

Special Meeting

The 1482nd meeting of the Town of Stonington's Planning and Zoning Commission was held on Tuesday, January 8, 2013 at Mystic Middle School, 204 Mistuxet Avenue, Mystic, Connecticut. The meeting was called to order by Chairman Robert Marseglia at 7:05 PM. Present for the meeting were Commissioners Bob Mercer, John Prue, Ben Tamsky, and Frances Hoffman; Alternates Gardner Young, Eric Beverly, and Curtis Lynch, Town Planner Keith A. Brynes, and Town Attorney Thomas Londregan.

Old Business:

PZ1220SUP & CAM Summit Street Development, LLC - Special Use Permit & Coastal Area Management Review applications for construction of a 2-story, 9,290 square foot dental office building, parking, associated landscaping, utilities, & storm water management. Property located at the corner of Harry Austin Dr. & Masons Island Rd., Mystic. Assessor's Map 160 Block 4 Lot 4. Zone M-1.

The public hearing for this application was closed at the 12/4/12 meeting.

Seated for the application were Mr. Tamsky, Ms. Hoffman, Mr. Marseglia, Mr. Prue, and Mr. Young.

Mr. Brynes explained that the Commission needed to make decisions on the CAM Review, the Special Use Permit request for waivers, and the Special Use Permit. He noted that Town Attorney Thomas Londregan was present and available to assist the Commissioners.

Mr. Tamsky made a motion to approve the request for waivers, seconded by Mr. Prue. Ms. Hoffman and Mr. Tamsky both stated that they were satisfied that all concerns regarding the waivers had been addressed. The motion was unanimously approved, 5-0.

Mr. Prue wanted to address the areas where there were questions regarding interpretation of State Statutes and Zoning Regulations.

Mr. Prue made a motion that CGS 8-2 did not protect this undersized lot. For the purpose of discussion, Mr. Tamsky seconded the motion. Mr. Prue provided the commission with four court cases concerning the development of non-conforming lots. Attorney Londregan explained the applicant's position that case law does support this lot's protection under CGS 8-2, in addition to local zoning regulation protection. Ms. Hoffman was not convinced that CGS 8-2 was a black or white issue and wanted to ensure that the applicant was being treated fairly. Mr. Young also stated that he was not convinced that CGS 8-2 did not apply. Mr. Prue restated his opinion that vacant lots are not protected under CGS 8-2. The motion was approved 4-1.

Roll Call: Marseglia – approve, Tamsky – approve, Prue – approve, Young – approve, Hoffman – deny

Mr. Prue made a motion that ZR 2.6 does not provide protection for this undersized lot. There was no second. Mr. Tamsky made a motion that ZR 2.6 does provide protection for this undersized lot. Ms. Hoffman seconded. Mr. Tamsky read ZR 2.6.1 and stated that he agreed with Attorney Ted Harris' argument that non-conforming lot size is bulk, and as such does apply to the subject lot. Mr. Prue said the property does not meet the legal definition of a lot since it is undersized. When questioned by Mr. Marseglia, Mr. Brynes stated that in his opinion, the area of a lot is bulk so has protection under ZR 2.6. He referenced a 2003 PZC approval for a medical

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office on a much greater non-conforming (undersized) lot. Commissioners discussed the Barbar case which required the applicants to request a variance, however, Atty. Londregan noted that that decision was based on the fact that Trumbull's zoning regulations did not have a mechanism for relief and Stonington ZR 2.9 provides eligible undersized lots with relief. Ms. Hoffman further noted that the Commission needs to apply Stonington regulations, not a case from another town. Chairman Marseglia felt that the phrasing in ZR 2.6.1.1, "expanded in...extent of bulk," was the requirement for a variance. Mr. Tamsky noted that the decision made either way would set policy for future decisions. Mr. Marseglia stated that he was not implying that he does not support commercial building on undersized lots. The motion was denied, 4-1.

Roll Call: Marseglia – deny, Tamsky – approve, Prue – deny, Young – deny, Hoffman – deny

The Commission took a ten minute recess.

Ms. Hoffman stated she would like to see wording changes to the regulations that offers protection for development and continuance of undersized lots. Mr. Prue agreed there needed to be clarity. Attorney Londregan explained to the Commission that they could draft changes to the regulation to make it as specific or broad as they wished, they just need to have the language in the regulation.

