

PLANNING AND ZONING BOARD MINUTES FOR ONLINE MEETING HELD TUESDAY 19 JANUARY 2021, 7:00 PM

The meeting of the Planning and Zoning Board came to order at 7:00p.m.

A. PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

B. ROLL CALL

Members Present: N. Austin, J. Castignoli, J. Kader, B. Kaligian, P. Kearney, J. Mortimer, J. Quish, R. Satti, M. Zahariades

Not Present: C.S. Moore

Staff: Joe Griffith, DPLU Director, David Sulkis, City Planner; Meg Greene, Rec. Sec'y

C. NEW BUSINESS

VOTE BY MARCH 11, 2021

1. **CGS 8-24 – 1 Tudor Road, a/k/a 0 Old Point Road** Request by the City of Milford pursuant to CGS Section 8-24, to approve the proposed purchase of the property located at Map 15, Block 107, Parcel 85A, from Saint Raphael Parish Corporation.

Justin Rosen, Mayor's Chief of Staff, addressed the board. He said the parcel consisted of 9 acres. He mentioned a general preference of using the space for recreational purposes. He said the local Boys and Girls Club might represent a possible use.

DISCUSSION

Mr. Satti asked if any deed restrictions existed on the property; **Mr. Rosen** said none to his knowledge. The two reviewed possible outcomes with Mr. Rosen saying that plans were somewhat fluid at present and that the Department of Public Works and Board of Aldermen were researching possibilities for the site.

Mr. Satti move to approve as presented the Petition of by the City of Milford pursuant to CGS Section 8-24, to approve the proposed purchase of the property located at 1 Tudor Road, a/k/a 0 Old Point Road Map 15, Block 107, Parcel 85A, from Saint Raphael Parish Corporation.

Second: Mr. Kader seconded.

Discussion: Chairman Quish asked **Mr. Sulkis** for the zoning of the site, which is CDD2. Mr. Sulkis noted that if the city buys the property, the city is exempt from zoning, but if it were to resell the land to another user, CDD-2 supports a wide range of uses.

Vote: Motion carried unanimously.

2. **67 Prospect Street** (Zone MCDD) Petition of Patrick Rose, Rose Tiso and Company, for a Coastal Area Site Plan Review for a proposed Mixed Use Commercial Building on Map 54, Block 817, Parcel 6, of which 67 Prospect Street LLC is the owner.

Chairman Quish observed that this project is similar in scope and impact to the recent site-plan-review-turned-public-hearing at 135 Broad Street. Therefore, he asked board members if they wished to hold a public hearing as had been done with the Broad Street presentation. He said that, should the board wish to proceed with a public hearing, the applicant could choose to present the application now or at the public hearing.

Mr. Satti moved to hold a public hearing on the petition of Patrick Rose, Rose Tiso and Company, for a Site Plan and Coastal Area Management review for a proposed Mixed Use Commercial Building on Map 54, Block 817, Parcel 6, of which 67 Prospect Street LLC is the owner.

Second: Ms. Kearney seconded.

Discussion: The chair asked for an amendment to assign a date to the motion; **Mr. Satti** amended the motion to schedule the item for the next meeting of the Planning and zoning Board. **Ms. Kearney** agreed.

Vote: Motion carried unanimously.

Mr. Sulkis was asked if there were requirements for the timing of the presentation; he said two presentations were would likely be repetitive. He suggested waiting the next meeting.

Attorney Thomas Lynch, 63 Cherry Street, said he represented the principals of 67 Prospect LLC, and since the board was choosing to hold a public hearing, he would prefer to present at the 2/2 meeting. He noted that he was also involved with the Broad Street proposal, and that, then as now, the application is a site plan review, which, under the regulations, must be approved if it is zoning compliant. He said that he would review all elements of the plan at the next meeting and warned that information being shared via social media was incorrect because the historic Baldwin House was to be saved, not demolished.

3. **22 Blair Street** (Zone R-5) Petition of Ron Wassmer, for a Coastal Area Site Plan Review for a proposed single-family dwelling on Map 27, Block 453, Parcel 11A of which Bryan Wilson is the owner.

Mr. Wassmer, PE/LS, 158 Research Dr, addressed the board. He said property is vacant and a single-family home is proposed. He said the previous house was demolished, the parcel is in flood zone, and the new house will conform with all FEMA and city requirements for flood mitigation.

Mr. Sulkis read his summary which was consistent with the applicant's presentation.

DISCUSSION

Mr. Satti and **Mr. Wassmer** discussed the elevation and parking under, which **Mr. Wassmer** said was typical of elevated homes on East Broadway with parking below and an entrance with stair to the first finished floor.

Mr. Mortimer *move to approve* the petition of Ron Wassmer, for a Coastal Area Site Plan Review for a proposed single-family dwelling on Map 27, Block 453, Parcel 11A of which Bryan Wilson is the owner.

Second: **Ms. Kearney** seconded.

