

# PLANNING & ZONING COMMISSION MINUTES

TUESDAY, May 23, 2006

## REGULAR MEMBERS PRESENT:

**Mr. Papp, Chairman**  
**Present for Public Hearing Only**  
**Mrs. Grzelecki, Secretary**  
**Mr. Goodwin**  
**Ms. Johnson**  
**Mr. Ponterotto**  
**Mr. Rothballer**  
**Mr. Wendell**

## REGULAR MEMBERS ABSENT:

**Mr. Hunziker**  
**Mr. Scannell**

## ALTERNATE MEMBERS PRESENT:

**Mr. Turner**  
**Mr. Ward**

## ALTERNATE MEMBERS ABSENT:

**Mr. Persico**

## Also in Attendance:

**Steve Kleppin, Town Planner/Senior Enforcement Officer**  
**Chris Jarboe, Town Attorney**

## Public Hearing

The Chairman opened the public hearing at 7:05 p.m. and referenced the call. Messrs. Ward and Turner were seated for Messrs. Hunziker and Scannell.

## LEGAL ADVERTISEMENT

NEW CANAAN ADVERTISER, NEW CANAAN, CONN., THURSDAY, MAY 18, PAGE 24A 2006

### STATE OF CONNECTICUT TOWN OF NEW CANAAN PLANNING & ZONING COMMISSION

Notice is hereby given that the Planning and Zoning Commission will hold a Public Hearing on Tuesday, May 23, 2006 at 7:00 p.m. in the Board Room of the Town Hall to hear and decide applications as follows:

1. Discussion and consideration of Planning and Zoning Commission to amend the Subdivision and Street Regulations, June 1987, to allow a fee in lieu of open space. (Complete copy of the proposed amendment on file in the office of the Town Clerk and also the Planning and Zoning Department). Continued from February, March and April meetings.
2. Upon application of Barry and Peggy Lueders, owner, for a Special Permit of Sections 7.1.B.2.B and 3.5.F.4 to construct first and second floor additions to a legally non-conforming single-family dwelling. The applicant is proposing to construct a second floor addition 24.7 feet from the front property line in lieu of the 30 feet required and 20.4 feet from

- the side property line in lieu of the 25 feet required. The applicant is also proposing to enlarge an existing garage 10.1 feet from the side property line in lieu of the 15 feet required. The property is located in the A Residence Zone at 24 Sunrise Avenue (Map K Block 10 Lot G11). This item was not heard on April 25, 2006, but carried over until the May 23, 2006 meeting.
3. Upon application of Frank Chapman, Authorized Agent, for Christopher and Deidre Anspach, owner, for a Special Permit of Section 7.1.B.2.b to allow expansion of a nonconforming detached garage, for property in the Two Acre Residence Zone at 948 Valley Road (Map 40 Block 105 Lot 87). This item was not heard on April 25, 2006, but carried over until the May 23, 2006 meeting.
4. Upon application of Virginia Jennewein, owner, for a Special Permit of Section 3.3.B.6 to allow for an accessory dwelling unit within existing residence requiring no new construction other than a new kitchen, for property in the One Acre Residence Zone at 289 Mill Road (Map 48 Block 112

Lot 63).

5. Upon application of Damien Kaali-Nagy, 93 Harrison Avenue, LLC, owner, for a Special Permit of Section 6.4.D.2.a to allow grading within 5 feet of a property line in the half-acre and smaller lot area zone, for property in the B Residence Zone and One-Third Acre Zone at 93 Harrison Avenue (Map N Block 60 Lot 614).
6. Upon application of Kevin and Michelle Leville, contract purchasers (Carol and Esther Lyttle, Owners), for a Special Permit of Section 7.1.B.2.b to expand the existing non-conforming structure to allow the addition to also be within 40 feet of natural gas pipeline as indicated in Section 3.5.E.1.c, for property in the One Acre Residence Zone at 76 Nubel Lane (Map 36 Block 90 Lot 55).H ANDICAP ACCESS DURING MEETING: Please notify the Planning & Zoning office in advance if wheelchair accessibility is required.  
Dated: May 5, 2006  
New Canaan, Connecticut  
Jean N. Grzelecki, Secretary  
5-11  
5-18

## **Public Hearing**

### **1. Executive Session**

Upon motion of Mrs. Grzelecki and second of Mr. Ward the Commission voted unanimously to go into executive session at 7:10 p.m. to discuss the YMCA litigation. The Commission came out of executive session at 7:50 p.m. No decisions were made and no votes were taken.

