

City of Bridgeport
Zoning Board of Appeals
Regular Meeting
April 14, 2015

**¹CITY OF BRIDGEPORT
ZONING BOARD OF APPEALS PUBLIC HEARING
APRIL 14, 2015**

ATTENDANCE: Linda Grace, Acting Chair; Robert Russo, Acting Secretary;
John J. Carolan; Kelly Perez; Robin Shepard; Leticia Colon
(observing)

STAFF: Dennis Buckley, Zoning Official; Paul Boucher, Zoning
Department; Atty. Ed Schmidt, Associate City Attorney;
Diego Guevara, Design Review Coordinator

CALL TO ORDER

Commissioner Grace called the meeting to order at 6:10 PM. A quorum was present. She then introduced the Commissioners and staff members seated. She reviewed the procedures to those present.

DEFERRED BUSINESS

ITEM D-1 RE: 1596 STRATFORD AVENUE (Efrain Crespo)- WITHDRAWN 3/24/15

ITEM D-2 (#3) RE: 43-45 HERKIMER STREET (Ricardy Philogene)- Seeking a variance of the cumulative side setback requirement of 20 feet and the maximum roof mid-point height requirement of 28' under Sec. 5-1-3 to legalize the dormer addition containing bedrooms and bathroom on the 3rd floor of the nonconforming 2-family dwelling in an R-A zone.

Ms. Marie Henry came forward and stated that she would be speaking for Ricardy Philogene, the applicant, who was also present. She provided the necessary mailings. Ms. Henry requested two variances- one to waive the existing height requirement, and the other to enlarge the second floor apartment in the home in conjunction with the previous request.

Commissioner Grace asked if the second floor apartment was currently occupied. Ms. Henry said it was not, and that they were utilizing the available space. Commissioner Grace asked if the

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property was currently a two bedroom, and if there were other plans to improve the house itself. Ms. Henry stated that the house is currently a 2 bedroom, with the intention to add two more and an additional bathroom. She further stated that there were no plans to modify the existing property any further, and there would be no other major construction. Commissioner Grace inquired as to the appearance of addition and the exterior of the property. At this point, Mr. Philogeny stepped forward and stated that he had planned to finish the exterior, had hired an individual to do so and paid ahead of time, however when he expressed concerns about the craftsmanship, the individual stopped entirely, leaving the exterior unfinished. Commissioner Grace asked if any permits had been acquired, and Mr. Philogeny stated that he had not acquired any, and was appearing before the ZBA in the hopes of legalizing the work. When she asked if he had any plans to make aesthetic changes in the future, Mr. Philogeny stated that he planned to paint the exterior and plant more foliage in the future.

Commissioner Grace asked if there was anyone present who wished to speak in favor of the application. No one came forward. She then asked if there was anyone present who wished to oppose the application. Hearing none, Commissioner Grace closed the hearing on 1596 Stratford Avenue.

ITEM D-3 (#8) RE: 540 GRANT STREET (Big Dam's Auto Stereo Installation & More)- Seeking a variance of the 17 required off-street parking spaces under Sec. 11-1-2 to permit the establishment of an audio and decal installation business in the existing mixed use commercial building in an OR zone.

NEW BUSINESS

ITEM #1 RE: 1044 BROOKLAWN AVENUE (Michael Defilippo)- Seeking a variance under Sec. 12-10a to permit the establishment of a liquor store use in the existing retail building and the issuance of a package store liquor permit within 1500 feet of 1 (one) houses of worship and 1 (one) day care center in an OR zone.

Attorney Charles Willinger of Willinger, Willinger & Busey came forward and said that he would be representing the applicant Michael Defilippo. He provided the necessary mailings. He stated that his client is the new owner of the property, having purchased it on February 6th after paying two years worth of back taxes on the property itself. In addition to being the owner of the property, Mr. Defilippo is also the proposed owner and back of the package store in question.

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Atty. Willinger stated that the property is located in the O-R zone, which allows package stores as a right, and that they were presenting before the board due to its proximity to three separate places of worship, a daycare center, and a grocery village that has a grocery beer permit.

Atty. Willinger cited a packet submitted and directed the Board to pg. 2 to view the overall site map. He stated that those in the premises who are affected by the aforementioned proximity restrictions are in favor of the package store. However, he further stated that they faced opposition in the form of Russell Wreath, who operates a package store - Brooklawn Discount Liquor on 752 Brooklawn Avenue in Fairfield, CT- due to Mr. Wreath's concern about competition between the businesses. Atty. Willinger stated that since Brooklawn is based in Fairfield, unless they found a complaining resident of Bridgeport, their complaints were not at issue. Furthermore, he referenced the case of Benson v. EB in Hartford, which found that competition is not something protected under the ZBA's purview. He urged the Board to consider this when hearing the opposition's complaint.

Atty. Willinger then referenced the applicant, and said that as an ambitious young entrepreneur, small business owner and resident of Bridgeport, he exemplified the young blood that should be encouraged in the city.

Atty. Willinger referenced the shopping center itself, and stated that it sits on $\frac{1}{3}$ of an acre, contains one building with 4455 total square feet, and houses a barber shop, variety store, laundromat, and Mr. Defilippo's property. He said that Mr. Defilippo planned to make the property fully compliant with zoning regulations.

Atty. Willinger stated that the current regulations allow for an exception to be made in instances where there is demonstrable legal hardship, the development does not adversely impact the neighborhood, and the intended development is consistent with the Master Plan. Atty. Willinger asserted that the property met the legal standard for hardship due to the fact that Bridgeport is densely populated, Brooklawn is fully developed and the only zone that permits a package store is the O-R. He further pointed out that the State of CT Liquor Control Permission developed a matrix based on population and municipality that determines the number of permits to be awarded based on need, and that in Bridgeport it was possible for 57 locations to be approved, but at present there were only 41.

