

PLANNING AND ZONING COMMISSION
TOWN OF SOUTHTON

OCTOBER 1, 2019

MINUTES

The Planning & Zoning Commission of the Town of Southington held a public hearing and a regular meeting on Tuesday, October 1, 2019 at the John Weichsel Municipal Center Assembly Room, 196 North Main Street, Southington, CT. Michael DeSanto, Chair, called the meeting to order at 7:00 pm.

The following Commissioners were in attendance:

James Morelli	Susan Locks
Robert Hammersley	Jennifer Clock
Paul Chaplinsky	Dagmara Scalise
Michael DeSanto, Chair	

Alternates: Peter Santago, Joe Coviello & Val Guarino

Ex-Officio: Robert Phillips, Director of Planning & Community Development
James Grappone, Assistant Town Engineer

Absent: Stuart Savelkoul, Alternate

A quorum was determined.

The Pledge of Allegiance to the American Flag was recited by everyone in attendance.

MICHAEL DELSANTO, Chair, presiding:

Approval of Minutes – Regular Meeting of September 17, 2019

Mr. Hammersley made a motion to approve which Ms. Locks seconded. Motion passed on a majority voice vote with Ms. Scalise and Ms. Clock abstaining.

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

PUBLIC HEARING

A. My Little Rascals, modification of special permit approval to allow for additional children, 805 West Queen Street, property owned by A & K Woodworking, LC, in the WSB zone (SPU 570.1)

Mr. Philips advised they are still having notice defects. They will renotice again for the October 15th meeting.

Mr. Chaplinsky made a motion to table. Mr. Hammersley seconded. Motion passed unanimously on a voice vote.

B. Special permit application of Joseph Baczewski to construct a 30' x 56' garage which will bring the total number of garage spaces allowed in excess of three, property located at 267 North Star Drive, in an R-40 zone (SPU #628)

(Minutes are prepared summary style. Please refer to the video on line to hear the full presentation and commentary.)

Joseph Baczewski, 267 North Star Drive, Southington, applicant presented. He stated he was coming with a proposal to build a 30' x 56' garage space on top of my existing three car garage. I'm doing this to have more storage. I have five vehicles as well as two trailers. I need the space aside from keeping things outside.

When I sent out my letters to my neighbors, I didn't have much of a discussion with any except for Mr. Zippadelli who lives at 251 North Star Drive. And, the Queens, Bill & Patricia, who live behind me. The rest of the neighbors said anything otherwise.

I had a chance to speak with one of them when I saw them walking around with a petition, I guess and, just had a candid conversation. I guess they are not excited about me building additional garage space. There was a couple of concerns brought up as far as devaluation of property and a concern about the height of the structure.

I spoke with two real estate agents about the depreciation of property values and they said there was no effect to that. (Submitted two emails)

I also submitted designs for the potential structure. I didn't do an architect design specifically because I didn't know what would happen with this meeting as far as having to redesign it after I did a design.

The Chair confirmed with the applicant the elevations presented are the ones they were sticking with. Mr. Baczewski said a neighbor brought up a concern about the height of the structure, 26' high. I'll work with my architect and scrap the idea of having any storage area on the second floor. Try and make it less tall.

The Chair confirmed with the applicant the paramount use for this is storage. The applicant confirmed storage and vehicles. No living quarters.

When asked about a business being run from it, the applicant said he had a landscaping business. I store my equipment at the house. But I follow all zoning regulations as far as not starting machines up before 7:00 am. I've been doing it since I've lived at the property in 2015.

Mr. Chaplinsky asked about employees and what is being parked there, the traffic from the business. The applicant responded sometimes he has one helper that helps me three times a week out

of a five-day week. I encourage him to park in my driveway. Occasionally, there is one car parked on the street. No work trucks.

Mr. Chaplinsky asked what will be stored in the structure. The applicant said the reason for proposing 56' is he has a trailer that is essentially a 24' enclosed trailer that basically the idea I had was to be able to back into the garage and have room for the trailer, the truck in tandem, so I wouldn't have to disconnect anything. Keep everything located in one bay.

The other bay would be one other trailer and a classic vehicle, as well as a compact tractor.

I do have a couple of things to submit for the record:

- Letters from other neighbors who are in approval of the structure.
- I brought a signed affidavit that I'm not using this as a commercial structure as far as manufacturing, broadening my business, or anything like that. Like I said it is strictly for storage.
- I did bring some pictures of the backside of my current garage. This is what I want to build and basically the same exact brick, roofing material the same.
- Pictures of the area as it exists today. I am trying to clean that up.
- I did bring dimensions of the trailer that I have with my truck.
- Pictures of the classic vehicle.
- I've provided all the different vantage points of all my immediate neighbors of where the structure is going to be from their house.

