

**ZONING BOARD OF APPEALS  
EXECUTIVE SESSION OF JANUARY 6, 2011**

The Zoning Board of Appeals Commission of the Town of Fairfield held the Zoning Board of Appeals Public Hearing Meeting on January 6, 2011 in the First Floor Conference Room of the Honorable John J. Sullivan Independence Hall, 725 Old Post Road, Fairfield. The Public Hearing was recorded on disc and is available for review at the Plan and Zoning Department.

**PRESENT:** Robert Brennan, Chairman James Hamilton, Vice Chairman Kevin Coyne, Secretary, Duncan Keith, Donald Cafero, Daphne Dixon, Alternate.

1. **Minutes of December 2, 2010:** Kevin Coyne *moved* and James Hamilton *seconded* to approve the proposed minutes as submitted. *Motion passed unanimously.*
2. **Approval of Secretary's Fee:** James Hamilton *moved* and Duncan Keith *seconded* to approve the proposed Secretary's Fee. *Motion passed unanimously.*

This portion of the Executive Session started at 2:56 and continued into Public Hearing.

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Kevin Coyne, Secretary

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Josephine M. Keogh

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**PRESENT:** Robert Brennan, Chairman, James Hamilton, Vice Chairman Kevin Coyne, Secretary, Duncan Keith, Donald Cafero, Daphne Dixon, Alternate.

**GENERAL DOCKET**

**1. 1525 Fairfield Beach Road**, Map 243, Parcel 12. Petition of Susan E. Lane for variance of the Zoning Regulations; Section 11.13.1 to reduce the minimum setback from 45', currently 28'.5", proposing 39'.6". **Permission to construct a new single family dwelling with attached garage. Premises: BD Zone**

**Application was not heard.**

**2. 410 South Benson Road**, Map 139, Parcel 68. Petition of Michael Dirende for a variance of the Zoning Regulations; Section 5.2.4 to reduce the minimum required secondary street line setback from 22', currently 10'.6", proposing 10'.6". **Permission to remove existing dwelling and construct a new two and a half story dwelling. Premises: A Zone**

Michael Dirende presented the application for a variance of the Zoning Regulations. He wishes to expand upon the existing footprint of his home, which was constructed in 1860, by adding an additional 1400 square feet on the first floor level and 1100 square feet on the second floor level. This additional space will include a larger kitchen area for his expanding family, a new two car garage to replace the existing one, which is in need of structural repair, a mudroom and larger dining room to accommodate for holiday gatherings. The second floor will have two additional bedrooms and a laundry room. There will also be a Jack and Jill bathroom added, with raised ceiling height from the existing 7'0" ceiling heights.

**DENIED:** James Hamilton *moved* and Kevin Coyne *seconded* to approve the proposed application. Duncan Keith and Donald Cafero voted against the proposed application. Bob Brennan, James Hamilton, and Kevin Coyne vote in favor.

**3. 3509 Redding Road**, Map 165, Parcel 35. Petition of AFI, Inc. for a variance of the Zoning Regulations; Section 5.2.5 to allow an accessory structure (garage) to be located on a lot other than the lot upon which the primary dwelling is located. **Permission to remove an existing dwelling but leave the garage for use solely by Mr. Izzo, as an**

**accessory to and in conjunction with his home located at 3541 Redding Road.**

**Premises: AAA Zone**

Attorney John Fallon presented the application for a variance of the Zoning Regulations. The applicant, AFI, Inc. is the owner of property located at 3509 Redding Road. Anthony Izzo is the principle shareholder and President of AFI, Inc. Mr. Izzo is also the owner of the adjacent property located at 3541 Redding Road where he has resided with his family for many decades. In 2006 the prior owner of 3509 Redding Road obtained approval to construct a two story one family dwelling and garage on the property. Construction was commenced and the 2 % story residence and garage were partially completed. The construction was abandoned by the owner in its partially completed state and the prior owners' interest was ultimately foreclosed by his lender. The property became an eyesore in the neighborhood with the partially completed construction going unattended and becoming more and more dilapidated.

