



PLANNING AND ZONING COMMISSION

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MINUTES PLANNING & ZONING COMMISSION THURSDAY DECEMBER 7, 2023 REGULAR MEETING 7:00 PM

Commissioners present: J. Chadwick, F. Russo, J. Vaiuso, M. Palluzzi, M. Liguori, S. Huttner, C. Andres

Staff Present: H. Smith (Town Planner) E. Breining (Asst. Town Planner), M. Martin (Clerk)

Chairperson Andres noted that we have a request from the Town Engineer to discuss the CGS 8-24 first. He is present at the meeting. Secretary F. Russo read the public hearing notice into the record.

Chairperson Andres reviewed the public hearing procedures.
E. Breining reviewed how to participate in the public hearing.

J. Chadwick made a motion to hear the CGS- 8-24 first.
F. Russo seconded the motion which passed unanimously.

1. CGS 8-24 Referral- Supply Ponds Bridge Replacement Project

John Heofferle (Town Engineer) was present and explained that the supply pond bridge was built about the 30s and its old and in need of replacement. The concrete bridge is deteriorated along the water line and needs replacement. Branford received a 50/50 grant from the state. He noted that he does not have plans yet to display for the commission. The new bridge will meet the current standards and will be widened and have pedestrian crossing as well. This will require further public outreach to discuss the design.

The commissioners asked a few questions.

M. Palluzzi made a motion for a positive 8-24 referral.
J. Chadwick seconded the motion which passed unanimously.

PUBLIC HEARINGS:

1. Cherry Hill Estates, LLC-Applicant & Owner
26 Cherry Hill Road
PDD/Master Plan Modification-Multi Family Residential
Application #23-6.3
A/R 7/6/23 & PH opened 9/7/23 & continued to 12/07/23 with a time extension from the applicant – Public Hearing must close on 12/7/23
2. Cherry Hill Estates, LLC-Applicant & Owner
26 Cherry Hill Road
Special Exception Modification-Multi Family Residential
Application #23-6.4
A/R 7/6/23 & PH opened 9/7/23 & continued to 12/07/23 with a time extension from the applicant – Public Hearing must close on 12/7/23.
3. Cherry Hill Estates, LLC- Applicant & Owner
26 Cherry Hill Road
PDD/Site Plan modification- Multi- Family Residential
Application #23-6.5
A/R 7/6/23 & PH opened 9/7/23 & continued to 12/07/23 with a time extension from the applicant – Public Hearing must close on 12/7/23.

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Public hearing items 1, 2 and 3 are heard together.

Attorney Timothy Herbst represented the applicant and said he knows we are dealing with statutory timelines of when the public hearing must close, but he has seen past commissions make exceptions to that if the applicant is willing to go beyond the timelines. His applicant is requesting that but if the commission does not have an appetite for that, then he is inclined to withdraw the applications and reapply. He noted he wants to clarify a few items before he withdraws.

Chairperson Andres spoke and said he's inclined to deny the request to continue the public hearing beyond the statutory authority even though the applicant would authorize that since in the past that's what they have done. The applicant can withdraw the applications and reapply. He then asked the commission if they agreed and the commissioners agreed to deny the applicant's request for a time extension.

Attorney Herbst then asked ... he said there was an app to modify pdd and the app was filed by the applicant because there were determinations made earlier this year that there were deviations from the approved plan. Then it was referred to the TCRRB and what he is concerned with that process. He noted that pz has regulations they follow and he felt in his opinion there was a very objective standard by the TCRRB. He went to town hall yesterday and reviewed plans in pz and building dept. And earlier that day, Anthony Cinicola (Building Official) provided him with the permit file. The reason he did that was because he had emailed him and Mr. Smith saying that in order for any building permit to issue, the zeo has to sign off on it. He acknowledges that his client has deviated from the approved plan and that it needs to get fixed. However, he noted what is making this process complicated is that the trrcb has a strong opinion of what they believe the approval was and they are advisory. But when you go thru the file provided by A. Cinicola, and he reviewed the process of who signs off on the application, it is clear that plans were submitted to the building dept but he is not sure if the other depts reviewed those same plans. What he is trying to drill down on is what plan we are operating off of in determining whether changes should or should not be made.

