage on the property and Mr. Lombardo said he was not aware it had to be approved. Mr. Slegeski asked about the refrigerator on the ground and Mr. Lombardo said it had been moved on top of the trailer after Mr. Davis asked him to move it. Mr. Lombardo said he was using the shed for storage for three years and people were aware of it, because that's where electricity is hooked up to the trailer. Mr. Davis said he didn't know Mr. Lombardo was using anything inside of the building. He said that wasn't mentioned in the original application. Mr. Slegeski said the use of the shed for storage is not part of what the Board granted. Mr. Lombardo said the landlord gave him permission to use the shed for storage; he didn't know he needed permission from the Town. He said he would be happy to apply for a permit if needed. He said he would comply with what he needed to do, but it had been three years and the concern about the shed was not brought to his attention until now. Mr. Stevenson advised Mr. Lombardo to follow up with Mr. Davis about the use of the shed.

Mr. 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 came forward at this time.

Ms. Bertotti said there were no comments from staff. She said there was a draft regulation about vending that would be discussed later in the business meeting, and she recommended if the Board approved the application, that they approve it for no longer than one year.

**DR. MARK STURGIS** – application #2016-012 – Request a variance of Art. IV, Sec. 13.05.07 to allow an off-premise sign on Town-owned land adjacent to 21 Buckland Street (a.k.a. 21-29 Buckland Street).

Dr. Mark Sturgis of 106 Natsisky Farm Road in South Windsor presented his application. He said he was building a new optometrist's office at 21-29 Buckland Street. The property is unusual because the property line is set back from the street and it sits along a Town right-of-way, he said. He was seeking a variance to allow him to have the sign next to his driveway so people could find his office. He is seeking a tenant for the space and they will want some visibility with the sign also. Most businesses on Buckland Street have signs right along street, he said. Dr. Sturgis said he takes care of snow on the sidewalks and mowing the lawn on the Town right-of-way. In response to a question from Mr. Stevenson, Dr. Sturgis said he would be amendable to having an agreement with the Town that he is required to cut the grass and clear the sidewalks on the property. Mr. Topping said he had talked to the Town Attorney and was informed that the adjacent property owner is required to maintain sidewalks. Mr. Davis said they are also required to maintain the grass on the Town right-of-way.

Mr. Haley asked what the hardship was, and Mr. Sturgis said it was concern for the safety of drivers, since many of the patients are elderly and have poor vision.

Mr. 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 came forward at this time.

Ms. Bertotti said there were no outstanding comments from staff. She said the variance is being sought because off-premise signs are prohibited. This lot is different from other lots on the street because the adjacent Town-owned property along Buckland Street was never transferred over when Buckland Street was built, she said. The Town is prepared to allow the applicant to locate the sign there. In response to a question from Mr. Haley, Mr. Pellegrini clarified that there is no rental agreement, just permission from the Town for Dr. Sturgis to have the sign there. If the Town abandoned the property, he said, it would have to dispose of the property in equal parts to abutting property owners. Mr. Stevenson asked if the sign would be moved if the road needed to expand, and Mr. Pellegrini replied that if the sign was in the way of something the Town wanted to do, the sign would have to move.

The public hearing on this application was closed and the public hearing portion of the meeting was closed at 8:02 p.m.

I certify these minutes were adopted on the following date:

March 30, 2016

Date

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James Stevenson, Chair

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

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