Mr. Izzo purchased the property from the lender in October of this year and has obtained all requisite approvals including a Certificate of Wetlands Conformance to demolish the existing partially completed house on the property. Mr. Izzo has no current intentions to construct a new dwelling on the lot and will simply retain the property in an open space condition for the foreseeable future. He would, however, like to complete, maintain and utilize the partially completed garage and use it in conjunction with his home and dwelling at 3541 Redding Road.

With regard to hardship, as the Board is aware, a hardship condition must originate and arise directly out of the application of the Zoning Ordinances to circumstances or conditions beyond the control of the applicant. *Archambault v. Wadlow*, 25 Conn.App. 375 (1991). The applicant must show that because of some peculiar characteristics effecting the property the strict application of the zoning regulation in question results in unusual hardship. *Bloom v. Zoning & Board of Appeals City of Norwalk*, 233 Conn. 198 (1995). In the present case a hardship does in fact arise directly from the application of the Regulations to this very unique situation wherein the contemplated new dwelling to be constructed on the property was left unfinished for many years and is therefore being removed by the adjacent property owner who has purchased the lot in question but wishes to utilize the garage solely in conjunction with his use and enjoyment of his single family home at 3541 Redding Road. The application of the specific zoning regulation would technically negate his ability to utilize this newly constructed accessory structure solely in conjunction with his home at the adjacent property. This is a unique situation impacting the property in question and satisfying the hardship standard as set forth in the *Archambault* case and other cases including *Stankiewicz v. Zoning Board of Appeals of the Town of Montville*, 15 Conn.App. 729, affirmed 2 1 1 Conn. 76 (1989); *Smith v. Zoning Board of Appeals*, 174 Conn. 323 (1 878).

The granting of this application so as to allow the continued use of the garage at 3509 Redding Road in connection with the property located at 3541 Redding Road is consistent with both statutory authority and case law. The granting of the variance as requested will not result in any change of use of the property from what has been historic for many decades and will result in a significant improvement to the aesthetics of the property by way of removal of the' partially completed and deteriorating construction on the lot.

**GRANTED WITH CONDITION:** James Hamilton *moved* and Duncan Keith *seconded* to approve with condition the proposed application. *Motion passed unanimously.*

**Condition: Conditioned upon the garage to be used solely by the owners of 3509 Redding Road.**

**4. 40 Willowbrook Road,** Map 46, Parcel 248. Petition of James & Annette Altieri for a variance of the Zoning Regulations; Section 5.2.4 to reduce the street line, secondary street line for a corner lot and side yard setbacks.

	Street	Second Street	Side
From:	40'	30'	15'
Currently:	39' 3"	22' 7"	13'
Proposing:	39' 3"	22' 7"	13'

And Section 5.2.5 to increase the maximum allowed lot coverage.

From:	15%
Currently:	15.18%
Proposing:	15.25%

**Permission to construct a second floor addition over existing footprint and a new front porch. Premises: R-3 Zone**

Mr. and Mrs. Altieri presented the application for a variance of the Zoning Regulations. They are requesting a variance for a front yard setback from the required 22' 0" to the existing non-conforming setback of 9' 6". The proposed expansion of the 1860's structure is located on an irregular shaped corner lot, which prohibits the construction within the required front yard. This addition to the existing structure will also alleviate the non conforming accessory structure, which encroaches on the rear setback, while maintaining the language and character of the neighborhood. In addition we will bring the house into full FEMA compliance, there by lessening the damage to the town.

**GRANTED:** James Hamilton *moved* and Duncan Keith *seconded* to approve the proposed application. *Motion passed unanimously.*

**5. 1770 Kings Highway,** Map 128, Parcel 123. Petition of HH East Parcel, LLC for a variance of the Zoning Regulations; Section 29.10.1 to increase the number of wall signs. From: 2, proposing: 3 and to increase the maximum allowable square footage from 72 sq. ft., proposing 75.18 sq. ft. for each sign. **Permission to construct new signs for a new commercial building. Premises: DCD**

