
Zoning Commission Minutes 04/16/2018



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
Ann Marie Thorsen*

Alternate Members
*Michael Cianfaglione
Joanne Gadon
David Papandrea*

REGULAR MEETING MINUTES

Monday, April 16, 2018 – 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

Madeline Fish

Ann Marie Thorsen

Michael Cianfaglione, arrived at 7:03 p.m., seated for G. Lewis

Absent Members

Geraldine Lewis

Joanne Gadon

David Papandrea

Attendant Staff

Chris Costa, Zoning Enforcement Officer

Kathy King, Recording Clerk

There were 10 people in the audience.

III. REGULAR BUSINESS

A. MINUTES

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| <p>MOTION to approve the regular meeting minutes of April 2, 2018 as presented MADE: R. Friedmann; SECONDED: M. Caldarella; VOTING IN FAVOR: R. Friedmann, M. Fish, A. M. Thorsen, M. Caldarella; ABSTAINING: None. OPPOSED: None. APPROVED: 4-0-0.</p> |
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B. CORRESPONDENCE

A memo dated 4/6/18 was received from Susie Beckman, Economic Development Director re: a representative from the Zoning Commission participate as a member of the Mariner's Way Redevelopment Committee.

R. Friedmann had concerns that having someone from the Zoning Commission serve as a representative participating on the Mariner's Way Redevelopment Committee could cause a conflict if that person was then to vote on a development application that came before the Zoning Commission. C. Costa said she would draft a letter on behalf of the Zoning Commission to S. Beckman acknowledging these concerns.

R. Friedmann read from a letter received from the State of CT Department of Housing (DOH) notifying the Town of Old Saybrook that they will not be receiving any money for the incentive housing payments for the Post & Main development at North Main Street. Costa and Friedmann explained that the State requires the Town to submit an application to the State for preliminary determination before adoption of the zone. The Commission was petitioned to amend the map and text by the Applicant and did not have the time to meet the statutory application processing timelines for petition approval and meet the DOH pre-determination application requirements since the timelines conflict. R. Friedmann and C Costa explained that although the development is recognized as a success in the housing community, the DOH does not recognize the development as consistent with their program. The Commission acknowledged that too much time has been invested in trying to implement the State program for incentive housing regulations and that in the future the Commission will consider adopting their own regulations to promote affordable housing instead of trying to implement the State model.

IV. NEW BUSINESS

A. **Application Fee Waiver Request – Central CT Pediatric Dentistry, 1017 Boston Post Road, Map 28 / Lot 38, Shopping Center Business B-2 District, Pedestrian Node, Coastal Area Management (CAM), Application for Special Exception Permit**

The applicant is requesting a waiver of application fees for a revised application that they are submitting. The prior application was denied by the Zoning Commission. C. Costa explained in detail some of the fees that applicants pay which include public hearing advertising fees, mailings, processing fees, staff time, ordinance 71 fees, etc. These fees can add up to hundreds of dollars. Town Attorney Michael Cronin wrote a written response in which he stated that the Zoning Commission can waive fees under certain circumstance, but it cannot be because the applicant was disappointed in a recently denied application. He recommended the ZC use discretion in making their decision.

R. Friedmann said, and commissioners agreed, that a fee waiver was not appropriate in this circumstance.

MOTION to deny the Application Fee Waiver Request – Central CT Pediatric Dentistry, 1017 Boston Post Road, Map 28 / Lot 38, Shopping Center Business B-2 District, Pedestrian Node, Coastal Area Management (CAM), Application for Special Exception Permit. **MADE:** R. Friedmann; **SECONDED:** M. Caldarella; **VOTING IN FAVOR:** R. Friedmann, M. Fish, A. M. Thorsen, M. Caldarella, M. Cianfaglione; **ABSTAINING:** None. **OPPOSED:** None. **APPROVED:** 5-0-0.

V. DELIBERATIONS

- A. **Petition to Amend the Old Saybrook Zoning Regulations** for a new overlay zone entitled Section 57 Gateway Expanded Business Zone. The proposed regulations would expand Special Exception uses in the Gateway Business B-4 District to allow restaurants with drive-through windows/substations, retail sale of gasoline/fuel/ and accessories as an accessory use to a restaurant, convenience store or other permitted commercial use, an informational welcome center and one or two additional free-standing signs when a property abuts I-95.
Applicant: 52 Spencer Plain Road, LLC Agent: Attorney David M. Royston

R. Friedmann explained that the public hearing has been closed therefore no one is allowed to speak in favor of or in opposition to this application at this time. M. Cianfaglione was seated for G. Lewis to vote on this matter.

Referrals were received from the Planning Commission, the Architectural Review Board, Marci Balint from the CT DEEP, RIVERCOG, resident Tedd Levy who is in opposition, the Economic Development Commission, Town Planner Christine Nelson and Zoning Enforcement Officer Chris Costa.