At the close of the executive session, Attorney Jarboe advised that June 28, 2006 is the scheduled date to begin the administrative appeal of the YMCA decision. On that date the lawsuit will proceed unless he reports to the judge that a settlement has been reached.

### **2. Discussion and Consideration to Amend the Subdivision and Street Regulations to Allow a Fee in Lieu of Open Space**

This matter was continued to the next meeting.

### **3. Barry and Peggy Lueders, 24 Sunrise Avenue**

Upon application of Barry and Peggy Lueders, owner, for a Special Permit of Sections 7.1.B.2.B and 3.5.F.4 to construct first and second floor additions to a legally non-conforming single-family dwelling. The applicant is proposing to construct a second floor addition 24.7 feet from the front property line in lieu of the 30 feet required and 20.4 feet from the side property line in lieu of the 25 feet required. The applicant is also proposing to enlarge an existing garage 10.1 feet from the side property line in lieu of the 15 feet required. The property is located in the A Residence Zone at 24 Sunrise Avenue (Map K Block 10 Lot G11). This item was not heard on April 25, 2006, but carried over until the May 23, 2006 meeting.

Barry Leuders presented the matter explaining that he proposes to turn his attic into living space, that his lot is undersized, and that his garage is too small. The Public Hearing on this matter was closed.

### **4. Christopher and Deidre Anspach, 948 Valley Road**

Upon application of Frank Chapman, Authorized Agent, for Christopher and Deidre Anspach, owner, for a Special Permit of Section 7.1.B.2.b to allow expansion of a non-conforming detached garage, for property in the Two Acre Residence Zone at 948 Valley Road (Map 40 Block 105 Lot 87). This item was not heard on April 25, 2006, but carried over until the May 23, 2006 meeting.

Frank Chapman presented the matter explaining that the applicant wants to add an attic for aesthetic reasons and saying there would be no plumbing in the attic. He requested a change in the application to add nine inches to the overall height, again for aesthetic reasons. The Public Hearing on the matter was closed.

### **5. Damien Kaali-Nagy, 93 Harrison Avenue**

Upon application of Damien Kaali-Nagy, 93 Harrison Avenue, LLC, owner, for a Special Permit of Section 6.4.D.2.a to allow grading within 5 feet of a property line in the half-acre and smaller lot area zone, for property in the B Residence Zone and One-Third Acre Zone at 93 Harrison Avenue (Map N Block 60 Lot 614).

Rob Frangione presented the matter explaining that the neighbors have a retaining wall six feet off the property line, that the applicant has considered constructing a retaining wall just off his property line. However, this would create an unsightly situation – two retaining walls with a narrow strip of land between them. To prevent this, Mr. Frangione proposed regrading the property. He said the grading would have no adverse impact on

the downhill neighbor since the drainage pattern was not being changed. He also advised that the town engineer has approved the grading.

Beth Jones, 99 Harrison Avenue, a neighbor, expressed concern over the runoff. Mr. Frangione advised that there would be no net increase in runoff. The Public Hearing was closed on this matter.

Note: Mr. Papp left at the end of the Public Hearing and Mrs. Grzelecki was acting chairman for the remainder of the meeting.

The Public Hearing section of the meeting was closed at 8:23 p.m.

### **Regular Meeting**

#### **6. Discussion and possible decision on any public hearing item.**

Note: Mr. Papp was present for the Public Hearing, but left when the Regular Meeting began. Consequently he did not vote on any of the items below.

#### **Discussion on Item 4, Anspach, 948 Valley Road**

Upon motion duly made, the Commission voted to discuss Item 4 first. After brief discussion, upon motion of Ms. Johnson and second of Mr. Rothballer the Commission voted unanimously to grant the Special Permit with conditions.

