

Regular Meeting

The 1607th meeting of the Town of Stonington's Planning and Zoning Commission was held Tuesday, January 16, 2018, at the Mystic Middle School, 204 Mistuxet Avenue, Mystic, CT. The meeting was called to order by Commissioner David Rathbun at 7:00pm. Also present for the meeting were Commissioners Shaun Mastroianni, Curtis Lynch, Ben Philbrick, and Gardner Young; Alternate Lynn Conway, Town Planner Keith A. Brynes, and Director of Planning Jason A. Vincent.

Seated for the meeting were Shaun Mastroianni, David Rathbun, Curtis Lynch, Ben Philbrick, and Gardner Young.

Minutes:

Mr. Mastroianni moved to approve the minutes of the December 5, 2017, meeting, seconded by Mr. Philbrick, Mr. Lynch suggest modified wording regarding his comments about the 3D rendering waiver. Mr. Mastroianni recommended two corrections. The vote was taken on the amended minutes 5-0, motion approved.

Administrative Review:

17-272ZON Whalers Inn RE, LLC – Zoning permit application for change of use from retail to modify existing hotel lobby and meeting space. Property located at 20 East Main St., Mystic. Assessors Map 182 Block 4 Lot 13. Zone DB-5.

Mr. Brynes explained that the hotel is looking to convert the space formerly used by Mallove's Jewelers into a new lobby space and the former lobby space will be used as a small meeting space for guests. Mr. Lynch questioned whether it would change the parking requirements. Mr. Brynes responded that it would reduce the amount of required parking. Applicant representative, Attorney Theodore Ladwig, stated that this change will be beneficial for users of the hotel and add to the experience of visitors. Ms. Conway raised concern with the parking for guest check-in in front of the hotel lobby area. Mr. Ladwig responded that the entrance to the hotel will be off of the hotel parking area and not off of Cottrell Street.

Mr. Lynch moved to approve the application, seconded by Mr. Mastroianni, all in favor 5-0, motion approved.

PZ1416SUP & CAM DPNC – Review of proposed event schedule for approve nature center. Property located at 162 Greenmanville Ave., Mystic. Assessors Map 172 Block 2 Lot 5. Zones RM-15 & RA-40.

Chad Frost, landscape architect, presented the proposed event schedule for the property. Mr. Frost stated that although the POCD supports shared parking, the Police Commission has struggled with shared parking and would like there to be a backup plan for accommodating all parking on site. Mr. Frost reviewed the parking plan. There are 56 spaces at the Coogan Farm site and there are over 600 on-site, overflow spaces available on the adjacent nature center property between two fields. The majority of the parking would be accommodated in the field off Pequotsepos Road. Mr. Frost reviewed the proposed maximum allowed events. Mr. Mastroianni questioned what they consider to be minor events. Mr. Frost stated that they consider all events to be minor within the context of the current traffic on Route 27 in the area. Ms. Conway raised concern with the temporary nature of the parking areas in the fields. Mr. Frost stated that they are only requesting eight events per year, six of which can be accommodated with permanent parking. The Commission raised concern with noise from the events and parking on side streets. Ms. Conway questioned whether they should limit the six times a year to not exceed one per month.

Regular Meeting

Mr. Mastroianni recommended stipulations to the proposed schedule: reduce the 140-person events to two per year, eliminate the 250-person events, and re-evaluate in one year. Mr. Young stated they should have a chance to proceed as presented and be evaluated in one year.

Mr. Lynch moved to approve the application with the modification that the 250-person events are eliminated and the plan be evaluated in one year, seconded by Mr. Mastroianni. Mr. Young raised the point that by eliminating it they will never know how it goes and it is only twice per year. The vote was taken 3-2, the motion was approved.

Roll Call: Mastroianni – in favor, Rathbun – in favor, Lynch – in favor, Philbrick – oppose, Young – oppose.

