

**TOWN OF WINDSOR
ZONING BOARD OF APPEALS**

**Regular Meeting
October 20, 2004**

Approved

PRESENT: Chairwoman Frances Rothenberg, Commissioners Max Kuziak and Helene Shay, Alternates Thomas Ferranti and George Bolduc and Building Official / Zoning Enforcement Officer Wayne McKinney

EXCUSED ABSENCE: Commissioners John Cowan and Joseph Breen

The Meeting was called to order at 7:00 P.M. by Chairwoman Rothenberg in the Town Hall Council Chambers, 275 Broad Street, Windsor, Connecticut.

ESTABLISHMENT OF QUORUM:

Chairwoman Rothenberg announced the five board members who were present: herself and Commissioners Kuziak and Shay and Alternates Ferranti and Bolduc. Because five regular members were present a quorum was established.

CALL TO ORDER – PUBLIC HEARINGS:

LEGAL NOTICE:

The Legal Notice submitted by Helene H. Shay, Secretary, which appeared in the Hartford Courant on October 7th and 14th, 2004 was read by Commissioner Kuziak and included the following variance applications to be heard:

- Application #04-15 19 Windsor Ave. – Appeal of the Zoning Officer Decision under CT General Statute Section 8-7 with respect to Windsor Zoning Regulation Sec 16.1.15 – Permitted Zoning District Uses; Sec 2.1.15 – Determination of Certain Uses; Sec 2.4.6 – Special Use & Minimum Requirements
- Application #04-16 77 Pierson Lane – Appeal of the Zoning Officer Decision for Noncompliance of Approved Site Plan, Windsor Zoning Regulation Sec 3.1.3 – Maintenance of Landscaping
- Application #04-14 128 Joshua Hill – Section 4.4.2 Swimming Pools – Sec 2.1.3 Side Yard Variance; Sec 4.5.13A(1) Flag Lots
- Application #04-17 107 Trent Dr. – Sec 4.1.1 – Side Yard Variance

PROCEDURES:

Alternate Ferranti read the procedures for presentation of an application. He then queried the audience for any questions regarding the procedures which were read. Hearing no comments, Acting Chairman Kuziak declared the hearings proceed.

PUBLIC HEARINGS/ #04-15: 19 Windsor Ave. – Appeal of the Zoning Officer Decision under CT General Statute Section 8-7 with respect to Windsor Zoning Regulation Sec 16.1.15 – Permitted Zoning District Uses; Sec 2.1.15 – Determination of Certain Uses; Sec 2.4.6 – Special Use & Minimum Requirements

DISCUSSION:

Appearing to present this application was Assistant Zoning Enforcement Officer Wayne McKinney. He said on several occasions they have had complaints from immediate neighbors about the excess number of vehicles and repair work [being done on the premises]. He states the complaint states auto repairs are being done at all hours up until 1:00 A.M. The Police Department had been notified and his assistant, Andy Sterchak, made observations of the property and found 50 cars.

Mr. Michael D'Amato, the owner of the above-mentioned property, of P.O. Box 181, Sandisfield, Massachusetts 02155 appeared to discuss this appeal.

Mr. D'Amato was clearly upset by the fact that he had received notice of this hearing with an envelope addressed to State of Connecticut, P.O. Box 181, Sandisfield, Massachusetts 02155.

Commissioner Shay asked when Mr. D'Amato had received the notice.

Mr. D'Amato said he wasn't home but thought it was about October 5th.

Mr. D'Amato said that former Zoning Enforcement Officer Steve Dupre initially made a mistake in stating the property was B-3 zoned. He said that B-3 originated when he was trying to develop the property along with other people in Windsor. He said he didn't write any letters. He said he told Mr. Dupre that it would be B-2 zoned.

Mr. D'Amato said Mr. McKinney's office indicated that an informant had told them about the problem.

Mr. McKinney said the problem was identified by a CRS (citizen's response).

Mr. D'Amato said that his understanding was that it was a complaint that someone wrote in or had talked to Mr. McKinney's office about, complaining about the property and its use. He asked if it were an informant who told Mr. McKinney's office about the property and asked who that was. He wanted to know if the complaint were in writing or was it by personal phone. He

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asked Mr. McKinney if it was his department's procedure when anyone calls up not to verify the individual's character or whether or not he's from Windsor.

