

Paul P. Parisi, Chm.; Dr. Eric G. Lowry, V-Chm.; Cos Giuffrida, COMMISSION MEMBERS  
Secretary; Vincent J. Loffredo; Dr. Christie McLeod; Seb. J. PRESENT  
Passanesi; Ralph H. Shaw II; Mayor Anthony S. Marino.

George L. Augustine; Robert F. Chamberlain. ALTERNATE MEMBERS  
PRESENT

Conrad J. Tyaack; Daniel Z. Shapiro. ALTERNATE MEMBERS  
ABSENT

George L. Augustine acted for Seb. J. Passanesi who left ACTING MEMBER  
the meeting at 8:30 P.M.

George A. Reif, Director; Althea Rinaldi, Secretary; Florence STAFF  
Pelc, Transcribing Secretary.

Jeff Kotkin, reporter, Middletown Press; and 3 members of the OTHERS  
audience at large.

CHAIRMAN PARISI:

Tonight is the public hearing and I will ask the Secretary to read  
the legal notice.

SECRETARY GIUFFRIDA:

THE MIDDLETOWN PLANNING AND ZONING COMMISSION WILL HOLD A PUBLIC HEARING SEPTEMBER 12, 1979, STARTING AT 7:30 P.M. IN THE COUNCIL CHAMBER, MUNICIPAL BUILDING DEKOVEN DRIVE, MIDDLETOWN, CONNECTICUT to consider the following: S.E. TO PERMIT AN EXISTING BUILDING TO 4 DWELLING UNITS IN AN R-2 ZONE, AT ARAWANA DR. APPLICANT E. G. NELSON

ITEM 1:

Special Exception application to change the existing dwelling unit to four dwelling units located at Arawana Drive/Newfield Street, R-2 Zone, Applicant Elizabeth G. Nelson.

CHAIRMAN PARISI:

This notice appeared in the Middletown Press on Saturday September 1, and Saturday Sept. 8, 1979 there-by giving the appropriate legal notice. Who is here on behalf of the applicant? Please come forward and state your name for the record.

STEVE NELSON:

My name is Steve Nelson, Elizabeth Nelson's son. We have a situation where this is an old structure and is part of the original old estates in town (Inaudible) and one of those years it was converted into a residence and also it has several different apartment units in it at the present. What we are trying to do in light of the present (Inaudible) changing family situation is to make this a liable residence for my mother so she can continue living there and help to support herself by apartments that will be created out of (Inaudible) exists. There are actually three separate units in there now and we would just like to add a fourth unit. The total effect of doing that physically (Inaudible) this is the building by the way which fronts on Arawana Drive and if nobody knows particularly where this is you go along Newfield Street and you come to Westfield Street in that area there's a big curve and there's a building called the

Godfrey Library and there's a road next to that. This use to be the old Hubbard Estate, one of the Hubbard Estates and the building that we are talking about over here, and over here are stables and here they use to have greenhouses here. (Inaudible) building in front with a separate entrance and a (Inaudible) in the back and that's about all you can see. The number of people that are living will still be the same because my brother lives there now with my mother. So all we are saying is to have him a kitchen and a couple of bedrooms so that he can have a separate unit.

Now what this will do is create a building with four living units. We are allowed I guess by special exception to have apartment units called garden apartments in this zone by special exception. There are in this zone as you can see on the bottom the garden apartments right next (Inaudible) so its a use thats in the area. What we are proposing would not really effect the neighborhood in anyway thats not being effective now because we all live there now, so its changing the exterior surface of the house.

CHAIRMAN PARISI:

Is there anything else that you wanted to say at this point?

STEVE NELSON:

Well I guess not, but if there is any questions I'd be happy to answer them.

CHAIRMAN PARISI:

Do any of the Commission members have any questions at this time? George?

