

PLANNING AND ZONING COMMISSION
TOWN OF SOUTHTON
FEBRUARY 7, 2017

The Planning & Zoning Commission of the Town of Southington held a public hearing & regular meeting on Tuesday, February 7, 2017 at the John Weichsel Municipal Center Assembly Room, 196 North Main Street, Southington, CT. Chairman Michael DelSanto called the meeting to order at 7:02 pm.

The following Commissioners were in attendance:

Susan Locks, Jennifer Clock & Michael DelSanto, Chair

Alternates: Ted Cabata, Ross Hart, Robert Hammersley & Joe Coviello

Ex-Officio: Robert Phillips, Director of Planning & Community Development
James Grappone, Assistant Town Engineer
Mark J. Sciota, Deputy Town Mgr./Town Attorney

Absent: Paul Chaplinsky, James Sinclair & James Morelli, Commissioners

Mr. Hammersley was seated for Mr. Macchio, Mr. Cabata for Mr. Sinclair, Mr. Hart for Mr. Chaplinsky and Mr. Coviello for Mr. Morelli for this evening's meeting. A quorum was determined.

Pledge of Allegiance to the American Flag was recited by everyone in attendance being led by all the students.

4. Approval of Minutes

A. Regular meeting of January 17, 2017.

Ms. Locks made a motion to approve which was seconded by Ms. Clock. Motion passed on a majority voice vote with Mr. Cabata abstaining.

Mr. Phillips read the legal notice into the record for the public hearing.

PUBLIC HEARINGS:

A. John Senese (Calco Construction and Development, Inc.)
Petition to Change a Zoning District Boundary from R-12 to B,

properties located at 2,4 and 6 Upson Road and 3,5, and 7 Chaffee Lane (Map 181), Parcels 31, 32,33,34 35 and 36) ZC #557.

Jeffrey Fitzgerald, professional engineer with BL Companies, Research Parkway, Meriden represented the applicant. Per the request of the this commission, we have submitted an updated real estate appraisal commentary letter prepared by Matt Welinsky dated January 23, 2017. (On file in the Town Planner's Office.)

It addressed the gap in the previous appraisal letter. It addressed the impact of the proposed zone change on the residential parcels that are not part of the application right now to change the zone.

We are proposing to change the zone on a few parcels in this area on the west side of Chaffee Lane. We are not proposing to do the entire area. The request for the updated appraisal was to address the impact of the zone change on the parcels that are not changed from the present zone. The letter, on Page 5, states that it is his opinion that the proposed zone change would not negatively impact the remaining neighborhood properties. In all likelihood, the remaining properties would probably be positive enhanced, as previously discussed. Furthermore, if the remaining properties were rezoned to a B classification there would not be any negative impact and it would be in all likelihood a positive enhancement of all properties.

The reason for this conclusion is because all of the properties that are currently zoned B essentially surrounded by commercial properties have historically been impacted by the 50 years of development of commercial around them. So, the property values have risen over the past 50 years and has already been taken into account.

The proposed zone change will not have a more negative impact as we talked about the last time, the potential for the whole area to be taken as a commercial property can actually have a positive impact on property values.

(Those speaking in favor of the application)

None.

(Those speaking against the application)

1. Kenneth Adams, 7 Stoughton Road. My father, Mark Adams, who actually owns the house in Florida and asked me if I could read this. This was emailed to the commissioners. (On file in the Town Planner's Office for review.)

2. Leslie Smart, 1 Stoughton Road. Gave a history of his family in Southington. I've seen this town exploding to the point where it is overcrowded.

There is a proposal for 3, 5 & 7 Chaffee Lane. And, 7 happens to be across the street from my home. It's probably 80' from my front door. JD's Pizza is probably 300' from my door and during the summer I hear nothing but music and karaoke. Now I'm going to have a convenience store 80' from my front door? With arborvitaes to protect my property? Where all the vagrants going to go? They'll go down there to the new place. What're we doing to protect the homeowners against that? How long before we kick the people out of Jensen's Park, the seniors, and build that? Eminent domain and they decide Southington will take over that and make a profit?

Please consider not changing the zoning. Not giving them the opportunity to put a convenience store 80' away from my home. If that happens, I will put up a 20' retaining wall in my front yard.

