

**CITY OF NORWICH**  
**ZONING BOARD OF APPEALS**  
**October 18, 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  
Henry Olender, Vice Chairman  
Mark Kulos  
Dorothy Travers  
Peter Cuprak – Alternate  
David Martin – Alternate

ABSENT:                    Raymond Dussault  
Robert Phoenix – Alternate

ALSO PRESENT:        Tianne Phoenix Curtis, Zoning Enforcement Officer  
Linda Lee Smith, Recording Secretary

**E. COMMUNICATIONS:**

Marc Benjamin told the board he had verbal communication from Ray Dussault because of other conflicts he needed to give his resignation; but had appreciated serving with the board; he thanked and wished everyone well and he would follow-up with a letter.

Mark Kulos arrived at 7:04 p.m.

**F. ACCEPTANCE OF MINUTES**

Upon motion by Peter Cuprak, seconded by Dorothy Travers it was voted unanimously to APPROVE the minutes of the September 13, 2016 regular meeting.

**G. OLD BUSINESS: None**

**H. NEW BUSINESS:**

**1. V#16-11 – Application of Donald Hargreaves for property located at 14 Scotland Road in a Residential (R40) zoning district. In accordance with Sec.1.1 30’ side yard setback required request stairs. V#16-11 – Application of Donald Hargreaves for property located at 14 Scotland Road in a Residential (R40) zoning district. In accordance with Sec.1.1 30’ side yard setback required request reduction to 10’ for the construction of a 10’ x 10’ deck and associated stairs.**

Seated were Marc Benjamin, Mark Kulos, Henry Olender, Dorothy Travers, and Peter Cuprak

Tianne Curtis entered into the record Exhibits “A-H”. Ms. Curtis also entered Exhibit “I” letter of support from the Norwich Historic District Commission and Exhibit “J” letter from abutter Scott Learned 26 Scotland Road.

Donald Hargreaves, property owner 14 Scotland Road presented. Mr. Hargreaves explained he wanted to construct a 10’ x 10’ deck with associated stairs with access through sliding doors on the back of the house. Mr. Hargreaves stated any construction would need a variance.

Marc Benjamin asked Mr. Hargreaves if Mr. Learned was his immediate neighbor. Mr. Hargreaves stated yes.

Marc Benjamin stated Mr. Hargreaves yard is very small and whatever he would construct would require a variance.

Mark Kulos asked what size the deck you're requesting. Mr. Hargreaves stated its 10'x 10' with 3-4 steps. Mr. Hargreaves stated 5 stairs. Mark Kulos asked if Mr. Hargreaves had received his approval from the Historic Commission. Mr. Hargreaves stated yes.

Marc Benjamin stated the house presently was less than 10' from the property line and the deck would be inbound 10' from the corner of the house about another foot. Mr. Hargreaves stated he had plenty of room for the back yard setback. Marc Benjamin stated that it was the only location were the deck could be constructed.

Mark Kulos asked if the slider was new and if there had ever been a deck in that location. Mr. Hargreaves stated the slider was new and there hadn't been a deck there.

Henry Olender questioned the plan supplied by the local business states it is going to be 5' off the house and approximately 15' 8" to the bottom step. Tianne Curtis stated Exhibit "H" only advice was she spoke with one of the building inspectors not knowing the size of deck to grade not sure of exact number of steps required, the 5 seemed excessive the plan was drawn up by an engineer, and it seemed as though there would be less steps needed. Marc Benjamin stated that it looked as though it would require 3-4 steps. Mark Kulos stated Exhibit "H" is not a diagram of the deck but is the foundation footing plan.

Henry Olender wanted to verify which was correct because it states 10' out or 5'. Tianne Curtis stated the original drawing provided and subsequent conversations and the final dimensions being requested 10' reduction for the 10' x 10' deck was correct in the legal ad. Mr. Olender stated he'd be within 50' setback. Ms. Curtis stated she didn't feel comfortable modifying it because it did have a signature on the drawing because of the differences in the sketch and the property. Henry Olender asked what the hardships were. Marc Benjamin stated because the setbacks with no other location to construct the deck.