MR. REIF:

Lets talk about the lot because what we have discovered when we started to investigate this obviously is a subdivision of land that has been created with any number of lots which have been sold off to people whose names are quite familiar to everybody in the community. Unfortunately they don't meet the criteria of the Zoning Code by virtue of the fact they don't have any frontage on a public street. I know you're not thinking about this because you're not concerned. It is a problem that faces the Planning Commission at almost every meeting and probably no one in this room new it was there until by chance in an honest way you come and asked for a special exception and it's now been exposed that there are a cluster of homes there that in which lots have been sold and what have you without the benefit of anu Planning Commission's approval.

This is the map that was filed in the early 40's in the Town Clerk's Office. This is the layout of lots as it currently on file in the Tax Assessors Office. So in addition to a relatively simple thing I think that the Planning Commission can't ignore the fact that a rather large development is taking place without the benefit of having the subdivisions of land approved....and I don't know that it's your problem.

STEVE NELSON:

I don't really know about that because we bought that property in 1965 so we entered into an existing situation. This property was as you see it when she bought it and has been for years. So in that year we bought the place and the situation.

The fact is I'm talking about a physical condition that in order for my mother to maintain this house in this (Inaudible) today. For instance it consumed to heat last year 5,068 gallons of fuel oil. so what we are talking about is that we are stuck with (Inaudible) building which she happens to own. We bought into a situation here and didn't know any of this, we just bought a house. So in the economic circumstances all I'm asking to do is to put in a stairway and a door behind (Inaudible) an existing situation, not changing the number of people that are involved or anything like that. Now George has raised the question that it has to do with a pre-existing situation which we did not in anyway know what it was like. It just happened to be there. Now if you want to do something about that fine, but I don't think we should be the (Inaudible) for our particular request in this case because of that situation.

COMM. SHAW:

Why are we in on this George?

MR. REIF:

Because he is asking for a special exception to add a dwelling unit to an existing....

COM. SHAW:

You mean to change it from 3 to 4 units?

MR. REIF:

Yes, and by chance we have discovered as we do quit frequently with other lots that he doesn't have a legal lot. There is one other thing that the Health Department did bring up, are you connected to the City's sewer?

STEVE NELSON:

No not yet but we are scheduled to. This sewer done here (pointing to map) and we have contacted (Inaudible) and we are going to be connected. We have gone over this with the Sewer Department and so forth.

MR. REIF:

We just discovered this as we processed this application.

STEVE NELSON:

Well all I know is that for everything that's been done up there every body has gotten the proper permits and so forth.

MR. REIF:

At some point that wasn't the case because they could not have...who ever it was who created these lots and sold them did it without the Planning Commission's approval. And it's a State law that says you can't subdivide land and file it in the Town Clerk's Office without the approval of the Planning Commission.

MAYOR MARINO:

Is there a date to where this subdivision actually took place?

MR. REIF:

It took place over a period of time after.....Althea did the research on this and we got the dates and everything else, but there is no question it was created as many of them are improperly and never should have them been allowed to be filed without this seal of the Planning Commission. That in itself is not an uncommon occurrence. The problem here is that the lots don't have frontage on a public street. We have discovered also that that is not an unusual thing. However, we have got to come up with some solution because some people are being persecuted left and right because of things that happen this way.

STEVE NELSON:

So what do you suggest to do.....

EVERYONE TALKING AT ONCE

We just access ourselves to how (Inaudible) and how much of the road (Inaudible) equitable to take care of and there's Jack Payton's house here and Marie Rider and Norm Daniels and ....of coarse my mother here.....

EVERYONE TALKING AT ONCE

MAYOR MARINO:

The question I raise to the Commission is will this (Inaudible) be effected by denying this application?

MR. REIF:

It happens to fit in a pattern thats going on and most people now a days don't do this. It cost money to build roads. What is the remedy, this should of been a road that was developed to meet the standards of the City.

DR. LOWRY:

This is two different situations we have here.....  
One has nothing to do with the other....

MR. REIF:

It's got to because he doesn't have a legal lot.

STEVE NELSON:

I do have connections with all the legal facilities that are required. I think that what happened was that this road use to go to this house.

MR. REIF:

It's clear what happened.....and they had a Mansion up there and the man died and his family sold off lots....it's understood....it happens quite frequently. If that happened today a developer of that large parcel of land would have to do

something different, and had the system been working when this happened there would of been an approved subdivision of land by the Planning Commission in the 40's.

