

**TOWN OF WINDSOR  
ZONING BOARD OF APPEALS**

**Regular Meeting  
December 15, 2004**

Approved

**PRESENT:** Chairwoman Frances Rothenberg, Commissioners Max Kuziak, Joseph Breen, John Cowan, Alternate Rosanne Lombardo and Acting Zoning Enforcement Officer Wayne McKinney

**EXCUSED ABSENCE:** Commissioner Helene Shay and Alternates George Bolduc and Thomas Ferranti

The Meeting was called to order at 7:06 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. 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 December 2nd and 9th, 2004 was read by Commissioner Breen and included the following variance applications to be heard:

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| Application #04-16 | 77 Pierson Lane – Appeal of the Zoning Enforcement Officer’s decision for noncompliance of approved site plan, Windsor Zoning Regulation Sec. 3.1.3 – Maintenance of Landscaping |
| Application #04-18 | 130 Basswood – Appeal of the Zoning Enforcement Officer’s decision with respect to Windsor Zoning Regulation Sec. 4.4.8A – Minimum acreage for keeping chickens                  |
| 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 #04-20 | 10 Franklin Lane – Section 4.4.5 – Commercial Vehicles Parking Variance  |

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Application #04-19 10 Franklin Lane – Appeal of the Zoning Enforcement Officer's decision with respect to Windsor Zoning Regulation Sec. 4.4.7 – Home Occupations

**PROCEDURES:**

Alternate Lombardo read the procedures for presentation of an application. She then queried the audience for any questions regarding the procedures which were read. Hearing no comments, Chairwoman Rothenberg declared the hearings proceed.

**PUBLIC HEARINGS/ #04-16: 77 Pierson Lane – Appeal of the Zoning Enforcement Officer's decision for noncompliance of approved site plan, Windsor Zoning Regulation Sec. 3.1.3 – Maintenance of Landscaping**

**DISCUSSION:**

Acting Zoning Enforcement Officer Wayne McKinney informed the board that he had received a letter from the owner of the property and that owner didn't now show up for the October, 2004 Zoning Board of Appeals meeting. Mr. McKinney said the letter referred to the site plan which went back to 1983 and the building has been changed since then. Mr. McKinney said his recommendation to Mr. Simses (the owner) was to submit a revised site plan to the Planning Department.

Chairwoman Rothenberg asked Mr. McKinney if the owner had withdrawn it.

Acting Zoning Enforcement Officer McKinney answered no; he did it by letter.

Chairwoman Rothenberg stated the board did not have the letter.

Acting Zoning Enforcement Officer McKinney asked if Chairwoman Rothenberg were referring to the letter of September 27, 2004.

Chairwoman Rothenberg asked if the letter referred to was that of September 28, 2004 and was that the last letter – nothing subsequent to that.

Acting Zoning Enforcement Officer McKinney answered no.

Chairwoman Rothenberg further asked if because of the referenced letter, was the owner going to revise the site plan and go before the TP&Z.

Acting Zoning Enforcement Officer McKinney answered in the affirmative.

Chairwoman Rothenberg asked Mr. McKinney what the board was supposed to do about that because they couldn't table it.

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Commissioner Breen stated that it gets eliminated.

**MOTION:** Commissioner Kuziak made a motion, seconded by Commissioner Breen, to **UPHOLD the Zoning Enforcement Officer's decision to remedy the violations noted within 30 days of the letter to LV Realty from Chief Building Official & Zoning Enforcement Officer Dupre dated August 23, 2004 and suggested that the board be notified of that decision.**

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

**VOTE:** In Favor: Unanimous

Commissioner Kuziak asked Acting Zoning Enforcement Officer McKinney if it were necessary to notify the TP&Z.

Chairwoman Rothenberg said it was up to the owner because he has to apply to them (TP&Z); the Zoning Board of Appeals has nothing to do with them.

Commissioner Kuziak wanted to know how they will know.

Acting Zoning Enforcement Officer McKinney said he would write the owner the letter stating in effect that the appeal has been refused and that he needs to come before the TP&Z.

**PUBLIC HEARINGS/ #04-18: 130 Basswood – Appeal of the Zoning Enforcement Officer's decision with respect to Windsor Zoning Regulation Sec. 4.4.8A – Minimum acreage for keeping chickens**

**DISCUSSION:**

Appearing to discuss this application was Robert and Millie Morrison of 130 Basswood. Mrs. Morrison said they were here because they were seeking a zoning variance for keeping their chickens. She said the owning of the chickens arose from her mentally disadvantaged son's involvement in 4-H.

Chairwoman Rothenberg asked them if notification had been given to their neighbors.

Acting Zoning Enforcement Officer McKinney said they had presented the green cards to the Morrison's at a prior Zoning Board of Appeals meeting.

Mrs. Morrison said she had notified the neighbors.

Chairwoman Rothenberg asked the Morrison's if they had handed in the cards.

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Acting Zoning Enforcement Officer McKinney asked if the Morrison's had mailed the green cards to the abutters.

Mr. Morrison said he recalled receiving the letter which stated the abutters.

Acting Zoning Enforcement Officer McKinney said to the Morrison's that they were supposed to write the letters to those abutters sending them all registered.

Mr. Morrison said they had not done that as they missed that particular point. He said that he thought a majority of the abutters' signatures were to be found listed at the bottom of the GIS Application (copy of which was given to each board member). He said he didn't recall anything saying that they had to notify the abutters.

Acting Zoning Enforcement Officer McKinney said it was on the application.

Commissioner Breen said it was not necessary to notify abutters when there is an appeal. He said that when you file a normal application to apply for a variance (in this case it is different as they are appealing the decision by the Zoning Enforcement Officer) you need to notify the abutters. He said in this case it is not necessary.

Chairwoman Rothenberg asked the Morrison's if they had letters to the abutters.

Mr. Morrison said yes, the majority of them.

Chairwoman Rothenberg asked Mr. Morrison if he would name those on the abutters' list who had mailed letters. Mr. Morrison said their names were Richard Niederwerfer and Stanley Scrusse of 211 Mack Town Rd.

Alternate Lombardo continued with the names of the abutters: Paul Guguelmone, 119 Basswood Road, Orrett Kong of 209 Macktown Road and Michael and Antoinette Wallen of 123 Basswood Road.

Chairwoman Rothenberg said to the Morrison's that they only notified five of the abutters and there were 13 others who were not notified.