There being no others speakers the public hearing was closed.

**2. V#16-12 – Application of Chief Scandariato for Norwich Fire Department for property located at 10 North Thames Street in a Multifamily (MF) zoning district. In accordance with Sec. 1.1 25' front yard setback required request reduction to 13' for the construction of a 36' x 38' garage. In accordance with Sec. 2.1 (A) front yard for buildings on West Main Street and Salem Turnpike. For properties located on the southerly and northerly sides of West Main Street and Salem Turnpike, between the west channel of the Yantic River and the easterly right-of-way line of the Connecticut Turnpike: No building or structure shall hereafter be extended, erected or reconstructed with a front yard less than the required zone setback for front yards within the proposed right-of-way shown on the State of Connecticut Department of Transportation map of Route 82 reconstruction**

Marc Benjamin stated he would be recusing himself because he works for the Norwich Fire Dept. and would be representing and participating in the hearing.

Seated were Henry Olender, Mark Kulos, Dorothy Travers, David Martin and Peter Cuprak

Ken Scandariato, 50 Reservoir Rd., Norwich representing the Norwich Fire Dept., 10 North Thames St., and Marc Benjamin, 125 Hunters Ave., Norwich.

Mr. Scandariato handed out Exhibit "G" explained he wanted to construct the garage in the exact place temporary shelter is in the back left corner as storage facility for hazardous material and

equipment. The hardship was because of the way codes require the placement of the building forward to occupy most of the lower parking lot where they do all their business to move trucks in and out and they have parking. Mr. Scandariato stated he wants to put the garage in a place where satisfies the need to keep the original footprint consistent with the daily operation. Mr. Scandariato stated the building has become a community center, place of gathering area with parking and if they changed the configuration of the parking in the rear you would have people parking on the street walking in the lane of traffic. Mr. Scandariato stated that is why they need to move the garage back as far as they can. Mr. Scandariato stated where they are looking to locate the garage doesn't impact anyone's personal property, it just goes into the West Thames Street area, it won't affect pedestrian foot traffic, or West Thames St. won't be an obstruction or encroach. It promotes a safer environment for those that frequent the fire station. Mr. Scandariato stated it doesn't impact or encroach upon any of their neighbors. Mr. Scandariato stated they will be removing a very old tent that has been there for a very long time.

Mark Kulos asked if it was for equipment storage. Mr. Scandariato stated it will have mass decontamination trailer, and service vehicle, and a boat and it will also declutter the fire house.

Marc Benjamin stated the lot is fronted on four streets, it's a corner lot for a hardship with a large grade in the back with a 30%-40% elevation change between the two parking lots and forced to squeeze it into a small area. Mr. Benjamin stated they are trying to put inside all the State equipment they've been allocated since 9/11. Mr. Benjamin stated they received these equipment assets and to maintain, the Decon trailer etc. what the garage will do is house these State assets to protect them. Marc Benjamin stated the decon trailer is a high end box shower, that can't be left outside. The parking lot at shift change is full. Mr. Benjamin stated many local organizations use the building and needs to be open to them.

Mark Kulos asked if it would change the ground drainage at all. Mr. Scandariato stated no.

Mark Kulos asked about changing the staircase and do it all correctly 20 years change the riprap better stairs, railing, lighting, and he has other plans.

Peter asked if it would be big enough. Mr. Scandariato stated it

Henry Olender asked if they would be affected by the reconstruction roundabouts. Mr. Scandariato stated no there is still plenty of room.

Tianne Curtis entered into the record Exhibits "A-F" and Exhibit "G" submitted this evening the document on rationale and hardship.

There being no other speakers the public hearing was closed.

