

PLANNING & ZONING COMMISSION MINUTES

TUESDAY, May 19, 2009

REGULAR MEMBERS PRESENT:

Mr. Papp, Chairman
Mrs. Grzelecki, Secretary
Mr. Goodwin
Mr. Rothballer
Mr. Scannell
Mr. Ward
Mr. Wendell

REGULAR MEMBERS ABSENT:

Mr. Hunziker
Mr. Turner

ALTERNATE MEMBERS PRESENT:

Ms. Boyd
Mr. Redman
VACANCY

ALTERNATE MEMBERS ABSENT:

Also in Attendance:
Steve Kleppin, Town Planner/Senior Enforcement Officer
Tiger Mann, Assistant Director of Public Works

Public Hearing

Chairman Papp opened the Public Hearing at 7:00 p.m., as the presenters for Items 1 and 2 were not present. Ms. Boyd and Mr. Redman were seated for Messrs. Hunziker and Turner.

LEGAL ADVERTISEMENT

A Legal Notice was also published in the New Canaan News Review
8A NEW CANAAN ADVERTISER, NEW CANAAN, CONN., THURSDAY, MAY 14, 2009

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 19, 2009 at 7:00 p.m. in
the Auditorium of the Town
Hall to hear and decide the
application as follows:
1. Upon application of the
Public Works Department,
Authorized Agent, (Town
of New Canaan, owner), for

a Special Permit of Section
3.2.C.10 to construct temporary
baseball fields for property
in the One Acre and Two
Acre Residence Zones at 848
Weed Street (Map 32 Block
201 Lot 1).
2. Upon application of Tracy
McIntosh, Le Pain Quotidien,
Authorized Agent, for 81
Elm Street LLC, owner, for
a Special Permit of Section
4.2.D.1 to allow café seating
in the public alley between
Le Pain Quotidien and the

Playhouse Theater, for property
at 81 Elm Street, in the
Retail A Zone (Map T Block
43 Lot 835).
HANDICAP ACCESS
DURING MEETING:
Please notify the Planning
& Zoning office in advance
if wheelchair accessibility is
required.
Dated: May 7, 2009
New Canaan, Connecticut
Jean N. Grzelecki, Secretary
5-14

3. Town of New Canaan, owner, 848 Weed Street, temporary baseball fields

Upon application of the Public Works Department, Authorized Agent, (Town of New Canaan, owner), for a Special Permit of Section 3.2.C.10 to construct temporary baseball fields for property in the One Acre and Two Acre Residence Zones at 848 Weed Street (Map 32 Block 201 Lot 1).

Tiger Mann, Assistant Director of Public Works, stated that three baseball fields are proposed for the area of Irwin Park designated for active recreation. The age of the primary users will be 9, 10 and 11 years old. There will be clay cut outs for home plate, the base and the pitchers mound. There will be temporary backstops that are three wings. Protective chain link screens for the home and visitor benches will be thirty feet long and five feet high. The screens and backstops can be removed during the off season and stored inside the adjacent barn. Times of use will be Monday through Friday, between 5:00 to 8:00 p.m., and games on Saturday from 9:00 a.m. to 1:00 p.m. The season will last from April 15 to June 15 or July 1, weather delays permitting. Parking is planned for the area between Weed Street and the barn, duplicating the parking plan used for Summer Theater.

Tom Lewis, 887 Weed Street, stated his concerns with regard to traffic and parking safety and asked that there be no scoreboards, that the area be open space during non-seasonal activities, that the age ranges not change, and that the hours of practice be scheduled later due to consideration of neighbors. Paul Vigano, 27 Wahackme Road, was concerned with fencing, the location of the backstops, scoreboards and enforceable parking. Mr. Vigano stressed that he is not in opposition to the fields but that Irwin Park is zoned as a residential area and that there are other options for the proposed location of the fields.

Mr. Mann stated that changing game or practice times is a Parks and Recreation issue, fence removal is planned, there will be no scoreboards; the parking issue is being discussed with the police department, the existing topography prevents moving the fields, and additional evergreen plantings will be planted to decrease the visual impact on neighbors. This plan has been approved by Parks and Recreation Department. David Hill addressed fencing heights. Eric Freeman, 91 Four Winds Lane, expressed concerns with regard to an increased level of activity in the park and is opposed to this use.

