

**CITY OF BRIDGEPORT
ZONING BOARD OF APPEALS
TUESDAY, NOVEMBER 14, 2017**

ATTENDANCE: Michael Piccirillo, Chair; Linda Grace, Robin Shepard,
Maria Alves, John Carolan

STAFF: Dennis Buckley, Zoning Clerk; Paul Boucher, Assistant Zoning
Official; Russell Liskov, City Attorney's Office

OTHERS: Charles Willinger, Esq., Willinger, Willinger & Bucci
Raymond Rizio, Q&A Associates, LLC
Jennifer Zemora, resident
Jenny Clinton, resident
Chris Genduso, resident
Tucker Chase, architect, Academy of the Arts, Stratford
Adnan Rahim, owner, Barnum Fuel, LLC
Santiago Luna, lessee, La Tavern Kitchen & Bar, LLC
Kevin Moore, Habitat for Humanity, Director of Construction

CALL TO ORDER

Chair Piccirillo called the meeting to order at 6:10 PM. A quorum was present.

Chair Piccirillo reviewed the meeting procedures to those present.

DEFERRED ITEMS

ITEM #4 RE: 10 BOSTON AVENUE – Petition of 10 Boston Avenue, LLC (d/b/a BMW of Bridgeport) – Seeking a variance of the minimum landscaping requirement under Sec. 7-1-3 to permit the construction of a 44,500 sq. ft. new car dealership building in an I-L zone and coastal area.

This item was withdrawn on 11/01/17.

ITEM #9 RE: 729 NORTH WASHINGTON AVENUE – Seeking a variance of the prohibition of outside storage of trucks, equipment and materials within the coastal area under Sec. 14-3-3i and also seeking variances of the maximum site coverage and all of the landscaping requirements of Sec. 7-1-3; a variance of the prohibition of utilizing the

setback areas for material storage under Sec. 11-6-1a; a variance of the 5' buffer requirement under Sec. 11-8-3b/l; a variance of the maximum height requirement of 8' (City Council approval is also needed at the intersection) and a variance of storage piles of materials not to exceed 6' in height under Sec. 11-8-3d to legalize a contractor yard use including 15' high piles of millings, surrounded by a 10' height fence in an I-L zone and coastal area.

Attorney Willinger came forward to speak on this item, saying that he was representing the petitioner, George Zwally and submitted the mailings to Mr. Buckley. He stated that Mr. Zwally is the only owner of this company and was seeking permission for a number of variances to permit a contractor's yard with a 10-foot high fence, surrounding the perimeter of the property. Attorney Willinger pointed out that the property is in a light industrial zone in which a contractor's yard is a permitted use, subject to special permit approval, adding that, if Mr. Zwally is successful in being allowed a contractor's yard, they will go to Planning and Zoning for a special permit.

Attorney Willinger noted that he has had some communication with some of the neighbors who, he said, are good, hard-working people. He told the Board that he would be making a major change to the plan which was that, as an accommodation to Mr. Zwally's neighbors, he would no longer be asking for permission to store the millings. Attorney Willinger acknowledged that the neighbors have expressed some concerns about the millings and stated that no materials, including millings, would be stored on that site. He asked the Board, however, to impose a condition, if they were inclined to approve this item, to allow Mr. Zwally, provided he does not increase the millings, to give Mr. Zwally more time, particularly in the winter, to remove the millings.

Chair Piccirillo remarked that Attorney Willinger was changing everything he was going to do to which Attorney Willinger replied that the only change was to have until April 30, 2017 to remove 100% of the millings. Chair Piccirillo asked how long it took to bring the millings to the site to which Attorney Willinger answered that they started bringing the millings in July. Attorney Willinger restated the problem, in the winter months, with removing the millings.

Attorney Willinger spoke about Mr. Zwally, saying that Mr. Zwally and his family are all true Bridgeport people who were born and raised in the city. Attorney Willinger stated that Mr. Zwally attended Cathedral High School, worked for the Board of Education in maintaining the lawns, and became a Bridgeport police officer, but sustained a work-related injury. Mr. Zwally then began his company and bought the property at 724 North Washington Avenue where his offices are and where he stores the vehicles for his operation and which is across the street from 729 North Washington Avenue. Attorney Willinger stated that Mr. Zwally's business is growing, that he has ten employees and he wants to bring the vehicles to the property across the street. He also noted that, when Mr. Zwally bought the property at 729 North Washington, he paid the back

taxes, and stressed to the Board that getting this approval is vital to Mr. Zwally's business.