The applicant said he would be amenable to changing the number of feet of proximity of the development to I-95 as a condition of approval. R. Friedmann felt that to have anything other than 0 feet from the property to I-95 would be detrimental to the boundaries of zoning districts. There should be no distance from the right of way.

The applicant stated that he had no objection to striking the welcome center from the plan. R. Friedmann explained that if the gross floor area of the buildings exceeded 30,000 s.f., a part of the building would be required to be a welcome center.

The additional visibility along I-95 is what the developers are seeking. R. Friedmann is concerned about sign changes. A 200 s.f. sign is presently prohibited in the B-4 Business District under Section 11 of the Zoning Regulations. Because it would be allowed in the overlay zone, a sign of 200 s.f. would be allowed and would cause a potential violation of uniformity of the sign regulations.

R. Friedmann also expressed concern about the discrepancy in that a restaurant in the proposed overlay zone would be allowed a 200 s.f. sign. Yet if that same restaurant was located in a different part of town, its sign would be restricted in size and height.

The proposal says the sign could be put on the edge of the property on I-95. The height of the sign is determined by the height of the nearest building. This means the sign could potentially be 45 feet tall. He said he felt it was not in Old Saybrook's best interest to allow signs that are not already allowed in town.

There could be a total of 10 signs permitted for this development because it's in the overlay district as opposed to 5 signs permitted in the regular B-4 Business District. Allowing all of the extra signage would not be consistent with the character of town.

R. Friedmann is opposed to any application that would change the regulation for the height and square footage of any signage. He is also concerned about light pollution from this development.

The proposed Section 57 would take away the Zoning Commission's authority for regulating zoning because as it's been presented, the overlay zone trumps the underlying B-4 Zone.

There was discussion about "accessory use" as defined in the Zoning Regulations. Accessory is clearing subordinate to a principal use. The gas station and fast food restaurants don't really clarify which is the accessory and which is the principal. This would create unclear Zoning Regulations.

Regarding the use and purpose described in the petition, R. Friedmann said he did not feel gas stations and fast food restaurants were regional businesses.

M. Fish said the applicant has a firm plan for a certain location, and yet the zoning change could possibly be laid down over other B-4 District properties. She is not comfortable with that. If other lots in other parts of town in B4 Districts were combined, potentially there could be another overlay zone.

MOTION to deny Petition to Amend the Old Saybrook Zoning Regulations for a new overlay zone entitled Section 57 Gateway Expanded Business Zone. The proposed regulations would expand Special Exception uses in the Gateway Business B-4 District to allow restaurants with drive-through windows/substations, retail sale of gasoline/fuel/ and accessories as an accessory use to a restaurant, convenience store or other permitted commercial use, an informational welcome center and one or two additional free-standing signs when a property abuts I-95. Applicant: 52 Spencer Plain Road, LLC; Agent: Attorney David M. Royston.; MADE: R. Friedmann; SECONDED: M. Caldarella; VOTING IN FAVOR: R. Friedmann, M. Fish, A. M. Thorsen, M. Caldarella, M. Cianfaglione; ABSTAINING: None. OPPOSED: None. APPROVED: 5-0-0.

Following the motion, Attorney Royston asked the reasons for the denial.

R. Friedmann said the denial of this petition was a legislative decision made by the Zoning Commission and the reasons were outlined in the deliberations.

VI. PRELIMINARY DISCUSSION

Preliminary Discussion – Application for Special Exception Use/8-30g Site Plan Review to construct 2,300 s.f. building for restaurant and 2 second story apartments.

76 Elm Street, Map 36 / Lot 97, Business B-2 District, Pedestrian Node

Applicant: 76 Elm, LLC Agent: Michael Ott, P.E.

M. Ott, P.E. presented for the applicant. Also present were Neil Hauck, Architect; Chad Frost, Landscape Architect; and Attorney Marjorie Shansky.

The applicant would like to apply for a 57 seat restaurant with 2 second story apartments. There is enough parking for both. The property the applicant is looking to acquire is a pre-existing non-conforming lot. The applicant intends to meet all of the setbacks and other Zoning Regulations.

The applicant will come back to the Zoning Commission with a revised site plan which will include the property to the south of 76 Elm Street.

Neil Hauck showed a conceptual plan for the building to orient Commissioners to the use of the property for both the restaurant and the apartments.

There applicant is proposing an open floor plan which includes an open bar and an open kitchen. They would like an outdoor dining deck as well.

The exterior would be a modern barn concept. N. Hauck talked about materials that would be used for siding, awnings and roofing.

R. Friedmann said the concern is that the relative mass of the structure in relationship to the other buildings nearby particularly the residential properties. He also emphasized that adequate parking is important.