Troy Bailey, Rucci, Burnham, Carta, Carello & Reilly, LLP, representing Winchester Park LLC, owners of 55 Wahackme Road, questioned if this was the best use of the park, suggested moving the highest use fields further from the more residential areas, and expressed concerns regarding parking, screening, and seating. Mark DeWaele, 208 South Avenue, who worked with Paul Giusti on the acquisition of Irwin Park by the Town, stressed that use of the park was always planned as active and passive recreation. Jim Mace, 126 Butler Lane, and President of New Canaan Baseball and Softball spoke in support of the fields and gave a brief history of the approval procedure and the grant process to install the fields, which included private donations and public fundraising. Elizabeth Vigano, 27 Wahackme Road, spoke in opposition to the placement of the backstops, requested more screening and asked that the fields be moved. Deirdre Beck, 71 Wahackme Road, requested additional screening. Charles Abate, 202 Gerdes Road, supports the fields and said they serve as a benefit and are necessary for the growth of baseball. First Selectman Jeb Walker discussed the history of acquiring the property for the Town and the October 2004 Town Council vote of October 2004, the year the property was purchased. The vote designated Irwin Park, less the restricted area, as parkland for both active and passive recreation. Mr. Walker noted that the motion itself stipulated both active and passive use. These comments echoed those made earlier by Dr. DeWaele.

The public hearing on this matter was closed.

4. Slivermine 123 LLC, owner, 10 Heather Drive

Upon application of McChord Engineering Associates, Inc., Authorized Agent, for Slivermine 123 LLC, owner, for a Special Permit of Section 6.4.G to allow grading of more than 1,000 cubic yards of filling and soil disturbance of more than 10,000 square feet for property in the Two Acre Residence Zone at 10 Heather Drive (Map 48 Block 109 Lot 202). (Continued from the February 24, 2009, March 24, 2009 and April 28, 2009 meetings).

Steve McAllister, McChord Engineering, Inc. discussed the drainage plan. Marcus St. Raymond and his engineer, John Pugliesi, Frattaroli, Inc., discussed the drainage plan and Mr. Pugliese suggested several changes to the design plan. Mr. McAllister said that he would be agreeable to most of the requests suggested by Mr. Pugliese and Mr. St. Raymond.

The public hearing on this matter was closed.

5. BCM Realty Partnership, owner, Lot G21 Sunrise Avenue

Upon application of James D'Alton Murphy, Gregory and Adams, P.C., Authorized Agent, for BCM Realty Partnership, owner, for a Special Permit of Sections 3.5.F.5 and 3.7.E to construct a single-family residence on a legally non-conforming lot, for property at Lot G21 Sunrise Avenue in the A Residence Zone (Map K Block 10 Lot G21). (Not opened at the April 28, 2009 meeting.)

Jim Murphy, Gregory and Adams, P. C., presented the application and distributed documentation summarizing his request. Chairman Papp warned the applicant that all relevant materials should be submitted in time for the Commission's review prior to the meeting. Submission at the time of the presentation could result in denial of the application. Variances have been granted by the Zoning Board of Appeals. Rob Frangione, Frangione Engineering, said that the building height is measured from the existing grade, not the proposed grade. Mr. Frangione described the proposed drainage system.

The public hearing on this matter was closed.

6. 81 Elm Street LLC, owner, 81 Elm Street

Upon application of Tracy McIntosh, Le Pain Quotidien, Authorized Agent, for 81 Elm Street LLC, owner, for a Special Permit of Section 4.2.D.1 to allow café seating in the public alley between Le Pain Quotidien and the Playhouse Theater, for property at 81 Elm Street, in the Retail A Zone (Map T Block 43 Lot 835).

Jessica Fougner, store designer for Le Pain Quotidien, presented the application stating that the application is for outdoor seating (eighteen seats, nine tables) in the alleyway between Le Pain Quotidien and the Playhouse Theater and would be open May through Labor Day. The certified mail receipts were not received by the Planning and Zoning Department. Christine Hussey, 325 Main Street, asked that if the Town owns the Playhouse and the sidewalk, shouldn't the Town Council be part of the approval process? Attorney Chris Jarboe noted that if town property is used, there should be an agreement or lease between the Town and a business or establishment using that property, addressing insurance and/or other issues.