Mr. McKinney said it didn't make any difference; the person would remain anonymous. He said the caller did identify himself as a neighbor.

Mr. D'Amato asked if Mr. McKinney got the phone call. Mr. McKinney replied no and stated that his office said to the caller that they would send a person down to the property to investigate.

Mr. D'Amato asked what the person found. Mr. McKinney said he had 15 or 20 photographs of the property. Mr. D'Amato asked if anyone had contacted him to go on his property to take pictures. Mr. McKinney said no one had gone on his property to take the pictures.

Mr. D'Amato said he was somewhat unclear about the zoning laws. He asked if he could put cars on a B-2 or B-3 zoning. He wanted to know if he were permitted to park cars on a B-2 property.

Mr. McKinney answered he [Mr. D'Amato] could.

Mr. D'Amato asked how many cars he could park on his property.

Mr. McKinney answered three (3).

Mr. D'Amato asked if that were in the regulations as he didn't see that. He stated it did not say in B-1, B-2 or B-3 the number of cars that could be parked on the property or if he could put any at all.

Mr. McKinney stated that in Section 5.2.5 Accessory Uses, subsection C, "The outdoor overnight parking of no more than one commercial vehicle of no more than a two-ton maximum rated capacity which is used by the business on the premises and which is screened year-round from any street or residential, NZ or AG district line, parked no closer than 20 feet from any such street or district line, and provided that it does not interfere with the normal use of any required parking space or drive. A second commercial vehicle of no more than a five-ton maximum rated capacity may also be parked provided that the above-mentioned requirements are met."

Mr. D'Amato asked if that meant that with a B-2 property one could only park one or two cars.

Mr. McKinney stated "vehicles;" this is up to a 2 ½ ton truck.

Mr. D'Amato said that was a pretty tough regulation.

Alternate Ferranti said we are saying a commercial vehicle; we are not saying a car. He said we are saying no more than one commercial vehicle.

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Mr. D'Amato said the gentleman next door came to him. He said there was an abandoned truck [on the property] and this [neighbor] gentleman helped him get it out.

Chairwoman Rothenberg asked what the gentleman's name was.

Mr. D'Amato stated the gentleman's name is Ismail Hussein (Mo). He said Mo had some problems where he lives. He told Mo he could park 10 or 15 cars on the property and after two or three weeks they would get them out. He said Mo ran into some business problems and then he saw a number of cars there. He said he then went to Mo and asked him what happened. He said Mo told him he had a falling out with the informant (if that's who it is). Mr. D'Amato told Mo that he would move the cars out eventually. He said he never expected the number of cars he has now [parked on the property]. He asked Mo what happened and he told him he had problems. He said he charged him rent for the first year but he's not going to charge him rent because he's a hard-working individual. He said he thought Mo had found a place [to park the cars].

Commissioner Kuziak asked who owns all the vehicles.

Mr. D'Amato replied that Mo personally owns 50 cars.

Commissioner Kuziak asked if they were all registered.

Mr. D'Amato replied no.

Commissioner Kuziak said that was a violation.

Mr. D'Amato said he started with 15 because he [Mo] was in trouble. He said Mo had \$2,000 worth of tools stolen.

Chairwoman Rothenberg asked what Mo does with those 50 cars.

Mr. D'Amato said Mo had to get out of his previous location. He said he was not trying to get out, but he couldn't work there. He said Mo took the cars and parked them temporarily on his [Mr. D'Amato's] property. He said today they have moved out 15 cars. He said he hopes to move the other 35 cars in the next month, if not sooner. He said that as far as the trucks go, he needs the board's indulgence because he needs a little time on that. He said there are three or four trucks there that don't work.

Chairwoman Rothenberg asked who owned the trucks.

Mr. D'Amato answered that they were owned by independent contractors who work for the Post Office. He stated again that he needs two or three months because he has to give them [the trucks' owners] 1 ½ months' notice. He said there were three or four vehicles that don't work. He said one was abandoned about two years ago and that the owner took off and never paid for 2 ½ years. He said therefore the other owners didn't pay for 2 ½ years.

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Chairwoman Rothenberg asked Mr. D'Amato again when he would be removing the 35 cars.

Mr. D'Amato answered that it would be in two months.

