

ZONING BOARD OF APPEALS
January 6, 2014 Meeting Minutes

Board Members Present: Douglas Hamilton, Ronald King, Howard Aspinwall,
and Shane O'Connor

Town Staff Present: Jennifer Rodriguez,
Town Planner & Certified Zoning Enforcement Officer

The meeting was called to order at 7:05 pm

Board roll call was taken.

Mr. Aspinwall moved to elect Shane O'Connor as Chairman. Mr. King seconded the nomination. All were in favor. The vote was 4 – 0, Shane O'Connor was elected Chairman of the Zoning Board of Appeals.

MINUTES:

Chairman O'Connor referred to the November 4, 2013 meeting minutes and asked for any corrections or changes. There were none. He then asked for a motion. Mr. Aspinwall moved to accept the November 4, 2013 meeting minutes, as published. Mr. King seconded the motion. The vote was 2 – 0 (Chairman O'Connor and Mr. King both abstained, they were not present at the 11/4/13 meeting), the motion was approved.

BILLS & CORRESPONDENCE:

None

OLD BUSINESS:

None

NEW BUSINESS:

Chairman O'Connor stated that they had enough Board members to move forward with the public hearing, but that any approval would require a unanimous vote since there would only four members present. He then asked the applicant if he wanted to go ahead with the public hearing or wait until the following month's meeting. A brief discussion took place and the applicant and his representative decided to go forward that evening with the public hearing.

a. Public hearing on Application #FY13-14-08, Owner: 20-21 Ella Grasso Turnpike Associates, LLC, Applicant: James D'Alessio for a variance for the property located at 20 Ella Grasso Turnpike to reduce the side yard setback to 3 feet, where 15 is required.

The following were present at the meeting:

- Ed Lally, of Ed Lally & Associates of Windsor representing the applicant; and
- James D'Alessio, the applicant.

Mr. Lally stated that the canopy that the applicant was proposing was required by the Connecticut Department of Energy and Environmental Protection (DEEP) for the activities that occur at the property. He explained that there were currently two buildings that were separated by a small space on the site. He then noted that LAZ surrounded the property in question on three sides and that they had leased that property for 30 years.

Mr. Lally stated that the applicant used the site for washing and detailing cars and that the work was done both indoors and outdoors. He went on to say that the DEEP had a requirement that all water used must go through a proper treatment facility before entering a sanitary sewer. Mr. Lally noted that the applicant had proposed a particle separator and a grease trap for all water before sending it on to the sanitary sewer. He then stated that the plan had been submitted to and approved by the DEEP in response to the Order that the DEEP had sent to the applicant.

Mr. Lally noted that there was no other place to install the required canopy and that the current use had been taking place on the property for over 30 years. He also commented that there really was no other reasonable use of the two small buildings that were on the property.

Chairman O'Connor asked the Board members for any questions. Mr. Hamilton asked what the violation had been that prompted DEEP to get involved. Mr. D'Alessio replied that it was a violation for not having a permit for an oil/water separator inside the building. He then explained that when the DEEP came out to the site they had seen that washing was taking place outside as well.

Mr. Lally explained that rain water was not allowed to go into the oil/water separator and sanitary sewer system, therefore a catch basin and curbing had already been installed to keep the rainwater separate from the wash water. He went on to say that the canopy was the last item that needed to be installed to complete everything required to ensure that no rainwater mixed with the wash water and entered the separator and sanitary sewer system.

Mr. Hamilton asked what the depth of the proposed canopy would be and why they couldn't reduce the size. Mr. Lally replied that the canopy needed to align with the doors to the building in order to allow access to the building. In addition, if they were to reduce the size

of the canopy it would reduce the functionality of the site. He then stated that they were proposing a canopy depth of 25 feet. Mr. Hamilton asked what it would do if they were to reduce that size to 15 feet. Mr. Lally replied that it would significantly reduce the functionality of the site, they would only be able to put one car under the canopy at a time, and that they also would not be able to use both bay doors in order to access the building.

Mr. D'Alessio stated that he had submitted a letter from the General Manager of LAZ which stated that they had no objection to the proposed canopy being installed 3 feet from the property line.

Mr. Hamilton commented that his concern was the hardship. He went on to say that although the canopy was a DEEP requirement, the hardship was self-imposed due to the fact that they were washing cars outside rather than inside. Mr. Lally pointed out that the use had been going on outside on the site since 1994. Mr. Hamilton then asked when the buildings had been built. Mr. D'Alessio replied that the front building had been built in the 1940's and the other building had been built as a car wash in 1994. The discussion continued briefly.

Chairman O'Connor asked if the proposal for the canopy had been submitted to the Planning and Zoning Commission and what they had had to say about it. Ms. Rodriguez stated that it had not gone to the Planning and Zoning Commission. Ms. Rodriguez then asked the applicant if the Town Engineer had reviewed their plans. Mr. D'Alessio stated that the Water Pollution Control Authority had inspected the new system. The discussion continued briefly and Mr. Hamilton commented that they had gone at the issue a little backwards. He went on to say that they should have had the Town Engineer review the plans first and they probably would have been told about the required setback at that time.

