

Zoning Commission Minutes 05/15/2017



TOWN OF OLD SAYBROOK Zoning Commission

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Robert C. Friedmann, Chairman
Mark Caldarella, Vice Chairman
Geraldine M. Lewis, Secretary

Madeline B. Fish
J. Colin Heffernan

Alternate Members
Michael Cianfaglione
Joanne Gadon
Vacancy

REGULAR MEETING MINUTES

Monday, May 15, 2017 – 7:00 P.M.
Town Hall, 302 Main Street
1st Floor Conference Room

I. CALL TO ORDER

Chairman Robert Friedmann called the meeting to order at 7:00 p.m.

II. ROLL CALL

Attendant Members

Robert Friedmann
Mark Caldarella
Geraldine Lewis
Madeline Fish
J Colin Heffernan

Joanne Gadon joined the meeting at 7:02 p.m.
Michael Cianfaglione joined the meeting at 7:03 p.m.

Absent Members

Attendant Staff

Chris Costa, Zoning Enforcement Officer
Stella Beaudoin, Clerk

Audience: There were four audience members.

Seated for the meeting were R Friedmann, M Caldarella, G Lewis, M. Fish, J Colin Heffernan

III. REGULAR BUSINESS

A. MINUTES

MOTION to approve the Regular Meeting Minutes of April 17, 2017 as presented; **MADE:** G Lewis;
SECONDED: M Fish; **VOTING IN FAVOR:** R Friedmann, M Caldarella, G Lewis, M. Fish;
ABSTAINING: J Colin Heffernan; **OPPOSED:** None; **APPROVED:** 4-1-0.

B. CORRESPONDENCE

MOTION to approve Invoice #1123238 in the amount of \$610.50 from Halloran & Sage, LLP;
MADE: G Lewis; **SECONDED:** R Friedmann; **VOTING IN FAVOR:** R Friedmann, M Caldarella,
G Lewis, M. Fish, J. Colin Heffernan; **ABSTAINING:** None. **OPPOSED:** None. **APPROVED:** 5-0-0.

IV. PUBLIC HEARINGS

A. "Spencer 95, LLC" Application for Special Exception Use Permit

Construct 21,828 s.f. three-story, self-storage building and parking lot
47 Spencer Plain Road, Map 25/Lot 25, Gateway Business B-4 District

Applicant: Spencer 95, LLC Agent: Patrick M. Benjamin, P.E.

ACTION: Open public hearing; continue or close by 6/5/2017 (NLT 6/18/2017)

Pat Benjamin, Civil Engineer, Bascom and Benjamin presented. The proposal subject to this application is for a three-story, climate controlled, self-storage building, total area of 64,922 s.f. The property was purchased one year ago and there was a DEEP Consent Order in place due to the existing bulky waste onsite. P Benjamin stated that the new owners are entering into a new Consent Order with the CT DEEP, with a closure plan to cover the rear areas of the property. FEMA has issued a map amendment in the past year. The first floor is 21,000 s.f. with 24-foot wide front entrance and there are a total of 438 units in the building with one space per 20 units, which translates to 22 parking spaces. The septic system is located in the front of the property which was one of only two areas available on which to situate the septic.

P Benjamin stated that the IWWC has approved a Permit for this application and approval for the septic has been issued by the Health Department. The Architectural Review Board approved the lighting proposal and the planting schedule. The lighting on the portion of the building facing I95 is comprised of seventeen, 13 watt, LED canned lights which are not a full cut-off. P Benjamin stated that this up and downward lighting will showcase the building from I95. There are three, 100 watt, LED lights over the Saybrook Storage sign to the main entrance facing Spencer Plain Road and three, 100 watt, LED lights over the adjacent sign facing I95. There is a four-foot retaining wall situated on the west face of the structure. There will be no storage of dangerous or hazardous materials permitted on site. The curb cut modification plans will be submitted to the CT DOT for their approval. Per the Flood Insurance Rate Maps, the building is located in an A Zone where the base flood elevations have not been determined. However due to an apparent mapping inaccuracy, the applicant applied and subsequently received approval from FEMA for a Letter of Map Amendment which officially removes this area from the regulated Special Flood Hazard Area.

P Benjamin noted that there are a total of 36 of the proposed 13 watt, LED can lights which will be mounted flush to the building and they will not be full cutoff lighting as they will illuminate both upward and downward. The can lighting is mounted throughout the building from approximately 8 feet to 18 feet from ground. In order to be compliant with the zoning regulations related to the cut off lighting, P Benjamin stated that he will either place a cap on the top of the lighting so as to be dark sky compliant, or he will select a different fixture. If a different fixture is proposed, P Benjamin stated he will return to the Commission for approval. There is no additional proposed security lighting on the property other than the thirty-six, 13 watt, LED can lighting and the Commission agreed to allow the applicant to have the lighting remain illuminated after the 11pm cut-off.