Chairwoman Rothenberg asked Mr. D'Amato when he would be removing the trucks.

Mr. D'Amato said he would get the trucks out by the end of December.

Commissioner Kuziak asked Mr. D'Amato if the police had contacted him regarding this problem and asked what they said.

Alternate Ferranti said that when he read through the police report it raised the question of whether or not there was an unlicensed business being conducted there. Mr. Ferranti said to Mr. D'Amato that there was a letter from the DMV also questioning monies transferring hands, etc. He said that if Mr. D'Amato looks at the allegations there, they are pretty serious.

Commissioner Kuziak said the board had a copy of the letter from a motor vehicle inspector to the commissioner of Motor Vehicles received August 20, 2004.

Alternate Ferranti said the letter was from Carl – no last name – who is a DMV inspector being written to Gary DeFillippo, Commissioner in Waterbury. He said the letter is hand-written. He said that the letter refers to Mo has an individual, to the number of cars and to a business that isn't licensed.

Mr. D'Amato said what he got from the letter was that a fellow was operating a business down there. He said that was absolutely false. He said Mr. Dupre [former Zoning Enforcement Officer] came over to him and said he saw a note on the door saying (about three or four days after he [Mo] had moved the cars) asking "Please contact me when my car is ready." Mr. D'Amato said he looked at the note, and picked it up and was amazed and he said no problem here and put the note back on the door.

Mr. D'Amato said Mr. Dupre said "We got you; we found something to indicate that this man is working on cars on the property." He retaliated and asked Mr. Dupre "Why would I put the note back on the door if he thought this gentleman was fixing cars? [illegally]"

Alternate Ferranti asked Mr. D'Amato what he did on the property.

Mr. D'Amato answered that he has some horse carriages.

Alternate Ferranti asked whether or not Mr. D'Amato was running a business [at that location]. He said that it's a vacant property except for the vehicles that are stored on the property.

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Commissioner Kuziak said that Mr. Dupre had no right to take the note [that was posted on the premises]. He said the Motor Vehicle inspector said (and he thinks he was talking about Mo), this gentleman has been previously arrested for doing unlicensed auto repairs.

Mr. Hussein spoke up and said he is not licensed because he has not paid his insurance. He said he had a partner who worked in the office and he got late in paying for the insurance.

Commissioner Kuziak asked if someone got arrested on that property.

Mr. Hussein said several years ago on Franklin Avenue [Hartford].

Chairwoman Rothenberg said it has nothing to do with this [evening's discussion].

Alternate Ferranti reiterated that at one point there was an unlicensed auto repair [business on the premises] and the note suggests that the repairs are still being done.

Chairwoman Rothenberg asked Mr. Hussein if he had fixed cars there [on the premises in question] before.

No answered from Mr. Hussein.

Commissioner Shay asked if the building where the horse carriages are stored had a lift in it, where one could repair vehicles.

Mr. D'Amato said no.

Commissioner Kuziak said that one of the vehicles looks like a truck.

Mr. D'Amato said that when Mo did the appraisal, there was an abandoned truck in there. Mo said he would help Mr. D'Amato get it out. He said then Mo said to him that he needed space for about 15 cars until he could get established. He said he said yes, for a couple of weeks.

Commissioner Kuziak asked if the cars are owned by Mo and if he is licensed to sell motor vehicles on that property.

Mr. D'Amato said Mo doesn't sell the cars from his property.

Alternate Ferranti asked where Mo does the repairs and where does Mo sell them. He said Mo just found another piece of property near the Police Station in Hartford and that's where they do the repair work.

Mr. Ferranti asked Mr. D'Amato if his lot was being used as a storage place [for Mo's vehicles].

Mr. D'Amato said that was true and once he [Mo] gets out, the cars will be moved to Hartford. He said they already moved 15 and they hope to move the rest in the next couple of months.

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Alternate Bolduc asked if cars were being sold out of the premises in question.

Mr. D'Amato answered no, absolutely not.

Chairwoman Rothenberg asked Mr. D'Amato if his property is being used to store cars temporarily and will these cars will be transferred to Hartford where Mo has a new place.

Mr. D'Amato said again he has to give some time for the owners of the trucks to get them removed.

Commissioner Kuziak asked if the board were to uphold the cease and desist order, could it grant Mr. D'Amato a certain amount of time to remove the vehicles.

