

**CITY OF NORWICH  
ZONING BOARD OF APPEALS  
August 16, 2016  
Meeting Minutes**

The regular meeting of the City of Norwich Zoning Board of Appeals was called to order at 7:00 p.m. Roll call was taken and it was determined that a quorum was present.

**PRESENT:**

Marc Benjamin, Chairman  
Mark Kulos  
Dorothy Travers  
Peter Cuprak – Alternate  
David Martin – Alternate  
Robert Phoenix – Alternate

**ABSENT:**

Henry Olender, Vice Chairman  
Raymond Dussault

**ALSO PRESENT:**

Tianne Curtis, Zoning Enforcement Officer  
Linda Lee Smith, Recording Secretary

**E. COMMUNICATIONS: None**

**F. ACCEPTANCE OF MINUTES**

Upon motion by Robert Phoenix, seconded by Mark Kulos it was voted unanimously to APPROVE the minutes of the June 14, 2016 regular meeting.

**G. OLD BUSINESS: None**

**H. NEW BUSINESS:**

Upon motion by Marc Benjamin, second by Peter Cuprak, the Board voted unanimously to suspend the rules & to hear the applications out of order. Mr. Benjamin explained the applicants present for V#16-10 are scheduled to be heard this evening before the Commission on the City Plan (CCP) & would like to expedite the process to determine if it can move forward.

- 1. V#16-10 – Application of Sound Garrett Norwich, LLC for property located at 646 Boswell Avenue and owned by Seafood Etc. Inc. located in a General Commercial (GC) zoning district. In accordance with Sec. 5.1.3.2 reduction of parking spaces required for a 7,544 SF building from 30 spaces to 25 spaces as by conditions of the land. Section 5.3.1.1 reduction of buffer width on the south property line from 20' required to 10'.**

Seated were Marc Benjamin, Mark Kulos, Dorothy Travers, Robert Phoenix & Peter Cuprak.

Tianne Curtis read Exhibits “A” – “I” into the record and noted Exhibit “I” had not been received in time to make it to the mailings, however the item was available for circulation. The Board reviewed the document. Ms. Curtis stated the applicant would be submitting a revised survey this evening & recorded it as Exhibit “H.”

Presenting was Al Carpenter, Profession Engineer for CPH, 520 Hartford Turnpike, Unit J-2, Vernon, CT. Mr. Carpenter submitted a 2<sup>nd</sup> set of abutter’s certifications. Mr. Carpenter stated to the Board that the previously granted variance V#16-05 would no longer be sufficient to cover the

necessary reduction in parking. Mr. Carpenter explained the project had to be significantly modified to be in compliance with revised FEMA regulations and to locate the building as far away from the floodway as possible. He stated the building size had been reduced by 1,576 sf (9,120 to 7,544) and that the proposed reduction of parking spaces from 31 to 25 will be sufficient to support the site. Alan Carpenter noted the Board had previously granted a variance for the reduction of the landscaping buffer on the northerly property line from 50' to 10' and that they are now seeking the reduction of the southerly property line from 20' to 10' in order to construct a portion of the relocated building out of the floodway.

Marc Benjamin stated the applicant & engineer had presented an application in May they believed to comply with the City of Norwich Zoning Ordinances Floodplain Chapter and associated FEMA guidelines and have revised the plan to comply & removed the building from the floodway completely. Alan Carpenter explained the proposed parking areas were also redesigned further into the site as mandatory storm water management & compensatory storage would be required in association with the deposition of fill & changes in elevation.

Mark Kulos asked if the remaining portion of the lot would retain the natural vegetation. Mr. Carpenter responded the rear of the site would be preserved & all proposed shrubs, groundcover & trees be reflected on the full landscaping plan.

Marc Benjamin asked the Board if they would like to request a privacy fence along the southerly side yard to mirror the condition of the northerly side yard; none were opposed. Alan Carpenter referred to the survey Exhibit "J" and indicated they could extend the proposed privacy fence alongside the property line. Mr. Benjamin asked if light trespass would be a concern. Mr. Carpenter responded the proposed lighting is designed to cut off by the property line & the fence will provide an additional barrier.

