

Special Meeting

The 1403rd meeting of the Town of Stonington Planning and Zoning Commission was held on Tuesday, September 1, 2009 at Mystic Middle School, 204 Mistuxet Ave., Mystic. Acting Chairman John Swenarton called the meeting to order at 7:00 p.m. Also in attendance were members Paul Altman and Lynda Trebisacci, alternates Rob Marseglia and Bob Mercer, Director of Planning Bill Haase, and Town Planner Keith Brynes. Member Paul Holland and Alternate Leon Jacobs were absent. Until prospective Commission members are appointed, Paul Altman and Rob Marseglia will continue as members.

Seated were Mr. Altman, Ms. Trebisacci, Mr. Swenarton, Mr. Marseglia, and Mr. Mercer.

Minutes:

Mr. Swenarton made the motion to approve the August 18, 2009 minutes with a correction. Mr. Marseglia seconded. The minutes were unanimously approved, 5-0.

Staff Report:

Staff received and accepted the resignation of Commission Alternate Member Leon Jacobs.

Administrative Review:

PZ0448SD & CAM Anthony Silvestri - Application for a four lot subdivision of a 5.2 acre parcel. Property located at 149 Whitehall Ave., Mystic, aka, Old Mystic Village Marina LLC. Map 165, Block 1, Lot 22. Zone RA-40. Request a five-year extension to complete outstanding improvements to approved subdivision.

Mr. Altman made the motion to table the application. Mr. Marseglia seconded. Mr. Marseglia questioned why the applicant was not present. The motion was unanimously approved, 5-0.

ZON 09-145 Pawcatuck Workman's Club (John Lilly) – Application for construction of a 10' x 14' shed. Property located at 16 Mechanic St., Pawcatuck. Assessors Map 3, Block 28, Lot 12. Zone DB-5.

Staff confirmed that the application does not require a CAM review nor Inland Wetlands Commission review.

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

ZON 09-152 K Brothers, LLC (John MacNeil) – Application to remove & replace impacted soil, island & piping. Property located at 29 Main St., Old Mystic. Assessors Map 166, Block 3, Lot 3. Zone CS-5.

Applicant John MacNeil, representing the owners, explained the request to remove some impacted soil around the fuel pump island, an area within the required setbacks.

Mr. Brynes explained that the site is in a CS-5 zone, a commercial district requiring Commission approval.

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

ZON 09-158 Robert Fletcher – Application for proposed alterations to existing auto repair building. Property located at 132 Liberty St., Pawcatuck. Assessors Map 15, Map 2, Lot 6. Zone LS-5.

Architect Chris Carey described the details of the proposed alterations.

Mr. Marseglia made a motion to approve with one stipulation. Mr. Altman seconded. The motion was unanimously approved, 5-0.

Stipulation:

1. Staff shall approve materials and colors for roof shingles, stucco and stone materials.

ZON09-154 Mall, Inc. (Chris Regan) - Application for construction of a 10' x 7' enclosure for a walk-in cooler. Property located at Coogan Blvd, Mystic. Assessors Map 164, Block 3, Lot 1. Zone TC-80.

Applicant Chris Regan described the proposal for the walk-in cooler at the Country Kitchen Restaurant.

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

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. Marseglia made the motion to table the application. Mr. Altman seconded. The motion was unanimously approved, 5-0.

Public Hearings:

PZ0923SPM & GPP (CNU) Hendel's, Inc. (Jon Hendel) – Site Plan Modification and Groundwater Protection Permit (Change of Non-Conforming Use) applications for construction of a 1,950 square foot retail store and fuel pumping facility with associated parking, landscaping, & utilities. Property located at 466 Liberty St., Pawcatuck, CT. Assessor's Map 20 Block 3 Lot 2. Zone HI-60.

Attorney Tim Bates of Robinson & Cole, representing the applicant, reviewed the application to rebuild a gas station and auto repair use into a gas station and convenience store. Paul Biscuti of DiCesare Bentley Engineers presented the plan for demolition of the existing building and replacing it with a smaller structure and a canopy over the fuel pumping area, resulting in a net decrease in impervious surface coverage. Attorney Bates submitted documentation supporting his position. Staff and the Commission thought the submission might compromise the application so the document was withdrawn. Attorney Bates maintained that the use on the site had not been abandoned. He stated that their request was to improve the site and change from one non-conforming use to another non-conforming use more in line with purposes of the zone. The store will be less than 1500 square feet. Mr. Biscuti described the lighting plan, pole lights and externally-illuminated signs. The 24-hour store would have no seating. Owner Jon Hendel discussed being open to choices for the external finishes of the structure.

