

CITY OF NORWALK
PLANNING & ZONING COMMISSION MINUTES
January 4, 2023

PRESENT: Louis Schulman, Chair; Jacquen Jordan-Byron; Mike Mushak; Richard Roina; Nick Kantor; Galen Wells; Hector Pachas (arrived after the roll call)

STAFF: Steve Kleppin; Bryan Baker; Michelle Andrzejewski

OTHERS: Atty Adam Blank; Ed Gormley; Lawrence Liebman; Robert Sandolo; Atty Chris Russo; Colin Grotheer; Mike Eckerson; Gregory Del Rio; Craig Flaherty; Erin Kirk; Diane Cece; Jocelyn Certa; Nevil Patel

I. CALL TO ORDER

Mr. Schulman called the meeting to order at 6:05 p.m. It should be noted that this meeting was held on Zoom.com with all participants calling in, separately.

II. ROLL CALL

Mr. Kleppin called the roll.

III. REVIEW & ACTION ON APPLICATIONS

a. #05-20 SP – 204 Flax Hill, LLC – 204 Flax Hill Road – Extension of time request for previously approved 14-unit multifamily building – Report & recommended action

Atty Adam Blank, attorney for the applicant, noted that this application had been approved in 2020. He explained why they were asking for an extension on the Zoning permit, since they could not get a new building permit. They would have to apply for that again but they could request an extension on the Zoning permit. Ed Gormley, the owner of the property said they would break ground this year.

**** MS. WELLS MOVED: THEREFORE BE IT RESOLVED** that application #5-20 SP – 204 Flax Hill, LLC – 203 Flax Hill Road – Special permit to rehabilitate existing 1890 historic structure; to demolish existing carriage house and replace it with a new 3 story, 14 unit structure (46 units total), be granted a one year extension of the approval deadline to February 1, 2024 and that all conditions of the special permit approval remain in place.

Ms. Jordan-Byron seconded.

Louis Schulman; Jacquen Jordan-Byron; Mike Mushak; Richard Roina; Nick Kantor; Galen Wells approved.

No one opposed.
No one abstained.

b. #2021-01 R/SP – RAP II, LLC – 125 Richards Avenue – Erosion & sedimentation control bond release – Report & recommended action

Atty Blank said that all work had been done. Mr. Kleppin agreed that the staff had reviewed the property and that the bond should be released.

**** MR. MUSHAK MOVED: THEREFORE BE IT RESOLVED** by the Norwalk Planning & Zoning Commission that application #2021-01 R/SP – RAP II, LLC – 125 Richards Avenue - a request to release the erosion & sedimentation control bond release be **APPROVED**.

Mr. Roina seconded.

Louis Schulman; Jacquen Jordan-Byron; Mike Mushak; Richard Roina; Nick Kantor; Galen Wells approved.

No one opposed.

Hector Pachas abstained.

c. #2022-57 CAM – Lawrence Liebman c/o John & Kay Garrett – 17 East Beach Drive – Proposed house raise and addition to existing single-family residence – Report & recommended action

Larry Liebman, representing the owner of the property, began the presentation by stating that they would be raising the house to meet flood zone requirements. There was a discussion about a letter from the CT Department of Energy and Environmental Protection (DEEP) about concerns about the storm drainage system.

Robert Sandolo, the engineer on the project, explained the proposed stormwater management system which would decrease volume to the catch basin.

There was also a discussion of the buffering on the property. Most of the trees would remain except for two. They showed the commissioners the proposed erosion control plan. Two trees that were close to the house would be removed. There was a discussion of the proposed plantings for the buffering. Mr. Liebman said they had not prepared a planting plan. Mr. Kleppin said that there was not much space left for plantings. Mr. Liebman said they could prepare one. Mr. Schulman said they could add a condition about the plantings.

Mr. Kleppin further discussed the DEEP comments. He said that the current conditions are not flood proof and after this project was completed, it would be flood proof. There was an addition to the conditions that required a planting plan and that they be native plantings.