Robert Phoenix asked if the screening of rooftop mechanicals would be addressed with the second variance. Mr. Carpenter responded that this condition was still in place & a note would be added to the final plan.

Mark Kulos stated there is a fence to the rear of the property. Alan Carpenter stated there would be a fence for safety purposes – west side would be a chain link and wood stockade fence where it meets the residential area. Marc Benjamin stated maximum allowed is 6' high fence.

After much discussion Robert Phoenix stated the north side fence would be vinyl and to be included in the decision process.

Christine Kaiser, 89 St. Regis Avenue, Norwich, CT spoke in opposition. She brought a document as Exhibit "K". Marc Benjamin asked Ms. Kaiser if she knew what the Commission was looking at tonight. Ms. Kaiser stated yes. Mr. Benjamin stated the Board was interested in the decreased parking spaces and the decreased setback. Mr. Benjamin stated the information she handed out to the board looks like it's in reference to the wetlands. Ms. Kaiser stated yes and he is affecting the wetlands and affecting everyone above him. Marc Benjamin stated the Board is only looking at parking spaces and if there is enough for property size and how does it affect privacy of the neighbor because of the reduced setback. Ms. Kaiser stated the parking spaces were in the wetlands and flood zone. Mr. Benjamin stated CCP and wetlands handles this issue. Mr. Benjamin asked Ms. Kaiser to read her memo Exhibit "K" to the board. Mr. Benjamin stated the culverts were out of the ZBA's control, and the board is only looking at changing parking spaces from 30 to 25 spaces. Mr. Benjamin stated this would be for the Dept. of Public Works and State of Connecticut, and not for the Zoning Board of Appeals as they don't have no control over the culverts. Marc Benjamin stated that Ms. Kaiser needs to go before the Commission on the City Plan. Ms. Kaiser stated she was in favor of the project but not for anything that would cause more flooding.

Andrew Zeeman, 20 Rogers Rd, also owner of 9 Edgewood and 25 Edgewood spoke. His concern was there quite a bit of trees buffering and wants a 6' fence. Mr. Benjamin stated the last meeting the variance granted the 6' fence and anything granted still remains. Mr. Benjamin stated

the only difference in this revised plan is they're moving the building further away. Mr. Benjamin stated the stipulation for the fence stays and the fence to protect HVAC stays, and the building is smaller. Mr. Benjamin stated the variance that was enacted and recorded is Exhibit "F". Mr. Zeeman stated he owns the private road and may develop it in the future for multifamily. Mr. Zeeman stated no one has looked into a curb cut on Edgewood Road as it would give them 4 more parking spaces. Robert Phoenix asked if it was a legal road. Mr. Zeeman stated it was his private road. Mr. Phoenix stated he'd have to go through legal avenues which should have been done a while ago. Mr. Zeeman stated he didn't understand how they would develop the site without accessing his private road.

Marc Benjamin stated his concern there is a privacy fence and protection of property from use while developing the site and possible suggestion to avoid a traffic problem in the future. Mr. Benjamin asked Mr. Zeeman with the building placement, the reduction in the side yard setback, and reduction of parking was he concerned. Mr. Zeeman stated he was concerned but would like to see the site developed.

Alan Carpenter rebutted from Ms. Kaiser and stated they are taking the building out of the floodway, taking an encumbrance out of the floodway and any water coming down will be making that condition better. Alan Carpenter stated the reduction of parking will reduce the run-off from the site downstream making the runoff condition better.

Alan Carpenter stated for Mr. Zeeman they have incorporated the conditions of the last variance on his side of property. Mr. Carpenter stated he is not moving the back of the building back but at same location for the back of the building, it's a bit smaller, and the building is being shifted a bit to the south and the trees will remain.

Tianne Curtis asked Mr. Carpenter if he had any conversations with the City Engineer with the management and ownership of that drainage area. Mr. Carpenter stated yes they have comments from the City Engineer and will bring them before Commission on the City Plan and response letter to the City Engineer.

Marc Benjamin asked if Mr. Carpenter if he understood Mr. Zeeman's concerns managing the property from within Mr. Zeeman's property. Mr. Benjamin stated it was outside this Board's purview but he wanted to make sure he was aware of it. Mr. Carpenter stated yes and some of the trees he is mentioning maybe on his property and he understands managing his improvements on his property.