The public hearing on this matter was continued to the June 23, 2009 public hearing.

REGULAR MEETING

1. Discussion with Town Attorney Chris Jarboe on proposed changes to Section 8.2.B.4, Special Permit Criteria. (Continued from April 28, 2009 meeting).

Attorney Chris Jarboe briefly discussed language changes to the special Permit criteria. The Commission discussed these comments and asked Attorney Jarboe to incorporate the language changes into the next draft and present that draft at the next Commission meeting.

To be discussed at the June 23, 2009 meeting.

2. Request of Chris Hussey, Chris Hussey Real Estate LLC, that the Planning and Zoning Commission review and update Section 6.3.C.1 relating to the use of For Sale/For Rent signs on residential properties.

Christine Hussey discussed For Sale and For Rent signs on residential properties, particularly for condominiums. Signs are not allowed on condo property, so they are generally placed on the street side. There is no distinction as to which property is for sale or rent, resulting in multiple signs. Ms. Hussey will work with the realtors association and condominium associations to get agreement on suggested rule changes.

!0 Item 6/2: Signs are not allowed on condo property, so they are generally placed on the street side.

7. Deliberation and any possible action on a closed public hearing item.

Discussion on Item #6 - 81 Elm Street LLC, owner, 81 Elm Street

It was the sense of the Commission that if all approvals are obtained and proper notices received that they would look favorably at outdoor seating.

Discussion on Item #3 - Town of New Canaan, owner, 848 Weed Street, temporary baseball fields

Upon motion of Mrs. Grzelecki and second of Mr. Wendell, the Commission voted unanimously to approve the application with conditions.

Conditions, modifications or restrictions are as follows:

1. The backstop and fencing may be seasonal only and can be erected for the requested period of time: April 15th to July 1st.
2. There shall be no scoreboards or lights.
3. Screening shall be installed, as soon as practical, along Wahackme Road to preclude the neighbor's view of the backstops.
4. There shall be no parking associated with the sports activities along Weed Street, Wahackme Road or Bayberry Road.

Discussion on Item #4 - Slivermine 123 LLC, owner, 10 Heather Drive

Upon motion of Mrs. Grzelecki and second of Mr. Scannell, the Commission voted to approve the application with conditions. Mr. Ward and Mr. Redman abstained.

Conditions, modifications or restrictions are as follows:

1. Applicant will provide fill and drainage, as agreed to by both parties, for both 10 Heather Drive as well as 44 Heather Drive.
2. The applicant shall grant an easement for drainage purposes to the owner of 44 Heather Drive.

3. Per Septic System/Site Development Plan SE1 and Construction Notes & Details SE2, Prepared by McChord Engineering Associates, Inc. dated July 24, 2008, Revised through May 19, 2009, on-file with the Planning and Zoning Department.
4. The size of the drainage structures will be resized per the recommendation of Professional Engineer, John Pugliesi, as agreed to by the applicant.
5. Drainage shall be installed prior to the roof being installed.
6. The Special Permit applies to 10 Heather Drive only.

Discussion on Item #5 - BCM Realty Partnership, owner, Lot G21 Sunrise Avenue

Upon motion of Mr. Goodwin and second of Mr. Wendell, the Commission voted to approve the application per the plans submitted. Mr. Rothballer opposed.

Conditions, modifications or restrictions are as follows:

1. Per Zoning Location Survey Prepared for BCM Realty Partnership, prepared by RKW Land Surveying dated June 19, 2006, Revised through April 24, 2009, on-file with the Planning and Zoning Department.
2. Per Basement Plan A-1, First Floor Plan and Second Floor Plan A-2, and Elevations A-3, Based on Design Provided by Kasia, Prepared by Christopher A. Hull, dated June 15, 2008, Revised through April 25, 2009, on-file with the Planning and Zoning Department.
3. Per Feasibility Plan S1 and Sections S2, Prepared by Frangione Engineering, LLC, dated September 8, 2008, Revised through April 24, 2009, on-file with the Planning and Zoning Department.
4. Per Sections S2, Prepared by Frangione Engineering, LLC, dated March 11, 2009, on-file with the Planning and Zoning Department.
5. Per Overall Site Plan S1 and Sections & Details S2 Prepared by Frangione Engineering, LLC, dated September 8, 2008, Revised through May 11, 2009, on-file with the Planning and Zoning Department.