William Fitzpatrick presented the application for a variance of the Zoning Regulations. The applicant is the tenant for Building #3 in the retail center presently under construction at the intersection of Kings Highway and Grasmere Avenue. This property was formerly the site of the Handy & Harman metal refining factory. This site was the subject of a comprehensive environmental remediation. The site remediation has been completed and construction of the retail center in underway. The retail center, as approved by the Conservation Commission acting as the Inland Wetland Agency, and the Town Plan & Zoning Commission, consists of three separate buildings totaling 86,160 square feet and

431 parking spaces. The property contains 10.47 acres and is located in the Designed Commercial District. The retail center will consist of three buildings: Building #2 to the east will contain a Whole Foods Market; Building #1, adjacent to Kings Highway East, will contain various retail uses; and Building #3 to the west, the subject of this application, adjacent to Grasmere Avenue, will be occupied by CVS Pharmacy. The Zoning Board of Appeals has approved, at its October meeting, a variance application pertaining to the Whole Foods building, permitting an increase in the number of wall signs from two signs to three, and an increase in the size of the wall signs.

CVS Pharmacy will occupy the entirety of Building #3, which contains 12,960 square feet. CVS is proposing three wall signs for the pharmacy, one facing Kings Highway Cutoff to the south, one facing to the east, and the third facing Grasmere Avenue to the west.

The property includes over 10 acres and will contain over 86,000 square feet of building. The building in question, Building #3, will face three separate streets (i.e., Kings Highway Cutoff on the north, Kings Highway East on the south, and Grasmere Avenue on the west), as well as the Whole Foods building, and the customer parking lots, on the east. Given the unusual topographic location of the building, with its exposure to public streets on three sides, and its exposure to the primary customer parking lot for the retail center on the fourth side, the three proposed wall signs will provide safe, readily-visible identification to customers.

The applicant also requests approval for an increase in the size of the three proposed wall signs from 72 square feet to 75.18 square feet. This request for a minor increase in square footage should be evaluated in the context of a building located some distance, and at a different elevation, from the relevant streets.

**GRANTED:** James Hamilton *moved* and Duncan Keith *seconded* to approve the proposed application. *Motion passed unanimously.*

**6. A 160 Woodrow Avenue - (Lot #1), Map 243, Parcel 72.** Petition of Harbor Homes, LLC. for a variance of the Zoning Regulations. Section 5.1.1 to reduce the minimum required lot size for a single detached dwelling for one family. From: 6,000 sq. ft., proposing 5,000 sq. ft., reduce the minimum square required on a lot from 60 sq. ft., proposing 50 sq. ft. **Permission to establish a building lot for a single family dwelling.**  
**Premises: Zone B**

Attorney John Fallon presented the application for a variance of the Zoning Regulations. The applicant and property owner, Harbor Homes, LLC, makes this application with regard to the property located at 160 Woodrow Avenue. The application involves proposed Lots 01, 2 and 3 shown on the survey submitted herewith. A variance of Section 5.1.1 in order to reduce the minimum lot area for each lot from 6,000 to 5,000 sq. ft. and to reduce the minimum square for each lot from 60 ft. to 50 ft. is requested with regard to each proposed lot. The subject property is located in Residence Zone B and comprises 15,000 sq. ft. Submitted with this application is a map that shows the potential division of the property into two lots. This division can be accommodated as a "first cut" pursuant to Connecticut General Statutes 8-1 8 without any need for subdivision approval. This proposal also conforms with all technical requirements of the Zoning Regulations and would not require any variances. The end result of implementation of this plan would

be three (3) units of housing with a single family dwelling located on Lot 1 and a two family duplex located on Lot 2. After consideration, the applicant strongly believes that the proposed plan to create three (3) single family homes on proposed Lots 1, 2 and 3 is superior and will be in character with the surrounding neighborhood and have a far more positive impact with respect to the aesthetics of the neighborhood and property values. Based upon this belief Harbor Homes, LLC has submitted these applications to the Board asking for the variance as referenced pertaining to Section 5.1.1 for each proposed single family lot.