3. Mr. Ramiriz, 6 Stoughton Road. Simply still against it and will always remain against it.

(Rebuttal)

Mr. Fitzgerald made one point. With the proposed development that can take place if the zone change can happen, we are proposing significant landscaping and buffer and a tall opaque fence that is acknowledged in the appraisal report that will provide much more screening and buffer from the residents than the few single-family homes that are there now that open up to the commercial use on Queen Street.

We look forward to being able to do a nice, new development in a way that is sensitive to what remains.

Mr. Hammersley asked for further clarification on the tall fence. Mr. Fitzgerald said it is a 6' high opaque fence. It will be consistent with what was approved in the previous application. We have that in the new development application.

The Chair asked Mr. Phillips if he received any new appraisals rebutting the applicant's appraisal. Mr. Phillips said it is not an appraisal but an opinion letter. And, no, we did not receive anything else.

The Chair closed the public hearing.

B. Kevin Medeiros, Special Permit Application to allow a kennel on property located at 420 North Main Street, owned by Format, LLC, in a "B" zone (SPU #572)

Justin French, 156 West Center Street presented a revision with questions or concerns that came out of the last meeting. (Power Point Presentation can be viewed on the video of the meeting.)

He specifically addressed:

- Odor control
- Sound testing
- Hours of operation
- Dog capacity
- Floodplain

The Chair reminded everyone that comments made at the previous public hearing for this item are made part of the record for this hearing tonight.

(Those speaking in favor of the application)

1. Allison Goff, 39 Mark Drive. She endorsed Kevin as far as his integrity as a person and explained her experience with her dog.

I hope you take that into consideration.

2. Cindy Forlenzo, 406 Oak Avenue in Cheshire. (Only town residents or property owner in town are allowed to speak.)_

3. Dale Deckert, West Center Street Extension in Southington. I have never known anybody who could be any nicer or better with dogs than Kevin. A very fine person and I know whatever he does will be right for the people who take their dogs there and he will do what's right for the dogs and for the community at large.

(Those speaking against the application)

1. Amy Raston, 74 Kane Street. I submitted a letter for the last commission meeting. I wanted to ask and the commission be made aware of a lot of the surrounding businesses --- the plazas are owned by people who were notified about this application and a lot of the tenants have not been notified. I went around to the area businesses and told them.

As a resident who is very concerned about the noise level, I have some doubts about how accurate the noise tests were and I am very concerned about having up to 40 dogs loose all day long in the pen with the property being pretty much right behind this facility.

She spoke of elderly residents in the area who didn't have the opportunity to speak against the application or have been made aware of it.

I'm concerned the shrubbery buffer will not be enough to prevent the sound of 40 dogs in that pen.

I'm concerned about the interaction between people using the bike trail and people walking their pets on the trail and the dogs in the pen. Barking dogs.

The hours of operation are 6:30 am, even though the outside pen won't be in use until 9:00 am, during the week to have dogs arriving at that time, I anticipate a huge amount of noise.

Please consider the effects on the residents behind the facility. I hope you will reject the application.

Mr. Phillips explained notification for any special permit requires notice to abutters within 500' of the subject property(s). It's the owners and we don't send out to the tenants.

(2) Jim Lasek from 78 Kane Street. I take issue with the sound testing that was done. He noted the main building has three very large overhead doors. If the testing was done with the doors closed, what if we open the doors and then conduct the sound testing. What would the decibel rating be then?

Discussion.

And, 40 dogs outside in the pen, when they start barking, I don't think the sound test was done outside. It was done inside with all the doors closed.

The odor control --- it seems like they have a pretty good handle on that.

One thing that really bothers me about this application is the amount of garage doors on the building. There are seven altogether. The building was assessed as being 100' by 50'. The town does not have a recording of the side structure which is 40' by 25'. And, attached to that is the pen. No building permit was ever taken. No approval from inland wetlands. Now we have a structure illegally built alongside that building. Would it be right for you to approve any business to go into that adjacent shed attached to it without having a property CO? That side structure has no floor. It's open so varmints can get underneath. The garage doors are not sealed to the ground (gravel).

Discussion.

I think you should reject the application until that problem is straightened out.

He submitted information and pictures he had from the Assessor's Office on the property for the record.

There is excavation going on on the property now. Is that done without permission?