Mr. McKinney said his office is still going to get calls. He said that if it took Mr. D'Amato less than a month or two to get this many vehicles into that area, why can't he get them out.

Mr. D'Amata said that Mo had to find a place where he could move the vehicles and now he has [found a place].

Commissioner Shay asked if the lot Mo has in Hartford, near the Police Station, is big enough to take all the cars.

Mo answered in the affirmative.

Alternate Bolduc said if the board were to uphold the cease and desist order, with the stipulation that by January 1, 2005 the lot has to be cleared out, and Mr. McKinney's office inspects that property the day after and the situation still exists, the cease and desist order will either be reissued or comes live again, there is no way to do it because of the \$200 a day [fine]... He said the board has to put a time limit on it.

Alternate Ferranti asked Mr. D'Amato if it only took a matter of a few days or a week from the point in which the relationship with the prior partner disintegrated, it only took a few days or a week or get all these vehicles, (it was supposed to be 15 and then turns out to be 50 in a matter of weeks), why would it take him two months to get the vehicles off the premises.

Mr. D'Amato (speaking for Mo) said Mo had another place but it turned out to be too small (Tower Avenue).

Alternate Ferranti asked if he now has a place to put the cars.

Mr. D'Amato said Mo is now working on it [getting another place].

Mr. D'Amato said again he has to give the truck owners 1 ½ months to get their vehicles removed.

Alternate Ferranti asked if the trucks were Mo's or somebody else's.

Mr. D'Amato said the trucks belonged to someone else. He said he would like for the board to grant an extension of time for removing the trucks to January 15th.

Commissioner Kuziak said we are not here tonight to grant Mr. D'Amato permission to keep the trucks on the premises; we are here to uphold or deny Mr. Dupre's cease and desist order. He said his feeling was that he has to come back for a variance.

Commissioner Kuziak asked Mr. D'Amato how the cars are removed from the property.

Mr. D'Amato said the vehicles are towed by a truck.

Commissioner Shay asked Mr. D'Amato if Mo had a dealer and repairer's license.

Mo said he was working on one.

Chairwoman Rothenberg asked if there were anyone present who was in favor of the cease and desist order, anyone against it and anyone neutral. Hearing no comments, Chairwoman Rothenberg continued with the next application.

PUBLIC HEARINGS/ #04-16: 77 Pierson Lane – Appeal of the Zoning Officer Decision for Noncompliance of Approved Site Plan, Windsor Zoning Regulation Sec 3.1.3 – Maintenance of Landscaping

DISCUSSION:

Chairwoman Rothenberg asked Mr. McKinney what happens when the applicant fails to show up for the meeting.

Mr. McKinney said he received one phone call from the applicant whose letter was submitted to the board for tonight's meeting and he hasn't heard anything from him since.

Mr. McKinney said the applicant was complying with the zoning with a handicap, but as far as the total site, he is not.

Chairwoman Rothenberg asked why are they picking on it now – as far as the landscaping.

Commissioner Shay asked if 77 Pierson Lane was a strip row of industrial buildings.

Mr. McKinney answered in the affirmative.

Commissioner Shay said she didn't see any handicapped parking.

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Mr. McKinney said he didn't think they had completed that. He said the owner would comply with that but that there are also various plantings... He said the letters [given to the board for perusal] go back probably ten years. He said that all of their research states that the original site plan approval is for the life of the property.

Chairwoman Rothenberg asked why did the owner bring up the issue now – after 21 years.

Mr. McKinney said it's been an ongoing issue for the last three years since he's been employed with the Town and the property has just been recently sold. He said the other property owner ignored the request and this property owner at least replied.

Commissioner Shay asked if the new owner is being given specified time to take care of the problem or was he cited right away.

Mr. McKinney said there was an ongoing letter which goes out every three months, 90 days or whatever. The new owner was the only one to respond to these letters as the other owner was in the process of selling the property so he ignored them.

Alternate Ferranti said the Town was acting on a complaint by a residence.

Mr. McKinney said the complaint was from Zoning.

Alternate Ferranti asked Mr. McKinney, since the problem has been going on for so long, if there were a lien against the property – it's been going on for 10 years?

Mr. McKinney answered no.