Heather Atwater, Landscape Designer with Madison Earth Care Services stated that all of the proposed plants to be installed on this site are native to CT. In the front of the property there will be 3 large Maple trees and 2 Dogwood trees installed. Eastern Red Cedar and Northern White Cedar trees will be installed down the entire length of the property. Deciduous plantings will be installed along the foundation of the building, and facing the railroad, flowering shrubs will be installed interspersed with large trees.

P Benjamin stated that the guide rail will remain and will be per the DOT standard.

R Friedmann asked if anyone in the audience wished to speak in favor or in opposition of this proposal.

There was no public comment

The ZEO reviewed all referral responses for the record and stated that there were no objections.

R. Friedmann stated for the record that this proposal involves a three-story building and a variance was granted from the Zoning Board of Appeals. The height of the building is 34.7' which is under the height limit.

MOTION to close the public hearing for special exception use permit for "Spencer 95, LLC Application for Special Exception Use Permit, Construct 21,828 s.f. three story, self-storage building and parking lot, 47 Spencer Plain Road, Map 25/Lot 25, Gateway Business B-4 District; **MADE:** R. Friedmann; **SECONDED:** G. Lewis; **VOTING IN FAVOR:** R. Friedmann, M. Caldarella, G. Lewis, M. Fish, J. Colin Heffernan; **ABSTAINING:** None. **OPPOSED:** None. **APPROVED:** 5-0-0.

MOTION to approve the special exception use permit for "Spencer 95, LLC Application for Special Exception Use Permit, Construct 21,828 s.f. three story, self-storage building and parking lot, 47 Spencer Plain Road, Map 25/Lot 25, Gateway Business B-4 District with the following note: 1) The Zoning Commission approved an alternative landscaping scheme along the Amtrak railroad line; 2) The caps on the up and down lighting fixtures will be installed; 3) There will be no outdoor storage of hazardous materials and the applicant agrees that no hazardous materials will be stored anywhere on site; **MADE:** R. Friedmann; **SECONDED:** G. Lewis; **VOTING IN FAVOR:** R. Friedmann, M. Caldarella, G. Lewis, M. Fish, J. Colin Heffernan; **ABSTAINING:** None; **OPPOSED:** None; **APPROVED:** 5-0-0.

B. "La Marea Restaurant" Modification to Special Exception Use Permit

Concrete patio with 40 outdoor seats and 144 s.f. cooler

732 Middlesex Tpke., Map 63/Lot 11, Shopping Center Business B-2 District

Applicant: Erikelari, LLC Owner: Alfonso & Juliana R. Pisanzi

ACTION: Open public hearing; continue or close by 6/5/2017 (NLT 6/18/2017)

Gary Dayharsh presented on behalf of this proposal seeking approval for the construction of an outdoor patio with 20 outdoor seats, and the installation of a 12' x 12' cooler to be situated on the exterior of the building. G. Dayharsh stated that he has made the center island larger per the request of the CT Department of Transportation (DOT) and the dumpster has been relocated to the rear of the building. G. Dayharsh stated that he has created planting islands in the parking lot. The fence around the dumpster is not yet installed as the fence company is running behind schedule, however the fencing should be installed in the next week or two. The patio will be installed in the front of the restaurant where there is currently a planting area and a DOT heavy guard rail will be installed as a safety precaution. The cooler will be just outside of the back door of the restaurant and not visible from the street. The lighting will remain as it exists. Insofar as the parking count, 106 seats were originally proposed with the requirement of 36 spaces. Currently there are 45 spaces with 100 seats, and G. Dayharsh stated that he is proposing to add 20 additional seats with a total of 49 parking spaces.

R. Friedmann stated that the Commission will typically permit outdoor seasonal seating which does not trigger additional parking calculations. R. Friedmann confirmed that the dumpster has been moved to rear of the building and that the unit will be screened. The patio will be situated to the left of the front of the entrance. There will be no change in where the pavement is located for the parking.

R. Friedmann asked if anyone wished to speak in favor or in opposition of this application.

C. Costa discussed the November 8, 2016 list of outstanding items related to this proposal.

1. A Certificate of Occupancy has not yet been issued due to a lack of Zoning Compliance.
2. The landscaping islands on the north and south sides have been installed and the landscaping is completed. The trees which are to be situated on the new islands have not yet been installed.
3. All seven of the curb stops along northern property line have been installed.

4. The dumpster was relocated from the southeast corner as stipulated in the original approval and the Commission noted that the new location of the dumpster to the rear of the building places it within the landscape buffer.

G Dayharsh stated that he will relocate the dumpster to the original location on the southeast corner of the property and the pad that has been situated on the southeast corner will be removed and he will discuss with the CT River Area Health District.

