

Regular Meeting

The 1467th meeting of the Town of Stonington's Planning and Zoning Commission was held on Tuesday, April 17, 2012 at Mystic Middle School, 204 Mistuxet Avenue, Mystic, Connecticut. The meeting was called to order by Chairman Robert Marseglia at 7:06 PM. Present for the meeting were Commissioners Bob Mercer, Ben Tamsky, and John Prue; Alternates Gardner Young and Curtis Lynch, and Interim Director of Planning / Town Planner Keith Brynes. Commissioner Frances Hoffman was absent.

Seated for the meeting were Mr. Marseglia, Mr. Mercer, Mr. Tamsky, Mr. Prue, and Mr. Lynch.

Approval of Minutes:

Mr. Tamsky made a motion to approve the minutes of April 3, 2012; seconded by Mr. Mercer. The motion was approved unanimously, 5-0.

ZEO – Pending Variances, A-2 survey waiver requests:

ZBA #12-03 Old Mystic Fire District – Seeking a variance from ZR 5.1.1 bulk requirements to reduce the rear yard setback from 40' to 10' and expand the gross floor area by 240 square feet for the installation of 12' x 20' fire department storage shed. Property located at 21 No. Stonington Rd., Old Mystic. Assessor's Map 166 Block 1 Lot 2. Zone RA-20.

Zoning Official, Joe Larkin explained the application and recommended granting the waiver of the A-2 Survey for this application. Mr. Prue asked if the Zoning Board of Appeals could accomplish these decisions without PZC becoming involved. Mr. Larkin stated that to make that happen without involving the PZC, everyone involved would have to agree. Mr. Prue stated that the ZBA should be free to make its own decisions. Mr. Brynes suggested that the A-2 Survey waiver process could be a topic at a later meeting with members of the ZBA.

Mr. Tamsky made a motion to grant a waiver of the A-2 Survey being requested for ZBA #12-03. The motion was seconded by Mr. Prue. The motion was unanimously approved.

A motion was made by Mr. Lynch and seconded by Mr. Marseglia to place on the next agenda under Commission Initiatives discussion on A-2 Survey waiver requests for ZBA variance applications. Mr. Tamsky asked if Mr. Brynes could complete a cursory review of what would be required for a regulation to give the authority to ZBA. The motion was unanimously approved.

Zoning Enforcement & Violations:

Discussion of Zoning Permit ZON 11-271 Michael Johnson & Theresa Donatelli – Application to enclose portion of existing front porch. 67 Moss Street, Pawcatuck, Map 4, Block 24, Lot 3, Zone RH-10.

Mr. Larkin introduced the application.

Mr. Brynes explained that a Certificate of Activity Compliance was issued by the Zoning Official on 11/1/2011 and a Building Permit was issued. The existing conditions showed a roofed porch and the floor plan showed a 2nd floor addition with a bathroom and closet over this roof. The homeowner worked on the home after receiving the permits. When the owner called for an inspection, the building official realized that there was an issue with the front yard set back. The homeowner was then told that he should have gotten a Zoning Permit prior to starting this project. The owner did get the Zoning Permit on 11/28/12 but with a condition that a variance would be required for the 2nd floor addition. When asked for a legal opinion,

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the Town Attorney concluded that the town made an error in issuing the first certificate and that the town should have picked up on the error. Now the town has no choice but to approve it.

Mr. Larkin stated that he and the Building Official believed there was no increase in floor area and signed off on the permit. Mr. Larkin disagreed with the Town Attorney's opinion. Mr. Prue stated that in the plan there is indication for increase in floor area. Mr. Larkin asked the PZC for advice on how to handle this situation. Mr. Prue stated the issue is when the property owner received the permit, did they do what was permitted. Mr. Mercer clarified that the owner did what was approved.

First Selectman, Ed Haberek stated that the homeowners could not make it to the meeting. Mr. Haberek stated that this is a cut and dry mistake by the ZEO and the town officials. The residents did their due diligence by doing the work and calling for the inspection. Mr. Marseglia asked whether the Town can the town rescind the approval. Mr. Haberek stated Attorney Londregan's answer is "no." Mr. Haberek expressed concern with future builders coming to Stonington and having fears that a permit can be rescinded.

Mr. Lynch motioned to not oppose Mr. Londregan's legal opinion. Mr. Lynch withdrew the motion.

Mr. Prue motioned to observe the opinion of the Town Attorney regarding estoppel and instruct the ZEO to issue the Certificate of Zoning Compliance as originally drawn on 11/1/11. The motion was approved, 4-0-1.

