

## Special Meeting

The 1658<sup>th</sup> meeting of the Town of Stonington's Planning and Zoning Commission was held virtually via WebEx on Tuesday, May 26, 2020. The meeting was called to order at 7:05pm by Chairman David Rathbun. Also present for the meeting were Commissioners Gardner Young, Lynn Conway, Fred Deichmann, and Ben Philbrick; Alternates Charles Sheehan, and Ryan Deasy; and Town Planner Keith Brynes. Alternate Peter Chomowicz was absent.

Seated for the meeting were David Rathbun, Gardner Young, Fred Deichmann, Lynn Conway, and Ben Philbrick.

### **Minutes:**

Mr. Philbrick moved to approve the minutes of the May 12, 2020 meeting, seconded by Mr. Deichmann, the vote was taken 5-0, motion unanimously approved.

### **Administrative Review**

Commission interpretation regarding modification of existing retaining wall in building setbacks. 104 Noyes Ave., Lords Point Assessor's Map 129, Block 8, Lot 1. Zone RM-20.

Mr. Brynes summarized the request for an interpretation as to whether the proposed modifications to existing retaining walls are allowed in the building setback. Plans have not been developed and the owners are seeking guidance on this issue. The 2 concrete walls are off-set from each other with a patio area above. The walls are failing and are in need of replacement. The walls would not be any higher and would not extend any further toward the street. One area in the southeast corner would extend further toward the neighboring property line. At its last meeting the Commission directed the Department of Planning to develop a Zoning Regulation Amendment to clarify the issue of whether retaining walls of over 3' in height are allowed in building setbacks.

Property owner, Michael Zerbini, stated that the stone veneer currently on part of the wall would be extended to the new wall. Mr. Deichmann stated that this situation is different from the recently approved retaining wall at Harry Austin Dr. & Masons Island Rd. because it is plainly visible from the street. Mr. Sheehan asked if the wall serves a flood control purpose. Mr. Zerbini stated that it does. Mr. Brynes stated that if the wall is considered a "flood and erosion control structure" it may need to return to the Commission as a Coastal Area Management Application once plans are developed. Mr. Zerbini explained that replacing the upper wall in place would entail substantially more reconstruction. Total height of the new wall would be approximately 5' which is identical as the current total height. Mr. Zerbini stated that he could have conceptual plans prepared by his structural engineer for the next meeting. Mr. Sheehan clarified that fully engineered plans would not be required for this discussion. Mr. Brynes will consult with DEEP as to whether a Coastal Area Management Application will be required. No action was taken.

**PZ2006SD & GPP D6 Realty, LLC (A. Hayward)** - Subdivision and Groundwater Protection Permit applications for a free split and subdivision of a 1.13-acre lot. Property located 3 Country Lane, Pawcatuck. Assessor's Map 21 Block 1 Lot 3. Zone RA-20.

This application was tabled to the next meeting with no discussion.

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**Public Hearings:**

**PZ2002SD & CAM Michael Norcia, Jr. (G. Fedus)** – Subdivision and Coastal Area Management Review applications for a 3-lot subdivision of a 1.13-acre lot. Property located on Oakwood Ave., Pawcatuck. Assessor's Map 5 Block 1 Lot 5. Zone RA-15. *Continued from 3/17/20.*

Greg Fedus, P.E., project engineer, presented the application to divide the property into 3 lots which conform to the RA-15 bulk requirements. Drainage issues currently exist on Oakwood Ave. The proposed plans include rain gardens that decrease runoff from the existing conditions. The Stonington WPCA and Westerly Water Co. have reviewed and approved of these plans. Previous comments received by the Town's engineering consultant have all been addressed. Driveways will be paved; it is difficult to direct driveway runoff to the rain gardens. However, the beneficial effects of the rain gardens make up for any extra driveway run-off. Erosion and sedimentation controls are included on the plans including silt fences downgradient of all disturbed areas. There is an existing low spot near 26 Oakwood Ave. that is filled with leaves which may be exacerbating drainage problems in the area. The Town's Public Works Director recently met with neighbors to explore addressing this issue.

Mr. Deichmann asked about maintenance of the rain gardens. Mr. Fedus stated that they would be maintained by the individual home owners; maintenance would consist of occasional re-mulching to prevent compaction. A rain garden maintenance plan can be added to the final plans. Ms. Conway asked whether there are alternative drainage solutions. Mr. Fedus stated that underground infiltrators would require less maintenance but are more costly. Mr. Sheehan expressed concern that the stormwater analysis does not account for the total amount of run-off coming from the hill to the west. Mr. Fedus replied that managing the entire watershed is not the applicant's responsibility and that the plans improve upon the existing condition.

**Public Comment:**

Carlene Donnarummo, 22 Oakwood Ave., stated that the proposed houses will not conform to the character of the 1 story homes in the area. Larger trees should be maintained wherever possible. Piles of stone should not be left on the property as the applicant has done with his other property on Burdick Lane. Stormwater from the proposed driveways will flow directly into the street and across to her property. Plans should include galleys at the end of the driveways to divert the stormwater. Ms. Donnarummo questioned why the applicant is not connecting to the gas line in the street. The Town's Technical Standards state that utility easements should be centered around the line; plans show an off-set easement. Placing the sewer easement in the side setbacks may violate Section 2.13.2.3.3 of the Zoning Regulations which prohibits double-counting of required yards. Shadow plans should model shadows after 3:00PM.

