Planner’s Memorandum

To: Members, Planning and Zoning Commission
   K. Moynihan, Selectman (via email)
   K. Devereaux, Selectman (via email)
   N. Williams, Selectman (via email)
   I. Bloom, Town Attorney (via email)
   T. Mann, Director of Public Works (via email)

From: Lynn Brooks Avni, AICP Town Planner
Date: Meeting Memo June 19, 2020

There are four (4) new public hearing items.

New & Continued Applications:

1. 635 Frogtown Road – Upon Application of Stephen A. Finn, Wofsey, Rosen, Kweskin & Kuriansky, LLP, Authorized Agent for New Canaan Country School, owner(s), for a Special Permit Modification approval of Section(s) 8.2.B.6.d to amend condition number 4 of the Commission’s June 26, 2018 Special Permit and Site Plan approvals to build a new athletic facility, for property located in the Two Acre Zone at 635 Frogtown Road (Map 25, Block 12, Lot 160).

Discussion:
In June 2018 this Commission granted a Special permit approval for the New Canaan Country School to construct a new athletic facility. Subsequent to the approval an abutting neighbor appealed the decision. Eventually, a settlement agreement was reached and in March 2019, the school appeared before this Commission for approval of the settlement and an amended approval was issued. In June 2019 the school acquired the property from the neighbor that appealed. The school is now appearing before the Commission to modify condition number four which required that the school install black out shades on the windows for the gymnasium building. The condition further stipulated that the shades had to be operated by an electronic eye that can detect when the sun has set. The shades are required to be activated within 10 minutes of sunset. Now that the property at 579
Frogtown Road has been purchased by the school, the neighbor most concerned about the light from the new athletic facility is no longer a neighbor.

It should be noted that the Winter Club property is across the street from the school on Frogtown Road. Staff sees no issue with the proposed modification to condition four and agrees that the condition should require that “all non-safety related interior lights shall be turned off nightly by 9:00 PM should remain.

Staff have received correspondence from several neighbors. All of the correspondence has been posted on the Town’s web site pursuant to Executive Order 7i.

ADDENDUM
The Applicant submitted additional material for review.

ADDENDUM
At the Commission’s May 26, 2020 meeting Mr. Radman requested a cross section through the building so that the Commission could better understand the light spread. New Canaan Basketball Association Vice President of Operations, William Driscoll expressed the organizations concerns that a modification to the conditions requiring that the gym close at 6 PM would impact their ability to utilize the gym. Several other neighbors also spoke to note their desire for the blackout shades to remain as a condition of approval.

2. 146 Canoe Hill Road – Upon application of David J. Rucci, Lampert, Toohey & Rucci, LLC, Authorized Agent for David and Carol Graham, owner(s), for a Special Permit of Section(s) 3.7.E to allow building coverage of 6,495 square feet in lieu of 6,276 square feet (increase of 219 square feet) allowed under 3.5.D by restricting 484 square feet to a height of less then 18’, for property located in the Two Acre Zone (Map 38, Block 100, Lot 19).

As of the writing of this memo, the applicant still had not submitted a septic plan and septic permit to the Health Department. Without the Health department’s approval for the septic system the proposed expansion can’t be dealt with. Staff is recommending that the matter not be opened until next month. As of 2:30PM on Friday May 22, 2020 the Health Department had not received a septic plan.

ADDENDUM
The Applicant is proposing to utilize Sect. 3.7.E which allows the Commission, via Special Permit approval, to grant an increase in building coverage provided that there is a restriction placed on the Land Records which limits the height of a building on a portion of the lot to eighteen (18) feet and one and a half stories and encumbering an area that is or will be covered by a building; the area encumbered shall be at least twice
as large as the area of the increased building coverage. The property is located at the intersection of Brushy Ridge Road and Canoe Hill Road and is improved with a single-family dwelling.

3. **115 Seminary Street** – Upon application of David J. Rucci, Lampert, Toohey & Rucci, LLC, Authorized Agent for Anthony Tomas Builders, developer and Barbara Ann Bryant, owner(s), for a 2-lot resubdivision for 26,178 square feet, for property located in both A and B Residence Zone (Map L, Block 20, Lot 929).

**Discussion:**
This is an application of a resubdivision of the property located at 115 Seminary Street. The property is currently improved with a single building on an approximately 26,178SF lot which is dually zoned. The portion of the lot where Seminary Street and Scofield Lane intersect is zoned B Residence zone and the rear portion is zoned A Residence Zone. In the current proposal, the survey indicates that two (2) lots will be created; one which will be approximately 15,373 Sf and will be dually zoned and the second lot which will be approximately 10,805 SF and will be zoned A residence district.

The A Residence Zone is a single-family zone that has a minimum lot area of 10,000 SF and a circle diameter of 100 feet. The B Residence Zone allows for single family dwellings, single family with an accessory dwelling and Two Family. The minimum required lot area for a single-family dwelling is 7,500 SF and a circle diameter of 75 feet. For a single family with an accessory dwelling the minimum lot area is 9,000 SF and a circle diameter of 75 feet. For a two-family dwelling the minimum lot area is 12,000SF and a circle diameter of 100 feet.

