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Zoning Board of Appeals
June 27, 2006

SOUTHINGTON ZONING BOARD OF APPEALS
Public Hearing - Tuesday, June 27, 2006
7:30 pm - Town Hall Council Chambers
75 Main Street, Southington, Connecticut

MINUTES

CHAIRMAN JOSEPH LaPORTE, called the public hearing portion of the Regular Meeting to order at 7:31 o'clock, p.m., with the following in attendance:

Mr. Kuklinski, Mr. Kalkowski & Mr. Salka

Mr. LaRosa Alternate Commissioner

Also present: Mr. Vinci, Zoning Enforcement Officer

Absent: Mr. Sherman, Commissioner

Mr. Bohigian, Alternate

Mr. Mallett, Alternate

Mr. Milo, Alternate

Mr. LaRosa is sitting for Bob Sherman this evening.

A quorum was determined.

The Pledge of Allegiance to the American Flag was recited by everyone in attendance.

Mr. Vinci explained the procedure to be followed in the presentation of an appeal and advised them that should their appeal be approved, they file it with the Town Clerk's Office as soon as possible. Also, it is necessary to have four affirmative votes to approve an appeal. If there is opposition, you get the right to come back and rebut whatever they say.

JOSEPH LaPORTE, Chairman, presiding:

Public Hearing Items:

APPEAL #5460A, application of ESPN, Inc., for a variance to install 6 and 8 foot fencing in front, side and rear yards where less than 4 and 7 feet are allowed, Townline road, known as Assessor's Map 202, Parcel 18, 700 feet east of the intersection with Townline Road and Birch Street, in a B zone.

MR. VINCI: Will the applicant please state your name and address for the record?

ATTORNEY KENNEDY: LeAnne Kennedy, Attorney, with offices at 133 Main Street, Southington, representing the applicant, ESPN.

They are seeking a variance, as Mr. Vinci said, to install a 6-foot fence in the front yard and an 8-foot fence in the side and rear yards. The property is located off Townline Road and it's known as Assessor Map 202, Parcel 18.

If we look at the map that I have here for you, the outline in yellow is the parcel of which we are talking about. The green represents the CL&P easement.

So, it's basically, when you look at this parcel, north is other land of ESPN, east here is R-40 residential zone, to the south is the church, Prayer House for all Graces and to the west there is one individual home which ESPN is currently trying to negotiate with them to purchase the property. That is one of only two houses left in the area. ESPN has purchased all the surrounding area.

The other house, which you can see, is on the northerly side of Townline Road is actually a Bristol residence.

Basically, the reason why we're looking for the variance is ESPN is looking to put a state of the art satellite antenna teleport facility. It would be the only one in the world.

It's 31 antennas. Thirty will be similar to the ones that are on Route 229 and one will be a (inaudible) antenna. Basically, the fencing is going to be used to secure the site. They're looking for it to be a gated site.

And, I'm just going to change the map. So you get a better idea of exactly where this is going to be. The detailed

facility --- in the front yard, we are looking to put a 6-foot high decorative fence, which is up in this area here.

And, then all the way around, we're looking to put a black chain link fence that's 8 foot high.

In addition, as far as the security of the site itself, there will be an interior fence immediately around the satellites with communities on these roadway, gated access to the antennas themselves, so only authorized personnel would be able to access the teleport facility.

There's also a guardhouse up here, as we enter the road, also to prohibit people from gaining access to the site.

Essentially, the 6 foot high fence is a decorative fence. It is actually the same as the fence that this Board had approved last year at 2144 West Street.

THE CHAIR: Can you point out where the houses are --- the two houses?

ATTORNEY KENNEDY: Sure. There's one house that adjacent, right here. This is the last house in Southington. And, then the Bristol residence is further down on the other side of the road further down here.

THE CHAIR: Okay.

MR. SALKA: And, that's the one that would have the decorative fence.

ATTORNEY KENNEDY: Exactly.

MR. SALKA: It would impact there.

ATTORNEY KENNEDY: Exactly.

ESPN is also proposing landscaping, about 20' wide landscaping.

THE CHAIR: This is on the exterior? Like, they --- I'm just going to back up a little.

