

**MINUTES OF THE ZONING BOARD
REGULAR MEETING HELD MONDAY,
MARCH 9, 2015, 7:00 P.M., 4TH FLOOR,
CAFETERIA, GOVERNMENT CENTER BUILDING,
888 WASHINGTON BLVD, STAMFORD, CT 06901**

Present for the Board: Thomas Mills, Rosanne McManus, William Morris, Barry Michelson, David Stein and Joanna Gwozdzowski. Present for staff: David Killeen, Associate Planner.

Mr. Mills called the meeting to order at 7:09 pm.

REGULAR MEETING

APPROVAL OF MINUTES:

Minutes for Approval: March 2, 2015

Mr. Michelson submitted amended language for the discussion items under New Business on page 8. Mr. Morris moved to approve the minutes as modified with Mr. Michelson's correction, seconded by Ms. Gwozdzowski and the motion was approved 4:0 (Mills, Michelson, Morris and Gwozdzowski; McManus and Stein not present at the March 2 meeting to vote).

PENDING APPLICATIONS:

1. **CSPR-972 – WLOSZEK, 111 Dora Street**, to add approximately 770 sf to a second floor addition at an existing single family residence located at 111 Dora Street in an R-7.5 zone within the CAM boundary.

Mr. Killeen presented an overview of the proposed plans, the Staff report prepared by Pam Fausty and compliance with Coastal Site Plan Review requirements. After some discussion, Mr. Michelson moved to approve the Coastal Site Plan with conditions contained in the EPB Staff Report, seconded by Mr. Stein and the motion was approved 5:0 (Mills, Morris, McManus, Michelson and Stein).

2. **Application 214-33 – HIGH RIDGE REAL ESTATE OWNER, LLC, Text change**, to Amend Article II, Section 3A, Definition 98.1 (Surgery Center/Out Patient) to clarify the term "gross floor area" and that authorization of special exceptions for said use exceeding 15, 000 s.f. rests with the Zoning Board; amend Article III, Section 9, BBB.2 to allow Surgery Center/Out Patient as a permitted use in the C-D District with a limitation of six (6) operating rooms/surgical suites; amend Section 9, BBB.3 to exempt emergency generators not exceeding eight feet in height, setback a minimum of 23 feet from the property line and adequately screened, from the calculation of non-porous surface area coverage, and amend Section 9 BBB.3 to require that emergency generators in the C-D District have a minimum 23 feet setback from the boundary line of a residential district.
3. **Application 214-34 – HIGH RIDGE REAL ESTATE OWNER, LLC, 0 Turn of River Road, Final Site & Architectural Plans**, Applicant requests approval of Final Site plans for change of use from general office use of 14, 147 s.f. to a Surgery

Center/Out Patient facility on the third floor of Building 5 and to install an emergency generator with landscaped screening in a C-D district.

Mr. Stein recused himself; Ms. Gwozdzowski was seated in his place.

Mr. Mills reported that this item was held over from the last meeting until there was a full complement of Board members at the request of the Applicant. He asked if the Board had any comments.

Mr. Michelson wanted the record corrected that comments attributed to him by Attorney O'Hanlon in his closing remarks were not part of this public hearing. The comments were made at a previous public hearing and were noted as not being a standard for zoning approval or disapproval.

Ms. Gwozdzowski said she's not sure the Board has made a decision on whether the current application is similar to the previous one and she feels it is similar. She also feels a plan is necessary before this use is approved for the C-D district.

Ms. McManus said there was a lot of talk about the Planning Board revisiting their recommendation on this application and she is not concerned about that. Based on input from Staff and the Law Department, she believes this is a different application than the previous one and she believes the Zoning Board should consider this application on its own merits.

Mr. Morris agreed that the Planning Board should be allowed to make its own recommendation and have it considered by the Zoning Board, based on input from Corporation Counsel. He commented that both attorneys testifying on this application provided good arguments, but he felt the Board should have a study too, so that the City would know what the impacts of this text change would be on the Vita Health District. He thought the Board should be cautious and he wondered how the Board would know how to evaluate future requests to increase the number of surgical suites in the C-D district.

