

**ZONING BOARD OF APPEALS
EXECUTIVE SESSION OF MAY 2, 2013**

The Zoning Board of Appeals Commission of the Town of Fairfield held the Zoning Board of Appeals Public Hearing Meeting on May 2, 2013 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: Kevin Coyne, Chairman, James Hamilton, Vice Chairman, Duncan Keith, Donald Cafero, Ed Cheffetz, Alternate (sat in for Kevin Coyne) and Margaret McKay, Alternate (sat in for James Baldwin).

ABSENT: James Baldwin

1. Minutes of April 4, 2013: James Hamilton moved and Duncan Keith seconded to approve the proposed minutes as submitted. *Motion passed unanimously.*
2. Approval of Secretary's Fee: Ed Cheffetz moved and James Hamilton seconded to approve the proposed Secretary's Fee. *Motion passed unanimously.*

This portion of the Executive Session adjourned at 2:55 p.m.

Donald Cafero, Secretary

Josephine M. Keogh, Clerk

**ZONING BORD OF APPEALS
MINUTES OF MAY 2, 2013**

The Zoning Board of Appeals Commission of the Town of Fairfield held the Zoning Board of Appeals Public Hearing Meeting on May 2, 2013 in the First Floor Conference. The Public Hearing was recorded on disc and is available for review at the Plan and Zoning Department.

PRESENT: Kevin Coyne, Chairman, James Hamilton, Vice Chairman, Duncan Keith, Donald Cafero, Ed Cheffetz, Alternate (sat in for Kevin Coyne) and Margaret McKay, Alternate (sat in for James Baldwin).

ABSENT: James Baldwin

5. 74 Middlebrook Road, Map 147, Parcel 240. Petition of Michael and Diane Bourque for a variance of the Zoning Regulations; Section 5.2.4 to reduce the setback from one side from 7 feet currently 17.6 feet, proposing 3.3 feet, and Section 5.2.5 to increase the maximum allowable lot coverage from 20%, currently 19.92%, proposing 23.3%. Permission to remove a screen porch and construct a one story addition with rear deck and to be attach to an existing detached garage. Premises: A Zone

Attorney John Fallon presented the application for a variance of the Zoning Regulations. The applicants wish to remove a screen porch and construct a one story addition with rear deck and to be attached to an existing detached garage. The property is located in Residence District A and is a legally protected preexisting nonconforming lot with regard to lot shape having a square of 70 ft. whereas the current requirements of the zone require 75 ft. in addition to the main single family residence the property is currently improved with an unattached garage structure which is 3.3 ft. from the easterly side property line.

The applicants request permission to add a one (1) story addition to be attached to the existing garage. In conjunction with this addition rear decks, stairs and an existing screened porch over the deck and a storage portion of the existing garage will be removed. The purpose of this request is based solely upon the desire to meet the needs of the applicants aging parents, who unfortunately are in poor health and require assistance with regard to their daily activities. As documented by the floor plans submitted herewith the one (1) story addition will be utilized to provide living space so that they can reside in the company of their family and with the benefit of their care.

The addition does not propose any kitchen facilities but will provide with comfortable surroundings in which they may enjoy the companionship of their family.

In addition, with regard to the side yard setback that the existing garage location will not be changed and will remain at 3.3 ft. The variance is technical in nature and is required due to the fact that attaching of the presently unattached garage to the main house imposes the 7 ft. side yard setback requirement and renders the existing structure to be technically nonconforming.

Attorney Fallon noted, with regard to the matter of hardship, the lot in question is a valid and legally protected nonconforming lot as it relates to the lot shape requirements. It has been previously held by our Supreme Court that where a property is a valid nonconforming lot with regard to the current shape requirements sufficient hardship to support the granting of a variance with regard to setbacks is established since the application of those setback requirements may peculiarly effect the property in an adverse manner. In addition, as previously indicated the requirements for the side yard setback variances are technical in nature and arises only due to the fact that the existing unattached garage is now proposed to be attached to the main dwelling.

Attorney Fallon also noted in order to accommodate the needs of the applicants aging and infirmed parents will be in keeping with the surrounding neighborhood and consistent with the Comprehensive Zoning Plan.

Duncan Keith recused himself of the proposed application. Edward Cheffetz sat in for Mr. Keith.