Mrs. Morrison said that she has spoken to a woman who lives at 95 Lancaster Dr. who apparently had made the complaint. She said the woman said her only concern was the rooster making noise and it was making it hard for her and her children to take naps. Mrs. Morrison explained to the woman that they had gotten rid of the rooster.

Mr. Morrison expressed to the board that their initial concern was the Zoning Board's feeling that the chickens were being raised for meat and eggs. He then clarified to the board that that was not the case.

Commissioner Breen asked how long ago was their son's 4-H project.

Mr. Morrison answered that it was about a year ago.

Commissioner Breen asked the Morrison's if they have obtained any more chickens since that project or do they have the same amount or have some died. He asked how many chickens were in the original project.

Mr. Morrison said they have lost some. He said he believed there were about 24 or so because one can't count on 100%.

Commissioner Breen then asked Mr. Morrison how many he had at present.

Mr. Morrison answered that he had 15. He said some had been killed by a bobcat or coyote.

Commissioner Breen said the zoning regulations for the Town say that one should have three acres in order to raise chickens for meat or eggs. He then asked Mr. Morrison how much property he did have.

Mr. Morrison answered they have .65 acres which is adjacent to a large wooded lot.

Commissioner Breen said there is no special conditions that are mentioned in the regulations regarding keeping animals or chickens as pets for school projects.

Mr. Morrison mentioned again that they are not being raised for meat or eggs.

Commissioner Breen asked what the Morrison's were doing with the eggs.

Mr. Morrison said they donate them to shelters.

Photographs were being handed around which showed the child's 4-H project. Mrs. Morrison also showed the board an award her son had received for his volunteer efforts in the Town.

Commissioner Cowan read aloud in the Zoning Regulations Section 4.4.8 – Raising of Small Livestock: "The noncommercial raising of small livestock for private use limited to domesticated birds kept for eggs or meat..." He continued stating that the chickens in question are not being kept for eggs or meat, so therefore it would appear that this regulation does not apply.

Acting Zoning Enforcement Officer McKinney pointed out that sub-section A under Section 4.4.8 states "The minimum acreage to which this use shall apply shall be three acres."

Commissioner Breen asked the Morrison's who takes care of the chickens now.

Mrs. Morrison said her son.

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Commissioner Breen said the issue of concern was the rooster, which is now gone. He then asked Acting Zoning Enforcement Officer McKinney if anyone has contacted the woman who initially brought up the complaint.

Acting Zoning Enforcement Officer McKinney answered it was an anonymous complaint.

Commissioner Breen then asked Acting Zoning Enforcement Officer McKinney if he knew whether this person is more than satisfied.

Mrs. Morrison said she knew who the anonymous person was. She said she had spoken with the woman and told her that she had gotten rid of the rooster. The woman said she knew.

Commissioner Breen asked Mr. Morrison how far from their house the chickens were located.

Mr. Morrison pointed out on a plot plan to the board members where the “anonymous” neighbor and the chickens were located.

Chairwoman Rothenberg asked the board members what was the address of the woman who made the complaint.

Commissioner Breen answered that it was Chelsea Lane. He said the board’s concern regarding this type of application is the precedent that it sets.

Chairwoman Rothenberg asked the Morrison’s if they were going to increase at some point the number of chickens they have.

Mr. Morrison answered that they were not.

Alternate Lombardo asked the Morrison’s where the chickens are kept.

Mr. Morrison answered that they have a shed that he built.

Commissioner Kuziak asked the Morrison’s what the hardship would be if the appeal was not granted.

Mr. Morrison said the hardship would be on their son.

Ms. Morrison said that her son was slow. She said she believed that getting rid of the chickens would be detrimental to the welfare of her child.

Mr. Morrison said that he believed taking care of the chickens does a lot for their son with the daily routine.

Commissioner Kuziak asked the Morrison’s if they considered the care and feeding of the chickens as a type of therapy for their son.

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Mrs. Morrison answered by stating that she had received letters from her child's therapist stating that because of this added responsibility, her son has pride and joy and has helped him feel good about himself. She said he's 12 years old and he looks forward to getting up early in the morning and taking care of the chickens.

Chairwoman Rothenberg asked if there were anyone in favor of the appeal; anyone against; anyone neutral.

Acting Zoning Enforcement Officer McKinney said his only concern was sub-section A under Section 4.4.8 with regard to the minimum acreage.

**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 application was withdrawn and a letter to that effect was read by Commissioner Cowan. It reads as follows:

“letter is dated December 7, 2004 addressed to Members of the Zoning Board of Appeals. Please be advised that I am withdrawing my application for a variance for 128 Joshua Hill. My construction plans are on hold and I may reapply at a later. Sincerely, David Lombardo”

**PUBLIC HEARINGS/ Application #04-20: 10 Franklin Lane – Section 4.4.5 – Commercial Vehicles Parking Variance**

**DISCUSSION:**

Acting Zoning Enforcement Officer McKinney said with regard to the two applications that it was a combination of parking of a commercial vehicle over ¾ ton in conjunction with running a business out of the home. He said the vehicle is part of the business.

Mrs. Errol Francis (applicant) spoke up and said that the vehicle is not necessarily a part of the business because it was not bought for the business. She said it was bought as a personal vehicle but in the process it's being used for the business.

Acting Zoning Enforcement Officer McKinney clarified that it is indeed being used for the business.

Commissioner Cowan said that the noise complaint led to the size of the vehicle. He said the running of a business out of the home complaint came from the same anonymous person.

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Acting Zoning Enforcement Officer McKinney said that the original complaints were anonymous with regard to noise from the back-up alarm on the vehicle, which led to being a vehicle over ¾ ton which led to running a business out of the home.

Appearing to discuss this application was Errol and Jacqueline Francis of 10 Franklin Lane, Windsor, the owners of the vehicle in question.

Mr. Francis said that the truck in question is his primary vehicle. He said he and his wife presently own two automobiles and due to the nature of her job and his involvement in the community and activities of his children, it is of great importance that he have his own vehicle. He said that if he is not allowed to park this vehicle at his primary residence, it would cause severe hardship to his family and the people who depend on him. He said that his truck is used mostly for personal activities rather than for his business.