Alternate Ferranti said that even if there were a \$10 a day fine, that would be a pretty hefty lien.

Chairwoman Rothenberg asked Mr. McKinney if he had any verification that they [the owner] has the handicapped parking in.

Mr. McKinney answered no.

Commissioner Shay also stated that they [the owner] doesn't have the handicapped parking in. She asked Mr. McKinney if they have anything that says this company was notified that the hearing was going to be today; because if he filed the appeal on September 28th, that's only 22 days and you have to have ___ days in order to have notice of the hearing.

Chairwoman Rothenberg said there was nothing in the paper that states he was notified.

Mr. McKinney asked if it were in the notification. Several board members replied yes.

Commissioner Kuziak stated that the owner was sent a letter in August 6, 2004 which he assumed he did respond to because the Town sent him a similar letter on August 23, 2004. He

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said in that letter the owner was told to contact the Zoning Officer. Mr. Kuziak asked Mr. McKinney if the owner did contact the Zoning Officer during that period of time.

Mr. McKinney said he believed that letter was in response to his letter.

Chairwoman Rothenberg said that the owner probably didn't respond because he was selling the property.

Mr. McKinney said this is the new owner. He said the new owner is from Massachusetts and he came in. He said what started this was the tenants in the house (the dwelling in front) had multiple cars for sale on the front lawn which his office received complaints about that...

Chairwoman Rothenberg interrupted by saying you found this.

Commissioner Kuziak said the Town received a complaint and that was the way it was.

Commissioner Shay said the front hasn't improved in 30 years.

Referring to an August 23, 2004 letter to a Mr. Patterson, Chairwoman Rothenberg asked who he was.

Mr. McKinney answered that he was LV Realty and he's the one who bought the property.

Commissioner Shay asked Mr. McKinney if he knew when the property was acquired.

Mr. McKinney said he was not sure.

Chairwoman Rothenberg asked who Simrich Properties was.

Mr. McKinney answered it was LV Realty. He said Mr. Patterson came into the office (that generated the letter of August 6, 2004) and his attitude was that he bought the property, he would do the handicapped but that's it and he felt he shouldn't have to do anything else. Mr. McKinney said he believed he spoke to him a second time and he said he would do the plantings out front that died above and between the parking lot and the dirt road, but as far as the trees and all that, he wasn't going to do anything. He came in to do a reapplication.

Chairwoman Rothenberg asked if he had gone to the TP&Z.

Mr. McKinney said he didn't know.

Commissioner Shay read the letter of September 7 where it states "We were then told that upon receipt of our letter, our request would be reviewed by the Zoning board at the next Zoning meeting and we would be notified of the Board's decision." She said that apparently the owner was not aware that he should come to the meeting and he's awaiting our decision.

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Commissioner Kuziak said that on September 27, 2004 the Simrich company sent a letter to the Zoning Board of Appeals stating they wished to appeal. He asked if anyone had responded to this letter.

Mr. McKinney said he was sure and he doesn't know why a copy was not included in the board's package. He said he thought there should have been a letter informing him that the meeting would be on this date.

Chairwoman Rothenberg said that obviously he didn't get a letter.

**PUBLIC HEARINGS/ Application #04-14 128 Joshua Hill – Section 4.4.2 Swimming Pools
– Sec 2.1.3 Side Yard Variance; Sec 4.5.13A(1) Flag Lots**

DISCUSSION:

Chairwoman Rothenberg said that notification has been received that the applicant wishes to postpone.

Commissioner Shay read the applicant's letter which is as follows:

“Date – October 20, 2004 to the Members of the Zoning Board of Appeal from Lori Hartmann, Building Department, Subject: 128 Joshua Hill, (04-14 case number). Craig Lombardo has requested that his variance application for 128 Joshua be postponed to the next meeting, November 23, 2004. A family emergency prevents him from appearing before the ZBA tonight. Thank you for your consideration.”

Chairwoman Rothenberg asked if there were anyone present for the application, anyone against...

Some neighbors who had come to the hearing spoke up saying they wouldn't be present for next month's hearing.

Chairwoman Rothenberg suggested to them that they write a letter to the board (ZBA) and it would be on record for the next meeting.

Commissioner Shay stated that the applicant has to reapply for his appeal and start all over again because the timeframe has expired. She said to the neighbors that if the applicant has done something to affect their properties, they can report it to the Building Department.

