

Regular Meeting

The 1723rd meeting of the Town of Stonington's Planning and Zoning Commission was held at the Stonington Board of Education Office, 40 Field Street, Pawcatuck, on Tuesday, April 18, 2023. The meeting was called to order at 7:01 PM by Chairman Ben Philbrick. Also present for the meeting were Commissioners Fred Deichmann, Charles Sheehan, and Lynn Conway; Alternates Gary Belke and Marjorie Selinger, and Interim/Acting Town Planner Samuel Alexander from the Southeastern Connecticut Council of Government. Alternate Andy Meek and Commissioner Ryan Deasy were absent.

Seated for this meeting were Ben Philbrick, Fred Deichmann, Charles Sheehan, Lynn Conway, and Alternate Gary Belke.

Minutes:

The minutes for virtual meeting of March 27, 2023 have not yet been drafted.

A motion was made by Mr. Sheehan to approve the minutes of April 4th, 2023, seconded by Mr. Deichmann. All were in favor, 5-0.

Administrative Review:

23-048ZON Lockwood Coveside Marina, LLC - Zoning permit application to demo and reconstruction of a building. Property located at 830 Stonington Rd., Stonington. Assessor's Map 57 Block 2 Lot 11. Zones MC-80.

The Commission was awaiting a review from the Town Engineer, as well as resolutions to the existing violations. Mr. Alexander explained that building must meet flood-plain regulations due to the level of improvement (Substantial Improvement). It was still being decided whether they will keep the first floor or tear the entire building down. The Commission agreed that the project is still not in full compliance and discussed the possibility of leaving the discussion open for the next meeting. Due to lack of compliance, Mr. Deichmann made a motion to deny the application, seconded by Ms. Conway. All were in favor, 5-0.

23-087ZON Waterfront Group, LLC - Zoning permit application for the relocation of a driveway entrance. Property located at 4 Washington St., Mystic. Assessor's Map 182 Block 1 Lot 12. Zones MC-80.

This request is for a minor modification to the approved site plan. The driveway on Willow St would be shifted at the same time as repairs to the road. This has been reviewed by the Mystic Fire Department who were accepting of the plan. A representative of the applicant, Harry Boardsen, clarified that they will be removing and replacing the old curb. There will be enough space for two-way traffic. The Commission questioned if there is a connection with the original approval associated with Red 36, as the current driveway serves as their entrance. Mr. Boardsen explained that there is a soft patch of concrete on Willow St - they are attempting to convert the left side of the current driveway as the entrance - this would reduce traffic over the soft spot. This will also help formalize and maintain the roads and traffic in this area. Ms. Conway would have liked to understand the stipulations associated with Red 36's approval, however Mr. Boardsen clarified that there is not a concern relating to this work.

Mr. Deichmann made a motion to approve the application, seconded by Mr. Sheehan. All were in favor, 5-0.

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Old Business:

PZ2303CAM Richard Koup & Charla Andrews (S. Marquardt) – Coastal Area Management Review application to accompany future zoning permit application for the construction of a single-family residence (SFR) with on-site septic system. Property located at 28 Money Point Rd., Mystic. Assessor's Map 180 Block 2 Lot 31. Zone RA-20.

Earlier in the day, the town received a request from the applicant for an extension as they are approaching the 65-day decision deadline. Mr. Alexander recommended a 14-day extension. The applicant was requesting an extension due to DEEP comments from the day prior - the RC-120 zone cuts through this property and affects the planned patio, which must be moved. The Commission agreed that a 30-day extension is more appropriate.

Mr. Deichmann made a motion to extend the application for 30 days, seconded by Mr. Sheehan. All were in favor, 5-0.

Public Hearing(s):

PZ2235SD & CAM Old Stoneridge, LLC – Residential Re-subdivision and Coastal Area Management review applications for the creation of two lots. Property located at 111-113 Montauk Ave., Stonington. Assessor's Map 131 Block 3 Lot 6. Zone RR-80 & RC-120. Public Hearing continued from 4/4/23.

Seated for this Public Hearing were Mr. Philbrick, Mr. Sheehan, Mr. Deichmann, Ms. Conway, and Alternate Ms. Selinger.

Attorney Ted Ladwig, representing the applicant, proposed a conservation easement of 5 acres that abuts the Avalonia land parcel. Two hours prior to this meeting, Mr. Ladwig received the qualification for Gregory Erb, a certified appraiser in the state of Connecticut. Mr. Ladwig recommended that Mr. Erb be the appraiser whom will determine the value of the land to determine the 10% Fee-in-Lieu of Open Space. A memo from Candace Palmer, ZEO, recommended that the town accept the Fee in Lieu of Open Space. The easement will be recorded on the town land records.

Atty. Ladwig clarified for the Commission the difference between a conservation easement and transferring Open Space. The land owner will retain ownership however, it will still restrict use of the land. In this scenario, the town conserves the land and also receives a fee. Mr. Ladwig clarified that the format of the conservation easement shall be approved by town staff, and the certifications of Gregory Erb expire on April 30, 2023, however he would agree to a stipulation that the certification is renewed past April.

Ms. Conway questioned the contradicting opinions of the Conservation Commission from the prior meeting. The Commission explained that this was discussed at that meeting and the conservation easement served as a means to protect the land. The Conservation Commission was under an incorrect belief regarding necessary hardships to accept a Fee-in-Lieu of Open Space. Ms. Conway was concerned that the Conservation Commission was not given a chance to comment on Ms. Palmer's memo, however the Commission feels that the absence of a representative from this Commission is telling, as well as the discussions from the prior meeting. Mr. Alexander clarified that he assisted in the process of recommending an appraiser.