In regards to the issue of adverse impact, Atty. Willinger claimed that there would be no adverse impact on the surrounding area, only positive, and referenced 11 letters of support garnered from the community as follows:

1. St. Margaret's Shrine Deacon- October 2nd- stated they had no problem with the proximity of the store.

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2. Congregation Benai Israel- February 24th- expressed no objection to the proposed store location.
3. Lil' Blessings (daycare)- April 8th- expressed no objection to the proposed store.
4. Owner of Grocery Village (same shopping center)- March 5th- expressed full support for the application, and believed it would be good for the neighborhood.
5. Owner of Laundromat (same shopping center)- expressed full support for the application.
6. Owner of Barbershop (same shopping center)- expressed full support for the application.
7. Owner of Testo's Pizzeria- citizen of Fairfield, employed Mr. Defilippo for 10 years, expressed his regard for his character and fully supported the application.
8. Thomas McCarthy (City Council President)- April 8th- expressed his full support for Mr. Defilippo's character as well as the application.
9. Howard Austin (Council Member, 133rd District)- expressed his full support for Mr. Defilippo's character, as well as the application.
10. John M. Fabrizi (former Mayor)- expressed his full support for Mr. Defilippo's character, as well as the application.
11. Dennis Cinto (133rd District)- expressed his full support for Mr. Defilippo's character, as well as the application.

Atty. Willinger then presented his second exhibit, a copy of a petition signed by 185 Bridgeport residents supporting the application.

In regards to the the package store's compliance with the Master Plan, Atty. Willinger referenced a passage on pg. 49 that discusses the O-R zone as a space 'intended to promote small scale retail for local business' and another on pg. 8 that further asserts it as a place for 'neighborhood amenities' and 'young people to live and do business'. He then referenced the case Germain Holdings LLC vs. West Haven ZBA (July 10, 2007), where they found that the Board is endowed with 'liberal discretion and its discretion will not be swayed if it is arbitrary'. Atty. Willinger concluded that he hoped the alleged competitor's interference would not destroy the hopes and ambitions of Mr. Defilippo as a young businessman.

Commissioner Grace asked Atty. Willinger if the applicant was planning to operate the package store himself, and he stated this was the case. She asked if it was to primarily sell liquor or wine, and he asserted that it was a full package store with both alcohols, but the emphasis would be on wine.

Mr. Russo asked Atty. Willinger to elaborate on the notion of hardship in this case. Atty. Willinger stated that as the only zone to open a package store is the O-R zone, the site location served as an unusual or unfair aspect of the property.

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Commissioner Grace asked if there was anyone present who wished to speak in favor of the application.

Amy Marie Vizzo-Paniccia, representative of the 134th District, came forward and stated that she often commutes in the area the package store is set to open in. She said that supports Mr. Defilippo fully, knows his family, and believes that the store will add a positive aspect to the city. She closed by saying she hopes the Board will support his application.

Michelle Lyons, representative of the 134th District, came forward and stated that while she does not live in the district of the proposed store, she knows Michael personally and would like to speak in favor of the project. She further asserted that due to the high turnaround rate of businesses in the city, it would be a positive contribution to see a business pay taxes and thrive, something she is confident Mr. Defilippo is capable of. She stated that the applicant, as someone who owns a number of businesses in, lives in and intends to stay in Bridgeport, his planned business will uplift the neighborhood, particularly with the support of the rest of the residents, whom he has already spoken to to address any concerns. She closed by saying she believed the presence of the business would promote safety in addition to new business.

Tom Lyons, member of the Board of Police Commissioners, came forward and stated that he had noticed the shopping center, at present, is generally very dark during the evening hours and would benefit from the improvements posited by Mr. Defilippo and Atty. Willinger. He stated that anything to be done to build business in Bridgeport should be done, and that Mr. Defilippo has his full support.

John Fabrizi, former Mayor of Bridgeport, came forward and stated that he has known the Defilippo family for many years, and that Mr. Defilippo, as a local who wants to make a substantial investment in the city, should be supported. He stated that the potential tax growth, job growth, and renovations to turn a dilapidated, vacant eyesore into a thriving business would only improve the neighborhood. He further stated that by opening another small business in the area, the increased foot traffic would result in more business for the other surrounding locations, and he saw no reason not to grant the application.

Franklin Kerry, owner of Lil' Blessings Daycare, came forward and offered his support for the application, and stated that he is in favor of seeing more development in the area.

Commissioner Grace asked if there was anyone present who wished to oppose the application.

Jeanette Batiste, pastor at Salvation Christian Church (located across the street from St. Margaret's) came forward and stated that while she had no doubts about the character of Mr.

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Defilippo, she is concerned about the type of customer that may frequent the establishment. She further stated that she is in favor of entrepreneurship and local businesses, but the type of business is a matter of concern. In addition to Jeanette Batiste, there were 13 adult parishioners present to support this concern.

Attorney Paul Sobel of Green & Gross came forward as representative for Brooklawn Discount Liquor. He provided a letter to the Board members, and stated that the nature of the violation was more severe than indicated. He asserted that the number of problematic establishments (church, package store, child care center) did not make a difference, and that conditions remained the same.

Atty. Sobel said that Atty. Willinger's citation of hardship in the trial case failed to acknowledge the passage stating that 'there must be some peculiar or unusual physical characteristic of that lot that causes the zoning regulation to affect others differently'. He stated that as the distance statute affects all lots equally, it does not constitute a hardship. He further referenced an unnamed legal case in the Supreme Court that states they "cannot envision a situation where there is a legal hardship to support a variance for a liquor permit application". He referenced another lower court case involving the Fairfield, CT ZBA where a 1500 ft. ordinance was asked to be lowered to 1475 ft. It was denied. He further asserted that the Atty. Willinger's definition of hardship in this scenario could apply to any of the retail properties in the zone, and thus was not peculiar enough to provide substantial evidence of hardship.

