

Regular Meeting

The 1384th meeting of the Stonington Planning and Zoning Commission was held on October 21, 2008 at Mystic Middle School, 204 Mistuxet Avenue. Present for the meeting: Paul Altman, Paul Holland, John Swenarton, Lynn Young, and alternates Leon Jacobs and Lynda Trebisacci. Town Planner, Keith Brynes and Director of Planning, William Haase were also present.

Chairman Young called the meeting to order at 7 p.m. Seated for the meeting: Paul Altman, Paul Holland, John Swenarton, Lynn Young, and alternate Leon Jacobs.

Minutes:

Mr. Holland motioned to approve minutes of October 7, 2008, seconded by Mr. Altman and the motion carried unanimously.

Consent Agenda:

PZ0667CNU & CAM Masons Island Landing, LLC - Review of modifications, including paved turn-around and minor grading changes, to approved Change of Non-Conforming Use & Coastal Area Management Review applications for the redevelopment of an existing 4.2+/- acre parcel into five (5) residential duplexes & three (3) single family residences. Property located at 29-30 Dubois Dr., Mystic, CT. Assessor's Map 175, Block 4, Lot 10. Zones RM-15 & RC-120.

There is a ZBA application based on the ZEO's decision that they cannot have garage doors. Ms. Young stated she preferred to table until after the ZBA meeting. Mr. Altman stated the Commission is being asked to consider grading and a turnaround which is appropriate and it should not affect the ZBA application. Mr. Haase stated he is concerned that it will go to the ZBA and to have the Commission vote could be construed as endorsing an appeal of the ZEO. He recommended tabling until after the ZBA meeting. Mr. Holland motioned to table PZ0667CNU until the November 18, 2008 meeting, seconded by Mr. Jacobs. Motion carried 4-1. Roll call: Paul Altman oppose, Leon Jacobs approve, Paul Holland approve, John Swenarton approve, and Lynn Young approve.

PZ0193SUP Pawcatuck Ventures, Inc - Review of modifications, including revised building elevations and signage, for approved Special Use Permit application to construct a 2,000 s.f. commercial/retail building (Donut Shop) with drive-thru and associated parking. Property located at Hickey Dr. Assessor's Map 18 Block 3 Lot 1A Zone CS-5.

Mr. Holland motioned to approve PZ0193SUP, seconded by Mr. Altman, and the motion carried unanimously.

Hilton Mystic at the Aquarium - Consideration of modifications to parking lot landscaping. Property Located at 20 Coogan Boulevard, Mystic, CT. Map 164, Block 4, Lot 1A.

Mr. Brynes stated the applicant is seeking to replace some curbing and small traffic islands as well as adding/removing some trees. No parking spaces will be eliminated. Mr. Altman motioned to approve, seconded by Mr. Holland, and the motion carried unanimously.

08-276ZON Town of Stonington - Request approval for construction of a 12' x 70' tent structure for crew boat storage. Property located at 49 No. Stonington Rd., Stonington, CT. Assessor's Map 166, Block 1, Lot 6. Zone RA-20.

Mr. Brynes stated that the canopy structure is for boat storage and meets regulations, however, it can only be a temporary structure for 180 days. Mr. Holland motioned to approve 08-276ZON, seconded by Mr. Jacobs, and the motion carried unanimously.

Old Business:

PZ0815SUP Alva Associates, LLC (Duncklee, Inc.) - Special Use Permit application to construct three (3) 1-story office & warehousing structures (5,300SF, 6,000SF, & 7,100SF) with associated parking, access drives, grading, lighting & landscaping. Property located at 296 Taugwonk Rd., Stonington, CT. Assessor's Map 70, Block 1, Lot 3. Zone LI-130.

NEW SUBMITTAL: 5/20/08

PUBLIC HEARING CLOSED: 9/16/08

Mr. Brynes stated a decision is required by November 20, 2008. Mr. Swenarton motioned to deny the special use permit for discussion purposes, seconded by Mr. Holland. Mr. Swenarton stated he felt this application will have a negative impact on the character of the neighborhood. This parcel is in an industrial zone and there is rural zoning around it and intensification requiring a special use permit would have a negative impact on the area. There is strong evidence that it is not characteristic of the area. Mr. Holland stated it fails to meet buffer requirements consistent with statutes. It is not consistent with the Plan of Conservation and Development. Mr. Altman stated every facet is being met, it is in an area that allows warehousing, and the application meets zoning requirements. Mr. Jacobs stated he has mixed feelings about the application, having an appreciation for concerns for the residential area, but most of the requirements have been met. Ms. Young expressed her objections and stated the area should be protected because the Plan of Conservation and Development is somewhat contradictory. The Commission heard expert testimony from an appraiser hired by an abutter who indicated there would be an adverse impact to real estate values and traffic engineers testified regarding large truck turnarounds and that it would create a safety issue. Ms. Young stated that the applicant was adamant there would not be limitation of hours and this may constitute noise. She recommended denying the application and distributed a list of objections.