Discussion: **Ms. Kearney** asked to amend the motion to include conditions A-G in the City Engineer's letter dated 12/4/2020; the motion was accepted by motion-maker and seconder as amended.

Vote: Motion carried unanimously with conditions.

D. PUBLIC HEARINGS:

HEAR BY FEBRUARY 4, 2021; CLOSE BY MARCH 11, 2021; VOTE BY MAY 15, 2021

- 1) **Proposed Regulation Change #20-9** Petition by Kevin Curseaden Esq., for changes to Article 3, District Use Regulations, Section 3.1.6.3 Planned Elderly Community; to reduce the minimum lot requirement from 10 acres to 5 acres to allow for separate fee simple ownership in previously approved phased development Planned Elderly Community use.

Attorney Curseaden, 3 Lafayette Street, displayed regulations regarding Planned Elderly Community permitted zones and land tract sizes within the zones. He reviewed the history of those regulations as well as the ownership and development history of this parcel on Wheelers Farm Road, starting with board approval of the original 1998 plan. He said there were also changes in the planned nature of the community from Assisted Living to a 55+ community. He said Southwick Phase 1 was completed at 523 Wheelers Farm Road, but a planned 2nd phase was not. He described original constraints of single ownership, consisting of a master condo association and 2 separate associations under it. He said even though the use is approved, and city infrastructure is shared, national title companies have shifted their policy against insuring associations of this type. They will, however, insure units with fee simple ownership like single family homes on their own lots. He said his client will have to come back to board for a subdivision of the 12–13-acre parcel in the future, but he cannot do that and comply with zoning due to 2 separate ownerships currently in effect. He said this would be the case even though the original use has not changed. He said he had researched other RA-zoned properties with over 5 acres to see if they would be adversely affected by the proposed regulation change, but did not find any impact to them. He said the goal is to make the property useful, most likely for elderly housing with an updated site plan. He said the existing condo association's attorney has no problem with the proposed plan. He reviewed a map of the property, reviewed a driveway and potential easements, saying the goal was to get it back on tax rolls for an over-55 or planned elderly community.

Chairman Quish asked **Mr. Sulkis** if other parcels less than 10 acres would be eligible for elderly housing community development if the zone change were made; **Mr. Sulkis** reviewed the regulations for such developments and said new applications would not be affected. **Chairman Quish** asked how the change did not constitute spot zoning; **Attorney Curseaden** said it was not spot zoning because the end use is not in violation of the comprehensive plan of development, zoning map, or zoning regulations. He said it is the same use, just with a different form of ownership. **Mr. Sulkis** said the only change is in the minimum lot size. **Mr. Kader** asked for clarification that the elderly housing would be the most likely use. **Attorney Curseaden** said that the board had approved this use 2 times before, and that is probably the most marketable use if the current problem is resolved. He said that if someone applied for, it would be limited to whatever other uses are allowed in the RA zone. He said the regulation change is limited to planned elderly community use. **Ms. Kearney** said she had learned that Southwick residents had been promised a community center that never happened and if the new plan would address that. **Attorney Curseaden** said the original plan had such a community center, and the revised 2005 plan also had a walking trail, and other amenities. He said developing such items would depend on the buyer and what their corporate model uses. He said a recent trend is to incorporate phased uses as residents transition from 55+ living to assisted living to healthcare-serviced residences. **Mr. Mortimer** asked why 10 acres was required in first place; **Attorney Curseaden** said he had researched the regulations from 1998 onward but found no explanation in Planning and Zoning meeting minutes. **Mr. Mortimer** said 5 acres seemed sufficient for the use. **Mr. Satti** and **Attorney Curseaden** discussed how the original site plan compared with subsequent site plans; they were unchanged since the original submission. **Attorney**

Curseaden described a driveway setback issue that would arise from the driveway placement when subdivided; that a variance would be needed prior to the subdivision. **Mr. Satti** and **Attorney Curseaden** discussed spot zoning. **Attorney Curseaden** reiterated that he was not asking for anything contrary to the existing plan or approved use.

Chairman Quish opened the public hearing. Hearing no one wishing to speak in favor or opposition, he closed the hearing.

Attorney Curseaden and **Ms. Kearney** discussed the planned development phases, the original condo-based ownership model and subsequent sale of a portion of the parcel and how the ownership model needed to change to make the original use feasible.

Attorney Curseaden cited many reasons for the lack of development, including litigation, economic downturns, and a shift in what title companies are willing to insure regarding condo associations.

Mr. Kader moved to approve as presented the Petition by Kevin Curseaden Esq., for changes to Article 3, District Use Regulations, Section 3.1.6.3 Planned Elderly Community from 10 acres to 5.

Second: Mr. Castignoli seconded.

Chairman Quish and **Mr. Satti** identified textual discrepancies with the proposed motion resulting in a need to amend **Mr. Kader's** motion.