(All handed in and passed around to the commission.)

(Pause)

(Undertone comments at the bench.)

Mr. Hammersley asked: the garage you are looking to create is a 30' by 56' garage. You have an existing garage attached to the house. What are the dimensions on that? The applicant said the outside dimensions are 27.5' by 41.5 feet. Mr. Hammersley asked if that was big enough to store the trailer and the applicant responded it is not. The trailer I'm looking to store is a total of almost 30' – 29.5 to be exact. I store it right now off site.

That completed the applicant's presentation.

(Those speaking in favor of the application)

The Town Planner listed the addresses of the letters in support: 251 North Star Drive, 248 North Star Drive, 218 North Star Drive and 87 North Star Drive.

(Those speaking against the application)

The following six speakers spoke against the application. They cited concerns with: the application being in front of the wrong board, size of the structure being 500% over what he can come before you for, zoning parameters, accessory use regulations, Section 8 of the permitted uses requires a

finding this conforms to various considerations, Section 8.02.2, specifically, declarations, restrictions and covenants on the subdivision (submitted), not in harmony or compatible with the use in the neighborhood.

(Please refer to the video on line to hear the comments.)

1. Attorney Matthew O’Keefe, 97 North Main Street in Southington appeared on behalf of Stephen and Rhonda Baczinski of 285 North Star Drive.

2. Jay Bostwick, 27 Beacon Street, read three letters he had previously submitted in opposition to the application (on file in the town planner’s office).

Letters from: Jay & Patricia Bostwick, 27 Beacon Street

David (Inaudible) 141 Windward Place

Edward S. Pocock, III, 122 Windward Drive

3. Rhonda Baczinski, 285 North Star Drive (read a prepared statement.)

4. Stephone Baczinski, 185 North Star Drive (read a prepared statement.)

5. Geraldine (Inaudible), 90 Windward Place

6. Patricia Queen, 81 Windward Place

7. Bill Queen, 81 Windward Place.

Mr. Bostwick approached the podium and said he would not like this to be confused with the fact we have an ongoing business there but we also have the other side of it where the issue is what is need for such storage whether for a business or multiple cars. Don’t let the two points intertwine.

Discussion.

Mr. Phillips added the addresses of those who signed in opposition:

- 90 Windward, 65 Windward, 81 Windward, 56 Windward, 30 Windward, 45 North Star, 306 North Star, 276 North Star, 231 North Star, 27 Beacon, 285 North Star, 106 Windward, 72 Windward, 103 Windward and 122 Windward.

Attorney O’Keefe said we don’t want to confuse this application with the business use. It’s the structure itself. It is not an accessory structure. The doors are over 10’ high. This is a commercial building in a residential zone.

(Rebuttal by the applicant)

The Chair said the neighbors by their comments think you are running a business there. If you don’t have the business there, there is no reason for such a large building. The applicant argued that this his last year of doing his landscaping business. He gave some facts of his business.

He looked at it as, they are saying commercial vehicle but it is an F-350. My name isn’t on it. Anybody can buy this diesel truck. It’s a pick up truck. The trailer is essentially to transport classic vehicles. Explained what he has for classic vehicles.

They make it sound like all I do is start engines up and run them at my house. I take my machines and go somewhere. Last time I checked, you could split wood at your house, you could cut down a tree at your house and do improvements to your place of residence. There is nothing that I am doing at my house that I am making money on.

As for running a commercial business, I don't know if that means just storing the equipment there automatically defaults that there is a business there. I'm not sure. Could you provide me clarification on that?

Mr. Phillips said staff hasn't done an investigation. We've driven by the property, myself and the ZEO last week, and we didn't see anything out of the ordinary. If you have commercial equipment, landscaping, contracting equipment and employees coming to the house, or any evidence given to us of a telltale sign of a business being operated there. It is possible under home occupation if you get the approval.

Discussion.

Mr. Chaplinsky commented on what constitutes a business. Mr. Phillips said it is about activity that is not considered customary to a residential development. The Rochela Drive matter was discussed.

Mr. Chaplinsky advised this board changed the regulations to allow more of this type of activity in the past. We have a process. We generally don't get involved in covenants. My question to the applicant is: Were you aware of the covenants or having heard now a legal opinion about the covenants and things like that, even this board were to rule one way or another, is that something you want us to do or do you want to take time to consider the feedback?