Mr. Michelson commented that the uniformity rule needs to be applied in Zoning decisions of this type. He feels the Board could very easily be granting the designated number of suites in a zone to the exclusion of all other parcel or property owners. He feels the City amends the regulations too often to facilitate specific uses and this use is already permitted in other Zoning Districts.

Chairman Mills summed up his reaction to the proposed text change by stating he doesn't know if six surgical suites is enough and he would like to see a comprehensive study.

There being no further comments, Mr. Michelson made a motion to disapprove the application #214-33 with the recommended resolution for disapproval #2, seconded by Mr. Morris and the motion carried 4:1 (Mills, Michelson, Gwozdzowski and Morris

voting to disapprove; McManus opposed). Therefore, the text change was disapproved with the resolution language as follows:

WHEREAS, the Zoning Board received the application of High Ridge Real Estate Owner LLC, on October 31, 2014, requesting Zoning Board approval to amend the City of Stamford Zoning Regulations to permit Surgery Center/Out Patient use in the C-D Designed Commercial District and related amendments; and

WHEREAS, said application was referred to the Stamford Planning Board for review and the Planning Board has recommended approval with substantive modifications; and

WHEREAS, Public Hearings on this application were held on December 8, 2014, December 16, 2014, January 5, 2015, January 12, 2015 and February 23, 2015; and

WHEREAS, the Zoning Board has considered the testimony of the applicant, city officials and the general public with regard to this proposed text change; and

WHEREAS the Zoning Board has considered the existing Zoning Districts in the City where such use is currently permitted; and

WHEREAS, the Zoning Board finds that the recently amended Master Plan Category #9 – Mixed Use Campus warrants a comprehensive study and revision of permitted uses and standards within the C-D Designed Commercial District; and

WHEREAS the Zoning Board finds that the piecemeal approach of the proposed amendments are not consistent with comprehensive planning and zoning principles and not in the public interest;

*NOW, THEREFORE, BE IT RESOLVED THAT, the Zoning Board **DISAPPROVES** Application # 214-33 to amend the City of Stamford Zoning Regulations.*

On application 214-34, no action was necessary since the proposed text change failed.

4. **Application 214-39 – HOPE ENTERPRISES, LLC, Special Exception and Final Site & Architectural Plans**, construction of a one-story retail building on an existing developed property at 1009 – 1011 Hope Street with 2,844 sf of proposed retail space and 2,629 sf of storage, 28 parking spaces and associated landscaping in a Village Commercial zone.

Board Members Michelson, Mills, Morris and Gwozdzowski who sat on the Public Hearing were seated. Ms. McManus and Mr. Stein reported they had both watched the video of the March 2, 2015 meeting but they deferred to the seated members/alternate for this hearing to take action on the application.

Mr. Killeen introduced the draft motion for approval with conditions that were designed to address concerns raised by the Board during the public hearing. Those included: 1) large amount of white surfaces along the top of the building/proposed building materials and the need for administrative Board review of a revised rendering, 2) compliance with

CO requirements for the first phase of development at 1011 Hope Street, 3) designation of compact parking spaces.

After some discussion, Mr. Michelson made a motion to approve the application with changes discussed this evening, seconded by Mr. Morris and the motion carried 4:0 (Mills, Michelson, Morris and Gwozdzowski). The conditions will read as follows:

WHEREAS, the Zoning Board has considered the applications of HOPE ENTERPRISES, LLC requesting approval of Special Exceptions and Site and Architectural Plans and Requested Uses related to the construction of a one-story building, consisting of 2,844 square feet of retail space and 2,629 square feet of basement storage space with 28 parking spaces and associated site improvements, on a previously-developed lot, and requesting approval of Special Exceptions under the Stamford Zoning Regulations as follows: i) Article III, Section 4 (AA), Subsection 11.3 (k) (7) concerning distance of parking spaces to property lines of 0.0 to 2.9 feet instead of the 3.0 feet required along 5 adjoining properties; ii) Article III, Section 4 (AA), Subsection 11.4(f)(1)(ii) related to an increase in building floor area and building area coverage; and, iii) Article III, Section 4 (AA), Subsection 11.4(f)(1)(iv) concerning construction of site features exceeding 2,000 square feet and 30% of site area on a +/- 20,984 square foot site commonly known as 1009-1011 HOPE STREET in the Village Commercial District; and