This application needs to be rejected on those merits alone. It is not suitable for a dog kennel. I encourage you to reject the application.

3. Peter Raston, 74 Kane Street. My concern is with the sound alone. The pen being outside. I don't want to spend any nice day out in my yard listening to dogs barking. That's my main concern.

4. Joe Manuele, 1049 East Street, Southington. I own Southington Glass, 416 North Main Street. He gave the history of his building in town and his approvals.

He said with the back building and the flooding is why he didn't buy it. About 18" to 20" of water inside the building. I don't need a building like that.

I tried to be a good neighbor when Wood & Wood was there. But they had no permit, no nothing when they built the garage on the wetlands. That's against the rules.

I believe on the wetlands you are not supposed to do anything as I was told.

In the back, they put a lot of dirt. That is to make the water come slow. It stays on my parking lot forever. I believe they should not put any filler there.

No permit, no nothing, three car garage, 1,000 sf, I believe.

Back to the dogs, I heard 75 to 100 dogs. But I watched the video of the meeting last time and they're talking 150 to 200 dogs. Right there.

Spoke about the platform.

What about the traffic? They only have an easement to go on my property. People driving in/out. They'll fill up my parking lot and then what do I do?

Think about it. I believe this place is not good for dogs.

It's tough for me and my business. Traffic. Noise and a lot of stuff is involved.

(Rebuttal)

As for the approvals, Attorney Sciota said from his standpoint, you can move forward with the application with the contingency that the zoning permit is not granted until the building department is satisfied if you want to move forward with it. If you don't we can check it out over the next couple of weeks.

Mr. Phillips said he was not aware of any violations.

Mathew Florian addressed the questions. It's my niche to take worn out buildings and try to fix them. The public is correct on some of the concerns over the years with previous owners.

The fill on the site is because the building is currently on a septic system and we got a permit to put it on city sewer. That fill is sitting there for that job.

The garage doors, some are in poor condition. The sound tests we took, we took them as is. When the doors are fixed and properly sealed and some may be removed, the sound testing should be even better.

The doors will be primarily closed because we are going to put a full heating / air conditioning system into the building so it will have air conditioning in the summer and heat in the winter. Most of those doors should be shut all the time.

As far as the flood, the building currently has a pretty good sized large platform. In an emergency if dogs were put on that, they would be in their cages (flash flood). If the flood was to persist, Kevin would go to other kennels with the dogs. On my plans, if Kevin needs me to raise any more of that floor, I've said I would do that if it was better for the animals.

You can't occupy any building until you satisfy the building department, so that would be an acceptable contingency.

Attorney Sciota clarified it is the zoning permit and not the CO. The zoning permit is how he gets his building permit. A CO is at the end of the project.

The Chair closed the public hearing.

C. Zoning Text Amendment of Lovley Development for proposed revisions to Sections 11-14.2, 11-14.3 and 11-14.4 of the Town of Southington Zoning Regulations (ZA #590).

Sev Bovino, Planner with Kratzert, Jones & Associates, represented the applicant.

The proposal is to modify Section 11-14.2 which is the rear lot regulations. Rear lots are allowed in a residential and industrial zone currently.

We propose to allow an access to the property instead of being 20' wide, we propose it go to 40' wide. The same as an industrial zone.

In 11-14.3, we propose the maximum length of the access is 500' in the business district and the industrial zone allows 500'.

Section 11-14.4, the minimum lot area, we propose to be twice the size of the minimum required lot area. Industrial zone allows one times and we propose two times which would be 20,000 times 2 or close to an acre.

The applicant is not opposed to any stipulations as to distance from an interchange or highway where this could be allowed.

We feel this is one more tool to help develop pieces of property in town.

In some cases, a rear lot is the appropriate way to go. You have the final say or approve, or not. You can place stipulations as to the location of where the rear lots would be allowed.

This proposal will have the same considerations for approval, i.e.: unusual land, steep grades.

Section 11-14.6 says you shall not approve a rear lot unless you find that such rear lot provides for the best use of the land. You shall not approve rear lots which result in difficult drainage, difficult configuration of land, inaccessibility or temporary flooding of the property.

You have a lot of regulations in place allowing you to look at the property and make a determination of the proposal is something you wanted to approve.

I'll answer questions.