ATTORNEY KENNEDY: Sure.

THE CHAIR: And, tell you why I'm going to say this. They

promised us at the last variance they came before us, that they would put shrubbery and the intent was for the exterior of the fence, up where they are now. You're smiling.

They did everything on the interior of the fence and nothing on the exterior up there. Okay?

ATTORNEY KENNEDY: I agree with that statement.

THE CHAIR: So, we are a little hesitant on what they're saying.

I know our wording probably didn't say exterior, but they knew what the intent was.

ATTORNEY KENNEDY: Okay, actually, I did have an opportunity to consult with Mr. Longfield just prior to the meeting and you are correct in that the landscaping down at 2144 West Street was done interior of the fence.

THE CHAIR: Right.

ATTORNEY KENNEDY: That was their plan and that's what they did. Now, whether there was a misunderstanding, which you know, you're saying there was, um ---

THE CHAIR: On their part there was a misunderstanding. On our part there was no misunderstanding.

I have the Minutes of that meeting.

ATTORNEY KENNEDY: I have it, as well.

THE CHAIR: Oh, you do? Okay, so you can see that.

ATTORNEY KENNEDY: And, I did know where you said, you know, I don't know, it's the bottom of my page four of five that says:

THE CHAIR: Now, you are going to assure this Board that you're going to plenty of plantings along the fence, right?

MR. LONGFIELD: Yes.

ATTORNEY KENNEDY: I'm not sure. Is there another portion that is the interior of the fence?

MR. VINCI: Excuse me, if you read through it, they talk about we're going to have some landscaping between the --- we're going to move the fence back on the Middle Street side so that there is going to be a grassy area and we would provide something, shrubbery and so on and so forth.

I'm pretty sure if you read through there, the intent is pretty clear that it is supposed to be on the exterior of the fencing.

THE CHAIR: It's there.

ATTORNEY KENNEDY: Okay. Well, certainly, a representative from ESPN is here and he can perhaps better answer your question.

On this application, plantings are on the interior of the fence.

THE CHAIR: Interior?

ATTORNEY KENNEDY: Interior.

THE CHAIR: Right.

ATTORNEY KENNEDY: Yes.

MR. VINCI: Not the exterior. Not outside the fence.

ATTORNEY KENNEDY: They're proposing 20 foot of landscaping on the interior section.

THE CHAIR: But we do have a home out there.

ATTORNEY KENNEDY: We do.

THE CHAIR: What's going to protect the look of that fence to that home?

ATTORNEY KENNEDY: Well, the fence that's adjacent to the home up here, which is technically the front yard on this piece, is going to be the 6-foot decorative fence.

And, they are proposing plantings here. So, yes, on the one hand the homeowner is going to look at the fence, but they're not looking at ---

THE CHAIR: But they're not going to be looking at any shrubbery, I mean to decorate or hide that fence a little more?

ATTORNEY KENNEDY: The reason that they don't put --- in situations like this where they're doing fences for security reasons, the reason that they don't put the shrubbery on or exterior to the fence so to speak, is for security reasons. That if you have bushes and pine trees and whatnot, then you can get individuals to be lurking in the tress and whatnot.

If they keep it flat outside the fence, they're better able to patrol that nobody's hanging around waiting to gain access to the site.

THE CHAIR: Even if --- all the plantings are in the interior, you're not going to see them from inside there anyways because they could be ---

ATTORNEY KENNEDY: But you could see them from the outskirts.

THE CHAIR: If you're outside, yes.
And, they do have that security up there

ATTORNEY KENNEDY: And, from the road itself.

As I stated, they are in negotiations to purchase the piece of property. So ---

THE CHAIR: But it's not done, yet. I just want to protect the homeowner, okay?

ATTORNEY KENNEDY: Sure. Sure.

MR.SALKA: Do you have any kind of a --- do you have a picture of the fence? Are you going to get to that so that we can see, when you say a decorative fence, what does that mean?

ATTORNEY KENNEDY: It's exactly the fence that is at 2144 West Street.

MR. SALKA: The same as out there. Okay.

ATTORNEY KENNEDY: It is the same as out there. I believe I do have the detail, a sketch of it, as well.

