

**MINUTES OF PUBLIC HEARING
HELD BY THE ZONING BOARD OF APPEALS
LINCOLN CENTER HEARING ROOM
NOVEMBER 19, 2008**

MEMBERS PRESENT: James Stevenson, Chair
Kathleen Maffe, Vice Chair
Mark Connors

ALTERNATES PRESENT: Edward Slegeski
Paul Harnois (sitting)
Armando Darna (sitting)

ABSENT: Albert Gionet, Secretary
Robert Schneider

ALSO PRESENT: James Davis, Zoning Enforcement Officer
Renata Bertotti, Senior Planner
Judith Schuberth, Senior Administrative Secretary

The Chair opened the Public Hearing at 7:03 p.m. The Vice Chair read the legal notice for the application when the call was made.

MARIE TRI VU – application #2389 – request a variance to Article II Section 6.01.13 to permit use of first floor for a personal service business (hair care center) at 168 Main Street, Residence C zone.

Marie Vu, 168 Main Street, requested a use variance to convert 336 sq. ft. of the first floor of her residence at 168 Main Street into a home-base service hair care salon. In 2006 I applied for a variance for three chairs and sales of hair care products which would have required 625 sq. ft. of the first floor, but the Zoning Board denied the request in January 2007. In response to the Board and several letters submitted from the neighbors on the last application I amended the request to one chair and the use of only 336 sq. ft. of the first floor and no sales of hair products. She would be the only employee with three to four customers per day and the hours of operation will be from 9 a.m. to 5 p.m. or 10 a.m. to 6 p.m. Monday through Saturday, and that the remainder of the first floor would remain the same. The paved parking would provide enough space for her family cars and the customer cars. She proposed no changes to the parking area or the exterior of the existing house and does not believe a traffic hazard would be created because the customers would park in the back. She believes that an attorney's office or engineer's business would generate more traffic than her hair care business and therefore her request should not change the character of the neighborhood and her application meets all the criteria set out in zoning regulations Article II Section 6.01.13, she said. Ms. Vu explained the personal hardship of having to care for an elderly mother and two handicapped sons. Permitting her to have this business in her home would allow her to provide better care for them.

Chairman Stevenson asked if the Board had any questions for the applicant or if anyone would like to speak in favor or against this application.

In response to a question from Ms. Maffe, Ms. Vu responded that she and her mother live on the first floor, and that her two handicapped sons live on the second floor.

Ms. Bertotti, Senior Planner, said there were no outstanding comments from staff, but the Zoning Enforcement Officer did ask about the use of the first floor and she asked if he was satisfied with the information he was requesting.

In response to a question from Mr. Connors, Mr. Davis explained that the dental offices next to Ms. Vu fall under medical offices which are a permitted use in Zone C.

Since there were no more questions of the Board Members and there was not comments from the public Chairman Stevenson closed the public hearing.

CREATIVE REMODELERS, INC. – Application #2390 – request a variance to Article II Section 4.01.01 to allow a garage to remain after construction of an addition at 180 Chestnut Street, Residence A zone.

Mr. Joseph Grillo of Creative Remodelers, Inc., 945 Center Street, said that an addition was added to the back of the house that was supposed to be a dining room but has since become a bedroom. During the construction it was realized that the plot plan did not show the garage, therefore the garage became out of compliance with the construction of the addition. Mr. Grillo said that he experienced this problem five years ago and he misunderstood the regulation based on the project from five years ago and did not realize the garage was now out of compliance.

In response to a question from Ms. Maffe, Mr. Grillo said that a building permit application was submitted to reduce the size of the garage should this application be denied, but if the application is granted then the garage would remain intact, which would be the owners' preference.

Mr. Davis asked Mr. Grillo if the proposed reduction in the garage size was based on the plane of the porch extension from the addition or from the addition itself. It is based on the plane of the small porch, he said.

Ms. Bertotti, Senior Planner, said there were no outstanding comments from staff.