Atty. Sobel said that in regards to adverse impact, he did not know if it was a substantial factor for consideration. He stated that by granting a variance that has nothing to do with unusual or peculiar use of the land, it is in fact a violation of the Master Plan. Furthermore, he stated that Atty. Willinger had insinuated that the Liquor Control Commission's matrix may have some bearing on the ZBA's consideration when granting a variance, and that this was not true. Atty. Sobel stated that Atty. Willinger's assertion that the Board has liberal discretion is a misstatement, and that the CT Appellate Court came out with a decision involving treatise on law involving zoning variances in *Verrillo v. Branford*. In this case, two types of variance were established- a variance to reduce nonconformity (which involves a wider discretion) and a hardship variance (which would have to do with the physical characteristic of the property, not the proximity of the retail zone). He said that the current application fits neither bill. Atty. Sobel closed by stating that while increased foot traffic is desirable, any number of other uses for the space would also encourage foot traffic in the area.

Atty. Willinger came forward to offer his rebuttal. He addressed the concerns of church pastor Jeanette Batiste by stating that since they are technically not within the 1500 foot rule and did

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not raise a cogent argument from a zoning standpoint, their concerns were unfounded. He further stated that the quality of patrons cannot be controlled at any establishment, and can only be done once they commit an infraction. Atty. Willinger said that while Atty. Sobel had given a learned dissertation, he was still acting as a representative for a competing package store. He further asserted that the applicant is an upstanding young man who had significant support and would do no harm to the neighborhood. Atty. Willinger stated that while it is true that any taxpayer of Bridgeport can appeal a variance, they had no proof that Atty. Sobel's client was a Bridgeport taxpayer. He asserted that Atty. Sobel's assertions about the Master Plan are incorrect, as well as his assertions about the Board's degree of discretion. He stated that the law states a Zoning Board of Appeals is necessary to grant relief if there is reason to do so. He stated that Atty. Sobel raised an interested point in referencing *Verrillo v. Branford*, and that there was an exception Atty. Sobel failed to mention- a scenario in which a nonconforming property is made more conforming. Atty. Willinger stated that in this case, the property is nonconforming because it does not have the required current landscaping and they are providing it. He closed by stating that everyone in the immediate neighborhood is in favor, a competitor in another zone is offering the primary opposition, and that the Board has the discretion to grant relief as they see fit.

Commissioner Grace asked if there were any further questions. Hearing none, she closed the hearing on 1044 Brooklawn Avenue.

ITEM #2 RE: 1534-1536 SEAVIEW AVENUE (Bridgeport Neighborhood Trust)- Seeking a variance under Sec. 11-1-2 waiving all of the required on-site parking spaces to permit the establishment of a professional office use on the ground floor in the existing mixed use 3-story building in an I-L zone and coastal area.

Ms. Liz Torres came forward as a representative for the Bridgeport Neighborhood Trust, seeking to secure approval for the number of on-street parking spaces necessary for a mixed-use building, as well as permission to utilize the first floor of 1534-1536 Seaview Avenue as an office location rather than a retail location. She provided the necessary mailings. Ms. Torres stated that the property is currently affiliated with the Hospital, and that the ground floor has been vacant for 5 years, while the upper floors consist of 2 bedroom apartments. She stated that the Hospital has agreed to transfer the title to BNT in order for them to renovate and repurpose the building, and that all parties are doing so partly out of concern that the space will be utilized as a liquor store or bodega in the future. She stated that by making the space an office, it can additionally be used as a common space for programming with the building's residents. Ms. Torres provided two letters of support from the City of Bridgeport and Bridgeport Renewal.

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Commissioner Grace asked if the area would be for strictly office use, and Ms. Torres answered in the affirmative. Commissioner Grace inquired about the nature of the apartments on the upper floors, and Ms. Torres said that they consisted of four two-bedroom apartments. Commissioner Grace inquired about parking, and Ms. Torres stated that the only parking was a single space to be utilized by the office. Commissioner Grace asked about the quantity of people in the office on a day to day basis, and Ms. Torres stated that it was a part-time arrangement, and it would be unusual for an office worker to be there more than once a week. Commissioner Grace asked if the current space was entirely empty, and Miss Torres stated that it is but for a common space and laundry room. She further stated that tenants can lease the current open space for parties, but the community at large may not.

Commissioner Grace asked if there was anyone present who wished to speak in favor of the application. No one came forward. She then asked if there was anyone present who wished to oppose the application. Hearing none, she closed the hearing on 1534-1536 Seaview Avenue.

ITEM #3 RE: 1524 SEAVIEW AVENUE (Bridgeport Neighborhood Trust)- Seeking a use variance under Sec. 5-1-2 and also seeking variances of the minimum landscaping and maximum site coverage requirement under Sec. 5-1-3 to permit the establishment of a commercial parking lot in an R-C zone and coastal area.

Ms. Liz Torres remained on the floor and provided the necessary mailings. She stated that this variance was in reference to the parcel next door to 1534-1536 Seaview Avenue, also owned by Bridgeport Renewal. She stated that the lot is currently vacant, and that they are proposing a conversion into a parking lot with six spaces, with a variance for landscaping and a site coverage requirement. She stated that Bridgeport Renewal had no desire to transfer this trust, but had agreed to a lease agreement.

Commissioner Grace inquired about the length of the lease, and Ms. Torres stated that it was a long term lease. Commissioner Grace asked if this variance were to be approved, would its use be concurrent with that of the other property (restricted to tenants). Ms. Torres responded in the affirmative. When Commissioner Grace inquired about the two additional spaces that would be available, Ms. Torres stated that as each floor gets one space, they would reserve the others for miscellaneous use.

Commissioner Grace asked if there was anyone present who wished to speak in favor of the application. No one came forward. She then asked if there was anyone present who wished to oppose the application. Hearing none, she closed the hearing on 1524 Seaview Avenue.

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RECESS

Commissioner Grace called a ten minute recess at 7:35 PM.

The meeting reconvened at 7:45 PM.