(Pause, pause)

(Undertone comments)

In addition to the landscaped buffer, there is also to the east a natural buffer of the CL&P easement. We're not doing any work there. Plus, we've remaining land in the R-40 zone to the east.

And, there's also a vertical boundary due to the topography. So, those houses to the east are higher than this facility so they're not immediately adjacent to it, either.

MR. SALKA: And, the easement is how far from ---

ATTORNEY KENNEDY: The easement itself is 150 feet, I believe.

(Pause)

I believe when I checked the last detail, it was 150'. Right here. And, then there is additional land here that belongs to ESPN that they are not currently developing.

So, I do know the closest, the nearest residential house to the east is 455 from the edge of the nearest satellite. And, to the west, that residence is 240 feet from the satellite.

THE CHAIR: Okay. So, my thing is I'd like to protect the homeowner. I know you say they're negotiating, okay? But if it doesn't go through, I'd like to see if we could protect that homeowner in case it didn't go through.

And, we're talking about an 8-foot fence that he has to look at just ---

ATTORNEY KENNEDY: Well, 6 foot adjacent to the house.

THE CHAIR: And, the guardhouse is just up the street there, walking distance, so as far as security reasons. So, it's pretty doubtful that the shrubs that they would put near that home there that barricade that fence, in other words

to hide it, I'd like to see some shrubbery there.

I don't know how the Board feels about it, but I'd like to see some shrubs.

MR.SALKA: Again, you said it was how many feet from the west from the house?

ATTORNEY KENNEDY: Two hundred forty feet.

MR. SALKA: Two hundred forty feet.

MR. LAROSA: I don't understand. What do you mean by protecting, Joe?

THE CHAIR: I mean that just the homeowner doesn't have to look at a 6 or 8-foot fence.

MR. SALKA: But, it's 240 feet from the house, right?

ATTORNEY KENNEDY: No. It's 240 feet from the satellite itself.

(Everyone commenting at once)

MR. SALKA: Oh, okay. I thought I asked the question how far from the house?

THE CHAIR: It's right next to it.

MR. SALKA: There's two boxes here. One is the house and one is the garage?

ATTORNEY KENNEDY: I believe so.

THE CHAIR: I would say so, yes. It's right there.

ATTORNEY KENNEDY: And, here is our property line. We're talking about this lot here.

THE CHAIR: Right. Yup.

I don't hear anything.

ROBERT LONGFIELD: Director of Planning Construction at ESPN. I guess I can answer any questions you'd like me to answer or respond to.

With regard to protecting --- well, let me explain the reason, well, a little bit more about the fence that we're putting up there.

As mentioned, there's two types. There's a picket, an ornamental picket fence which is the type of fence that's along route 229 now. Then there is an 8-foot high black vinyl chain link fence. Some of that fence also is presently installed in the Town of Bristol.

And, we found that the black vinyl fence, if you're familiar with it, is very indistinguishable when it's installed. That's why we went with the black.

The other part of this fence is that it corners and at various locations along the fence, there are security cameras. And, in order --- those cameras go back to our security department's offices in various buildings on the campus. So, there are people monitoring that perimeter.

There is a need to have visibility along that fence line so that, obviously, given what we're trying to do here, there is a very important reason not to have people close to the fence.

To the extent that we can try to screen this from the adjoining the close house we would certainly attempt to meet those requirements. We would like to do it in such a way that it would not --- any landscaping would not obscure the cameras. So, high screening and so forth would be difficult for us to achieve.

And, we have proposed to do some evergreen planting along there that our engineers have indicated on the plan. We thought that given the fact that the fence was dark in color and you had an evergreen background to it, that it would sort of all blend -- you know, blend into the landscape there.

THE CHAIR: I have to disagree there because you know why? I go by ESPN quite often and all I do is see is two miles of fencing and it's right there. Nothing is blended in. That fence is there. It's two miles of fencing there.

So, all I'm asking is where the house is, that there be a little exterior shrubs and trees just so that that owner

does not have to look at just a blah fence there. Even though you call it decorative, it's still a fence. That's where I'm coming from.

