

CITY OF NORWALK
PLANNING & ZONING COMMISSION MINUTES
November 16, 2022

PRESENT: Louis Schulman, Chair; Jacquen Jordan-Byron; Tammy Langalis; Darius Williams; Mike Mushak

STAFF: Steve Kleppin; Michelle Andrzejewski

OTHERS: Atty Darin Callahan; Atty Chris Russo; Beverly Krieger; Atty Liz Suchy; Pete Romano; Michael Tierney; Patricio Misitrano; Ethan Schukoske; Atty Adam Blank; Jake Barr;

I. CALL TO ORDER

Mr. Schulman called the meeting to order at 6:04 p.m. It should be noted that this meeting was held on Zoom.com with all participants calling in, separately.

II. ROLL CALL

Mr. Kleppin called the roll. Mr. Shulman said that since two commissioners were absent from the meeting, Mr. Williams would be able to vote on all resolutions.

III. PRELIMINARY REVIEW

a. Preliminary review and discussion of proposed improvements at 41 Wolfpit Avenue (District 5, Block 16, Lot 1A) “Dreamy Hollow”

Mr. Schulman noted that this application had been withdrawn.

IV. REVIEW & ACTION ON APPLICATIONS

a. #2022-54 8-24 Referral – Department of Public Works – Request for the City of Norwalk to revise their easement agreement(s) with Eversource regarding underground electrical lines for purposes of the Walkbridge Project – Report & recommended action

Mr. Kleppin gave a brief overview of the application by orienting them as to the locations of the easements on an aerial map. He indicated that utilities would be re-routed. He explained that the utility lines would be underground and a much better aesthetic in South Norwalk. There was a discussion about the possibility of repairs. Atty Darin Callahan said that he understood the wires could be underground for 40-50 years without needing to be repaired. There would also be a vault on Route 136.

There was a discussion about the trees and stone walls in front of Veteran's Park and a concern about them being cut down. Ms. Langalis noted that Eversource had taken down a lot of trees in other parts of the city. There was also a discussion about which trees would be designated for removal and which would remain. Ms. Langalis asked that the trees Eversource removed should be re-planted.

**** MR. WILLIAMS MOVED: THEREFORE BE IT RESOLVED** that the request for the City of Norwalk to revise their easement agreement(s) with Eversource regarding underground electrical lines for purposes of the Walkbridge Project is consistent with the Plan of Conservation and Development and is **APPROVED**.

Mr. Mushak seconded.

Louis Schulman; Jacquen Jordan-Byron; Tammy Langalis; Darius Williams; Mike Mushak approved.

No one opposed.

No one abstained.

b. #2022-45 SP – 8-10 Pulaski Street – Modification of application #16-97 SP to add an additional dwelling unit to existing 15-unit development for a total of 16-units on site – Report & recommended action

Atty Chris Russo began the presentation by noting that he had submitted a request for a continuance. He noted that the Department of Public Works (DPW) had requested additional information which the applicant was in the process of submitting which was the reason for the request for a continuance. The Planning and Zoning Department staff would notify Atty Russo when it would be back on the agenda.

V. PUBLIC HEARINGS

a. #2022-35 Subd/CAM – 22 Lowndes Avenue LLC – 22 Lowndes Avenue – Two Lot subdivision with proposed private alley

Mr. Schulman opened the public hearing and explained the rules of the public hearing.

Atty Russo began the presentation by thanking the commissioners for their patience with this application. He explained that this was a subdivision application and that the applicant was not applying for dwellings to be constructed on the lots. He showed them the site plans for the current lot and oriented the commissioners on it. He noted that the lot has enough area to fit 2 lots. There was a question about the lot width. He noted that the applicant had considered adding private driveways. There was a discussion about a private road which was reviewed by DPW. Atty Russo then noted that the DPW suggested alleys and showed the commissioners the language from their standards. Atty Russo said that this design was ultimately used by the

applicant. It was also reviewed by the Fire Department. He also discussed the definitions of street and private roads.