ITEM #4 RE: 27 DODD AVENUE (Brineth, Wilfredo, and Christian Rivera)- Seeking variances of the front and side setback requirements under Sec. 5-1-3 to permit the construction of 3 (three) accessory structures on an irregular shaped lot in an R-A zone.

Mr. Christian Rivera came forward and stated that the previous year, he had built a shed on his residential property to keep his tools safe and make increase the curb appeal of his home, as well as a pergola. He provided the necessary mailings, and further explained that at the time of construction, he did not realize he needed a permit to erect the structures. He stated that as a carpenter, it was necessary for him to build it as he has no other option for tool storage, and that as they use wood pellets to heat the house, they also needed a location in which to store their heat source. He further stated that he did not wish to cause any problems for the Board or his neighbors, which led him to come before the Board.

Commissioner Grace asked if there had been a shed there before. Mr. Rivera stated that there had been a small shed preexisting on the property, and that he had enlarged it slightly to accommodate his lawnmower, wheelbarrow, and other property maintenance essentials. Commissioner Grace asked if there were other amenities in it such as a fireplace or bar. Mr. Rivera said that it did not contain a bar, but that it was occasionally used to store beverages during family gatherings so they would not have to constantly go between the yard and the house.

Commissioner Grace then asked if Mr. Rivera was aware of the opposition to his variance. Mr. Rivera cited an incident last year when his eldest son graduated from Princeton and he threw a party (this being the only occasion when he had thrown a large party at the house in 17 years). He stated that the police had been called, but when the officer arrived he saw that the party was coming to a close, spoke with Mr. Rivera and left without issuing a citation or warning.

Commissioner Grace asked if the property was a duplex, and Mr. Rivera answered that it was, with his father living on one side of the home, and Mr. Rivera and his family living on the other. Commissioner Grace referenced a photo of the property and asked which portion constituted the addition and if the back was unfinished. Mr. Rivera indicated the additional construction, and

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stated that the back was unfinished as he had run out of money, but expressed his willingness to make it look nice should they receive the permit.

Mr. Diego Guevara offered the solution of enclosing the area with trees to provide more privacy and separate it from the street.

Commissioner Grace asked if the yard was fenced, and Mr. Rivera responded that it was, and that the interior fence was to divide the driveway from the grass for his dogs. She asked if he had anything to add, and Mr. Rivera stated that his intention was not to cause problems for his neighbors of the city. Furthermore, he apologized for inconveniencing the Board in not securing the proper application, and expressed his willingness to do whatever necessary to make things right.

Commissioner Grace asked if there was anyone present who wished to speak in favor of the application.

Carolyn Vermont came forward and identified herself as a neighbor of the Rivera family for 17 years. She stated that the property was formerly a run down liquor store, and that Mr. Rivera has improved and maintained the property very well. She expressed her condolences that he had not known about the regulations, but stated that she fully supports the work he has done and believed there was no intent to defraud, only that he had not been aware. She closed by stating she hoped the Board would help them do what is necessary to keep the property as is.

Michael Kressler came forward and identified himself as the next door neighbor of Mr. Rivera and his family going on 7 years. He stated that they are fantastic neighbors, and some of the only people invested in making improvements on their property to thereby improve the neighborhood. He stated that the Riveras inspired him to improve the aesthetics of his own home and neighborhood, and that as an individual with an erratic work schedule, they had never caused any sort of disturbance he was aware of. He closed by saying that the Riveras made their neighborhood better, not worse.

Commissioner Grace asked is there was anyone present who wished to oppose the application. No one came forward. Commissioner Grace stated that for the record, there was a letter from the NIZ expressing concerns about the issue, though it did not specifically address a specific problem, rather the process.

Commissioner Grace closed the hearing on 27 Dodd Avenue.

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ITEM #5 RE: 226 CHARLES STREET (Gospel Light Community Church)- Seeking variances of the front and side minimum setback requirements; the minimum site coverage requirement; and the minimum landscaping requirement under Sec 5-1-3 to permit the construction of a 1-story 957 sq. ft. front addition and a 1-story, 79 sq. ft. rear addition to the existing church in an R-C zone.

Mr. Robert Tobin came forward and identified himself as the architect for the proposed variance and representative of the church. He provided the necessary mailings. He stated that they were seeking a front yard setback and requesting maintenance of a nonconforming side yard on the basis of hardship, as the church is currently in the process of expanding the lavatories. Mr. Tobin stated that the building is over 100 years old and was formerly a synagogue, while Gospel Light Community Church has held the property for 30 years. Due to the age of the building, the bathrooms are not compliant with regulations. In addition to fixing the lavatories, Mr. Tobin stated that they are also adding an interior ramp to the sanctuary and bathrooms so that they may be handicap compliant, and that this construction eliminates three parking spaces in front of the building. However, he clarified that this reverts to on-street parking, and that the church also owns a property behind the church that provides an additional 17 spaces.

Commissioner Grace asked if they owned the flanking lot rather than leasing it, and Mr. Tobin stated that they did and it was being utilized for parking.

Mr. Israel Soto came forward and informed the Board that the church holds a written lease and contract with LaRocca's for additional parking. Commissioner Grace stated that to be approved, it would need to be a 5 year lease. Mr. Soto stated that if the Board requested it, they would be happy to do it. Commissioner Grace asked for clarification that there was parking in the front, but not on the side. Mr. Soto stated that there were four existing parking spots, and that with the conversion to on street parking, there was only a net loss of one parking space. Commissioner Grace further asked if they were increasing the church area, and Mr. Soto stated that only the sanctuary area would be increasing by 7 feet, a minimal expansion. Commissioner Grace asked if they anticipated the parish expanding, and Mr. Soto answered that in the event it does, they will accommodate this through multiple services (two instead of one), but that they do not anticipate a substantial growth. Commissioner Grace inquired about the hours of the church. Mr. Soto stated that the hours are 10 AM to 2 PM during service days, and that during the week the church itself is closed, with the offices being used for meetings and classes. He further stated that a great deal of the community who attends walks to church, so the parking is less of an issue, and thus why they are expanding the handicap capabilities.