Mr. Kader amended his motion to the following with agreement from the seconder **Mr. Castignoli**:

I move to approve as presented the Petition by Kevin Curseaden Esq., for a Planned Elderly Community use approved in the RA district prior to October 1, 2005, the minimum lot area required in the R-A district shall be five (5) acres, and the required setback from a property line that borders an existing driveway serving the Planned Elderly Community shall be 14 feet.

Discussion: Several members discussed the board's wish to make the parcel useful without being overly specific in the zone change. There was agreement when the board decided that if the Elderly Community use were not taken up by the new owner, existing R-A zone restrictions would support only other currently permitted uses.

Vote: Motion carried with all members voting with the motion except **Mr. Satti**, who voted **against the motion**.

- 2) **Proposed Regulation Change #20-4** Petition by Planning and Zoning Regulation Subcommittee, for changes to Article 9, Zoning Board of Appeals, Section 9.2.3 Prohibited Variances; to prohibit variances for the creation of new lots.

Mr. Sulkis said that the goal here is to prohibit creation of new lots via the Zoning Board of Appeals using variances because per statute only the Planning and Zoning Board can create them.

DISCUSSION

Mr. Satti asked about areas of the city that were in existence prior to zoning; **Mr. Sulkis** said that legal lots of record that existed prior to subdivision regulations can be developed. There was discussion of the existence of older records proving the existence of lots prior to the adoption of Milford's Zoning Regulations in 1929.

Chairman Quish opened the public hearing.

Kevin Curseaden, 11 Bonsilene Street, said he was speaking as a resident and understands the goal, but suggested the change be reviewed by City Attorney's Office to be sure no one loses a portion of a lot due to state or city taking. He said the Zoning Board of Appeals was created to ensure some elasticity of regulation and cautioned that another board could be losing a right. **Mr. Sulkis** reiterated that by statute only the Planning and Zoning Board can create a new lot and that the board does have some discretion under the subdivision regulations to address a potential taking.

Chairman Quish closed the hearing.

Mr. Satti asked **Mr. Sulkis** to address where state has taken land due to loss of area. **Mr. Sulkis** said if a legal lot already exists and if there has been a taking to make the lot smaller, an applicant can go to ZBA. He stressed that this change only applies to the creation of new lots.

Mr. Mortimer moved to approve as presented the petition by the Planning and Zoning Regulation Subcommittee, for changes to Article 9, Zoning Board of Appeals, Section 9.2.3 Prohibited Variances.

Second: Mr. Castignoli seconded.

Discussion: None.

Vote: Motion carried with an abstention by **Mr. Satti**.

Chairman Quish reminded attendees that might have arrived for Item 2 on the agenda that the item had been postponed until the 2 February meeting when a public hearing would be held.

- 3) **Proposed Regulation Change #20-1** Petition by Planning and Zoning Regulation Subcommittee, for changes to Article 3, District Use Regulations, Section 3.17 CDD-2, Section 3.17.2 Special Uses, 3.19 CDD4, 3.19.2 Special Uses; to reference the Planned Elderly Community use in the CDD-2 and CDD-4 regulation sections. The use is allowed in the CDD-2 and CDD-4 zones but is only referenced in the One Family Residential District under Section 3.1.6

Mr. Sulkis said that under the current regulations, development of planned elderly communities is referenced in 3.1.6.1 as being allowed in CCD2 and CDD4, but no cross reference is made to the use in those sections when it should be. He said the change also clarifies that application is a special permit. **Chairman Quish** said the Regulation Subcommittee had circulated the change to regional reviewers with no objections arising.

Chairman Quish opened the public hearing.; when no comment was offered, he closed it.

Mr. Satti moved to approve as presented the petition by Planning and Zoning Regulation Subcommittee, for changes to Article 3, District Use Regulations, Section 3.17 CDD-2, Section 3.17.2 Special Uses, 3.19 CDD4, 3.19.2 Special Uses; to reference the Planned Elderly Community use in the CDD-2 and CDD-4 regulation sections.

Second: Mr. Castignoli seconded.

Discussion: None.

Vote: Motion carried unanimously.

Chairman Quish asked for a vote to attach an effective date of 2/5/2021 to the three regulation changes; Chairman Quish so moved; Ms. Kearney seconded; the motion carried unanimously.

E. OLD BUSINESS – None

F. NEW BUSINESS – None

G. LIAISON REPORTS– None

H. SUBCOMMITTEE REPORTS–Chairman Quish said the POCD was meeting twice a month to catch up. He said minute of POCD and the Regulation Subcommittees were online. He invited more participation.

I. APPROVAL OF MINUTES—12/15/2020 minutes were approved unanimously.

J. CHAIR’S REPORT -None.

J. STAFF REPORT - None.

K. ADJOURNMENT was at 8:32.

Attest:

M.E. Greene

New Business, not on the Agenda, may be brought up by a 2/3’s vote of those Members present and voting.

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