



Town of Cromwell Zoning Board of Appeals

PUBLIC HEARING AND MEETING
6:30 P.M. TUESDAY, September 13, 2016
ROOM 224 CROMWELL TOWN HALL, 41 WEST STREET

AGENDA

RECEIVED FOR FILING
9/13 2016 at 9:23 AM.
TOWN CLERK'S OFFICE
CROMWELL, CONN.

Flora Prudergast Asst
TOWN CLERK

1. Call to Order
2. Roll Call
3. Seating of Alternates
4. Approval of Agenda
5. Public Comments
6. Public Hearing:
 - a. Application #16-10: Request for Variances from Section 2.2.B Bulk Requirements of the Zoning Regulations (Side Yard and Side Yard Setback Aggregate) to allow for the construction of an addition at 104 Shunpike Road. Stephen A. and Diana L. Palmer are the Applicants and the Owners.
 - b. Application #16-11: Request for Variances from Section 2.2.B Bulk Requirements of the Zoning Regulations (Rear Yard and Side Yard Setback Aggregate) to allow for the construction of garage at 5 Greendale Avenue. Joseph S. Damiata is the Applicant and the Owner.
 - c. Application #16-12: Request for a Variance to permit the expansion of a nonconforming use (retail convenience store) within the Business Industrial Park District Zone at 164 West Street. Mukesh A. Patel is the Applicant and Sunoco LLC is the Owner.
7. Commissioners Comments:
8. Approval of Minutes:
 - a. June 14, 2016
 - b. July 12, 2016
9. Adjourn

LEGAL NOTICE
PUBLIC HEARING
TOWN OF CROMWELL ZONING BOARD OF APPEALS

The Cromwell Zoning Board of Appeals will hold a Public Hearing and Meeting at 6:30 pm on Tuesday September 13, 2016 in Room 224 of the Cromwell Town Hall at 41 West Street on the following item:

1. Application #16-10: Request for Variances from Section 2.2.B Bulk Requirements of the Zoning Regulations (Side Yard and Side Yard Setback Aggregate) to allow for the construction of an addition at 104 Shunpike Road. Stephen A. and Diana L. Palmer are the Applicants and the Owners.
2. Application #16-11: Request for Variances from Section 2.2.B Bulk Requirements of the Zoning Regulations (Rear Yard and Side Yard Setback Aggregate) to allow for the construction of garage at 5 Greendale Avenue. Joseph S. Damiata is the Applicant and the Owner.
3. Application #16-12: Request for a Variance to permit the expansion of a nonconforming use (retail convenience store) within the Business Industrial Park District Zone at 164 West Street. Mukesh A. Patel is the Applicant and Sunoco LLC is the Owner.

At this hearing interested parties may appear and be heard, and written testimony received. The application is on file in the office of the Town Planner at 41 West Street, Cromwell, Connecticut.

Joseph Morin
Chairman


Dated in Cromwell, Connecticut this 25th day of August 2016

16-10
9/13/16

rev. 6/20/2011

TOWN OF CROMWELL
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE, ZONING APPEAL, DMV LOCATION APPROVAL,
OR CHANGE OF NON-CONFORMING USE SPECIAL PERMIT

Address: 104 Shunpike Road, Cromwell	PIN #: 00364600
Zoning District: A-25	Volume/Page: 1498 / 50
Applicant: Stephen & Diana Palmer	Property Owner:
Home or Business Address: 104 Shunpike Road Cromwell, CT 06416	Home or Business Address:
Phone #: (860) 462-9660	Phone:
Email: Stephen.palmer1@yahoo.com	
<i>I hereby certify that the information presented is to the best of my knowledge true and accurate, and that should such information be proved to be inaccurate or misleading, any permit issued on the basis of this information may be revoked.</i>	<i>I hereby consent to the Applicant acting as my agent for the purpose of this application.</i>
Signature: 	Signature:
Type of Application (check one): <input checked="" type="checkbox"/> Variance from Section 2.2.B of the Zoning Regulations. Side Yard + Aggregate. <input type="checkbox"/> Appeal from ZEO Decision dated _____ <input type="checkbox"/> Change of Non-Conforming Use Special Permit. <input type="checkbox"/> Application for Motor Vehicle Location Approval (attach copy of your completed DMV Form K-7)	
Description of Request: See attached	

Justification for Request:

If Applying for a variance, state the hardship and explain why the variance is required.

If Appealing a decision of the ZEO, explain why you feel the ZEO is wrong.

If Applying for a change in non-conforming use Special Permit, explain how the new use will be less non-conforming than the current use.

If Requesting DMV Location Approval, state the date of the original Public Hearing (if any).

see attached

1. I will send written notice of this application to the owners of property within 100' of the site not less than 14 days before the public hearing. I will submit the "certificate of mailing" not less than 10 days before the hearing.

