

Regular Meeting

The 1699th meeting of the Town of Stonington's Planning and Zoning Commission was held at the Stonington Board of Education District Office at 40 Field Street, Pawcatuck, on Tuesday, July 19, 2022. The meeting was called to order by Chairman Ben Philbrick at 7:00pm. Also present for the meeting were Commissioners Chuck Sheehan and Fred Deichmann; Alternates Gary Belke, Marjorie Selinger, and Andy Meek; and Town Planner Keith A. Brynes. Commissioners Lynn Conway and Ryan Deasy were not present.

Seated for the meeting Ben Philbrick, Fred Deichmann, Chuck Sheehan, Andy Meek, and Marjorie Sellinger.

Minutes:

Due to a motion second and vote by an unseated commission member, the June 21, 2022, meeting minutes will need to be reapproved.

Old Business:

PZ2222SPA & CAM Town of Stonington (DPW) – Site Plan Approval & Coastal Area Management Review applications for construction of a 50' x 80' fabric style salt shed to replace the existing salt shed. Proposal includes site grading, loam & seeding, and paving. Property located at 86 Alpha Ave., Stonington. Assessor's Map 79, Block 1, Lot 24. Zones RM-20 & LS-5.

Barbara McKrell, Director of Public Works, introduced Tyler Cofelice, P.E., the consultant from Weston and Sampson Engineers.

Mr. Cofelice presented the application for the Town Public Works Department's proposed new salt shed, showing before and after street views of the structure, noting the location of the street-side shrubbery.

Mr. Deichmann questioned why the new structure was proposed closer to the residential properties. Mr. Cofelice explained they were distancing it from the CAM area and taking future potential expansion into consideration.

Mr. Philbrick asked what the top of the shelter was made of and about how long it lasts. It was explained that it was a heavy-duty material like that used for winterizing boats and the expected lifetime was 15 years, but could be longer or less if damaged.

Mr. Belke and Mr. Sheehan had questions about the lighting on the site. Mr. Cofelice explained that there would be lights inside the structure and an outside hanging one that will be downlit, noting that no light would go beyond the property line.

Mr. Brynes stated there were no concerns from any reviewers, read the proposed stipulations from his meeting report, and suggested an additional one that the final plans be reviewed to the satisfaction of the Town Engineer.

Mr. Deichmann moved to approve the application with the 3 stipulations in the meeting report and one additional as proposed by Mr. Brynes, seconded by Mr. Meek, motion unanimously approved, 5-0.

Stipulations:

1. Prior to the issuance of a Zoning Permit, final plans shall be signed by the Commission and recorded.

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2. Final plans shall include street side shrubbery wrapping around the northeast corner of the building.
3. Final plan shall include note referencing relevant FEMA Map.
4. Final plans shall be reviewed to the satisfaction of the Town Engineer.

Public Hearing(s):

PZ2215SUP Evangelos Koukoularis (Atlantic Associates of Stonington, LLC) – Special Use Permit application for reduction of indoor restaurant seating from 54 to 42 and addition of 33 seasonal outdoor seats. Property located at 530 Stonington Rd., Stonington. Assessor's Map 99, Block 4, Lot 23C. Zone GC-60.

Theodore Ladwig, Attorney for the applicant, presented the application for additional outdoor seating giving a brief history of the restaurant and noting that it is a reduction in the number of the seats, and it meets the parking requirements, especially as most of the other tenants in the plaza do not have evening hours, opening up even more spaces. He stated the area is screened by 14 mature trees acting as bollards.

Commissioners questioned the location of the outdoor seating, the expected time period for it, protection from the traffic, and the type of tree and health of a few of them. It was explained that the seating is in the blocked off, former drive-thru, the use to be from April to November, the trees were likely black pine, and if the property landlord wished to remove the sickly trees, he can.

Mr. Meek asked if seating would change in the off-season. Mr. Ladwig replied that it would not.

There was no public comment.

Mr. Brynes stated that the proposal meets the regulations, there were no concerns from any reviewers, and read the proposed stipulation from his meeting report.

Mr. Sheehan moved to close the public hearing, seconded by Mr. Deichmann, all in favor, 5-0.

Mr. Sheehan moved to approve the waivers and approve the Special Use Permit as stipulated, seconded by Mr. Deichmann, all in favor, 5-0.

Stipulation:

1. The Town's maximum seating notice must be posted in a conspicuous location inside the restaurant.

PZ2216SUP Martin Olson Irrv. Trust (Never Enough Bake Shop, LLC) – Special Use Permit application for on-premise full liquor sales permit for existing Bleu Squid Bakery Café. Property located at 27 Coogan Blvd., Building 16, Mystic. Assessor's Map 164, Block 3, Lot 1/32. Zone TC-80.