MR. LONGFIELD: Well, all right. We would be willing to make that adjustment as long as we are able to maintain visibility.

THE CHAIR: Right. Now, if you purchase the house, then ---

MR. LONGFIELD: Well, I agree with you, whether we are ever able to do that, or not, is you know, we don't know.

THE CHAIR: Can we stipulate that?

MR. VINCI: Well, what kind of stipulation would you want?

THE CHAIR: That we want exterior shrubs or trees, a buffer, we want a buffer against the fence.

MR. VINCI: Understood. But they were talking about something not 6' high. They want to be able to see the fence. Are we talking about something that may go to 2 to 3 feet high and break off? Or, are you talking something as high as the fence?

THE CHAIR: Well, every so often, if you put something, you put something low, you put something, you know, that's the way it's done. It's not covering the whole fence 100 percent. I'm not asking for that.

MR. LONGFIELD: The company that we've hired has a landscape architect and we can have them take a look at that and come back with some recommendations as to how to do that.

MR. VINCI: Do you want to --- continue this to do that?

THE CHAIR: Only because of ---

MR. VINCI: If you're going to stipulate and they're going to have a landscape architect look at this, so you're not really going to have a firm stipulation, so I don't know if the Attorney can come up with something.

What are you looking for, Mr. Chairman?

THE CHAIR: I'm looking for a buffer against that fence.

That's what I'm looking for.

ATTORNEY KENNEDY: Okay. Are you looking for the buffer on the exterior just on the area where we're showing interior?

THE CHAIR: Yes, because you have the house. Well, a little further down because you have the house there. You're close enough.

MR. KALKOWSKI: A little past the garage.

THE CHAIR: A little past that garage. Yah. Right.

MR. LONGFIELD: We could extend it further down to the Guard Booth, also, if you want to do that?

THE CHAIR: That would be fine, yup.

MR. LONGFIELD: All right. And it sounds like what you'd like us to do is move the fence away from the property line, so that the plantings that we do there are on the outside of the fence in that particular location.

THE CHAIR: That's, right there. That's it.

MR. LONGFIELD: Okay. I think we can accomplish that.

MR. VINCI: Okay. So, how do you want to stipulate that?

THE CHAIR: Well, you can word it.

MR. SALKA: I'd leave it up to Frank to word it. What they're basically saying is they're going to move, where that house is, they're going to move the fence in and they're going to develop some shrubbery so they still have it along the shrubbery and the fence down to the Guard House.

MR. VINCI: Okay.

THE CHAIR: Agreeable?

MR. LONGFIELD: Fine.

(Undertone comments over the map)

ATTORNEY KENNEDY: Just so we are all in agreement on

exactly what you are doing, we understand that you would like the plantings to be exterior to the fence, down through here.

MR. VINCI: Along the property line.

ATTORNEY KENNEDY: Along the property line. We'll move the fence in. By moving the fence in, because we have this proposed sidewalk, we may not be able to get the double row of interior plantings depending on ---

MR. SALKA: That's fine.

MR. LONGFIELD: One thing to keep in mind --- I don't know if you've been up along there, but there is like a stonewall right there along that property line and there's some large trees right sort of that are along that line and all of those trees obviously would stay so that would be part of a buffer.

But we would supplement that with additional shrub plantings.

THE CHAIR: Okay.

MR. LONGFIELD: And, we would do those in an evergreen, some type of an evergreen for the most part shrubs I guess you would want us to do that with mountain laurels or rhododendrons or something like that. Is that? More of an evergreen?

THE CHAIR: And, wouldn't you every so often put a little tree there or something?

MR. LONGFIELD: Yes. We'll have our landscape architect to come up with something.

THE CHAIR: Okay.

MR. LONGFIELD: Yes, certainly.

THE CHAIR: Any more questions?

MR. SALKA: How do you want to stipulate that? Do you want to stipulate that or just want ---

THE CHAIR: Stipulate it as an agreement.

MR. SALKA: Okay.

ATTORNEY KENNEDY: Any further? I am all set with my presentation.

THE CHAIR: Any more questions?

Have you finished your presentation?

ATTORNEY KENNEDY: I have.