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Commissioner Grace asked if there were any intentions to expand the church in the rear of the property. Mr. Soto stated that they only intended on expanding the rear maintenance shed for snow blowers, shovels, lawnmowers, etc. and that it was a principal building, not an attachment to the main church.

Ms. Perez asked if the sidewalks surrounding the church were in disrepair. Mr. Tobin answered in the affirmative, but that they were planning to renovate and fix them and meeting all city engineering requirements.

Commissioner Grace asked if there was anyone present who would like to speak in favor of the application.

Hannah Cruz came forward and introduced herself as a parent leader, community leader, member of the Board of Police Commissioners and a member of the Gospel Light Congregation for over 30 years. She stated that the Church has spiritually nurtured the neighborhood, provided opportunities to establish relationships and exemplifies the heart of servanthood. She stated that she is greatly in favor of the variance, as the church needs to grow in order to meet the greater needs of the community, particularly that of aging parishioners who may need more direct access as their physical capabilities diminish. She closed by stating she would be delighted to support this, and directed the Board's attention to 24 additional parishioners present to show support.

Mike Mahoney came forward and introduced himself as a long-standing member of the congregation. He stated that over the years as needs for expansion increased, the Church would look for outside solutions and return to the conclusion that they belong in their original location. He said that the Church has a strong community presence, facilitates community outreach and service such as tag sales, feeding nights, Thanksgiving dinner and park clean-ups, and that increased capacity would help them meet these needs year round, as currently most outdoor activities cannot be carried on during the winter months.

Pedro Vasquez, current Pastor of Gospel Light, came forward and expressed his pride in the Church as a representation of Bridgeport at large as a multi-ethnic and multi-racial community. He stated that before his turn as a pastor he spent 26 years as a teacher and curriculum advisor at Bridgeport Public Schools, and that the goal of the congregation is to continue to aid people. He closed by saying that an area in which they lack is allowing access to the elderly, and that this variance would help them meet that need.

Commissioner Grace asked if there was anyone present who wished to oppose the application. Hearing none, she closed the hearing on 226 Charles Street.

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ITEM #7 RE: 379 BOND STREET AKA 1285 BOSTON AVENUE (City of Bridgeport Board of Education)- Seeking to modify an approved plan of development to an application approved by the Zoning Board of Appeals on 11/12/13 to construct a 4-story educational facility now needing a variance of the minimum setback and perimeter landscaping requirement of Sec. 11-1-3 and also seeking to waive 140 of the required 301 on-site parking spaces required under Sec. 11-1-2 to permit a 54,000 sq. ft. expansion of the proposed facility in an R-C zone.

Attorney Raymond Rizio came forward and introduced himself as counsel for the City of Bridgeport Board of Education. He stated that there were no mailings to be turned in, as there were no possible abutters since the lot takes up the bulk of the area. Atty. Rizio said that the variance was for the proposed Hardy High School expansion, which had been previously discussed and approved. However, he stated that their original estimate of 813 students had grown to 1150 after it was discovered that, due to the exceptional nature of the school's improvements, more students would be inclined to attend Hardy as opposed to being diverted to magnet or charter schools. He stated that the slight expansion would comprise 54,000 sq. ft. and would enlarge the auditorium, special ed suite, nurse's suite and on-site daycare facility, as well as add 4 classrooms. Atty. Rizio asked that the requirement of the 10 ft. setback be pushed to a 5 ft. setback. He further asked that the L2 standard required as a result of the setback size be changed to an L1 standard, as the conditions of the L1 seemed far more appropriate for the current space. He stated that the rest of the property adheres to an L1 standard, and continuing that would keep the landscaping uniform. He further stated that at an L2 standard, there is a mandatory 95% opacity for the surrounding coverage, which could prove to be a security issue for the school. He stated that they intended to satisfy the requirement by planting trees and appropriate grasses.

Atty. Rizio also requested a variance to waive 140 of the 301 required parking spaces that would become mandatory with the new expansion of the property. He stated that the 7 additional classrooms would not trigger the need for more parking spaces, as the vast majority of attendees either take the bus or walk to school. He noted that the only occasions during which parking is in higher demand is during sporting events, which he stated should be accommodated by the widening of the Seaview Avenue corridor, which was addressed during their last variance request.

Commissioner Grace inquired as to why the number of enrolled students was expected to drop from 1400 to 1150. Atty. Rizio stated that the students would be distributed through a variety of

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schools including the charter and magnet schools. He further asserted that this was a positive thing, as the children seem to be doing well and the more options they have, the better.

Commissioner Grace asked if there was anyone present who wished to speak in favor of the application. No one came forward. She then asked if there was anyone present who wished to oppose the application. Hearing none, she closed the hearing on 379 Bond Street AKA 1285 Boston Avenue.

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DECISION SESSION

ITEM D-1 (#2) RE: 1596 STRATFORD AVENUE (Efrain Crespo)– Seeking a use variance under Sec. 6-1-2 to permit the establishment of a contractor’s storage yard for construction dumpsters and containers in an OR-G zone.

****COMMISSIONER RUSSO MOVED TO ACCEPT THE WITHDRAWAL OF ITEM D-1 (#2) RE: 1596 STRATFORD AVENUE (EFRAIN CRESPO) WITH THE FOLLOWING CONDITIONS:**

- 1. THE ZONING ENFORCEMENT OFFICER IS TO REFER THIS CASE BACK TO THE ASSISTANT STATE ATTORNEY’S OFFICE.**

****COMMISSIONER CAROLAN SECONDED THE MOTION.**

****MOTION PASSED UNANIMOUSLY.**

ITEM D-2 (#3) RE: 43-45 HERKIMER STREET (Ricardy Philogene)- Seeking a variance of the cumulative side setback requirement of 20 ft. and the maximum roof mid-point height requirement of 28’ under Sec. 5-1-3 to legalize the dormer addition containing bedrooms and bathroom on the 3rd floor of the nonconforming 2-family dwelling in an R-A zone.