Mr. Swenarton withdrew the motion, Mr. Holland withdrew the second. Mr. Swenarton motioned to deny PZ0815SUP as recommended by staff and with the additional four reasons for denial. Mr. Holland seconded the motion. Motion carried 3-2.

Roll call: Paul Altman oppose, Paul Holland approve, Leon Jacobs oppose, John Swenarton approve, and Lynn Young approve.

Reasons for Denial:

1. Alva Associates, LLC has not complied with Section 7.13.3 of the Zoning Regulations (Standards for Design Review of Structures), having failed to submit any scaled elevation drawings for design review that conform to building footprints as depicted on the site plan. Instead, the applicant submitted a sales catalog from Morton Buildings, Inc. depicting numerous alternative metal structures manufactured by this company. Although required by the Zoning Regulations, the applicant did not submit any scaled drawings that locate and identify exterior materials, fixtures, roof pitch, or building height.
2. Based on the absence of any scaled elevation drawings, the Commission finds it impossible to determine if the application complies with Sections 2.13.5, 6.4.5 and 6.5.3, the collective intent of which is to ensure that proposed structures shall not detract from the residential characteristics or predominate style of the surrounding neighborhood.
3. Section 4.8.4.1 requires a buffer 50 ft. in width from adjoining existing residences, with such buffer defined in Section 1.2.2 as: "An area within a required yard which contains trees, shrubs, walls, fences, rocks, berms and other landscaping materials whose primary function is to provide effective visual, noise and odor insulation from adjacent properties and roadways." Although Alva Associates' site plan indicates there will be a proposed 20 ft. wide landscape stone area located within this buffer, a cross-section detail provided on Sheet 5 titled "Pea Gravel Landscape Stone" indicates this item is comprised of a prepared subgrade overlain by filter fabric, a 6" aggregate base, and 2" of fine gravel. This is a detail typically associated with a gravel driveway, and does not meet the definition of "Buffer" as contained in Section 1.2.2. In addition, according to the definition of "screening" in Section 1.2.2, the proposed buffer along the southern property line fails to screen abutting properties in specific locations including the area near the proposed septic system, and the area near Taugwonk Road.
4. An exhibit prepared by the engineering firm of Angus McDonald, Gary Sharpe & Associates, Inc. on behalf of neighboring property owner James Smith includes a sketch showing standard WB-50 design vehicle turning radii superimposed over portions of the site plan at each of the two truck turnarounds. This sketch demonstrates that wheel paths of design vehicles are in conflict with existing and proposed buildings. Hence Alva Associates has failed to comply with Section 6.4.2 to ensure public safety, and Section 6.5.5 requiring special site plan design features necessary to minimize adverse impacts from traffic.
5. Section 6.4.5 requires that no adverse effect will result to the character of the district property values, historic features, prosperity, nor to the public health, safety and welfare of the residents of the area or the Town. Expert testimony from an abutter's appraiser during the hearing indicated that, as a consequence of adverse change to the character of the district, surrounding residential property values would be negatively impacted by the approval of the applicant's maximum commercial use of this site.
6. Section 6.4.3 requires that transportation services are adequate and no undue traffic generation will result that would cause a deleterious effect on the local welfare of the safety of the motoring public. Two expert traffic engineers contradicted each other as to the viability of planned large truck access to

the site, thus giving rise to the significant potential for large trucks parked in the northbound lane of a narrow country road.

7. Section 6.4. stipulates that the approval of a Special Use Permit will not create and dangerous or objectionable elements to the area residents. The applicant is seeking virtually unrestrained hours of operation, the noise of which will create a nuisance for area residents.
8. Section 6.4.8 requires consistency with the Stonington Plan of Development (SPOD) and all amendments hereto. The SPOD is itself contradictory by calling for the site in question to remain commercial while also calling for a rezoning of the abutter's property and several others to residential. The effect of such a zone change would require a mandatory of 100 feet and would render this application impossible to approve.

Chairman Young called a five minute recess at 7:45 p.m. The meeting resumed at 7:50 p.m. and Ms. Young, acting secretary, read the call of the public hearing.