H. Smith said he concurs largely and in everyone's interest, to be absolutely sure what plans were approved by the Zeo during the building permit process is very important. He stated that double checking everything is crucial.

Chuck Andres agreed it is a good idea to withdraw and reapply.

Attorney Herbst made a few more comments and asked if the commission would waive the application fees for the resubmission. He also wants to submit some documents for the record even though he is withdrawing. He also wants to go thru the December 1 memo that was written by staff before they resubmit their applications.

Chairperson Andres said he can submit whenever he is ready and the commission has waived fees in the past.

Tim listed the items that he is submitting for the record, which he will send to H. Smith.

Chairperson Andres asked him to verify that they are withdrawing all 3 applications and will reapply.

Attorney Herbst stated that he is withdrawing all 3 applications.

4. 1064 Main Street LLC, c/o Angela Mazzearella-
Applicant & Owner
1032-64 Main Street
Special Exception-Limited Retail
Application #23-11.1

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A/R 11/16/23 & PH to be set for 12/7/23

E. Breining stated that the applicant is not present. There was an error with the notice requirements and we are opening the public hearing tonight and continuing t this item to the special meeting next week on December 14 at 7pm via zoom.

Chairperson Andres opened the public hearing and continued it to the special meeting next week on Dec. 14, 2023

5. Lakeview Center Associates LLC c/o Attorney Kevin Curseaden-
Applicant & Owner
249-251 West Main Street
Special Exception- Gym
Application #23-11.2
A/R 11/16/23 & PH set for 12/7/23

Attorney Kevin Curseaden (Milford, Ct) represented the applicant (Ed DeLaurentis) who was also present at the meeting, as well as the gym owner(tenant).He noted they are making no changes to the site. This is a new use for this unit (gym). He noted the gym will be open 24 hours a day,7 days a week and that they meet the parking requirements.

E. Breining reviewed the staff report.

Public input: No one spoke.

Chairperson Andres closed the public hearing.

6. Michael Bennick-Applicant & Owner
64 Harbor Street
Special Exception-Oversized Accessory Structure
Application #23-11.3applicant
A/R 11/16/23 & PH set for 12/7/23

Attorney Jeffrey Beatty (Guilford) represented the applicant who was also present. He explained this application is for the demolition of the existing garage and the reconstruction of a new garage with a second story (workspace & bathroom). They received zba approval. The height will be 22 feet. It is in keeping with the neighborhood. He also stated that the neighbors are in support of this.

E. Breining reviewed the staff report.

Public Input: No one spoke.

Chairperson Andres closed the Public Hearing.

MINUTES: 11/16/23

F. Russo made a motion to approve the minutes as written.

J. Chadwick seconded the motion which passed unanimously.

RETURN TO TABLE:

1. Lakeview Center Associates LLC c/o Attorney Kevin Curseaden-
Applicant & Owner
249-251 West Main Street
Special Exception- Gym
Application #23-11.2
A/R 11/16/23 & PH set for 12/7/23

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J. Chadwick made a motion to approve the application with the Findings and Conditions below:

FINDINGS:

1. Subject to compliance with the conditions listed below, the Commission finds, based on the testimony and application materials presented, that the proposed use of the property is consistent with the Special Exception Criteria per Section 9.8.F.

CONDITIONS:

1. All conditions of previous approvals shall remain in full force and effect as they may apply.

F. Russo seconded the motion which passed unanimously.

2. Michael Bennick-Applicant & Owner
64 Harbor Street
Special Exception-Oversized Accessory Structure
Application #23-11.3applicant
A/R 11/16/23 & PH set for 12/7/23

F. Russo made a motion to approve the applications with the Findings and conditions below:

FINDINGS:

1. Subject to compliance with the conditions listed below, the Commission finds, based on the testimony and application materials presented, that the proposed use of the property is consistent with the Special Exception Criteria per section 9.8 of the zoning regulations.
2. This approval exclusively applies to the addition of a second floor above an existing 640 square foot garage. No change in use from the approved single family home is a part of this application and the addition of any units or an accessory apartment would need to be approved by the Planning & Zoning Commission.