Conditions, modifications, or restrictions are as follows:

- a. Per Map Prepared for Christopher Anspach prepared by RKW Land Surveying dated July 28, 1995 and Revised February 27, 2006, on file with Planning & Zoning.
- b. Per Architectural Drawings 1-4 Prepared by Frank Chapman, Architect, dated May 22, 2006, on file with Planning & Zoning.
- c. Prior to Certificate of Occupancy an as-built survey must be provided showing Building Height and Total Building Height.

#### **Discussion on Item 3, Leuders, 24 Sunrise Avenue**

The Commission noted that the size of the lot was irregular and that there was no objection from the neighbors. Upon motion of Mr. Wendell and second of Mr. Ponterotto, the Commission voted unanimously to:

1. Deny the Special Permit of Section 7.1.B.2.b to expand the non-conforming portion of the garage on the western portion of the property. The expansion of the garage was denied because it should not expand the non-confirming side yard setback, and to
2. Grant, with conditions, the Special Permit of Sections 7.1.B.2.b & 3.5.F.4 to add a partial second story to the existing residence.

Conditions, modifications, or restrictions are as follows:

- a. Per Zoning/Location Survey Map of Property prepared by Walter H. Skidd, Land Surveyor LLC, dated March 21, 2006 on file with Planning and Zoning.
- b. Per Floor Plans and Elevations (Sheets 1 and 2) prepared by Stephanie Mark, Residential Design Services, dated March 25, 2006 on file with Planning and Zoning.

- c. Prior to Certificate of Occupancy, applicant must provide an as-built survey indicating the Total Building Height and the Building Height.

#### Discussion on **Item 5, Kaali-Nagy, 93 Harrison Avenue**

After brief discussion, upon motion of Ms. Johnson and second of Mr. Goodwin the Commission voted unanimously to grant the Special Permit with conditions. Mr. Papp was absent at this time, so did not vote.

Conditions, modifications, or restrictions are as follows:

- a. Per Overall Site Plan S1, Prepared by Frangione Engineering, LLC, dated February 24, 2006.
- b. The proposed site activity shall not cause an increase in runoff onto the down-gradient parcels.

#### **6. YMCA, 564 South Avenue**

Continuation of the meeting regarding a proposed parking lot on the south side of the YMCA building at 564 South Avenue; for property located in the One Acre Residence Zone, (Map 36 Block 232 Lot K62). Continued from March and April meetings. This item was continued to the June meeting.

#### **8. Request for Summersweet Lane Subdivision of Lucchesi/Watson that road be accepted by the Town of New Canaan and all bond funds released.**

Attorney Michael Bologna presented the item explaining that the Vortechincs drainage structure has been installed and the tree plantings required were done last fall and are flourishing. Upon motion of Mr. Rothballer and second of Mr. Goodwin the Commission voted to grant the request to accept the road and release the bond. The vote was seven in favor, Mr. Wendell opposed.

#### **9. Sign Task Force Report**

- a. New Canaan Antiques, 12 Burtis Avenue - One awning, must be retractable.

Approval recommended.

- b. Synergy Salon, 53 East Avenue - One wall sign, Size: 12' x 18", metal, white.

Approval recommended. Sign: 12x18, metal, white. Lettering: one line, 11 ½ inches. Color: silver/gray.

- c. Greenwich Education and Prep

Mrs. Grzelecki recommended that the matter be handled administratively.

Upon motion of Ms Johnson and second of Mr. Ward the Commission voted unanimously to approve the matters addressed in Item 9.

#### **10. Administrative Actions or other matters (Town Planner)**

- a. Kelley Franco Throop – advisory opinion – proposed home occupation.

Attorney Kelly Franco Throop presented the Item requesting an interpretation of Section 2.2 of the zoning regulations. She advised that Mr. Throop is an artist who is contract purchaser of property in New Canaan. He needs to know whether he would be allowed to establish a home-based business on the property. She explained why Mr. Throop should be deemed to be an artist rather than a

commercial woodworker. The Commission discussed the issues of noise, soundproofing, use of machinery, and deliveries. The sense of the Commission was that Mr. Throop is an artist and does not fall within the scope of “commercial woodworking.” The Commission noted, however, that the neighbors’ input would be critical in an official determination of this issue. Further, the Commission suggested that Mr. Throop bring an acoustical engineer to the hearing when he does apply for a special permit.