PUBLIC HEARINGS/ Application #04- 17 107 Trent Dr. – Sec 4.1.1 – Side Yard Variance

DISCUSSION:

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Appearing to present this application was Sandra J. Drewnowski of 26 Lochview Drive, Windsor, Connecticut 06095.

Mrs. Drewnowski said her 84 year-old mother lives at 105 Trent and she lives alone and she and her husband have decided to move in with her because the house is too large for her to take care of. She said her mother has some health problems. She said the reason they are applying for the side-yard variance is that they have a long-bed truck and it won't fit into the garage so they would like to park it along side the garage. She said when you are facing the house from the street, the house has a two-car garage to the left. She said they would like to put a carport which consists of a roof and four pillars to hold it up so that they can park their car under it so it wouldn't be in the driveway or in front blocking the driveway.

Commissioner Kuziak asked what kind of car it was.

Mr. Drewnowski said it was a ¾ ton pick-up truck and 32 feet long.

Alternate Ferranti commented that the plans show the garage as being 20 ft. long and suggested the applicants redo their plans.

Chairwoman Rothenberg asked if all the neighbors had been notified.

Mrs. Drewnowski answered in the affirmative and said no one had an objection. She said that she believed the carport would improve the looks of the house. She said the roof would follow the same contours as the garage. She said they have an architect that they have spoken to and he gave them some plans and they know it is going to look nice and attractive.

Commissioner Shay asked if their intent was to have the back or sides enclosed. She asked if they were just going to have four posts there.

Mrs. Drewnowski answered in the affirmative.

Chairwoman Rothenberg asked the applicants if they had a copy of the staff comments as she would like to go over them with them.

The applicants answered no.

Chairwoman Rothenberg read from the staff comments: "Building Official/Zoning Enforcement Officer: Will require detailed site plan with elevations. Section 4.4.4 of zoning regulates recreational vehicles and Section 4.45.14 Driveways."

Mr. McKinney said that not having looked at the vehicle described, they pictured a camper-trailer.

Chairwoman Rothenberg asked Mr. McKinney if the description of the vehicle would pertain to the application.

Mr. McKinney answered no. He said that now that he realizes it is a ¾ ton vehicle, it is acceptable.

Chairwoman Rothenberg read the Fire Marshal's comments: "Applicant needs to be aware that the reduction in size yard increases the likelihood of a fire spreading to or from this property." She stated to the applicant that that means keeping the property clear of debris, trash, gasoline, lawn mowers, etc.

Commissioner Shay asked the applicant if they were proposing to reduce the side yard to about five feet from where the carport will be built. She asked also if it were the applicant's fence that lined the property.

Mrs. Drewnowski answered in the affirmative.

Commissioner Shay emphasized to the applicants that she had concerns (as did the Fire Marshal) about the fencing being so close to the proposed carport. She wanted to make sure they understood the necessity for keeping that area clear to avoid a potential fire hazard.

Chairwoman Rothenberg read the Planning Department Representative's comments: "The Planning Department recommends that the style and materials of the proposed carport be consistent with that of the existing house and the surrounding area."

Mrs. Drewnowski agreed to the recommendation.

Chairwoman Rothenberg read the Engineering Department Representative's comments: "The survey for the variance plan should provide contours on the property and the existing and proposed structure elevations. Also provide elevations and information on the plan with regard to the floodplain (Millbrook). This information will assist with the floodplain determination and whether the floodplain manager (Town Engineer) will approve the proposed additional structures on the property. Show the existing and proposed driveway with the proposed carport to demonstrate that it meets the zoning regulation 4.4.14 – Driveways."

~~Chairwoman Rothenberg added that the Engineering Department Representative doesn't know it's a recreational vehicle, so the board can discount that.~~

Mr. McKinney answered in the affirmative and stated that the 4.4.14 increases the size of the driveway.

Commissioner Shay asked Mrs. Drewnowski if they were going to scoop the driveway over or are they going to make it a three-car driveway all the way to the road.

Mrs. Drewnowski answered not all the way to the road.

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Alternate Bolduc quoted regulation 4.4.14(2) Driveways: "For lots with front entry garages: A width equal to the face of the garage for a distance of 20 feet from the doors, then gradually decreasing until the driveway is 18 feet or the Right of Way is encountered."

