

MINUTES, PLANNING & ZONING REGULATION SUBCOMMITTEE, WEDNESDAY, DECEMBER 14, 2022, AT 6:00 P.M.

A. Call to Order was at 6:12 pm.

B. Roll Call: B. Kaligian, J. Mortimer, J. Quish, R. Satti (E. Hirsch absent)/ STAFF: D. Sulkis, S. Harris, M. Greene

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.

Mr. Satti announced that he would recuse himself from this topic's discussion and turn off his video and sound. He said the chair would join the call in approximately 5 minutes.

Mr. Kaligian asked **Mr. Sulkis** to review the background for the lot merger regulation, which he did, starting with removal of the old regulation 6.4.2 in 2021, which resulted in activity that unmerged lots created prior to subdivision regulations in 1929. He noted that a moratorium was enacted by the full board this year to allow deliberation on new merger regulations. He commented that the new proposed regulation was simpler to understand and enforce than the old regulation. **Mr. Harris** added that the old regulation forced the homeowner to prove a negative, for example, that 20 years ago there had never been a garage on the adjacent lot. He said old aerials could only be consulted to 2013 and that evidence of old but removed structures could be very difficult to produce; he referenced a court judgment based on the presence of a sewer lateral. He called the old regulation burdensome both for the city and for homeowners. **Mr. Sulkis** shared several examples of how merged lots would be created under the old rules versus the new rules. **Mr. Harris** gave the example of merged lots under 6.4.2 which were being certified prior to the moratorium. He referred to one house having been built on 3 merged lots, only to be demolished to make way for multiple houses when the lots reverted to their pre-1929 status. **Mr. Sulkis** read the text of the regulation. **Mr. Harris** defined "merger by operation of law," which he noted was the predominant form of merger regulation throughout the state. He said the draft regulation submitted to the subcommittee had been based on language used by the Town of Cheshire, which is Supreme Court tested. **Mr. Kaligian** asked if this merger was seen along the shoreline. **Mr. Mortimer** asked for clarification that most pre-1929 lots would not meet current regulations.

At this point, **Chairman Quish** joined the meeting. He commented that the old regulation (that is, merger by operation of use) could cause confusion. He said the eliminating the old regulation had caused an unintended consequence that allowed the certification of small pre-1929 lots. **Mr. Harris** clarified that lots created by subdivision could never be merged under the old 6.4.2 regulation. **Mr. Sulkis** and **Mr. Harris** provided examples of how pre-1929 lots were created. **Mr. Mortimer** asked for additional reassurance that most Connecticut towns use this language. **Mr. Sulkis** said some surveys will show the underlying historic lots that were merged. **Chairman Quish** expressed frustration with the language provided. He felt that landowners would be prevented from developing.

Mr. Kaligian said he was comfortable with the proposed language but suggested a delay to allow Mr. Mortimer and Mr. Hirsch to process their thoughts on the proposed change. **Mr. Mortimer** agreed.

Mr. Satti rejoined the meeting. He noted that the SCRCOG had not objected to Milford's proposed ADU language. He suggested it be reviewed by the full board in January.

D. Member suggestions for proposed amendments: None.

D. Minutes from 11/9/22 were approved unanimously.

E. Adjournment was at 6:57.

Attest: M.E. Greene