**** MS. JORDAN-BYRON MOVED: THEREFORE BE IT RESOLVED** that application #2022-57 CAM – Lawrence Liebman / S. E. MINOR & CO. – 17 East Beach Drive – Construct an addition to and raise a single-family residence be **APPROVED** subject to the following conditions:

1. That the building and site will be developed in accordance with the following plans:
 - a. Per architectural plans dated 11/18/2022 entitled “Garrett Residence” prepared by Brooks & Falotico Associates
 - b. Per engineering plans dated 11/10/2022 prepared by S. E. MINOR & CO.
 - c. Per class A-2 land survey dated 3/21/2017 revised to 11/14/2022 prepared by Arcamone Land Surveyors
2. That all department sign-offs are obtained prior to issuance of any Zoning Permit; and
3. That any and all conditions required by Norwalk DPW shall be applicable to this approval; and
4. That any and all conditions required by Norwalk WPCA shall be applicable to this approval; and
5. That all required soil sedimentation and erosion controls are in place prior to the start of any construction; and
6. That any additional needed soil sedimentation and erosion controls be installed at the direction of the Staff; and
7. That a planting plan, comprised of native plantings, be prepared, and submitted to City Staff for their review and approval; and
8. That any modifications to the approved plan be reviewed and approved by City Staff prior to implementing; and
9. That any and all HVAC units shall be located in conformance with the applicable zoning setbacks and have flood certifications; and
10. That any proposed on-grade flood and erosion control structures be subjected to City review and DEEP approval; and

11. That flood certifications be submitted prior to issuance of a zoning permit by a Connecticut licensed engineer or architect for the main dwelling structure, any accessory structures, and all electrical and mechanical installations; and

12. Nothing in this permit shall obviate the requirements for the applicant to obtain any other assents, permits or licenses required by law or regulation by the City of Norwalk, State of Connecticut, or the Government of the United States, including any approval required by the Connecticut Department of Environmental Protection and U.S. Army Corps of Engineers- obtaining such assents, permits or licenses is the sole responsibility of the applicant; and

BE IT FURTHER RESOLVED that this proposal complies with Section 118-1110 and all applicable coastal resource and use policies; and

BE IT FURTHER RESOLVED that the effective date of this approval shall be January 13th, 2023.

You must obtain a zoning approval and a building permit prior to any work on the site. A building permit must be obtained within one year of the effective date or this CAM approval automatically becomes null and void.

Mr. Mushak seconded.

Louis Schulman; Jacquen Jordan-Byron; Mike Mushak; Richard Roina; Nick Kantor; Galen Wells; Hector Pachas approved.

No one opposed.

No one abstained.

d. #2022-45 SP Mod. – BBB Pulaski, LLC – 8 & 10 Pulaski Street – Modification to existing special permit (#16-97 SP) to legalize an additional dwelling unit, for a total of 16 dwelling units within two (2) multifamily buildings – Report & recommended action

Atty Chris Russo, the attorney for the applicant, by showing them the proposed site plan for the application. There was an approval of a special permit from 1998 and the applicant would like to modify it. He then explained the original special permit. He said that an additional unit had been installed. After his client purchased the property and realized there was an additional unit, he did not rent it. They are trying to get approval for this unit. They have also gone to the Zoning Board of Appeals for a variance. The new unit will be designated a workforce housing unit. There would also be a recreation area and no expansion of the floor area. The buildings would mirror each other with 8 units in each. There would be no impact on the neighborhood. Atty Russo thought it was a minor change.

There was a discussion about making another workforce housing unit in the other building. If the application was approved, there would be 2 1-bedroom units created, one in

each building. There was also a discussion about having a 2-bedroom unit become a workforce housing unit. There was then a discussion about any building department inspections. The two new units would need a permit.

**** MR. MUSHAK MOVED: THEREFORE, BE IT RESOLVED** by the Norwalk Planning & Zoning Commission that #2022-45 SP Modification (#16-97SP) – BBB Pulaski, LLC - 8/10 Pulaski Street – Modification to special permit approval to legalize existing (1) dwelling unit, total of 16 existing dwelling units on site within two (2) buildings be **APPROVED** subject to the following conditions:

1. That the building and site be developed in accordance with the following plans:
 - a. Per survey entitled “Data Accumulation Plan” prepared by Jason T. Spath SR from The Huntington Company, LLC dated 12/16/2022; and
2. That a draft deed restriction document for two (2) Workforce Housing units be reviewed by staff prior to filing on the Norwalk Land Records. The units shall be restricted *in perpetuity* and meet all requirements of Section 118-1050 Workforce Housing regulations; and
3. That two recreation areas a minimum of 500 square feet each be designated and maintained for residential use; and
4. That any and all conditions required by Norwalk DPW shall be applicable to this approval; and
5. That any and all conditions required by Norwalk WPCA shall be applicable to this approval; and
6. That any and all conditions required by Norwalk TMP shall be applicable to this approval; and
7. That any revisions to the approved plans be submitted to the Planning and Zoning staff for their review prior to implementation; and
8. That the applicant file Special Permit Certificate and mylar map of the approved site plan with the Town Clerk
9. That this proposal complies with all Norwalk Building Zone Regulations; and

BE IT FURTHER RESOLVED that all other original conditions of approval shall remain in place.