****COMMISSIONER RUSSO MOVED TO DENY AGENDA ITEM D-2 (#3) RE: 43-45 HERKIMER STREET (RICARDY PHILOGENE)- SEEKING A VARIANCE OF THE CUMULATIVE SIDE SETBACK REQUIREMENT OF 20 FT. AND THE MAXIMUM**

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ROOF MID-POINT HEIGHT REQUIREMENT OF 28' UNDER SEC. 5-1-3 TO LEGALIZE THE DORMER ADDITION CONTAINING BEDROOMS AND BATHROOM ON THE 3RD FLOOR OF THE NONCONFORMING 2-FAMILY DWELLING IN AN R-A ZONE FOR THE FOLLOWING REASONS:

- 1. THE ADDITION WAS CONSTRUCTED WITHOUT PERMITS OR APPROVALS.**
- 2. THE APPROVAL OF THIS PETITION WOULD BE AN INCREASE OF A NONCONFORMING USE.**
- 3. THE PROPOSED ADDITION WOULD BE AN OVERUSE OF THE SUBJECT SITE.**

****COMMISSIONER PEREZ SECONDED THE MOTION.**

****MOTION PASSED UNANIMOUSLY.**

ITEM D-3 (#8) RE: 540 GRANT STREET (Big Dam's Auto Stereo Installation & More)- Seeking a variance of the 17 required off-street parking spaces under Sec. 11-1-2 to permit the establishment of an audio and decal installation business in the existing mixed use commercial building in an OR zone.

****COMMISSIONER SHEPARD MOVED TO DEFER ITEM D-3 (#8) RE: 540 GRANT STREET (BIG DAM'S AUTO STEREO INSTALLATION & MORE) TO THE FOLLOWING MEETING ON MAY 12, 2015.**

****COMMISSIONER RUSSO SECONDED THE MOTION.**

****MOTION PASSED UNANIMOUSLY.**

ITEM #1 RE: 1044 BROOKLAWN AVENUE ((Michael Defilippo)- Seeking a variance under Sec. 12-10a to permit the establishment of a liquor store use in the existing retail building and the issuance of a package store liquor permit within 1500 feet of 1 (one) houses of worship and 1 (one) day care center in an OR zone.

****COMMISSIONER CAROLAN MOVED TO GRANT AGENDA ITEM #1 RE: 1044 BROOKLAWN AVENUE (MICHAEL DEFILIPPO)- SEEKING A VARIANCE UNDER SEC. 12-10A TO PERMIT THE ESTABLISHMENT OF A LIQUOR STORE USE IN THE EXISTING RETAIL BUILDING AND THE ISSUANCE OF A PACKAGE STORE LIQUOR PERMIT WITHIN 1500 FEET OF 1 (ONE) HOUSE OF WORSHIP AND 1**

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**(ONE) DAY CARE CENTER IN AN OR ZONE WITH THE FOLLOWING
CONDITIONS:**

- 1. THE SITE IMPROVEMENTS AND DEVELOPMENT OF THE SUBJECT PREMISES SHALL BE IN STRICT ACCORD WITH THE PLAN SUBMITTED TO AND APPROVED BY THE BOARD.**
- 2. THE SIDEWALKS ON THE BROOKLAWN AVENUE AND SUBURBAN AVENUE FRONTAGE SHALL BE REPLACED WITH CONCRETE WITH THE DRIVEWAY APRONS COMPLYING WITH THE CITY ENGINEER STANDARDS.**
- 3. THE PETITIONER SHALL FILE PLANS AND APPLICATIONS FOR THE ISSUANCE OF A CERTIFICATE OF ZONING COMPLIANCE AND A BUILDING PERMIT.**

WITH THE FOLLOWING REASONS IN FAVOR:

- 1. THREE OF THE FOUR HOUSES OF WORSHIP WITHIN THE 1500' OF THE SUBJECT PREMISES WROTE LETTERS OF SUPPORT.**
- 2. 186 CITY OF BRIDGEPORT RESIDENTS SIGNED A PETITION IN FAVOR OF THIS VARIANCE.**
- 3. THE LOT SHALL BE IMPROVED AND WILL BE MORE CONFORMING TO THE ZONING REGULATIONS.**
- 4. IMPROVEMENTS TO THE BUILDING AND PROPERTY WILL RESULT IN MORE ACTIVITY, AND PEDESTRIAN SAFETY.**
- 5. ATTORNEY WILLINGER PRESENTED CASE LAW, WHICH SUPPORTED A LIQUOR VARIANCE IN ANOTHER COMMUNITY IN CT.**

WITH THE FOLLOWING REASONS AGAINST:

- 1. NO LEGAL HARDSHIP ASSOCIATED WITH THIS PETITION.**
- 2. SUBJECT PREMISES IS WITHIN 1500' OF A DAYCARE FACILITY AND 4 HOUSES OF WORSHIP.**
- 3. LIQUOR USE IS NOT CONSISTENT WITH THE MASTER PLAN OF DEVELOPMENT.**
- 4. THIRTEEN MEMBERS OF THE TRIUMPHANT MINISTRIES CHURCH ON PARK AVENUE, AS WELL AS THE PASTOR, APPEARED IN OPPOSITION TO THIS LIQUOR APPLICATION.**
- 5. ATTORNEY SOBEL'S MEMORANDUM HAD STRONG ARGUMENTS WHICH ATTORNEY WILLINGER DID NOT REBUT.**

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- 6. THE PROPERTY'S COSMETIC CONDITION DOES NOT WARRANT A LEGAL HARDSHIP.**
- 7. THE ZONING BOARD OF APPEALS DOES NOT HAVE LIBERAL DISCRETION WHEN APPROVING OR DENYING ANY VARIANCE.**

****COMMISSIONER PEREZ SECONDED THE MOTION.**

****MOTION PASSED WITH FOUR IN FAVOR (COMMISSIONERS CAROLAN, PEREZ, BROWN AND GRACE), ONE IN OPPOSITION (COMMISSIONER RUSSO)**

ITEM #2 RE: 1534-1536 SEAVIEW AVENUE (Bridgeport Neighborhood Trust)- Seeking a variance under Sec. 11-1-2 waiving all of the required on-site parking spaces to permit the establishment of a professional office use on the ground floor in the existing mixed use 3-story building in an I-L zone and coastal area.