Atty Russo explained why the Planning & Zoning Department deemed the application non-compliant. He also discussed adding sidewalks and curbs which were required. He then discussed the rear lot. A private association will own the private road. He believed it was compliant with the city's standards. He also thought that the Planning and Zoning Commission could waive standards. He noted that they are not applying for a dwelling on the property.

At this point, Mr. Schulman asked the staff to comment on this application. Ms. Andrzejewski discussed the lot width which was the reason the application did not comply including the alley. She noted Atty Russo's arguments that there had been other areas in the city similar to this one, which, in fact, there had not been. Mr. Kleppin said that it does not comply with the lot width. He also discussed the terminology for alley, which is not to be used as a road. He thought that some of what the applicant had shown them was not compliant.

There was a discussion about developing the lot as a single lot, as well as why rear lots are not allowed in the C and B zones.

At this point, Ms. Andrzejewski explained how members of the public could speak on this matter.

Beverly Krieger, 9 Seabrings Place, noted that this was a waterfront parcel. She also noted that the applicant was doubling the density on these parcels. She had questions about the survey because there were no buildings on the actual property.

Atty Russo addressed the remarks about the alleys. He also noted that this property could be divided into 3 lots which would make it a more intensive use. He also discussed the drainage which would be improved. He also explained that the applicant had to remove asbestos on the site.

There was a discussion about the survey and that it was not updated. Atty Russo said the structures had been removed from the property. Both had been non-conforming. Mr. Schulman had concerns that they had not received an accurate survey. Atty Russo said that the applicant could provide an accurate survey.

Mr. Schulman closed the public hearing.

i. Action on #2022-35 Subd/CAM

Ms. Andrzejewski showed the commissioners the motion to deny and said that staff did not provide a motion to approve. Mr. Schulman asked if anyone would like to make a motion to approve.

**** MR. WILLIAMS MOVED: THEREFORE BE IT RESOLVED** that 22 Lowndes Avenue LLC – 22 Lowndes Avenue – Two Lot subdivision with proposed private alley be **APPROVED**.

Ms. Langalis seconded.

Mr. Schulman said that he did not think this application complied with the regulations and he would be voting against it. Mr. Mushak said he would vote against the motion to approve. It would be similar to voting yes on the motion to deny.

Tammy Langalis approved.

Darius Williams; Mike Mushak; Louis Schulman opposed.

Jacquen Jordan-Byron abstained.

After the first vote, Mr. Mushak suggested also voting on the motion to deny. There was a discussion as to whether they should. Mr. Kleppin clarified the By-Laws, which had been revised in August, for the commissioners. He said that they did not need 5 votes but a majority.

**** MR. MUSHAK MOVED: THEREFORE BE IT RESOLVED** that application #2022-35 SUBDV CAM – 22 Lowndes Avenue, LLC - 22 Lowndes Avenue – 2 Lot Subdivision with proposed private road be **DENIED**, since the application does not comply with City of Norwalk, Subdivision and Resubdivision Regulations, and Buildings and Zoning Regulations, for the following reasons:

1. The applicant does not comply with the definition of lot width. (Norwalk Building Zone Regulations, Article 10, Section 118-100, Definition, LOT WIDTH)
2. The applicant does not have sufficient lot width of 50' for each proposed lot that shall front on a publicly accepted street, a street proposed for public acceptance or a private road conforming to, or to be constructed to, City standards. (Norwalk Building Zone Regulations, Schedule Limiting Height and Bulk of Buildings Part 1, 'C' Residence Zone, Width) (Norwalk Subdivision and Resubdivision Regulations, Sec. 3.04, LOTS)
3. This is not a private road since it does not meet the City road standards. (Norwalk Subdivision and Resubdivision Regulations, Sec. 3.24, PRIVATE ROADS)
4. That Lot B is a rear lot and Lot A is non-compliant that does not have the required lot width that fronts on a publicly accepted street, a street proposed for public acceptance or a private road conforming to, or to be constructed to, City standards. (Norwalk Building Zone Regulations, Article 10, Section 118-100, Definitions, LOT, REAR) (Norwalk Resubdivision and Resubdivision Regulations, Sec. 3.04 LOTS) (Norwalk Building Zone Regulations, Article 10, Section 118-100, Definitions, LOT WIDTH)
5. Rear lots shall not be permitted in the C Residence Zone. (Norwalk Building Zone Regulations, Article 30, 118-350. 'C' Residence Zones (C)(1.)