Ms. Rodriguez asked what the extent of the work that had been done on the site was. Mr. Lally replied that they had installed a new waterproof catch basin in the middle of the canopy area, a concrete curb, a waterproof connecting pipe to the new 1,000 gallon oil/water separator and a new TY into the existing sanitary sewer line. He went on to say that they had also removed and abandoned the existing catch basin as well as the soils around it. Ms. Rodriguez asked if the grade had been altered. Mr. Lally replied that the grade had been altered slightly in order to get it to pitch toward the center drain without depressions or any irregularities.

Ms. Rodriguez asked the Board members if they wanted her to try to find the 1994 approval back in the Building Office. Mr. D'Alessio commented that he had tried to find it in the Building Office files, but that he had been unsuccessful.

Mr. Lally noted that their bypassing of the Town Engineer had certainly been inadvertent.

Mr. O'Connor asked what kind of canopy was being proposed. Mr. D'Alessio replied that it would consist of six steel poles holding up an engineered wood truss building with shingles and a gutter. Mr. Lally pointed out that there would be no walls on the building, it was just a cover.

Mr. Lally stated that the leasor of the building and user of the building for the past several decades had been the abutting property owner. He then pointed out that there was no visual property line or demarcation between the two sites. He went on to say that from the street you could not tell one property from the other. Mr. Lally reiterated that it was a unique situation with no negative impact on the neighbors or the surrounding area and that the abutter was fine with the proposal.

Chairman O'Connor asked the Board members for any further questions. They had none.

Chairman O'Connor asked Ms. Rodriguez for any comments. Ms. Rodriguez commented that if the Board wanted to take a short break she could try to find additional information back in her office. The discussion continued briefly and Ms. Rodriguez noted that the Town Clerk might have the original mylars.

Mr. Hamilton asked if the DEEP had requested that the area in question be covered with a canopy. Mr. Lally and Mr. D'Alessio replied that the DEEP had requested it.

Mr. Lally asked Chairman O'Connor for a two minute recess to confer with his client. Chairman O'Connor granted the two minute recess at 7:40 pm.

Chairman O'Connor called the meeting back to order at 7:42 pm.

Mr. Lally stated that they had just discussed possibly making the canopy a trapezoid shape in order to decrease the variance, but that they had come to the conclusion that if they did so it would destroy the functionality of the site.

Mr. Hamilton asked the applicant if they had considered purchasing some of the abutting property in order to alleviate the need for the variance. Mr. Lally replied that they had considered doing so, but that abutting property was encumbered by a fairly substantial mortgage with a lot of legal fees involved in it. He went on to say that in order to get a modification to that mortgage it would probably cost an exorbitant amount more than the property was actually worth.

Mr. Hamilton asked the applicant what their timeframe was. Mr. Lally replied that the DEEP wanted the canopy up as soon as possible, since rainwater and snow was going into the system.

Chairman O'Connor asked the Board members for any further questions. They had none.

Chairman O'Connor asked for any public comments in favor of the application. There were none.

Chairman O'Connor asked for any public comments in opposition to the application. There were none.

Chairman O'Connor asked for a motion regarding Application #FY13-14-08. Mr. Aspinwall moved to approve Application #FY13-14-08, Owner: 20-21 Ella Grasso Turnpike Associates, LLC, Applicant: James D'Alessio for a variance for the property located at 20 Ella Grasso Turnpike to reduce the side yard setback to 3 feet, where 15 is required. He noted that the hardship was that the property had been used for many years and that because the Connecticut Department of Energy and Environmental Protection regulations forced the applicant to install a canopy. Mr. King seconded the motion. A discussion followed and Mr. Hamilton suggested the possibility of postponing the decision on the application until the following month's meeting to allow the applicant the opportunity to research whether the property had been previously approved for outside washing of vehicles and to provide that approval information to the Board. Mr. Aspinwall moved to withdraw his motion. Mr. King seconded the motion. All were in favor. The vote was 4 – 0, the motion to withdraw was approved.

Mr. Hamilton moved to postpone the decision on Application #FY13-14-08, Owner: 20-21 Ella Grasso Turnpike Associates, LLC, Applicant: James D'Alessio for a variance for the property located at 20 Ella Grasso Turnpike to reduce the side yard setback to 3 feet, where 15 is required to the February meeting in order for the applicant to ascertain additional information pertaining to the original approval of the planned use and building approval and to present that information to the Board. Mr. Aspinwall seconded the motion. All were in favor. The vote was 4 – 0, the motion was approved.

Mr. Aspinwall moved to adjourn the meeting. Mr. King seconded the motion. All were in favor. The vote was 4 – 0, the meeting was adjourned at 8:00 pm

Respectfully submitted,

Diane Ferrari
Recording Secretary

THIS IS A DRAFT

Please check the following month's meeting minutes for official approval of these minutes and any amendments or corrections that were made.