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

GENERAL DOCKET:

1. 720 Post Road, Map 14, Parcel 72. Petition of SBLM Architects for Hertz for a variance of the Zoning Regulations; Section 29.6 and 29.10.1 to increase the maximum allowable size of wall sign from 72 square feet, proposing 335 square feet. Permission to install a new wall sign. Premises: DCD

Timothy Cloughen, Architect, presented the application for a variance of the Zoning Regulations. It is the applicant's intent to install alum alpolic panels to meet HERTZ new brand initiative program. The lettering will be 72 square feet in total. Per Section 29.6, the color will increase the signature to 335 square feet. The exiting signature IS 424 square feet, the HERTZ color (yellow) will bring the square footage to 335 square feet. The proposed color (yellow) will reduce the total color by 90 square feet. Per Section 29.6, the background will conquer part of the sign. Other businesses in this area have exceeded the 72 square feet area for signage. Stop and Shop and Chevrolet are some examples, which they included in the application. They believe the new look will enhance the look of the area.

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

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

2. 1470 Stratfield Road, Map 28, Parcel 563. Petition of Edward and Kathleen Muldoon for a variance of the Zoning Regulations; Section 5.2.4 to reduce the rear yard setback from 30 feet, currently 21.6 feet, proposing 14.3 feet and Section 5.2.5 to increase the maximum allowable lot coverage from 20%, currently 22.48%, proposing 24.43%. Permission to rebuild and enlarge deck. Permission to rebuild and enlarge deck. Premises: A Zone

Mark Halstead, Architect, presented the application for a variance of the Zoning Regulations. The applicants seek a variance to construct a single story 7'6" addition off of the East and South sides of the existing house consisting of a kitchen, enclose an existing covered porch on the West side consisting of a mud room, entry foyer, construct a stair and landing on the West side and construct a raised bluestone terrace off the East and South side of the existing home. The property dates back to 1767 and pre-dates the current zoning regulations. It is a pre-existing legally non-conforming lot in a AAA Zone. It doesn't meet the current zoning criteria for the minimum lot area of 87,120 square feet (existing 52,140 square feet); minimum square of 200' (existing width is 170.18'); setback from street 60' Existing setback 18.4') Setback from street 30' (existing setback 17.2). Due to the pre-existing non-conforming condition on the property and the proximity of the existing structure on the lot, almost entirely within the required setbacks. we claim an exceptional hardship.

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

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

3. 2860 Bronson Road, Map 173, Parcel 44. Petition of David and Catherine Friedline for a variance of the Zoning Regulations; Section 5.2.4 to reduce the minimum required street line setback on a corner lot from 60 feet, currently 17.2 feet and 18.4 feet, proposing 15.3 feet and 51 feet. Permission to construct two one story additions and an open porch. Premises: AAA Zone

Adam Klyver, Architect, presented the application for a variance of the Zoning Regulations. The applicants seek a variance to construct a single story 7'6" addition off the East and South sides of the existing house consisting of a kitchen, enclose an existing 9'11" x 3' 6" covered porch on the West side consisting of a mud room, entry foyer, construct a 88'0" x 3' 5" stair and landing on the west side and construct a 10' 10" x 9'9" raised bluestone terrace off the East and South side of the existing home. The property dates back to 1767, pre-dates the current zoning regulations and is a pre-existing legally non-conforming lot. The lot is located in a AAA Zone and does not meet the current zoning criteria for; minimum lot area of 87,120 square feet(existing 52,140 square feet); minimum square of 200' (existing width is 170.18'); setback from street 60' Existing setback 18.4'); setback from street 30' (existing setback 17.2). Due to the pre-existing non-conforming condition on the property and the proximity of the existing structure on the lot, almost entirely within the required setbacks, they claim an exceptional hardship.

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

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

4. 3400 Redding Road, Map 165, Parcel 23G. Petition of Benjamin MacDonald for a variance of the Zoning Regulations; Section 5.2.4.3 to reduce the minimum required side line setback for an accessory structure from 30 feet, proposing 11 feet. Permission to construct an in-ground pool. Premises: AAA Zone

Alan Sheppard, Agent, presented the application for a variance of the Zoning Regulations. Benjamin MacDonald, owner, wishes to construct an in-ground pool. Due to the location of conservation, setbacks, existing septic fields and tank as well as the vacant piece of land to the Southeast side of property. This is the least intrusive spot on the property.