The island within the State of CT right-of-way has been reviewed by the Commission. The parking was originally approved for 36 spaces, however there have been extra spaces installed which were not previously approved. G Dayharsh stated that he will stick to the approved 36 onsite spaces, however if applicant has additional spaces approved by the State DOT, that would be outside of the purview of the Zoning Commission.

R Friedmann stated that the Commission will approve of the 36 on site spaces and the applicant may have an agreement with the state DOT for parking spaces, however the 8 spaces off site are not being counted towards Zoning Compliance.

5. The van accessible handicap sign which is a requirement, has not yet been installed.
6. The four bollards situated around the mantle covers for the sanitary system have been installed.
7. In the southeast corner of the rear property there are two concrete blocks, however three concrete blocks were shown on the original plan.

G Day harsh stated that there are two existing concrete blocks and he indicated that he will install the third concrete block. G Dayharsh expressed concern that the 3rd block may violate the Health Code. The Commission acknowledges that the new concrete block which was installed by the gas line was added as a requirement per the Fire Marshal.

The Commission noted that the original approval was for the 36 onsite parking spaces and the applicant may have an agreement with the State of CT DOT for parking spaces which is outside of what the Zoning Commission has approved for parking. The Commission requested that the applicant provide an as-built plan reflecting the location of the dumpster in the originally proposed southeast corner location, and those conditions that were placed on the previous approval will be completed before the Commission will allow the installation of outdoor seating. Mr. Dayharsh agreed to provide the ZEO with an as-built location survey as a result of the multiple amendments on the property.

MOTION to continue the public hearing for modification to exception use permit to the June 5, 2017 meeting for "La Marea Restaurant" **Modification to Special Exception Use Permit**, Concrete patio with 20 outdoor seats and 144 s.f. cooler, 732 Middlesex Tpke., Map 63/Lot 11, Shopping Center Business B-2 District; **MADE:** R. Friedmann; **SECONDED:** G. Lewis; **VOTING IN FAVOR:** R. Friedmann, M. Caldarella, G. Lewis, M. Fish, J. Colin Heffernan; **ABSTAINING:** None; **OPPOSED:** None. **APPROVED:** 5-0-0.

V. NEW BUSINESS

- A. **Preliminary Discussion: Zoning Regulation Amendment to allow for temporary animal adoption events in business districts.**
Applicant: John Morrison

John Morrison presented on behalf of the Dog Days animal adoption event proposed to occur at property located at 923 Boston Post Road. The site does not qualify for commercial kennel activity. J. Morrison came to the Commission to discuss a possible regulation amendment to allow for temporary pet adoption events on this site where the animals will not be onsite for more than three nights.

The ZEO advised that J Morrison is seeking guidance to make a determination if he will proceed with a petition to amend the regulations, and for guidance as to whether Section 53 Kennel should be amended to allow a certain number of days for animal adoption event in a commercial zone, not to be considered a kennel, or if a new regulation should be created to handle temporary animal adoption events. The ZEO advised that kennels are allowed in residential districts, expressly prohibited in industrial districts and not listed as a permitted use in the business zones and that it would be helpful to J Morrison to discuss appropriate locations.

J. Colin Heffernan stated that modifying the text within the regulations to custom fit one situation at the bowling alley creates a precedent.

J. Morrison suggested a text amendment that made a provision for adoption events to be approved by special exception pending approval by the Zoning Commission.

The Commission felt that a variance application is not appropriate since there is no hardship. The Commission was clear that they were not making any finding for or against the proposal however they did express concerns that the length of time it would take for a text amendment and a special exception permit would not occur in time for a July adoption event.

If J. Morrison returns with a petition, it was suggested that the term "animal shelter" is defined separately from "kennel" and include special standards for special uses for animal shelters.

J Colin Heffernan left the meeting at 9:15 p.m.

VI. COMMITTEE, REPRESENTATIVE AND STAFF REPORTS

Structure and Coverage Discussion The ZEO reported that Joe Wren, P.E., Indigo Land Design is seeking guidance on the interpretation of the definition of building and structure related to stairs inset in a slope. C. Costa distributed photos of different sets of stairs.

R Friedmann stated that stairs are counted as part of the structure and if the stairs attach to a building, that is counted as building coverage.

The ZEO questioned if there was a one inch gap separating the stairs from the main structure, would the stairs then be considered part of the structure.

R Friedmann stated that the Zoning Commission has counted stairs as those reflected in one of the photographs, as part of building coverage. Steps count as a part of the building even if they are not touching the building, if the steps are taller than six inches from existing natural grade. Steps that are for entry to the building are counted as structure coverage however steps cut into a lawn would be interpreted as not falling under coverage. Steps used as a function of the structure are counted as coverage.