8. New Canaan Housing Authority, 57 Millport Avenue.

New Canaan Housing Authority, 57 Millport Avenue, Modification of Special Permit.

Dax Gardner, Assistant Architect, Becker and Becker Associates presented the two changes to the plans. The Type A unit was redesigned in Buildings 1, 2 and 3. The units in question were enlarged. These are specifically designed for use by severely handicapped individuals. The other change is that every other unit is offset. There is encroachment on the setback by several feet, but it is less than the original encroached amount. Construction is set to begin in August.

Upon motion of Mr. Ward and second of Mrs. Grzelecki, the Commission voted to approve the application with conditions.

Conditions, modifications or restrictions are as follows:

1. Letter will be sent stating that modifications are approved with the conditions that a second handicap space be added and that the revised building footprints do not encroach further into the setbacks than the existing footprints.

9. Sign Task Force Report.

- a. 48 Elm Street, Patio.Com – Two corner wall signs

Upon motion of Mrs. Grzelecki and second of Mr. Redman, the Commission approved item “a”.

10. Downtown Subcommittee Report.

- a. Proposed Modifications to Zone D
- b. Proposed Modifications to Definitions in §2.2
- c. Update on Design Manual
- d. Date for continuation of Public Hearing

This item was not discussed.

11. Administrative Actions or other matters as may properly come before the Commission (Town Planner).

- a. Select a new volunteer as liaison to the Conservation Commission - Eileen Boyd volunteered as liaison.
- b. Reminder of June 9, 2009 NEMO Workshop.

12. Approve minutes of April 28, 2009 Regular Meeting minutes.

Upon motion of Mr. Ward and second of Mrs. Grzelecki, the Commission voted to approve the April 28, 2009 Regular Meeting minutes with modifications.

13. Adjournment.

Meeting was adjourned at 11:15 p.m.

Jean Grzelecki, Secretary

LEGAL ADVERTISEMENT

A Legal Notice was also published in the New Canaan News Review
10A NEW CANAAN ADVERTISER, NEW CANAAN, CONN., THURSDAY, MAY 28, 2009

TOWN OF
NEW CANAAN
PLANNING & ZONING
COMMISSION
Notice is hereby given
that the Planning and Zoning
Commission at a regular meeting
held on May 19, 2009
duly adopted the following
resolution. Approved Special
Permit Applications become
effective upon the filing of a
copy thereof in the office of
the Town Clerk.
RESOLVED, that the application
of the Public Works
Department, Authorized
Agent, (Town of New Canaan,
owner), for a Special Permit of
Section 3.2.C.10 to construct
temporary baseball fields for

property in the One Acre and
Two Acre Residence Zones
at 848 Weed Street (Map 32
Block 201 Lot 1) is approved
with conditions.
RESOLVED, that the
application of McChord
Engineering Associates,
Inc., Authorized Agent, for
Slivermine 123 LLC, owner,
for a Special Permit of Section
6.4.G to allow grading of more
than 1,000 cubic yards of filling
and soil disturbance of
more than 10,000 square feet
for property in the Two Acre
Residence Zone at 10 Heather
Drive (Map 48 Block 109 Lot
202) is approved with conditions.
RESOLVED, that the application
of James D'Alton

Murphy, Gregory and Adams,
P.C., Authorized Agent, for
BCM Realty Partnership,
owner, for a Special Permit
of Sections 3.5.F.5 and 3.7.E
to construct a single-family
residence on a legally nonconforming
lot, for property
at Lot G21 Sunrise Avenue in
the A Residence Zone (Map K
Block 10 Lot G21) is approved
per the plans submitted.
RESOLVED, that the request
to modify the Special Permit
for the New Canaan Housing
Authority, 57 Millport Avenue,
is approved with conditions.
Jean N. Grzelecki,
Secretary
Dated May 22, 2009
5-28