4. **162 Park Street** – Upon Application of Stephen A. Finn, Wofsey, Rosen, Kveskin & Kuriansky, LLP, Authorized Agent for M2 Partners, LLC, owners(s), for a Special Permit Modification of Section(s) 8.2.B.6.d and Site Plan of Section(s) 8.2.A to amend conditions numbers 40 and 50 of the Commission’s November 29, 2016 Special Permit and Site Plan approvals, for property in the POMZ (Map K, Block 46, Lot 926).

**Discussion:**
In November 2016 this Commission approved a Special Permit and a Site Plan for the project located at 162 Park Street (aka Merritt). In April 2017 an application to modify the conditions was approved. The Applicant is before this Commission, again to discuss condition number 40 relative to the fence along the accessway that abuts Mead Commons and Condition number 50 with respect to the material for the walkway on the interior of the site. Staff conducted a site visit in February to review the location of the proposed fence that would abut Mead Commons. The area where the fence is proposed to be located contains a large amount of mature landscaping. After the site visit, staff advised the
applicant to commence conversations with Mead Park Commons. In April Chief Hennessey and Fire Marshall Baker met at the site with the applicant and determined that further reducing the narrow width of the existing accessway would ultimately render the driveway useless for emergency access.

The applicant would also like to address the stamped concrete material called out in condition number 50 for the parking courtyard. Originally, the Applicant had proposed using stamped concrete. However, since the approval the Applicant has determined that stamped concrete would not be the best choice of material for the high traffic area. Instead of the stamped concrete, the Applicant proposes to use black asphalt.

In light of the fact that the application was regarding a fence (condition number 40) and the material proposed for the parking courtyard (condition 50), staff determined that per Sect. 8.2.B.1.b there were no physical changes to the site that required the submission of a site plan. Additionally, since this matter was being heard under Regular meeting, as opposed to a Public Hearing, staff asked the Applicant to send a notice to Mead Commons to alert them to the application. The Applicant did send notice and Mead Commons has submitted a response.

ADDENDUM
At the May 26, 2020 Commission meeting, Deborah Broncato, Esq. represented Mead Commons and noted that the condominium association had submitted a letter and wanted additional landscaping, in lieu of the fence, if the installation of a fence posed unforeseen challenges related to safety and emergency access. Ms. Broncato indicated that the fence was originally added as a condition to the Special Permit approval to address concerns relative to screening, visibility and access from the public walkway that Mead Commons had during the pendency of the original application. Mr. Finn, attorney for the Applicant asked that this matter be kept open so that the Applicant and Mead Commons could continue their discussions in the hope that they could come to an understanding that would be agreeable to both parties. The Commission agreed to hold the matter open until the June meeting.

5. **29 Beacon Hill Lane** – Upon application of Michael P. Sweeney, Carmody, Torrance, Sandak & Hennessey, LLP, Authorized Agent for Jeffrey S. and Natalie Alexander, for a Special Permit and Site Plan approvals of Section(s) 3.4.C.6 to allow a proposed in-ground swimming pool and surrounding patio with landscaping to be installed behind the existing dwelling, for property located in the Two Acre Zone (Map 38, Block 93, Lot 799).

**Discussion:**
The subject parcel is located at the intersection of Beacon Hill Road and Silvermine Road and is located in the Two Acre Zone. The house is situated such that it faces a
driveway access way off of Beacon Hill Road that provides ingress/egress access for the subject parcel and the immediate adjacent neighbor at 31 Beacon Hill Road. Due to the intersection of Silvermine Road and Beacon Hill Road, this lot, for Planning and Zoning purposes has two (2) front yards. The house is positioned in such a way that the portion bordered by Silvermine Road serves as the back yard. It should be noted that when you drive on Silvermine Road you do not see the rear of the house.

The Applicant has submitted a survey, a site plan that includes the soil and erosion control plans has been requested by Engineering to show how the site will be managed during construction. The Engineering department has also noted that they want to review a drainage report, prepared by an engineer.

6. Discussion and consideration of the request of Jacqueline O. Kaufman, Carmody, Torrance, Sandak & Hennessey, LLP, Authorized Agent for Thomas A. Sanseverino owner, 8, 10, 12 and 14 Husted Lane and Lynn Corson owner, 16 Husted Lane, Petition for Change in Zoning Boundary, pursuant to Section 8.2.D for properties currently in the B Residence Zone to the Retail B Zone for 8 Husted Lane (Map T, Block 211, Lot 877 ), 10 Husted Lane (Map T, Block 211, Lot 843), 12 Husted Lane (Map T, Block 211, Lot 880), 14 Husted Lane (Map T, Block 211, Lot 874), 16 Husted Lane (Map T, Block 211, Lot 879) as well as Husted Lane.