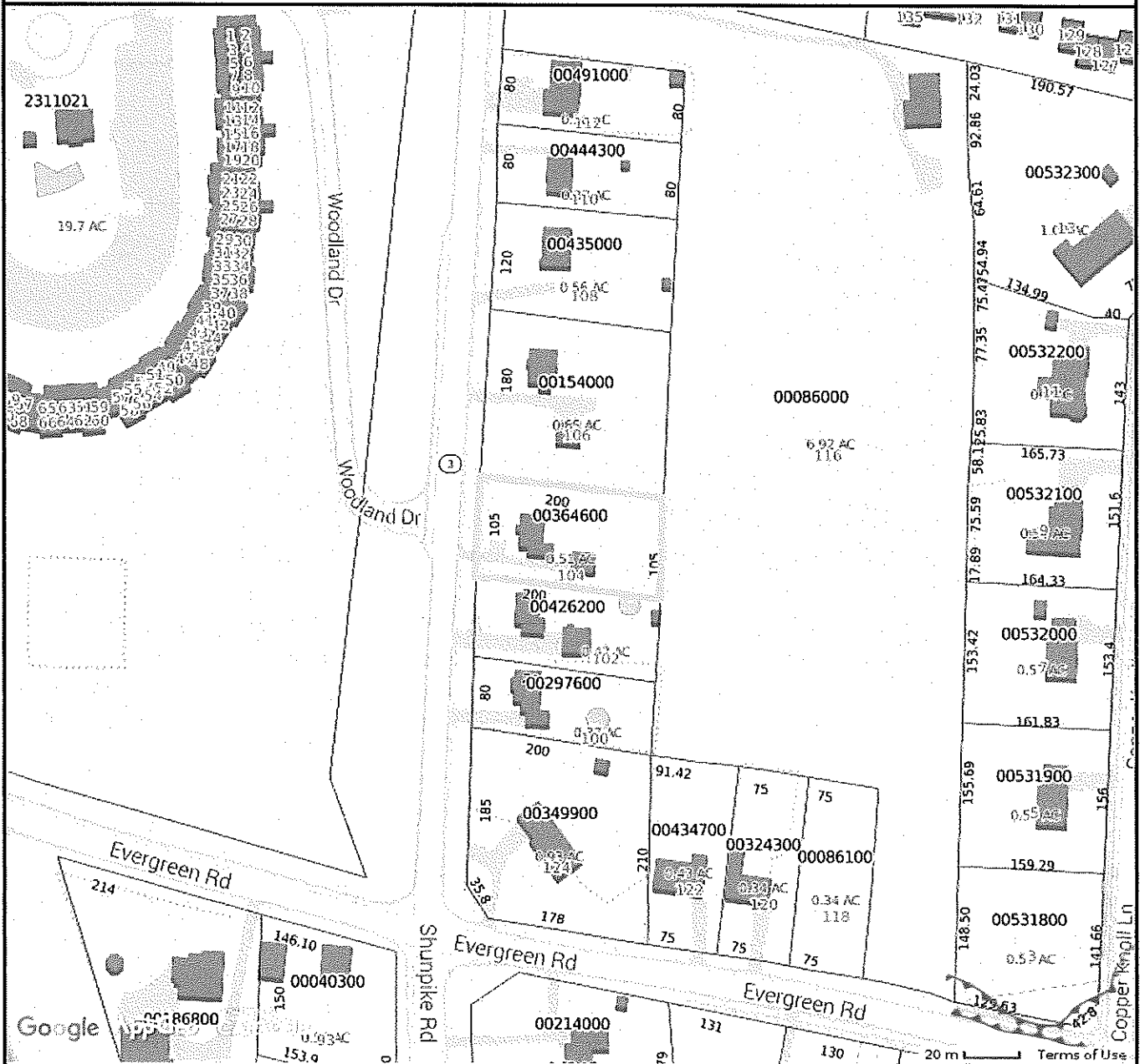
2. I will post a sign on the property not less than 14 days before the public hearing per Section 8.10.H. of the Cromwell Zoning Regulations. I will submit an affidavit of posting at the hearing.

3. If my request is dimensional in nature, I have submitted a site plan prepared by a surveyor in accordance with Sec. 10.4.B.2 of the Cromwell Zoning Regulations.



applicant

8/10/16
date



Property Information

Property ID 00364600
Location 104 SHUNPIKE ROAD
Owner PALMER STEPHEN A & DIANA L



MAP FOR REFERENCE ONLY
 NOT A LEGAL DOCUMENT

Town of Cromwell, CT makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Parcels updated 10/1/2015
 Properties updated daily

*Lot = 21,000**
*Footprint = 15000**
7% Lot Coverage
15% MAX COVERAGE.