THE CHAIR: Anyone to speak in favor of the applicant?

(No response)

Anyone opposing the applicant?

(No response)

If not, this appeal is closed.

APPEAL #5461A, application of Joseph Krar to vary the side yard setback to 23 feet where 25 feet is required for a 12 x 22.4 foot garage addition, 754 Savage Street, property of Joseph and Anne Krar, in an R-40 zone.

MR. VINCI: Will the applicant please state your name and address for the record?

DAVID PUTKRIS: I'm an architect with offices at 98 Main Street in Southington, representing Mr. and Mrs. Joseph Krar.

I believe you have the drawing in front of you for what this is.

THE CHAIR: Yes, we do.

ARCHITECT: Being your counterpart in the Town of Orange, where I reside, I will try to be brief.

It's a fairly simple situation where Mr. and Mrs. Krar bought a house in 1999 that was built for them specifically at the time on a piece of property that they were unaware of did not meet all of the current zoning regulations but

did meet the regulations in, I believe it was 1962, '61 when the subdivision was approved.

Subsequently, they determined that because of an adult parent and adult children living at home, that a two-car garage originally built was vastly insufficient for their uses. They contacted me to help them add on to this house for a third garage.

And, it was at that time that we uncovered the fact that the lot is only 32,000 sf where it is required to be 40,000 sf and that the house is situated in such a way that we could not add a 12' garage which is about the minimum size that you can deal with a garage today.

It's only over by a little over a foot. So that instead of a 25 foot required side yard, we're able to add this small garage and maintain 23.1 and 1/2, give or take an inch or so for construction materials, but based on standard construction calculations, it would be a less than 2-foot variance that we're requesting.

THE CHAIR: Two feet, it's sort of a minor thing, but what is that little window there on the side there? Is that there now? On the drawing? There's a two-car garage there now.

ARCHITECT: Yes. That is there.

THE CHAIR: That is there, right?

ARCHITECT: And, there is an existing wall inside that is going to remain.

If you look at the floor plan of the house, you can see that we are not planning on taking out the end wall. There is all kinds of cabinetry built up against that wall.

THE CHAIR: That's what there is there? Okay, that's why. Okay.

Any questions?

MR. LAROSA: Yah, there's no --- that garage could still be fitted in there without the variance. All he has to do is move this garage door over a few feet.

MR. KALKOWSKI: You've got to take that wall down, though.

MR. LAROSA: Well, that's necessary. If that's necessary, take the wall down.

I understand this Board's not in the habit of giving any variances for garage even if it is a couple of feet.

I don't see the hardship. I haven't heard anything about a hardship.

ARCHITECT: Well, the hardship, as I had indicated, was the fact that this lot is smaller than the minimum requirement for an R-40 zone. These facts were not brought out at the time this house and lot was purchased by the particular buyer.

I, myself, have been finding over the years sitting on your side of the table that this happening very often where the real estate and legal professions are not informing people buying homes that the homes that they're buying are sitting on properties that are nonconforming properties.

THE CHAIR: That's up to the buyer to really dig into this.

ARCHITECT: That's absolutely correct.

THE CHAIR: It's not up to --- see, it doesn't make a hardship, really. Because it's up to that buyer to dig in and find out what he's buying.

ARCHITECT: I agree with you. They're not being found out. The professionals that are supposed to be making them aware of this are not doing their job. Therefore, people are buying homes that are on nonconforming properties without their knowledge of it being nonconforming. When they go to a real estate closing, they're not being told that this property is nonconforming.

Now, they've hired professionals to look into this who have not given that information.

THE CHAIR: It still doesn't lay on our shoulders as a hardship because the buyer should be ware, okay?

You're telling us that they weren't in this case, but this garage could be moved over --- this could be moved over and

you wouldn't need a variance.

MR. LAROSA: There's plenty of space there for a three-car garage.

THE CHAIR: Okay, anything else?

Any more questions?

(No response)

Have you finished your presentation?

ARCHITECT: Yes.

THE CHAIR: Do you have anything more to add?

(No response)

Okay, thank you.

Anyone to speak in favor of the applicant?

(No response)

Anyone opposing the applicant?

(No response)

If not, this appeal is closed.