Roll Call: Marseglia - approve, Tamsky - abstain, Prue - approve, Mercer – approve, Lynch - approve

Administrative Review:

ZON12-045 Alliance Energy, LLC – Zoning Permit application for installation of a blue white fascia on existing fuel filling island canopy. Property located at 87 West Broad St., Pawcatuck. Map 3 Block 21 Lot 3, Zone LS-5.

Al Whiting introduced the application and reviewed a compromise suggested by the Commission at their last meeting for a white canopy with additional signage. After discussing with Mr. Brynes there is already too much signage on the building to allow for more on the canopy. Therefore, the owners are still proposing installing a blue fascia with no additional signs. Mr. Mercer asked if striping counts as signage. Mr. Tamsky advised that colors do communicate a sign. Mr. Brynes read the definition of a sign amended May 2011. Mr. Whiting clarified that this is not becoming Mobil's logo and that the logo is blue letters with a red "O". Mr. Lynch asked if a logo or message is being painted on the canopy. Mr. Whiting clarified that the fascia will include no letters, words, message or logo. Mr. Prue stated that state statutes do not give authority over color only height and size. Mr. Tamsky clarified his point that the color blue in this case is communicating a brand. Mr. Brynes stated that it would be a stretch to call the color a sign.

Mr. Tamsky motioned to deny ZON 12-045; seconded by Mr. Mercer. Mr. Marseglia encouraged the PZC to reconsider and approve this application. The motion to deny was passed 3-2.

Roll Call: Marseglia - oppose, Tamsky - approve, Prue - oppose, Mercer – approve, Lynch - approve

ZON 12-060 JBRV, LLC – Zoning Permit application to remodel Valenti Automall Chevrolet showroom and replace signage. Property located at 72 Jerry Browne Road, Mystic. Map 164, Block 2, Lot 3, Zone GC-60.

Robert Valenti and Tom Quirk of Valenti Motors presented the application to remodel the Chevrolet showroom building on Jerry Browne Road. Total sign area is not being increased. Mr. Brynes clarified that the total sign area does not increase.

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However, some individual signs will be getting bigger and some will be getting smaller which would need the Commission's interpretation.

Mr. Tamsky motioned to approve ZON 12-060. The motion was seconded by Mr. Lynch and was unanimously approved.

Mystic Seaport – Discussion of upcoming Maritime Heritage District Master Plan submission.

Chad Frost and Brian Kent of Kent + Frost Landscape Architects represented the Mystic Seaport. Mr. Frost stated that they will be submitting a Master Plan Amendment application to the Commission in May. The purpose of this discussion is to explain the approach and how the Seaport is meeting the criteria of the Master Plan regulations. The Master Plan application will not include a Site Plan Application which will be submitted at a later date. The project involves the definition of North Campus as Gallery Quad. A new Exhibition Hall will be constructed that will enhance the North Gate. The northern boat shed will be torn down completely and "head piece" along Rt. 27 will be renovated.

Mr. Kent discussed the Master Plan process. Mr. Kent asked if a full blown traffic study will be needed considering the reduction of the floor area. Mr. Marseglia stated that preliminary approval should be received from DOT. Mr. Prue stated that the Mystic Seaport should address the dangerous loading situation at the north entrance. Mr. Kent stated that the Seaport's general strategy with this project is to make it more welcoming and inviting. Mr. Kent stated that a meeting with neighbors was recently held. The neighbors had the same concerns as the PZC with the park and drop off area being monitored. The neighbors had questions about the architectural style but positive feedback was received overall. Mr. Marseglia clarified that this would be a good process for a project of this size and nature. The Master Plan and Site Plan both have to be public hearings.

Old Business:

PZ1134SPA & CAM Latimer Point Condominium Assoc., Inc. – Site Plan Application & Coastal Area Management Review for proposed decks, deck additions, house additions & shed. Properties located at 16 North Shore Way, 1 Reid Rd., 14 Crooked Rd., 35 East Shore Rd., 43 East Shore Rd. & 55 East Shore Rd., Stonington, CT Assessor's Maps/Blocks/Lots: 154/2/10, 154/4/7, 154/4/16, 154/6/4, 154/6/6, 154/6/10. Zone RM-20.

Mr. Brynes recommended tabling this application. A motion was made by Mr. Prue and seconded by Mr. Tamsky to table PZ1134SPA & CAM. The motion was unanimously approved.