****COMMISSIONER RUSSO MOVED TO GRANT AGENDA ITEM #2 RE: 1534-1536 SEAVIEW AVENUE (BRIDGEPORT NEIGHBORHOOD TRUST)- SEEKING A VARIANCE UNDER SEC. 11-1-2 WAIVING ALL OF THE REQUIRED ON-SITE PARKING SPACES TO PERMIT THE ESTABLISHMENT OF A PROFESSIONAL OFFICE USE ON THE GROUND FLOOR IN THE EXISTING MIXED USE 3-STORY BUILDING IN AN I-L ZONE AND COASTAL AREA WITH THE FOLLOWING CONDITIONS:**

- 1. THE PETITIONER SHALL FILE PLANS AND APPLICATIONS FOR THE ISSUANCE OF A CERTIFICATE OF ZONING COMPLIANCE AND A BUILDING PERMIT.**
- 2. THE RENOVATIONS TO THE SUBJECT PREMISES SHALL BE IN STRICT ACCORD WITH THE PLANS SUBMITTED TO AND APPROVED BY THE BOARD.**
- 3. ANY TYPE OF RETAIL USE, ESPECIALLY A LIQUOR RELATED USE, IS STRICTLY PROHIBITED.**
- 4. THE 1ST FLOOR OFFICE SPACE IS ONLY TO BE LEASED TO RESIDENTS OF THE UPPER FLOORS OF THE BUILDING.**
- 5. OFF-STREET PARKING SHALL BE PROVIDED AT 1524 SEAVIEW AVENUE IN PERPETUITY.**

FOR THE FOLLOWING REASONS:

- 1. THE PROJECT AS APPROVED WILL BE BENEFICIAL TO THE AREA.**

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2. THE PROPOSED USE IS LESS INTENSIVE THAN PREVIOUS ONES.

****COMMISSIONER PEREZ SECONDED THE MOTION.**

****MOTION PASSED UNANIMOUSLY.**

ITEM #3 RE: 1524 SEAVIEW AVENUE (Bridgeport Neighborhood Trust)- Seeking a use variance under Sec. 5-1-2 and also seeking variances of the minimum landscaping and maximum site coverage requirement under Sec. 5-1-3 to permit the establishment of a commercial parking lot in an R-C zone and coastal area.

****COMMISSIONER CAROLAN MOVED TO GRANT AGENDA ITEM #3 RE: 1524 SEAVIEW AVENUE (BRIDGEPORT NEIGHBORHOOD TRUST)- SEEKING A USE VARIANCE UNDER SEC. 5-1-2 AND ALSO SEEKING VARIANCES OF THE MINIMUM LANDSCAPING AND MAXIMUM SITE COVERAGE REQUIREMENT UNDER SEC. 5-1-3 TO PERMIT THE ESTABLISHMENT OF A COMMERCIAL PARKING LOT IN AN R-C ZONE AND COASTAL AREA WITH THE FOLLOWING CONDITIONS:**

- 1. A PARKING AGREEMENT FOR USE IN PERPETUITY FOR THE TENANTS OF 1534-1536 SEAVIEW AVENUE SHALL BE FILED ON THE LAND RECORDS OF THE CITY OF BRIDGEPORT, OF WHICH A COPY OF THIS DOCUMENT SHALL BE HELD ON FILE IN THE ZONING DEPARTMENT.**
- 2. ONE SPACE SHALL BE ASSIGNED TO EACH OF THE RENTAL UNITS (4) LOCATED AT 1534-1536 SEAVIEW AVENUE.**
- 3. ALL LANDSCAPING AND SCREENING SHALL BE INSTALLED IN STRICT ACCORD WITH THE PLAN SUBMITTED TO AND APPROVED BY THE BOARD.**

FOR THE FOLLOWING REASONS:

- 1. LEGALIZES AN EXISTING USE.**
- 2. PROVIDES OFF-STREET PARKING FOR THE MIXED USE BUILDING AT 1534-1536 SEAVIEW AVENUE WHICH IS IN AN AREA WITH CONSIDERABLE TRAFFIC CONGESTIONS.**

****COMMISSIONER RUSSO SECONDED THE MOTION.**

****MOTION PASSED UNANIMOUSLY.**

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ITEM #4 RE: 27 DODD AVENUE (Brineth, Wilfredo, and Christian Rivera)- Seeking variances of the front and side setback requirements under Sec. 5-1-3 to permit the construction of 3 (three) accessory structures on an irregular shaped lot in an R-A zone.