Tabled Public Hearing Items:

APPEAL #5453A, application of Trevor H. Vigneault for a 2,750 square foot area variance on a nonconforming lot to allow transfer to another nonconforming lot, 81 Birch Street, in an I-2 zone.

MR. VINCI: Will the applicant please state your name and address for the record?

ATTORNEY KENNEDY: Mr. Chairman and members of the Board again, Attorney LeAnne Kennedy with offices at 133 Main Street here in Southington representing the applicant.

This property is located on the east side of Birch Street

near the Plainville line in an I-2 zone. It's a single family dwelling with about 16,500 sf in area. It's a nonconforming lot. This lot existed prior to zoning. It's nonconforming as to use because it's a residential dwelling unit in an industrial zone and it's also nonconforming as to size under the lot and building requirements because the area is not 120,000 sf and because the lot width is not 300 sf as what's required in an I-2 zone.

The other piece of property that is somewhat involved in this application is the rear piece. The lot to the east is a rear lot gaining access in fee simple from Birch Street. It's also nonconforming. That lot is only nonconforming as to size. It conforms with the permitted uses in an I-2 zone, but the area is less than 120,000 sf that's required under the regulations.

In this case, the applicant is seeking a variance in order to carve off this shaded 25-foot strip which is approximately 2750 sf and deed it to the rear piece to make that piece more conforming. And, basically, as always we always are looking for hardships and the hardship is here the one as of right, as a matter of law, because it's a nonconforming use in lot. And, basically hardship was the enactment of the zoning regulations.

Now why this variance is reasonable is because when we look at the single family dwelling, we're looking to subtract acreage. I would consider it a minor variance because we're not changing the use. The use is a single-family dwelling. So, we're not making this property any more nonconforming because we are not changing the use at all.

Basically, it's going to remain a single-family house. Keeping the same use. It's not negatively affecting the neighborhood because in effect it's a positive thing for the I-2 zone because we're adding acreage to make that rear lot more conforming. In some sense, it's a Catch-22 because we want to make lots as conforming as we can and in this case, leaving the properties, as they are, neither one of them is anywhere near conformance as set forth the rear lot which already has a conforming use.

In addition, and I believe Mr. Chairman, you received a letter from Lou Perillo, the Economic Development Coordinator, who is in favor of the application because Southington is looking to promote their economic

development and I-2 zone property is scarce and so he feels that we have to be pro-business and you know, do what we can to attract businesses and whatnot.

So, certainly, he could submit a letter stating basically that to you.

THE CHAIR: So, actually you want to take land away from the front parcel ---

ATTORNEY KENNEDY: Exactly.

THE CHAIR: And, you want to give it to the back.

ATTORNEY KENNEDY: Exactly.

THE CHAIR: What I don't get is its not going to make it less nonconforming. There's no way.

ATTORNEY KENNEDY: Well, it is as to the use because it's going to remain a single-family dwelling.

So, we're not changing that nonconforming.

THE CHAIR: In size, you area. In size you are. You're taking it away from it.

ATTORNEY KENNEDY: But if you look at the degree that the size it is now as compared to what we're proposing, it's insignificant. When you look at the back parcel and you're looking at something that's conforming as to use and only has the area nonconforming when we're adding land to that. It's making it more conforming.

THE CHAIR: For the purpose that --- I can see there has to be a purpose as to why he's doing this. There has to be a purpose. You're taking a residential nonconforming and you're making it a smaller lot and you're pushing it over to an industrial. So, you are changing.

There really isn't no hardship here in my mind. I don't see a hardship.

ATTORNEY KENNEDY: According to the law, the hardship is the enactment of the zoning regulations.

MR. LAROSA: Both properties the same owner?

ATTORNEY KENNEDY: No. But they are related.

MR. VINCI: I have that letter Mr. Chairman and I'll read it into the record.

"Mr. Joseph LaPorte, Chairman, Zoning Board of Appeals, 75 Main Street, Southington, CT. Re: Appeal 5453A. Vigneault - 81 Birch Street.

Dear Mr. LaPorte: The Economic Development Office of the Town of Southington is in support of the variance request pertaining to appeal 5453A submitted before your Board this evening by Trevor H. Vigneault.