The applicant responded as far as the covenants go, I had a chance to research a little bit of that. During the development of North Star Drive, my house was built in 1986 and the particular developer at the time was having financial trouble and ended up selling multiple lots to different developers and my understanding is those covenants didn't necessarily follow the certain properties that were sold off.

As far as trying to reach anybody associated with the development, I had looked into that. The current owner of D & J Corp in town, Putnam, they built a lot of developments in town with covenant restrictions and my understanding was if the company was still in business you could go to them and see if you might be able to bend the covenant or restriction.

Realistically, I proposed this garage as this would be my palace garage. This would be great. I could have everything in one spot. Easy for me to get everything in. I was expecting my neighbors to be neighborly and come and talk to me. I was prepared to settle at something like 30 by 40. But instead of talking to me, I thought --- I don't know what to say. I was prepared to talk about something smaller. That didn't happen.

The Chair said this board has a lot of experience with these types of situations. We try to encourage the applicant and the neighbors to get together and try to have a little communication. I think it would be in your best interest to speak with them, have a conversation with them. I'd like to keep this open to the next meeting, October 15th. The information received tonight remains part of the record. I think in the next 14 days you should pour some coffee and have a conversation with your

neighbors. They may not want to talk but that's fine. Come back in two weeks. You tried. And, you can go forward the way it is if you want.

Staff has their marching orders. They've heard lots of information tonight. We have lots of letters and the ZEO may reach out to some folks to get information or evidence.

The covenants, we stay away from those.

Mr. Phillips requested the applicant contact our office. We have something to talk about.

The Chair thanked all who came out and spoke.

The applicant said to even think I would put up a structure that wouldn't be appropriate or wouldn't match the house, my attention to detail is --- I know it's more than trust me, but I am willing to work with people on that.

The Chair left the public hearing open to the 15th of October.

C. Lovley Development, Special Permit Application for 7 lot open space subdivision, property located at 61 Westwood Road, owned by the Estate of Barbara Jagielski in a B & R-40 zone (SPU #627)

Stephen Giudice with the office of Harry Cole & Son, 876 South Main Street, Plantsville represented the applicant, Mark Lovley of Lovley Development, Inc. in this application.

This is an 8.18-acre parcel of land. It is the remaining land of Barbara Jagielski. She owned a good chunk of this property in through this area (indicating) and to the satellite farm. A few months ago, I came before about a small land swap with the open space and you gave us a favorable review to the town council and we did a small swap. Explained.

The property is zoned R-40 residential and there is a small square (indicating) that is zoned business and we don't have access to any roadways from that business zoned property.

We do have frontage on Westwood Road (indicating). He indicated open space and a detention basin as part of the Westwood Road subdivision.

This property is currently vacant. Topography slopes from the east to the west.

Explained the property of the prayer group.

Our proposal is a 7-lot open space subdivision. The property is serviced by public sewers and private water. We would be extending the sewers up Westwood Road. Our lots range in size from 22,500 sf to 30,000 sf. Open space regulations allow us to downsize the area and, in an R, -40 zone you can go down to 22,500 sf. We can reduce the frontage requirements, as well.

The intent of the open space is to reduce infrastructure, less cul de sacs and increase greenspace. He noted the areas of open space around the subdivision. We have approximately 40% of the lots to be open space. It's 3.24 acres in total.

The roadway is going to be a 500' permanent cul de sac. Balmoral Drive.

With the conventional subdivision we get 7 lots and with this subdivision we have 7 lots. There is no benefit to the developer to go for an open space to get more lots. There is a benefit as far as greenspace, less impervious surfaces, long driveways. This conventional subdivision would not require open space as it is under 10 lots. We felt the open space subdivision was a better alternative.

We have received comments from planning and engineering and we've been working on those revisions to plans. Explained he changed the direction of the sewer and water.

The lots are walk out basements on the lower side of the road. The site is relatively balanced as far as cut and fill.

Two issues have arisen. One is the regulations regarding cul de sacs and lots serviced on a cul de sac. You allow 25% of the lots to be serviced on a cul de sac. With 7 lots we would only be permitted to have 2 lots with the driveways on the cul de sac. That is waivable and we respectfully request you consider that waiver. We could change that by making this cul de sac longer but we didn't think making more pavement, roadway was really worth the benefit of moving one driveway over off the bulb of the cul de sac.

The other issue was the fact that part of our subdivision, this little square (indicating), is actually a business zone. From a technical perspective, this little piece of property, although we're not technically subdivision that piece or creating building lots on it, it is part of a business zone. Any residential zone would be in an R-40 zone. Your regulations do allow for lots in multiple zones. Explained we are not proposing a lot here, just additional open space. I look for your direction on that. It is part of our piece but is not part of our development of building lots. It's part of the open space. There is no way to access that property from a business road. We wouldn't be able to access this through our residential streets. Our proposal is to leave it as open space contiguous with the other open space.