BE IT FURTHER RESOLVED that the effective date of this approval shall be January 13th, 2022

Mr. Pachas seconded.

Louis Schulman; Jacquen Jordan-Byron; Mike Mushak; Richard Roina; Nick Kantor; Galen Wells; Hector Pachas approved.

No one opposed.
No one abstained.

e. #2022-24 SP/CAM – Mill Pond Holdings, LLC – 1 Cemetery Street – Construction of a 77-unit mixed-use development within two (2) buildings, 98 parking spaces and other on-site and off-site improvements – Continued preliminary review

Atty Adam Blank, attorney for the applicant, began the presentation by explaining that the application had been withdrawn and refiled. The applicant had to speak with the state's DOT so that they could move forward. He then introduced the project team that would be speaking for the applicant.

Colin Grotheer, the architect on the project, gave a brief overview of the architectural aspects. He showed them renderings of the proposed project. He described the types of businesses, the outdoor seating, parking, resident amenities, workforce housing units. There was a discussion about the colors of the buildings which Mr. Grotheer described as historical New England colors. There was also a discussion about the building materials.

Mike Eckerson continued the presentation by sharing a rendering of the public space behind the building and public access to Mill Pond. There would be a divider between the public space and the resident amenity space which could include a movie screen. He also showed them an overhead view of the backside of the building.

There was a discussion about signage that indicates there would be public access to Mill Pond. Atty Blank said that there would be signage but that there would be some limitations, granted under the easement. There was a discussion about ecological restoration and a staging area across the private property for public access. Mr. Eckerson said that there had not been a discussion about it but Atty Blank said that they would like it to happen before their project so that it doesn't impact their residents. Mr. Eckerson said they would work on improving the ecological habitats.

Gregory Del Rio, the traffic engineer on the project, continued the presentation discussing the traffic study which the city was reviewing. He discussed how they were working together with the city. He also noted that the area is not walkable. He showed them the proposed plan which included 103 parking spaces. He said there should not be a lot of traffic generated by the property. He also referred to the city's Master Plan. He discussed the driveway and the calming of traffic. He explained that Cemetery Street would be changed from 2 lanes to 1 lane. He showed them site plans for Alternative 1 and Alternative 2 and described the impacts. He also discussed the meeting with DOT in December. There was a discussion about the bike lane in Alternative 2.

Atty Blank said that the applicant would like to go to a public hearing soon, pending other reviews. He also discussed the Alternatives which would depend on DOT review.

There was a discussion about making the area more pedestrian friendly. They showed that their plans are compatible with the Master Plan for the city. There were also peer reviews on the traffic and the architecture. Atty Blank asked if they could be on for a public hearing in February.

f. #2022-58 – Planning & Zoning Commission – Modification to fee schedule for detached accessory dwelling unit site plan review application – Report & recommended action

Mr. Kleppin showed the fee schedule for Planning and Zoning permits. He noted that the site plan application for ADUs would be reduced from \$710 to \$110.

**** MR. MUSHAK MOVED: THEREFORE BE IT RESOLVED** by the Norwalk Planning & Zoning Commission that application #2022-58 – Planning & Zoning Commission – Modification to fee schedule for detached accessory dwelling unit site plan review applications be **APPROVED**.

BE IT FURTHER RESOLVED that the Schedule of Fees for Maps & Applications for Planning & Zoning and the Zoning Board of Appeals be updated to reflect that a site plan review application for a detached accessory dwelling unit shall be \$160.00.

BE IT FURTHER RESOLVED that the effective date of this action shall be January 13, 2023.

Mr. Roina seconded.

Louis Schulman; Jacquen Jordan-Byron; Mike Mushak; Richard Roina; Nick Kantor; Galen Wells; Hector Pachas approved.

No one opposed.

No one abstained.

Ms. Jordan-Byron said that she appreciated the reduction of the fee to make it more affordable.