**3. V#16-13 – Application of Dilcelena Santos for property located at 26 Hobart Avenue in a Multi-Family (MF) zoning district. In accordance with Sec. 1.1 10' side yard setback required request reduction to 8' & 25' rear yard setback required request reduction to 5' for the construction of a swimming pool. In accordance with Sec.1.1 10' side yard setback required request reduction to 6" & 25' rear yard setback required request reduction to 6" for the construction of pool deck.**

Seated were Marc Benjamin, Mark Kulos, Henry Olender, Dorothy Travers, and David Martin

Tianne Curtis entered into the record Exhibits "A-G"

Dilcelena Santos, 26 Hobart Avenue property owner presented. Ms. Santos explained she applied for a zoning permit for the pool but built the deck without a permit. Marc Benjamin asked if the pool was conforming. Tianne Curtis stated by the Zoning Permit she received is short 2'; and the setback was 10' to every the property line and she would need a variance to keep the pool where its located as she does have a zoning permit for the pool but it isn't 10' from the property line. The second variance is for the deck, two separate requests.

Marc Benjamin explained she started out correctly applying for the zoning permit for the pool was installed in the wrong spot.

Mark Kulos asked if the pool could be drained and moved.

Henry Olender asked Ms. Santos for clarification on the pools location. Mark Kulos stated the back is where the cemetery is located. Mr. Olender asked if there was a garage. Ms. Santos stated two neighbors have garages.

Marc Benjamin was concerned about the fence being right up to the property line. Tianne Curtis stated she went to the property line that abuts the cemetery she did a measurement and the fence meets the 6" from the property line; her deed reads the stone wall as the property line, and there is a 6" clearance. The fences are two colors but they are one inconsistent line of fence.

Marc Benjamin asked if any reason the deck couldn't go to another location. Ms. Santos stated because this was the best location she could see the children in the pool.

Ms. Santos said she started correctly and received her zoning permit for the pool and didn't realize she needed a permit to build the deck because on the internet it always showed the pool with the deck around it, and she'd be able to watch the children in the pool.

Ms. Santos was having a hard time coming up with a hardship. Marc Benjamin gave Ms. Santos a couple options, to stay with what she has, or ask the board to continue this to next meeting, talk to someone about her hardship or move with it as. Ms. Santos stated she wanted to move forward this evening.

Henry Olender stated her lot is 45' wide 150' long it borders a cemetery, and two garages and she made a mistake, and built the deck for the safety of the children. He doesn't have a problem.

Mark Kulos stated if it was going to be a permanent structure he may have had a problem with it but it's an above ground pool and the next owner may take it down.

Dorothy Travers stated on the hardship, the location of the garages and the children she wants to have view of the children, the size of the property, the cemetery in the back not obstructing any neighbors, the size of the property, and she did receive a permit; the pool company hired didn't locate the pool in the correct location.

Hector Soto, 24 Hobart Avenue, neighbor spoke in favor of the variance. Mr. Soto stated her hardship was the size of the property, and if she moved the pool behind the garage it would be an obstruction to see the children.

Brian Kobylarz, 16 Hobart Avenue, and neighbor two houses down from her spoke in favor. Mr. Kobylarz stated he saw the people helping her before the pool was installed cleaning up the brush, and spent a lot of time cleaning the ground and she tried to do everything right but just didn't understand the part about the decking. Mr. Kobylarz stated he was in favor of Ms. Santos keeping the pool and deck, and she is a good asset to the neighborhood; and it's good to hear the children's laughter in the pool after having the soup kitchen move in and it would be a shame if it had to be dismantled. Mr. Kobylarz stated the only thing he would add after talking to Tianne Curtis and Linda Lee Smith there needs to be proper surveying up in the neighborhood and he knows efforts went to Public Works but he has noticed changes in the newer GIS maps at some point in time it could be looked into. Mr. Kobylarz stated he was fully in support of what she had built.

There being no other speakers the public hearing was closed.