Discussion.

Mr. Phillips said from a technical standpoint it would be cleaner to not have the business zone, but from a red tape standpoint, they are not creating a residential lot. It's going to be permanently preserved open space. As long as you're okay with it, I don't see a reason to go through some other bureaucratic process when we are not getting a residential lot in a business zone.

Mr. Giudice explained ZIRO. We are going to modify the basin (indicating) and expand it a little bit and install some low impact design elements to try to promote sediment control and things like that. Explained.

The total acreage is 8.18 acres.

The open space is to be given to the town as there is open space adjacent to it added Mr. Giudice. Explained the commission ultimately has the decision if you want to accept it as open space or have it part of an association.

Discussion.

Discussion of the GIS mapping.

Mr. Guarino pointed out we are supposed to be provided with this information (noted paperwork at the commissioners' seats) before the meeting and there should be evidence instead of

rehashing was the regulations say. A name and date should be on it, too.

Discussion.

We should have the information on a conventional subdivision before the meeting, as well, added Mr. Guarino, per the regulations.

Discussion.

Preservation of trees on the parcel was discussed. Street trees were discussed.

Mr. Guarino further asked if the wells were certified by a well driller as per the regulations he quoted. Mr. Phillips explained the procedure followed today with additional comments by Mr. Giudice.

Discussion.

Mr. Grappone suggested the applicant could submit some of the well completion reports on the other lots very close to this subdivision. From there, you can see the depth, the yield which would give staff a level of comfort. Mr. Giudice said that was a good suggestion and they would do that.

Mr. Giudice ended by saying he and the applicant think this is the way to go with this piece.

The Chair said the public hearing would be left open to the next meeting.

Mr. Chaplinsky asked staff to look at the regulation and if it is not current with how things go, we should be looking at whether we should be making modifications, or not.

D. Lovley Development, Resubdivision Application for a 7-lot open space subdivision, property located at 61 Westwood Road, owned by the Estate of Barbara Jagielski, in a B&R-40 zone (S #1325)

Mr. Giudice requested everything said in the previous public hearing be incorporated into this public hearing. He would be requesting a continuance for this item and the one before it.

Mr. Phillips said they could be combined under one public hearing.

The Chair continued the public hearing.

BUSINESS MEETING

A. My Little Rascals, modification of special permit approval to allow for additional children, 805 West Queen Street, property owned by A & K Woodworking, LC, in the WSB zone (SPU 570.1)

Mr. Hammersley made a motion to table. Ms. Clock seconded. Motion passed unanimously on a voice vote.

B. Special permit application of Joseph Baczewski to construct a 30' x 56' garage which will bring the total number of garage spaces allowed in excess of three, property located at 267 North Star Drive, in an R-40 zone (SPU #628)

Ms. Clock made a motion to table and Mr. Morelli seconded. Motion passed unanimously on a voice vote.

C. Lovley Development, Special Permit Application for 7 lo open space subdivision, property located at 61 Westwood Road, owned by the Estate of Barbara Jagielski in a B & R-40 zone (SPU #627)

Mr. Morelli made a motion to table which Mr. Hammersley seconded. Motion passed unanimously on a voice vote.

D. Lovley Development, Resubdivision Application for a 7-lot open space subdivision, property located at 61 Westwood Road, owned by the Estate of Barbara Jagielski, in a B&R-40 zone (S #1325)

Mr. Morelli made a motion to table. Mr. Hammersley seconded. Motion passed unanimously on a voice vote.

E. Release \$281,650 subdivision bond, King's Ridge, 792 South End Road (S #1319)

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

F. Reduction of \$21,500 E & S bond to a new amount of \$18,100, which amount will be transferred to file SPR #1780 King's Ridge (S #1319)

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

G. Reduction of maintenance bond from \$45,000 to a new amount of \$25,000, North Ridge Estates (S #1302)

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

H. Reduction of \$2,500 E & S bond to a new amount of \$1,000, West Mountain View Estates (S #1318)

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

I. Reduction of \$125,000 subdivision bond to a new amount of \$19,000, LaCourse Pond Estates (S #1315)

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

ITEMS TO SCHEDULE FOR PUBLIC HEARING

- Frank and Mary Fragola, site plan application to construct an age restricted affordable housing development under Connecticut General Statutes Section 8-30g, et seq. property located at 295 Laning Street, in an R-80 zone (SPR #1791), reschedule hearing to November 19

Mr. Phillips said the text change that's been submitted for the drive thru in industrial zones near the highway interchange is coming up the 15th.