He said that his vehicle was purchased in the year 2001 and registered as a personal vehicle. He said he upgraded his primary vehicle in 2001 from an F150 to an F350 truck. He said that when the vehicle in question was purchased, he had another truck that he used for his part-time business – the lawn care business. He said that this truck became very expensive to maintain so he sold it and used the money to modify his personal truck so it suits him for his business until things change.

He said that if he were to lose this truck, it would cost him a fortune. He said there would be a financial hardship. He said he has done a cost analysis and to replace the truck it would cost him approximately \$17,500 to get something that would comply with the Town's regulations.

He said in regard to the section in the regulation referring to ¾ ton he wasn't sure if the ¾ ton refers to the layman's term which is an F150 truck which carries ½ ton and an F250 truck carries a ¾ ton capacity and an F350 carries a one-ton capacity. He said that was the way it was explained to him. He said if that is the way that we (he and the board) are looking at it, he wanted to know if that were right or which way should they interpret it. He said he is depending on the board to qualify that. He said that if that is the case, then the vehicle he presently owns would qualify and the F350 would not qualify. He said the difference between the F250 and the F350 is that the F350 can carry some more payload, is 48 pounds heavier and is one inch higher. He said that if you should look at these two vehicles side by side, you cannot tell the difference. He said that that was what happened when he purchased the vehicle in question. He said that when he purchased the vehicle, it was just a better deal between the F250 and the F350 and not being aware of the regulations at that time. He said he just wanted the better deal.

He said that due to the modifications he made to this truck, he cannot legally carry a ton because it presently has a gross weight of 9,900 pounds and because to these modifications, the vehicle weight over 8,000 pounds so technically he can't carry a ton.

Mrs. Francis pointed out in the photograph that the sides of the vehicle were removed and that was the modification to which her husband was making reference so that would not allow him to load that capacity in the truck.

Commissioner Kuziak asked Mr. Francis if the truck dumps.

Mr. Francis answered in the affirmative. He continued by saying that if they were to use the language that we are talking about capacity as a ton, which means 1,500 pounds, then it would be quite impossible for him to buy any large truck today that would fit the regulations. He showed the board the printout which he had obtained from Edmunds.com that shows the Silverado 1500, the Ram Pickup 1500, etc. He said that most of these which are highlighted on the above-mentioned sheet show that if they are using the term of capacity in the sense of being able to carry only 1500 pounds, then it would be very difficult for him to be able to find a truck that would be able to do that. He said that for you (the board) to use the terminology capacity of being able to carry more than 1500 pounds, it (his truck) doesn't qualify. He said he is left with a very limited choice in getting a truck and there are so many trucks in the Town of Windsor like his and larger.

Mr. Francis said he purchased the truck with the intention of some day being able to hand it down to his son. He said he brought it brand new and takes good care of it. He said he is hoping that 10 years from now, the truck will still be running. He said for him to lose that and start the process all over again would be emotionally difficult.

Mr. Francis said he has invested a lot in the neighborhood. He said he has modified his house. He said there was no reason to think that he was going to try to do anything to bring down the character or value of the neighborhood.

He said his truck was bought as a pick-up, modified. He said when the whole noise thing came up, he turned off the reverse alarm and that was from January of 2004 and he has not been using the reverse alarm since then.

Mr. Francis said that in the minutes of September 15, 2004 it was a unanimous decision by the board for the Planning & Zoning Commission to look into changing the limit from  $\frac{3}{4}$  ton to 1 ton. He said that decision can be located on page 20 and 21 of the referenced minutes.

Mrs. Francis mentioned that she had done some research on the different size trucks people have in the Town. She said her research was limited because the information was not on a computer as yet. She said she would have to wait several months to obtain the information she needed but she wanted to point out that it appears that more and more people are purchasing the larger capacity trucks for personal use not just for business use. She said that for some people it just a "fashion statement" to have an F350 truck so it's not the exception.

Mrs. Francis reiterated what her husband had said about the cost to replace their truck. She said it would cost approximately \$17,000 and that would not be the cost of the truck; that would be the additional cost they would be incurring over and above what they owe on the existing truck as it is still being financed.

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Commissioner Breen said to the Francis's that the cost of the truck or the changes to it is not the board's concern. He said the cost and expense that would be incurred by them would not be a hardship.

Mrs. Francis asked what the board would consider a hardship.

Commissioner Breen said that would be what they needed to tell the board. He said that any time there is an expense – an unruly or high amount – that doesn't constitute a hardship.

Mrs. Francis said that they factored that into the hardship in the sense that additional funds would have to be generated which they had not planned for. She said they only have two years left to pay on the vehicle. She said that in another two years they were hoping to get rid of the car payment and structure their finances better.

Mrs. Francis said that getting rid of the truck now and not replacing it is almost impossible. She said she is on the road constantly because of the nature of her job and there would be no way for him to transport the children to and from their activities, for him to get to and from work, etc. She said there is no way they could rely on one vehicle.

Commissioner Breen asked how the truck was registered – is it private, commercial or combination.

Mrs. Francis answered that it was private; when it was purchased, it was purchased as a private vehicle. She said they had an F150 but it was old and worthless; it kept breaking down and they were dumping a lot of money into it. She said because of that, they got rid of the F150 and rather than trying to find a vehicle to replace it, they used those funds to convert the existing vehicle they had so that it could be multi-purpose. She said that was why it was converted as it is now.

Commissioner Kuziak asked if it had combo plates on it.

Mrs. Francis answered that it does not.

~~Mr. Francis said there were two types of plates – and the vehicle does not have commercial plates. He said that when he was searching through the Grand List, they were not under the commercial section.~~

Chairwoman Rothenberg asked the Francis's if they had sent out the notifications to the abutters. She asked that they be given to Acting Zoning Enforcement Officer McKinney.

Commissioner Kuziak asked Acting Zoning Enforcement Officer McKinney if there were any SUV's that have a carrying capacity of 1,000 lbs such as the Expedition, Navigators, Hummers.

Acting Zoning Enforcement Officer McKinney said he hadn't shopped around, but he said he didn't think so.

Chairwoman Rothenberg asked the Francis's if they had received a copy of the staff comments from the Building Official, the Fire Marshal and the Planning Department for the variance in question.

Chairwoman Rothenberg read the staff comments from the Building Official/Zoning Enforcement Officer: "I don't believe there is any hardship. I have received many complaints from more than one neighbor concerning this violation. This vehicle is being used for a lawn service business out of the home."