Chad Frost said they have not put anything on paper yet because the plan has not been solidified. He talked about the number of street trees and screening for abutting neighbors. He asked for Commissioner input as well.

R. Friedmann asked that the applicant be sensitive to visibility at the dangerous intersection between Lynde Street and the Old Saybrook Shopping Center. He also asked that the applicant be sensitive to screening between the proposed building and the small adjacent shopping center adjacent as well as to abutting residences.

VII. OLD BUSINESS

A. OUTDOOR SEATING RENEWALS

MOTION to approve the 2018 outdoor seating application renewals. No changes have been proposed from the 2017 outdoor seating renewal approvals except for the addition of a few new restaurants. **MADE:** M. Caldarella; **SECONDED:** R. Friedmann; **VOTING IN FAVOR:** R. Friedmann, M. Fish, A. M. Thorsen, M. Caldarella, M. Cianfaglione; **ABSTAINING:** None; **OPPOSED:** None. **APPROVED:** 5-0-0.

VIII. COMMITTEE, REPRESENTATIVE & STAFF REPORTS

A letter dated 4/9/18 was received from Kelli-Marie Vallieres, PhD, President/CEO, Sound Manufacturing, Inc. Monster Power Equipment, Inc. regarding Fortune Property, 1 Williams Lane, Old Saybrook, CT. Sound Manufacturing is looking to relocate to 1 Williams Lane, the former site of Fortune Plastics. The ZEO distributed a statement of use. The property is in the Industrial Zone. The Zoning Commission advised the ZEO to handle this administratively.

665 Boston Post Road -ZEV Energy is working with Stop and Shop. ZEV left information for the ZEO about adding solar parking canopies to charge electric cars in the Old Saybrook Shopping Center. The Commission determined that the addition would require a modification to the Special Exception Permit. R. Friedmann stated that for public health and safety, there would have to be approval from the Fire Department, The EMTs and the Fire Marshal to be sure the charging station canopies will not impede first responders.

Medical Marijuana Dispensaries – The ZEO advised that the inquiries and requests for information relating to possible locations for medical marijuana dispensaries continue. It was the understanding of the ZEO that applications had to be submitted to the Commission by April 9th in order to qualify for obtaining a license from the State of CT. One application has been received so far for 5 Custom Drive. Other applications may be submitted in the near future.

OSZC v. Oceanside Auto, **810 Middlesex Turnpike** – The defendants have been served and the complaint has been filed with Middletown Superior Court.

Burger King, **607 Boston Post Road** – The ZEO continues to receive complaints about the appearance of the perimeter fence that has fallen down and partially removed. The ZEO sent a letter requesting the fence be repaired or replaced for compliance with the Special Exception Permit.

S&S Marine, **18 Riverside Avenue** - The ZEO has been requesting compliance with the Special Exception Permit for over one year. S&S continues to occupy the premises without zoning compliance. Halloran & Sage sent a litigation warning letter on behalf of the Commission in February. The surveyor contacted the ZEO last week requesting information on what was required for an as-built location survey.

O'Reilly Auto Parts, **899 Boston Post Road** – O'Reilly will be expanding the landscaping island to the eastern property line, adding sidewalks from property line to property line and has reduced the height of their sign which reduces the non-conformities on the property.

Attorney Branse will be issuing a letter to the Department of Consumer Protection per the request of the Zoning Commission lodging a complaint relating to flashing signs and lack of compliance with State Regulations. Draft language to amend flashing signs will be prepared for the Commissions review at a later meeting.

Lenscrafters, **607 Boston Post Road** – As a response to complaints, the ZEO has issued a second letter requesting adjustment to the enter/exit sign lighting blinding motorists.

Enforcement – The ZEO is responding to a number of complaints relating to unregistered motor vehicles, boats and trailers improperly stored on residential properties. A number of

businesses and signs have appeared without zoning compliance. The ZEO is working on drafting orders to address these violations.

The ZEO expects the next few zoning meetings to be busy. Five new applications have been received in the office and she expects more to be delivered in the next several weeks.

IX. ADJOURNMENT

MOTION to adjourn the meeting at 9:15 pm. to the next regularly scheduled Zoning Commission meeting on Monday, May 7, 2018 at 7:00 p.m. at Town Hall, 302 Main Street, 1st Floor Conference Room, Old Saybrook. **MADE:** M. Caldarella;
SECONDED: M. Fish; **VOTING IN FAVOR:** R. Friedmann, M. Fish, A. M. Thorsen, M. Caldarella, M. Cianfaglione; **ABSTAINING:** None; **OPPOSED:** None.
APPROVED: 5-0-0.

Respectfully Submitted

Kathleen King
Recording Clerk