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

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

5. 86 Fairfield Beach Road, Map 138, Parcel 51. Petition of Mary Tetro, for a variance of the Zoning Regulations; Section 5.2.5 to increase the maximum lot coverage from 20%, currently 22.8%, proposing 25%. Permission to construct a new front porch and stairs. Premises: A Zone

Mary Tetro, owner, presented the application for a variance of the Zoning Regulations. She wishes to construct a 4.5 foot extension to the 8 foot wide porch (front) across the 18.25 foot length in addition to the stairs and landings needed to access the front door of her recently elevated 15' FEMA compliant home.

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

IN FAVOR: Attorney James Miller, on behalf of Fairfield Beach Club, spoke in favor of the proposed application.

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

6. 215 South Benson Road, Map 139 Parcel 330. Petition of Thomas and Megan Kavanaugh for a variance of the of the Zoning Regulations; Section 5.2.5 to increase the maximum allowable lot coverage from 20%, currently 26.2%, proposing 26.5% and to increase the maximum allowable floor area from 40%, currently 46.4%, proposing 48.3%. Permission to construct a rear 2nd floor addition. Premises: A Zone

Jered Deshefy, Agent, presented the application for a variance of the Zoning Regulations. The applicant wishes to construct an addition to expand nursery on second floor. The lot is legally non-conforming in an A zone. A minimum required lot size is 9375 square feet. Their lot is 4993 square feet. If the lot was conforming, the total lot coverage would be 13.2% and the total floor area would be 25.7 %.

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

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

7. 938 Fairfield Beach Road, Map 184, Parcel 190. Petition of Marc Papini for a variance of the Zoning Regulations; Section 11.7 to increase the maximum allowable height from 30 feet, currently 12.1 feet, proposing 35.5 feet and 11.11.1 to reduce the side yard

setback from 4 feet, currently 1.1 feet, proposing 3 feet. Permission to construct an elevated two story single family dwelling. Premises: BD Zone.

Attorney James Miller presented the applicant for a variance of the Zoning Regulations. As can be seen from the survey presented with the application, this is an irregularly shaped lot, narrow on road frontage, widening out as it goes north towards Pine Creek.

The applicant is requesting two variances, which will be required to permit the applicant to build a new home. The existing one-story dwelling on the property, nonconforming in its location, was severely damaged by Super Storm Sandy, and has been declared non-repairable and must be replaced. The existing dwelling violates a number of setback requirements including street and side yard.

The applicant is requesting a variance of Fairfield zoning regulation section 11.7 height, where the Beach District regulation limits the height to 30 feet, the applicant is requesting a height of 35'5". In addition, Fairfield zoning regulations section 11.11.1 has a side setback requirement of 4 feet. The existing structure is located 1.1 feet from one sideline and 4 feet from the other. The applicant is proposing to reduce the nonconformity by requesting a variance on one side to allow a 3.0 feet setback. The house would be conforming on the other side yard.

The applicant was before the Zoning Board of Appeals earlier this year with this application. A request for variance filed at that time was denied without prejudice. The application for variance was necessitated when the applicant learned that the house he had designed to replace the damaged dwelling, which would have conformed to both FEMA A E requirements and Fairfield Zoning Regulations, was now not permitted by the application of these requirements to the house as the town had adopted FEMA V E regulations effective January 3, 2013, more than five months prior to its original effective date.

The applicant proposes to improve this building site by not only relocating the proposed new structure to comply with the street setback requirements, but to lessen the side yard nonconformity. The house was designed to comply with the regulations in effect when the applicant sought the advice of town officials relative to the requirements for replacement of the home that he had been advised needed to be replaced.

The applicant has a hardship, in that following the development of a site plan together with building plans, the applicant was advised, when he sought a building permit, that a modification in the FEMA flood zone requirements would necessitate an increase in the finished floor elevation of the first floor of the dwelling from 11 feet to 17 feet. That change is not permitted by the Beach District zoning regulations. The strict application of both sets of regulations, FEMA and Zoning, to the proposed dwelling would prevent the applicant from constructing his new home. The home complies with all other Zoning regulations excluding the two variances requested.

There has been significant devastation in the Beach District, many homes needing to be either raised in elevation or, as in the case replaced. It is important to note that the house that is proposed by the applicant to be built on the site is a significant improvement not only in its visual appearance, but in its safety for its occupants and surrounding properties. It is

less susceptible to damage by storm, and due to its new setback location more readily accessible in a fire emergency.