Chairwoman Rothenberg asked if the Francis's had a comment with regard to the prior statement from the Building Official/Zoning Enforcement Officer.

Mr. Francis asked the board if the comment stated that they don't believe there is any hardship.

Chairwoman Rothenberg said that they are not talking about financial hardship as the board is not involved in that.

Mr. Francis said that there is emotional hardship and the lack of the ability to stay involved in the community and the lack of ability to do things with his children because he will not have a vehicle because he can't park the vehicle at his house. He asked how he would get around as there are only two vehicles in the household and his wife's vehicle is not always accessible. He said that due to his involvement and his job, if he doesn't have this vehicle, it would be a hardship.

Commissioner Breen asked Mr. Francis why he needs a truck of this size.

Mr. Francis said that he doesn't necessarily need a truck of this size. He said the truck was bought when he upgraded from his F150. He said that based on the fact that he runs a part-time landscaping/lawn care business, he has a trailer. He said that this truck is heavier and stronger and in his mind will last him years compared to the smaller one with a smaller transmission. He said he wanted a truck that would last so he got a truck that was recommended – a strong truck that would last for years that way he wouldn't have to be changing trucks often.

Commissioner Breen reiterated what Mr. Francis had just said. He said so Mr. Francis went out and got a new truck and then realized that it was too big for what the current zoning regulations allow and this is why they are here tonight.

Mrs. Francis said that she was surprised that the staff comments included the comment about complaints as she and her husband were the ones who brought it to the first zoning officer's attention and it was never in a complaint. She said she researched the documentation and when they brought it to the first zoning officer's attention they were the ones who said the only thing that could potentially be a problem is the truck and that was because they had been aware because of conversations they had had with members of the staff at the Town here in Windsor that the maximum capacity is  $\frac{3}{4}$  ton. She said that is why it was elevated to the Zoning

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Enforcement Officer's attention and he said ok, to play it safe, they should approach the Board of Appeals to get a variance for this. She said this was not as a result of a complaint. She said the business part had been complained about.

Mrs. Francis said she wanted to comment on the statement about the vehicle being used for lawn care. She said that even if they were to get rid of the business, they wouldn't get rid of the truck because the truck was not purchased for the business.

Alternate Lombardo asked Mrs. Francis how many passengers the truck held. Mr. Francis answered 3.

Chairwoman Rothenberg asked the Francis's if they didn't purchase the truck for the business, why did they need a truck.

Mrs. Francis said that her husband always has a truck.

Chairwoman Rothenberg asked Mr. Francis of that size?

Commissioner Breen said they had an F150 but then they needed something bigger and better so they just did modifications for it. He asked Mr. Francis if he wanted it bigger and better (not to carry his friends and family around), but bigger and better for the business.

Mr. Francis answered that if he expanded his business, the truck would be ideal if he decided to go into lawn care full time. He said he is not planning to go into lawn care full time. He said he's a data base administrator. He said he started the business for a hobby – for exercise.

Mrs. Francis said it was an inaccurate statement to say that the F350 was purchased for the business because it was purchased based on an economic decision. She said there are lots of people in the Town of Windsor who have Ram 350's or Chevy 350 and not because they are operating businesses, but because they are being used for personal use.

Commissioner Breen said they still haven't settled the issue of hardship.

Commissioner Kuziak said that he disagrees with the board that financial is not a hardship. He said that if a family buys a vehicle within their means and they expect to keep it for the next 20 years and all of a sudden have to purchase another vehicle, he would consider that a hardship.

Commissioner Breen asked why they would have to change the vehicle.

Commissioner Kuziak asked Acting Zoning Enforcement Officer McKinney if Mr. Francis were to park the vehicle on the street in front of his house, would he be in violation.

Alternate Lombardo asked where in Windsor can these vehicles be parked.

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Acting Zoning Enforcement Officer McKinney answered in a commercial zone and in an industrial zone. He said that he has written about 10 letters in the last 6 or 8 months, mostly on complaints, where people have ¾ ton.

Chairwoman Rothenberg asked Acting Zoning Enforcement Officer McKinney what do people do with their ¾ ton trucks.

Acting Zoning Enforcement Officer McKinney answered that they use them for business – all business.

Chairwoman Rothenberg asked what do people do with those vehicles if they can't take them home.

Acting Zoning Enforcement Officer McKinney said that they usually sell them or park them on a lot somewhere else or they park them in an area where they run their business and then take their personal vehicle back and forth to work.

Alternate Lombardo asked if people can park their vehicle in commercial or industrial zoned areas.

Acting Zoning Enforcement Officer McKinney answered in the affirmative.

Chairwoman Rothenberg said that they just can't park the vehicle in their yard.

Mrs. Francis asked if that meant that they were going to have to purchase a third vehicle. She said [if that were the case], that would be a hardship.

Mrs. Francis said they would have to finance an extra \$17,000 over a five-year period when they have two years more to pay off the truck. She said there was no way that their finances could accommodate that additional expense.

Commissioner Cowan said there has been a debate between Commissioners Breen and Kuziak as to whether financial could be considered a reasonable hardship. He then quoted from the Connecticut Federation of Planning and Zoning Agencies Workshop for Zoning Board of Appeals, written by Attorney Steven E. Byrne and dated February, 2003: "While financial loss in and of itself is not enough to justify the granting of a variance, it may be one of the factors properly to be considered by the board in determining whether or not a variance should be granted." He said that based on this statement, both Commissioners Breen and Kuziak were correct.

Chairwoman Rothenberg read the Fire Marshal's comments: "...there does not seem to be a significant fire problem. However, if the vehicle's use and the nature of the applicant's business requires the vehicle regularly carries flammable liquids, gases, hazardous materials, etc., then I believe this needs a specific site inspection and review by the FMO."

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Mr. Francis answered he does not.

Chairwoman Rothenberg asked what Mr. Francis transports when he is using his vehicle for lawn care. She asked if he has a mower and does it go into the truck.

Commissioner Breen interrupted and said it went into the trailer. He asked what is usually in the bed of the truck the majority of the time.

Mr. Francis said it is usually empty until the leaf season, otherwise it is an open vehicle truck.

Chairwoman Rothenberg read the comments from the Planning Department Representative: "We cannot make a recommendation regarding this application at this time. There is no confirmation from the applicant as to whether a landscaping business is operating at this site, which would require a separate approval. We would suggest this variance request not be considered until the applicant provides additional information for review."