Mr. Phillips had no further comments to add.

(Those speaking in favor of the application)

None.

(Those speaking against the application)

None.

The Chair closed the public hearing.

BUSINESS MEETING

A. John Senese (Calco Construction and Development In.),
Petition to Change a Zoning District Boundary from R-12 to B,
properties located at 2,4 and 6 Upson Road and 3,5 and 7 Chaffee Lane
(Map 181, Parcels 31,32,33,34,35 and 36) (ZC #557) tabled from January
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Mr. Phillips commented that as you recall from the last meeting,
staff met with the applicant and tried to encourage them to take a
bigger chunk, per say, of the current R-12 zoning and change it to B
to allow for the future abandonment of the roadway for Upson. It
would make more sense to capture that whole area and convert it to B
if you were going to take it in a piecemeal fashion. But the
applicant has indicated it is not something they can or are willing to
do at the present time.

Your POCD has policies and goals to pursue. One is to revitalize
and make efficient as possible your current business zones. Another
one is to protect existing residential neighborhoods. Competing
interests in this case with respect to the POCD.

My opinion is that I think that the commission, instead of, I
don't think it's very fair to give the existing residential properties
a death by a thousand cuts by piecemealing it every so often and
eventually eroding away the entire R-12 zone.

I think you should consider looking at this in a holistic sense
and really try to figure out whether long term wise you see that area
as being more beneficial to be converted to business, the entire area.
Which of course, any residences still there can do the residential
use. Or you decide that the R-12 should be preserved.

That is my opinion. It is your choice. Other than that, it is
ready for action.

The Chair asked Attorney Sciota: are there legal detriments to
changing the entire area from residential to business? Detriments to
the landowners currently? Attorney Sciota explained there is a
change in status. What would happen is that they would be legal,
nonconforming uses. It would mean if they want to put an addition on
their house, instead of just getting a building permit, they'd have to
come to the zoning board of appeals to get permission for that.
Although it is a separate step, it's not anything that will be denied
unless is so outrageous as they are going on somebody else's property
line. We have a lot of legal, nonconforming uses in town.

I can't agree more with what Rob just said. We either do it or
not do it. This piecemeal stuff - what's next? This board in future

planning has to choose whether they want to keep it or not keep it. But Rob is right on the money when he says we could be here every couple of months moving this line more and more. That's really a disservice to the residents.

Look at the POCD. If the future use is for that, then you would be the applicant. You'd have a public hearing and hear the residents out. It doesn't change their status. They're assessment won't change as they are still residential use. It does make them a legal, nonconforming use. If they want to expand the use, then you have to go through one more town board.

The Chair asked if this board could put a stipulation that these residents would not have to take that additional step. Attorney Sciota said you can't put stipulations on a zone change. It stands on its own merits. What you can do and you have done it on West Street, is you can pass a resolution as a board that you would like the ZBA to look favorably on any applicant that comes their way that wants to put an addition on the residential use.

Ms. Clock stated she thought Attorney Sciota nailed it on the head. Approving this would be a disservice to the residents. I am fully in support of development on Queen Street. We need to grow our tax base.

However, it is also a fact that these residents invested in their home near Queen Street. Not on Queen Street. I think this change would be invasive to the residents and it only serves the developer.

The land was purchased knowing it is residential and I don't believe that should be changed.

If that reason I can't support this and would like to make a motion to deny this application.

Ms. Locks seconded.

Motion to deny passes 7 to 0 on a roll call vote.

B. Kevin Medeiros, Special Permit Application to allow a kneel on property located at 420 North Main Street, owned by Format, LLC, in a "B" zone (SPU #572) tabled from January 17

This is ready for action. The Town Planner suggested - this applicant submitted information to this affect, but it may be beneficial to have the stipulation on the hours of operation and the maximum number of dogs at any time and the maximum number of dogs kept overnight. The Chair said the presentation they made this evening would suffice.

(Document submitted by applicant marked as Exhibit A noted as Stay and Play, additional information, revised for February 7, 2017.)

Ms. Locks made a motion to approve. I went to a couple of different dog kennels and asked a couple of the neighbors up on West Street and on Queen Street, and I do not believe with what they're going to do that the people on Kane Street or the Spa on Curtis Street will be affected by the noise and/or the smell of feces.