WHEREAS, the Zoning Board conducted a duly called public hearing on March 2, 2015, and has considered the submitted comments of other interested City agencies, officials and the general public; and

WHEREAS, the approved Final Site & Architectural Plans and Requested Uses were accompanied by the following list of plans[to be Inserted]

WHEREAS, the Zoning Board found that this application complies with the purposes and requirements of the Village Commercial District and the Master Plan and received favorable recommendation from the Planning Board; and

WHEREAS, the application has demonstrated compliance with the requirements for Special Exception approval under Section 19.3 of the Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that the Zoning Board unanimously approves as modified Application #214-39, subject to the following conditions:

SITE SPECIFIC CONDITIONS

- 1. The Board approves the Special Exception requests, to authorize parking up to the property line and to permit the construction of the site features as proposed.*
- 2. The applicant shall submit a rendering to illustrate revised specifications of the exterior architectural designs, materials, and colors, subject to administrative review by the Zoning Board prior to*

the issuance of a Building Permit. Applicant shall address concerns raised by the Board over the extensive use of white materials along the top of the façade and fascia board and the need to increase the contrast of the façade either by use of contrasting color in selected materials and/or use of contrasting color in the proposed signs or any other combination that addresses this concern.

- 3. Prior to the submission of an application for a Building Permit related to the current approval of Application #214-39, applicant shall secure a final Certificate of Occupancy for the existing development on 1011 Hope Street that was approved under Application #211-01.*
- 4. Prior to issuance of a Building Permit, applicant will submit final specifications of exterior architectural designs, materials, and colors as approved by the Zoning Board under Condition #2 above, subject to approval of the Zoning Board staff, and consistent with the character of the building and site plans, architectural elevations and illustrative renderings constituting the record of the application. Exterior surfaces will be clad with brick, stone, and Azek or Hardie Plank Materials as trim (in place of EIFS as originally proposed). The material to be used on the proposed awnings will be fabric to match the awnings on the existing building at 1011 Hope Street.*
- 5. Parking Spaces 6, 7, 16, & 17 shall be marked onsite as compact vehicle spaces as recommended by the Traffic Engineer.*
- 6. Prior to the issuance of a Certificate of Occupancy, applicant shall file on the Land Records an easement over the property at 20 Cushing Street that assures continued access to and use of a dumpster to provide sufficient trash removal services in support of the uses occupying the property at 1009-1011 Hope Street. Said easement shall be subject to the prior review and approval of the Zoning Board staff and the Law Department.*
- 7. Signs shown on the architectural plans are approved in concept only. Applicant must provide additional detail on the size of signs, materials to be used, construction detail and illumination at time of sign permit application, to ensure consistency with the design guidelines of the Village Commercial District.*

8. *No significant mechanical equipment, in addition to that depicted on the building and site plans, shall be installed within view of any public street without proper screening and prior approval of Zoning Board staff.*

STANDARD CONDITIONS:

9. *Erosion and Sedimentation Control Plans shall be subject to EPB staff approval prior to the issuance of a Building Permit.*
10. *Prior to the issuance of a Building Permit, the applicant will submit sanitary sewer and storm drainage plans, subject to final review of design specifications and construction plans by the Engineering Bureau and meet other conditions related to the Bureau's approval of the current plan (#214-39).*
11. *Prior to issuance of a Building Permit, the Applicant shall submit a Drainage Maintenance Agreement and Landscape Maintenance Agreement (addressing Zoning Board Application #211-01 and #214-39), subject to approval by the Bureau of Engineering staff and the EPB staff.*
12. *A Street Opening Permit shall be required for any and all work within the City of Stamford street right-of-way.*
13. *Prior to issuance of a Certificate of Occupancy, the Applicant shall submit a trash management and snow removal plan related to the commercial components of this plan, subject to approval by Zoning Board staff.*
14. *Applicant shall make best efforts to keep the property in good condition up until and during the construction process. Existing lawn areas shall be mowed and maintained, and construction debris shall be kept to a reasonable minimum.*
15. *Submission of a Performance Bond, or other acceptable surety, to ensure completion of all required landscaping, streetscape improvements, and sedimentation and erosion controls, in an amount equal to the estimated cost of said improvements, subject to the approval of Director of Legal Affairs as to form and subject to approval of amount by the Zoning Board staff, to be provided prior to the start of any construction activities.*

