

Regular Meeting

The 1404th meeting of the Town of Stonington's Planning and Zoning Commission was held on Tuesday, September 15, 2009 at Mystic Middle School, 204 Mistuxet Ave., Mystic. Acting Chairman Paul Holland called the meeting to order at 6:05 p.m. Present for the meeting were Commissioners Paul Altman, John Swenarton and Lynda Trebisacci, Alternates Rob Marseglia and Bob Mercer; Director of Planning Bill Haase, and Town Planner Keith Brynes.

Executive Session – 6:05 p.m.

Mr. Altman made the motion to enter into Executive Session. Mr. Marseglia seconded. The motion was unanimously approved, 5-0.

The Commission came out of Executive Session and Acting Chairman Holland called the meeting to order at 7:00 p.m.

Director of Planning Haase thanked member Paul Altman for his 7 years of service on the Commission. Mr. Altman left the meeting.

Seated for the meeting were Paul Holland, John Swenarton, Lynda Trebisacci, Rob Marseglia, and Bob Mercer.

Minutes:

Mr. Swenarton made the motion to approve the September 1, 2009 minutes. Mrs. Trebisacci seconded. The minutes were unanimously approved, 5-0.

Consideration of Motion:

That the Town of Stonington Planning & Zoning Commission settle the pending lawsuit having Docket Number KNL-CV-06-4005731-S, and captioned as GIROUARD ASSOCIATES, INC., and NORTH STONINGTON GROUP, LLC V. STONINGTON PLANNING & ZONING COMMISSION, now pending in the Superior Court for the Judicial District of New London at New London, in accordance with the proposed settlement agreement, and the conditions stated therein, presented to the Commission at its September 15, 2009, meeting.

The Commission approves this settlement because the Project Development Plan to be approved under said settlement:

1. is a specially permitted use within the zone that the subject property is located; and
2. is consistent with the 2004 Plan of Conservation and Development, in which the Future Land Use Plan recommends commercial development along Liberty Street (Route 2) in the area around the subject property; and
3. will result in the construction of an access road to reach the existing detention basin in the northwest corner of the subject property; and
4. grants the Town of Stonington an easement to use said access road in order to maintain said detention basin, and
5. a parapet wall shall be constructed around the entire building, mechanicals on the building roof shall be fenced in, and Norway spruces in the rear of the property shall be replaced with white pines.

Ms. Trebisacci seconded the motion made by Mr. Holland to approve the Settlement as amended with item #5. The motion was unanimously approved, 5-0.

Administrative Review:

ZON 09-123 Henry Han & Amy Shzuhz – Application for construction of a 7' x 7.5' shed. Property located at 20 Mechanic St., Pawcatuck. Assessors Map 4, Block 7, Lot 1. Zone DB-5.

Mrs. Trebisacci made the motion to approve with one stipulation. Mr. Marseglia seconded. The motion was unanimously approved, 5-0.

Stipulation:

1. The dumpster shall be relocated off of the catch basin.

ZON09-144 Betty Latham - Application for construction of a 10' x 12'shed. Property located at 74 South Broad St., Pawcatuck. Assessors Map 14, Block 2, Lot 10. Zone LS-5.

Mrs. Trebisacci made the motion to approve. Mr. Marseglia seconded. The motion was unanimously approved 4-0-1. Roll Call: Holland – approve, Swenarton – approve, Trebisacci - approve, Marseglia – approve, Mercer - abstain

ZON09-166 Murphy Management, LLC - Application for construction of an outside staircase to provide an additional method of egress from existing apartment building. Property located at 375-379 Liberty St., Pawcatuck. Assessors Map 17, Block 2, Lot 1. Zone HI-60.

Mrs. Trebisacci made the motion to approve. Mr. Marseglia seconded. The motion was unanimously approved, 5-0.

PZ0720SUP & GPP Mukesh & Meena Patel – Request Site Plan Modifications to approved Special Use Permit & Groundwater Protection Permit applications for a 3-story, 75 room hotel on a 4.05 acre parcel. Modifications include relocation of sidewalk, construction of drainage swale, relocation of detached sign and construction of additional wall sign. Property located at 349 Liberty St., Pawcatuck, CT. Assessor's Map 17 Block 3 Lot 1. Zone HI-60.

Mr. Marseglia made the motion to approve with two stipulations. Mrs. Trebisacci seconded. The motion was unanimously approved, 5-0.

Stipulations:

1. Proposed sidewalk shall be relocated off of private property.
2. All signage, including existing wall sign on tower, shall be externally illuminated per PZ0720SUP&GPP Stipulation of Approval #7.

Old Business:

PZ0929BR Meehan Group, LLC- Request Bond Release/Reduction of \$20,000.00 to \$.00 for PZ0360SD SUP & GPP Meehan Group, LLC - Application for a forty-eight lot subdivision. Property located on Whitehall Ave., Jerry Browne Rd., & Pequot Trail, Old Mystic. Map 165 Block 1 Lot 1 & Map 148 Block 3 Lots 1 & 9. Zones RA-40 & RR-80.

Mr. Meehan described the previously approved project. His attorney, Gregory McNamara, stated that there have been no excavations, no permits granted, and due to the economy, it will be some time before the project will commence. In this economy the applicant would appreciate the bond be returned.

Mr. Haase voiced concerned regarding a recent case where bonds were not posted, and cease and desist was difficult without bond leverage. Mr. Haase also stated his concern that the final mylars have been signed and filed on the land records. The Commission decided that they would like legal clarification from Attorney Londregan.

