

**ZONING BOARD OF APPEALS  
EXECUTIVE SESSION OF DECEMBER 2, 2010**

The Zoning Board of Appeals Commission of the Town of Fairfield held the Zoning Board of Appeals Public Hearing Meeting on December 2, 2010 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, Linda Snelham-Moore, Alternate

1. **Minutes of November 4, 2010:** Donald Cafero *moved* and James Hamilton *seconded* to approve the proposed minutes as submitted. *Motion passed unanimously.*
2. **Approval of Secretary's Fee:** Kevin Coyne *moved* and James Hamilton *seconded* to approve the proposed Secretary's Fee. *Motion passed unanimously.*
3. **Election of Officers, pursuant to Town Character:** James Hamilton *moved* and Kevin Coyne *seconded* to nominate Robert Brennan as Chairman of the Zoning Board of Appeals. *Motion passed unanimously.*  
  
Robert Brennan *moved* and Kevin Coyne *seconded* to nominate James Hamilton as Vice Chairman of the Zoning Board of Appeals. *Motion passed unanimously.*  
  
Robert Brennan *moved* and James Hamilton *seconded* to nominate Kevin Coyne as Secretary of the Zoning Board of Appeals. *Motion passed unanimously.*
4. **Public Hearing Dates and Submission Closing Dates for 2011:** James Hamilton *moved* and Kevin Coyne *seconded* to approve the proposed Public Hearing Dates and Submission Closing Dates for 2011. *Motion passed unanimously.*

This portion of the Executive Session started at 2:53 p.m. and finished at 2:57 p.m.

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**CONTINUED DOCKET**

**7. 2316 Post Road**, Map 229, Parcel 30. Petition of 2316 Post Road, LLC for a variance of the Zoning Regulations; Section 28.6.12 to reduce the minimum required total number of off-street parking spaces by 19 to expand an existing restaurant and an additional 8 spaces for outdoor seasonal dining. **Permission to expand existing restaurant and establish an additional 320 square feet of outdoor seasonal dining.**  
**Premises: DCD**

**The proposed application was continued to January 6, 2011**

**GENERAL DOCKET**

**1. 48 Southfield Road**, Map 231, Parcel 300. Petition of John Stauss for variance of the Zoning Regulations; Section 5.2.5 to increase the maximum lot coverage from 20%, currently 22.4%, proposing 23.1%. **Permission to legitimize a construction error.**  
**Premises: A Zone**

Joanne Stauss, owner, presented the application for a variance of the Zoning Regulations. She wishes to construct a 13'x 22' one story family room & addition and a 11'5'x 31' two story addition, master bed, master bath, garage, mud room. Due to builder error because of the existing house being badly out of square, the lot coverage came up slightly more than allowed by 38.5 sf. She noted they were not aware of the builder's error and asked the Board to approve the application presented to them.

Petitions of support from the neighbors were submitted for the record.

**GRANTED:** James Hamilton *moved* and Donald Cafero, Sr. *seconded* to approve the proposed application. *Motion passed unanimously.*

**2. 241 Henderson Road, Map 229, Parcel 103.** Petition of Ken and Kathleen Fulton for a variance of the Zoning Regulations; Section 5.2.5 to increase the maximum lot coverage from 20%, currently 19.38%, proposing 21.64%. **Permission to construct an open front porch. Premises: A Zone**

Kathleen Fulton, owner, presented the application for a variance of the Zoning Regulations. She wishes to replace the front entrance stairs with an 8' x 26' open front porch.

Petitions of support from the neighbors were submitted for the record.

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

**3. 470 Lakeview Drive, Map 73, Parcel 106.** Petition of Stephen and Susan Librandi for a variance for a variance of the Zoning Regulations; Section 5.2.4 to reduce the minimum required side line setback from 15 feet, currently, 6.16 feet, proposing , 6.16 feet, and Section 6.3.3 to waive the five (5) year period for exterior alterations. **Permissions to construct a two (2) story, second floor and stair addition to include an accessory apartment. Premises: R-3 Zone**

Josh Glass, Agent, presented the application for a variance of the Zoning Regulations. The applicant wishes to construct a 24' x 31' second story addition above an existing garage. This addition would consist of 2 bedrooms, 1 full bath, living room and kitchen. It will be used as an accessory apartment for the applicant's mother and granddaughter.

They are seeking permission to construct the second story addition for the following reasons: Firstly, the existing garage currently sit's within the side yard back line of the permissible building envelope. The 2<sup>nd</sup> story addition would not encroach any further within the side yard set back. Secondly, the applicant's Mother needs assisted living care and her Granddaughter helps her on a full time basis to care for herself on an ongoing basis.

Petitions of support from the neighbors were submitted for the record.

**In Opposition:** Keith Horosko, 69 Buena Vista Road, spoke in opposition of the proposed application.

**DENIED:** Kevin Coyne *moved* and James Hamilton *seconded* to approve the proposed application. *Motion denied unanimously.*

**4. 69 Main Street, Map 241, Parcel 81.** Petition of Southport Volunteer Fire Department for a variance of the Zoning Regulations; Section 5.2.5 to increase the maximum lot coverage and total floor area from 20% and 40%, currently 26% and 45.4%, proposing 27.2% and 46.7%. **Permission to construct storage shed. Premises: R-3Zone.**

Angelo Papageorge presented the application for a variance of the Zoning Regulations. They wish to place a pre built shed in the rear of the property and remove the existing shed. The new shed will be 10' x 18'. The proposed lot is not a standard size lot for zoning. If the lot was a standard size for the neighborhood it would not be over lot coverage. This will replace the old, rusty, falling down shed.