Chairman Stevenson asked anyone wishing to speak in favor of or in opposition to the application to come forward. As no one came forward, the chairman closed the public hearing on this item.

AYAZ ENTERPRISES LLC – Application #2391 – request a modification to a condition of special exception to extend hours of operations to 5:30 a.m. to 11:00 p.m. at 220 Spruce Street, Neighborhood Business zone.

Mr. Mustafa Ayaz, owner of store at 220 Spruce Street, explained that he would like to modify a condition of a special exception approval changing the hours of operation from 6:00 a.m. to 10

p.m. to 5:30 a.m. to 11:00 p.m. He said that residents in the area have complained to him that his store closes too early. He does not have a canopy over the gas pumps so there is no excessive lighting and there are bars that are open later than his business. Mr. Ayaz said that he had many of the residents of the neighborhood to sign a petition for additional hours, and though he would benefit economically from the additional time his store is open he feels additional hours provide a service to the neighborhood. He is willing to shut off some of the lights to reduce complaints from people in the area.

In response to a question from Mr. Connors, Mr. Ayaz said that a pay phone that contributed to some noise complaints has been removed.

Chairman Stevenson asked anyone wishing to speak in favor of or in opposition to the application to come forward.

Joseph Thompson, 97, 99 & 101 Maple Street spoke against the modification. He questioned the authenticity of the petition provided by the applicant. Though there were many signatures there was no indication of what the people were signing, they might have gotten a free coffee if they signed this paper. In the past Mr. Thompson was approached by an employee of the station regarding an additional hour in the evening, but never mentioned the additional time in morning. They were denied the additional time but the owner/employees just stayed open until 11:00 to 11:30 at night, he said. His main complaint is the loud noise. He also said that when customers drive into the lot they leave the radio blasting so loud it vibrates off the walls of his home. The tavern in the area does not create the noise that this convenience store does. There is also a great deal of trash created by the business which ends up in their yard. When the store is closed there is still lights shining into his home at night and he did not believe the owner could simply shut off the lights as he testified without his customers being endangered. He said the man that approached him previously said he would hang signs to tell people to turn off radios but that it never happened and doesn't believe there is a reason for a gas station to be open at 5:30 a.m.

Ms. Bertotti said that there were not outstanding staff comments and reviewed some of the background with the property and the original owner proposed 6:00 a.m. to 12:00 midnight in 1988 but the Board limited the hours to 6:00 a.m. to 10 p.m. She stated that the petition does not provide the language necessary to prove what the signatures represent.

Mr. Ayaz said that the first page of the petition was lost, but that he would look for it and the petition did represent the signatures of area residents and their wish that the store remain open the additional hours. Many of the residents in the area are of low income and do not own a car and if his store is closed they must walk a mile to another store. He would try to address Mr. Thompson's concerns, but Spruce Street is a busy thoroughfare with many cars traveling and people walking that are not associated with or patronizing his store, and he would be willing to turn off the gas pumps at 10:00 p.m. but would still like to keep the store open until 11:00 pm, he said.

In response to a question from Ms. Maffe, Mr. Thompson, the abutting neighbor, said there is noise at 6:00 a.m. and there is a fence that teenagers congregate at, which he believes contributes to criminal activity.

In response to a question from Chairman Stevenson, Mr. Thompson said that he has called the police and the area is troubled by drug sales and gangs.

Mr. Ayaz said he agrees that Spruce Street is a troubled area but it is not his store that creates the problems of the area.

Chairman Stevenson asked if the Board had any questions for Town staff. As there was no other comments Chairman Stevenson closed the public hearing at 7:38 p.m.

Ms. Bertotti said Town staff has no outstanding comments.

I certify these minutes were adopted on the following date:

Date

James Stevenson, Chair

**NOTICE: THE CASSETTE TAPE RECORDING OF THIS PUBLIC HEARING CAN
BE HEARD IN THE PLANNING DEPARTMENT.**

OFFICIAL TAPE NO: 504

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