Mrs. Francis said that they do not operate the landscaping business from their home.

Chairwoman Rothenberg asked the Francis's from where do they operate their business, if not from the home.

Mr. Francis asked the board when they say "operate" what are they asking.

Commissioner Kuziak asked the Francis's if they bill their customers.

Mr. Francis said yes and it is done in Hartford, not out of the home.

Alternate Lombardo asked if she wanted to hire Mr. Francis, who would she call.

Mr. Francis answered his cell phone.

Mrs. Francis said that the business has always had a cell phone.

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Commissioner Breen asked where they store the lawn mowers, etc.

Mr. Francis answered in a trailer at his house. He said everything is enclosed and secured.

Chairwoman Rothenberg read the comments from the Health Department Representative: "Have had complaint about back-up alarm. Support ZEO's opinions."

The Francis's both said they have taken off the back-up alarm.

Mr. Francis's again told the board that he has had the vehicle in question since 2001 and just this last year have received complaints from one person.

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Chairwoman Rothenberg read a letter from Christopher Soutar, one of the Francis' neighbors: "To Windsor Zoning Board of Appeals, From Christopher A. Soutar – Let me start off by saying that I moved to Windsor and specifically my area, because I wanted to get away from Hartford and all the commercial businesses that were in my old neighborhood. It took me many months before I settled on where I now reside and the thing that convinced me was the peace and quiet of the area.

All that being said, I am sending this letter to the Windsor Zoning Board of Appeals in regards to Mr. Errol Francis at 10 Franklin Lane and his application to park commercial vehicles and home occupation. I firmly oppose all applications because I do not want any commercial business being run and vehicles parked behind my back yard. My back yard is to the side of Mr. Francis' home and that is where he chooses to park all his equipment. When I go into my back yard I am forced to deal with all of his crap. Also when I am in my house I can see everything when I look out my window. It makes me feel like all his stuff is in my back yard. The shrubbery in my back yard borders both our properties. The shrub has now caught a disease and has started to dry rot, right in the area where he has been parking his equipment. This will eventually cause the entire shrub to dry unless it is treated with orthoculture oil, according to the Agricultural Plant Testing Station in Windsor. The name of the disease is wooley adelgid. If the shrubbery does die, I will have to plant a new set because I like and enjoy my backyard privacy and this will cost me a great deal of money, plus I would have to pay to get my property surveyed to be sure that I did not violate Mr. Francis' property line. Mr. Francis is aware of the damage to the shrubbery because I saw them cutting out the dry branches and they made no attempt to find out what was causing it to dry up.

The bottom line is, this is a residential area and I firmly oppose Mr. Francis being granted permission to run his various businesses out of his home. He needs to take his business to a commercial area where no one will be inconvenienced. Respectfully, Christopher Soutar."

Commissioner Kuziak asked if Mr. Soutar were present and has he ever come before the board.

Chairwoman Rothenberg said no.

Commissioner Kuziak said there are a lot of unfounded accusations that are not proven yet.

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Chairwoman Rothenberg said she also has a written note which she read: "We do not agree to #04-20 for commercial parking. The Townsends, 693 Matianuck Avenue."

Commissioner Kuziak asked Mr. Francis where 693 Matianuck Avenue would be.

Mr. Francis pointed out to the board the location of the property in question on a plot plan.

Chairwoman Rothenberg asked Acting Zoning Enforcement Officer McKinney where the note came from.

Acting Zoning Enforcement Officer McKinney said they received that mail dated December 14<sup>th</sup>.

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Commissioner Breen said Acting Zoning Enforcement Officer McKinney attached the note to the legal notice and then copied it to make the board aware that it was a response.

Commissioner Kuziak wanted to know if all the people on this application had received green cards.

Chairwoman Rothenberg said yes, he (Mr. Francis) said he handed them in.

Commissioner Kuziak said that Messrs. Townsend and Soutar were concerned enough to write letters but not concerned enough to be present tonight.

Chairwoman Rothenberg asked if anyone wanted to speak in favor of the Francis's keeping the truck in the yard.

Arema Grange approached the board. She said she lives at 11 Franklin Lane. She said she has lived in that neighborhood for 12 years and the Francis's have lived there for 11. She said she doesn't see the vehicle as a problem. She said she lives right opposite him. She said she doesn't hear any sounds or noise the likes of which have been mentioned. She said that if the job was a problem, why didn't someone say something five or six years ago. She said she believes it's a vendetta and horrible that somebody can try to do a business or try to make a living for themselves and somebody else tries to put the family down. She said she is not speaking up because she's a friend but as a neighbor. She said she has young grandchildren and the reason Mr. Francis put the back-up alarm on his truck was for the safety of these children. She said the problem started when he upgraded his house.

Commissioner Breen asked Mrs. Grange if she were concerned for the welfare of her children now that Mr. Francis doesn't have the back-up alarm.

Mrs. Grange said she was because of her grandson.

Mrs. Grange said that the same gentleman who made the complaint about the noise, complained to her when the Francis's were putting a second floor on their home. He told her that he objected to their putting a second floor on the house because then the Francis's could look into his house. She told him to put curtains in his house and he said he didn't like curtains. She then told him to put up a higher fence. She said this is all jealousy on the part of the person making the complaint. She said she is glad the Francis's have upgraded their home because it increases the value of her home.

Vivion Cowell of 239 Preston Street approached the board. He said he is a friend of Mr. Francis. He said he has seen a truck with a trailer (used for lawn mowing or whatever) not too far from where his friend lives. He said he can't understand the problem. He said you cannot see anything in the property from the road because of the high fence. He said you would have to get on the second floor of your home to look into the property.

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Albert Gaulzetti of 15 Franklin Lane approached the board. He said he's lived at that address since 1960. He said the problem is that Windsor has a law that businesses cannot be operated out of the home. He doesn't see any problem with Mr. Francis having a part-time business. He said he keeps his stuff in the back yard and he's very seldom ever parked in the road.

Sharmain Turnbull-Harris of 20 Maythorp Dr. (off Longview) approached the board. She said her husband and herself are friends of the Francis's. She said that she agrees with Mrs. Grange with regard to the fact that after all these years, they are now receiving complaints. She believes they are upstanding citizens of the Town and have given a lot and continue to help others, whether young or old. She said that she finds it hard to understand why someone would have a problem because they are ambitious and motivated. She said that when you approach the property, one doesn't see any chaos, the yard is enclosed and it's a nice neighborhood. She says she enjoys going there now because of the improvements that have been done to the house. She said she believes it makes all the other houses look good.