Attorney Willinger stated that what Mr. Zwally wants to do at 729 North Washington is to create parking for his employees and to create space to store construction-related vehicles and equipment, such as tractors, tailers, back hoes, cranes, bull dozers, etc. He also asked the Board for permission to install a 10-foot high fence with privacy slats. Chair Piccirillo asked why that height to which Attorney Willinger answered that the millings will not be seen with a fence that is 10 feet and that the purpose of the fence is for the aesthetics of the neighborhood.

Attorney Willinger then handed a revised plan to Chair Piccirillo and to Mr. Buckley, saying that the revised plan was very similar to the original one, but without the millings. He then provided some information about the millings which, he said, are obtained from the State of Connecticut and City of Bridgeport road improvements projects when blacktop is scraped. Attorney Willinger said that the millings can then be recycled and reused to pave driveways, for road-patching and to prevent dust, adding that there is no rock-crushing or demolition.

Attorney Willinger referred to a report by TRC which, he said, is a highly-regarded Connecticut environmental and engineering company. He explained that TRC went on-site at 729 North Washington to do some dust monitoring to determine whether the mill work creates a dust hazard. Attorney Willinger stated that TRC set up their equipment and had Mr. Zwally move ten loads of millings to replicate the work done at the site, and found that the dust reading did not exceed regulatory standards, and were well-below OSHA and EPA requirements.

Attorney Willinger then distributed some photographs of the 6-foot temporary fence which is currently on the site, and said that the fence they are requested will be 67% higher than that, and will hide the millings which will also be decreasing.

Chair Piccirillo stated that he did not understand the need for the 10-foot fence, since the millings will be getting lower to which Attorney Willinger stated that, originally, they had asked for a 10-foot fence because of the millings and showed a picture of what the 10-foot fence would look like. Attorney Willinger introduced Mr. Zwally to speak about the millings and the fence. Mr. Zwally pointed out that the only thing the 10-foot fence would do is to hide the trucks, saying that he was under the impression that the neighbors did not want anything to be visible. Attorney Willinger stated that the height of the fence would be left to the discretion of the Board, adding that Mr. Zwally could certainly live with a lower fence. Attorney Willinger asked Mr. Zwally to explain why he needs until April 30 to remove the millings. Mr. Zwally explained that, with the cold weather setting in and with rain, water gets in the pile of millings, freezes and becomes like solid rock and is difficult to remove.

Attorney Willinger made reference to department reports, saying that the Engineering Report was written because they thought there were going to be millings and that it will be updated if

approval from the Zoning Board of Appeals is granted. He then mentioned the Design Coordinator, Mr. Guevara, who did not know about the fence and whose report is also outdated due to the change in Mr. Zwally's plans. Attorney Willinger stated that the main point is that he and Mr. Zwally do not believe there will be any negative impact on this industrial neighborhood.

Attorney Willinger talked about another variance which was the prohibition of outside storage, the general purpose of which, he stated, was to protect waterfront properties from contaminating the Long Island Sound. Here, he noted, this is not a waterfront property, but is across the street, and explained that, only after the millings have been removed, would the vehicles and construction equipment be stored there, adding that there will be no adverse impact to coastal resources. Attorney Willinger mentioned another variance relating to landscaping requirements, saying that, since there will be a fence, there was no need for perimeter landscaping, adding that interior landscaping is done more for offices and residential and does not go with a contractor's yard. Talking about the 10-foot fence, Attorney Willinger told the Board he would defer to their decision on that variance.

Attorney Willinger stated that hardship with these variances had to do with the imposition of these regulations on a use that is permitted in this light industrial zone, and defined the key issue with any variance by asking the question: "Is the proposal in harmony with the area and will it adversely impact the area?" He stressed that this is a light industrial area and provided several examples of area businesses which illustrated his point, adding that what Mr. Zwally wants to do fits in with the neighborhood and will not adversely impact it.