6. The applicant has not applied the cul-de-sac, curbs, sidewalks, or street trees standards nor has the applicant noted these requested waivers on the final subdivision or resubdivision plan. (Subdivision and Resubdivision Regulations, Sec. 3.18 CUL-DE-SAC STREETS, 3.27 SIDEWALKS, and 3.28 CURBS)

7. Staff's position is this application does not comply with the Subdivision and Resubdivision regulations. This proposal is to circumvent the Building Zone Regulations.

BE IT FURTHER RESOLVED that the effective date of this decision shall be November 28th, 2022.

Mr. Williams seconded.

Darius Williams; Mike Mushak; Louis Schulman approved.

Tammy Langalis opposed.

Jacquen Jordan-Byron abstained.

b. #2022-49 SP/CAM – 129 Woodward Ave LLC – 129 Woodward Avenue – Reuse of the existing building as a commercial recreation establishment

Mr. Schulman opened the public hearing.

Atty Liz Suchy began the presentation with an introduction of the project team. She then gave a brief history of the application. A certificate of filing as well as the return receipt cards, evidencing notice of the public hearing had been received by the Planning and Zoning Department. She gave a description of the property as well as the proposed use of the building. She explained the hours, lighting on the property. She explained how pickleball and padel were played. She noted what approvals had been received.

Pete Romano continued the presentation by orienting them on an aerial map as to the location of the property. He then showed them the site plan which included EV stations on the property. He also discussed the parking.

There was a discussion about the roof and why solar panels could not be accommodated on it. Mr. Romano said that the roof may not be able to support them. There was also a discussion about the landscaping. There was also a discussion about the indoor recreation area which would be used for a school in the building and whether there would be a relationship between the school and the recreation establishment. There was also a discussion about whether sidewalks in the area.

Michael Tierney, the project engineer on the project, continued the presentation by showing them the site plans. He noted there were no major changes to the outside of the building except for signage. He showed them the pickleball courts, plans for the interior floors. There was a discussion as to whether there would be seating for spectators. Mr. Misitrano said

that it would be similar to racquetball clubs.

There was also a discussion about whether there would be a membership model or open to the public. Mr. Misitrano said that it would be both. There was also a discussion as to whether there would be seating outside. Atty Suchy said there would not be unless they decided to add benches outside. Everything would be inside.

Ethan Schukoske, the traffic engineer on the project, continued the presentation by describing how they did the traffic analysis. He said that the traffic would not make any significant impacts on the roadways in the area.

There was a discussion about whether the applicant would reinforce the roof to accommodate the solar panels. Atty Suchy said that the applicant would be meeting with solar consultants to see whether it is feasible, including a solar canopy.

Ms. Langalis said the building is vacant. There was a discussion as to what would happen if pickleball is not popular in 10 years.

Ms. Andrzejewski explained how the public could speak on this matter. However, there were no members of the public that spoke.

Atty Suchy summarized and asked that the commissioners voted in favor of the application since it complied with the city's regulations.

Mr. Schulman closed the public hearing.

i. Action on #2022-49 SP/CAM

**** MR. WILLIAMS MOVED: THEREFORE BE IT RESOLVED** that application #2022-49 SP CAM – 129 Woodward Ave, LLC – 129 Woodward Avenue – Use the existing building as a commercial recreation establishment be **APPROVED** subject to the following conditions:

1. That the building and site be developed in accordance with the following plans:
 - a. Per site plan dated 9/16/2022 and revised 11/2/2022 prepared by LANDTECH Westport, CT; and
 - b. Per architectural plans dated 8/22/2022 and revised 9/19/2022 prepared by Rogers McCagg Norwalk, CT; and
2. That all department sign-offs are obtained prior to issuance of any Zoning Permit; and
3. That all City storm-water management requirements are met; and
4. That any conditions as required by Norwalk DPW shall apply to this approval; and
5. That any conditions as required by Norwalk WPCA shall apply to this approval; and
6. That any conditions as required by Norwalk TMP shall apply to this approval; and