Commissioner Breen repeated that the Town has rules and regulations that need to be enforced. He said one of the issues is that as car and trucks evolve, improve and get bigger, the regulations have not changed. He said the board is not in a position to change the zoning regulations; they enforce what's already here and precedence is a big thing in the town.

Carl Harris of 20 Maythorp Drive approached the board next. He said he has helped him out in the past with the truck.

Steve Francis (Mr. Francis' brother) of 87 Regency Drive approached the board. He said he believes the board shouldn't turn down the application because his truck exceeds the limits as stated in the regulations. He just wanted to emphasize that the board had the ability to "do right" for his brother.

Chairwoman Rothenberg asked if anyone else in favor of the application, anyone opposed or anyone neutral.

Acting Zoning Enforcement Officer McKinney emphasized that both the letters that were received were complaints dealing with the noise which the board is responding to. He said that ~~[concern] directed him to the size of the vehicle and then to the home occupation.~~

Commissioner Kuziak asked Acting Zoning Enforcement Officer McKinney if there were any law against a commercial vehicle delivering something in a residential zone and when he leaves the property, he backs up and he's got a horn. He said mail trucks and delivery trucks have them. He asked if that were against the law.

Acting Zoning Enforcement Officer McKinney answered no, but allowed only during certain hours. He further stated that on certain vehicles that is a state law.

**PUBLIC HEARINGS/ Application #04-19: 10 Franklin Lane – Appeal of the Zoning Officer’s decision with respect to Windsor Zoning Regulation Sec. 4.4.7 – Home Occupations**

**DISCUSSION:**

Commissioner Cowan pointed out that further discussion should be limited to points not already discussed.

Acting Zoning Enforcement Officer McKinney said they acted upon this because there was more than one phone call from different anonymous people complaining about the alleged home-based business. He said he did not take all the calls. He said in his conversations with Mr. Francis he can prove he’s operating a business from his home which is in violation of the zoning laws.

Mrs. Francis said that she welcomed the experience because it increased her knowledge of the town ordinances and regulations.

Mrs. Francis read the violation with regard to operating a small landscaping business. She said the citation states they were in violation because of noise generated from the use and alteration of the residential character of the neighborhood (Section 4.4.7 - Home Occupation). She said she makes exception to the way the violation is written. She said Acting Zoning Enforcement Officer McKinney was not able to tell her that they were generating noise or that they were changing the character of the neighborhood. She said she wanted to find out what Windsor constituted as “operating a business” and she couldn’t. She said if the board is asking if they have a landscaping business, the answer is a resounding no. She said if they are operating [a business] from their house, that is not the case. She said that a landscaping business is a service-oriented business. She said the customers do not come to the place of business; they don’t generate any traffic or [change] anything to the property. She said they go to the customers to provide the service.

Mrs. Francis said that they do not use their home phone for the business. She said it’s a cell phone. She said they do not do billing on the premises; the billing is done off-site. She said that she told Mr. McKinney that they do not accept mail at their home; they have a PO Box for the business. She said that after the meeting on September 15<sup>th</sup>, they made a decision to get a post office box.

Mrs. Francis said that what she said to Mr. McKinney was that they did not have a specific location. She said that during her conversation with Mr. McKinney on November 12 there could potentially be a problem due to the fact that they do not have a fixed location. She said they went ahead and obtained a fixed location outside of Windsor. She said she was told that if they do not have a fixed location, their home would be their base. She said she couldn’t find that in the guidelines.

Mrs. Francis said that Mr. McKinney had observed a leaf-gathering trailer. She said that was not true, although there is a trailer on site but there is no leaf-gathering. She said it’s an enclosed

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trailer used for home use, personal use and business use. She said it's never been used to carry leaves; it's used to store personal items from the house and transport equipment for the business. She said the truck is used for the transporting of the leaves which is done for about five weeks of the year.

Commissioner Breen asked if the trailer moves.

Mrs. Francis said her husband would take the trailer out occasionally to transport the business equipment. She said all the business equipment is stored in that trailer. She said there is nothing that is being done that is deteriorating the neighborhood.

Mr. Francis said he purchased the trailer after complaints about noise even though he had turned off the back-up alarm on the truck. He thought maybe people were complaining about his starting up his business equipment, so to prove them wrong, he purchased the enclosed trailer. He said when he is leaving in the evening, there is no equipment being turned on. He said he just loads the trailer and drives out.

Commissioner Kuziak asked the Francis's if they thought they were running a business out of their home.

Mrs. Francis answered that based on the information she obtained from the Town of Windsor if people were coming in and out of her house and extra traffic were being generated and if there was equipment scattered throughout her yard, then she would consider the business as being operated out of her house. She said that Mr. McKinney said that if they do not have a fixed location, even though they don't do any of the activities out of their home, their home would be the business [location]. She said ok, then we will find a place and chances are we would only use the location two hours because that's all it would take to do the billing.

Commissioner Breen asked Acting Zoning Enforcement Officer McKinney where he came up with the statement "If you do not have a fixed location, your home is your business [location]."

Acting Zoning Enforcement Officer McKinney said that a post office box cannot be used for any kind of business other than a mail business; you need some place to store your equipment. He said ~~that would be your place of business. He said you can't put a truck, lawn mower or weed-wackers in a post office box and needless to say, that's not a place of business.~~

Chairwoman Rothenberg asked the Francis's where was the place of business.

Mr. Francis said it was in Hartford on Albany Avenue. He said from his own understanding, he just needed a place to do his billing.

Alternate Lombardo asked where the equipment was being stored.

Mr. Francis said again that the equipment was being stored in the trailer at the house. He said what he keeps in that trailer is no different from what other people keep at their house – everyone

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has a lawn mower, a weed wacker, etc. He said he has no large equipment there – no backhoe, no excavation equipment. He said trailers are allowed in the town and on his street there are over five trailers. He said they are not enclosed.

Mrs. Francis said she doesn't like people seeing what she purchases, so they use the enclosed trailer for transportation.

Commissioner Cowan said that the board is here to consider an appeal for Section 4.4.7 – Home Occupation. He said there are five conditions outlined in that section that the board has to be subject to if someone has a home occupation. He said the Francis's mentioned two of them and no reference was made to the other three.