With regard to the hardship requirement as the Board is aware our Courts have determined a hardship condition is one that originates and arises directly out of the application of the zoning ordinance to circumstances or conditions unique to the property and beyond the control of the applicant. *Archambault v. Wadlow*, 25 Conn. App. 375 (1991) It must be shown that because of some peculiar characteristics with regard to the property the strict application of the zoning regulations results in unusual hardship with regard to the imposition of the regulations on the property in question. *Bloom v. Zoning Board of Appeals of the City of Norwalk* 233 Conn. 198 (1995). With regard to the property in question the hardship requirement is satisfied based upon several factors. As shown on the Assessor's Map submitted herewith the property in question is an exceedingly oversized lot in the Residence B Zone consisting of 15,000 sq. ft. As previously indicated, it has never been subject to a first cut or subdivision. The Assessor's Map also confirms that most of the lots in the area also have minimum squares of 50 feet or less and lot areas of 5,000 sq. ft. or less. Thus, the division of the property into three (3) single family homes having a square footage of 5,000 sq. R. each and squares of 50 feet will certainly not be out of character with the neighborhood but rather will conform to and be harmless with the normal lot size in the neighborhood. Approval of this application will permit the construction of three (3) modestly sized homes as shown on the elevations submitted herewith that will conform in all respects to the applicable zoning regulations in the Residence B Zone with regard to setbacks, coverage and floor area ratio.

**6. B 160 Woodrow Avenue – (Lot #2), Map 243, Parcel 72.** Petition of Harbor Homes, LLC. for a variance of the Zoning Regulations. Section 5.1.1 to reduce the minimum required lot size for a single detached dwelling for one family. From: 6,000 sq. ft., proposing 5,000 sq. ft., reduce the minimum square required on a lot from 60 sq. ft., proposing 50 sq. ft. **Permission to establish a building lot for a single family dwelling. Premises: Zone B**

Attorney John Fallon presented the application for a variance of the Zoning Regulations. The applicant and property owner, Harbor Homes, LLC, makes this application with regard to the property located at 160 Woodrow Avenue. The application involves proposed Lots 1, 2 and 3 shown on the survey submitted herewith. A variance of Section 5.1.1 in order to reduce the minimum lot area for each lot from 6,000 to 5,000 sq. ft. and to reduce the minimum square for each lot from 60 ft. to 50 ft. is requested with regard to each proposed lot. The subject property is located in Residence Zone B and comprises 15,000 sq. ft. Submitted with this application is a map that shows the potential division of the property into two lots. This division can be accommodated as a "first cut" pursuant to Connecticut General Statutes 8-1 8 without any need for subdivision approval. This proposal also conforms with all technical requirements of the Zoning Regulations and would not require any variances. The end result of implementation of this plan would be three (3) units of

housing with a single family dwelling located on Lot 1 and a two family duplex located on Lot 2. After consideration, the applicant strongly believes that the proposed plan to create three (3) single family homes on proposed Lots 1, 2 and 3 is superior and will be in character with the surrounding neighborhood and have a far more positive impact with respect to the aesthetics of the neighborhood and property values. Based upon this belief Harbor Homes, LLC has submitted these applications to the Board asking for the variance as referenced pertaining to Section 5.1.1 for each proposed single family lot.

With regard to the hardship requirement as the Board is aware our Courts have determined a hardship condition is one that originates and arises directly out of the application of the zoning ordinance to circumstances or conditions unique to the property and beyond the control of the applicant. *Archambault v. Wadlow*, 25 Conn.App. 375 (1991) It must be shown that because of some peculiar characteristics with regard to the property the strict application of the zoning regulations results in unusual hardship with regard to the imposition of the regulations on the property in question. *Bloom v. Zoning Board of Appeals of the City of Norwalk*, 233 Conn. 198 (1995). With regard to the property in question the hardship requirement is satisfied based upon several factors. As shown on the Assessor's Map submitted herewith the property in question is an exceedingly oversized lot in the Residence B Zone consisting of 15,000 sq. R. As previously indicated, it has never been subject to a first cut or subdivision. The Assessor's Map also confirms that most of the lots in the area also have minimum squares of 50 feet or less and lot areas of 5,000 sq. R. or less. Thus, the division of the property into three (3) single family homes having a square footage of 5,000 sq. R. each and squares of 50 feet will certainly not be out of character with the neighborhood but rather will conform to and be harmonious with the normal lot size in the neighborhood. Approval of this application will permit the construction of three (3) modestly sized homes as shown on the elevations submitted herewith that will conform in all respects to the applicable zoning regulations in the Residence B Zone with regard to setbacks, coverage and floor area ratio.