Applicants/business owners, Aimee Filippetti and Gail Filippetti presented the application explaining they are simply seeking a liquor permit to be able to serve drinks with their menu and for small, private special events. Their hours of operation are 7:30 AM to the latest on the weekend of 4:00PM, there would be no service bar, no changes to the place, and customers will be served.

There was no public comment.

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Mr. Brynes stated there were no issues with the application or concerns from any reviewers.

Mr. Deichmann moved to close the public hearing, seconded by Mr. Sheehan, all in favor, 5-0.

Mr. Sheehan moved to approve the waivers and the Special Use Permit, seconded by Mr. Meek, all in favor, 5-0.

PZ2219SUP Martin Olson Irrv. Trust (Le Petit Chou, LLC) – Special Use Permit application for café liquor permit for wine sales at Kitch, an existing kitchen and specialty food store. Property located at 27 Coogan Blvd., Building 19A, Mystic. Assessor's Map 164, Block 3, Lot 1/33. Zone TC-80.

Applicant, Daniel Price presented the application for wine sales at Kitch, explaining they are partnering with a cheese supplier and wish to offer wine with it. He noted that there would be no bar, staff will serve customers, there will be no meals, and their hours of operation will not change.

There was no public comment.

Mr. Brynes stated that comments from the Old Mystic Fire Department requested a more detailed floor plan showing the layout of the store and the proposed changes. Other reviewers had no concerns and the proposal meets the zoning requirements.

Mr. Deichmann moved to close the public hearing, seconded by Mr. Sheehan, all in favor, 5-0.

Mr. Sheehan moved to approve the waivers and the Special Use Permit as stipulated in the Planner's meeting report., seconded by Mr. Deichmann, all in favor, 5-0.

Stipulation:

Plans shall be reviewed to the satisfaction of the Old Mystic Fire Department.

PZ2211SUP Jannat, LLC (Z Kohl) - Special Use Permit application to permit construction of 1-story, 3,500 SF convenience store with gasoline filling pumps and canopy. Proposal includes repaving, stormwater drainage, and associated site work. Property located at 54 South Broad St., Pawcatuck. Assessor's Map 14, Block 2, Lot 6. Zone LS-5. ***Continued from 6/21/22.***

Seated for this application were Ben Philbrick, Fred Deichmann, Gary Belke, and Chuck Sheehan. Although not present at the 6/21/22 hearing, Mr. Sheehan has viewed the meeting video and reviewed everything for the record.

Attorney Zachary Kohl, representing the applicant, introduced the application team and gave a summary of the application. He noted that the original comments from reviewers had been addressed, allowing Peter Gardner, the applicant's surveyor; John Martucci, PE, the applicant's engineer; and Martin McKinney of Service Station Equipment, Inc.; to speak to the specifics.

Mr. Gardner explained that the number of fuel pumps have been reduced to meet required setbacks, and there will be two 15,000-gallon tanks in the same location as previously proposed.

Mr. Sheehan asked if a sidewalk easement was proposed and would they extend past the property line. Mr. Gardner replied that the Town has asked that they honor the current sidewalk plan which goes from property line to property line.

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Attorney Kohl explained that the parking buffer was no longer required, 2 parking spaces have been added, and the building size has been reduced to 68' x 50'. Based on the size reduction of the convenience store and gas pumps canopy, he presented the proposed building signage for both, noting no signs will project above the roofline. He stated that they have received "will serve" letters from both WPCA and Westerly Water and will provide waivers if required. Deliveries will occur between 12:00 AM & 6:00AM, and a loading berth is provided for the convenience store.

Mr. McKinney described the logistics of the gas tank deliveries, responding to Commissioners' questions regarding position of the delivery truck, needed traffic pattern, and delivery vehicle length. When asked, Mr. McKinney did not see any issue with the traffic flow for tank filling, noting that the hoses allow for them to be positioned within 20 feet of the tanks. Mr. Belke questioned whether anyone needed to be present when the fuel tanks are filled and Mr. McKinney explained it was not necessary as there are emergency shutoff valves and audible alarms.

Mr. Martucci said he'd responded to the Town Engineer's request for figures regarding truck egress and turning abilities, noting the reduction of both the building size and number of pumps improved maneuvering. He indicated a WB-50 truck was used for the calculations. In response to Mr. Sheehan's questions regarding a truck's ability to maneuver left and right out, drive on the tank fill or back onto Route 1, yes, the trucks may have to jockey around but they have the additional loading space, the place will be closed at fill time, and no, they will not back onto Route 1. Mr. Sheehan questioned whether the WB-67 better reflects the size of the delivery vehicle used; Mr. Martucci said he would research that question.