Mrs. Francis said that she thought it went without saying.

Commissioner Cowan said he just wanted to know if they [the Francis's] were answering them positively.

Commissioner Breen asked Acting Zoning Enforcement Officer McKinney which of the five conditions have the Francis's violated that caused this issue to be brought up again because it says "Each such occupation shall be engaged in only by residents of the premise," (ok); "Equipment used in such occupation shall be customarily incidental to residential occupancy," (ok); "No display of products shall be visible from the street," (fine), "The occupation shall not alter the residential character of the neighborhood" (not fine).

Acting Zoning Enforcement Officer McKinney said a ¾ ton truck hauling a trailer in and out of the yard, that's the point of the complaint. He said the noise generating has now been eliminated.

Commissioner Breen said that the issue now is "The occupation shall not alter the residential character of the neighborhood." He said that was the sticking point.

Acting Zoning Enforcement Officer McKinney said the other one was, in the main section under Home Occupations "...similar but not limited to dressmaking, millinery, laundering or sewing..."

Mrs. Francis asked the board how they make the determination of what is "similar but not limited to." She said she wanted to know what are the "similar."s.

Commissioner Breen said that is what the board has to interpret. He asked if bringing a truck in during the summers a few times a week and rarely during the winter constitutes changing the character of the neighborhood.

Mr. Francis said this problem has been going on since July of last year [2003] and they have been working with the Town. He said the Town is the one who recommended that the property be screened in so people can't see what's going on, so they put up the fence. He said the rule is

if you are walking/driving by you won't be able to see these things [trailer]. He showed the board pictures he had taken from various angles in the neighborhood looking at his yard. He said he is not the only landscaper on the street; in fact, there is a full-time landscaping truck on the street and it's a duly Chevy 500 series.

Commissioner Breen stated that that they have two wheels on each axle in the back [meant to say four-wheels on the back axle].

Commissioner Kuziak said all over the town there are people who have trucks over the capacity limit parked in their yards and home-based businesses in violation. He said the board took action at the prior meeting where the Francis' appeal was discussed to request the TP&C change some of the rules. He said that action has not been done and he doesn't know who should do it – the board through a letter what.

Acting Zoning Enforcement Officer McKinney said it should be a letter from the board to have action on it. He said the Francis's have been more than cooperative and when he gets a call, he has to act on that call. He said if he had 40 hours a week just to do zoning and writing up all the violations and writing letters, this room [Council Chambers] would be totally filled.

Commissioner Kuziak said that what he is looking whomever should that that person contact the TP&Z and have them revisit some of these things based on the fact that people are buying bigger and bigger cars and engage in part-time jobs.

Mrs. Francis said she had a comment on the letter which was written by the owners of 10 Washington St. He said that he can observe the parked truck on the Francis' property near the fence/hemlocks. She said the regulations say that vehicles can't be parked closer than 5 feet from the fence. She said she measured and found that the truck is being parked over 6 feet from the fence.

Mrs. Francis said it would be ironic for anyone to think that after they had made significant modifications to their home, that they would deliberately do anything that would change the character of the neighborhood.

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**CLOSE OF PUBLIC HEARINGS:**

Chairwoman Rothenberg **CLOSED the Public Hearing at 9:12 P.M.**

**COMMENCE REGULAR BUSINESS MEETING/1. cases heard during Public Hearing/Application #04-16: 77 Pierson Lane – Appeal of the Zoning Officer's decision for noncompliance of approved site plan, with respect to Windsor Zoning Regulation Sec. 3.1.3 – Maintenance of Landscaping**

**MOTION:** Alternate Lombardo made a motion, seconded by Alternate Breen, to **UPHOLD the zoning enforcement official's cease and desist order for noncompliance of approved site plan.**

**DISCUSSION:**

Commissioner Breen said that due to the fact that the applicant did not attend the meeting to present his appeal, he will be voting in favor of the Town of Windsor's Zoning Enforcement Officer's decision to uphold the current non-compliance.

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

**VOTE:** In Favor: Unanimous

**COMMENCE REGULAR BUSINESS MEETING/1. cases heard during Public Hearing/  
Application #04-18: 130 Basswood – Appeal of the Zoning Enforcement Officer's decision  
with respect to Windsor Zoning Regulation Sec. 4.4.8A – Minimum acreage for keeping  
chickens:**

**MOTION:** Alternate Kuziak made a motion, seconded by Alternate Lombardo to **APPROVE the appeal of the zoning officer's decision so chickens can be kept, but not replaced when loss is incurred.**

**DISCUSSION:**

Commissioner Kuziak stated that he was in favor, considering all the circumstances, although the zoning officer made the correct decision, and considered it an emotional hardship on the family. He wanted to make it clear that the zoning enforcement officer's action was correct because he upheld the ordinance.

Alternate Lombardo said she also was in favor because the applicants proved their case and they are not raising the chickens for meat or eggs.

Commissioner Breen made the point that should the applicants start to lose chickens for one reason or another, they cannot be replaced.

**VOTE:** In Favor: Unanimous

**COMMENCE REGULAR BUSINESS MEETING/1. cases heard during Public  
Hearing/Application #04-20: 10 Franklin Lane – Section 4.4.5 – Commercial Vehicles  
Parking Variance**

**MOTION:** Commissioner Kuziak made a motion, seconded by Commissioner Cowan, to **APPROVE the variance.**

**DISCUSSION:**

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Commissioner Kuziak said he sympathizes with the Francis's and he thinks they are victims of circumstances, but that still doesn't negate rules and regulations. He said he is not comfortable with the hardship factor.

Alternate Lombardo said the town's regulations are not enforced with any regularity. She asked the Francis's if the truck was parked in the garage at night.

Mr. Francis answered that it is parked behind the fence at night.

Alternate Lombardo said she believes that the Francis's went above and beyond to make the property look presentable to the rest of the neighborhood; the property does not look unsightly from the street. She asked Acting Zoning Enforcement Officer McKinney if the trailer was legal.

Acting Zoning Enforcement Officer McKinney said it was legal because it was parked behind the fence.

Alternate Lombardo continued by stating she feels it's a matter of personal opinion whether moving the truck with the trailer in and out of the property in daylight or night-time alters the character of the neighborhood.

Commissioner Cowan said he was in favor of the variance.