Mark Kulos stated if you need to use his private road to make sure to have a private conversation with him maybe in exchange for improving the road.

Motion was made by Robert Phoenix second by Mark Kulos to close the public hearing.

## **I. DISCUSSION/DECISION ON APPLICATIONS**

Tianne Curtis stated the board is reacting under the prior suspension of the rules to move to item #4 V-16-10.

**4. V#16-10 – Application of Sound Garrett Norwich, LLC for property located at 646 Boswell Avenue and owned by Seafood Etc. Inc. located in a General Commercial (GC) zoning district. In accordance with Sec. 5.1.3.2 reduction of parking spaces required for a 7,544 SF building from 30 spaces to 25 spaces as by conditions of the land. Section 5.3.1.1 reduction of buffer width on the south property line from 20' required to 10'.**

Seated were Marc Benjamin, Mark Kulos, Dorothy Travers, Robert Phoenix and Peter Cuprak

Upon motion by Dorothy Travers, second by Mark Kulos motion carried unanimously to APPROVE V#16-10 with CONDITIONS: 6'H maintenance-free privacy fence be installed as residential buffer and chain link safety fence be installed along detention basin. Conditions of previously granted variance V#16-05 remain.

Dorothy Travers stated this grant should be approved because of the physical conditions of the land, the topography of the property, the floodway. Ms. Travers stated the chain link fencing to be installed as shown on the map Exhibit "J".

Mark Kulos stated he'd to like see some type of a low maintenance type of fencing either vinyl or composite material. Tianne Curtis asked if fencing was for both north and south sides. Mark Kulos stated yes the prior variance remains the same and also a no maintenance clause.

Marc Benjamin stated they would like 6' screenable vinyl privacy fencing. Mark Kulos stated the engineer has proposed a chain link fence to the rear of the property for safety sake. Marc Benjamin stated there is fencing and guard rail around the detention area. Marc Benjamin stated the Board's concern was the applicant took 20' buffer into a residential area and wants some sort of screening preserved; and the screening is reasonable and the applicant is accommodating to the screening. Mark Kulos stated the number of parking spaces is adequate given the topography, and the catchment area for the drainage would probably improve the entire neighborhood as far as flooding is concerned.

Marc Benjamin stated this project needs to move forward to improve the area; and by moving the building out of the floodway would improve the water erosion problem and reducing the building size, and preserving privacy and Marc Benjamin would vote for it.

**1. V#16-07 – Application of Mikasa International Income Tax Service for property located at 2 Central Avenue in a General Commercial (GC) zoning district. In accordance with Sec. 5.1.3.2 Required off-street parking: to allow mixed residential & commercial use. 10 spaces required, request reduction to 6 to allow for the conversion of retail to professional office. (Tabled from June 14, 2016)**

Seated were Marc Benjamin, Mark Kulos, Dorothy Travers, David Martin and Robert Phoenix

Tianne Curtis entered into the record Exhibits "A – K"

Deborah Moya, 57 Mather Avenue, Groton, CT presented for Miguel Afanador as he was on vacation. Ms. Moya stated he has a business half of the building was a grocery store and needs to be for professional office to include income tax, real estate home modification, translation services. Ms. Moya stated the parking they have 6 spaces and need to have 10 spaces. Marc Benjamin asked for clarification on the 10 parking spaces. Tianne Curtis stated with the use of the building 2 efficiency one bedroom apartments upstairs, and today's parking requirement is .075 for each unit., the existing customer service square footage, conversion from retail to professional office up to the 10 spaces based on the on the remaining professional office 14'x40' Exhibit "G". Marc Benjamin stated the 2 offices one is 14'x40' and the other is 21' x 34' and 2 apartment upstairs would require.

Mark Kulos stated its 1 ½ parking spaces for the apartments, 8½ parking spaces for the two businesses.

Tianne Curtis stated they could provide 6 spaces but with change of use the full use of the building they would need 10 spaces.

