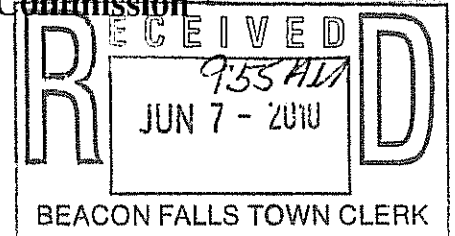


TOWN of BEACON FALLS
Connecticut

Planning and Zoning Commission

Public Hearing Minutes
Proposed Amendment to Section 10
Draft Minutes Subject to Modification
May 20, 2010



Present: Chairman McDuffie, Commissioners Betkoski, Chadderton, Trzaski, Vitale,
and Fitzpatrick.

Absent: Commissioners Burns, Fernandes and Hinman.

I Call to Order

Chairman McDuffie called the public hearing to order at 7:40 P.M.
The legal notice was read into the minutes.

II New Business

Chairman McDuffie read the proposed changes, sections 10.5.1 and
10.5.3 into the minutes of the meeting. A copy is included with these
minutes.

Chairman McDuffie read a letter from South Central C.O.G. into the
minutes of the meeting. A copy is included with these minutes.

Chairman McDuffie read a postcard from Central Naugatuck Valley
C.O.G. into the minutes of the meeting. A copy is included with these
minutes.

Chairman McDuffie asked if there were any comments from the public
and Attorney Savarese came forward, representing Mr. Marino, Lopus
Road. He stated that 2 years ago Mr. Marino requested and was denied
a variance and a zone change. It was noted that this particular area of the
industrial park is being used for residential purposes. The houses and the
owners of these properties are caught between zoning requirements and
cannot expand their homes because of non conformance issues.

Chairman McDuffie asked three time if there were any other comments
from the public and no one came forward.

After a recommendation from Attorney Byrne, a motion to continue the
public hearing until June 17, 2010 at 7:15 P.M. was made by Comm. Vitale
and 2nd by Comm. Trzaski. All in favor.

A motion to adjourn the public hearing at 8:25 P.M. was made by Comm. Vitale
and 2nd by Comm. Trzaski. All in favor.

Respectfully Submitted,

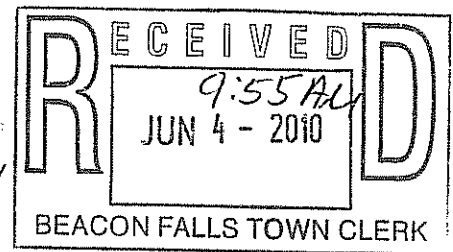
Mary Ellen Fernandes

Clerk, 22 May 2010

Section 10



Turner Miller Group
planning consensus community



Land use, economic development, and environmental planning
Facilitating consensus among diverse constituents
Creating sustainable communities

Memorandum

To: Beacon Falls Planning and Zoning Commission
From: Brian J. Miller, AICP, Town Planning Consultant
Subject: Application of Marino for Amendment to Section 10 of the Beacon Falls Zoning Regulations
Date: May 20, 2010

~~The proposed amendment would permit the repair, expansion and reconstruction of existing residential uses~~ which are located within the business and industrial zones. Currently, residential property owners cannot expand their properties.

1. The business and industrial zoning districts encompass large areas of the Town. Although we have not done an inventory of all the residential properties within the Industrial, Industrial Park and Business zones, there seems to be a large number of such properties. The Industrial Park zone appears to include the most residential properties, probably because it encompasses the largest areas of Town. Specifically, the area along Lopus Road includes concentrations of residential areas.
2. The proposed amendment would appear to be a rational approach to balance the need to provide zoning controls, and the rights of homeowners to expand and improve their property. It would have the impact of permitting additions and improvement by individual property owners.
3. The Council of Governments of the Central Naugatuck Valley raised the issue that the approval of this amendment would eliminate the "industrial exemption" for affordable housing developments within the Industrial Park and Industrial zones. This refers to the provision of Section 8-30g(g) which would support the denial of an application for an affordable housing development which would be located in an area which is zoned for industrial use and which does not permit residential uses, (highlighted below).

(g) Upon an appeal taken under subsection (f) of this section, the burden shall be on the commission to prove, based upon the evidence in the record compiled before such commission that the decision from which such appeal is taken and the reasons cited for such decision are supported by sufficient evidence in the record. The commission shall also have the burden to prove, based upon the evidence in the record compiled before such commission, that (1) (A) the decision is necessary to protect substantial public interests in health, safety, or other matters which the commission may legally consider; (B) such public interests clearly outweigh the need for affordable housing; and (C) such public interests cannot be protected by reasonable changes to the affordable housing development, or (2) **(A) the application which was the subject of the**

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CT Office: Building A-3, 408-410 Highland Avenue, Cheshire, CT 06410 TEL 203.271.2458
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decision from which such appeal was taken would locate affordable housing in an area which is zoned for industrial use and which does not permit residential uses, and (B) the development is not assisted housing, as defined in subsection (a) of this section. If the commission does not satisfy its burden of proof under this subsection, the court shall wholly or partly revise, modify, remand or reverse the decision from which the appeal was taken in a manner consistent with the evidence in the record before it.

My initial assessment is that this would not compromise the industrial exemption indicated above, as it addresses non-conforming uses in general, not the permitted uses within a district. However, the Affordable Housing Appeals Statute is continuously being interpreted by the courts, so this issue remains open to question.