Attorney Willinger referred to the Zoning regulations which require Mr. Zwally to demonstrate consistency with the master plan, citing 1474 E which relates to increasing productivity of the land, said that Mr. Zwally is doing exactly that.

Attorney Willinger suggested three conditions which he said the Board may want to consider with the approval:

- that a privacy, of any height decided upon by the Board, be installed;
- that if the fence is 10 feet, City Council approval will be required; and
- that the amount and height of the millings will not be increased and that the millings will be removed no later than April 30, 2017.

Commissioner Grace asked where the millings would go to which Mr. Zwally replied that they would go to different industrial areas and to people for paving driveways and blacktopping and to business contacts he has for millings. He added that, if worst comes to worst, he could go to Burns which recycles millings. Commissioner Grace said that she understood Mr. Zwally not including interior landscaping, but she asked about the sidewalks, pointing out that they are a mess. Mr. Zwally said that he does do clean-up. A discussion followed about the condition of

the sidewalks and the fence falling down. Mr. Carolan asked if Mr. Zwally's operation was temporary and whether the removal of the millings would be a one-time project which was confirmed by both Mr. Zwally and Attorney Willinger. Mr. Carolan asked about the need for the 10-foot high fence to which Attorney Willinger answered that it was originally intended to hide the millings from sight, but, with the millings being removed, Mr. Zwally thought it could still be used to screen his tall vehicles from view. Attorney Willinger stated that there was no reason why the fence had to be 10 feet.

Chair Piccirillo mentioned that the sign Mr. Zwally has on the property is illegal to which Attorney Willinger replied that it would be taken down the next day. Commissioner Grace asked Mr. Zwally if, in the event he gets approval, he intended to do anything to remediate the sidewalks to which Mr. Zwally answered that he would fix the sidewalks if he receives the permit.

Chair Piccirillo asked if anyone wanted to speak for or against the matter and Attorney Rizio came forward to speak against the permit. He stated that he had signed petitions from Mr. Nuzzo and Mr. Rizzo, two residents who live across the street on River Street, and distributed the petitions. Attorney Rizio showed pictures to the Board of the site. He said there is no hardship, describing the property as almost an acre which was completely flat and all regulations could have been complied with. He stated that there is no outside storage, but a building could be built to store the vehicles. He said that his clients have had to look at the mountain of millings for a long time and referred to the TRC Report as being irrelevant, adding that the impact on the neighborhood has been horrendous.

Chair Piccirillo asked what Attorney Rizio would like to do to which Attorney Rizio replied that he would like to see a cease-and-desist order issued by the Zoning Enforcement Officer for getting outside storage, adding that Mr. Zwally is in violation of all zoning regulations and that he should not be given a contractor's yard to clean up the mess. Attorney Rizio remarked that there is not one hardship in any of the variances Mr. Zwally was requesting and he explained why for each variance. He also restated the point that Mr. Zwally could build a building for his storage needs. Attorney Rizio asked Mr. Buckley if there was a cease-and-desist order on the property to which Mr. Buckley replied there is enforcement from the Zoning Board of Appeals, but not a cease-and-desist order. Attorney Rizio provided several reasons why the permit should not be granted. He introduced two of the neighbors of Mr. Zwally's property.

Ms. Zemora came forward, saying that she resides at and owns 78 Lindley Street. She expressed her concerns about the effects of Mr. Zwally's site and wanted to point out that there are people there and not just businesses. Ms. Zemora talked about asphalt and how it releases chemicals when heated and also asked about the method of removal which will be used, since rain water can spread the chemical into the water.

Ms. Clinton came forward, saying that she owns 725 North Washington Avenue and is someone that loves her property. She stated that she has watched the millings grow and the area is in disrepair because of it, adding that the EPA was working on some kind of permitting process, but it was not completed yet. She described her home-buying process and everything she has done since, remarking that Mr. Zwally's site was the last thing she thought she would be dealing with. Ms. Clinton stated that it is the intention of the city to make things better, not worse, and she appealed to the Board to stop the situation and not allow it to continue.

Mr. Genduso came forward, saying that he lives at 36 River Street and is also an employee of the company that is leasing the property which is in the business of testing construction (inaudible) and making a living from asphalt. He said he had been approached by some of the neighbors and was at the meeting to say "no" to millings, but was also there to support George and hoped for a good conclusion to the matter.