Mark Kulos asked what the variance request was for. Ms. Curtis explained professional office is a permitted use and the variance would allow the conversion they need to meet today's parking which would require 10 off-street parking spaces and they can only provide 6. The 3 parking spaces available on Golden Street are indicated as available on Exhibit "G" but can't be counted because its on-street parking and there is also on-street parking on Central Avenue.

Robert Phoenix asked for clarification for business occupancy parking. Ms. Curtis stated its one parking space for 200 sq. ft. for business office, and retail one parking space for 250 sq. converting from retail and they are converting from retail to professional office.

Marc Benjamin stated to Ms. Moya she needs to convert this from retail to professional office and they are 4 parking spaces short. Mr. Benjamin explained the building was built when many people didn't have cars, and designed to be neighborhood stores that you would walk to and didn't need 10 parking spaces.

Tianne Curtis stated because this application is a parking variance the referral was sent to the Norwich Police Dept. and received no response. Marc Benjamin stated in the past the Board has only received comments from the Police Dept. when there were issues.

Marc Benjamin declared the Public Hearing closed.

**2. V#16-08 – Application of Irving Small for property located at 32 Carroll Avenue in an R-40 zoning district. In accordance with Sec. 1.1 Residential bulk requirements 30' side yard setback required request reduction to 12'; 50' rear yard setback required request reduction to 46' for the construction of a 10' x 12' deck.**

Seated were Marc Benjamin, Dorothy Travers, Peter Cuprak, Robert Phoenix and David Martin

Mark Kulos stated he would be recusing himself as the property owner lives 3 doors down.

Tianne Curtis entered into the record Exhibits "A"- "G" Exhibit "G" side yard setback is marked as 11' which is incorrect it's actually 12' and what was advertised in the legal notice newspaper which was correct.

Irving Small, 19 Kendal Rd Ext., Lisbon, CT presented. Mr. Small stated the property is in an R40 zone and none of the houses comply. Mr. Small stated no matter where he put the deck he would need a variance because of the width of the property. Mr. Small stated with the location of the Bilco bulkhead it is 12' off the boundary, with the deck being 16' off the property line. Mr. Small explained there were 32' pine trees on one side, 8' high hedges on the other side, and the rear has a 6' high fence, and there wasn't another location to construct the deck. Mr. Small stated the house is closer to the property line than the deck would be, and he'd remove the window next to the Bilco bulkhead and install a door. Marc Benjamin understood he was using the Bilco bulkhead as part of his hardship. Mr. Small stated the Bilco bulkhead is one of the old style which lifts up. Mr. Small stated he measured 46' from the back property line from the fence and took off 10' from the back of the house while still maintaining 50'. Mr. Small was assuming the fence was on the property. Marc Benjamin stated 50' to the perceived fence line with the deck installed, and without Mr. Small having an A2 survey because we need to use the City's GIS map and he needs the 4' variance reduction.

Marc Benjamin stated a 10' x12' deck is a reasonable size deck. Dorothy Travers stated he has a hardship of where the Bilco bulkhead is located, the lot isn't very big. Robert Phoenix stated the existing conditions are made nonconforming by a new code that was put in place without consideration of existing properties.

Robert Phoenix made a motion second by Marc Benjamin to close the public hearing.

**3. V#16-09 – Application of O’Reilly Automotive Stores, Inc. for property located at 460 & 474 West Main Street in a General Commercial (GC) zoning district. In accordance with Section 5.3.1, 50’ wide landscape buffer strip required request reduction to 20’ to allow the extension of parking & trash enclosure within required buffer.**

Seated were Marc Benjamin, Mark Kulos, Dorothy Travers, David Martin and Robert Phoenix

Tianne Curtis entered into the record Exhibits “A-G”