I have presented this issue to Mr. Byrne and the attorney for the applicant, Mr. Savarese. Mr. Byrne is researching this issue. I would suggest that this public hearing be left open for full input from the Town Attorney.

4. On a procedural note, I would suggest that this amendment be within Section 10.3 Non-conforming use of structures, as it addresses the use of structures rather than lots. The proposed addition to 10.5.1 could be added onto 10.3.1 and the proposed 10.5.3, can be a new 10.3.7.

Recommendation

I believe that this proposal has merit, but I would suggest that the Commission keep the hearing open pending an opinion from the Town Attorney.

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Section 10

REFERRAL

TO: Planning/Zoning Commissions and CEO's of Beacon Falls, Bethany, and Seymour; RPC Commissioners of Beacon Falls; RPC Referral Committee; VCOG, and SCRCOG
FROM: Virginia Mason, Assistant Director, Regional Planning Commission, Council of Governments of the Central Naugatuck Valley, 60 North Main Street, 3rd Floor, Waterbury (757-0535)
DATE: May 10, 2010

FILE NO.: BFZ-42-032910
MUNICIPALITY: Beacon Falls
DATE RECEIVED: March 29, 2010
TYPE OF REFERRAL: Zoning

DESCRIPTION OF PROPOSAL:

Beacon Falls is considering amendments to Sections 10.5.1 and 10.5.3 of the zoning regulations. Section 10.5.1 would allow residential structures and uses in business or industrial zones to be expanded or enlarged provided the expansion complies with all requirements of the R-1 zone, and the number of dwellings does not increase. Section 10.5.3 would allow buildings containing a residential use in the same zones to be "maintained or repaired" including demolition and replacement in accordance with the R-1 zone.

STAFF RECOMMENDATION:

Under the CT General Statutes, Section 8-30g, Affordable Housing Land Use Appeals Procedure, following a denial of an affordable housing request, a commission must prove to the court that the application would have located such housing in an industrial zone which does not permit residential uses. As proposed, Section 10.5.3. appears to permit residential uses in industrial zones and industrial parks. What does Beacon Falls want their industrial zones and parks to be like? Perhaps the applicant should seek re-zoning of the parcel.

* * * * *

This staff recommendation is transmitted as written above unless we receive comments or objections within five days of the time you receive this proposal. If objections cannot be resolved within the scope of the original recommendations, you may request a meeting of the Regional Planning Commission's Referral Committee for further discussion of the findings. After the Regional Planning Commission's Referral Committee has issued its findings, any party initiating a referral request may appeal any findings of the Committee to the Regional Council for further consideration. To be considered by the Regional Council all appeals must be filed in writing within 10 days of the issuance of the Committee's findings.

JUN -7 2010

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Section 10



South Central Connecticut
Regional Planning Commission

**RPC
Representatives**

Bethany:
Sharon Huxley

Branford:
Charles Andres

East Haven:
David Anderson

Guilford:
Michael Scott

Hamden:
Donald Moses

Madison:
Christopher
Traugh
(Secretary)

Meriden:
Vacant

Milford:
Susan Shaw

New Haven:
Karyn Gilvarg

North Branford:
Vacant

North Haven:
Brian Cummings
(Vice-Chair)

Orange:
Paul Kaplan

Wallingford:
James
Fitzsimmons

West Haven:
John Panza

Woodbridge:
Peggy Rubens-
Duhl
(Chair)

April 12, 2010

Ms. Mary Ellen Fernandes
Clerk, Planning and Zoning Commission
10 Maple Avenue
Beacon Falls, CT 06403

**Re: Town of Beacon Falls: Proposed Zoning Regulation Amendments to
Section 10 of the Town's Zoning Code**

Dear Ms. Fernandes:

Thank you for sharing the proposed Zoning Regulation Amendments. The Regional Planning Commission (RPC) reviewed the proposal at its meeting on Thursday, April 8, 2010.

By resolution, the RPC has determined that the proposed Zoning Regulation Amendments do not appear to cause any negative inter-municipal impacts to the Towns of the South Central Region nor do there appear to be any negative impacts to the habitat or ecosystem of the Long Island Sound.

Please contact us if you have any questions. Again, we appreciate your referring this matter to us.

Sincerely,

Peggy Rubens-Duhl (E.L.)
Peggy Rubens-Duhl

Chairwoman
Regional Planning Commission

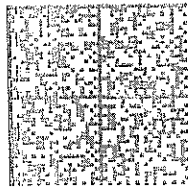
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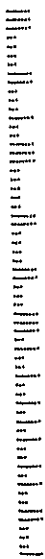
Council of Governments of the
Central Naugatuck Valley
60 North Main Street, 3rd Floor
Waterbury, CT 06702

Section 10

Planning & Zoning Commission
Town of Beacon Falls
10 Maple Avenue
Beacon Falls, CT 06403-1198



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JUN 24 2010

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Acknowledge receipt on 3/29, 2010 of zoning/subdivision referral as required by the General Statutes State of Connecticut and identified as follows:

Beacon Falls - a proposal to allow
residences in business or commercial
zones to upsize, enlarge or be replaced
in accordance with the R-1 zone.

Should a response not be transmitted to you on or before 30 days from our receipt date, you may use this acknowledgment as proof of compliance with the appropriate statute.

Virginia G. Haro

Virginia Mason, Assistant Director
Council of Governments of the Central Naugatuck Valley
60 North Main Street, 3rd Floor, Waterbury, CT 06702

JUN 7 2010

JUN 7 2010