Commissioner Kuziak said the difference between the gross vehicle weights was 78 pounds.

Commissioner Breen said he's a stickler for what's in the book and it says one cannot have anything more than ¾ ton, but he knows it's flagrantly abused, especially in this town. He said that that doesn't mean it's right, so does the board make an example of this or approve the variance and then go to the Town Planning & Zoning to try to change the regulation.

Chairwoman Rothenberg asked Alternate Lombardo to draft up a letter from the board to the Town Planning & Zoning Commission to change the regulation with regard to size of vehicles in residential zones.

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Commissioner Breen said that the neighbors are not concerned or upset about the size of the vehicle, so he votes to accept the variance.

Chairwoman Rothenberg asked all those in favor of passing variance #04-20 to signify by saying aye. She asked those opposed.

**VOTE: In Favor: Unanimous**

**COMMENCE REGULAR BUSINESS MEETING/1. cases heard during Public Hearing/Application #04-19: 10 Franklin Lane – Appeal of the Zoning Enforcement**

**Officer's decision with respect to Windsor Zoning Regulation Sec. 4.4.7 – Home Occupations**

**MOTION:** Commission Kuziak made a motion, seconded by Commissioner Breen, to **DENY the appeal.**

**DISCUSSION:**

Commissioner Kuziak said that although the applicants are stuck in a difficult situation, there are officials in town that are paid to do their job. He said that if they do their jobs properly, they are supporting our regulations and the board has to support them.

Acting Zoning Enforcement Officer McKinney said he would continue to get calls on this issue, but he had to go with what the regulations say.

Commissioner Kuziak said that regulation is wide open for interpretation. He said the word "similar" is up for questioning.

Acting Zoning Enforcement Officer McKinney said it's another regulation which should be looked at.

Commissioner Breen said he looks at the situation as whether he would want this situation in his own neighborhood and his answer is no. He said he wouldn't want these trucks even though they are not used often. He said he wants to vote to uphold the decision of the zoning enforcement officer.

Commissioner Kuziak said that he didn't feel he was putting a hardship on the Francis's by upholding the zoning enforcement officer's decision because they feel they are not running the business out of their home anyway. He asked the Francis's if they believe they are not [running the business out of their home], but if they are, they can't. He said he would uphold the zoning enforcement officer's decision.

Commissioner Cowan said that we should support the appeal. He said that the regulation in question supports five conditions. He said that the board has pretty much established that four out of the five have been fully met and the only one in question is whether or not this occupation alters the character of the neighborhood. He said he finds it hard to draw the connection between that [the home-based business] and the capacity of the truck. He said there was testimony from quite a number of the neighbors who felt that if anything the improvements to the property have enhanced the character of the neighborhood rather than going in the opposite direction.

Commissioner Breen said that he didn't feel that having the business was causing an improvement in the neighborhood.

Commissioner Cowan feels that having the business does not alter the character of the neighborhood.

Commissioner Kuziak said he agrees with the applicant's complying with Section 4.4.7 (a)-(e). He said he has concerns about the nature of the business as stated in Section 4.4.7 – Home Occupations – "...similar but not limited to dressmaking, millinery, laundering or sewing."

Commissioner Breen said the applicants meet all the requirements as set forth in the regulations except the one dealing with altering the residential character of the neighborhood.

Commissioner Breen said that the phrase "but not limited to" allows just about anything.

Commissioner Cowan said that if the board wants to interpret "not limited to, then the town can have a full-blown construction company there or jet-engines there.

Commissioner Breen interrupted by saying if they meet the five conditions.

Alternate Lombardo asked Acting Zoning Enforcement Officer McKinney if the board approves the variance (Commercial Vehicles Parking), does that mean that criteria D is taken care of.

Acting Zoning Enforcement Officer McKinney said that the trailer itself was never an issue. He said a trailer can be parked behind the rear plan of the house out of sight. He said when that trailer is being towed to do a business, that's another situation. He said the trailer can stay there and as of the last motion the truck can stay there. He said now we are into a whole different entity regarding towing the trailer on and off site to do a lawn business. He said that as far as enforcing it, that's a good question.

Commissioner Kuziak said that his motion was not to prohibit them from moving the truck and/or the trailer because he could be using the truck/trailer to go mow his brother's law. He said he does feel that based on this regulation, the decision of the zoning enforcement officer was correct.

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

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**VOTE:            In Favor: 4            Opposed: 1**

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

There was no discussion with regard to this item (overlooked).

**COMMENCE REGULAR BUSINESS MEETING/2. New Business/b. Establishment of Meeting Schedule for Calendar Year 2005**

**MOTION:**    A motion was made, seconded by Commissioner Cowan, to **APPROVE the meeting schedule for calendar year 2005.**

**VOTE: In Favor: Unanimous**

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

There were no Communications from the Public to be discussed.

**COMMENCE REGULAR BUSINESS MEETING/2. New Business/d. Minutes Acceptance – July 21, 2004, October 20, 2004 and November 17, 2004**

**MOTION:** A motion was made, seconded by Commissioner Cowan, to **APPROVE the Minutes of the Regular Meeting July 21, 2004.**

**VOTE: In Favor: Unanimous**

**COMMENTS:**

The minutes of October 20, 2004 were not approved as the appropriate members of the board were not present.

Commissioner Kuziak brought up the fact that only two Commissioners showed up for the November 17, 2004 meeting the result being no quorum established, no meeting took place, no minutes to be entered into the record and, therefore, no vote need be taken.

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

Chairwoman Rothenberg addressed the board with regard to the ZBA presentation to the Town Council. She suggested that Commissioner Kuziak make the presentation, which will be held the first Monday in January.

Chairwoman Rothenberg asked if any of the board members were interested in attending a program presented by the North Central Conservation District, Inc. entitled "Integrating Biodiversity into Local Land-Use Decisions," to be held on Saturday, January 22, 2005 at 8:45 A.M.

Commissioner Kuziak took the notice.

Chairwoman Rothenberg asked if any of the board members were interested in attending a program sponsored by the Connecticut Municipal Land Use Agency Board of Commissions at Wesleyan on Saturday March 5 at 8:30 – 4:00.

There was no positive response from the board members.

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

There were no Communications from Staff Liaison.

**ADJOURNMENT:**

**MOTION:** Commissioner Kuziak made a motion, seconded by all the members present, to  
**ADJOURN the meeting at 9:45 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