E

N

106

100

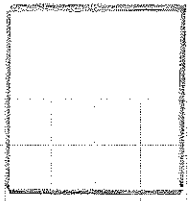
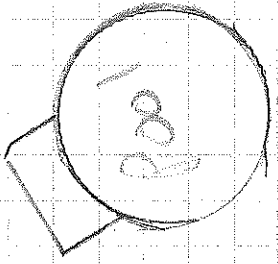
10' 6"

25'

26' (proposed)

20'

46' (current)



SEWER

S

102

104

Shunpike Rd

W 105'

E

1 cube = 1 foot

N

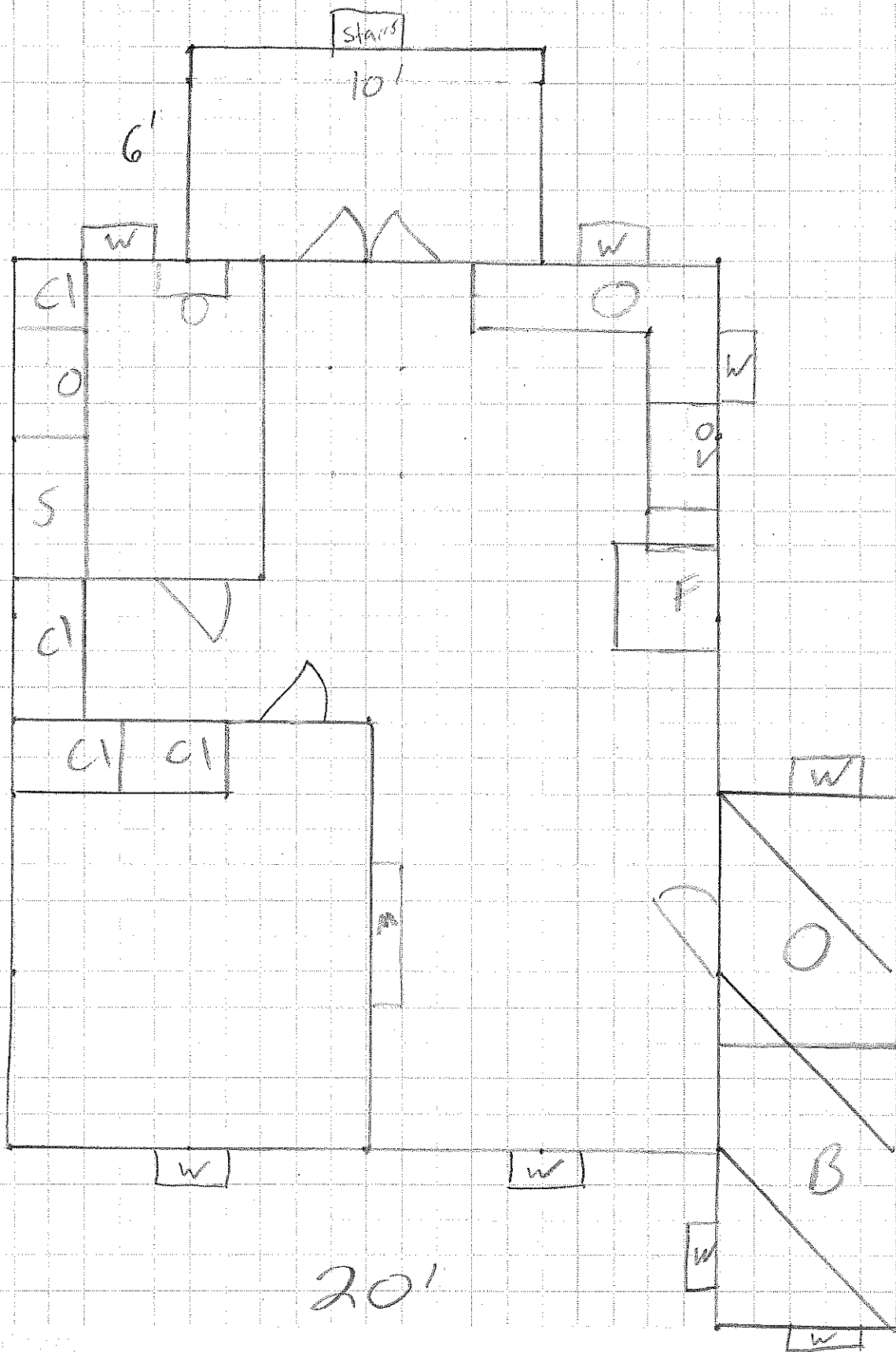
S

25'

20'



← Shunpike Rd →

W



TOWN OF CROMWELL ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE, ZONING APPEAL, DMV LOCATION APPROVAL, OR CHANGE OF NON-CONFORMING USE SPECIAL PERMIT

Address: 5 GREENDALE AVE.	PIN #:
Zoning District: A-25	Volume/Page: 704 - 283
Applicant: JOSEPH DAMIATA	Property Owner: JOSEPH DAMIATA
Home or Business Address: 5 GREEN DALE AVE CROMWELL CT 06416	Home or Business Address: 5 GREENDALE AVE. CROMWELL CT 06416
Phone #: 860 930-0807	Phone: 860 930-0807
Email: sebpen@aol.com	
<i>I hereby certify that the information presented is to the best of my knowledge true and accurate, and that should such information be proved to be inaccurate or misleading, any permit issued on the basis of this information may be revoked.</i>	<i>I hereby consent to the Applicant acting as my agent for the purpose of this application.</i>
Signature: 	Signature: 
Type of Application (check one): <input checked="" type="checkbox"/> Variance from Section _____ of the Zoning Regulations. <input type="checkbox"/> Appeal from ZEO Decision dated _____ <input type="checkbox"/> Change of Non-Conforming Use Special Permit. <input type="checkbox"/> Application for Motor Vehicle Location Approval (attach copy of your completed DMV Form K-7)	
Description of Request: VARIANCE FOR REAR YARD SET BACK LINE AND SIDEYARD AGGREGATE SET BACK LINES	

Justification for Request:

If Applying for a variance, state the hardship and explain why the variance is required.