Attorney Willinger came forward, saying that he was disappointed in Attorney Rizio, since Attorney Rizio appears at the Zoning Board of Appeals often and is almost always pro-development and asked the Board to consider that Mr. Zwally's goal is to upgrade his areas because he has trucks and employee parking on the river and all he wants to do is to clean up the river area after the millings are gone. Attorney Willinger also described Mr. Zwally's experience with his property which, shortly after he bought it, fell down and was found to have asbestos. This involved the cost to Mr. Zwally of \$300,000 to remove the asbestos to a special EPA-approved dumping site. Attorney Willinger appealed to the Board to grant relief to their fellow Bridgeport resident, while acknowledging that Mr. Zwally was wrong with the millings and the sign, both of which he will remediate.

Chair Piccirillo closed the public hearing.

NEW ITEMS

ITEM #1 RE: 1771 BARNUM AVENUE - Seeking variances of the minimum landscaping requirement; the maximum site coverage requirement; the height and setback requirement for an accessory structure under Sec. 6-1-3, and also seeking a variance of the location of an accessory structure requirement of Sec. 4-9-1a and the maximum size of an accessory structure as required under Sec. 4-9-1c to permit the relocation of the pump island and the erection of a canopy at the existing gas station in an OR zone.

Mr. Chase came forward, saying that he was at the meeting with the owner of Barnum Fuel, Mr. Rahim and describing the proposal before the Board as being related to a canopy which the Fire Marshall said needed to be done, in addition to a request for one more pump. He showed drawings of the proposed changes and distributed some photographs.

Chair Piccirillo asked if the parking lot was going to be repaved to which Mr. Chase answered that the front would be repaved and not the asphalt area in the back.

Chair Piccirillo asked if anyone wanted to speak for or against the matter. No one came forward.

Chair Piccirillo closed the public hearing.

ITEM #2 RE: 1253 RESERVOIR AVENUE – Seeking a variance of the minimum front setback requirement of Sec. 5-1-3 to permit the construction of a 2nd-floor addition to the existing single-family dwelling in a RA zone.

This matter was deferred.

ITEM #3 RE: 2810 (aka 2798-2810) FAIRFIELD AVENUE – seeking to expunge two (2) conditions of approval (#1 and #3) to a petition granted by the Zoning Board of Appeals on 12/09/08, which granted a service bar only, café liquor permit in an existing restaurant in an OR zone.

Mr. Luna forward to introduce himself and Chair Piccirillo asked him for his mailings. A discussion followed as to whether Mr. Luna had correctly notified all parties.

Chair Piccirillo stated that this matter would be continued to next month.

ITEM #4 RE: 848 MAPLEWOOD AVENUE – Seeking a use variance under Sec. 6-1-2 to permit the construction of a single-family dwelling in an OR zone.

Mr. Moore came forward to speak and gave his mailings to Mr. Buckley. He provided some information about Habitat for Humanity, saying that they are the lender as well as the builder, and build homes at the lowest cost possible, in addition to providing a 30-year mortgage for homeowners.

Mr. Moore stated that the proposal would be for a single-family home on a long, narrow lot which was acquired from the City of Bridgeport, adding that the house is for a large family with mobility issues and would be on one floor.

Chair Piccirillo remarked that there is really nothing that can be done with that lot. Commissioner Grace asked if there was parking to which Mr. Moore answered that there was parking for two cars.

Chair Piccirillo asked if anyone wanted to speak for or against the matter. No one came forward.

Chair Piccirillo closed the public hearing.

DECISION SESSION

ITEM D-2 (#9) RE: 729 NORTH WASHINGTON AVENUE – Seeking a variance of the prohibition of outside storage of trucks, equipment and materials within the coastal area under Sec. 14-3-3i and also seeking variances of the maximum site coverage and all of the landscaping requirements of Sec. 7-1-3; a variance of the prohibition of utilizing the setback areas for material storage under Sec. 11-6-1a; a variance of the 5' buffer requirement under Sec. 11-8-3b/l; a variance of the maximum height requirement of 8' (City Council approval is also needed at the intersection) and a variance of storage piles of materials not to exceed 6' in height under Sec. 11-8-3d to legalize a contractor yard use including 15' high piles of millings, surrounded by a 10' height fence in an I-L zone and coastal area.