Old Business:

PZ1729BR Mystic Seaport Museum, Inc. – Bond Reduction/Release application for Erosion & Sedimentation Control bond associated with PZ1414ZC, SPA & CAM for construction of a 14,000 SF exhibition building. Request full release of E&S Bond #15-001 (\$37,278.00). Property located at 75 Greenmanville Ave., Mystic. Assessor's Map 173 Block 1 Lot 1. Zone MHD.

Mr. Brynes stated that there are not any issues and staff recommends releasing the bond.

Mr. Lynch moved to approve the application with the stipulation that the Director of Planning confirm completion of requirements prior to bond release, seconded by Mr. Philbrick, all in favor 5-0, motion approved.

PZ1730BR Allied Development Partners, LLC – Bond Reduction/Release application for Erosion & Sedimentation Control and Performance bonds associated with PZ1230SD & GPP for an 11-lot subdivision. Request full release of E&S Bond #13-002 (\$5,250.00), and Performance Bond #14-006 (\$17,500.00). Property located 615 No. Stonington Rd., Stonington. Assessors Map 115 Block 1 Lot 1. Zone GBR-130.

Mr. Lynch moved to approve the application with the stipulation that the Director of Planning confirm completion of requirements prior to bond release, seconded by Mr. Mastroianni, all in favor 5-0, motion approved.

Mr. Rathbun recused himself, Ms. Conway was seated.

PZ1731SPA Joseph & Mary Putnam (J. Bernardo) – Site Plan Application for the creation of a rear lot through a lot line revision of two parcels. Properties located at 200 Mistuxet Ave. & Hewitt Rd., Mystic. Assessors Map 152 Block 2 Lot 4 & Map 151 Block 3 Lot 13 Zone RA-20.

Land surveyor, James Bernardo, presented the application, explaining that the applicant is proposing a lot line adjustment to create a smaller rear lot with the required driveway strip (Lot #1), and a larger lot with frontage on Mistuxet Avenue (Lot #2). The applicant has demonstrated that it is possible to build a home on Lot #2. Although the applicant does not intend to at this time, it is required to show the ability to do so.

Mr. Mastroianni moved to approve the application with the stipulations from the staff report, seconded by Mr. Philbrick, all in favor 5-0, motion approved.

Regular Meeting

Stipulations:

1. Final plans shall be recorded in the Town's Land Evidence Records prior to the issuance of any Zoning Permits.
2. Complete construction of the proposed driveway and any utilities to be buried is required prior to any issuance of a permit for development of Lot 2.
3. Current access to Lot 1 over Town property must be terminated within 60 days of installation of the new driveway per the conditions of the 2010 land swap with the Town (Book 676, Page 550)
4. Should access to 202 Mistuxet be provided through the new driveway, all areas serving more than 2 houses must be paved.
5. A slope easement will be required over Lot 1 for the construction of the driveway and associated grading.
6. Final plans shall include zoning table stating minimum lot area and building setback dimensions required for the zoning district per Section 8.4.1.8.
7. Final plans shall be reviewed to the satisfaction of the Town Engineer.

Mr. Rathbun was seated again. Mr. Mastroianni disclosed that he has a property in Mystic that is in a flood zone.

Public Hearing:

PZ1728RA TOS Planning & Zoning Commission (FEMA SI) – Zoning Regulation Amendment to modify the definition of the term “Substantial Improvement” as it relates to building modifications in flood hazard areas. This amendment would change the “lookback” period from 5 years back to 1 year as it was prior to 2013. *Public Hearing continued from 1.2.18.*