7. That all required soil sedimentation and erosion controls are in place prior to the start of any construction; and
8. That any additional needed soil sedimentation and erosion controls be installed at the direction of the Staff; and
9. That any and all HVAC units shall be located in conformance with the applicable zoning setbacks and have flood certifications; and
10. That flood certifications be submitted prior to issuance of a zoning permit by a CT licensed engineer or architect; and
11. A FEMA Floodproofing Certificate for dry floodproofing be submitted prior to the issuance of a Certificate of Zoning Compliance; and
12. The applicant provide the minimum number of required parking spaces for the proposed use and floorplan prior to the issuance of a zoning permit; and
13. That a special permit certificate and mylar of the approved Site Plan (as revised by any conditions of approval) be filed on the Norwalk Land Records prior to the issuance of a zoning permit; and
14. That all signage complies with the Norwalk Building Zone regulations; and
15. Directional arrows be painted in the parking lot to the satisfaction of the Zoning Enforcement Officer; and
16. That any modifications to the approved plan be reviewed and approved by City Staff prior to implementing; and
17. That this approval is subject to Section 118-1460 C. [violations and penalties] of the Norwalk Building Zone Regulations; and
18. That the applicant shall install solar parking canopy and/or rooftop solar panels to the existing building to the greatest extent possible. If solar parking canopy and/or rooftop solar panels cannot be installed the applicant shall provide Planning and Zoning Commission Staff with a feasibility report, indicating why solar panels could not be installed, prior to obtaining any zoning permits; and

BE IT FURTHER RESOLVED that this proposal complies with Section 118-1110 and all applicable coastal resource and use policies; and

BE IT FURTHER RESOLVED that the effective date of this approval shall be November 28th, 2022.

You must obtain a zoning approval and a building permit prior to any work on the site. A building permit must be obtained within one year of the effective date or this SP CAM approval automatically becomes null and void.

Ms. Langalis seconded.

Louis Schulman; Jacquen Jordan-Byron; Tammy Langalis; Darius Williams; Mike Mushak approved.

No one opposed.

No one abstained.

c. #2022-51 SP – John Watts – 4 New Canaan Avenue – Wholesale distribution and retail of auto parts within existing building as well as other site improvements

Mr. Schulman opened the public hearing. Atty Adam Blank began the presentation by orienting the commissioners as to the location of the property on an aerial map. He also showed them the site plans. He explained that although it was a change of tenant use, it was going from retail to wholesale which triggered a special permit application. He explained further the nature of the business. He noted that although the zone had recently changed, the commissioners should review the application under the old zone since they had applied under that zone. He noted that this project would not generate additional traffic. He also noted that they were still waiting for additional signoffs from some agencies and that the certified, return receipt cards, evidencing notice of the public hearing to abutting neighbors, had been provided to the Planning and Zoning Department staff.

Jake Barr said that he worked for Parts Authority. He explained that there were many locations throughout the country. They would hire Norwalk residents.

There was discussion about adding sidewalk access. Atty Blank said that it would be added.

Cory Chase, the traffic engineer, continued the presentation by noting that existing access would be maintained on New Canaan Avenue. He also explained that the traffic would be reduced since this property was going from a retail to wholesale use. He said that the applicant would be servicing gas stations around the city. Many sales would be done through their 6 delivery drivers so less vehicles would be accessing the property.

There was a discussion about which tenants would be staying and leaving the building.

Ms. Andrzejewski explained how the public could speak on this matter. However, there were no members of the public that spoke.