**** COMMISSIONER ALVES MOVED TO DENY WITH PREJUDICE ITEM #9, ZWALLY HAULING, LLC (ATTY. CHARLES WILLINGER), 729 NORTH WASHINGTON AVENUE FOR THE ROLLOWING REASONS:**

- 1. THE PETITIONER FAILER TO ESTABLISH AN EXCEPTIONAL DIFFICULTY OR UNUSUAL HARDSHIP RELATING TO THIS PARCEL OF LAND.**
- 2. AN APPROVAL OF THIS PETITION WOULD RESULT IN AN OVERUSE OF THE SUBJECT PERMISES.**

**** COMMISSIONER GRACE SECONDED.**

**** THE MOTION PASSED UNANIMOUSLY.**

ITEM #1 RE: 1771 BARNUM AVENUE - Seeking variances of the minimum landscaping requirement; the maximum site coverage requirement; the height and setback requirement for an accessory structure under Sec. 6-1-3, and also seeking a variance of the location of an accessory structure requirement of Sec. 4-9-1a and the maximum size of an accessory structure as required under Sec. 4-9-1c to permit the relocation of the pump island and the erection of a canopy at the existing gas station in an OR zone.

**** COMMISSIONER GRACE MOVED TO APPROVE #1, BARNUM FUEL, LLC (TUCKER CHASE), 1771 BARNUM AVENUE FOR THE FOLLOWING CONDITIONS:**

- 1. THE PETITIONER SHALL FILE PLANS AND APPLICATIONS FOR THE ISSUANCE OF A CERTIFICATE OF ZONING COMPLAINCE AND A**

BUILDING PERMIT.

- 2. THE SUBJECT SITE SHALL BE REPAVED UP TO THE LEASE LINE BEYOND THE AUTOMOTIVE V ACUUMS.**
- 3. 9; BY 18' PARKING SPACES SHALL BE ESTABLISHED AND STRIPED ALONG THE GUARD RAIL ALONG THE WESTERLY PROPERTY LINE, AS WELL AS ALONG THE LEASE LINE TO THE RIGHT OF THE EXISTING BUILDING.**

AND FOR THE FOLLOWING REASONS:

- 1. COMPLIES WITH THE FIRE CODE SUPPRESSIOSN REQUIREMENT FOR GAS STATIONS.**
- 2. PROVIDES CONVENIENCE AND PROTECTION FROM THE ELEMENTS FOR PATRONS.**
- 3. HARDSHIP EXIST WHEN TRYING TO IMPOSE CURRENT CODE REQUIREMENTS ON AN OLDER FULLY DEVELOPED UNDER SIZED LOT.**

**** COMMISSIONER SHEPARD SECONDED.
** THE MOTION PASSED UNANIMOUSLY.**

ITEM #2 RE: 1253 RESERVOIR AVENUE – Seeking a variance of the minimum front setback requirement of Sec. 5-1-3 to permit the construction of a 2nd-floor addition to the existing single-family dwelling in a RA zone.

**** COMMISSIONER GRACE MOVED TO DEFER #2, AILTON GONCALVES (OWNER), 1253 RESERVOIR AVENUE TO DECEMBER 12, 2017.
** COMMISSIONER ALVES SECONDED.
** THE MOTION PASSED UNANIMOUSLY.**

ITEM #3 RE: 2810 (aka 2798-2810) FAIRFIELD AVENUE – seeking to expunge two (2) conditions of approval (#1 and #3) to a petition granted by the Zoning Board of Appeals on 12/09/08, which granted a service bar only, café liquor permit in an existing restaurant in an OR zone.

**** COMMISSIONER GRACE MOVED TO DEFER #3, LA TAVERN KITCHEN & BAR, LLC (SANTIAGO LUNA, LESSEE), 2810 (aka 2798-2810) FAIRFIELD AVENUE TO DECEMBER 12, 2017.
** COMMISSIONER ALVES SECONDED.
** THE MOTION PASSED UNANIMOUSLY.**

ITEM #4 RE: 848 MAPLEWOOD AVENUE – Seeking a use variance under Sec. 6-1-2 to permit the construction of a single-family dwelling in an OR zone.

