

**ZONING BOARD OF APPEALS  
WINDHAM, CT**

**MINUTES**

**NOV. 1, 2007**

The Zoning Board of Appeals held its meeting on November 1, 2007 in Town Hall. Chairman Ernest Eldridge called the meeting to order at 7:00 P.M. Members present were Jose Cruz, Charles Krich, Donald Potter, Ernest Eldridge, Robert Coutu, Steven Edelman and Al Beaulieu. Voting members are Krich, Potter, Eldridge, Beaulieu and Coutu. Also present was Town Planner James Finger.

**I) Public Hearings**

**a) Domenico & Maria Rosa Pillari, 45 Wilson Street, Willimantic**  
Variance from Sections 3.10.2; 35.3 and 35.5 for addition to house – expansion of non-conforming prohibited use in the C-2 Zone and also for side yard setbacks.

Luigi Pillari, speaking on behalf of the applicants, said we are seeking a variance in order to construct a small 12'X18' addition to the rear of the house in order to add a handicap accessible bathroom and closet. He said these modifications to the existing house will make things easier for his parents who are getting older in age.

Planner Finger explained that this is an existing house that precedes the zoning regulations. The area was zoned heavy commercial (C-2) which does not allow residential uses. They have an existing home and they need to expand for better living accommodations. Planner Finger said he does not have the ability to approve the variance, thus he has referred the request to the board and recommends granting approval

Board member Al Beaulieu referred to the side handicap ramp. Mr. Pillari said it will be on the south side, adding that there is enough distance from the property line. Planner Finger said this will abut an open lot owned by CL&P and he doesn't foresee any problem granting the variance.

Board member Steven Edelman said court cases pursuant to Section 8-2 of the Conn. Statutes specifically allow a reasonable expansion of existing non-conforming uses and this application clearly falls within those parameters.

Since there were no public comments the public hearing was closed. Al Beaulieu made a motion to grant Domencio & Maria Rosa Pillari of 45 Wilson Street, Willimantic a variance from Sections 3.10.2, 35.3 and 35.5 for an addition to the house – expansion of non-conforming prohibited use in the C-2 zone and side yard setback. Bob Coutu seconded the motion. The motion carried unanimously.

**b) Psychic Studio (aka Elizabeth Stevens) for 114 Pleasant Street, Willimantic** – variance from Section 80.3 to permit home occupation in a 2-family dwelling.

In his staff report Planner Finger explained the property is located at the corner of Pleasant Street and South Street across from the Frog Bridge, and is in an NPR-2 Residential zoning district. He said the regulations only allow a home occupation in a single-family dwelling. He said the board could construe it as a practical difficulty. It is an excellent location for business especially for this kind of activity. It has excellent visibility at the intersection of the Frog Bridge and Pleasant Street. The area does accommodate professional office uses. He said he is not opposed to granting the variance, he just doesn't have the authority to approve it.

Chairman Eldridge said his only concern is parking. He asked if the parking area will be tarred, or will it be gravel, or are you just going to park on the lawn? Ms. Stevens said the customer parking area will be gravel. Chairman Eldridge asked how many people will occupy the building. Ms. Stevens said there is one apartment upstairs and herself. She said clients will be by appointment only.

Board member Steven Edelman said the current regulations do not encourage people to undertake initiative for new business. Planner Finger said the provision limits home occupations to single-family homes only, and, he cannot go past that. It is not something that he can override. Edelman said these kinds of applications should receive a favorable review.

Board member Bob Coutu asked how many customers would be seen on an average day and how long the appointments would be. Ms. Stevens said she would probably see two or three people a day. She said she would only be open from 9AM to 3PM., Monday – Friday, and appointments may vary depending on the person. A reading could go from 20 minutes to 30 minutes, she said. Coutu said the plan doesn't show any dimensions of the kitchen or of the room that will be used for the readings. Chairman Eldridge said this drawing shows a room 14' X 14', is that the room that you are going to be using? Board member Al Beaulieu said this drawing shows a kitchen and it looks like there is a room within the kitchen. Planner Finger confirmed that it is a room within the kitchen. It is not a separate room. Coutu asked is there a waiting area for customers? Ms. Stevens said customers waiting for their

appointment would wait in her living room. Planner Finger said it would be similar to having company. It is not like a typical office in a business where you have segregated waiting areas. He said it is a small lot. There is very limited room to park so it is not likely she will have much overflow at any given time, and I imagine due to privacy concerns she wouldn't want to have people drop in on her. It is not the typical type of business. If you are concerned with the volume of activity and the number of cars certainly you could impose conditions on the hours, the number of visitors at any given time and if there is any change in her operation she would have to come back to the board.

Board member Al Beaulieu referred to the sign and asked if it would be positioned so not to block the view of vehicles exiting South Street. Is it going to be directly in front of the building where it will not block the view, he asked. Ms. Stevens said the sign will be positioned more towards the house. Planner Finger said the sign could be 10 feet high sign so you could have it above the bushes.