If Appealing a decision of the ZEO, explain why you feel the ZEO is wrong.

If Applying for a change in non-conforming use Special Permit, explain how the new use will be less non-conforming than the current use.

If Requesting DMV Location Approval, state the date of the original Public Hearing (if any).

THE IRREGULAR SHAPE OF THE LOT - THE BACK (REAR) LOT LINE IS NOT PERPENDICULAR TO THE FRONT LOT LINE. THE ORIGINAL PLACEMENT OF THE EXISTING HOUSE ANGLES IT TO THE NARROWEST PART OF THE LOT AND ALSO PLACES IT 10' FURTHER FROM THE FRONT YARD SET BACK (BUILDING LINE) THE REAR YARD SETBACK IS CURRENTLY 38'. THE BACK YARD HAS A SEPTIC SYSTEM IN THE AREA THAT WOULD CONFORM + THE GARAGE BUILT IN FRONT OF THE HOUSE WOULD IMPAIR THE AESTHETICS OF THE PROPERTY AND SURROUNDING HOMES.

1. I will send written notice of this application to the owners of property within 100' of the site not less than 14 days before the public hearing. I will submit the "certificate of mailing" not less than 10 days before the hearing.
2. I will post a sign on the property not less than 14 days before the public hearing per Section 8.10.H. of the Cromwell Zoning Regulations. I will submit an affidavit of posting at the hearing.
3. If my request is dimensional in nature, I have submitted a site plan prepared by a surveyor in accordance with Sec. 10.4.B.2 of the Cromwell Zoning Regulations.



applicant

AUGUST 15, 2016

date

S GREENDALE AVENUE
JOSEPH DAMIATA

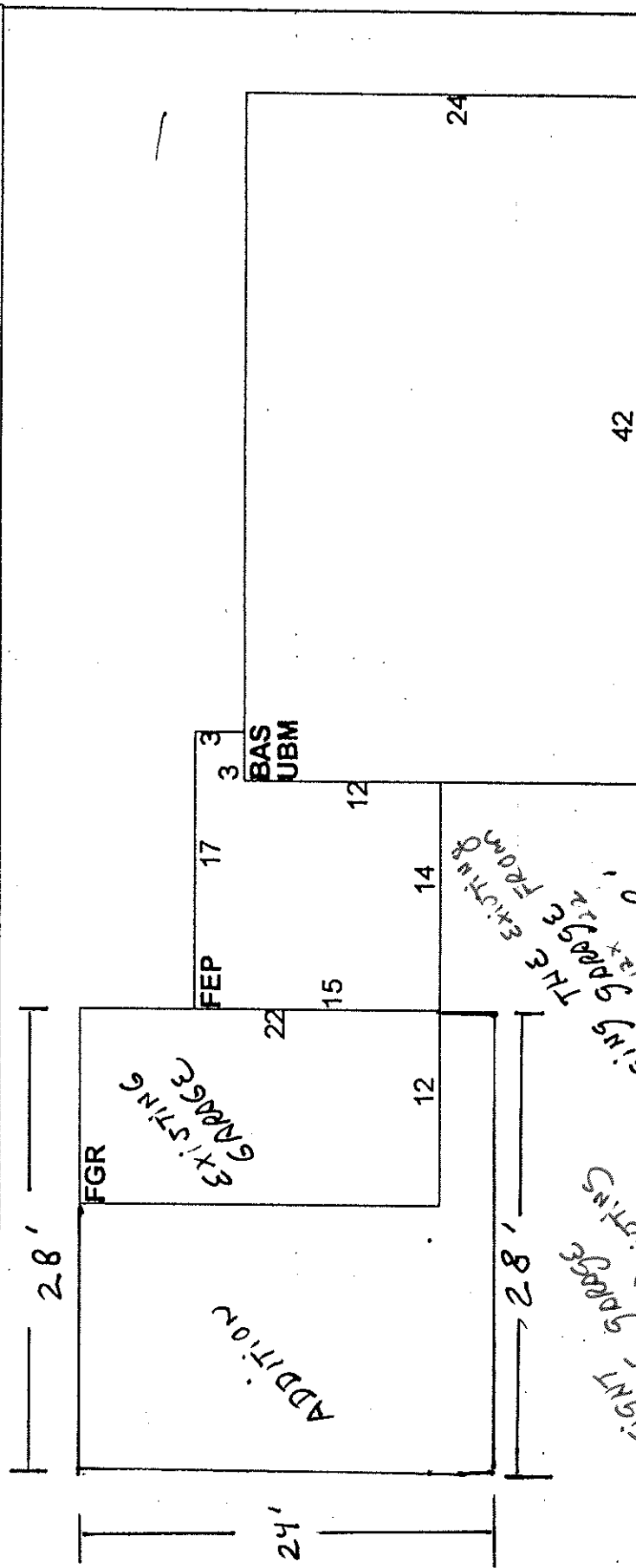
Bldg Name:

State Use: 101

of 1 Sec #: 1 of 1

Card 1 of 1

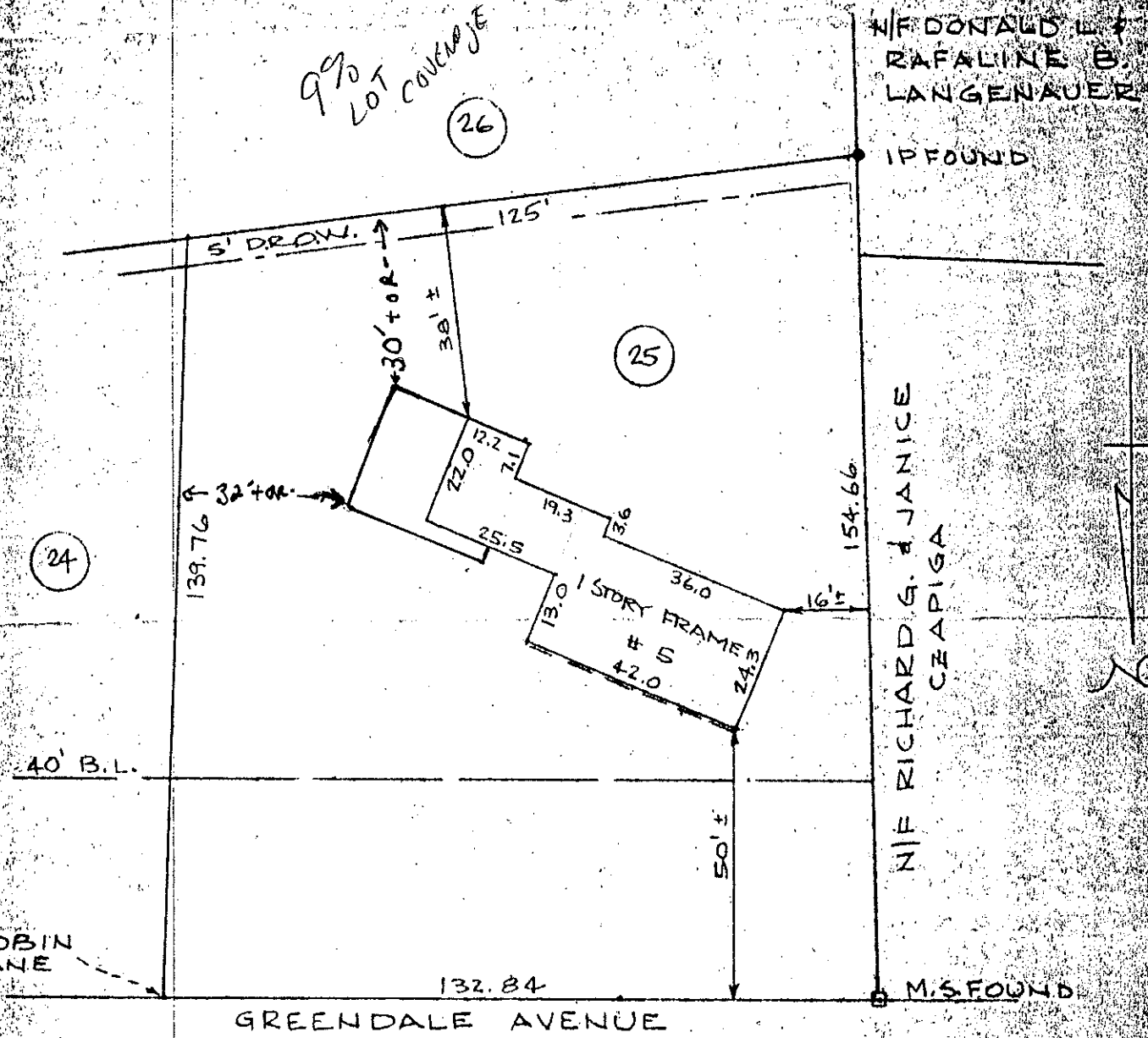
Print Date: 01/07/2013 19:50



CHANGING THE EXISTING
TO 12' x 28'
TO 12' x 28'

HEIGHT OF GARAGE
MATCH TO EXISTING
MAIN HEIGHT.

Numbers refer to map entitled "Fairway Haven Property of Morris Bartel, Joseph J. Battaglia, Carl Haffel, Edwin R. Keast, Trustee, Cromwell, Conn. Scale 1" = 60 ft. July, 1955. Revised Aug. 11, 1955, Sept. 26, 1955. See New York & Cornell Land Surveyors, Cromwell, Conn." Lot area and frontage are non-conforming under current zoning regulations. Lot was established prior to the current zoning regulations. House near yard does not comply with the restrictive covenants in Vol. 53 Pg. 487. Minimum is 40'.



