

MINUTES, PLANNING & ZONING REGULATION SUBCOMMITTEE, WEDNESDAY, JANUARY 4, 2023, AT 7:00 P.M.

A. Call to Order was at 7:00 pm.

B. Roll Call: E. Hirsch, B. Kaligian, J. Mortimer, J. Quish, R. Satti / STAFF: D. Sulkis, S. Harris, S. LaFond

C. Topic for discussion: 22-9 Proposed changes to article VI, Section 6.4.2 use of Nonconforming Lots when Applicants or Predecessor Own/Owned Adjacent Land.

Chairman Quish introduced the topic of discussion.

Mr. Satti announced that he would recuse himself from this topic's discussion and turn off his video and sound.

Mr. Sulkis briefly reviewed the status – he clarified it only affects people with lots created prior to 1929.

Chairman Quish suggested that might be 75 percent of what is south of the Post Road.

Mr. Sulkis agreed that could be the case.

Mr. Hirsch asked to clarify his understanding. In 1929, Subdivision Regulations were created.

Mr. Sulkis confirmed that, as of 11/1/1929, any time a parcel of land was created or divided it has been approved by the Planning and Zoning Board. It was the official recognition by the City that the lots met subdivision standards put in place 11/1/1929. Anything prior to 1929 did not require any approvals from any boards or need to meet any standards. He said we are here today because we had a Regulation Section 6.4.2 in place, which stated adjoining pre-1929 lots which did not meet current zoning requirements alone were automatically merged into a single lot. Many people did not know they had multiple lots. He explained the definition of a lot. The lots created pre-1929 were often filed with the City Clerk. There were no standards at that time. He further clarified that some 1929 lots meet the current standards.

Chairman Quish asked when our zoning map came into being.

Mr. Sulkis said Zoning Regulations were created in 1930.

Mr. Harris explained the earliest regulations divided the City into several different residential areas with lot sizes ranging from about 2500 to 2500 sf. There were also Industrial Zones. All of this was refined as the decades went on. Earliest mention was the late 1940s when updates were codified into regulations. Prior to the adoption of zoning regulations there was no such thing as a nonconforming lot. The adoption of zoning regulations in 1930 established minimum lot sizes for different zones throughout the City. Also, certain uses were allowed on certain parcels.

Mr. Mortimer asked when the lots were considered merged.

Mr. Sulkis explained people often merged these lots on their own prior to Section 6.4.2 being in place.

Mr. Harris said Section 6.4.2 became effective some time in the 1980s.

Mr. Sulkis explained the 1929 year is used as a definer of these lots based upon state statutes.

Chairman Quish indicated there are some lots more impacted by what Milford did in the 1980s.

Mr. Sulkis reiterated the problem is only with lots created before 1929. The elimination of Section 6.4.2 allowed people to take their previously merged lots and reconvert them to the 1929 size lots which allowed them to be built upon.

Chairman Quish feels we have an issue stating current zones need to be adhered to when every other house in the area is on a legal, non-conforming lot. He feels some people will be prevented from building on a pre-1929 lot if we put the legislation back into place.

Mr. Sulkis shared the memo on his screen.

Chairman Quish provided the Board time to review the memo.

MINUTES, PLANNING & ZONING REGULATION SUBCOMMITTEE, WEDNESDAY, JANUARY 4, 2023, AT 7:00 P.M.

Mr. Hirsch clarified that when we removed Section 6.4.2, we opened a barn door that allowed development which was not the intention of the removal of the regulation.

Chairman Quish does not want to merge the lots and offered a personal example. He does not feel a small area of construction on a pre-1929 lot should preclude re-separation into pre-1929 lot sizes. He wants some guidelines created for minimum size zones, with the PZ Board making the determination whether the integrity of the neighborhood would be negatively impacted.

Mr. Hirsch does not see anything that gives that authority to the PZ Board.

Chairman Quish wants to add that authority to the new regulation for "legitimate, valuable applications."

Mr. Hirsch asked if we could create a regulation which does not automatically merge the lots, but also does not want the lots to be un-merged in a manner that does not fit the character of the neighborhood. He said PZ Boards are the last defense to ensure an application fits the neighborhood.

Mr. Mortimer referenced Section 7.2.

Mr. Kaligian is in favor of merger as of law. He said from an enforcement perspective if we decide to be the final arbiter that decision has no teeth in front of a judge.

Chairman Quish asked for definition of "merger by law."

Mr. Kaligian asked if there were 3 pre-1929 lots never built upon, would they be merged into one lot.

Mr. Sulkis clarified that if the lots are nonconforming in size that would be correct.

Mr. Hirsch questioned where we state the lots must be owned by a single owner.

Mr. Kaligian said we have merger by use already.

Mr. Sulkis said the old regulation stated lots had to be owned by the same owner; the new language does not include that requirement. He said the assumption is it only applies if one person owned both lots.

Mr. Harris explained the single ownership requirement is in the heading of the regulation.

Mr. Hirsch does not believe that a heading is operation of law.

Mr. Kaligian concurs with **Mr. Harris**.

Mr. Harris explained there is no merger rule unless it is in the regulations; currently, people are taking advantage of our removing Section 6.4.2 from the regulations and building multiple structures on a former single merged lot. He explained merger by use was Section 6.4.2. Merger by use, merger by operation of law, or no merger rule are the three options.

Chairman Quish suggests we hold a public forum for the community to contribute their thoughts.

Mr. Mortimer asked if the City Attorney has voiced an opinion.

Mr. Hirsch said this is a policy issue. He asked **Mr. Sulkis** and **Mr. Harris** to advise what the best economic outcome would be for the City.

Mr. Sulkis said if we did not have a merger regulation, we would have the ability to increase density which has positive tax implications but may also increase need for city services. He said it is hard to estimate how many properties would come into being that are not there now.

Mr. Hirsch said he believes **Mr. Kaligian's** idea of merger by definition of law is simple but we take away the power of the Board to

MINUTES, PLANNING & ZONING REGULATION SUBCOMMITTEE, WEDNESDAY, JANUARY 4, 2023, AT 7:00 P.M.

control the appropriateness of the project to the neighborhood.

Mr. Sulkis said we cannot have a regulation based on what the Board feels is good for the neighborhood or what is not.

Mr. Hirsch said definition of law gives us a standard.

Mr. Sulkis said the burden of proof that a lot was not used since 1929 is too much.

Mr. Mortimer asked if we could determine a minimum lot size.

Chairman Quish re-stated his desire to bring this to a public session.

Mr. Kaligian defers to staff on legality but would like to get more input if we can get it quickly.

Mr. Sulkis said we can schedule a public information session and have done so previously. January 18th was agreed upon.

Mr. Satti was reinvited to the meeting.

Mr. Satti rejoined the meeting.

Chairman Quish informed **Mr. Satti** of the public information session to be held Wednesday, January 18th.

Mr. Hirsch asked if there would be any discussion regarding the ADU item currently before the full board.

Mr. Sulkis explained that item cannot be discussed during this subcommittee meeting.

Chairman Quish advised the subcommittee they now have time to review all the correspondence and statements from the public before reconvening at the next PZ Board meeting and those can be addressed at that time.

D. Member suggestions for proposed amendments: None.

E. Minutes from 12/14/22 were approved unanimously.

F. Adjournment was at 7:50pm.

Attest: S. R. LaFond