The applicant lost his home in a severe storm last fall. He has suffered the loss of a dwelling, personal property and has encountered significant financial loss as a result of the storm. The basis for his application is to allow him to build a home that would have been permitted had the FEMA regulations effective date not been accelerated.

This application meets the test required under both Connecticut General Statutes and Connecticut case law for the granting by the Zoning Board of Appeals of the variance. Additionally, it is clear and apparent that the strict application of both Zoning Regulations and FEMA Regulations to this property creates both the Practical Difficulty and an Unusual Hardship, in that it would prevent the Property Owner from building a home that in all other ways would conform. In addition, the Nature, Style and Size of the dwelling proposed is in conformity with the neighborhood, and many of the houses that are being constructed or reconstructed in the neighborhood. There is substantial neighborhood support for this application.

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

GRANTED: Duncan Keith *moved* and James Hamilton *seconded* to approve the proposed application. *Motion passed 4-1 Margaret McKay was opposed.*

8. 3176 Bronson Road, Map 173, Parcel 6A. Petition of Robert Jaffee for a variance of the Zoning Regulations; Section 5.1.5(a) to allow an accessory structure on a lot that the permitted use to which it is an accessory is not located. Permission to construct a four car garage. Premises: AAA Zone

Robert Jaffee, owner, presented the application for a variance of the Zoning Regulations. He is requesting a variance to construct a four car garage. He noted he does not want the family cars near Bronson Road.

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

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

9. 2031 Redding Road, Map 220, Parcel 19. Petition of Dr. Alan Gill for a variance of the Zoning Regulations; Section 5.2.4.3 to reduce the street line setback for an accessory structure from 60 feet, proposing 36.9 feet. Permission to install a stand-alone generator. Premises: AAA Zone

Alan Gill, owner, presented the application for a variance of the Zoning Regulations. He is requesting a variance to install a stand-alone generator. The home is approximately two hundred years old. The only feasible site for the generator is close to the natural gas meter inlet and close to the external entrance

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

10. 271 High Meadow Road, Map 229, Parcel 257. Petition of Beth Harris Rhame for a variance of the Zoning Regulations; Section 5.2.5 to increase the maximum lot coverage from 10%, currently 12.2%, proposing 14.6%. Permission to construct a rear one story addition and green house. Premises AA Zone

Vicente Burin, Architect, presented the application for a variance of the Zoning Regulations. The applicants wish to construct a rear one story addition and green house. With respect to the hardship, the lot is undersized for the AA Zone.

GRANTED: Edward Cheffetz *moved* and Daphne Dixon *seconded* to approve the proposed application. *Motion passed unanimously.*

11. 222 Post Road, Map 130, Parcel 295. Petition of Charcoal Hill Associates for a variance of the Zoning Regulations; Section 28.6.12 to reduce the minimum required total number of off-street parking spaces by ten (10). Permission to convert an existing deli to a sit down restaurant. Premises: DCD Zone

The proposed application is continued to June 6, 2013.

12. 749 Fairfield Beach Road, Map 184, Parcel 15. Petition of Lucie McKinney for a variance of the Zoning Regulations; Section 2.8.1.1 to enlarge a non-conforming building and to rebuild a non-conforming dwelling on a lot with multiple dwellings and Section 11.15 to reduce the street line setback from 15 feet, proposing 10.2 feet. Permission to remove existing dwelling damaged by storm Sandy and build new two-story elevated single family dwelling. Premises: BD Zone

Attorney James Miller presented the application for a variance of the Zoning Regulations. The applicant, Lucie McKinney, wishes to remove existing dwelling damaged by storm Sandy and build new two-story elevated single family dwelling.

Attorney Miller presented to the Commission a copy of a letter from Lantern Point Association to Father William Sangiovanni (who resides at this address) approving the proposed plans.

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

13. 1605 Melville Avenue, Map 46, Parcel 179. Petition of Christian and Donna DiCarlo for a variance of the Zoning Regulations; Section 5.2.4 to reduce the side yard setback from 15 feet, currently 9.3 feet, proposing 9.2 feet and Section 5.2.5 to increase the maximum allowable lot coverage from 15%, currently 20.9%, proposing 27% and to increase the maximum allowable total floor area from 30%, currently 29.3%, proposing 41.7%. Permission to construct a rear two story addition. Premises: R-3 Zone

Christian DiCarlo, owner, presented the application for a variance of the Zoning Regulations. The applicants wish to construct a two story addition consisting of a first floor family room. The second floor would consist of a master bedroom with a master bath. If the variance is approved, they would also remodel our kitchen and downstairs bathroom.