Mr. Prue motioned that the zone line does not adjoin across Masons Island Rd., requiring a buffer (buffer requirements do not cross the street). Ms. Hoffman seconded. The motion was reworded to state that, for this lot, ZR 4.7.4 does not apply to the road frontage on Mason Island Road. The motion was unanimously approved, 5-0.

Mr. Marseglia wished to discuss ZR 6.5.2, Commission ability to set extra buffer requirements for fragile environmental features or residential property. Mr. Prue was not comfortable with requiring buffers to properties across streets.

Mr. Prue motioned to accept the PZC's 2006 adoption of the Zoning Map Atlas as confirmation of the 2003 decision that the zoning district of the subject parcel is entirely M-1. Mr. Young seconded the motion. Attorney Londregan explained that, regardless of the fidelity of the decision, the change had been made in 2003 and reapproved in 2006 so it is what it is today. Mr. Tamsky did not understand the objective of the motion as a decision had previously been made. The motion was unanimously approved, 5-0.

Mr. Prue wanted a motion to address buffer requirements for the adjoining IHRD zone. Ms. Hoffman wanted clarification of the status of IHRD.

Mr. Tamsky motioned to accept the determination that the IHRD zone to the west of the subject parcel is not residential so does not require increased buffers as there are buffer requirements within the IHRD regulations. Ms. Hoffman seconded the motion and stated her opinion that the intention of the IHRD zone is mixed use. Mr. Tamsky agreed, feeling that the onus for buffers is on the developer of the IHRD property, not the neighboring parcels. Mr. Marseglia and Mr. Prue feel buffers are a shared responsibility and neighboring property owners need to be considered based on the proposed level of development. The motion was amended to read as follows:

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accept the determination that the IHRD zone to the west of the subject parcel is not a residential zone so does not require increased buffers as there are buffer requirements within the IHRD regulations; however, the Commission has the ability to assess buffering in accordance with ZR 6.5.

The motion was approved, 4-1.

Roll Call: Marseglia – approve, Tamsky – approve, Prue – deny, Young – approve, Hoffman – approve

Mr. Prue motioned to find application **PZ1220SUP & CAM Summit Street Development, LLC** consistent with the Coastal Area Management Plan. Mr. Tamsky seconded. The motion was unanimously approved, 5-0.

Mr. Prue motioned to deny application **PZ1220SUP & CAM Summit Street Development, LLC.**, until the applicant receives a variance for lot size as the subject undersized lot is not provided protection under CGS 8-2 and/or ZR 2.6 and requires a variance to be developed. Ms. Hoffman seconded. Mr. Prue withdrew his motion after Mr. Tamsky addressed concern that the Commission was indicating that approval would be given upon the applicant acquiring a variance.

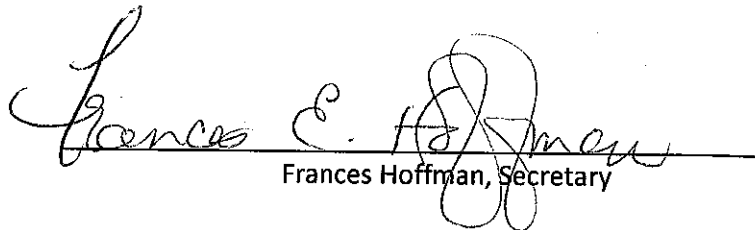
Mr. Tamsky motioned to deny application **PZ1220SUP & CAM Summit Street Development, LLC.**, on the grounds that the applicant did not receive a variance for minimum lot size. Mr. Young seconded. The motion was unanimously approved, 5-0.

Reason(s) for denial:

1. Failure to obtain a variance for minimum lot area.

Mr. Marseglia felt the scope of the project was too large for the lot and would like the building to be smaller. Mr. Tamsky stated that if the application that comes back to the Commission is approvable, he will approve it. Ms. Hoffman feels the applicant should make it as “neighborhood friendly” as possible. Mr. Marseglia wishes the applicant to apply additional buffer requirements to the Mystic River and residential properties. Mr. Tamsky disagreed.

A motion was made by Mr. Tamsky and seconded by Mr. Prue to adjourn. The motion was unanimously approved. The meeting was adjourned at 9:35 p.m.


Frances Hoffman, Secretary