I hereby certify to the Society for Savings that this plan is substantially correct and that no zoning regulations have been violated.

Henry J. Shaw

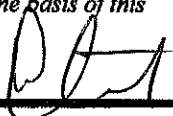
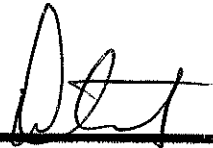


MORTGAGE SURVEY
 JOSEPH J. PANDOLFI
 5 GREENDALE AVENUE
 CROMWELL, CONNECTICUT
 SCALE 1"=30' NOVEMBER 14, 1977

STRAUSS ENGINEERING ASSOCIATES
 CONSULTING ENGINEERS-SURVEYORS
 WEST HARTFORD, CONNECTICUT

**TOWN OF CROMWELL
ZONING BOARD OF APPEALS**

**APPLICATION FOR VARIANCE, ZONING APPEAL, DMV LOCATION APPROVAL,
OR CHANGE OF NON-CONFORMING USE SPECIAL PERMIT**

Address: 164 West Street (CT Route #372)	PIN #: 4196
Zoning District: BP (Business Industrial Park)	Volume/Page: 1505/34
Applicant: Mukesh A. Patel	Property Owner: Sunoco LLC
Home or Business Address: 812 Stonington Road Stonington, CT 06378	Home or Business Address: c/o KE Andrews & Co. 1900 Dalrock Road Rowlett, TX 75088
Phone #: 860-710-6349	Phone:
Email: mpatel678@yahoo.com	
<i>I hereby certify that the information presented is to the best of my knowledge true and accurate, and that should such information be proved to be inaccurate or misleading, any permit issued on the basis of this information may be revoked.</i> Signature: 	<i>I hereby consent to the Applicant acting as my agent for the purpose of this application.</i> Signature: 
Type of Application (check one):	
<input checked="" type="checkbox"/> Variance from Section <u>3.4.C.3.</u> of the Zoning Regulations.	
<input type="checkbox"/> Appeal from ZEO Decision dated _____.	
<input type="checkbox"/> Change of Non-Conforming Use Special Permit.	
<input type="checkbox"/> Application for Motor Vehicle Location Approval (attach copy of your completed DMV Form K-7)	
Description of Request:	
Applicant requests a variance to permit the expansion of a non-conforming use (retail convenience store within a Business Park zone).	

Justification for Request:

If Applying for a variance, state the hardship and explain why the variance is required.

If Appealing a decision of the ZEO, explain why you feel the ZEO is wrong.

If Applying for a change in non-conforming use Special Permit, explain how the new use will be less non-conforming than the current use.

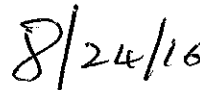
If Requesting DMV Location Approval, state the date of the original Public Hearing (if any).

Hardship is that the property was rezoned to BP, which does not allow retail store use.

1. I will send written notice of this application to the owners of property within 100' of the site not less than 14 days before the public hearing. I will submit the "certificate of mailing" not less than 10 days before the hearing.
2. I will post a sign on the property not less than 14 days before the public hearing per Section 8.10.H. of the Cromwell Zoning Regulations. I will submit an affidavit of posting at the hearing.
3. If my request is dimensional in nature, I have submitted a site plan prepared by a surveyor in accordance with Sec. 10.4.B.2 of the Cromwell Zoning Regulations.



applicant



date



**Town of Cromwell
Zoning Board of Appeals**

RECEIVED FOR FILING
6-17 2016 at 8:58AM.
TOWN CLERK'S OFFICE
CROMWELL, CONN.

Leah Conway
TOWN CLERK

***PUBLIC HEARING AND MEETING
6:30 P.M. TUESDAY, JUNE 14, 2016
ROOM 224 CROMWELL TOWN HALL, 41 WEST STREET***

Minutes and Record of Votes

Present: Chairman Joseph Morin, Dan Delisle, John Keithan, Mark Zampino

Also Present: Director of Planning and Development Stuart Popper

1. **Call to Order** – The meeting was called to order by Chairman Morin at 6:32pm.
2. **Roll Call** – The presence of the above members was noted.
3. **Seating of Alternates** - none
4. **Approval of Agenda**

A **motion** was made by John Keithan and **seconded** by Dan Delisle to approve the agenda. *All were in favor; the motion passed.*

5. **Public Comments** -none

6. **Public Hearing**

- a. Application #16-07: Request for Variances from Section 2.2.B Bulk Requirements of the Zoning Regulations (Front and Side Yard Setbacks) to allow for the construction of a front porch at 56 Timber Hill Road. Manual Correia is the Applicant and CARMA LLC is the Owner.

Chairman Morin told the applicants that they need to have 4 votes in the affirmative to receive the variance. He said that since only 4 out of 5 members are in attendance tonight all 4 members must vote in the affirmative. You have the option to reschedule the hearing to next month if you choose. The applicant said they would be heard tonight.

