



# ZONING BOARD OF APPEALS

Clifford J. Hurgin Municipal Center  
1 School Street, Bethel, Connecticut 06801 \*(203) 794-8578

## ZONING BOARD OF APPEALS SPECIAL MEETING MINUTES MAY 26<sup>th</sup>, 2010 – BETHEL MUNICIPAL CENTER 7:00 P.M. – DENIS J. RIORDAN ROOM

**COMMISSION MEMBERS PRESENT** : Chairman, P. Verderosa; N. Santaniello; W. Foster; J. Hawkins, J. Hurgin; K. Watson Staff: S. Palmer, Planning & Zoning Official.  
Chairman Verderosa called the meeting to order at 7:00 p.m.

### PUBLIC HEARINGS.:

Chairman Verderosa opened the Public Hearing, read the Legal Notice and the Staff Memo by S. Palmer, Planning & Zoning Official, into the record.

### 10-04: 79 Stony Hill Bethel, LLC., 77 Stony Hill Road.; Variance of Art. 4.4.B.a, front setback; 4.4.B.c, side setback, & 4.4.D, max. floor area for addition to a commercial building.

Dainius Virbickas, P.E., Artel Engineering Group, Brookfield, CT and Attorney Neil Marcus, Cohen & Wolf, P.C., Danbury, CT, represented the Applicant.

Mr. Virbickas stated that the Applicant is seeking a variance to permit the construction of additions to a commercial building that will encroach into the front and side yard setbacks and exceed the commercial floor area requirements in the Route 6 zoning district. Specifically, the plan calls for new one-story additions totaling 1029 s.f. of floor area to an existing building currently used as a retail hair salon. The use proposed for the building will be a Dunkin Donuts which will incorporate a drive-thru service. Though no building plans have been submitted, the Applicant has indicated that additions include a bump out within the 50 ft. front setback to accommodate interior handicap accessible bathrooms, a refrigeration unit within the 20 ft. side yard setback, an entry vestibule facing the parking lot, and additional retail space and prep area.

The total existing floor area on the property between the existing salon (1134 s.f.) and the 2 story bank (4092 s.f.) is 5526 s.f. As noted, the proposal will add 1029 s.f. of floor area on the property for a total proposed floor area of 6255 s.f. The zoning regulations permit a maximum floor area of 7750 s.f. per gross acre of land. Based on the property size of .783 acres, the subject parcel is permitted a maximum of 6068 s.f. of floor area. Therefore the proposed floor area is in excess of the allowable floor area by 187 s.f. or 3%.

While the property is separate from the adjoining property to the south, they are linked by an internal access and a shared parking agreement. At this time the Applicant is *not* requesting a variance for any parking requirements, however, Mr. Virbickas presented into the record a full site plan of the two parcels for the Board's review of the proposed parking layout and internal traffic flow.

With regard to hardship, the Applicant noted that the property is undersized for the Zone. He stated that this occurred when Planning & Zoning Commission adopted substantive changes to the zoning

RECEIVED

2010 MAY 27 A 11:46

TOWN OF BETHEL  
TOWN CLERK

regulations that became effective on January 1, 2010. Among the changes was setting limits to the floor area allowed on a property in the Route 6 Zone. With this new standard, based on the Route 6 Corridor Study of January 2008, the new regulation replaced the long standing 25% building coverage limitation. The standard set a maximum of 7750 s.f. per gross acre of land. The study does show, however, that the new floor area requirements have a greater effect on modest sized properties, rendering several developed properties non-conforming with respect to the new floor area requirements. This regulation change occurred during the time period that this property was being developed.

Those who spoke:

Kevin Smith,                      Brushworks, 77 Stony Hill Road

Ed Batista                         Batista Family Ltd. Partnership, 77 Stony Hill Rd.

Chairman Verderosa closed the Public Hearing.

At this time W. Foster was seated.

**WORKSESSION:**

The Board discussed the issues relating to hardship requirements as pertaining to the project.

Motion by J. Hawkins, seconded by J. Hurgin to **APPROVE** a Variance of Art. 4.4.B.a., front setback from 50 feet to 49 ft. +/-; Art.4.4.B.c side yard setback from 20' to 17' +/- and Art. 4.4.D , maximum commercial floor area from 7,750 s.f. to 7,986 s.f. per acre, for the construction of additions to a commercial building, with the **Condition** that an A2 Survey be submitted prior to the issuance of Zoning Compliance.

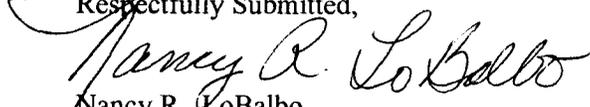
The Board determined that a hardship was caused due to the undersized lot in this Zone.

Motion Passed 4-1

W. Foster opposed.

Motion to Adjourn at 8:30 by P. Verderosa, seconded by N. Santaniello

Respectfully Submitted,

  
Nancy R. LoBalbo,  
Secretary, Planning & Zoning Department