Joshua Swerling, professional engineer with Bohler Engineering, 352 Turnpike Rd, Southborough, MA presented. Mr. Swerling stated the property is currently undeveloped significant lot with challenges. Mr. Swerling stated one issue was the considerable amount of wetlands on the property, it’s under 1 acre 38,500 sq. ft land to develop an O’Reilly auto parts store which is 7500 sq. ft and supply 38 parking spaces and zoning requires 30 spaces and the development includes and proposes a cross access and has a driveway that slightly encroaches on the parcel and anticipate a shared access from a feasibility standpoint it may change, and not sure if a shared agreement will be developed between O’Reilly’s and the neighbor. Mr. Swerling stated they are looking for relief from the 50’ residential buffer to reduce to 20’ but that was for CCP and Mr. Swerling stated he is looking for reducing to 1.7’ which is the distance from the property line to the retaining wall and 5.5’ from retaining wall to the property line. Marc Benjamin asked Tianne Curtis what the legal ad had been advertised because they couldn’t move forward because she had no knowledge of that request. Ms. Curtis stated she only had the 20’ request. Ms. Curtis stated she would speak with Bohler Engineering and there is no requirement for the public hearing to be published again. Ms. Curtis stated the public hearing has been opened and it would be a continuance if Mr. Swerling wanted to let the Board know he’d like it continued until Tuesday, September 13, 2016 7:00 p.m. 23 Union St.

Mr. Swerling stated he would like to have the public hearing continued.

Marc Benjamin made a motion second by Mark Kulos to continue V#16-09 until September 13, 2016. Motion carried unanimously.

**I. DISCUSSION/DECISION ON APPLICATIONS**

**1. V#16-07 – Application of Mikasa International Income Tax Service for property located at 2 Central Avenue in a General Commercial (GC) zoning district. In accordance with Sec. 5.1.3.2 Required off-street parking: to allow mixed residential & commercial use. 10 spaces required, request reduction to 6 to allow for the conversion of retail to professional office. (Tabled until August 16, 2016)**

Seated were Marc Benjamin, Mark Kulos, Dorothy Travers, David Martin and Robert Phoenix

Mark Kulos made a motion to APPROVE the application to reduce the required parking spaces from 10-6 off-street parking spaces. Dorothy Travers seconded motion. Motion carried unanimously.

Dorothy Travers stated under the circumstances of the location it shouldn’t be a problem for parking because they’re on the corner. Mark Kulos stated there is parking on two

corners, and the required spaces are there but they're not all off-street parking but there is at least 12-13 on street parking.

Robert Phoenix concurred with the parking situation and the owner can't claim exclusive use to the on-street.

David Martin stated he concurred with the hardship statements as well as it is an existing building, limited by the lot size and putting in as many parking spaces as the lot allows.

Mark Kulos stated it's a service business and they would probably not get walk-in traffic, but customers would be by appointment which would be a controlling factor in the parking situation.

**2. V#16-08 – Application of Irving Small for property located at 32 Carroll Avenue in an R-40 zoning district. In accordance with Sec. 1.1 Residential bulk requirements 30' side yard setback required request reduction to 12'; 50' rear yard setback required request reduction to 46' for the construction of a 10' x 12' deck.**

Seated were Marc Benjamin, Dorothy Travers, Peter Cuprak, Robert Phoenix and David Martin (Mark Kulos recusing himself)

Upon motion by Dorothy Travers second by Robert Phoenix motion carried unanimously to APPROVE V#16-08.

Dorothy Travers stated the hardships that exist include the size of the property, the property owner tried to find another location, and was unsuccessful to construct the 10'x12' deck, and he would be removing the window inserting a door for egress and accessibility, also the Bilco bulkhead was a hardship.

Robert Phoenix stated the deck was not excessive in size even though the property is nonconforming and the increase in nonconformity isn't a detriment to the neighborhood.

David Martin stated the edge of the deck is following the line of the house and not the line that is actually closest to the property, and it's a reasonable size deck.

**3. V#16-09 – Application of O'Reilly Automotive Stores, Inc. for property located at 460 & 474 West Main Street in a General Commercial (GC) zoning district. In accordance with Section 5.3.1, 50' wide landscape buffer strip required request reduction to 20' to allow the extension of parking & trash enclosure within required buffer.**  
*(Continued to September 13, 2016)*

Seated were Marc Benjamin, Mark Kulos, Dorothy Travers, David Martin and Robert Phoenix

**J. OTHER MATTERS: None**

**K. ADJOURNMENT**

Upon motion by Dorothy Travers and second by Peter Cuprak it was unanimously voted to adjourn at 8:32 p.m.

Respectfully submitted,  
Linda Lee Smith  
Recording Secretary