As there were no public comments, the public hearing was closed. Charles Krich made a motion to grant a variance from Section 80.3 to permit a home occupation in a 2-family house with the conditions that 1) the hours of operation be limited to 9AM to 3PM, Monday – Friday, and 2) provide parking for 2 cars only on the premises located in the area (as shown on the map) by the kitchen. Al Beaulieu seconded the motion. The motion carried unanimously.

**c) Lowe's Home Centers, Inc. for property located between 1562 West Main Street and 161 Chronicle Road, Willimantic (aka) C.C. Lounsbury)** seeking a Special Exception in accordance with Section 35.7 of the Zoning Regulations for higher lot coverage.

Planner Finger said the proposal is to build a 137,933 square foot building which has a garden center with covered areas that result in an overall lot coverage of 163,029 square feet or 27% of the lot. It is not an entirely enclosed building so much as the rules identify the "porches and other covered area" as lot coverage. The current Zoning Regulations allow for 25% lot coverage so Lowe's exceeds that by 2%, said Finger.

The secretary read into the record a consent letter from Jane Haney, who is the current owner of the property. She stated she is aware of the various land use applications filed or to be filed with the Town of Windham by or on behalf of Lowe's Home Centers and agrees that such applications may be filed. She further gives her consent that representatives of the town may enter her property in connection with the applications for the proposed development. She also gives consent to Lowe's undertaking the proposed activities under

the various applications in accordance with the terms of agreements between herself, Lowe's and the potential purchaser of the property.

Attorney Michael Camilleri, with the firm of Brown Rudnick, representing Lowe's Home Centers, said signs were posted and notices were sent to the adjacent property owners in accordance with your regulations. He said the application is for an approximate 137,000 square foot building and a 31,000 square foot garden center located at 1562 West Main Street and 161 Chronicle Road. He gave a history of the application process. In November 2005 the Zoning Commission approved a zone change for a portion of the property from M-4 to C-2 to allow for the development of this project. We received on-site improvements approval from the Wetlands Commission in April 2006 and then approval for off-site improvements in October 2007. He said we have also filed an application with the Zoning Commission for work in a flood hazard area, payment in lieu of the parking requirement and for trade-mark copyright building design for the sign package associated with the project. We also have a site development application before the Zoning Commission. He said the Zoning Commission couldn't approve the Special Permit because of the application before this board.

He said this application is for a Special Exception for lot coverage. Your regulations allow for 25% lot coverage and we are slightly over that at 26.70% so we are 2% over the requirements. Your regulations allow for a Special Exception to increase that lot coverage, he said.

Robert Pryor, a licensed professional engineer and land surveyor with Lagan Engineering and Environmental Services, referred to an aerial photo of the area. He identified the subject property for the proposed Lowe's store which is the site of the former C.C. Lounsbury Co. He said the site is located to the south of Route 32 (West Main Street) and to the north of Route 66 and to the north and west of Capitol Drive. The Willimantic Waste Paper Company is our neighbor to the west. He referred to an existing conditions survey which shows a little bit more detail of what exists on the site. There is a small pond in the middle of the property and also a small amount of wetlands associated with that pond, as well as a small amount of wooded area upwards toward Main Street. A portion of the site lies within the 100-year flood zone for which we have received a Special Permit to do work within that flood zone. The site is approximately 20-25 feet below the elevation of Main Street in this area. He said the main access to the site will be from Route 32 at a signalized driveway, (there will be a traffic signal up on Route 32). There will also be a secondary access out to Chronicle Road, he added. The main parking field will be in the front of the store. We are proposing 640 parking spaces, of which 520 will be in the front area with the rest of the spaces located on the sides of the building, as well as the back of the building. He said the areas counted for building coverage were the main building, the covered portions of the garden center (there are 2 separate covered portions of the garden center).

The front garden center is the greenhouse portion and this has a translucent roof. There is also a solid covered portion of the garden center which will be used for the storage of merchandise that cannot be exposed to the elements. We also counted the customer lumber canopy at the front of the store, as well as the customer entry canopy in the front of the store for building coverage. We did not count the uncovered portions of the garden center that are open to the sky because they are not considered part of the building, said Pryor. Chairman Eldridge said the building is conforming, but the canopies make it non-conforming. Mr. Pryor said the additional covered areas and customer covered area pushes it over.

Board member Donald Potter expressed concern about the traffic on Chronicle Road at the back end of the site. He said he is worried that trucks and customers will use the Chronicle Road entrance to the site instead of Route 32. Mr. Pryor said the existing entrance to the C.C. Lounsbury property is at the end of Chronicle Road. We are proposing to maintain that entrance to the back of Lowe's, but the primary entrance will be off Route 32. We would anticipate that the majority of the trucks will be coming from Route 6 down Route 32 and entering the store through the front entrance. This is more of a secondary entrance for customers who would be coming from Route 66. We don't anticipate much truck traffic from that direction because trucks making the turn from Route 66 onto Chronicle Road will have a difficult maneuver and we don't foresee that trucks will be making that maneuver. He then referred to the proposed drainage system. We are proposing to enhance the existing drainage system by providing storm water treatment for the discharge from oils, and sediments collected in the storm water treatment chamber that will be maintained by Lowe's and will discharge to the Willimantic River. We are proposing to enhance the existing storm water system that is on the site as well, he added.