**4. A#16-01 – Appeal of Attorneys Pullman & Comley, LLC for property located at 684 West Main Street in accordance with Section 7.9 Appeal of an Order/Decision by the Zoning Enforcement Officer.**

Seated were Marc Benjamin, Mark Kulos, Henry Olender, Dorothy Travers, and Peter Cuprak

Tianne Curtis stated she had one Exhibit published in the newspaper and entered it as Exhibit "B" and the record items may be different, but just for referring to the City file. The notice of Appeal would be Exhibit "B" and Exhibit "C" addendum to the Notice of Appeal, and Exhibit "D" is the agenda notice.

Marc Benjamin stated he had requested a copy of the section of regulations on Nonconforming uses for the board from Corporation Counsel has drafted two motions, one to accept and one to deny if the board wanted to use them.

Steven Cohen, 347 Sleepy Hollow Farm Rd., Warwick RI 02886 was present, and Attorney Whitney, from Pullman & Comley, LLC, 90 State House Square, Hartford, CT 06103 representing Mr. Cohen.

Attorney Whitney stated Steven Cohen was the contact purchaser of the property.

Attorney Whitney stated it is the horrible site that housed the old gas station on West Main Street and whether it's a legal nonconforming use and can it be redeveloped as a gas station. Attorney Whitney stated it became a gas station in 1963 when it was an allowed use on the property. A new ordinance passed in 1968 stated no new gas stations could be within 1,000 feet of another gas station, and it remained a gas station until June 2002 when its use stopped due to soil and ground water contamination. The property sold in 2003 and remediation has been ongoing since then but not quite finished. Attorney Whitney stated PJC owns the property and would like to sell it to Mr. Cohen and reestablish as a gas station. It's only 75' from the gas station across the street built in 1967 before the ordinance went into effect; and that gas station was demolished rebuilt in 1988 and presumably that happened legal nonconforming use. Attorney Whitney stated the reason the board had both an original appeal and corrected notice of appeal was because some of the facts in the original appeal were incorrect, after researching the town's records, so the addendum had been submitted. Attorney Whitney stated a nonconforming use is not extinguished by a lack of use only by clear intent to change the use and a substitution by another use. Attorney Whitney stated the City's Ordinance 4.8.8 she cited it in her appeal as 4.5 but didn't realize the ordinance numbers had been changed but the text is the same. Attorney Whitney stated the problem the City's ordinance a term of nonuse constitutes abandonment of the nonconforming use. Attorney Whitney stated there is a State statute 8-2(A) states you shall not prohibit a continuance of any nonconforming use existing at the time of the adoption of new regulations only as a result of nonuse for a period of time without the regard of the intent of property to maintain the use. Attorney Whitney stated for a legal nonconforming use to be abandoned there has to be two things. One is clear intent to abandonment and a substitution by a new use, and it isn't what the City's regulations state and there is a problem between the City and the State statute. The other issue that exists the previous owner before PJC owned the property, Mr. Hendel owned the property and he stated on a form attached Addendum to the appeal he stated to DEEP that he had pulled all the underground tanks from the property and sold the property and the new owner didn't intend to use it as a gas station any more. Attorney Whitney stated that would constitute by the owner to abandon the use. Attorney Whitney stated there were two problems 1. He didn't own the property when he made that statement, he did not have the authority to speak as to the property PJC had that authority and they never stated they intended to abandon the use. Second it was simply made to DEEP to pull the tanks, she suspects the statement made because there was money in a fund to remediate spills from underground storage tanks. He probably submitted and she was guessing. Attorney Whitney stated in most cases she has read over the past couple of weeks, in all the cases the owner owned the property but in this case Mr. Hendel didn't own the property when he made that statement, didn't have the authority to make that statement and the owner of the property today has never made the stated their intent to abandon the use.