16. *Prior to the issuance of a Building Permit, the applicant shall submit a Construction Staging and Management Plan to ensure safe, adequate and convenient vehicular traffic circulation and operations, pedestrian circulation, and protection of environmental quality through the mitigation of noise, dust, fumes and debris subject to final approval of the Land Use Bureau Chief or his designee. Such Construction Management Plan shall address, but not be limited to, reasonable restrictions on times when deliveries can be made to the job site, measures to control dust, staging areas for materials and construction worker parking as well as temporary measures requiring the timely removal of construction debris and /or litter from the job site, as well as steps to assure the continued operation of the grocery store currently located on the site.*

17. *The applicant shall have one year from the effective date of this approval within which to secure a Building Permit, subject to Zoning Board approval of three extensions, each not more than one year, upon timely application and good cause shown.*

OLD BUSINESS

1. APPL. 208-06, Modification - THREE HARBOR POINT SQUARE, LLC to modify the approved Coastal Site Plan and final architectural and site plans for a hotel/residential building identified on the Harbor Point General Development Plan as “Block S3” and originally approved by the Zoning Board on June 2, 2008 (Appl. 208-06). Proposed changes include redesign of the hotel/residential building to increase the height from thirteen stories to twenty stories, and redesign of ground floor restaurants to include two restaurant buildings detached from the hotel/residential building and addition of a second lobby entrance for automobile drop-off (*administrative review of Condition #3*).

Attorney Freeman made a brief presentation to the Board, showing them an aerial view of the South End with highlights of the development that has taken place, especially the restaurants that are already operating in this area. He stated that BLT was reluctant to attract a restaurant to the location of the two buildings until other work had been done to the south of the S-3 block. He circulated some suggested alternate conditions for the Board’s consideration. He recommended that the Board grant an extension of 3 years with potential for three one-year extensions as used for other Zoning approvals in Stamford. He commented that Mr. Cole had asked that the Board consider a condition that tied substantial construction of the restaurants to development in Block P1. After some additional discussion, Martin Levine asked to speak on behalf of the Downtown Special Services District. Mr. Mills granted him permission to speak.

Mr. Levine said the DSSD did not oppose this extension but they did not want to see the Zoning Board waive the requirements to construct two restaurants at this location to activate the waterfront.

Mr. Mills asked for clarification of what would happen to this area before the restaurants go in. Attorney Freeman explained there would be concrete pads in the locations where the restaurants would be built. Mr. Killeen suggested that the applicant revisit a previous condition for the S-3 conversion to apartments in which the Zoning Board required signage and certain improvements to be installed to better identify the public access areas along the waterfront.

After further discussion the Board was prepared to vote. Mr. Michelson made a motion to adopt the following condition: “No Certificate of Occupancy shall be issued for any building proposed to be constructed on any of the “P” Blocks, as shown on the GDP, until the Applicant has substantially completed construction of the two (2) restaurants proposed to be constructed on Block S-3”, seconded by Mr. Stein and the motion carried 5:0 (Mills, Michelson, Morris, Stein and McManus).

2. Appl. 206-20 – Final Site Plan, Donsis, LLC, 191-193 Erskine Road, Residential Designed Development (R-D) consisting of 24 homes and amenities with access roadways, driveways, onsite septic, city water, storm water management, and open space (*extension of time request*).

Chairman Mills stated that the Zoning Board members had received a request from the Board of Representative member for the 19th District, Gail Okun, to speak to the Board. Since there were no objections from the Board, Representative Okun read into the record a statement dated March 9, 2013 in which she raised concerns that certain testing and repairs of three above ground community septic systems was falling behind schedule and she said that was of great concern to the surrounding community. She asked the Board to require testing and repairs to be completed before an extension is granted.