The home is currently 1,400 sq. feet with no family room and three (3) bedrooms, one of which is only 12 x 6' large. With the addition of their children they are in need of additional living space. In addition the house was built in 1922 and can not conform to the current zoning regulations, which is in an R3 zone. .

Kevin Coyne recused himself of the proposed application. James Hamilton, acting as Chairman, sat in for Chairman Coyne.

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

14. 75 Sherman Court, Map 180, Parcel 40. Petition of John and Casey Caine for a variance of the Zoning Regulations; Section 5.2.4 to reduce the street line setback from 30 feet, currently 11.5 feet, proposing 11.5 feet and the sum of two side line setbacks from 25 feet, currently 17.5 feet, proposing 17.5 feet. Permission to construct a second floor. Premises: DRD Zone

Mark Corvino, contractor, presented the application for a variance of the Zoning Regulations. The applicants are requesting a variance to construct a second floor. The intent was to move his mother into the house. After the purchase of 75 Sherman Court, it became obvious that the house needed a lot of work, due to rental tenants who abused the interior. The entire neighborhood is comprised of moderate sized two story homes. The proposed additions will not impact the neighborhood.

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

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

15. 186 Pine Creek Avenue, Map 238, Parcel 33. Petition of Coastal Construction Group for a variance of the Zoning Regulations; Section 11.10 to increase the maximum allowable lots coverage from 20%, currently 25.24%, proposing 27.74% and Section 11.12 to reduce the minimum setback from Long Island Sound, from 104 feet, proposing 91.3 feet and Section 11.13 to reduce the minimum setback from Pine Creek Avenue, from 45 feet, currently 14.9 feet, proposing 32 feet. Permission to construct a new two story single family dwelling. Premises: BD Zone

16. 178 Pine Creek Avenue, Map 178, Parcel 34. Petition of Coastal Construction group for a variance of the Zoning Regulations; Section 11.3 to reduce the minimum lot area from 8,972 square feet, proposing 7,602 square feet and to reduce the minimum square from 50 feet, proposing 42.5 square feet and Section 11.10 to increase the maximum allowable lot coverage from 20%, currently 37.03%, proposing 29.19% and Section 11.12 to reduce the minimum required setback from Long Island Sound from 103 feet, proposing 88.9 feet and Section 11.13 to reduce the minimum required setback from Pine Creek Avenue from 45 feet, currently 9.2 feet, proposing 30 feet. Permission to construct a new tow story single family dwelling. Premises: BD Zone

Attorney John Fallon presented the application for a variance of the Zoning Regulations. The Applicant is the owner of the subject property and the adjacent parcel located at 186

Pine Creek Avenue. Each lot is located in the Beach District and is bounded by Pine Creek Avenue on the street side and Long Island Sound to the rear. The parcel located at 178 Pine Creek Avenue includes a main house with double garage and also a second nonconforming dwelling consisting of a rental cottage. The structures located on the property are old dilapidated beach cottages with little or no insulation that recently sustained significant hurricane and water damage. As will be discussed below and as noted on the survey submitted herewith the existing structures are also significantly nonconforming to many aspects of the current Zoning regulation requirements.

The Applicant proposes to revise the central lot line to create two (2) equally sized parcels and to construct a new single family residence on each parcel. The new homes to be constructed will be completely FEMA compliant. The nonconforming second dwelling located on the property at 178 Pine Creek Avenue will be eliminated.

Previous applications with regard to the properties were heard by the Board at its April meeting. During the course of the public hearing with regard to the matters, the Applicant indicated to the Board that it had agreed after dialogue with various neighbors to modify the nature and the scope of the proposed construction and the variances that were being requested. The Board determined to deny the applications subject to the Applicant's returning to the Board with new applications that would reflect the modifications referenced by the Applicant at the April public hearing.

