

MINUTES OF THE CHESHIRE ZONING BOARD OF APPEALS, MEETING HELD ON MONDAY, AUGUST 3, 2015 AT 7:30 P.M. IN COUNCIL CHAMBERS, TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410.

Present

Ken Wilson, Chairman; Marion Nero, Secretary; Paul Bellagamba and John Pepper.

Absent: Agnes White

Alternates: Gerald Devine and Jackie Cianci; absent - Robert Formica

Staff: David Kehoss, Zoning Enforcement Officer

I. CALL TO ORDER.

Chairman Wilson called the meeting to order at 7:35 p.m. and read the fire safety announcement for the record.

Mr. Devine and Mr. Formica were the alternate Board members for the meeting.

II. ROLL CALL

The clerk called the roll.

III. DETERMINATION OF QUORUM

Following roll call a quorum was determined to be present.

IV. PLEDGE OF ALLEGIANCE

The group Pledged Allegiance to the Flag.

V. ACCEPTANCE OF MINUTES - JUNE 1, 2015

MOTION by Mr. Pepper; seconded by Mr. Devine

MOVED to accept the minutes of June 1, 2015 subject to corrections, additions, deletions.

VOTE The motion passed unanimously by those present.

Chairman Wilson explained the procedures for a public hearing before the ZBA, and the definition of "hardship" for a legal variance approval by the Board.

VI. BUSINESS

Secretary Nero read the legal notice into the record of the meeting.

Mr. Devine was the acting alternate Board member for the meeting.

Chairman Wilson explained the procedures for a public hearing of the Board.

Chairman Wilson read the definition of "hardship" into the record.

The application of Denise Lamont, 264 Crescent Circle, Cheshire CT 06410, requesting a variance of Section 32, Schedule B, Dimensional Requirements, requesting a 6 foot front line variance of the required 40 foot front line setback in an R-20 zone, the resulting front line setback requested is 34 feet, to replace a front porch, property located at 264 Crescent Circle, Cheshire CT 06410, as generally shown on Assessor's Map No. 77, Lot No. 64, in an R-20 zone. The application is on file and available for public inspection in the Planning Department, 84 South Main Street, Cheshire CT 06410.

1. **Denise Lamont** **15-08-01** **PH 8/3/15**
264 Crescent Circle **MAD 10/7/15**
Requesting a variance of Section 32,
Schedule B, Dimensional Requirements
Requesting a 6' foot front line variance of
The required 40 foot front line setback. The
Resulting front line setback requested is 34 feet
To replace a front porch.

Chairman Wilson stated that an A-2 Survey was submitted with this application, and appropriate notices were sent to abutting neighbors. Mr. Kehoss advised that there were no responses to these notices.

Phil Lamont, 264 Crescent Circle, presented the application for a 6 foot variance of Section 32, Schedule B, Dimensional Requirements. The previous cement front porch on this house was removed during repair of footing drains and water in his basement. The applicants want to replace the porch adding a roof to assist with keeping snow and ice off the porch and further water damage to the home.

The "hardship" was explained by Mr. Lamont who reported the house entrance does not have a porch at this time; this is a safety hazard and issue of concern due to a 4 foot drop; and there has been snow, ice and water from storms on the metal awning causing damage. There is a need to install a roof on the top of the replacement porch.

Mr. Kehoss informed the Board that with this application the old cement porch was removed; there was nothing there for a porch; and the applicant wants to install a replacement porch with a roof. With replacement of the original cement porch, a variance would not be required.

Chairman Wilson commented on the existing situation being unsafe, and nothing in place for the entrance to the house. The applicant wants to build a 4 foot square porch, steps and a roof which will protrude 6 feet off the house and requires a variance. The hardship is compliance with the law and wanting a roof installed from protection from winter storms.

A question was asked by Mr. Pepper about the contractor and adequate drainage on the frame.

Mr. Lamont stated that the footing drains cracked, were damaged, and replaced. The new porch will be a wooden structure and frame. His house was built in the 1940's, and the family has been 3 years without a porch, but the basement is now dry.

According to Mr. Wilson the original porch was, probably, non-conforming and protruded into the setback. In the 1940's it was unknown where the center line of the street would be, with variability with the way things were done.

Ms. Nero said the applicant is replacing a non-conforming porch with a new one, and it requires a variance.

PUBLIC

Steve Durkee, 70 Flager Avenue, commented on the subject applicant, stating he had a similar situation in wanting to rebuild something. It is about restoration, enhancing the neighborhood, and making it look better than before. He supports the variance request.

In Section "C" of the application form, Mr. Wilson pointed out that the applicant stated the new porch would improve the character of the neighborhood.

Chairman Wilson closed the public hearing.

Secretary Nero read the legal notice into the record of the meeting.