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

**5. 1700 Post Road, Map 180, Parcel 270.** Petition of Quality Eats, LLC for a variance of the Zoning Regulations; Section 30.2 location and classification of alcoholic beverages. Permission to reduce café' permit from 1500 from next to nearest café' permit to 350 feet, 425 feet and 1050 feet. Premises: CDD

Attorney James Walsh presented the application for a variance of the Zoning Regulations. The Applicant has entered into a lease with the property owner to establish a restaurant. The premises consist of three (3) buildings which contain a mixed use of retail, restaurants, business/professional offices and medical/dental offices. The restaurant will be located in the west corner on the first floor of the North Building, in a location previously occupied by Shelly's Café. The principal of the Applicant is Mario Fontana. Mr. Fontana has been a professional chef/restaurateur most of his adult life. Mr. Fontana is a long-term resident of Fairfield and is Vice-President and a member of the Board of Directors of the Pequot Library. He has owned multiple restaurants in the United States and Canada. His last two (2) restaurants were Ocean Drive and Habana, both located in South Norwalk. They were both wildly successful and critically acclaimed. Mr. Fontana creates "narrative restaurants," with each restaurant telling its own unique story. Through the food, décor, atmosphere and music, Mr. Fontana's restaurants make the patrons feel as though they have traveled somewhere. It is this sense of hospitality that makes Mr. Fontana's restaurants so community driven. The Applicant would like to bring this hospitality to his hometown, by investing in downtown Fairfield and continuing the revitalization of the downtown area.

This proposed restaurant would provide the highest quality in artisanal dining in a stylish and warm environment. The proposed new restaurant will be serving small, hand –crafted plates consisting of meats, poultry, fish and produce, procured from local farms and food merchants when available. A meal here might be one or two items for one person or several items to share with companions or new friends served at the dining counter. The restaurant will feature an open kitchen, allowing patrons to watch their meals being prepared while they converse. This exciting proposed new restaurant will harmonize and compliment the Center Designed Business District and further energize the exiting and ongoing revival therein.

The Applicant is seeking a variance of Section 30.2. Section 30.2 as amended many years ago eliminated the historic "1500 foot rule" restriction for establishments operating as restaurants as the Zoning Regulations define the term. The amendment eliminated the restriction for facilities operating under a full service restaurant permit, restaurant service bar permit, restaurant permit for wine and beer only or a restaurant permit for beer only. The purpose of the amendment was to increase, especially in the Center Designed Business District, the opportunities for restaurants to be established and prosper. The elimination of

the 1500 foot rule for restaurants has proven very successful and important to the revitalization, energization and enhancement of the Downtown Business District.

Section 30.2 retains the 1500 foot rule for premises operating under various other types of liquor permits issued by the Liquor Control Commission, including a café' permit. The distinction between a "restaurant" and a "café" for purposes of liquor permits generally involves the fact that a restaurant must have an internal layout that segregates the dining area from the bar/ lounge area. The internal layout required for this proposed restaurant are due to the constraints of the interior space technically requires that it be categorized as a "café", it will clearly operate, as a practical matter, as a restaurant as defined under the Regulations where customers will be served when seated at tables and counters.

Nonetheless, because for liquor control permitting it must be characterized as a café, a café permit is required. There are three (3) other establishments operating under café permits that are within 1500 feet of the proposed location for the proposed restaurant, one being approximately 350 feet (Wild Rice), one being approximately 425 feet (Quarto Pazi), and the other being 1,050 feet (1460 Post Road, LLC- Previous Las Vetas Lounge Location) from the 1700 Post Road location.

It is the composition of the interior floor plan of the proposed restaurant due to the configuration of the space which requires, pursuant to the regulations of the Liquor Control Commission, that an application for a café' permit rather than a full service restaurant permit must be made. This distinction based solely on the floor plan and interior layout of the premises rather than the nature of its operation gives rise to the need for this technical variance based upon the language and provisions currently applicable under Section 30.2 of the Zoning Regulations.

In the present case the configuration of the interior space to be leased and the constraints imposed thereby technically requires that due to the floor plan for the restaurant it be characterized as a "café" rather than a "restaurant" for liquor control purposes. This fact gives rise to the need for the variance of Section 30.2 based upon its current provisions. Nonetheless, as a practical matter and for purposes of the Zoning Regulations and land use the operation meets the definition of a restaurant as set forth in the Zoning Regulations. Thus, it is the unique application of Section 30.2 of the Zoning Regulations to conditions arising from the configuration of the interior floor space that peculiarly impacts the applicant and prevents the Applicant from using the premises as the regulations otherwise permit and intend unless the subject variance is granted. These factual circumstances satisfy the hardship requirement of the statute as interpreted by the case law above referenced.

The Applicants proposed new restaurant is an exciting, unique and upscale addition to our downtown business district and dining scene. It will provide Fairfield residents with another unique and attractive dining option. As with the establishment of previous restaurants in the Center Designed Business District, the proposed restaurant will contribute to the continued energization, revitalization and excitement in our downtown business district benefiting the interests of all downtown merchants and residents of the Town of Fairfield. The variance requested of Section 30.2 is very technical in nature and arises solely due to the configuration of the interior leasehold space and the ability of the applicant to create a floor plan satisfying Department of Liquor Control definition requirements with regard to restaurants and cafes. The granting of the variance will have

no negative impact whatsoever, in that the proposed restaurant will operate consistent with the permitted use of a restaurant in the Center Designed Business District.

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

There being no further business to come before the Commission, Robert Brennan, Chairman, adjourned the meeting at 3:45 p.m.

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Kevin Coyne, Secretary

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Josephine M. Keogh

**ROBERT J. BRENNAN, Jr., CHAIRMAN**

**KEVIN S. COYNE, SECRETARY**

**JOSEPHINE M. KEOGH, CLERK**