

PLANNING AND ZONING
May 20, 2009

A meeting of the Planning and Zoning Commission of the Town of Trumbull was held in the Courtroom of the Trumbull Town Hall on Wednesday, May 20, 2009

Attendance: Timothy M. Herbst, Chairman
Gary Bean, Anthony Chory, Chris Costa, Arlene Fox and alternates
Steven Mahlstedt, Don Scinto and Tony Silber

Staff Present: Bill Levin, Town Planner; Stephen Savarese, Town Engineer and
James Cordone, Town Attorney

The following is a brief summary of the meeting. The complete record is on tape, on file in the office of the Planning and Zoning Commission.

A quorum being present the Chairman called the meeting to order at 7:35 p.m.

Pre-Application Hearing

Petitioner: Attorney Raymond Rizio (for Dr. Marcel Huribal)
2991 Nichols Avenue

The purpose of this hearing was to provide feed-back regarding a proposal to allow a professional medical office center in a multi-family structure located in a residential zone.

The proposal was presented by Attorney Raymond Rizio.

The existing structure was described as an old multi-family colonial located in the southerly portion of the Nichols District at 2991 Nichols Avenue. Dr. Huribal has purchased the home and he would like to convert the building to house his medical practice. The architectural plans showed a proposed 10,000 sq. ft. addition attached to the rear of the house. Attorney Rizio asked for guidance as to whether the Commission would consider a commercial use for this site.

Chairman Herbst indicated that in order for this proposal to work it would need to come in under an Adaptive Reuse/Design District concept.

Dr. Huribal addressed the Commission relaying that, as his practice has now grown to nine surgeons, his current location on Silver Lane no longer provides adequate space. He indicated that an 8,000 sq. ft. addition, at the minimum, would be needed to accommodate his practice

The Commission had issues with the proposed size, location, the amount of traffic that would be generated and the overall design. They indicated that the plan, as presented, did

not compliment the original structure nor was it in harmony with the character of the neighborhood.

Plans will be redrawn and presented to the Town Planner for input, as to the project's feasibility, prior to submission of a formal application.

At this point 8:10 p.m. Commissioner Bean joined the meeting.

Petitioner: Kathleen Fearon, Ph.D., D.V.M.

Dr. Fearon, 38 Sherman Ave., presented a proposal for the establishment of a veterinary outpatient clinic within the Design District located on White Plains Road.

Dr. Fearon's practice currently is limited to house call visits only. She would now like to establish a home base for her mobile clinic. Dr. Fearon indicated that mobile visits would continue as the main portion of her practice. Establishing a clinic would allow her to perform surgical procedures and house animals requiring surgery overnight.

The general proposal would amend the regulations to include veterinary outpatient clinics as a permitted use in a Design District. She described her practice as being limited to dogs, cats and other so called pocket pets.

The Commission's concerns were then discussed.

Dr. Fearon indicated that there were no proposed no outdoor facilities. She stated that there was no documentation that residents within the area of veterinary clinics have contacted infectious diseases from animals. Odor would be contained as the animals would be limited to inside the building. As to noise issues, Dr. Fearon stated that the animals would be held in a soundproof area. Upon inquiry, Dr. Fearon indicated that her practice would be limited to herself and possibly one other doctor.

The Commission also inquired as to the number of animals that would be housed at any one time. Dr. Fearon placed that number at two with a maximum of four sick animals. The mobile clinic vehicle will continue to be garaged at her place of residence.

The Town Planner will provide Dr. Fearon with a written summary of recommendations prior to her submission of an application for a regulation change.

PUBLIC HEARING

Application #09-06 – Robert and Melissa Daniel
638 Booth Hill Road

Pursuant to Art. II, Sec. 1.2.2.6, Special Permit to construct an In-Law/Accessory Apartment within existing footprint.

Chairman Herbst disclosed that his law firm represented the applicant in the closing of this property. Attorney Herbst indicated that he advised the applicant on the zoning regulations governing accessory apartments but did not discuss or review the application now before the Commission.

The applicant, Robert Daniel, presented the application.

The submitted plans indicated an 822 sq. ft. basement apartment. Upon inquiry, Mr. Daniel indicated that there were no proposed changes to the building's façade.