PZ1204BR Allied Development Partners – Application for reduction/release of Performance & Maintenance and Erosion & Sedimentation Bonds posted to satisfy requirements of proposed construction activity related to PZ1021SD & GPP. Original P&M bond instrument is a Letter of Credit for \$85,000.00 and E&S Bond is a Cash Bond (Bank Check) for \$5,000.00. Bonding is for a 3-lot subdivision of a 6.67± acre parcel located at 1225 Pequot Trail, Mystic. Assessor's Map 135 Block 2 Lot 1A. Zones RA-40 & GBR-130.

Pat Gallagher of Allied Development presented the application. Mr. Brynes summarized comments by the town engineer. Mr. Brynes stated that there are no other issues. Mr. Prue asked about the transfer of property to the DiCesare that was part of the subdivision approval. Mr. Gallagher stated that the deed was completed and the transfer is now in the hands of their attorney.

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Mr. Prue motioned to approve a reduction of the performance bond from \$85,000 to \$8,500 and full release of the \$5,000 erosion and sedimentation bond. The motion was unanimously approved.

PZ1206SPA Town of Stonington BOE – Site Plan Application to permit municipal athletic field sponsorship panels on new softball scoreboard at the high school. Property located at 176 South Broad St., Pawcatuck. Assessor’s Map 25, Block 1, Lot 19. Zone RR-80.

Bill King, Operations Manager for the Board of Education introduced this application. Also present were Frank Tedesco and John Nickerson of the Board of Education. Mr. Mercer stated he is not opposed to this application and apologized for the delay because he wanted to accomplish due diligence. Mr. Prue stated that there could be an issue around who controls the field, the Recreation Department or BOE. Mr. King confirmed that during certain parts of the year either the BOE or Recreation Department control the field. The Recreation Department is in support of the application.

Mr. Mercer motioned to approve the application. Motion was seconded by Mr. Lynch. The motion was approved 4-1. Roll Call: Marseglia - approve, Tamsky - deny, Prue - approve, Lynch – approve, Mercer – approve, Mr. Lynch - approve

Public Hearing(s):

The Call was read by Mr. Prue.

PZ1209RA Town of Stonington PZC – Regulation amendment to allow “temporary drive-in events” by Special use Permit, in suitable locations within the TC-80 Zone. Additions to ZR Section 4.5.3 Tourist Commercial (TC-80) Uses Allowed by Special Permits: Section 4.5.3.24 & 4.5.3.34; and Section 5.2.2 Commercial & Industrial Zones (Use Chart).

Mr. Brynes presented the application for a regulation amendment to allow for temporary drive-in events in the TC-80 zone as proposed by the Mystic Aquarium. The Aquarium would still need to apply for a Special Use Permit to hold these events. The Commission has approved a one-time event to be held on 5/27/12. As written, the regulation would only apply to two (2) properties in Town. The Police Commission did not object to the amendment or the Aquarium’s plans and requested hiring an officer for traffic control.

Mr. Prue suggested making changes to the text to prohibit visibility from Route I-95. The Commission discussed appropriate buffers. Mr. Lynch clarified that the issues are visual impact on I-95, impact on neighbors, and the need for enough parking spaces.

Chairman Marseglia opened the floor to the public.

Public in favor:

Cassandra Meyer-Ogren and Tom Thompson of the Mystic Aquarium spoke in favor. They presented plans of the parking lot and surrounding area. The screen location has been moved to not be visible from I-95.

No one spoke in opposition.

General Comments:

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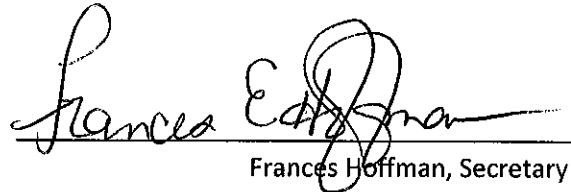
Carlene Donnarummo spoke under general comments. She fully supports the 500 cars and 15 acre limit and highlighted the Aquarium's good faith effort in past events. Ms. Donnarummo read a written statement from Dora Hill. Ms. Hill suggested not moving forward with the regulation amendment until after the first showing on 5/27/12.

Mr. Prue suggested having the Mystic Aquarium float a balloon at the proposed height of the screen to see if there are any concerns. Mr. Thompson suggested raising a flag to 40' on Sunday, April 29.

Mr. Prue motioned to continue the public hearing until May 1, 2012 and Mr. Tamsky seconded. The motion was unanimously approved.

Mr. Marseglia suggested a moment of silence in honor of Director of Planning, Bill Haase.

Mr. Marseglia motioned to adjourn. Mr. Mercer seconded. The motion was unanimously approved. Chairman Marseglia adjourned the meeting at 9:55 PM.



Frances Hoffman, Secretary