Mr. Sheehan suggested channelized curbing be used to prevent left turns, "Cape Cod curb" allowing for wider turns for trucks, and moving the sign south out of the sidewalk easement. Attorney Kohl explained the sign is previously permitted but the applicant would agree to move it. Mr. Sheehan questioned whether the plantings for the bio-mediation basin (rain garden) were chosen for their resistance to hydrocarbons. Plantings were selected by Wetlands Scientist Ian Cole, not Mr. Martucci but he will look into it as well as whether a hydrodynamic separator or oil/water separator should be used.

Attorney Kohl spoke to the application waivers requested; stated that there is no requirement to apply to the State for a Location Approval prior to SUP approval; the right to continue the use as a service station as the use was not abandoned; discontinuance of the use does not relinquish the non-conformity; removal of the tanks does not constitute abandonment of the use; and neither previous owners intended to abandon the use.

Attorney Jon Chase, representing the neighboring gas station, stated that matters in a neighboring town were not relevant to this application.

Lenard Engineering Hydrogeologist Mark Temple, representing the neighboring gas station, submitted a response to the application disputing the turning radius and tank design safety features. He stated there are safety issues with nighttime loading as it is dark, preventing the driver from seeing how much gas is in the tank. He also questioned the 2-4' retaining wall as there was no engineered design plan, placement of equipment within 10 feet of the Upland Review Area, there were no detailed plans for the tanks, and his belief that the site was too narrow.

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Mr. Meek questioned whether there were any regulations governing night filling. Mr. Temple replied there were no Federal or State standards.

The applicant/owner, Ami Choudhry, stated that they have done everything that the Town has requested, addressing comments from reviewers, getting approval from the Wetlands Commission, and meeting the Regulations.

Attorney Chase questioned the validity of drawings submitted, how the safety issues would be enforced, and suggested the commission should stipulate that safety concerns are addressed. He raised the concern of remote filling being a possible violation of the regulations.

The Commission took a short recess at 9:07pm. The meeting resumed at 9:14pm.

Mr. Chase suggested that calculations in Stormwater Management Report did not meet the requirements for a 25-year storm event. He spoke to the issue of abandonment, submitting copies of the inactive State Retail Gas Dealer License, Town Attorney Jeff Londregan's opinion letter, CGS14-319 & CGS14-321, and Black's Law Dictionary page with the definition of erection. He noted the proposed gas station would be newly erected, not pre-existing, thus in violation of ZR2.11.2: no filling station shall be erected within 1,500 feet of another filling station.

Public Comment: None

Rebuttal:

Attorney Kohl stated that there are no additional requirements to show tank specifics.

Mr. Gardner refuted Mr. Temple's assertion that his plans were poorly created.

Mr. McKinney said that night deliveries are common and made to safety standards, the trucks are well-lit all around, and clarified to Mr. Sheehan that fuel deliveries are made on the tank fill area, not the loading zone.

Attorney Kohl said the retaining all design would be on the final plans and noted that changes to plans are necessary to make changes and correct errors during and after review.

Mr. Deichmann questioned who determines when deliveries are made. Mr. Choudhry replied that the station owner decides.

Keith Brynes, Town Planner, stated that, regarding the abandonment issue, the Town Attorney opinion does not provide an answer, just an opinion, and State statutes support the difficulty of proving abandonment. He noted a stamped engineered plan for the retaining wall will be required at the building permit stage. With the exception of the inter-site turning template maneuvers, the town engineer's previous comments have been addressed and there were no concerns from other reviewers.

Mr. Kohl stated that the non-conformity is the 1,500-foot distance, the passage of time does not constitute abandonment, and there was no intent to relinquish the non-conformity.

Mr. Sheehan suggested the public hearing be continued to allow for additional information on the on-site truck maneuvering. Mr. Philbrick and Mr. Deichmann agreed, requesting another town attorney

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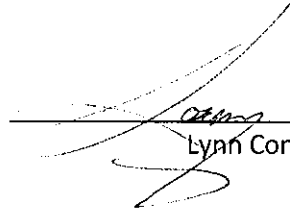
opinion to clarify the abandonment issue. Commission discussion ensued regarding whether to close or continue the public hearing. Attorney Kohl agreed to an extension as needed to continue the public hearing.

The public hearing was continued to 8/2/22 meeting.*

Mr. Deichmann moved to adjourn, seconded by Ms. Selinger, all in favor, 5-0. T

The meeting was adjourned at 10:22PM.

*As of 7/21/22, this application was withdrawn by the applicant.



Lynn Conway, Secretary