As you area aware, the City of Progress has limited supply of I-2 property available for development and this places a hardship on existing businesses. We deem accommodation for existing businesses as paramount to promote economic development in Southington, increasing both the employment and tax base, yielding important benefits to our community.

Should you require any additional information, please feel free to contact me at 276-6297.

Very truly yours, Louis A. Perillo, III Economic Development Coordinator."

THE CHAIR: You haven't demonstrated exceptional difficulty or unusual hardship. You haven't demonstrated that.

ATTORNEY KENNEDY: Well, the hardship, like I said, is as a matter of law. The courts say that nonconformity is a hardship because the land has become nonconforming because you've enacted these regulations.

THE CHAIR: So you're trying to tell me you are going to take from nonconformity and give it to nonconformity. That's what you're telling me.

ATTORNEY KENNEDY: That's what I'm telling you. But I'm making one of those nonconformities less nonconforming.

THE CHAIR: And, you are making the other one more nonconforming. Am I right?

MR. LAROSA: Why don't they just put both properties --- why

doesn't he just by the whole front lot?

ATTORNEY KENNEDY: Because one is single-family residence. Somebody lives there. It's their dwelling.

MR. LAROSA: Tear it down if they're so concerned about it.

ATTORNEY KENNEDY: It's their dwelling unit.

(Pause)

THE CHAIR: Questions?

(No response)

Have you finished your presentation?

ATTORNEY KENNEDY: I have.

THE CHAIR: Thank you.

Anyone to speak in favor of the applicant?

(No response)

Anyone opposing the applicant?

(No response)

If not, this appeal is closed.

APPEAL #5447A, application of Peter Borchard to change a nonconforming use to a less objectionable nonconforming use "contractor's yard" to sheet metal fabrication/HVAC, 62 Berlin Street, property of Mary Grace Borchard, in an R-12 zone.

MR. VINCI: This Item B, on the Agenda, the attorney representing the applicant asked at the last meeting that it be tabled for a month. That'll come up the next time around. So, it's still tabled.

That's 5447A.

THE CHAIR: Okay, right. Okay.

8:10 o'clock, p.m.

SOUTHINGTON ZONING BOARD OF APPEALS
Tuesday, June 27, 2006
Town Hall Council Chambers
75 Main Street, Southington, Connecticut

MINUTES

CHAIRMAN JOSEPH LaPORTE, called the Regular Meeting to order at 8:10 o'clock, p.m., with the following in attendance:

Mr. Kuklinski, Mr. Kalkowski & Mr. Salka

Mr. LaRosa Alternate Commissioner

Also present: Mr. Vinci, Zoning Enforcement Officer

Absent: Mr. Sherman, Commissioner

Mr. Bohigian, Alternate

Mr. Mallett, Alternate

Mr. Milo, Alternate

Mr. LaRosa is sitting for Bob Sherman this evening.

A quorum was determined.

JOSEPH LaPORTE, Chairman, presiding:

APPROVAL OF MINUTES - Meeting of June 13, 2006

Mr. Salka made a motion to approve the Minutes. Mr. Kuklinski seconded. Motion passed unanimously on a voice

vote.

NEW BUSINESS:

APPEAL #5460A, application of ESPN, Inc., for a variance to install 6 and 8 foot fencing in front, side and rear yards where less than 4 and 7 feet are allowed, Townline road, known as Assessor's Map 202, Parcel 18, 700 feet east of the intersection with Townline Road and Birch Street, in a B zone.

Mr. Salka made a motion to approve Appeal 5460A with the stipulation that the fence on the western side will be moved back into the property up to the guard house and there will be some plantings on the exterior of that fence.

Mr. Kalkowski seconded.

Mr. Kuklinski seconded.

Motion passed 5 to 0 on a roll call vote.

One year to exercise permission.

APPEAL #5461A, application of Joseph Krar to vary the side yard setback to 23 feet where 25 feet is required for a 12 x 22.4 foot garage addition, 754 Savage Street, property of Joseph and Anne Krar, in an R-40 zone.