Mr. Redniss spoke on behalf of the Applicant. He referenced documents that had been provided from the Law Department (Attorney James Minor) which concluded that the Public Acts by the State Legislature granted automatic extensions of the development through July 18, 2015 with possible extensions of time until July 18, 2020. The Applicant is now requesting an extension of one year. During that year, the Applicant expects to make further progress with the development and to draft a text amendment to handle time extensions for this development.

Mr. Mills asked about some documents that were forwarded from the Water Pollution Control Agency (WPCA) concerning homeowner contributions to the Capital Reserve Account for the community septic systems. Mr. Redniss confirmed that WPCA is supposed to monitor the systems and the homeowner fees were established to ensure proper testing and reporting. He addressed a recent communication from the WPCA dated February 27, 2015 which summarized some of the deficiencies summarized in recent quarterly reports prepared by Dymar Engineering, the firm that handles reporting for the homeowners association. Mr. Redniss stated that there are a range of deficiencies including very minor deficiencies such as the need for a particular bolt. He stated that the association was addressing these deficiencies. Ms. Okun came forward again and stated that other reported deficiencies included elevated nitrogen levels and grease.

Ms. McManus stated she didn't object to the request for extension but she wants the Applicant to clearly understand that they will need to provide detailed updates on the status of the community septic systems before the Board will consider future text changes or extensions.

Mr. Stein made a motion to approve a one-year extension for this development, seconded by Ms. McManus and the motion carried 5:0 (Mills, McManus, Michelson, Stein and Morris). The one year extension will now expire July 18, 2016.

3. Appl. 210-44 - STAMFORD EXIT 9, LLC, Final Site and Architectural Plans & Requested Uses pursuant to Section 9-BBBB of the Zoning Regulations to establish 417,900 +/- square feet of indoor sports and recreational uses and 81,000 +/- square feet of film production use, by adaptive reuse of the 729,770 square foot Clairol manufacturing plant. The subject property is located at 1 Blachley Road within the M-D Designed Industrial District, comprised of 32.7 acres (*administrative review of proposed signage*).

Mr. Mills read the description of the request into the record.

Mr. Mazzeo made a presentation of this request showing the Zoning Board members the two (2) monument signs being proposed, their size and their location. He stated there were already two signs on the property and these would be the last two permitted under regulations.

Ms. McManus made a motion to approve the sign request, seconded by Mr. Michelson and the motion carried 5:0 (Mills, McManus, Michelson, Stein and Morris).

4. Update on Medical Marijuana Regulation

Mr. Stein reported that he has been working with Staff to review State laws, regulations and sample zoning regulations from other Connecticut communities who have developed regulations to govern dispensaries and production facilities. He expects to have a proposal to bring before the Zoning Board for discussion at the next regular meeting scheduled for March 16, 2015.

NEW BUSINESS

Mr. Michelson made a motion to waive the rules to add an item to the agenda for boatyard discussion, seconded by Mr. Stein and the motion carried 5:0 (Mills, McManus, Michelson, Stein and Morris).

Mr. Michelson asked if the Law Department could provide an update to the Zoning Board on the status of a conference call that was held earlier in the morning on March 9, 2015 relative to the pending litigation on this topic. He was asking for an update, possibly in executive session, and a report on the strategy of the process going forward.

The Board discussed the scope of work for the consultant being hired by the City for a peer review report. Members were asked to provide suggestions to Staff by the end of this week. Mr. Michelson pointed out that the SRDS regulations for this area require submission of a viability report. He has not seen anything like this in the submitted materials so far. Mr. Mills asked that the Planning Board members receive full copies of the plans submitted to date.

The Board decided to start the meeting at 7:00pm on Monday, March 16. It was noted that Chairman Mills might be late for that meeting and he encouraged the rest of the Board to deal with the remaining items on the agenda until he arrives.

Mr. Killeen informed the Board that the Law Department may soon contact the Board Members to use City email addresses that are being created for them.

ADJOURNMENT

There being no further business, Ms. McManus made a motion to adjourn, seconded by Mr. Morris and the motion was approved 5:0 at 8:40 pm, (Mills, Morris, McManus, Michelson and Stein).

Respectfully submitted,

Barry Michelson, Secretary
Stamford Zoning Board