CONDITIONS:

1. Prior to the start of construction the following shall be completed to the satisfaction of the Zoning Enforcement Officer:
 - a. Erosion control measures shall be installed and maintained throughout construction, if deemed necessary.
 - b. As may be directed by the Zoning Enforcement Officer, necessary measures to control any dust generated by fill brought into the site or movement of earth material on site shall be implemented.
2. To reduce glare, any proposed lighting fixtures shall be demonstrated to meet the IES full cutoff definition unless they are emergency lights or very low level accent lights (less than 900 lumen output-less than an incandescent 100 watt bulb). Fixed, not adjustable, arm mounts shall be used for all fixtures. The correlated color temperature of the light source for all exterior fixtures, either building or pole mounted, shall be equal to or less than 3000 Kelvin (K). Information on all building mounted and other site lighting shall be provided as necessary to demonstrate compliance with Section 6.7 and the Lighting Appendix referenced in this Section of the Zoning Regulations.
3. Variations in the building envelope less than one foot are considered part of this approval as long they do not create any zoning noncompliance.

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J. Chadwick seconded the motion which passed unanimously.

CORRESPONDENCE:

Pine Orchard Rd- Cell tower at replace antenna

A letter was received from Pat Dugan-(51 Harding Ave.) which he read aloud. It was asking if the Planning & Zoning Commission ever granted permission to hold concerts at the Stony Creek Brewery.

H. Smith then displayed one of the letters that were attached to Pat Dugan's letter (a letter from Dylan Willette from 2022 stating that the town will not be proceeding with any zoning enforcement action.)

Chairman Andres discussed this briefly by saying the letter is a question; whether the pz commission ever approved concerts at the Brewery. He is not aware of any approval by the PZ Commission but he's not sure. There were two letters attached to Pat Dugan's letter. The first letter said that there is no evidence that the pz comm approved concerts and the second letter said the town is not proceeding with any enforcement action. He added a few comments.

OLD BUSINESS:

1. Branford Real Estate LLC
c/o Arian Prevalla-Applicant & Owner
544 & 558 West Main Street
Special Exception - Used Car Sales Dealership
Application #23-10.2
A/R 11/2/23 & PH to be set

Staff will set the public hearing

2. CSC Montoya Apts. LLC c/o Lynda Cox-
Applicant & Owner
1-103 Montoya
Minor Site Plan Modification- Additional Parking for existing apartments
Application #23-9.8
A/R 9/21/23
Decision required by 12/7/23 (without submission of additional time extension)

H. Smith noted this is a minor site plan modification and they are close to a resolution. However, we have reached the end of the 65 day clock. At the last meeting we received an offer of a time extension to take us to this meeting and he just received this afternoon another time extension offer to January 29, 2024 which would be the end of the statutory period. H. Smith noted there is no action that the commission needs to do except accept the time extension.

Mr. Hartwell – (42 Quarry Dock Rd) spoke and wants to go back to the letter that Pat Dugan had submitted. He asked for clarification. He noted there were two letters from Dylan Willette (former ZEO)

The first letter (June 1) states that concerts are not a permitted use but the second letter (July 12) states that town council said no enforcement action would be taken.

He would like on the public record that the commission acknowledge the first letter states concerts are not a permitted use and if the brewery went ahead with concerts, that there would be enforcement action, it's very clear in the letter. He then asked if planning and zoning ever permitted concerts.

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Chairperson Andres replied that the letters are self-explanatory. That's all he knows. He noted he doesn't know why the second letter was written.

He suggested that Mr. Hartwell consult an attorney if he has further questions.

3. 40 Ct. Ave. Assoc. LLC- Applicant & Owner
11 Laurel Hill road
Special Exception- for Grading (Sec. 6.8) - for a single family
Application #23-11.4
A/R 11/16/23 & PH to be set

Staff will set the public hearing.