STEVE NELSON:

Say you are presented as a planner and this is your problem and there is the layout, what would you do, what would you tell us what to do to comply with....

MR, REIF:

Your missing ingredient is frontage on a public street.

STEVE NELSON:

Not is we make this a public street.....

MR. REIF:

Your here because you don't want to spend money, you want to spend the minimum amount of money because your talking about economics. However, I must say again that there are a lot of people....one of them went bankrupt developing these roads to meet the requirements and there's a certain amount of fairness that gets involved. I think its a question that the Planning Commission started.... I don't think anybody wants to get overly harsh but we have got to recognize all these cases because they are all part of a pattern and we have to find a solution.

STEVE NELSON:

I don't see how it could be held up as a very good example to the developers.... We are having trouble now because it did happen as it did.....

MR. REIF:

The reason its a good example is if they can do this then they would have (Inaudible) This developer of land got away.....with a driveway.....

STEVE NELSON:

Could that of happened before there were these rules.....?

MR. REIF:

No, we have checked that out. The rules come to affect in 41. As a matter of fact you and the other people who come to the Planning Commission I salute because your not hiding it, your bringing it out.

CHAIRMAN PARISI:

Are there any more questions or comments from the Commission? Steve is there any thing else that you want to say?

STEVE NELSON:

Yes, I just hope that we will be judged on the merits of our existing predicament although I would certainly work with the Planning and Zoning in any way and perhaps in time we can remedy the situation.

MR. REIF:

May I say one more thing, most of the reasons many times the Planning Commission and ofcourse we learn about these things because the lawyers research titles and they are the ones who come up and say look you have a cloud on your title. While it may seem academic tonight there could be a time when its not academic and it could put a cloud on your title. The Planning Commission has another case in front of them about whether people can get mortgage on their property because it doesn't have frontage on a public street.

STEVE NELSON:

Well you can imagine when I came down here to City Hall to look at my deed (Inaudible) and everybody downthere throws up their hands and says oh, they don't know whats going on. So all I know is that we've got a map (Inaudible) and this is what we are stuck with and we'd like to be able to stay there and the way we can do this is to do this.

COMM. PASSANESI:

Is each building on its own parcel of land?

STEVE NELSON:

Yes.

MR. REIF:

Yes and the only thing missing is the frontage.....

STEVE NELSON:

It may be that .....don't these two go down to the street.....

MRS. NELSON:

Daniel's might but I don't think Reinhardt's do.

MR. REIF:

Well the only way.....the Tax Assessor's is the only way.....when your in doubt.

MRS. NELSON:

Well I think Riders goes with the Library and Payton's is the other side.

CHAIRMAN PARISI:

Mrs Nelson is there anything else that you would like to say? How much acreage do you have up there now?

MRS. NELSON:

Between 11 and 13 acres. Everybody that comes up there thinks that it's a park.

CHAIRMAN PARISI:

Are there anymore questions from the Commission? Is there anyone who wishes to speak in favor of this application?

Anyone who wishes to speak in opposition?

If not we will close this part of the Public Hearing and go to the next item on the agenda.

SECRETARY GIUFFRIDA:

ITEM 2

Proposed amendments to the Zoning Code regarding home occupation uses. The definition of home occupation is revised. Home occupations are made special exception uses in R-1 zones and permitted in other residential zones, and specific criterias are established. The proposal is on file in the Town Clerk's office and the Planning and Zoning Department.

CHAIRMAN PARISI:

Again this appeared in the Middletown Press on Saturday September 1, and on Saturday September 8, 1979. This is a proposal that was put to the Commission by itself so George why don't you take it from here.