Mr. Brynes presented the application which proposes the FEMA Substantial Improvement calculation returns to a one-year lookback period rather than the current three-year period. “Substantial Improvement” requires all structures be brought into compliance with current FEMA flood standard requirements if qualifying improvements of more than fifty percent of the value of the structure is reached. In 2013, Stonington changed their lookback period to five years. The change would give property owners more flexibility to update their homes without triggering this threshold. The town has recently reentered FEMA's Community Rating System to provide a discount for flood insurance premiums. The Town Engineer has evaluated that this will not cause the rating to be downgraded. Mr. Brynes stated they have received feedback that the five-year lookback is causing issues for property owners to update their homes and commercial properties, especially those that have a lower value. Mr. Brynes reviewed the goals in the POCD that align with this change and reviewed comments from agencies. Ms. Conway asked what the rationale was in 2013 for choosing the five-year lookback period. Mr. Brynes explained that the town Building Official and Engineer recommended it at the time, who are both no longer with the town. Mr. Brynes stated that experience has shown that the change has been more onerous than necessary.

Public Comment in Favor:

Dave Hammond, chair of the Economic Development Commission, spoke in support of the application. The EDC did an economic study of the village areas as compared to Groton and Westerly where they have one-year lookback periods. The five-year lookback is creating a deterrent to developers and homeowners improving their properties.

Regular Meeting

Curtis Brockway, Lords Point resident and president of the Lords Point Association, spoke in support of the application. The community has a number of properties that have low values and have trouble making minor improvements without hitting the threshold.

Kevin Bowdler, resident of Stonington Borough, spoke in favor of the application. The change will allow the property owners to make the decision to invest in their properties due to the economic benefit.

Jim Lathrop, property owner in Pawcatuck in the flood zone, spoke in support of the application. Mr. Lathrop spoke about the flood insurance cost for his properties and how that cost affects development. Many of the buildings in Pawcatuck require a large amount of improvements to be revitalized. Accidents and fires can also push property owners over the threshold if they are close to their limit.

Clay Burkhalter, resident of a home in a flood zone and owner of the Dog Watch Mystic building, spoke about issues with the substantial improvement threshold from the previous owner of the building that they still have to deal with. It is very difficult to make the needed improvements when you are affected by prior owners.

Mark Spruance, spoke on behalf of Whalers Inn about their difficulty with renovating their historic inn due to the lookback period. They have had to make significant improvements due to deferred maintenance from the previous owners.

Rocco Marciano, resident of Stonington stated that the five-year lookback had a devastating effect on the property values.

Sal Ritacco, property owner in Pawcatuck spoke in support of the application and its effect on the Pawcatuck village area. Without a change in the lookback it will be difficult for property owners to invest in their properties.

Blunt White, member of EDC spoke in favor of the application. The five-year lookback period benefits FEMA not the residents of Stonington. Many property owners are not in a position to afford to raise their properties.

Henry Gourd, resident of Mistuxet Ave and realtor spoke in favor of the application.

No Public Comment Against or General Comment

Mr. Lynch moved to close the public hearing, seconded by Mr. Mastroianni, all in favor 5-0, motion approved.

Mr. Lynch moved to approve the application, seconded by Mr. Philbrick, all in favor 5-0, motion approved.

Mr. Brynes noted that the Effective Date of the regulation amendment is February 5, 2018.

Mr. Mastroianni moved to add an Executive Session for the Hendel's application due to pending litigation, seconded by Mr. Lynch, all in favor 5-0, motion approved.

Regular Meeting

Mr. Mastroianni moved to go into Executive Session with the Town Planner and Director of Planning, seconded by Mr. Philbrick, all in favor 5-0, motion approved.

The meeting went into executive session at 8:45pm

Mr. Lynch moved to end the Executive Session, seconded by Mr. Mastroianni, all in favor, motion approved, 5-0.

The public meeting resumed at 8:55pm, continuing with Old Business:

PZ1727SUP & CAM Hendels Mystic, LLC & Hendels Washington St., LLC – Special Use Permit & Coastal Area Management Review applications to permit construction of a 14,157 SF mixed use building with associated site improvements including shared parking, drainage, and landscaping. Properties located at 3 Roosevelt Ave. & 48 Washington St., Mystic. Assessors Map 174 Block 16 Lots 1 & 2. Zone LS-5. *Public Hearing closed 12/5/17.*

Ron Ochsner, an attorney with Halloran & Sage representing the applicant, made a point of order regarding the vote that was taken at the December 5, 2017 meeting. Mr. Ochsner stated that the failed motion constitutes a decision of disapproval by the Commission and noted that they filed an appeal because of this. It is their position that the Commission has already acted and by State law and they cannot take another vote to deny the application a second time.