Discussion:

This application is a request for a map change for 8, 10, 12 and 14 Husted Lane from B Residential to Retail B Zone. The Commission will recall that the Applicant had a preapplication presentation before the Commission at the May 2019 meeting. The Applicant at the time was debating whether a text change to the B Residential Zone Regulations was advisable or whether or more prudent route might be a Map Change. This property is located near the intersection of Main Street and Heritage Hill Road. It is essentially one of the first properties immediately outside the downtown, business and retail zones. This parcel is located at a confluence of zoning districts. It immediately abuts the Apartment Zone to the north; it is zoned B Residential Zone and abuts other B Residential Zone to the east and the Retail B Zone to the south where it abuts the Town’s Locust Street parking lot. Additionally, within one (1) block of the site are the Retail A Zone and the Business A Zone. This parcel is currently improved with five (5) properties: two (2) single family dwellings, one (1) two family dwelling, and two (2) multi-family dwellings. The multifamily dwellings are legally non-conforming.

Husted Lane appears to be a private road that comes off Heritage Hill Road in such a way that the two streets form a letter “y.” There is a total of five (5) lots on Husted Lane; two of the lots have direct frontage on Husted Lane and three (3) of the lots appear to be rear
 lots with an access drive that has frontage on Husted Lane. The street dead ends at the access drive. Husted is not a through street and one likely wouldn’t drive down Husted unless they lived there or planned to visit someone on the street. It should also be noted that while for a small length Heritage Hill Road and Husted Lane run parallel to each other, there is an elevation change between Heritage Hill Road and Husted Lane. Husted Lane has a lower elevation and is buffered from Heritage Hill Road by some existing landscaping that runs adjacent to the sidewalk on Heritage Hill Road.

7. **8 and 10 Husted Lane** – Upon Application of Jacqueline O. Kaufman, Carmody, Torrance, Sandak & Hennessey, LLP, Authorized Agent for Thomas A. Sanseverino, Owner for a Special Permit and Site Plan approval of Sections 4.3, 4.3.D.1, 4.3.D.1.d, 4.8.C, 6.H.1, 8.2.B and 8.2.A to permit a mixed use development containing twelve (12) residential dwelling units and approximately 315 SF of commercial space with associated parking, landscaping, utility and site improvements at 8 Husted Lane (Map T, Block 211, Lot 877) and 10 Husted Lane ((Map T, Block 211, Lot 843) as well as Husted Lane in the proposed Retail B Zone

**Discussion:**

This is a Special Permit/Site Plan application to construct a twelve (12) unit mixed use development on 8 and 10 Husted Lane. This application is related to the preceding Map Change application. If the Map Change application were successful, the Applicant proposes to construct a twelve (12) unit mixed use building with a small ground floor commercial space of approximately 315 SF. Special Permits are required in the Retail B zone to construct a mixed use development, specifically Sections 4.3.D.1, 4.3.I.d, 4.8.C and 6.H.1.

AS noted above, in the Map Change application, this property is located near the intersection of Main Street and Heritage Hill Road. It is essentially one of the first properties immediately outside the downtown, business and retail zones. This parcel is located at a confluence of zoning districts. It immediately abuts the Apartment Zone to the north; it is zoned B Residential Zone and abuts other B Residential Zone to the east and the Retail B Zone to the south where it abuts the Town’s Locust Street parking lot. Additionally, within one (1) block of the site are the Retail A Zone and the Business A Zone. This parcel is currently improved with five (5) properties: two (2) single family dwellings, one (1) two family dwelling, and two (2) multi-family dwellings. The multifamily dwellings are legally non-conforming.

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lots with an access drive that has frontage on Husted Lane. The street dead ends at the access drive. Husted is not a through street and one likely wouldn’t drive down Husted unless they lived there or planned to visit someone on the street. It should also be noted that while for a small length Heritage Hill Road and Husted Lane run parallel to each other, there is an elevation change between Heritage Hill Road and Husted Lane. Husted Lane has a lower elevation and is buffered from Heritage Hill Road by some existing landscaping that runs adjacent to the sidewalk on Heritage Hill Road.

If the Commission were to approve the Map Change request, the Special Permit application has some specific requests that will need to be addressed. First, the Applicant has requested that the Front Yard Setback be relocated to the Building Line. According to the Regulations (Sect. 2.2) the “Building Line is a line established by the Commission or other competent municipal authority, in back of the street line defining an area between said lines upon which buildings or structures are regulated or prohibited.” The term Building Line seems to refer to the setback and is only used in the commercial and business zones. In the Residential zone the term Yard Setback (ie. Front, Rear and Side) when referring to the setback areas. Chapter 54 Streets and Sidewalks of the Ordinances and Bylaws of the Town Charter, specifically, 54-3 notes that “until a building line is established in any highway the property line thereon shall be the building line.” Second, the Applicant has requested a modification of the requirement in Sect. 6.H.1 which requires a maximum of ten (10) parking spaces in a row. Instead the Applicant proposes a continuous row of eleven (11) parking spaces with appropriate landscaping. In an effort to avoid locating the parking adjacent to neighboring residential property lines, the Applicant has requested this modification. Additionally, the Applicant has represented that this parking design allows for a greater amount of perimeter landscaping and screening opportunities.