Public Comment:

Against: Mr. Henry Ohlmann, an abutting neighbor at 458 Liberty St., objected to the 24-hour use, increased traffic, and lighting. Donna Tetreault, 458 Liberty St., had the same objections and did not feel that the area needed another convenience store. Attorney Mark Kepple, representing the convenience store owners down the road, presented a petition against the proposed application. He argued that it was unlawful expansion of a non-conforming use according to ZRs 2.6.1.3 and 2.6.2. He believed that operations had been abandoned on the site since December 31, 2005, creating a voluntary discontinuance. He also believed it did not meet the HI-60 Bulk requirements.

General Comment: Ben Tamsky pointed out that the applicant had come before ZBA for bulk issues which were denied and wanted to know why the Commission didn't discuss it. Carlene Donnarummo made several points regarding the regulations and thought the applicant had many options. She hoped the canopy would be stipulated to be a solid color. Gail Shea commented that the lighting at Prospect Place was also approved as "downlighted" (full cut-off), and is instead, "a horror."

Rebuttal: Tim Bates dismissed the previous ZBA applications as not relevant issues. He felt that economic impact, as raised by Attorney Kepple, was also not relevant. He did not feel that the canopy or the store were intensifications since retail is a permitted use. Mr. Altman thought the 24-hour store operation was excessive. Mr. Hendel agreed to limit the operating hours of the store from 5:00 am. to midnight.

Staff discussed the recent changes made to the regulations regarding Non-Conforming Uses.

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

Mr. Altman made the motion to approve the Groundwater Protection Permit application. Mr. Marseglia seconded. The motion was approved, 3-2.

Roll Call: Mercer - deny, Swenarton - deny, Marseglia - approve, Trebisacci - approve, Altman - approve

Mr. Altman made the motion to approve the application with four stipulations. Mr. Marseglia seconded. The motion was unanimously approved, 3-1-1.

Roll Call: Mercer - deny, Altman – approve, Trebisacci – approve, Marseglia - approve, Swenarton - abstain

Stipulations:

1. Staff shall approve final building materials and colors.
2. Both the Gas Station and the Convenience Store shall be closed from 12:00 AM to 5:00 AM.
3. All lighting shall be full cut-off.
4. The island canopy shall be all white, excluding signage.

PZ0926RA Dale & Pamela Tourville – Zoning Regulation (ZR) Amendment to amend the definition of Home Occupation, Section 1.2.2 Specific Definitions.

Attorney Robert Avena spoke on behalf of the applicant for the amendment proposal. He emphasized that this would only affect future home occupations, not those currently in existence; some of which would become pre-existing non-conforming. Mr. Altman and Mr. Swenarton questioned Mr. Avena and Mr. Tourville about some of the specific occupations that were singled out. Mr. Marseglia asked about removing an accessory building as an allowable space to conduct the home occupation.

Public Comment:

In Favor: Dora Hill, Carlene Donnarummo Sam Agnello, Gail Shea, Mark Tebbets, Margaret Tebbets

Against: Ben Philbrick, James Buckley, Lila Bareford, Patrick O'Donnell, Mary Jo Poore, David Evans Gary Anderson, Mark Steinmetz, Matt and Jessica Hoinsky, Randy Whitford, Stanley Bennett, Blunt White, Steve Steadman

Rebuttal: Dale Tourville argued that shops and small businesses should be eliminated from residential neighborhoods and that he successfully runs a contracting business without a home based shop.

Mr. Altman made the motion to close the hearing. Mrs. Trebisacci seconded. The motion was unanimously approved, 5-0.

Mr. Altman suggested that perhaps Staff should look to see if the regulation needed some amending.

Mr. Altman made the motion to deny the application. Mr. Marseglia seconded. The motion was unanimously approved, 5-0.

Mr. Altman made the motion to adjourn. Mr. Marseglia seconded. The meeting was adjourned at 12:20 AM.

John Swenarton, Secretary