DIR. REIF:

At the last Commission meeting the question came up about various uses that may or not be permitted in Home Occupation and we reviewed the Code as it exists now and came up with what is proposed to-night. The Code now 5 possible uses for home occupations one is dressmaking, another a fine arts studio, the other possibilities are offices, the other is for rooming or boarding houses and the other for tutoring. That's in the Code now for many years probably 20 years at least and some of those things are still pertinent but others are not. We reviewed the Codes of other communities and gave it our own in question of terms what would be rational for a home occupation in Middletown and have come up with a proposition before you. If you did look at it and I'm sure you did it sounds like a repeat of our selfs but basically if you think a line we are suggesting that all home occupations be special exceptions uses in the R-1 Zone and the Transitional Development Zone and how right in the other residential zones you'll see why we had to repeat ourselves because in order to have a special exception you've got to have an item in Section 44 which gives special exceptions and we would have to repeat the criteria in Section 44. We're changing basically the definitions slightly from what it is now to what it is proposed now we'll read that so it will be in the record here. The proposed definition for a home occupation is a business, trade or profession conducted entirely within a single dwelling unit by a member or members of the household. The use is incidental to the residential use of the dwelling. We would have as the criteria the fact that: A. There shall be a separate entrance from outside the building. B. There shall be no external evidence of operation. The character of the dwelling or the neighborhood shall not be changed. Commercial vehicles shall not be parked on the lot.

C. The use shall be operated solely by the persons maintaining the dwelling. There shall be no employees or regular assistants. D. Equipment is limited to that normally used for domestic purposes. No equipment shall be used in a home occupation which creates noise, vibration, glare, fumes, or electrical interference in any radio or television receivers off the premises, or causes fluctuations in the line voltage off the premises. E. Signs are permitted as per sign regulations (Section 48 of the Zoning Code). F. The area utilized must not be more than twenty (20) per cent of the gross floor area, not to exceed three hundred (300) square feet in a single dwelling unit. G. There shall not be created greater vehicle traffic than would be normal for the district in which it is located. H. Goods, wares, or merchandise shall not be commercially created, exchanged, stored, or sold on the premises. I. The number of persons coming to the residence shall not exceed four (4) at any one (1) time.

CHM. PARISI:

Now H. Goods, wares, or merchandise shall not be commercially created, I know when we talked about the last one, we are talking about cooking.

COMM. SHAW:

Created is go to come out of there. When you are talking about dressmaking you are creating, you talk about fine arts you are creating, talk about.... (inaudible to many talking at one time)

DIR. REIF:

As I said we borrowed a lot of information from other codes and that it is obviously one word that we should have struck out. If that is the only word we're going to settle. Is there anything else?

CHM. PARISI:

No, that's the only question I had. I was worried about making food. I didn't know if it were commercially created.

DIR. REIF:

The original...the code as it is now especially the creation of individual work of fine art.

COMM. AUGUSTINE:

Like pottery or something.

COMM. SHAW:

Any of those things can be done. What you're trying to do is prevent the retail of exchange of those items from that....

DIR. REIF:

No, another thing, one of the early items in the American Zoning allowed doctors to operate in residential zones. This would not. Well right now you still can interpret the thing as an office, because it allows doctors to have a separate entrance now. I think the medical field has moved ahead and they certainly operating (working out of) offices and what have you and it doesn't seem to be a real need for any type of medical activity you couldn't have something in which you could consult have a big staff or anything in the building but I just want to point that out I just want that to be discovered later.

CHM. PARISI:

The average house runs 22 hundred square feet.

DIR. REIF:

A thousand square feet use to be the size of the tract. I don't know what it is down to now. But two thousand square feet is a big house. So three hundred square feet is relatively generous. I think this opens this up to practical purposes. If your are successful enough or have an operation that requires ...goes some place else. But if you are at either end of the an occupation or winding up an occupation or you have a small one you can carry on but if you get big enough to be in a commercial zone you ought to get in you shouldn't be there.

CHM. PARISI:

Are there any comments from the Commissioners?

COMM. McLeod:

I would think that if this were allowed.....

CHM. PARISI:

Any comments from the public? Any one speak in favor or in opposition? If not, then we will close the public hearing.

Florence Pelc  
Althea Rinaldi  
Transcribing Secretaries

Paul P. Parisi, Chairman  
Planning and Zoning Department

APPROVED AT THE MEETING OF \_\_\_\_\_.