Mrs. Drewnowski said they were not going to increase the width of driveway at the street.

Alternate Bolduc quoted regulation 4.4.14C Driveway: "The driveway shall be no closer than 6 feet from the property line. However, staff may approve driveways less than 6 feet but greater than 3 feet from the property line. Driveways closer than 3 feet from the property line shall require approval by the Commission." He said if the Drewnowski's wanted to extend the driveway in front of that, they had better make sure it's 6 feet from the property line.

Chairwoman Rothenberg asked Mr. McKinney if the board were to approve the application with the stipulation that Mr. McKinney's office approves the driveway...

Mr. McKinney interrupted and said and if they go to the Planning Department and apply for a 3.9. He said it was a staff issue and no fee is involved.

Chairwoman Rothenberg read the staff comments from the Inland/Wetlands Representative: "Side variance is ok. We need wetland permit."

Commissioner Shay said there was no wetland on the side of the garage.

Mr. McKinney said everything has to go through Wetlands. He said when people come in to apply for their building permits, they speak to someone in the Building Department, they check out the property on the map and see if the property has Inland/Wetlands restrictions.

CLOSE OF PUBLIC HEARINGS:

Chairwoman Rothenberg **CLOSED the Public Hearing at 8:20 P.M.**

COMMENCE REGULAR BUSINESS MEETING/1. cases heard during Public Hearing/Application # 04-15: 19 Windsor Ave. – Appeal of the Zoning Officer Decision under CT General Statute Section 8-7 with respect to Windsor Zoning Regulation Sec 16.1.15 – Permitted Zoning District Uses; Sec 2.1.15 – Determination of Certain Uses; Sec 2.4.6 – Special Use & Minimum Requirements

MOTION: Commissioner Kuziak made a **MOTION and it was seconded by Alternate Ferranti to UPHOLD the zoning enforcement official's cease and desist order for Application #04-15**

DISCUSSION:

Commissioner Kuziak said there are an awful lot of violations and he felt someone who had lived in Windsor for 50 years should know [better]. He believes the owner knew he was

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breaking the law and he felt that Mr. D'Amato doesn't have any sense of responsibility for the Town's regulations. He felt that the zoning enforcement officer made a proper evaluation.

Alternate Ferranti said he concurred with Commissioner Kuziak in that he didn't hear anything tonight that would support the appeal of the cease and desist order. He said Mr. D'Amato said that he charged Mo for the first month and he's not charging him anything thereafter. He said the fact of the matter was that he was renting the space; it wasn't as much of a good will [gesture] as he would like us to believe. He said he believes Mr. D'Amato has been renting the space for the trucks that he says he needs a month to get them off the lot. He says it's a clear violation of the zoning regulations. He said he's in support of upholding the cease and desist order.

Commissioner Shay said she is in support of upholding the cease and desist order. She said although she emphasizes with both Mr. D'Amato and Mo, regardless of how the situation came to the attention to the Zoning Enforcement Officer, she felt the board has to uphold the decision. She said she thinks the trucks have been there for a long time. She said she moves to uphold the zoning officer's cease and desist order.

Chairwoman Rothenberg asked all those in favor of upholding the zoning official's ruling signify by saying aye. She asked those opposed.

VOTE: In Favor: Unanimous

**COMMENCE REGULAR BUSINESS MEETING/1. cases heard during Public Hearing/
Application #04-16: 77 Pierson Lane – Appeal of the Zoning Officer Decision for
Noncompliance of Approved Site Plan, Windsor Zoning Regulation Sec 3.1.3 –
Maintenance of Landscaping**

MOTION: Commissioner Kuziak made a **MOTION** and it was seconded by Commissioner Shay to **TABLE Application #03-15.**

DISCUSSION:

Commissioner Kuziak commented that he wished to table the application because the applicant was not present. He also said he was not sure if the applicant had to be present. He said he didn't know what action to take, whether we notify him to come back next month or what.

Chairwoman Rothenberg suggested someone talk to the applicant and maybe avoid further controversy or problems.

Mr. McKinney said he would see if a letter has gone out.

Chairwoman Rothenberg said to Mr. McKinney that if a letter has not gone out to make sure one does.