A **motion** was made by John Keithan and **seconded** by Dan Delisle to open the public hearing for application 16-07. *All were in favor; the motion passed.*

Michael Jarvis said he is the designer of the addition at 56 Timber Hill Road. He said they are looking to expand the 8 feet by 8 feet existing porch. He said they received the building permit on the 20th pending receiving this variance. Mr. Jarvis used the GIS viewer map to explain the

new porch. He said a second floor will be added and the porch will go over approximately 11 feet and will not quite go to the corner of the house.

Mr. Delisle said he drove by the house today and there were people working on it and he thought the porch was needed and will be a good addition.

Mr. Popper said the house is non-conforming and the front yard setback will extend the front and side yard. Chairman Morin said so the distance from the road is the problem.

Chairman Morin asked for any members of the public who wanted to speak on this application. No one came forward.

A **motion** was made by John Keithan and **seconded** by Mark Zampino to close the public hearing for application 16-07. *All were in favor; the motion passed.*

A **motion** was made by John Keithan and **seconded** by Mark Zampino to approve application 16-07. *All were in favor; the motion passed.*

Chairman Morin said that the hardship is that is an existing building before the regulations were adopted. He said the porch is not obtrusive at all. He explained the 15 day waiting period to the applicant

7. Commissioners Comments:

Mr. Delisle asked about other applications and Mr. Popper said the Knights withdrew their application. He said the issue was 2 sections of the regulations saying the ZBA can't issue a variance for non-conforming uses in a residential zone. Mr. Popper said he submitted an application to amend/delete 2 sections of the zoning regulations. He reviewed sections 7.1.A on page 164 and section 1.04 on page 205. He said there are many non-conforming uses in residential zones now.

Chairman Morin said there are several resignations and alternate appointment letters in the package.

8. Approval of Minutes:

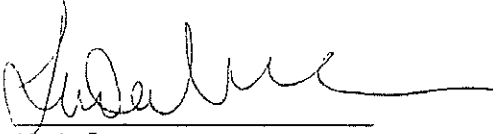
- a. April 12, 2016

A **motion** was made by Mark Zampino and **seconded** by John Keithan to approve the minutes of April 12, 2016 with the amendment of changing the name of Mark Fitzgerald to Mark Zampino. *All were in favor; the motion passed.*

9. Adjourn

A **motion** was made by John Keithan and **seconded** by Dan Delisle to adjourn at 6:47pm. *All were in favor; the motion passed.*

Respectfully Submitted

A handwritten signature in black ink, appearing to read "Linda Imme", written over a horizontal line.

Linda Imme
Recording Clerk



**Town of Cromwell
Zoning Board of Appeals**

RECEIVED FOR FILING
8/2 2016 at 2:21 P.M.
TOWN CLERK'S OFFICE
CROMWELL, CONN.

Flavia Prendergast, Asst.
TOWN CLERK

***PUBLIC HEARING AND MEETING,
6:30 P.M. TUESDAY, JULY 12, 2016
ROOM 224 CROMWELL TOWN HALL, 41 WEST STREET***

Minutes and Record of Votes

Present: Chairman Joseph Morin, Dan Delisle, John Keithan, Mark Zampino

Also Present: Director of Planning and Development Stuart Popper

1. **Call to Order** – The meeting was called to order by Chairman Morin at 6:32pm.
2. **Roll Call** – The presence of the above members was noted.
3. **Seating of Alternates** - none
4. **Approval of Agenda**

A **motion** was made by John Keithan and **seconded** by Mark Zampino to approve the agenda. *All were in favor; the motion passed.*

5. **Public Comments** – None.

6. **Public Hearing**

- a. Application #16-08: Request for Variances from Section 2.2.B Bulk Requirements of the Zoning Regulations (Front and Side Yard Setbacks) to allow for the construction of parking spaces in the front and side yards at 6 Kirby Road. Elias DiMichele is the Applicant and Luca & Sons Landscaping LLC is the Owner.
- b. Application #16-09: Request for Variance from Section 1.7 of the Zoning Regulations to allow for an accessory building without a principle building at 38 Field Road. Michael Millane is the applicant and Millane Nurseries, Inc. is the Owner.

Chairman Morin told the applicants that they need to have 4 votes in the affirmative to receive the variance. He said that since only 4 out of 5 members are in attendance tonight all 4 members must vote in the affirmative. You have the option to reschedule the hearing to next month if you choose. The applicants said they would be heard tonight.

A **motion** was made by John Keithan and **seconded** by Dan Delisle to open the public hearing for application 16-08. *All were in favor; the motion passed.*

Elias Di Michele said he is the applicant and with him tonight is the owner Mr. Luca of Luca & Sons Landscaping LLC and Jack Guilmartin from J L Surveying. Mr. Guilmartin said the 2,225 square foot; two story house is located on .24 acres in the Highway Business Zone on the north side of Kirby Road. He explained that the house is being remodeled and the first floor Antique business will become a barber shop and the second floor residence will remain. Mr. Guilmartin said the applicant is proposing to install parking in the front and side yard setbacks and hence the need for the variance.