PZ0821ZC & CAM Joseph Putnam, et al - Zoning Map Amendment from Residential RC-120 to Residential RA-20, and a Coastal Area Management Review for properties located at 200 Mistuxet Ave., 136 Hewitt Rd. & parcel off Hewitt Rd., Mystic, CT. Assessor's Maps/Blocks/Lots: 151/3/13, 152/2/7 & 152/2/4. Zones RC-120 & RA-20. *Continued from 10/7/08.*

Joseph Putnam stated the reason for the request is that the house and land are presently landlocked. In 1959 land was sold to the Town of Stonington for the Mystic Middle School and the applicant is seeking access to his property without going through school property. This change will make the lot more conforming. The land has no wetlands. Attorney Nick Kepple stated the applicant is seeking to move the zone line. The RC-120 zone is to preserve the natural habitat. There are no coastal resources on or abutting this property. The nearest is about 600 feet away to the south. The applicants believe the zone lines should match the zone boundaries. His client is not sure what he may do with the 16 acres, but in changing this line from RC-120 to RA-20 the owner would still have to comply with all requirements of any improvements.

Public Comment: David Rathbun, 211 Cove Road spoke in favor of the application.

Keith Brynes presented the report of the Conservation Commission. The Conservation Commission is concerned that there is a section on the parcel labeled as "an area of confusion."

Mr. Holland motioned to closed the public hearing, Mr. Altman seconded the motion, and the motion carried unanimously.

Mr. Holland motioned to approve the waivers for specific impact statement requirements for PZ0821ZC, seconded by Mr. Altman, and the motion carried unanimously.

Mr. Holland motioned that PZ0821ZC is consistent with the Coastal Management Act, seconded by Mr. Altman, and the motion carried unanimously.

Mr. Holland motioned that PZ0821ZC is consistent with the Plan of Conservation and Development, seconded by Mr. Altman, and the motion carried unanimously.

Mr. Holland motioned to approve the zone change amendment proposal including the "area of confusion" for PZ0821ZC, seconded, by Mr. Swenarton. Mr. Altman recommended approving the application as presented. Mr. Holland withdrew the motion. Mr. Swenarton withdrew the second. Mr. Altman motioned to approve the zoning map amendment as proposed, seconded by Mr. Swenarton, and the motion carried unanimously.

Mr. Holland motioned to set the effective date of November 11, 2008 for PZ0821ZC, seconded by Mr. Swenarton, and the motion carried unanimously.

Chairman Young called a five minute recess 8:15 p.m. The meeting resumed 8:20 p.m. and Ms. Young read the call of the public hearing.

PZ0822SD & CAM Estate of Harriet K. Sullivan (D. Reagan) - Subdivision Application & Coastal Area Management Review for an 8-lot subdivision of an approximate 3.96 acre parcel. Property located at 12 Geiser Street, Mystic, CT. Assessor's Map 161, Block 9, Lot 3, Zone RA-20. *Continued from 10/7/08.*

Peter Gardner, licensed surveyor, discussed the plans and conceptual layout information. Mr. Gardner stated that there is a drainage system and it conforms to regulations. It is a site that is relatively level with public utilities. Mr. Gardner is in agreement with the staff report with the exception of section 11.1.4 of subdivision regulations. Since these are existing streets Mr. Gardner felt it is not applicable to this site. Mr. Altman questioned how the water flow is being handled. Peter Gardner stated it will be directed into a leaching system in the ground that can absorb water created by a 25 year storm.

Public Comment: Carlene Donnarummo spoke under General Comments and questioned why the applicant would not want to plant trees. Joyce Ballou spoke under General Comments and stated they do make a pervious concrete and there may be other materials that could be used.

Keith Brynes reviewed staff comments. The Town Engineer has no issue with the application. The Building Official raised concerns about water in the area, but it has been addressed. Staff has recommended stipulations. Number 1 and 5 of the staff report can be deleted because favorable comments have been received.

Mr. Altman stated he would like to see a stipulation that lots would have trees placed on them so that the character of the neighborhood will remain.

The applicant had no comments in rebuttal.

Mr. Holland motioned to close the hearing, seconded by Mr. Altman, and the motion carried unanimously.

Mr. Holland motioned that PZ0822SD is consistent with the Coastal Area Management Act, seconded by Mr. Altman, and the motion carried unanimously.

Mr. Holland motioned to approve PZ0822SD with the four stipulations. Motion seconded by Mr. Altman and the motion carried unanimously.

Stipulations:

1. The final plan shall be revised to reflect new lot and house numbers as assigned by the Town.
2. Prior to recording, AutoCAD files of the subdivision shall be submitted to the town.
3. The applicant shall hire an appraiser, acceptable to the Department of Planning, to conduct an appraisal of the land. A fee in lieu of open space equal to 10 percent of the value of the land shall be applied to all lots in the subdivision. The final plans must include the following statement: "A Fee-In-Lieu of Open Space of \$ (amount shall be determined prior to final plans are recorded on the land records) was approved by the Planning & Zoning Commission, each new lot shall be assessed (1/7 of the 10 percent value)."
4. With staff approval, final plans shall be revised to provide tree protection measures.

Chairman Young called a five minute recess at 8:50 p.m. The meeting resumed at 8:55 p.m.