Mr. Vincent recommended that the commission proceed and let the courts progress on the pending litigation.

Mr. Mastroianni moved to approve the application, seconded by Mr. Lynch. The Commission discussed stipulations for the application. Mr. Philbrick stated that the commission would like to minimize traffic to Washington Street by eliminating the right of way and changing it to a pedestrian access. Mr. Philbrick recommended lowering the building to three stories (40 feet) to better fit with the neighborhood.

The meeting recessed at 9:05pm and reconvened at 9:09pm.

Mr. Lynch withdrew his second. Mr. Mastroianni withdrew his motion.

Mr. Mastroianni moved to approve the application with the stipulations from the 12/5/2017 staff report and the following additional stipulations:

1. Modify maximum building height to not exceed 3 stories or 37'8".
2. Restrict the vehicular access between Roosevelt Avenue and Washington Street. This should enable 2 parking spaces. A pedestrian walkway shall be installed between the two buildings.
3. Provide illustration drawings, that shall be reviewed by the Commission, depicting neighborhood context.

Stipulations from the 12/5/2017 staff report:

1. A Site Plan review application will be required by both the Planning and Zoning Commission and the Architectural Design Review Board, prior to installation of any signs.

FINAL PLAN STAGE

The following modifications are required to finalize the plans:

2. Additional notes to be included:

Regular Meeting

- a. "The porous pavement is an integral component of the drainage system design and future maintenance of the site and parking surfaces shall maintain a pervious surface."
- b. The installation of the porous pavement, including various base courses, and underground detention system shall be inspected by the design engineer during construction.
- c. The first-floor use is limited to commercial activities.
3. Any notes regarding the maintenance of the pump system shall be removed.
4. The extents of the pervious pavement shall be clearly delineated.
5. Prior to Commission endorsement:
 - a. Shall be reviewed to the satisfaction of the Town Engineer
 - b. Shall be reviewed by the Architectural Design Review Board
6. Commission-endorsed Final Plans shall be recorded on the Town of Stonington Land Records (Town Clerk's Office), prior to the issuance of a Zoning Permit for construction.

ZONING PERMIT STAGE


Prior to the issuance of a Zoning Permit, the applicant must complete the following:

7. A dry-floodproofing plan, developed by a Connecticut-licensed Professional Engineer, shall be submitted. Documentation shall include:
 - a. Confirmation that depth of floodproofing is within acceptable limits.
 - b. Certification that floodwater velocities & depths are acceptable in this location.
 - c. Confirmation all utilities will be above the Base Flood Elevation (BFE).
 - d. Provision of an emergency operations plan & maintenance plan
8. The applicant shall post an Erosion and Sedimentation Control Bond prior to the issuance of any Zoning Permits for development per the requirements of Section 8.6.3 of the Zoning 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.
9. The applicant shall post a Performance Bond for improvements in the public right of way prior the completion of such improvements per the requirements of Section 8.6.1 of the Zoning Regulations. The bond amount shall be established by the Town Engineer after an estimate of the costs of installing such public improvements is provided by the applicant and approved by the Town Engineer.

Mr. Lynch seconded the motion. The vote was taken 4-1, the motion was approved.

Roll Call: Mastroianni – favor, Rathbun – favor, Lynch – favor, Philbrick – favor, Young – oppose.

Mr. Lynch moved to adjourn, seconded by Mr. Mastroianni, all in favor 5-0, the meeting was adjourned at 9:12pm.



Shaun Mastroianni, Secretary