Mr. Popper said the existing house with the proposed parking would not conform to the requirements for yard setbacks in the Highway Business Zone when a business use is next to a residential use. He said that creates the need for the variance. Mr. Popper explained that the Town Council had granted permission for the property owner to park in the town right of way in front of the house on Kirby Road.

Chairman Morin asked for any members of the public who wanted to speak on this application.

Town Council Samantha Slade of 128 Nooks Hill Road and a member of the Town Council confirmed that the Council had granted permission to park in the town right of way.

Chairman Morin said that the hardship is this is an existing building built as a residence but now in a commercial zone and used for business. He noted that Kirby Road contained houses used as residences and some as businesses.

A **motion** was made by John Keithan and **seconded** by Mark Zampino to close the public hearing for application 16-08. *All were in favor; the motion passed.*

Application #16-09: Request for Variance from Section 1.7 of the Zoning Regulations to allow for an accessory building without a principle building at 38 Field Road. Michael Millane is the applicant and Millane Nurseries, Inc. is the Owner.

Mike Millane said he was in the process of downsizing Millane Nurseries noting that he will be selling off the business property on Main Street. He said the Main Street property contains 40+/- acres with a garden retail center, a 2,500 square foot office building, and nursery and related buildings and is located R-25 Residential District Zone. Mike Millane said Garden Dream Farm is buying a 10+/- acre lot containing the retail facility and growing area and Prides Corner Nursery is buying the remaining a 30+/- acre parcel containing the nursery and related structures. He said he needs to relocate his equipment and the easiest way to do that is to build an accessory structure on the vacant lot next to his home.

He said he is proposing to construct a poly greenhouse structure to store his farming equipment. Mr. Millane said he plans to grow trees at 38 Field Road and on an acre he will lease from Prides Corner Nursery and he needs the equipment to maintain the trees. Mr. Millane said Mr. Popper said he could not have the accessory building without a main building and that is way he is seeking the variance.

Chairman Morin asked for any members of the public who wanted to speak on this application.

Don Coughlin of 19 Glenwood Terrace addressed the Board and asked what kind of materials will be stored in the poly shed? Mr. Millane said he will have equipment he needs for his tree farm and also equipment he will be removing from the Main Street site. He said he expects to have trucks and other equipment stored in the shed. Mr. Coughlin said 38 Field Road is located in a Residential Zone District and questioned whether it is legal to store commercial equipment in the shed in a Residential Zone.

Mr. Popper said that the issue of the number commercial vehicles will have to have to be addressed by the Planning and Zoning Commission. He said if the ZBA wanted to they could refer it to the Commission.

Chairman Morin said that there would be no commercial operation taking place on the site only the storage of commercial vehicles and he thought that was permitted in residential zones. He said in the past lots of people with businesses have kept their vehicles in barns or garages on their residential properties.

A motion was made by John Keithan and seconded by Mark Zampino to close the public hearing for application 16-09. All were in favor; the motion passed.

Chairman Morin asked for a motion so we could discuss Application #16-08.

A **motion** was made by John Keithan and **seconded** by Mark Zampino to approve Application #16-08:

Chairman Morin and the Board members discussed the current conditions and the various commercial and residential uses on Kirby Road. He said it is what it is.

Chairman Morin asked for a vote. *All were in favor; the motion passed.*

Chairman Morin asked for a motion so we could discuss Application #16-09.

A **motion** was made by John Keithan and **seconded** by Dan Delisle to approve Application #16-09:

Chairman Morin and the Board members discussed Application #16-09.

Chairman Morin asked for a vote. *All were in favor; the motion passed.*

Chairman Morin explained that after the legal notice is published there is a fifteen 15 day appeal period. He said after the appeal period is over the applicant will receive the variance form to file on the land records. Chairman Moring said if the applicants have any questions they should contact Mr. Popper.

7. Commissioners Comments:

Mr. Delisle asked about other pending applications and Mr. Popper said the application for the

Knights of Columbus building had been withdrawn. He said the issue was 2 sections of the regulations saying the ZBA can't issue a variance for non-conforming uses in a residential zone. Mr. Popper said he submitted an application to amend/delete 2 sections of the zoning regulations. He reviewed sections 7.1.A on page 164 and section 1.04 on page 205. He said there are many non-conforming uses in residential zones now.

Chairman Morin said there are several resignations and alternate appointment letters in the package.

8. Approval of Minutes:

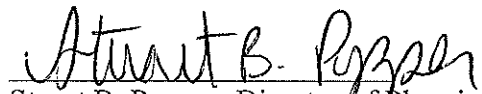
- a. April 12, 2016

There was no action on the minutes since there were not enough members present from the last meeting to vote.

9. Adjourn

A **motion** was made by John Keithan and **seconded** by Mark Zampino to adjourn at 7:12 pm. *All were in favor; the motion passed.*

Respectfully Submitted



Stuart B. Popper, Director of Planning and Development
Acting Clerk