And, Little Rascals will be on the 15th, too.

Mr. Santago asked about the clock on the SPR #1791. Mr. Phillips said the 65 days expires two days after that meeting. I've discussed with the applicant since they're moving the opening of this down the road, they'll likely submit a request for an extension, as well, so we can have more time. They have another 65 days and if they request it, you can grant it.

Ms. Clock asked the reason for the rescheduling. Mr. Phillips said no reason was provided, but he thought if there is turnover on the commission in the middle of a public hearing, it can present some problems. They may want to avoid that.

RECEIPT OF NEW APPLICATIONS

Mr. Phillips noted today he got an application for 480 Queen Street, Barberino's, for an addition to an existing building for storage. It's going to be on the 15th, too, probably.

COMMISSIONERS ITEMS TO DISCUSS

Mr. Chaplinsky advised he received a call today and maybe staff can help with this. When they working on the Waterbury highways, Southington was to be the recipient of some nice big piles of dirt along the sides of our ramps to I-84. (Marion Avenue, Meriden Waterbury Turnpike)

The agreement was it would be brought there but then it would be hauled away before the end of the work on I-84. These things look unsightly. For an example, the commuter lot across from Slider's. Do we know what is going to happen there?

Mr. Phillips noted that is state property and Mr. Grappone confirmed that but staff will look into it.

Mr. Chaplinsky said if it is on state property and there was an agreement to remove them, are they going to remove them? If there was an agreement, they should uphold the agreement.

Mr. Chaplinsky brought up to discuss window signs. What is a sign in a window? They vary from a physical sign like "Buy Beer" or the name of a business or operating hours on a window or it could have lettering with a company name or company hours or paintings (product of the month, for example).

Discussion.

I don't think the intention of the regulation is to cite owners for that, nor do I think we have the capacity to do that. I don't think we want to do that. When somebody complains, staff has to look and somebody gets cited.

I looked at Berlin and another town. Some of them have temporary sign permits or no permit required for paintings or artwork in the windows.

What are the commissioners' thoughts on that? Should we update this in the future?

Mr. Phillips said in support of the discussion, he did an internet search and came up with three different random locations: City of Carolton, Texas, City of Mesa, Arizona and City of North Myrtle Beach, Florida (sic). They have window signs definitions and regulations. In general, 25% is kind of a key percentage as far as window signs as defined. On the back side is worksheet that shows how to calculate window signage.

If you are going to change how we regulate attached signage and you're going to call out window signs, I would request a definition and standards that are easy for zoning enforcement. I did see temporary window signs regulations and that is just a boatload of work for us.

Discussion.

The way the regulations are, Mr. Phillips explained, signage is defined as something that is intended to attract attention from a public street. He explained what is allowed now for attached and detached signage now.

Discussion of the difference between if there is a painting of gyros \$2.99 or a shade gets pulled down, shades being more temporary and window signs stay.

The Chair said we have addressed signs about six times in the past. Mr. Phillips said zoning enforcement has to keep an eye on them to keep in line otherwise it gets out of control.

The Chair felt we could increase the amount of signage that could go on a window as long as it is not prohibiting safety. If the police can look inside, I'm okay with that. Mr. Phillips said we now consider a window sign to be an attached sign and it counts towards your square footage. Explained.

Discussion of window decals. Mr. Chaplinsky felt they should be treated differently.

Ms. Scalise said she liked keeping them in the same bucket of allowances mostly because we spent a lot of time thinking about how to create more uniformity, keep things calm and now you are saying here is a set aside and you can have all these signs and that will lead to proliferation. Businesses have plenty of opportunity to advertise. I don't love saying here is extra.

Mr. Guarino noted there was only one complaint so maybe this is not a serious problem.
Discussion.

Mr. Chaplinsky felt signage is letting the business community know we support them in a small way. To me, a sign is something along the road or on the building that advertises their business name. It's exposure. One the window, it is different messaging. It's hard to enforce our regulation today.
Discussion.

Ms. Clock felt we needed to focus on what do we want our town to look like? That should be our focus.
Discussion.

Mr. Chaplinsky wondered if we should rethink the way we look at window signs.
Discussion.

The Chair suggested checking with some nearby towns, bring it back to the commission for discussion.

ADJOURNMENT

Mr. Hammersley made a motion to adjourn which Mr. Morelli seconded. Motion passed unanimously on a voice vote.

(Whereupon the meeting was adjourned at 8:44 o'clock, p.m.)