PZ0823ZC & CAM Thomas Haggerty & Gail Shea - Zoning Map Amendment from Residential RC-120 to Residential RR-80 (portion to remain RC-120), and a Coastal Area Management Review for property located at 197 River Road, Pawcatuck, CT. Assessor's Map 7 Block 2 Lot 2. Zone RC-120.

Theodore Ladwig, legal counsel, for the applicant, distributed documents for the record; brief in support of the application, correspondence from Joseph Larkin, Zoning Atlas Map #6, future land use plan map, letter dated April 17, 2006 from Ryan Thompson. Also submitted was the Conservation Commission draft minutes of August 25, 2008 in which it was voted to approve the application. Three mounted exhibits, one graphic with RA-2 requirements existing in 1977, overlay showing existing RC-120 zoning requirements, and a graphic showing proposed zones RR-80 and RC-120.

Mr. Ladwig stated that in 1979 there was a rezone for this property and adjacent property owned by the O'Brien's to the RC-120 zone. It was adopted to preserve the character of the neighborhood and protect the Pawcatuck River. There are two natural resources, Pawcatuck River and the marsh. It is not a tidal marsh and the DEP declined to regulate the marsh as of 2006. The proposal is to rezone the bulk of the lot to RR-80 and leave a 25 ft. strip of RC-120 abutting the Pawcatuck River so that nothing will go on in the area adjoining the Pawcatuck River. Mr. Ladwig explained why this would not be considered spot zoning and supporting evidence as to why it should be zoned RR-80. No additional lots will be created. The applicants believe it is consistent with the Plan of Conservation and Development and fits the definition of low density. Mr. Swenarton

questioned what protection is gained from the strip to which Mr. Ladwig responded non-infringement. Mr. Altman questioned why a topographical survey was not submitted. Gail Shea, applicant, stated the 25 ft. strip will not be cleared and that the building envelope would be 14.6 percent of the property which is a modest proposal. A zone change would render the existing house conforming, provide an option to move the house, or put an addition on the house, but additionally the changed lot size requirement would provide an option of giving the O'Briens some land for a separate driveway. The applicants cannot pursue any of these options unless a zone change is approved.

Public Comment: Ed Hart, 587 Taugwonk Road spoke in favor and stated it seems to be a reasonable approach to correcting a zoning problem. Stanton Simm, Sommers Lane, and Chairman of the Conservation Commission spoke in favor and did not feel zoning should preclude expansion of preexisting houses. Expanding the house will not impact the river and there should be a mechanism for those with preexisting homes to have an appropriate addition. Joyce Ballou, Riverside Drive, spoke in opposition and stated the application should not be accepted due to not paying the correct application fees and CAM site plan review is required. Steven Schaub, 226 River Road, spoke in opposition and questioned, "When does a rezoning constitute unlawful spot zoning? This application is for individual benefit and not public benefit." Tom Haggerty, 197 River Road, (applicant) spoke under General Comments and stated that in the zoning regulations currently he has almost 400 feet of water frontage and would be permitted to put in a boating facility. Fifteen properties north of the river are split zoned, RA-15 and RC-120. Mr. Haggerty's property is the only piece of property controlled. Dora Hill, 26 Oakwood Avenue, spoke under General Comments and believes the appropriate fees were collected and there is no requirement for a CAM application in this instance. Maggie Tebbets, 14 Sunrise Avenue, spoke in favor and stated the property is well maintained and the owners would not do anything to have an adverse impact on the property.

Mr. Haase addressed allegations made regarding waived fees. No fees were waived. Section 3.5.2 Zone Change requires \$250 plus \$100 per lot for a total of \$350, which was paid. He entered the fee structure as an exhibit. Section 7.3.1 lists and discusses various aspects of CAM review but nowhere is it specific to a zoning amendment. A CAM Review was performed by the Connecticut DEP, and Mr. Brynes provided the DEP's CAM review response.

Rebuttal: Attorney Ladwig stated the issue of the CAM application was discussed with Mr. Haase. The proposal is not to subdivide or have any other activity. It is a single family dwelling in which no additional improvements can be allowed. Consequently, that is what the CAM application suggests. Attorney Ladwig's opinion was that the appropriate fees were paid, and that is not spot zoning as it has to be something inappropriate in that neighborhood, and the character of the neighborhood will not be adversely affected. It is in conformity with the Plan of Conversation and Development and future land use plan.

Mr. Holland motioned to close the hearing, seconded by Mr. Altman and the motion carried unanimously.

Mr. Holland motioned to table the application until November 18, 2008, seconded by Mr. Jacobs, and the motion carried unanimously.

Adjournment:

Mr. Holland motioned to adjourn at 10:57 p.m., seconded by Mr. Jacobs, and the motion carried unanimously.

Paul Holland, Acting Secretary