Mr. Schulman closed the public hearing.

i. Action on #2022-51 SP

**** MR. MUSHAK MOVED: THEREFORE BE IT RESOLVED** by the Norwalk Planning & Zoning Commission that application #2022-51 SP – John Watts – 4 New Canaan Avenue - Wholesale distribution facility of auto parts with retail be **APPROVED** subject to the following conditions:

1. That the building and site will be developed in accordance with the following plans:

- a. Per zoning location survey dated 1/14/2022 revised to 11/10/2022 prepared by Thomas A. Deilus, CT
- b. Per architectural plans dated 10/13/2022 prepared by L.F. Garcia Architects LLC., CT
2. That all department sign-offs are obtained prior to issuance of any Zoning Permit; and
3. That all City storm-water management requirements are met; and
4. That any and all conditions required by Norwalk DPW shall be applicable to this approval; and
5. That any and all conditions required by Norwalk WPCA shall be applicable to this approval; and
6. That any and all conditions required by Norwalk TMP shall be applicable to this approval; and
7. That a sidewalk be installed that meet the City Standards; and
8. That vehicle repairing is prohibited on site; and
9. That all erosion and sediment controls be installed and maintained prior to the start of any construction or site work and that additional controls be installed at the direction of the Commission's Staff, as needed; and
10. That any modifications to the approved plan be reviewed and approved by City Staff prior to implementing; and
11. That this proposal complies with all Norwalk Building Zone Regulations; and

BE IT FURTHER RESOLVED that the effective date of this action shall be the date of filing of the Special Permit Certificate and mylar map of the approved site plan with the Town Clerk.

Mr. Williams seconded.

Louis Schulman; Jacquen Jordan-Byron; Tammy Langalis; Darius Williams; Mike Mushak approved.

No one opposed.

No one abstained.

VI. CONTINUED REVIEW OF APPLICATIONS

a. #2022-52 R – Planning & Zoning Commission – Zoning regulation amendment(s) to Article 100, Supplementary Regulations for Business and Industrial

Zones, to permit various cannabis uses with associated standards and requirements – Continued review and discussion

Mr. Kleppin gave a brief overview of what had happened previously on this application. He said that the state had passed regulations legalizing cannabis. The most contentious had been about retail sales. He discussed the recommended regulations from the Planning and Zoning Department staff. One of them was for 3 stores within Norwalk. The next was the location of the store. He showed them a map of eligible sites and their proximity to sensitive sites and schools.

There was a discussion of the process. Mr. Schulman asked for alternatives from the staff.

VII. APPROVAL OF MINUTES: November 3, 2022 Regular Meeting; November 3, 2022 Special Meeting

**** MS. LANGALIS MOVED to approve the November 3, 2022 Regular Meeting minutes.**

Mr. Williams seconded.

Louis Schulman; Jacquen Jordan-Byron; Tammy Langalis; Darius Williams; approved.

No one opposed.

Mike Mushak abstained.

**** MR. WILLIAMS MOVED to approve the November 3, 2022 Special Meeting minutes.**

Ms. Langalis seconded.

Louis Schulman; Jacquen Jordan-Byron; Tammy Langalis; Darius Williams; approved.

No one opposed.

Mike Mushak abstained.

VIII. COMMENTS OF DIRECTOR

Mr. Kleppin said that he had sent a link to the commissioners so they could review a draft of the Zoning regulations. He said that there would be a meeting on November 29 with the consultants so they could ask questions and add comments.

IX. COMMENTS OF COMMISSIONERS

Mr. Schulman noted that 16 units were built on the Pulaski application when they had applied for 15 units. He explained that the applicant had gone before the ZBA and was allowed to do it in exchange for offering the additional apartment at below market rates. He suggested a

large fine such as \$5,000 or \$10,000. Mr. Kleppin said they would work with the Law Department but did not think the fine would be that large. Mr. Schulman asked if the staff could ask other larger cities how they handle this situation. There was a discussion about the blight ordinance that had been passed 12 years ago. The fines added up and property owners would have to pay them when they sold the property since liens were placed on them. A similar framework could work in this situation as well.

X. ADJOURNMENT

Mr. Williams made a Motion to Adjourn.

Ms. Jordan-Byron seconded.

Louis Schulman; Jacquen Jordan-Byron; Tammy Langalis; Darius Williams; Mike Mushak approved.

No one opposed.

No one abstained.

The meeting was adjourned at 9:00 p.m.

Respectfully submitted,

Diana Palmentiero