**6. C 160 Woodrow Avenue – (Lot #3), Map 243, Parcel 72. Petition of Harbor Homes, LLC. for a variance of the Zoning Regulations. Section 5.1.1 to reduce the minimum required lot size for a single detached dwelling for one family. From: 6,000 sq. ft., proposing 5,000 sq. ft., reduce the minimum square required on a lot from 60 sq. ft., proposing 50 sq. ft. **Permission to establish a building lot for a single family dwelling. Premises: Zone B****

Attorney John Fallon presented the application for a variance of the Zoning Regulations. The applicant and property owner, Harbor Homes, LLC, makes this application with regard to the property located at 160 Woodrow Avenue. The application involves proposed Lots 1, 2 and 3 shown on the survey submitted herewith. A variance of Section 5.1.1 in order to reduce the minimum lot area for each lot from 6,000 to 5,000 sq. ft. and to reduce the minimum square for each lot from 60 ft. to 50 ft. is requested with regard to each proposed lot.

The subject property is located in Residence Zone B and comprises 15,000 sq. ft. Submitted with this application is a map that shows the potential division of the property into two lots. This division can be accommodated as a "first cut" pursuant to Connecticut General Statutes 8-1 without any need for subdivision approval. This proposal also conforms with all technical requirements of the Zoning Regulations and would not require

any variances. The end result of implementation of this plan would be three (3) units of housing with a single family dwelling located on Lot 1 and a two family duplex located on Lot 2. After consideration, the applicant strongly believes that the proposed plan to create three (3) single family homes on proposed Lots 1, 2 and 3 is superior and will be in character with the surrounding neighborhood and have a far more positive impact with respect to the aesthetics of the neighborhood and property values. Based upon this belief Harbor Homes, LLC has submitted these applications to the With regard to the hardship requirement as the Board is aware our Courts have determined a hardship condition is one that originates and arises directly out of the application of the zoning ordinance to circumstances or conditions unique to the property and beyond the control of the applicant. Archambault v. Wadlow, 25 Conn.App. 375 (1991) It must be shown that because of some peculiar characteristics with regard to the property the strict application of the zoning regulations results in unusual hardship with regard to the imposition of the regulations on the property in question. Bloom v. Zoning Board of Appeals of the City of Norwalk, 233 Conn. 198 (1 995). With regard to the property in question the hardship requirement is satisfied based upon several factors. T he property in question is an exceedingly oversized lot in the Residence B Zone consisting of 15,000 sq. ft. As previously indicated, it has never been subject to a first cut or subdivision. The Assessor's Map also confirms that most of the lots in the area also have minimum squares of 50 feet or less and lot areas of 5,000 sq. ft. or less. The division of the property into three (3) single family homes having a square footage of 5,000 sq. ft. each and squares of 50 feet will certainly not be out of character with the neighborhood but rather will conform to and be harmonious with the normal lot size in the neighborhood. Approval of this application will permit the construction of three (3) modestly sized homes as shown on the elevations submitted herewith that will conform in all respects to the applicable zoning regulations in the Residence B Zone with regard to setbacks, coverage and floor area ratio.

**GRANTED:** James Hamilton *moved* and Donald Cafero *seconded* to approve the proposed application. *Bob Brennan, Kevin Coyne, James Hamilton and DonaldCafero voted in favor of the proposed application. Duncan Keith voted against the proposed application Motion passed 4-1.*

There being no further business to come before the Commission, Robert Brennan, Chairman, adjourned the meeting at 4:30 p.m.

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Kevin Coyne, Secretary

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Josephine M. Keogh

**ROBERT BRENNAN, CHAIRMAN**

**KEVIN COYNE, SECRETARY**

**JOSEPHINE M. KEOGH, CLERK**