IV. PUBLIC HEARINGS

a. #2022-48 M/SPR – Coastal Luxury Homes – 556 and 558 Westport Avenue and 4, 6, 8, 10, 12 and 14 Renzulli Road – Zoning map amendment to re-zone the properties located at 4, 6, 8 and 10 Renzulli Road and a portion of the Renzulli Road right-of-way from B Residence zone to Business No. 2 zone in conjunction with a site plan review application for a four-story, 136-unit mixed-use building

Mr. Schulman opened the public hearing and explained to the public how it would be presented.

Craig Flaherty, the engineer on the property, began the presentation by noting that the public hearing would be continued until January 18 since they were still awaiting some referrals.

i. Action on application #2022-48M/SPR

Mr. Roina made a motion to continue the public hearing for application #2022-48 M/SPR – Coastal Luxury Homes – 556 and 558 Westport Avenue and 4, 6, 8, 10, 12 and 14 Renzulli Road to the Planning & Zoning Commission meeting on January 18, 2023.

Mr. Pachas seconded.

Louis Schulman; Jacquen Jordan-Byron; Mike Mushak; Richard Roina; Nick Kantor; Galen Wells; Hector Pachas approved.

No one opposed.

No one abstained.

b. #2022-52 R – Planning & Zoning Commission – Zoning regulation amendment(s) to Article 100, Supplementary Regulations for Business and Industrial Zones, to permit various cannabis uses with associated standards, limitations and requirements as indicated in the draft regulations

Mr. Kleppin began the presentation by noting that they had clarified some language including delivery service and producer and which zones it would be allowed in. He then showed them a map about retail eligible parcels near schools, and rehab/recovery centers. He discussed sites that were not large enough for potential retailers. He also discussed potential concerns on Main Avenue. Some sites were close to residential areas. There was a discussion about whether a dispensary could be located in a mixed use building with residents. Mr. Kleppin also discussed the use of drive-throughs for the retailers, similar to pharmacies.

There was a further discussion about allowing retail establishments in mixed use buildings. They reviewed the map again as to whether there were mixed use buildings on Westport Avenue, New Canaan Avenue and Connecticut Avenue and would they be impacted. Mr. Kleppin said that the owner of the buildings would have to determine if a dispensary is compatible with their building.

Mr. Baker explained how members of the public could speak on this application. He also entered the referrals into the record. He noted that WestCog had referred it to other neighboring towns as well.

Atty Blank, spoke on behalf of Fine Fettle Dispensary, which would like to open a dispensary in Norwalk and are working on a lease in the city. He said that the proposed regulations were restrictive. He did not think there were many sites that would qualify under them. He asked them to reduce the lot size so that one of the spots that his client was looking at would qualify. He also questioned the different types of establishment that a dispensary could not be located next to, including municipal buildings.

Erin Kirk, 2 Hawkings Avenue, said that she agreed with Atty Blank. She was concerned about the restrictions and made suggestions on how to change them.

Diane Cece, Olmstead Place, spoke on behalf of the East Norwalk Neighborhood Association, and shared concerns with the commissioners.

Jocelyn Certa, 210 Farmington Avenue, Farmington, CT, explained that she had applied for a cannabis license and was partnering with Shangri-La. She noted it is difficult to open a business because of lack of capital and space. She also noted that she has a line of CBD products in a store on Washington Street.

Nevil Patel, 5100 Coram Boulevard, Columbia, Missouri, was also representing Shangri-La. He said that he had sent an email to the commissioners the previous day. He noted that the city's regulations would restrict cannabis facilities especially in residential buildings.

At this point, Mr. Kleppin addressed the questions raised by the members of the public. There was a discussion about changes to the proposed regulations.

The commissioners discussed deleting, in the proposed regulations, Section B, Cannabis Establishments, General Conditions, #5 which stated: "No portion of any Cannabis Establishment use shall be located in the same building or any portion thereof used for residential purposes." Some thought that the landlord should decide and that it was restrictive. Some thought that it was similar to a liquor store. There were concerns about the effects of cannabis smoke especially on children.

**** MR. MUSHAK MOVED:** to delete from the proposed Cannabis regulations, the following: Section B, Cannabis Establishments, General Conditions, #5 which stated: "No portion of any Cannabis Establishment use shall be located in the same building or any portion thereof used for residential purposes."

Mr. Kantor seconded.

Jacquen Jordan-Byron; Mike Mushak; Nick Kantor; Galen Wells; Hector Pachas approved.

Louis Schulman; Richard Roina opposed.

No one abstained.