Attorney Whitney stated it's still a legal nonconforming use and there is still the ability to run it as a gas station it's been 13 years. Attorney Whitney quoted a suit in reference to Davis vs. Zoning

Board of Appeal of Fairfield, The use in question was 25 years and they could develop to the original use. Attorney Whitney stated Mr. Cohen would like to buy the property, reestablish a gas station.

Marc Benjamin asked from reading the Appeal was PJC the representative from Brooks Pharmacy. Mr. Cohen stated yes. Attorney Whitney stated Mr. Cohen had spoken to his neighbor Paul Agranovitch owner of the Universal Package store who had no objection to being redeveloped as a gas station.

Mr. Cohen stated the structure there is the remaining remediation under the building, if the building stays in place they wouldn't have to remediate only if it's removed.

Peter Cuprak asked about remediation recently. Attorney Whitney stated it was a subsidiary of Shell that had been doing remediation for the past 13 years. Mr. Cuprak asked if there were gas tanks in the ground. Attorney Whitney stated no. Attorney Whitney stated the remaining issue is to monitor the ground water and they'd been doing that point it has been cleaned for long enough and they can declare it completely.

Mark Kulos asked if they been monitoring wells until about less than a year ago. Mark Kulos asked if they had DEEP clearances. Attorney Whitney stated even though DEEP doesn't like to give definitive clearances but yes. Attorney Whitney stated she didn't think anything else needed to be done except for under the building.

Dorothy Travers asked if he would be putting in a gas station and convenience store. Mr. Cohen stated the gas station but not sure about the convenience store.

Marc Benjamin stated for clarification the applicant applied for a zoning permit to reestablish the use that was permitted prior to ceasing of operations and the permit was denied by the ZEO. What we are here for tonight is to determine if the permit was properly denied or if there is a reason it should have been approved. Mr. Cohen stated the reason it was denied was because of a statement made from DEEP by someone who didn't own the property and it also didn't pass the Litmus test. Mr. Cohen stated what had been researched by zoning was written by someone who didn't own the property.

Marc Benjamin wanted to inform the board that if they were to support the ZEO action saying she was correct in denying the permit he could have an appeal process and apply for a variance and go for an appeal, and if the board was to disagree with the ZEO that she made a mistake by testimony presented you would get a zoning permit to resume operation by right and proceed with development.

Mark Kulos asked was the use abandoned or not. Marc Benjamin stated was the ZEO correct in doing what she did or do we believe this should be a gas station or not.

Henry Olender asked Attorney Whitney that she had researched 25 years it wasn't abandoned in Fairfield example she gave.

Mark Kulos stated under Sec. 4.8.2.2 intent to abandon is either approval of the site plan which changes the use or the intentional discontinuance of the nonconforming use for 12 consecutive months for a proposal 18 months during any 3 year period and it may be rebutted by the owner. Attorney Whitney stated it conflicts with the State Statue. Mark Kulos asked if they agree that towns should be able to put a time limit in if it hasn't been used for 50-100 years. Attorney Whitney stated it doesn't state that. Mr. Kulos stated and changing it 150 years they could change the use. Attorney Whitney stated its only 13 years. Mr. Kulos stated a repair business had been operating for a couple of years. Attorney Whitney stated she thought the original use was a gas station and 3 bay repair shop it doesn't seem to be a change of use. Mr. Kulos stated they were continuing a portion of that use. Marc Benjamin stated the ProCare may have been there only a couple of years.

David Martin asked if Attorney McGee, Corp. Counsel could assist. Attorney McGee, Corp. Counsel stated if you need to still use the regulation to the extent as fact finders the intent of the owner or discontinuance or abandonment or continuing intent to use the property became nonconforming in 1968.

Mark Kulos asked Mr. Cohen if he was the owner. Mr. Cohen stated no but it is under contract and nonrefundable. Attorney Whitney stated she has the permission from PJC. Mr. Kulos asked if PJC if they were rebutting the fact that they had intentionally decided to discontinue their use. Mr. Kulos stated both points one there was never a special permit filed, and point 2 for a 12 month period.