The application of Patrick Huyge/Site Enhancement Services c/o 6001 Nimitz Parkway, South Bend, IN 46628, requesting a variance of Section 34.9 (B) - Wall Signs in Commercial Districts, requesting to install a 118 square foot wall sign in excess of the 5% maximum. The resulting sign will be 50.3 square feet in excess of the allowed 67.7 square feet. Property located at 945 South Main Street, Cheshire CT 06410, as generally shown on Assessor's Map No. 78, Lot No. 103 in a C-3 zone. The application is on file and available for public inspection in the Planning Department, 84 South Main Street, Cheshire CT 06410.

2. **Patrick Huyge/Site Enhancement Services 15-08-2 PH 8/3/15**
945 South Main Street MAD 10/7/15
Requesting a variance of Section 34.9(B)-Wall Signs
In Commercial Districts; requesting to install a 118
Square Foot Wall Sign in excess of the 5% maximum.

Chairman Wilson advised that the subject application site is in the shopping center at the former Staples store location, and relates to signage for Advanced Auto Parts which will relocate to this site. There is no A-2 Survey included with the application, as one is

not required, with the design of the sign replacing the survey. The application is more related to the vertical presentation on the front of the building and how the proposed sign applies to the zoning laws for signage. It was noted by Mr. Wilson that there is no dimensional drawing of the front of the building showing dimensions and area to verify the applicant's statements to the Board.

Mr. Kehoss informed the Board that he met with the applicant on the dimensions of the building, and the frontage was calculated to the correct space. The information submitted is correct.

Patrick Huyge, Site Enhancement Services, represented the applicant, Advanced Auto Parts. The applicant is requesting a variance to the signage zoning requirements for a wall sign. The allowable size is 67 square feet; the applicant is requesting signage of 118 square feet. In the application, there was a colored brochure which identified and laid out the information for the proposed signage and what is allowed by code. The Advanced Auto Parts sign has 17 letters and a logo.

Mr. Huyge reviewed the brochure with the Board.

Page 5, photo #1, the sign cannot be seen and is blocked by a tree. This is a hardship as the sign, by code, cannot be seen by motorists to get their vehicle to the store. Photos # 2 and #2 - cannot make out sign from the road; car would have to turn to safely see the sign.

Page 6 - overlay of proposed sign which is more legible and easier to see; is recognized for safe entry to the site.

Page 7 - other signs in the immediate area.

The applicant is requesting letters of higher height to be legible to motorists driving up and down the corridor. The sign has a parapet; it is unique signage; and a legible sign is needed to promote safety in the area.

Mr. Huyge cited the hardship due to 17 characters and logo in the sign; vegetation in the area hides the sign; and the uniqueness of the façade being occupied. He said the variance is necessary in order to provide a legitimate sign.

Mr. Huyge read Attachment A, Section A (Justifications Document) into the record.

The square footage of the wall is 1351 square feet which allows a 67 square foot sign.

Chairman Wilson stated that staff has been helpful in calculating signage area for buildings, and for compliance with zoning regulations.

Mr. Devine pointed out there is a rear entrance to this building off RT 42, and he asked about putting a small sign in this area of the site.

The Board was told by Mr. Wilson that the applicant is only applying for a South Main Street sign.

In that regard, Mr. Huyge said with customers coming in through the front of the store, there is no need for a rear sign.

The Board was informed by Mr. Kehoss that there were no responses to the public notices by abutting neighbors.

Secretary Nero read the Planning Department Staff Memo into the record.

The Board held a brief discussion the size of the façade, any changes being considered.

Mr. Huyge advised there are interior changes with the applicant taking lease of less space than the Staples store.

Mr. Kehoss explained an interior wall is going up reducing the size of the applicant's part of the building. Another store will occupy the rest of the empty space.

In summary, Mr. Huyge stated the vegetation is a hardship; it makes it more difficult to read a sign which is code allowed; and this is an undue hardship blocking the sign; a code allowed sign is not legible to the public. He requested approval of the variance request.

Chairman Wilson closed the public hearing. The Board entered Decision Making Session.

VIII. DECISION MAKING SESSION

Secretary Nero read the legal notice for application #1 into the record of the meeting.

The application of Denise Lamont, 264 Crescent Circle, Cheshire CT 06410, requesting a variance of Section 32, Schedule B, Dimensional Requirements, requesting a 6 foot front line variance of the required 40 foot front line setback in an R-20 zone, the resulting front line setback requested is 34 feet, to replace a front porch, property located at 264 Crescent Circle, Cheshire CT 06410, as generally shown on Assessor's Map No. 77, Lot No. 64, in an R-20 zone. The application is on file and available for public inspection in the Planning Department, 84 South Main Street, Cheshire CT 06410.

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| 1. | Denise Lamont | 15-08-01 | PH 8/3/15 |
| | <u>264 Crescent Circle</u> | | MAD 10/7/15 |
| | Requesting a variance of Section 32, | | |
| | Schedule B, Dimensional Requirements | | |

**Requesting a 6' foot front line variance of
The required 40 foot front line setback. The
Resulting front line setback requested is 34 feet
To replace a front porch.**

Chairman Wilson reviewed this application, stating there is a safety hazard in place now with nothing there, and replacement of the cement porch with a new porch and roof will protect the house from winter weather.