Mr. Fedus stated that run-off from the hill is not the real problem. Water uphill is slowed by tree cover. The lack of an outlet on Oakwood is causing the pooling during heavy rains. Driveways cannot be regraded without negative consequences elsewhere on the site. Mr. Rathbun asked if the driveways could be gravel and if larger trees can be saved. Mr. Fedus stated that most trees would need to be removed to grade the site. Trees will be maintained in an area to the rear and some larger trees between lots 1 and 2 could be retained. Mr. Sheehan stated it is customary practice to analyze the entire watershed. Mr. Fedus stated such an analysis would not impact the design and that there will not be a turbulent situation. Mr. Sheehan stated he was satisfied with Mr. Fedus' testimony. Ms. Conway asked about the sewer easement location. Mr. Fedus stated the easement and line could be relocated

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on one property if needed. It is practical to locate the easement off-center to provide room on one side for the necessary machinery. Mr. Deichmann stated that retaining walls should be less than 3' in height within the building setbacks. Mr. Rathbun and Mr. Sheehan recommended replacing rain gardens with underground galleys due to maintenance concerns. Driveways should also drain into these galleys. Mr. Fedus stated this could be accomplished.

Mr. Brynes stated that locating a utility easement in a building setback is not prohibited by the Zoning Regulations and is preferred to limiting the owner's use of their property. The proposed easement will be reviewed by the Town Attorney and WPCA. Mr. Brynes reviewed comments received on the application, votes required and recommended stipulations. The application includes a waiver request for the construction of sidewalks along the street frontage. There are no sidewalks in this area. The Zoning Regulations only require shadow plans to illustrate shadows cast up to 3:00PM.

Mr. Deichmann motioned to close the public hearing; seconded by Ms. Conway. The motion was approved 5-0.

Mr. Deichmann motioned to approve the requested waiver, Coastal Area Management Application and Subdivision application with 9 stipulations recommended by staff. The motion was seconded by Ms. Conway and was approved 5-0.

## Stipulations:

1. Final plans shall include new street address and Assessor's lot numbers as assigned by the Town.
2. AutoCAD (or approved equivalent) 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.
3. A fee in lieu of open space equal to 10% of the value of the land shall be applied to all lots in the subdivision. The Final Plans must include the following statement: "A Fee-In-Lieu of Open Space of \$\_\_\_ was approved by the Planning & Zoning Commission, each new lot shall be assessed \$\_\_\_."
4. 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. 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.
5. Sewer easement shall be recorded prior to or concurrent with the Subdivision Plans.
6. As-built plans for relocated sewer line shall be provided to the Town prior to issuance of a Zoning Permit for construction of Lot 3.
7. Retaining walls in building setbacks shall be no more than 3' in height.
8. Final plans shall include retention of larger trees in the area between Lots 1 and 2.
9. Final plans shall replace proposed rain gardens with underground galleys and trench drains at the end of driveways that tie into these galleys. Drainage modifications shall be reviewed to the satisfaction of the Town Engineer.

**PZ2008SUP Reveka Tsiakiris (D. Devine)** - Special Use Permit application for relocation of a liquor store from 44 Williams Ave. to 55 Williams Ave. Property located at 55 Williams Ave., Mystic. Assessor's Map 161 Block 20 Lot 6. Zone LS-5.

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Applicants, Diane and Brent Devine, presented the application. Their existing liquor store will be relocated from 44 Williams Ave. across the street to 5 Williams Ave., at the site of Avanti's restaurant. No changes are proposed to the building exterior or site. Mr. Devine listed the requested waivers. No extra lighting is proposed. Ms. Conway asked about lighting and signs in the windows. Mr. Devine stated that they will not have any more lit signs than at their current locations. There are no plans to expand the windows.

## Public Comment:

Bob Burrige, 13 Coburn Ave., stated that he is the rear neighbor and is not opposed to this application. Mr. Burrige asked that the applicants continue to maintain the fence that separates their properties. Mr. Devine agreed. Mr. Burrige asked whether there will be any additional HVAC units on the roof. Mr. Devine stated that they will not use the roof exhaust. Two new refrigerator units will be added inside with no additional walk-in coolers outside.

Ms. Conway asked whether there will be a dumpster. Mr. Devine stated that the dumpster to the west of the building will continue to be used. Traffic at this location is safer than at 44 Williams where cars must back out onto Rt. 1. Mr. Brynes stated that the application conforms to the requirements of the LS-5 zone; on-site parking is twice the minimum required for this use. Hours of operation are reduced from those of the restaurant.


Ms. Conway motioned to close the public hearing; seconded by Mr. Young. The motion was approved 5-0.

Mr. Philbrick motioned to approve the Special Use Permit application as well as the requested waivers with one stipulation; seconded by Mr. Deichmann. The motion was approved 5-0.

## Stipulation:

1. Building improvements shall comply with all relevant Flood Hazard requirements.

Mr. Deichmann motioned to adjourn the meeting; seconded by Mr. Philbrick. The motion was approved 5-0. The meeting was adjourned at 9:23PM.

  
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Ben Philbrick, Secretary