There was a discussion about making revisions later to the regulations as well as the types of municipal buildings that retailers cannot be near. They also made changes to the regulations regarding lot size in the various zones as well as the language for the drive-thru.

At this point, the commissioners reviewed the language in the resolution. Mr. Kleppin said that the city is working on a vetting process to help decide which businesses would be a good fit for the city. There will be more applicants than locations available since the city can have no more than three locations.

i. Action on application #2022-52 R

WHEREAS, Public Act 21-1, An Act Concerning Responsible and Equitable Regulation of Adult Use Cannabis, became effective October 16, 2021;

WHEREAS, The City of Norwalk has determined that certain Cannabis Establishments, as listed in the draft zoning regulations and consistent with how those uses are defined in the CT General Statutes, are appropriate for the City of Norwalk;

WHEREAS, Potential Cannabis Hybrid Retailer and Cannabis Retailer applicants will be screened for eligibility by the City of Norwalk;

WHEREAS, The City of Norwalk has determined that there should be constraints on the amount of Cannabis Dispensary Facilities, Cannabis Hybrid Retailers and Cannabis Retailers;

WHEREAS, The City of Norwalk has determined that the separation distances indicated in the regulations are appropriate and will allow the businesses to operate without proliferating throughout the City;

WHEREAS, The City of Norwalk has determined that should these regulations prove too restrictive that they will review and make adjustments to the regulations as necessary;

WHEREAS, The City of Norwalk has determined that the growing and production of Cannabis and related products is similar to a manufacturing use and should be allowed to operate as such, provided that the provisions contained within the regulations are adhered to;

WHEREAS, The application was referred to WestCOG and Connecticut DEEP on November 1, 2022;

WHEREAS, WestCOG found the proposal to be of interest to surrounding municipalities and forwarded the application to Darien, Wilton and Westport;

WHEREAS, The application was referred to Darien, Wilton and Westport by Staff on November 8, 2022;

WHEREAS, Connecticut DEEP found the proposed regulations generally consistent with the Connecticut Coastal Management Act;

WHEREAS, Comments were received from the Town of Wilton regarding the proposed regulations: Now, therefore,

**** MS. JORDAN-BYRON MOVED: THEREFORE BE IT RESOLVED** by the Norwalk Planning & Zoning Commission that application #2022-52 R – Cannabis Regulations, be APPROVED.

BE IT FURTHER RESOLVED that the effective date of this action is January 13, 2023; except that Cannabis Retailers, Cannabis Dispensary Facilities and Cannabis Hybrid Retailers shall be permitted, effective March 1, 2023.

Mr. Mushak seconded.

Louis Schulman; Jacquen Jordan-Byron; Mike Mushak; Nick Kantor; Galen Wells; Hector Pachas approved.

Richard Roina opposed.

No one abstained.

V. APPROVAL OF MINUTES: December 8, 2022

This item was tabled to the next meeting since the commissioners had not received them.

VI. COMMENTS OF DIRECTOR

The outside attorney doing a peer review on the Zoning regulations has completed it. The staff are doing their review and they would send the comments to the consultant. He thought they were still on target for public comments. When the draft is ready, he would send it to the commissioners.

He said that there is a land use online presentation on Saturday, March 11 which the city would pay for as well as complete the registration for the commissioners. He also said that the commissioners would be required to complete 4 hours of training by the end of the year. After that it would be 4 hours of training every 2 years.

VII. COMMENTS OF COMMISSIONERS

Mr. Kantor shared that there would be a public meeting next Thursday, January 12 for the South Norwalk Resiliency Plan. He asked the commissioners to share the event with their networks as well as attend the meeting, if they could.

Mr. Schulman noted that 3 members of the P&Z had to be re-appointed and that was why they were not attending this meeting. He was hopeful that the Common Council would re-appoint them at their next meeting.

The three member committee for the Capital Budget reviews would be chaired by Tammy Langalis. Mr. Schulman and Ms. Jordan-Byron would be on the committee as well. Mr. Baker said that the Capital Budget meetings would be held on January 19, January 24 and January 26.

VIII. ADJOURNMENT

Mr. Williams made a Motion to Adjourn.

Ms. Langalis seconded.

Louis Schulman; Jacquen Jordan-Byron; Tammy Langalis; Darius Williams; Mike Mushak; Richard Roina; Nick Kantor; Galen Wells; Steven Ferguson approved.

No one opposed.

No one abstained.

The meeting was adjourned at 8:59 p.m.

Respectfully submitted,

Diana Palmentiero