Mr. Hart seconded.

Ms. Locks clarified with the stipulations suggested. And, no zoning permit will be granted until all building department departments are in place.

Mr. Hart seconded.

Motion passed 7 to 0 on a roll call vote.

C. Format, LLC FF application seeking to install a chain link fence within the flood conveyance shadow of an existing building, 420 North Main Street in a "B" zone. FF#251.

This is ready for action.

Mr. Cabata made a motion to approve. Ms. Clock seconded. Motion passed 7 to 0 on a roll call vote.

D. Zoning Text Amendment of Lovley Development for proposed revisions to Sections 11-14.2, 11-14.3 and 11-14.4 of the Town of Southington Zoning Regulations (ZA #590).

Mr. Phillips reported he has spoken with the applicant prior to the meeting tonight to talk about the potential for seeking a variance for their specific proposal that would allow them to do what they're looking to do without impacting the rest of our business zones in town and obviously, the unexpected ramifications of that. They've agreed they would seek a variance. Therefore, I would recommend this application be tabled to allow them to seek the variance and if they get approved it would then be withdrawn.

Mr. Cabata made a motion to table which was seconded by Ms. Clock. Motion passed unanimously on a voice vote.

E. AMJM Realty, LLC, site plan modification application to construct a new 6,325 sf building, 36 Triano Drive, in an I-2 zone (SPR #1587.1)

Stephen Giudice with the office of Harry Cole & Son presented the application on behalf of the applicant.

This is a site plan for property on Triano Drive, Lot #3. This commission had previously approved a site plan for this site for AMJM. Approximately three or four years ago.

Since that time, the applicant needed changes.

The original application was for a 4,500 sf building. This one is 6,300 sf. We've changed the parking lot a little bit. We have modified the storm drainage and changed grading around the building.

The site is serviced by public water and sewer.

Storm drainage was described.

We've submitted the plan and received comments from town staff and we submitted revised plans and comment response letters to staff.

Mr. Phillips advised this is ready for action.

Ms. Locks made a motion to approve. Mr. Hammersley seconded. Motion passed 7 to 0 on a roll call vote.

F. Floodplain Application of Limitless Energy, LLC seeking to install a ground mount solar array in the floodplain, located at 178 Newell Street, in an I-1 zone (FF #249), tabled from January 17th.

They are still tied up at the zoning board of appeals seeking a variance for a structure in the floodway that already exists without approvals. They're also at the end of their extension time on this application and will request a withdrawal. If they get approval at the ZBA, you will see the application again.

Withdrawn.

G. Stonybrook, LLC, release of \$3,000 E & S bond, Winding Ridge (S#1173)

Ready for action. Mr. Hammersley made a motion to approve. Ms. Locks seconded. Motion passed unanimously on a voice vote.

H. Cumberland Farms, release of \$7,500 E & S bond, 1978 Wet Street (SPR #1677)

Ready for action. Motion to approve by Ms. Clock. Ms. Locks seconded. Motion passed unanimously on a voice vote.

7. REGIONAL PLANNING COMMISSION UPDATE

Nothing to report by Mr. Cabata.

8. ADMINISRATIVE ITEMS

Nothing this evening.

9. ITEMS TO BE SCHEDULED FOR PUBLIC HEARING

A. Lovley Development, Inc., Modification of Special Permit approval to add additional building, 1095 West Street (Map 131, Parcel 43), in a B zone (SPU #573), March 7

B. Dale and Eva Humphries, Special Permit Application for a parent/grandparent apartment, 157 Aspen Way, property owned by AA Denorfia Building &u Development, LLC, in an R-20/25 zone (SPU #574) March 7

C. Gary Salvatore, Special Permit Application for parent/grandparent apartment, 183 Hobart Street, property owned by Sean and Chelsea Salvatore, in an R-20@5 zone (SPU #575), March 7

D. ARC of Southington, SPU

Attorney Sciota advised he will not be here for the March 7, 2017 as he will be at a conference in New Orleans.

10. RECEIPT OF NEW APPLICATIONS

All of the above.

11. ADJOURNMENT

Mr. Cabata made a motion to adjourn. Ms. Clock seconded. Motion passed unanimously on a voice vote.

(Whereupon, the meeting was adjourned at 8:17 o'clock, p.m.)