Marc Benjamin asked Ms. McGee to explain the legality of present, previous and future owner. Attorney McGee stated owners concerned. We are not just interested in the current owners it's also the intent of the owners you would be asked to look at.

Mark Kulos anyone in the chain of ownership that operated the business from the time it was a gas station to present time. Attorney McGee stated 1968 when the ordinance passed that made the property nonconforming from that point on.

Peter Cuprak asked if that was when Hendel's owned it. Marc Benjamin stated it was listed in the testimony provided and held up until 2002.

There being no other speakers the public hearing was closed.

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

**1. V#16-11 – Application of Donald Hargreaves for property located at 14 Scotland Road in a Residential (R40) zoning district. In accordance with Sec.1.1 30' side yard setback required request stairs. V#16-11 – Application of Donald Hargreaves for property located at 14 Scotland Road in a Residential (R40) zoning district. In accordance with Sec.1.1 30' side yard setback required request reduction to 10' for the construction of a 10' x 10' deck and associated stairs.**

Seated were Marc Benjamin, Mark Kulos, Henry Olender, Dorothy Travers, and Peter Cuprak

Upon motion by Mark Kulos, second by Peter Cuprak motion carried unanimously to APPROVE V16-11.

Mark Kulos based on the fact size of the lot is extremely small, there was no buildable space, the structure not overly large, side variance, the rear variance would be met, no objections from the neighbors and add to the value of the house.

Peter Cukprak stated he had to go before the Historic Commission.

**2. V#16-12 – Application of Chief Scandariato for Norwich Fire Department for property located at 10 North Thames Street in a Multifamily (MF) zoning district. In accordance with Sec. 1.1 25' front yard setback required request reduction to 13' for the construction of a 36' x 38' garage. In accordance with Sec. 2.1 (A) front yard for buildings on West Main Street and Salem Turnpike. For properties located on the southerly and northerly sides of West Main Street and Salem Turnpike, between the west channel of the Yantic River and the easterly right-of-way line of the Connecticut Turnpike: No building or structure shall hereafter be extended, erected or reconstructed with a front yard less than the required zone setback for front yards within the proposed right-of-way shown on the State of Connecticut Department of Transportation map of Route 82 reconstruction**

Seated were Henry Olender, Mark Kulos, Dorothy Travers, David Martin and Peter Cuprak

Upon motion by Mark Kulos, second by Dorothy Travers motion carried unanimously to APPROVE V#16-12.

Mark Kulos stated they approve based on the hardship the buildable areas of the lot, placing the garage in any other location interfere with the flow of traffic especially for the firefighting equipment, there is a great need for this to protect the assets of the fire dept. under the new FEMA rules and to meet the firefighting needs of the 21<sup>st</sup> century.

David Martin stated the hardship was the size of the lot, the existing location of the Fire House and the slope of the land and for safety purposes this was the only location to put it.

Peter Cuprak stated this is a needed asset, and it will protect the equipment.

Henry Olender stated the City has to protect their investment.

David Martin stated it's a public safety issue if they don't have the assets to protect the equipment.

Mark Kulos stated the existing structure is not adequate and chief said it is a safety hazard.

**3. V#16-13 – Application of Dilcelena Santos for property located at 26 Hobart Avenue in a Multi-Family (MF) zoning district. In accordance with Sec. 1.1 10' side yard setback required request reduction to 8' & 25' rear yard setback required request reduction to 5' for the construction of a swimming pool. In accordance with Sec.1.1 10' side yard setback required request reduction to 6" & 25' rear yard setback required request reduction to 6" for the construction of pool deck.**

Seated were Marc Benjamin, Mark Kulos, Henry Olender, Dorothy Travers, and David Martin

Upon motion by Dorothy Travers, second by Mark Kulos motion carried unanimous

Dorothy Travers stated the hardships as discussed earlier and to include the size of the yard is small, the original construction of the pool and where pool was purchased from wasn't placed in the correct location, it would allow Ms. Santos to keep an eye on her children in the pool, it's up against the cemetery, no obstruction of any neighbors, and there are two garages that abut the property.