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Chairwoman Rothenberg asked all those in favor of tabling the application signify by saying aye. She asked those opposed.

VOTE: In Favor: Unanimous

**COMMENCE REGULAR BUSINESS MEETING/1. cases heard during Public Hearing/
Application #04-14: 128 Joshua Hill – Section 4.4.2 – Swimming Pools, Section 2.1.3 Side
Yard Variance and Section 4.5.13A(1) Flag Lots:**

MOTION: Alternate Bolduc made a **MOTION** and it was seconded by Alternate Ferranti to **TABLE Application #04-14 until November 23rd on the condition that the abutters/neighbors who appeared at the October 20th meeting are notified ahead of time.**

DISCUSSION:

Commissioner Kuziak stated the applicant did not appear at the September 15th meeting with the proper signatures; and didn't appear at tonight's meeting after being asked to do so at the September 15th meeting.

Chairwoman Rothenberg asked all those in favor of passing variance #04-14 to signify by saying aye. She asked those opposed.

VOTE: In Favor: Unanimous

**COMMENCE REGULAR BUSINESS MEETING/1. cases heard during Public Hearing/
Application #04-17: Application #04-17 107 Trent Dr. – Sec 4.1.1 – Side Yard Variance**

MOTION: Commissioner Kuziak made a **MOTION** and it was seconded by Alternate Bolduc to **ACCEPT Application #04-17.**

DISCUSSION:

Commissioner Bolduc stated he thought it was commendable that the applicants were willing to assist an elderly parent.

Commissioner Shay said she had to disagree with the applicant who stated that the proposed carport would enhance the looks of the house. She said she disagrees. She said she had a concern that there is a huge wooden fence there which potentially could be a hazard, but she believes the applicant wouldn't pay attention to it.

Chairwoman Rothenberg asked all those in favor of passing variance #04-17 to signify by saying aye. She asked those opposed.

VOTE: In Favor: Unanimous

COMMENCE REGULAR BUSINESS MEETING/2. New Business/a. Change in Application Procedure

MOTION: Commissioner Kuziak made a **MOTION** and it was seconded by all board members to **TABLE the motion to change notification of abutting property owners within 100 feet by Certified Mail to US Post Office Certificate of Mailing and to include direction sheet as part of official application.**

COMMENCE REGULAR BUSINESS MEETING/2. New Business/b. Communications from the Public

There were no Communications from the Public to be discussed.

COMMENCE REGULAR BUSINESS MEETING/2. New Business/c. Minutes Acceptance – July 21, 2004 and September 15, 2004

MOTION: Alternate Bolduc made a **MOTION and it was seconded** by Commissioner Shay, to **APPROVE the Minutes of the Regular Meeting July 21, 2004.**

VOTE: In Favor: Unanimous

MOTION: Commissioner Kuziak made a **MOTION and it was seconded** by Alternate Ferranti, to **APPROVE the Minutes of the Regular Meeting September 15, 2004.**

VOTE: In Favor: Unanimous

COMMENCE REGULAR BUSINESS MEETING/2. New Business/d. Communications from Board Members

Commissioner Kuziak said that Mr. Francis came in last month for a variance (Application #04-13 – 10 Franklin Lane). He said he was the gentleman who had the \$35,000 pick-up truck and the neighbors didn't like it. He said the board upheld the Zoning Enforcement Officer's cease and desist order and we told him he had to come back for a variance.

Assistant Zoning Enforcement Officer McKinney said that the neighbor came in today and was making copies and apparently the truck is still on the property. He said he thought the truck was supposed to be off the property today. The board members agreed. He said Andy Sterchak would be on it tomorrow as the owner didn't apply for a variance.

Commissioner Kuziak asked Mr. McKinney if his office could provide the board members with copies of the statutes.

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**COMMENCE REGULAR BUSINESS MEETING/2. New Business/e. Communications
from Staff Liaison**

There were no Communications from Staff Liaison.

ADJOURNMENT:

MOTION: Commissioner Shay a **MOTION, seconded by all the members present, to
ADJOURN the meeting at 8:45 P.M.**

VOTE: In Favor: Unanimous

Respectfully submitted,

I certify that these Minutes were accepted
on _____.

Lynda D. Karas, Recording Secretary

Helene Shay, Secretary
Zoning Board of Appeals