**** COMMISSIONER SHEPARD MOVED TO GRANT #4, HABITAT FOR HUMANITY (KEVIN MOORE, DIRECTOR OF CONSTRUCTION), 848 MAPLEWOOD AVENUE WITH THE FOLLOWING CONDITIONS:**

- 1. THE DEVELOPMENT OF THE SUBJECT PREMISES SHALL BE IN STRICT ACCORD WITH THE PLANS SUBMITTED TO AND APPROVED BY THE BOARD.**
- 1. THE PETITIONER SHSALL FILE PLANS AND APPLICATIONS FOR THE ISSUANCE OF A CERTIFICATE OF ZONING COMPLAINCE AND A BUILDING PERMIT.**
- 2. THE FRONT OF THE SUBJECT PREMISES SHALL BE PLANTED WITH LOW LYING SHRUBS, PROPERLY MAINTAINED AND REPLACED WHEN NECESSARY.**

AND FOR THE FOLLOWING REASON:

- 1. THE UNIQUE AND IRREGULAR SHAPE OF THE SUBJECT PRMISES RESTRICTS ANY COMPLIANT OFFICE OR RETAIL USE.**

**** COMMISSIONER ALVES SECONDED.**

**** THE MOTION PASSED UNANIMOUSLY.**

OTHER BUSINESS

55 ANDOVER STREET (MARJAM SUPPLY CO.)

Mr. Buckley stated that, during the October 10th decision session, when the Board discussed and made a motion regarding the above-mentioned property, the coastal area management was not addressed.

**** COMMISSIONER CAROLAN MOVED TO GRANT THE COASTAL AREA MANAGEMENT APPROVAL FOR 55 ANDOVER STREET (MARJAM SUPPLY CO.) WITH THE FOLLOWING CONDITIONS:**

- 1. THE PETITIONER SHALL FILE PLANS AND APPLICATIONS FOR A CERTIFICATE OF ZONING COMPLIANCE AND A BUILDING PERMIT FOR THE CHANGE OF USE.**

AND FOR THE FOLLOWING REASONS.

- 1. THE NATURE OF THE BUILDING SUPPLY BUSINESS, AS WELL AS THE PREVIOUS FOUNDRY USE IS NOT SUITABLE FOR THE POANTING OF TREES AND SHRUBS.**
- 2. OUTDOOR STORAGE OF LUMBER AND BUILDING MATERIALS IS BOTH CUSTOMARY AND PRACTICABLE IN THE BUILDING SUPPLY INDUSTRY.**
- 3. THE PROJECT AS APPROVED WILL HAVE NO ADVERSE IMPACT ON THE COASTAL AREA.**

**** COMMISSIONER GRACE SECONDED.
** THE MOTION PASSED UNANIMOUSLY.**

APPROVAL OF MINUTES

OCTOBER 10, 2017 (SPECIAL MEETING)

Commissioner Grace stated that on page 4, the name should read, “Wanda Simmons” instead of “Martha Simmons.”, and on page 12, the sentence should read, “...off-street parking” instead of “on-street parking.”

**** COMMISSIONER GRAVE MOVED TO APPROVE THE MINUTES OF OCTOBER 10, 2017 (SPECIAL MEETING) AS AMENDED.
** COMMISSIONER CAROLAN SECONDED.
** THE MOTION PASSED UNANIMOUSLY.**

MINUTES FOR OCTOBER 10, 2017 (REGULAR MEETING)

MINUTES FOR OCTOBER 17, 2017 (REGULAR MEETING)

**** COMMISSIONER GRACE MOVED TO APPROVE MINUTES FOR OCTOBER 10, 2017 (REGULAR MEETING) AND MINUTES FOR OCTOBER 17, 2017 (REGULAR MEETING).
** COMMISSIONER CAROLAN SECONDED.
** THE MOTION PASSED UNANIMOUSLY.**

ADJOURNMENT

- ** COMMISSIONER CAROLAN MOVED TO ADJOURN THE MEETING.**
- ** COMMISSIONER GRACE SECONDED.**
- ** THE MOTION PASSED UNANIMOUSLY.**

Chair Piccirillo adjourned the meeting at 7:30 PM.

Respectfully submitted,

Nerina Kagan
Telesco Secretarial Service