Mark Kulos stated the main hardship was the size of the lot, the positioning of the deck would be difficult in any other area, no other place to the rear of the property, could put it on the garage side but the safety concerns for the children and sight lines far outweigh any hardship. It has improved the neighborhood, the abutting neighbor has no objections to its placements; and another neighbor stated the property has been improved by the addition of the structure. Mark Kulos stated to a temporary structure than a permanent structure, it's possibly in a few years it could be taken down as children age

David Martin stated the hardships were the line of site as well the size of the pool and the size of the deck reasonably sized, reasonable use of their property.

Marc Benjamin stated he would be hard pressed to vote for it being prebuilt, and put it on the corner, but given the testimony he would support it. Variances should be very difficult to gain approval on. Mr. Benjamin stated safety as a big concern on this one. The fact the neighbors are supporting it and when an outspoken neighborhood supporter and stands up and supports it, it gives lot of credit to the need for this variance.

**4. A#16-01 – Appeal of Attorneys Pullman & Comley, LLC for property located at 684 West Main Street in accordance with Section 7.9 Appeal of an Order/Decision by the Zoning Enforcement Officer.**

Seated were Marc Benjamin, Mark Kulos, Henry Olender, Dorothy Travers, and Peter Cuprak

Motion was made by Mark Kulos, second by Peter Cuprak to GRANT the application on the applicant has provided sufficient facts to prove its right to a continuing non-conforming legal use as a gas station that was not abandoned. Mr. Kulos stated there was sufficient evidence to prove that the use was not permanently discontinued by the owner in fact it was rebutted by the owner even though there was never an intentional discontinuance of the nonconforming use for the 12 consecutive months for a total of 18 months during any 3 year period. There was discontinuance of the use but the usage was not intentional by the owner and in fact and the discontinuance was rebutted by the owner. Motion carried 4/1 Marc Benjamin

Peter Cuprak stated he covered everything relative.

Mr. Kulos stated council corporation counseled for the applicant the City's Ordinance not in compliance with the State case law being there were periods of nonuse some for an extended period approaching 25 years and ruled by the court the use was not abandoned and this appeal was for 13 years that it hasn't been a gas station and there hasn't been any other business in that structure that greatly bolsters the argument. Mr. Kulos stated no special permits for any other type of business had been in there, the fact because something wasn't being used doesn't mean the use hasn't been abandoned. Dorothy Travers stated there was also a car repair business.

Marc Benjamin stated the letter that was submitted by Hendel's dated 4/3/03 was pretty clear. They removed the tanks, sold the property, and it underlined the words "who will not be utilizing the property to sell gasoline". Mr. Benjamin stated in his experience when you have a gas station site with contamination on it and you can't sell the property without cleaning it up. That use had to be abandoned to be sold. The owner abandoned that use to sell the property and sold it to build a pharmacy. Mr. Benjamin's opinion by taking the tanks out and submitting the letter he was forfeiting his right for the gas station. Mr. Benjamin thought the site would be a good site for a gas station and he felt it should have gone through a variance procedure and not an overturning of the ZEO's decision with the evidence presented.

Henry Olender stated Mr. Hendel didn't have a right to underline not being utilized the property to sell gasoline after he sold it. Mr. Olender stated he heard there may be a roundabout going in there.

Dorothy Travers stated was in support more issues regarding the roundabout and there would be a lot of permits needed and Norwich needs another business.

**J. OTHER MATTERS: None**

**K. ADJOURNMENT**

Upon motion by Dorothy Travers and second by Robert Phoenix it was unanimously voted to adjourn at 8:55 p.m.

Respectfully submitted,  
Linda Lee Smith  
Recording Secretary