****COMMISSIONER SHEPARD MOVED TO GRANT AGENDA ITEM #4 RE: 27 DODD AVENUE (BRINETH, WILFREDO, AND CHRISTIAN RIVERA)- SEEKING VARIANCES OF THE FRONT AND SIDE SETBACK REQUIREMENTS UNDER SEC. 5-1-3 TO PERMIT THE CONSTRUCTION OF 3 (THREE) ACCESSORY STRUCTURES ON AN IRREGULAR SHAPED LOT IN AN R-A ZONE WITH THE FOLLOWING CONDITIONS:**

- 1. THE PETITIONER SHALL FILE PLANS AND APPLICATIONS TO LEGALIZE ALL CONSTRUCTION ACTIVITY ON THIS SITE.**
- 2. THE REAR OR SIDE OF THE SHED FACING THE ABUTTING PROPERTY SHALL BE FINISHED AND PAINTED TO MATCH THE REST OF THE STRUCTURE.**
- 3. THE PETITIONER SHALL PLANT PRIVACY SHRUBS/BUSHES TO SHIELD THE PATIO FROM VIEW. (ENCLOSED PLEASE FIND THE PLAN DESIGNED BY THE CITY'S DESIGN REVIEW COORDINATOR, WHICH IS TO BE IMPLEMENTED AS SOON AS POSSIBLE)**

FOR THE FOLLOWING REASON:

- 1. THIS UNIQUE SHAPED PROPERTY DOES NOT PROVIDE ANY PRIVATE "QUALITY OF LIFE" SPACE FOR THE RESIDENTS TO ENJOY.**

****COMMISSIONER RUSSO SECONDED THE MOTION.**

****MOTION PASSED UNANIMOUSLY.**

ITEM #5 RE: 226 CHARLES STREET (Gospel Light Community Church)- Seeking variances of the front and side minimum setback requirements; the minimum site coverage requirement; and the minimum landscaping requirement under Sec 5-1-3 to permit the construction of a 1-story 957 sq. ft. front addition and a 1-story, 79 sq. ft. rear addition to the existing church in an R-C zone.

****COMMISSIONER CAROLAN MOVED TO GRANT AGENDA ITEM #5 RE: 226 CHARLES STREET (GOSPEL LIGHT COMMUNITY CHURCH)- SEEKING**

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VARIANCES OF THE FRONT AND SIDE MINIMUM SETBACK REQUIREMENTS; THE MINIMUM SITE COVERAGE REQUIREMENT; AND THE MINIMUM LANDSCAPING REQUIREMENT UNDER SEC 5-1-3 TO PERMIT THE CONSTRUCTION OF A 1-STORY 957 SQ. FT. FRONT ADDITION AND A 1-STORY, 79 SQ. FT. REAR ADDITION TO THE EXISTING CHURCH IN AN R-C ZONE WITH THE FOLLOWING CONDITIONS:

- 1. THE RENOVATIONS TO THE EXISTING CHURCH STRUCTURE SHALL BE IN STRICT ACCORD WITH THE PLANS SUBMITTED TO AND APPROVED BY THE BOARD.**
- 2. CONCRETE CURBING AND WALKS SHALL BE INSTALLED IN COMPLIANCE WITH CITY STANDARDS.**
- 3. THE PETITIONER SHALL PROVIDE THE ZONING DEPARTMENT WITH LEASES FOR THE OFF-SITE PARKING ON FEDERAL STREET AND CHARLES STREET. AT A MINIMUM THE LEASE AGREEMENTS SHALL BE FOR FIVE (5) YEARS WITH THREE FIVE-YEAR OPTIONS.**

FOR THE FOLLOWING REASONS:

- 1. THE CHURCH FACILITY WILL BECOME ADA COMPLIANT.**
- 2. FACILITATES YEAR-ROUND CHURCH RELATED HUMANITARIAN SERVICES TO BRIDGEPORT RESIDENTS.**

****COMMISSIONER RUSSO SECONDED THE MOTION.**

****MOTION PASSED UNANIMOUSLY.**

ITEM #7 RE: 379 BOND STREET AKA 1285 BOSTON AVENUE (City of Bridgeport Board of Education)- Seeking to modify an approved plan of development to an application approved by the Zoning Board of Appeals on 11/12/13 to construct a 4-story educational facility now needing a variance of the minimum setback and perimeter landscaping requirement of Sec. 11-1-3 and also seeking to waive 140 of the required 301 on-site parking spaces required under Sec. 11-1-2 to permit a 54,000 sq. ft. expansion of the proposed facility in an R-C zone.

****COMMISSIONER CAROLAN MOVED TO GRANT AGENDA ITEM #7 RE: 379 BOND STREET AKA 1285 BOSTON AVENUE (CITY OF BRIDGEPORT BOARD OF EDUCATION)- SEEKING TO MODIFY AN APPROVED PLAN OF DEVELOPMENT TO AN APPLICATION APPROVED BY THE ZONING BOARD OF APPEALS ON**

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11/12/13 TO CONSTRUCT A 4-STORY EDUCATIONAL FACILITY NOW NEEDING A VARIANCE OF THE MINIMUM SETBACK AND PERIMETER LANDSCAPING REQUIREMENT OF SEC. 11-1-3 AND ALSO SEEKING TO WAIVE 140 OF THE REQUIRED 301 ON-SITE PARKING SPACES REQUIRED UNDER SEC. 11-1-2 TO PERMIT A 54,000 SQ. FT. EXPANSION OF THE PROPOSED FACILITY IN AN R-C ZONE WITH THE FOLLOWING CONDITIONS:

- 1. THE DEVELOPMENT OF THE SUBJECT SITE SHALL BE IN STRICT ACCORD WITH THE REVISED PLANS SUBMITTED TO AND APPROVED BY THE BOARD.**
- 2. THE APPLICANT SHALL FILE PLANS AND APPLICATIONS FOR THE ISSUANCE OF A CERTIFICATE OF ZONING COMPLIANCE AND A BUILDING PERMIT.**
- 3. LANDSCAPING AND BUFFERING IS TO BE INCREASED WHEREVER POSSIBLE, PARTICULARLY ALONG THE PROPERTY BOUNDARIES.**

FOR THE FOLLOWING REASONS:

- 1. THIS PROJECT IS THE HIGHEST AND BEST FOR THIS DONATED PARCEL OF LAND.**
- 2. THE VARIANCE REQUESTED ARE NECESSARY FOR PROPER DEVELOPMENT OF THIS UNIQUELY SHAPED PROPERTY.**

RECESS

Commissioner Grace called a recess at 9:15 PM, and stated the hearing was set to reconvene the next day in the Wheeler Room.

Respectfully submitted,
Catherine Ramos
Telesco Secretarial Services