As shown on the survey submitted herewith the revised proposal for 178 Pine Creek Avenue will continue to eliminate the preexisting side property line conformity which is presently 5.7. after construction of the proposed new residence the side yard setback will be a compliant 10.8 feet. Similarly, the current setback from one side property line which is currently 0 will become conforming at 5.4 ft. In addition to the elimination of these nonconformities the proposed new construction as revised will reduce the existing nonconformity of the street setback which is currently 9.2 ft. and will be 30 ft. This street line setback of 30 ft. is less than was requested in the application heard in April when the street setback variance was established at 25.1 ft. As was the case with the April application, the existing nonconforming lot coverage will be reduced from 37.03 to 29.19%. A variance is also requested to reduce the setback from Long Island Sound to 88.9 ft. which is a revision from the April application wherein a variance from Long Island Sound of 75.5 ft. was requested. The requested setback of 88.9 ft. will be consistent with other structures in the area and not have any adverse impact on site lines or views from adjacent properties. The variance that was requested with regard to height in the April application has been eliminated and the proposed structure will comply with the 30ft. height limitation. A variance of Section 11.3 to reduce the lot area to 7,602 sq. ft. and the square to 42.5 ft. is also requested in order to facilitate the lot line revision between the two lots.

An additional and compelling legal basis for granting the variances in this case is found in the holding of *Hyatt v. Zoning Board of Appeals of the City of Norwalk*, 163 Conn. 379 (1972). In *Hyatt*, the State Supreme Court held that a goal of zoning is the elimination or reduction of nonconformities and that, therefore, when an application for variances involves a proposal that will actually eliminate and/or reduce existing nonconformities this fact provides an additional and proper legal basis for the Zoning Board of Appeals to grant the variances requested. As previously indicated, the current nonconformities with regard to

the side property line will be eliminated. In addition, the present nonconformities with respect to the street setback and lot coverage will be significantly reduced.

In summary, the construction of a new single family and FEMA compliant home replacing the existing dilapidated structures (which consist of two (2) dwelling units at 178 Pine Creek Avenue) will have a positive impact both functionally and aesthetically on the surrounding area. Legal hardship is established based upon the analysis referenced above pertaining to the standards set forth in Connecticut General Statutes 8-6. In addition, pursuant to the holding in the Hyatt case the fact that the application and new construction will result in the significant elimination and reduction of existing non conformities provides a proper legal basis for the granting of the application.

IN OPPOSITION: Kevin Coyner, 166 Pine Creek Avenue, Joel Papowitz, 179 Pine Creek Avenue, Katherine Evans, 170 Pine Creek Avenue spoke in opposition of the proposed application.

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

17. 86 Tunxis Hill Road, Map 40, Parcel 226. Petition of Mike Piazzardi and Al Amunziata for a variance of the Zoning Regulations Section 28.6.5 to reduce the minimum required total number of off-street parking spaces by one. Permission to establish a dental office. Premises: DCD Zone

Mike Piazzardi and Al Amunziata, owners, presented the application for a variance of the Zoning Regulations. He wishes to establish a dental office. The property is currently being used for office space. The parking is pre-existing and non-conforming.

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

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

18. 734 Duck Farm Road, Map 174, Parcel 3. Petition of Thomas and Kimberly Craig for a variance of the Zoning Regulations; Section 5.2.4.3 to reduce the street line setback for an accessory structure from 50 feet, proposing 31.1 feet. Permission to install a stand-alone generator. Premises: AA Zone

Attorney William Fitzpatrick presented the application for a variance of the Zoning Regulations. The intent of the applicants is to add a generator to their property. The applicants have received a prior Zoning Board of Appeals approval in conjunction with the renovation of their home in 2004, to reduce the street line setback from Hill Farm Road from the required 50 feet, existing at 34.2 feet, to 32.2 feet. The proposed generator location, based in large part on access to utilities, will require an additional variance of the setback to Hill Farm Road. Therefore, the applicants are requesting a variance of Section 5.2.4.3 to reduce the street line setback to Hill Farm Road for an accessory structure from 50 feet, reduced by variance to 32.2 feet, to 31.1 feet. The recent increase in severe storm events has led to an increase in power outages. The applicants wish to install a generator to deal with such emergencies. The location of the proposed generator requires only a minor

variance (a reduction in the setback to Hill Farm Road from the prior approval of 1.1 feet) and will be shielded from the street by existing evergreens. Approval of the variance will permit the applicants the opportunity to add an emergency generator to their property in the logical location.

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

There being no further business to come before the Commission, Kevin Coyne, Chairman, adjourned the meeting at approximately 6:00 p.m.

Donald Cafero, Secretary

Josephine M. Keogh, Clerk

KEVIN COYNE, CHAIRMAN

DONALD CAFERO, SECRETARY

JOSEPHINE M. KEOGH, CLERK