- b. Young Women’s League of New Canaan, Inc., 5K Run, Saturday, September 30, 2006.

The Commission noted that the date has been changed to Sunday, October 1, 2006.

- c. Request by New Canaan Country School that the Stamford JCC have permission to use one of their baseball fields during a three-day special event.
- d. Request to install signs on the Clark property.

The Commission advised that the request to install signs is premature.

- e. Savvy Restaurant

The Town Planner advised that the restaurant had been unable to create as wide an area using Belgian block as the owners had planned. The Commission determined that the block was acceptable as installed.

Upon motion of Ms. Johnson and second of Mr. Ward the Commission voted unanimously to approve items b., c., and e of Item 10. No vote was taken as to item “a,” and Item “d” was denied.

## **11. Approval of Minutes**

Minutes of April 25, 2006.

Upon motion of Ms. Johnson and second of Mr. Ward the minutes of the above meeting were unanimously approved, with administrative corrections.

## **12. Other Matters**

Request for advisory opinion by Webster Bank regarding proposed illumination of the building facade.

Oran Mills, Architect, described the proposed lighting, provided illumination calculations, and explained there would be no significant spillover of light. Mr. Turner noted that the effect of the illumination would be to flood the Webster Bank sign with light as well as the building and beyond. Mrs. Grzelecki noted that the goal of the Town is not to illuminate buildings. Only incandescent down lighting is normally approved for commercial business. The Commission asked what other buildings have similar lighting, the hours the lighting would be used, and what other options are available to the bank.

The Commission discussed the proposed wall for the Shaw’s building on Pine Street. The Town Planner advised that the wall does not conform to Section 4.7 H. of the regulations in that there is no wall offset.

## **13. Adjournment**

The meeting adjourned at 10:25 p.m.

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Jean N. Grzelecki, Acting Chairman and Secretary

**Legal Advertisement**

NEW CANAAN ADVERTISER, NEW CANAAN, CONN., THURSDAY, JUNE 1, 2006 PAGE **23A**

STATE OF CONNECTICUT  
TOWN OF NEW CANAAN  
PLANNING & ZONING  
COMMISSION

Notice is hereby given that the Planning and Zoning Commission at a regular meeting held on May 23, 2006 duly adopted the following resolutions, which are effective June 2, 2006.

RESOLVED, that the application of Barry and Peggy Lueders, owner, for a Special Permit of Sections 7.1.B.2.B and 3.5.F.4 to construct first and second floor additions to a legally non-conforming single-family dwelling.

The applicant is proposing to construct a second floor addition 24.7 feet from the front property line in lieu of the 30 feet required and 20.4 feet from the side property line in lieu of the 25 feet required. The applicant is also

proposing to enlarge an existing garage 10.1 feet from the side property line in lieu of the 15 feet required. The property is located in the A Residence Zone at 24 Sunrise Avenue (Map K Block 10 Lot G11). The proposed second story addition is hereby approved with conditions, while the proposed garage expansion is hereby denied.

RESOLVED, that the application of Frank Chapman, Authorized Agent, for Christopher and Deidre Anspach, owner, for a Special Permit of Section 7.1.B.2.b to allow expansion of a non-conforming detached garage, for property in the Two Acre Residence Zone at 948 Valley Road (Map 40 Block 105 Lot 87) is hereby approved with conditions.

RESOLVED, that the application

of Damien Kaali-Nagy, 93 Harrison Avenue, LLC, owner, for a Special Permit of Section 6.4.D.2.a to allow grading within 5 feet of a property line in the half-acre and smaller lot area zone, for property in the B Residence Zone and One-Third Acre Zone at 93 Harrison Avenue (Map N Block 60 Lot 614) is hereby approved with conditions.

RESOLVED, that the request for Summersweet Lane Subdivision of Lucchesi/Watson that road be accepted by the Town of New Canaan and all bond funds released is hereby approved.

Dated May 26, 2006  
JEAN N. GRZELECKI,  
Secretary  
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