Mr. Salka made a motion to approve Appeal 5461A. Mr. Kalkowski seconded.

Mr. Salka commented there is really no demonstrated hardship. I understand they want to make a three-car garage. There's plenty of room to make a three-car garage. They have to do some interior modifications to the garage. It will make it look better than having a window stuck in the middle between three doors. I'm really not in favor because there is really no demonstrated hardship on this application.

Motion failed 0 to 5 on a roll call vote.

Motion fails.

APPEAL #5453A, application of Trevor H. Vigneault for a 2,750 square foot area variance on a nonconforming lot to allow transfer to another nonconforming lot, 81 Birch Street, in an I-2 zone.

Mr. Salka made a motion to approve Appeal 5453A. Mr. Kalkowski seconded.

The Chair commented that he didn't think they demonstrated a hardship in this case.

Mr. Kalkowski agreed.

Mr. Salka disagreed only from the sense of it is within the family. It's already, they're both nonconforming. Yes, we're making one nonconforming, but we're turning the second one into a less nonconforming with a chance of turning it into a real I-2 zone that can be built on. I am in favor, Mr. Chairman.

The Chair said he didn't believe you should take one nonconforming lot and make it lesser and add on to another lot and make it more.

Mr. Kalkowski agreed.

ROLL CALL: Salka: Yes

Kuklinski: No

Kalkowski: No

LaRosa: No

LaPorte: No

(Motion fails.)

APPEAL #5447A, application of Peter Borchard to change a nonconforming use to a less objectionable nonconforming use "contractor's yard" to sheet metal fabrication/HVAC, 62 Berlin Street, property of Mary Grace Borchard, in an R-12 zone.

Tabled to the next meeting.

MISCELLANEOUS / OLD BUSINESS / NEW BUSINESS

Mr. Vinci reported he made a visit to the property on Berlin Avenue regarding the outside storage. The owner came in and apologized. He knew it was a condition he did not have outside storage. He said things got out of control, as he was very, very busy. He said he'd clean it up and it wouldn't happen again.

Mr. Salka asked about the property on Sandra Lane, the one with the roofline. Nothing has happened in the last nine months on it. Right now, it's an eyesore. Nothing is happening. The peak of it has nothing but a sheet of plywood over it. It's stilling there. I haven't seen the guy there in months. Mr. Vinci said he would check on it and report back.

Mr. Salka brought up the portable garages. They're popping up like mushrooms all over the place. Does somebody have to report that? Mr. Vinci said they did, pretty much.
Discussion.

Mr. Vinci said the problem with them is our regulations don't allow you to use something like that for a garage. We're talking the fabric or plastic stuff. They're not supposed to be used as a garage. However, there is nothing preventing somebody to have that as a shed. As a storage structure provided it is less than 200 square feet. Provided they can get a building permit. The structure has to meet the snow and wind loads. And, provide they don't have another shed on the property. You can only have one shed.
Discussion.

Mr. Vinci pointed out they could be there legally, but they are not supposed to be used for a garage. Or a second shed.

Mr. Salka pointed that 99 percent of them are illegal.
Discussion.

Mr. Vinci said the restriction for one shed is only a few years old. We have a number of properties with more than one shed.

Mr. Salka said in some cases they are right on the property line.

Mr. Salka commented further that he didn't see why somebody has to be the bad guy and put their name on a complaint when in fact they're breaking the law. If somebody doesn't stop it, they're going to be all over the place. They're an eyesore. They're ugly. They tend over time to gray and get green. Why should someone have to report it, put your name in and be real formal about it?

I should be able to give you their name; you send them a letter saying you're not in compliance.

Mr. Vinci agreed they are not allowed to take anonymous complaints. Explained the procedure.

Mr. Salka commented on Sandra Lane right now, there's three of them.

Explained.

The reporting process was criticized. Mr. Vinci said just make a complaint with the Manager. And, he tells me to look at it, and then I'm covered.

Mr. Salka made a motion to adjourn, which was seconded by Mr. Kuklinski and passed unanimously on a voice vote.

(Whereupon, the meeting was adjourned at 8:20 o'clock, p.m.)

Joseph LaPorte, Chairman
Zoning Board of Appeals