Application #09-07 – Sun Products, Inc.
30 Trefoil Drive

Pursuant to Art. II, Sec. 4.2 and Art. XIII modification of existing Special Permit to construct handicap ramp and new entryway to building.

Attorney Raymond Rizio represented the applicant. He submitted a positive article from the Connecticut Post relative to Sun Products relocation to Trumbull and the required Certificate of Mailings to abutting property owners. A new front entryway is proposed to accommodate the public who will be testing consumer products. A handicap ramp and two handicap parking spaces will also be added to comply with ADA requirements. The proposal would eliminate two parking spaces. Upon inquiry, Attorney Rizzo indicated that the project would not require additional lighting.

Application #09-08 – Michael Mallone, 41 Chalon Road

Pursuant to Art. II, Sec. 1.2.2.6, Special Permit to construct an In-Law/Accessory Apartment within existing footprint.

The applicant, Michael Mallone, of 82 Bassick Road, and Loreto Malone, 45 Chalon Road appeared. The proposed 900 sq. ft. basement apartment was included as part of the new home currently under construction. Mr. Mallone indicated that the apartment was intended for personal family use and that it conforms to zoning requirements.

Application #09-09 – Lori Jeanne Bach, 36 Mt. Pleasant Drive

Pursuant to Art. II, Sec. 1.3.2.6, Special Permit to construct addition for use as an In-Law/Accessory Apartment.

The applicant's contractor, Manny DaSilva of Shelton, presented the proposal. The certificate of mailings to abutting property owners were submitted for the record. Upon zoning approval, 910 sq. ft. of the 985 sq. ft. addition currently under construction would be dedicated to the proposed accessory apartment. The submitted plans indicated compliance with all zoning requirements.

Application #09-10 – Arnold and Ellen Principi, 80 Saxony Drive

Pursuant to Art II, Sec. 1.1.2.6, Special Permit to construct addition for use as an In-Law/Accessory Apartment.

A 976 sq. ft. accessory apartment is proposed. The submitted plans indicated zoning compliance. Upon inquiry, the Town Engineer determined that the proposed driveway was code compliant for either a paved or unpaved driveway.

This concluded the Public Hearing.

REGULAR MEETING

The Commission considered and then took action on the following applications.

Application #09-06 – Robert and Melissa Daniel, 638 Booth Hill Road

MOTION MADE (Fox), seconded (Costa) and unanimously carried (Herbst, Bean, Chory, Costa, Fox), to approve Application #09-06, as submitted.

Application #09-07 - Sun Products, Inc., 30 Trefoil Drive

MOTION MADE (Fox), seconded (Chory) and unanimously carried (Herbst, Bean, Chory, Costa, Fox) to approve Application #09-07, as submitted.

Application #09-08 – Michael Mallone, 41 Chalon Road

MOTION MADE (Chory), seconded (Costa) and unanimously carried (Herbst, Bean, Chory, Costa, Fox), to approve Application #09-08, as submitted.

Application #09-09 – Lori Jeanne Bach, 36 Mt. Pleasant Drive

MOTION MADE (Fox), seconded (Costa) and unanimously carried (Herbst, Bean, Chory, Costa, Fox), to approve Application #09-09, as submitted.

Application #09-10 – Arnold and Ellen Principi, 80 Saxony Road

MOTION MADE (Fox), seconded (Costa) and unanimously carried (Herbst, Bean, Chory, Costa, Fox), to approve Application #09-10, as submitted.

Approval of Minutes

MOTION MADE (Fox), seconded (Costa) and unanimously carried (Herbst, Bean, Chory, Costa, Fox), to approve the minutes of the April 15, 2009 regular meeting, as recorded.

Request for Extension of Time

Application #08-28 – John F. Fallon, Esq. for The Briad Group

Request for additional one year extension of time to commence construction.

Chairman Herbst recused himself from discussion or action on this item as Attorney Fallon is counsel to his law firm. Vice-Chairman Bean chaired this portion of the meeting and alternate Steven Mahlstedt was designated as the fifth voting member.

The request issued by Attorney Fallon was read for the record and the Commission took action as follows.