Mr. Marseglia made the motion to table the application. Mrs. Trebisacci seconded. The motion was approved 4-0-1. Roll Call: Holland – approve, Swenarton – abstain, Trebisacci - approve, Marseglia – approve, Mercer - approve

Public Hearings:

PZ0922RA Donald & Sally Vail - Zoning Regulation (ZR) Amendment to add Professional Office to Section 1.2.2 Specific Definitions, Section 3.3.3 Uses Allowed by Special Permit; Section 5.1.2 Residential Zones: Permitted, Accessory & Special Uses; Section 5.2.2 Commercial/Industrial Zones: Permitted, Accessory & Special Uses; and change Section 7.10.5.2.3 Office buildings – General and Professional. Public Hearing continued from 8/4/09.

Attorney Mark Branse of Branse, Willis & Knapp, representing the Vails, reviewed the history of this application. He stated his expertise as a planning and zoning regulation attorney. Attorney Branse discussed a Special Use Permit application previously submitted by the Vails. Citing a recent case from Old Lyme, he argued that spot zoning applies to map amendments, not regulation amendments. He read letters in favor from Robert Kelch and John Shirley. Atty. Branse stated that, at most, three other properties would be affected by the regulation amendment.

Public Comment in Favor: Carrie Pfeiffer, M. Carol Chapman, Joann Appleton, John Papp, Oliver Lebras, Stacy Miller, Joyce & Frances Pandolfi, Sally & Don Vail, Carl Chudy, Peter Lisky, Fran Slater

Public Comment Against: Marilyn Citron, Gerry Candeloro, Susan Lund, Mary Lou Henkin, Donald Jameson, Janis Mink, Frank Sinnott, Robert Bunker, Mary Hendrickson, Carlene Donnarummo, Dora Hill, and Jeff Wheeler.

Staff Comments: Planner Brynes clarified that, based on how their gross floor area is calculated, potentially two other properties would be affected. Mr. Brynes agrees that this does not meet the legal definition of spot zoning. In support of a Consent & Abatement Order signed by the Vails on 9/6/06, ZEO Joe Larkin inspected the 64 Washington St. residence with Sally Vail and found them to be in compliance with their agreement. Mr. Marseglia thought the neighborhood needed to come together to help reconcile the situation. Planner Haase resisted the process of tailoring

the regulations to meet the interests of both sides and felt neighborhood disputes often run deep. Mr. Marseglia thought the key issue is that turning a residential site into commercial one allows for “creep” to others.

Rebuttal: Attorney Branse stated that the parking requirements would prevent the site from becoming entirely commercial. To allay this fear he suggested amending the application to include that office space would be limited to the first floor. Mr. Brynes noted that any new changes to the application had to have been received 15 days prior to the public hearing.

Public Comment: Mary Lou Henkin thought Mr. Branse’s new information not permitting commercial activity on the upper floors should be clarified to limit total office space to 25%, as in the current Home Occupation regulation. Dora Hill questioned making additional changes to the proposed regulation without allowing public comment.

Mr. Holland made the motion to close the public Hearing. Mr. Marseglia seconded. The motion was unanimously approved, 5-0.

PZ0927RA Town of Stonington (ADR) - Zoning Regulation (ZR) Amendments to implement Architectural Design Review: Section 2.13 Performance Standards; Sec. 2.15 Architectural Design Review; Sec. 2.16 Design Review Requirements; Sec. 4.9 Highway Interchange Zone; Sec. 6.1 Special Use Permits; Sec. 6.5 Commission Powers Relative to Action on a Special Permit Use; Sec. 7.10 Off-Street Parking Requirements; Sec. 7.13 Site Plan & Structure Design Review Requirements; & Sec. 8.3 Site Plan Submissions Review & Approval.

Acting Chairman Paul Holland left the meeting at 10:30. John Swenarton was seated as Acting Chairman. Mr. Marseglia made a motion to continue to the Public Hearing to the September 29th special meeting, Mrs. Trebisacci seconded. The motion was unanimously approved, 4-0.

PZ0928SD Richard C. Panciera Charitable Remainder Trust II – Application for a 5-lot subdivision of a 58.36± acre parcel. Proposed project consists of 4 lots for single family residences, and a 5th lot reserved for future development. Property located on Mary Hall & Greenhaven Rds., Pawcatuck. Assessor’s Map 7 Block 1 Lot 44. Zones RA-20, RM-20 & RR-80.

Attorney Thomas Liguori, representing Cherenzia & Associates, described the project on Mary Hall Rd. Cherenzia & Associates Engineer CJ Doyle was present as well. Atty. Liguori mentioned that, prior to her earlier departure from the meeting, Gail Shea had mentioned that she did not think all 6-inch growth trees had been tagged. He agreed to tag all 6-inch growth trees. He showed plans for future development of the fifth lot; not a part of the current application.

Public Comment: Fran Slater, Carlene Donnarummo and Bob Slater.

Rebuttal: The preference was for water and sewer services to run through the property rather than the road. He believed the trees over 6-inch would be identified and saved.

Staff Comment: Mr. Brynes noted that there was question as to whether Crestwood Lane is an accepted Town road. Its status would affect meeting specific requirements.

Mr. Marseglia made the motion to continue the Public Hearing to the October 6th meeting. Mrs. Trebisacci seconded. The motion was unanimously approved, 4-0.

Mr. Swenarton made the motion to adjourn. Mrs. Trebisacci seconded. The meeting was adjourned at 12:24 a.m.

John Swenarton, Secretary