Variances: The Zoning Commission expressed concerns about recent variances being granted by the Zoning Board of Appeals to allow for three story buildings, height variances, decks off two and one half-story buildings and doors.

224 Main Street (Former Old Saybrook Police Department): As follow up from the last meeting, the ZEO advised that the storage of earth materials and equipment have ceased on the property.

30 Mile Brewing – Outdoor Seating: The ZEO stated that this business wishes to place six tables and 20 chairs for outside seating and they have obtained permission from the landlord to do so. The ZEO expressed concerns that the primary use of the property is an industrial brewery with a tasting room as

an accessory retail use. The brewery does not have a Special Exception Permit for a restaurant use so the only way outdoor seating could be allowed would be as accessory to the accessory retail use.

R Friedmann stated that this is a retail establishment for the purpose of calculating the number of outdoor seating. R Friedmann suggested a maximum of two tables and 8 chairs (retail seating) and a visit to the liquor commission. The Commission authorized the ZEO to handle the seating administratively as long as the requested amount complies with the retail outdoor seating regulations.

380 & 400 Boston Post Road, Ford Parking/John Deere: The ZEO reported that she issued a Cease & Desist order as requested by the Zoning Commission for neglecting to obtain zoning compliance as discussed with the Commission at a previous meeting, storage of John Deere products on the area designated for overflow Ford parking and the display of vehicles in the front landscaped area and State Right-of-Way. The property owner contacted the ZEO to advise that he has hired J. Wren to seek appropriate permits.

22 Spencer Plain Road - Big Y: The ZEO reported that Big Y wishes to change the layout of their existing sign to add the word "pharmacy" to their logo. The applicant applied to Architectural Review Board (ARB) and the proposal was continued. The Applicant requested the ZEO ask the Zoning Commission if she could handle the matter administratively and not return to the ARB for final approval.

R Friedmann suggested that the ZEO advise the applicant that she cannot handle this modification administratively and it needs to be a modification to a special exception. R Friedmann recommended that the applicant present their sign proposal to the Architectural Review Board and have an approval from the ARB when they come before from the Zoning Commission for the minor modification to a special exception.

Food Trucks - The ZEO stated that there are staff discussions about amending the Town Peddling and Soliciting Ordinance to allow food trucks. At a previous meeting, the Commission decided that they did not want to regulate mobile or parked food trucks. The ZEO is concerned that an Ordinance change could conflict with zoning interpretations/regulations and wanted to clarify this for the next staff food truck meeting.

The ZEO asked how the Zoning Commission would interpret a food truck parking on private property and would it be classified as a restaurant.

R Friedmann suggested that the Commission maintain its position that food trucks would be monitored through the Selectman's office and not permitted on private property according to the zoning regulations. The Commission asked what locations were being discussed for possible food vending. The ZEO responded that there was discussion about Town owned properties for events and other areas of Town. The Commission expressed concerns about choosing the proper locations in Town. R Friedmann suggested to initially permit food trucks on Town and public property as a starting point.

R Friedmann suggested that the Commission allow the Selectmen to regulate the permitting of food trucks as vendors that can stay in one place. The Zoning Commission does not want food trucks on private land unless there is an existing restaurant or nonprofit single family residence, and the food truck product will not be for sale to the general public.

The Commission had a lengthy conversation on this matter and came to consensus on the following.

- The Zoning Commission prefers not to regulate food trucks under the majority of circumstances and feels an Ordinance amendment is the most appropriate way to address mobile food vending.

- Food trucks parked on private residences or neighborhood association properties for an event are acceptable if the food is not sold to each individual, so that it is similar to having an event catered by a restaurant. No zoning permit is required.
- Food trucks that stop to serve lunch on private properties to construction sites, at a marina or commercial businesses must obtain a Special Exception Permit for a restaurant use if the use is allowed in the Zoning District. A restaurant may apply for a modification to an approved Special Exception to allow for a food truck on the premises.
- A retail, office or other non-restaurant use may apply for a modification of the Special Exception Permit for the property if a restaurant is permitted on the same lot as a Special Exception Use.

VII. ADJOURNMENT

MOTION to adjourn the meeting at 9:50pm. to the next regularly scheduled Zoning Commission meeting on Monday, June 5, 2017 at 7:00 p.m. at Town Hall, 302 Main Street, 1st Floor Conference Room, Old Saybrook. **MADE:** R. Friedmann; **SECONDED:** M. Fish; **VOTING IN FAVOR:** R. Friedmann, M. Caldarella, G. Lewis, M. Fish; **ABSTAINING:** None; **OPPOSED:** None. **APPROVED:** 4-0-0.

Respectfully Submitted

Stella Beaudoin
Recording Clerk