

08-37 APPLICANT: STATEWIDE CONSTRUCTION; PROPERTY AFFECTED: 330 SILVER SANDS RD. (FORMERLY KNOWN AS 165 WILLIAMS ST), NEW SINGLE FAMILY HOME HAS BEEN COMPLETED AND AN AS BUILT SURVEY INDICATES THAT THE HOUSE WAS NOT BUILT WITHIN THE REQUIRED SETBACKS APPROVED AS PART OF A PREVIOUS VARIANCE APPLICATION. VARIANCES REQUIRED: SCHEDULE "B", LINE 7: 4 FEET; LINE 8: 10 FEET; LINE 9: 3 FEET

Ray Lemley addressed the Board on behalf of the applicant. He was seeking a variance for Schedule B setbacks. The required certified receipts were submitted to the Board. Mr. Lemley gave the following background information on this application: The appropriate building permits were obtained, and the dwelling was staked out by surveyor Mr. Gordon Bilides, who now is deceased. After the house was completed it was determined by surveyor, John Thompson, the original stakes were not properly placed and the home was not built within the required setbacks. The dwelling is sold and the perspective buyers have sold their home. The setbacks involved include a porch, front steps, and side yard. Chairman Mazzucco questioned when the discrepancy was found. ZEO Anderson stated he had found discrepancy upon application for certificate of occupancy. Charles Lemons questioned previous variance on this application in 2006, and size of house. ZEO Anderson replied previous variance was based on lot size only and not side yards. No further comments were made.

08-38 APPLICANT: MICHAEL & DANIEL KATZ; PROPERTY AFFECTED: 550 MAIN ST.; ZONE:CD; APPEAL OF NOTICE OF ZONING VIOLATION/ORDER TO ABATE REGARDING THE LOCATION OF STORAGE CONTAINERS ON THE PROPERTY.

Attorney Anthony Avallone, 91 William Street, New Haven, CT. along with Michael Katz addressed the Board. They were appealing ZEO Anderson's Cease & Desist notice of zoning violation regarding the location of storage containers on property. Attorney Avallone submitted three packets to the Board which included a letter dated September 8, 2008, copy of Connecticut State Statutes, and a copy of definitions from zoning regulations. Attorney Avallone argued the storage containers in question have existed prior to 1996, and according to State Statute, if no zoning action has been taken within three years, the statute states they become non-conforming structures and are allowed and the Board cannot impose this sanction. In his presentation, Attorney Avallone argued that the storage containers met the definition of structure and accessory building. He stated the structures are not used for retail use and used for storage overstock. Attorney Avallone states this is a portable building, it is a structure, the use is accessory. Mr. Lemons questioned how long units have

been there and the number of units. Mr. Katz replied units were there 15 years and the number was 10 to 12. ZEO Anderson responded he imposed violation in accordance with zoning regulation 25-7.2 which references outside storage. Outside storage areas are not to extend into the areas required for setback from a street line or residential district boundary line. He felt the units were outside storage and not buildings, thus they did not fall under the three year time frame referenced in the state statute and had to be moved 25 ft. from the property line. Attorney Cirillo addressed the Board noting this was a unique situation and the key to the issue would be how the Board viewed these units and hoped they could come to a resolution appeasing both parties.

Attorney Tim Yolen, 700 State Street, New Haven, CT. addressed the Board on behalf of Three Pillars, LLC. Attorney Yolen said his client was constructing 16 condominium units on the adjacent property. Attorney Yolen referred to a site plan approval on this property in March 1, 2006 with a requirement that the storage containers be raised off the soil and a buffer strip not less than 8 ft. from the rear property line consisting of a fence, suitable landscaping with lawn trees or shrubs. Attorney Yolen stated this was a condition of the P & Z Board and was never appealed and the actions of the P & Z Board affirmatively established they did not see these storage units as buildings and referenced a letter written by former ZEO Mingione referring to these units as storage pods and requesting these pods be setback a minimum of 8 ft. from the rear property line in order to satisfy the regulations. Attorney Yolen noted the issue before the Board and to sustain Attorney Avallone's argument is whether the metal storage containers on the property are buildings, and definition of a building in zoning regulation 4.3 requires a structure having a roof supported by columns or walls which is affixed to a lot or lots. These units are not attached they are sitting on the ground. Attorney Yolen submitted an exhibit (Exhibit A) from Eagle Leasing which define the units as ground level storage containers. The containers are movable. He noted the storage containers are higher than the 6ft. fence erected by Three Pillars and reiterated they had failed to comply with Site Plan Approval and stated the argument that the storage containers are buildings is not correct as they do not meet the requirements of the definition of a building in Section 4.3. Attorney Cirillo addressed the Board appreciating the arguments of both counsels stating this was not a clear cut issue and the Board would have to determine whether they were dealing with buildings, accessory structures, a trailer or a storage unit.

Mr. Steve Russo addressed the Board saying these trailers adjacent to his property are an eye sore, and there were cats, raccoons, skunks, and rats under them and perspective buyers for his units are turning away. He believed they should be 25 ft. from his property and he had spent an enormous amount of money developing the property and then spent an additional \$60,000 for a buffer consisting of a fence and trees and did not believe it was his responsibility and asked the Board to consider his comments. No further comments were made.

Attorney Avallone rebutted that his clients met the definition of an accessory building according to zoning requirement 4.4.2.

**08-39 APPLICANT: JOHN DILUSTRO; PROPERTY AFFECTED: 2 GUILFORD CT.;
ZONE: CB-1; SEEKING APPROVAL TO COVERT A SINGLE FAMILY
DWELLING TO A COMMERCIAL BUILDING WITH A JEWELRY STORE ON
THE FIRST FLOOR AND AN APARTMENT ON THE SECOND FLOOR.
VARIANCES REQUIRED: SCHEDULE "A" PERMITTED USES;
SCHEDULE"B", LINE 7: 10 FEET.**

A letter was read into record (See Exhibit B) from Mr. Dilustro requesting this application be postponed to the November meeting.

**AT THIS TIME 8:50 P.M. CHAIRMAN MAZZUCCO CALLED A TEN MINUTE
RECESS.**

MEETING RECONVENED

SEE VOTING:

PAGE FIVE

ZBA

VOTING:

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GRANTED WITH CONDITION- A motion was made by Charles Lemons to impose a \$1000 fine, seconded by Joseph Porto. Motion carried unanimously.

Mazzucco – yes with condition
Hennessey – yes with condition
Dorsa – yes with condition
Lemons – yes with condition
Porto – yes with condition

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TABLED- A motion was made by Charles Lemons to table Application 08-38 seconded by Joseph Porto. Motion carried Unanimously.

Mazzucco – yes to table
Hennessy – yes to table
Dorsa – yes to table
Lemons – yes to table
Porto – yes to table

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TABLED – To next scheduled meeting.

Charles Lemons made a motion to adjourn, seconded by Chairman Mazzucco. Motion carried unanimously.

Chairman Mazzucco adjourned the meeting at 9:05 P.M.

Respectfully submitted,

Rosalie DePalma
Clerk