NEW BUSINESS:

1. BC Investment Property LLC c/o Bruno Ciccone-Applicant & Owner
175 Cherry Hill Road
Modification to 3/16/23 approval of 11 Lot Re-subdivision
Application #23-12.1
To be A/R

H. Smith displayed the conditions of approval and gave the commission a little background on this application explaining earlier this year the subdivision was approved at 175 Cherry Hill Rd. He noted when a subdivision is approved, applicants have choices as how to propose the approval of the subdivision. He explained the options. He wants to change wording in the approval and explained why. He then displayed a memo with the modified wording and reviewed it.

F. Russo made a motion to approve the modification.

J. Chadwick seconded the motion which passed unanimously.

Attorney Tim Lee spoke and said he appreciated the commission approving the modification

OTHER BUSINESS:

1. Election of Officers

Chairperson Andres stated the bylaws require that the commission elect new officers the first Meeting every December.

M. Liguori polled the commission for their thoughts and they all agreed that Chuck Andres should remain the Chairperson and Fred Russo remain the Secretary.

J. Chadwick made a motion to maintain the current officer status.

M. Palluzzi seconded the motion which passed unanimously.

2. Interpretation of whether a proposed lot at 126 Sunset Beach Road is an "interior lot" per the definition in Section 2.2

E. Breining explained that this application was originally scheduled to be heard at the November zba meeting, but that meeting was cancelled. He now feels this conversation should start at the December 19 zba meeting.

Chairperson Andres stated this item is Tabled and will be discussed at the zba meeting.

Rafeal 101 Sunset Beach Rd.- He's not sure why this application is going to the zba. It is being presented as an interior lot. The regulations are clear and he referred to them. E. Breining said it will be discussed at the zba meeting and it can be referred to the PZ Comm in January for the interpretation if needed.

3. CGS 8-24 Referral- Supply Ponds Bridge Replacement Project

This was discussed at the beginning of the meeting.

4. Referral from the Zoning Board of Appeals (Use Variance Application)- 19-25 Fairlawn Avenue

E. Breining said the property owner is present and he displayed the site plan and explained that the property owner is requesting a use variance to allow a multi-family use in the R3 district. He currently owns the property where 4 units exist. There is an existing garage that he would like to make into 2 additional units. He had received some variances earlier in the year and is now requesting another variance. Since this is not allowed in this district, it is being referred to the planning and zoning commission for any comments .

The commission asked a few questions and had a discussion. They discussed it briefly.

The property owner spoke and said there are 4 units now and a garage space. He isn't sure How to rent out the space. Same footprint but go up vertically for 2 studio units.

The commission discussed this further.

Chairman Andres noted some of the commission are opposed and others are less opposed but are concerned about the neighborhood impact. There are different views.

H. Smith said the board can supply no comment or be positive or negative referral.

They discussed it further and F. Russo made a motion to send a non positive referral to The zba. More discussion ensued.

J. Chadwick made a motion to have the commission representative (Evan Breining) summarize the statements made during the deliberations and offers them with a non committal referral to the zoning board of appeals.

Chairperson Andres made some comments and asked F. Russo if he wanted to stay with his original motion of a non-positive referral or is he withdrawing the motion in deference to J. Chadwick?

F. Russo said he wants to stay with his original motion of a non-positive referral and he is

Authorizing E. Breining to summarize some of the comments that the commissioners made.

J. Vaiuso seconded the motion.

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Chairperson Andres did a roll call for the motion: J. Chadwick is not in favor, F. Russo is in favor, J. Vaiuso is in favor, M. Palluzzi is not in favor and Chairperson Andres is in favor .

5. Planner's Report

H. Smith reminded the group that there is a special meeting next Thursday, Dec. 14 at 7pm. He will try to limit it to 2 hours.

He also reminded the commission that Friday, Dec 8 is a holiday gathering at the thimble Island Brewery. He will be there about 4:30 pm and Chairman Andres needs to leave by 6pm.

Sharon noted there was a wonderful summit that was held on Dec 1. She noted it was very enlightening. They have a page on zoning about resilience and she sent to Harry Smith. She also noted that you can take courses on the site and that will apply to your training credits.

The meeting adjourned at 9:38 pm.