

**CITY OF TORRINGTON  
ZONING BOARD OF APPEALS  
MINUTES  
July 12, 2010**

Present: David Moraghan, Chairman  
Kathleen Perrotti, Vice Chairwoman  
James Marinelli, Member  
Genevieve Gangi, Member  
Marc Trivella, Alternate  
Ken Edwards, Alternate

Also Present: Martin Connor, AICP, City Planner

Excused: Karen Falk, Alternate  
Absent: Jenn Healy, Member

**1. Call to Order:**

Chairman David Moraghan called the meeting to order at 7:00 p.m. in the City Hall Council Chambers, Room 218, 140 Main Street, Torrington, CT

**2. Attendance:**

Chairman David Moraghan announced present and seated this evening will be David Moraghan, Kathleen Perrotti, James Marinelli, Genevieve Gangi, and Marc Trivella and Ken Edwards as an Alternate. Also present is City Planner Martin Connor.

**3. Minutes:**

a. 6/14/10

Mr. Trivella noted a correction to the spelling of his first name, correctly spelled as Marc.

MOTION by Ms. Gangi to accept the 6/14/10 minutes, seconded by Mr. Trivella, unanimously carried.

#### 4. Hearings:

- a. Appeal  
Appellant: Attorney Gregory T. Nolan for Robert and Joseph Capuano  
Location: 191 Winthrop Street  
Proposal: Appeal from Zoning Enforcement Officer Mike O'Neil's decision in Cease and Desist Order dated February 5, 2010.  
(Public hearing closed)

Mr. Moraghan noted the public hearing is closed.

Mr. Marinelli reviewed the conditions of the zoning permit, which state the garage is to be used for personal use only, not for business use. Mr. O'Neil had issues with 193 Winthrop Street from 2002 to 2009 and also on exhibit A was the action he had taken. Exhibit 2 was an invoice from Capuano Machine on Winthrop Street for work performed at that location. Lastly, a work order was done through a signed statement from an individual. As Mr. Marinelli reads through this information, in his opinion this is substantial enough evidence to indicate there was work being done at that facility for a financial consideration, enough in Mr. Marinelli's opinion to uphold the Zoning Enforcement Officer's Cease and Desist Order.

Mr. Marinelli wonders why he is even appealing this. A Cease and Desist order is put on it, but according to the Appellant he had never done any of this work for monetary consideration, and in the future he did not intend to do any, so regardless whether we uphold it or overturn the decision, he still claims not to be doing this now or in the future, so where is the harm? Why did the appellant waste his effort, time and attorney fees to come in here.

Ms. Perrotti stated she is baffled by this, and there are Mike's notes over the years, and it appears he got caught and he is not going to do it anymore, but he did it flagrantly, and there is enough documentation to prove it.

Mr. Trivella noted that is a true observation, and when the appellant was point blank asked, he denied everything. The evidence supported all of Michael's findings and it happened over a period of time, he was asked to stop more than once, he is admitting nothing ever happened to begin with. It seems Michael supported his case, and the evidence speaks for itself.

Ms. Gangi noted there was a sworn statement from Mr. Roux.

Discussion followed.

Mr. Moraghan noted an interesting point, his lawyer stated he fixed old cars. Old cars a person with automotive knowledge would fix. With today's automobiles, you almost always have to bring them to someone who has a computer because all modern cars have to be hooked up to a computer. He said in response to a question from Mr. Nolan that he does have a computer and he does have friends come down and he does diagnostic checks on the car, which means he is just not working on his old cars, he has a piece of equipment used to work on newer model cars. Although it may be very difficult to prove beyond all doubt that he was getting compensation for it, Mr. Moraghan does not think he would go out and purchase a computer doing those diagnostic checks unless he was receiving compensation from someone. He agrees with other Board member's statements regarding the quality of Mr. O'Neil's investigation and the evidence

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and Mr. Moraghan is comfortable with the decision he thinks the Board should reach.

Mr. Marinelli notes he has nothing against him continuing with his own hobbies or for his family, for personal use only.

Ms. Perrotti stated Mr. O'Neil proved his case period.

Mr. Trivella stated we need Mr. O'Neil, and Board members wanted this put on the record.

MOTION by Mr. Marinelli to Uphold the Zoning Enforcement Officer's Cease and Desist order, seconded by Mr. Trivella, motion unanimously carried.

**5. Adjournment:**

MOTION by Mr. Trivella to adjourn, seconded by Ms. Gangi, unanimously carried at 7:20 p.m.

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Lona Kirk, Secretary  
Land Use Office