Mr. Devine knew the original owners of this home and understands what the applicant is trying to do and also solve water problems. He supports the variance request for the porch and roof for safety reasons and protection of the homeowner's investment.

Ms. Nero supports the variance request for this house built in the 1940's. The original porch did not conform to regulations, and there will be great improvement with a new porch and roof and problems will be solved.

Mr. Bellagamba is in favor of the variance request and sees the replacement porch as an enhancement to the neighborhood.

Mr. Pepper stated he is in favor of the variance request.

MOTION by Mr. Pepper; seconded by Mr. Devine.

MOVED that the Zoning Board of Appeals grants the 6 foot front line variance of Section 32, Schedule B, Dimensional Requirements, of the required 40 foot front line setback, property located at 264 Crescent Circle, Cheshire CT, to replace a front porch. Based upon the evidence presented at the public hearing and the general knowledge of the members of the Board it is hereby found that a hardship exists to the property, which is not applicable to other properties in the district; and that to strictly apply the zoning regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the Zoning Regulations. Granting the variance will not confer upon the applicant any special privilege; that the variance is the minimum variance that will make possible the reasonable use of the land; that granting of the variance will be in harmony with the general intent and purpose of the regulations.

The scope of this variance is limited to that which is indicated in the plans and documents presented at this public hearing dated August 3, 2015.

Chairman Wilson stated the variance is granted. It does not become official until filed on the land records of the Town of Cheshire and this is the responsibility of the applicant.

Secretary Nero read the legal notice for application #2 into the record of the meeting.

The application of Patrick Huyge/Site Enhancement Services c/o 6001 Nimitz Parkway, South Bend, IN 46628, requesting a variance of Section 34.9 (B) - Wall Signs in Commercial Districts, requesting to install a 118 square foot wall sign in excess of the 5% maximum. The resulting sign will be 50.3 square feet in excess of the allowed 67.7 square feet. Property located at 945 South Main Street, Cheshire CT 06410, as generally shown on Assessor's Map No. 78, Lot No. 103 in a C-3 zone. The application is on file and available for public inspection in the Planning Department, 84 South Main Street, Cheshire CT 06410.

2. **Patrick Huyge/Site Enhancement Services 15-08-2 PH 8/3/15
945 South Main Street MAD 10/7/15
Requesting a variance of Section 34.9(B)-Wall Signs
In Commercial Districts; requesting to install a 118
Square Foot Wall Sign in excess of the 5% maximum.**

Chairman Wilson commented on the Board having many applications for changes to sign regulations in the zoning laws. The sign law is strict, well written, has been adequate for many years, and the ZBA and PZC work hard to keep to the sign regulations for the majority of buildings in Cheshire.

Ms. Nero stated her support of this application for a sign in excess of the 5% minimum. She said the hardship is the number of letters in the company name; they are not requesting a Staples size sign; and request larger sized letters.

Mr. Pepper stated it is hard to maintain the character and laws of the Town, along with the desire to keep the size of signs to match others.

Mr. Devine said a sign that is too big will take away from the next tenant on the border. The sign would be overwhelming by the size of the letters. Mr. Devine was impressed by the Planning staff memo about the size of the sign, and keeping within the regulations. He is opposed to increasing the size of the sign.

Chairman Wilson stated he does not see a hardship with this application. There is no hardship for selling auto parts; trees and distance from the road are not hardships; and if there is a problem it is with the name and too many letters...but it is not a hardship.

Mr. Bellagamba does not see a hardship for this application, and said the height of the name is not a hardship. Driving by the road corridor you can see a 67 square foot sign. He would vote to deny the variance request.

MOTION by Mr. Wilson; seconded by Mr. Devine.

MOVED that the Zoning Board of Appeals denies the application of Patrick Huyge Site Enhancement Services, 945 South Main Street, Cheshire CT 06410, for a variance of Section 34.9(B) Wall Signs to install a 118 square foot wall sign that exceeds the maximum of 5%. Based on the evidence presented at the public hearing and general knowledge of the Board, a hardship has not been found; the hardship claimed by the applicant is self created; granting of the variance will result in an impermissible injury to the neighborhood and or the public welfare.

VOTE The motion passed 4 in favor of denial; 1 opposed (Nero)

Chairman Wilson stated the variance application is not approved by the Board. The applicant can have a 67 square foot sign staying within the 5% maximum.

VIII. OTHER ZONING BOARD OF APPEALS BUSINESS

IX. CHAIRMAN'S REPORT

X. ADJOURNMENT

MOTION by Ms. Nero; seconded by Mr. Pepper

MOVED to adjourn the meeting at 8:40 p.m.

VOTE The motion passed unanimously by those present.

Attest:


Marilyn W. Milton, Clerk