He then discussed the traffic issue and referred to the aerial photo. He said as part of our traffic study we looked at 13 intersections along Route 32 and also the intersection of Capitol Drive and Route 66. We are proposing a signal at the entrance to Lowe's on Route 32. Initially the location of the DeVivo driveway was a problem as far as having our driveway and the De Vivo driveways so close together. A traffic light at our intersection could cause cars to back up so that trucks wouldn't be able to get out of the DeVivo driveway. We reached an agreement with the DeVivo's to relocate their driveway so that the entrance to their driveway will not come out at the existing traffic light at the Willimantic Plaza. That will alleviate any conflicts with our new driveway and will also provide better operations for them because it will allow their trucks to be able to get out of their driveway at a signalized intersection as opposed to an unsignalized intersection. Some additional improvements being proposed are widening the road at the General Cable driveway and the Willimantic Plaza driveway and to add a thru lane so that traffic flows in those areas during the peak times will be improved. The

results of our traffic study indicate that the performance of all these intersections will be improved. With the substantial improvements the level of service occurring at the General Cable drive and the Willimantic Plaza driveway will be improved because of the additional lane that we will be adding. Mr. Pryor said our plans have been submitted to the State Traffic Commission and we are working through the process with them.

Board member Al Beaulieu said he happens to live in the area and has a hard time getting out of his road (Trapella Road) now. This is going to back up traffic even more if you add two more lights to that road. We do have a tough time getting in and out of that road now. You are definitely going to increase the traffic flow on Route 32 going to Lowe's. It will probably be doubled. Mr. Pryor said he understood the concern. I can assure you that the State Traffic Commission would not allow a traffic light in that location because they don't allow them that close together. The State will not allow us to severely degrade the performance at your street any worse than it is now. As far as improving it, I can't guarantee that it will improve. Mr. Beaulieu said it could be improved by adding another light before our road and when the traffic light at Shaw's goes red, this one could also go red back there and allow these vehicles to get out. Mr. Pryor said they suggested that same solution (getting two lights on one control) in that location and it was thoroughly denied by the State Traffic Commission.

In closing, Mr. Pryor said I believe we have demonstrated what we need to demonstrate to have the Special Exception granted for the minor overage and the building coverage.

Board member Donald Potter asked if we grant you the okay and then all of a sudden we hear of problems on the Chronicle Road side will you take care of it. Larry LaPere, Senior Site Development Manager with Lowe's, said if there were problems with our trucks coming in on Chronicle Road they would be told to use the Route 32 entrance. We wouldn't have an issue telling our trucks to use a specific route. We can mandate that, said LaPere. Board member Jose Cruz asked how many trucks would be coming into Lowe's during a given day. Mr. LaPere said probably 12 or 14 trucks.

Audience comments: 1) Dan Rotino, an adjoining property spoke in favor of the proposal. I think Lowe's coming in will be a big boost to the town. I don't think that traffic will be that much of a problem. 2) Donald Aubrey, representing the Haney family, said their business (C.C. Lounsbury) which generated 30 to 60 truck trips a day has fully relocated to South Windham. He said the parking proposed by Lowe's is more than adequate. He reviewed the traffic plan and said this traffic plan will improve traffic movements on Route 32. He said this is the best-improved traffic proposal that the town has seen in many years. Lowe's will be a big boom to the town and I know no technical reason why anyone would turn this down. 3) Curtis Ehler spoke in

opposition. He said he believes the company undercuts small businesses and doesn't treat its employees well. He said he will continue to support the small businesses in town and encouraged others to do so.

As there were no other comments, the public hearing was closed. Bob Coutu made a motion to grant Lowe's Home Centers a Special Exception to allow for aggregate lot coverage of approximately 27% of the area of the lot as allowed pursuant to Section 35.7 of the Zoning Regulations with a condition that the excess of the 25% remain open and not walled. Donald Potter seconded the motion. The motion carried unanimously.

## **II) Routine Business**

- a) The minutes of October 4, 2007 were approved. Motion by Al Beaulieu seconded by Charles Krich. The motion carried unanimously.
- b) The minutes of September 6, 2007 were approved. Motion by Charles Krich seconded by Donald Potter. The motion carried unanimously.
- c) Charles Krich thanked Chairman Ernest Eldridge for his past services to the board. Eldridge was recently elected to the Board of Selectman and will be vacating his seat on the zoning Board of Appeals.

As there was no other business to come before it, the meeting was adjourned at 8:35 P.M.

Respectfully submitted,

Lillian Murray, Clerk