Public Comment:

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Ben Tamsky, 5 Edgemont St, Mystic - Mr. Tamsky claimed that the public does not have access to the report and have not seen the comments from Candace Palmer. He questioned the precedent for following the opinion of the ZEO in terms of accepting Open Space or a Fee-in Lieu. Mr. Tamsky also believed that adding the 5 acres to the Avalonia Parcel would be a significant addition, contrary to Mr. Ladwig's comments. Mr. Tamsky was then allowed to read Ms. Palmer's comments into the record. In line with the goals of the Zoning rewrite, Mr. Tamsky commented that the commission should consider the desire to remove discretion when reviewing the comments from the ZEO.

Staff Comment:

The stipulations now include the relevant information regarding the conservation easement. Mr. Alexander agreed that there shall be a stipulation that Mr. Erb retains his certification past April. The appraiser must be chosen jointly with applicant and town.

Ms. Conway recommended continuing the discussion until they are able to speak with the Conservation Commission. Per Mr. Alexander, the applicant must request an extension until the next meeting. The easement is another solution to the recommendation of the Conservation Commission.

Mr. Tamsky clarified that once a public hearing is closed, the commission can receive additional comments from staff while deliberating, and the Conservation Commission would qualify.

Norm Thibeault, Killingly Engineering Associates, stated that the area of conservation easement is filled with boulders, wetlands, etc., and is not suitable for the general public. He explained that the Conservation Commission is concerned with habitat protection and the conservation easement accomplishes that.

Mr. Ladwig agreed that the commission can confer with town staff, however, he did not believe this includes other commissions. He questioned if an extension would produce meaningful dialogue past what was conducted at the last meeting. This commission has the authority to make this decision. The Commission questioned if the Conservation Commission wanted the land or just the conservation of it.

Mr. Sheehan made a motion to close the public hearing, seconded by Ms. Conway. All were in favor, 5-0. Public Hearing closed at 8:06 P.M.

Mr. Sheehan made a motion to approve the requested Subdivision Waivers, seconded by Ms. Conway. All were in favor, 5-0.

Mr. Sheehan made a motion to accept the Fee-in-Lieu of Open Space, subject to extension of appraisal license, and to include the Conservation Easement. This was seconded by Mr. Deichmann. All were in favor, 5-0.

Mr. Sheehan made a motion to approve the CAM application, seconded by Mr. Deichmann. All were in favor, 5-0.

Mr. Sheehan made a motion to approve the application, along with the 10 stipulations, adding the name of Gregory Erb to stipulation #9. This was seconded by Mr. Deichmann. The vote was taken and approved, 4-1.

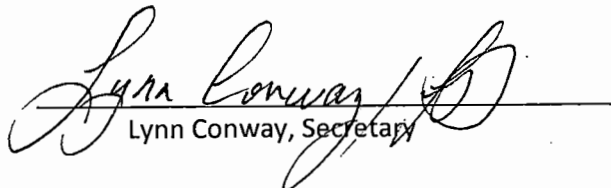
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Roll Call: Philbrick - approve, Sheehan - approve, Deichmann - approve, Selinger - approve, Conway - Deny

Stipulations:

1. Final plan shall be reviewed to the satisfaction of the Town Engineer.
2. Final plans shall include new street address and Assessor's lot numbers as assigned by the Town.
3. Final mylar copies of plans shall be filed with the Town Clerk and submitted for signature by the Commission.
4. AutoCAD drawing of the approved subdivision shall be submitted to the Town prior to recording. A fee in lieu of this drawing, to cover the Town's cost to create such a digital file, may be submitted per Section 3.9.2 of the Subdivision Regulations.
5. Per Section 5.10.2 of the Subdivision Regulations, boundary markers must be installed. Installation shall be certified through a registered land surveyor prior to sale of any lots.
6. The applicant shall post an Erosion and Sedimentation Control Bond prior to the issuance of any Zoning Permits per the requirements of Section 8.6.3 of the Zoning Regulations and Section 6.1.6 of the Subdivision Regulations. Bond shall be either in the form of a certified check or irrevocable letter of credit. The bond amount shall be established by the Town Engineer after an estimate of the costs of installing and maintaining appropriate erosion and sedimentation control measures is provided by the applicant and approved by the Town Engineer. Work shall remain bonded for a minimum of one year from the date of completion.
7. Applicant shall file on the land evidence records a driveway access and maintenance agreement for Lots 1 and 2, which may be reviewed and modified to the satisfaction of Town staff.
8. Applicant shall incorporate metes and bounds of the depicted conservation easement into the final plan set. Applicant shall also submit for Town staff approval, conservation easement language in favor of the Town of Stonington. Such conservation easement shall be filed on the land evidence records at the time that the final subdivision plan is recorded, and shall restrict any future development or activity that may be damaging to the ecology of the area depicted.
9. Applicant shall obtain an appraisal from Gregory B. Erb prior to recording the final subdivision plan. Such appraisal shall set the basis for a fee in lieu of open space equal to 10% of the fair market value of the land.
10. Applicant shall pay 50% of the fee in lieu of open space upon transference of Lot 1, and the sooner of: A) the transference of Lot 2, or B) prior to any approvals for construction of any structures on Lot 2. A lien shall be placed on the property prior to, or concurrent with, the recording of the final subdivision plan. After the fee is paid for an individual lot, the Town shall release the lien on the land evidence records.

Mr. Deichmann made a motion to adjourn the meeting, seconded by Ms. Conway. All were in favor, 5-0. The meeting was adjourned at 8:10 P.M.


Lynn Conway, Secretary