MOTION MADE (Mahlstedt), seconded (Costa) and unanimously carried (Bean, Chory, Costa, Fox, Mahlstedt), to approve an additional one year extension of time to May 5, 2011 to commence construction for Application #08-28.

Chairman Herbst returned and chaired the remaining portion of the meeting.

Minor Deviation Art. V. Sec. 6.3

Petitioner: T-Mobil
6448 Main Street (St. Joseph's Manor)

Robert Stanford, Real Estate Specialist for T-Mobile Communications, addressed the Commission. T-Mobile is seeking approval to install three additional antennas, for a total of six antennas, as a minor modification of an existing Special Exception. Mr. Stanford relayed that the three new antennas are to be positioned at same mounting height as the existing ones on the roof of the building.

MOTION MADE (Fox), seconded (Costa) and unanimously carried (Herbst, Bean, Chory, Costa, Fox) to approve the submitted plans for the installation of three additional antennas at 6448 Main Street as a minor deviation of an existing Special Exception as per Art. V, Sec. 6.3.

Discussion Items

Reconsideration of condition of approval for Application #09-04 – O Bar and Grill

The applicant has issued a request that the prohibition of outdoor music be reconsidered. Mr. Jean has given his assurance that his sole intent is to utilize the existing speakers, as did the prior owner, to drown out the noise from the traffic on White Plains Road for patrons dining on the patio.

The Chairman relayed that he walked the entire area within the vicinity of the restaurant, with the speakers on at maximum capacity, and that the music could only be heard when standing directly in front of the patio.

Commissioner Fox was opposed to allowing any type of outdoor music, as it would set a precedence that could become problematic down the road. She noted that the music generated by another restaurant in town has caused numerous complaints from residents. Commissioner Silber commented that this restaurant is not in the vicinity of any residential properties.

Several Commissioners had concerns as to how to insure that the music would remain at the current level. Chairman Herbst responded that the noise level would need to meet the requirements of the Town noise ordinance, which would be enforced by the Police Department.

The following action was then taken.

MOTION MADE (Chory) and seconded (Fox) to amend the original approval for Application #09-04 to remove the prohibition on outdoor music and clarify it to prohibit outdoor live music and allow background dinner music. MOTION WITHDRAWN

MOTION MADE (Chory) to amend Application #09-04 to remove the prohibition on outdoor music and prohibit outdoor live music and allow background dinner music, with speakers, to a decimal level of the existing speakers to the locations directly to the left, directly to the right and directly across the street. MOTION WITHDRAWN

MOTION MADE (Bean), seconded (Chory), to amend Application #09-04 to eliminate the prohibition on outdoor music and substitute it with a prohibition on live outdoor music only. Any music on the patio is to be consistent with the municipal ordinance governing noise and the acceptable db noise levels that are to be measured by the Trumbull Police Department and confirmed by the Town Engineer to the P&Z Commission. Vote: In favor (4): Herbst, Bean, Chory, Costa – Opposed (1): Fox
MOTION CARRIES

The next item was a discussion on the zoning regulations limiting the occupancy of rental residential properties to no more than three unrelated individuals.

The Chairman relayed that he has received numerous complaints from constituents regarding rental properties being occupied by groups of individuals in violation of our regulations.

It was noted that real estate agents are compounding the problem by allowing these properties to be rented by sometimes up to eight individuals.

The Chairman has sent letters to both Sacred Heart and Fairfield University asking that their students be informed of Trumbull's zoning regulations regarding rentals.

It was agreed that the root of the problem lies with the landlord. Commissioner Bean suggested that a town wide mailing be made to all homeowners informing them of the Town code governing rentals. It was also suggested that zoning violations be published in the newspaper.

The Zoning Enforcement Officer, Fred Bietsch, confirmed that the rental issue has become problematic. The ZEO relayed that the Greater Bridgeport Realtors Association has agreed to work with us and make realtors in Fairfield County aware of the regulations.

The following action to be taken.

Explore what, if any, enforcement action can be taken against realtors who violate the zoning regulations.

Meet with Chief of Police Kiely to discuss the monitoring of the Town's noise, illegal parking and underage drinking ordinances on an on-going basis.

Contact all local Universities again asking them to instruct the office of Residential Life to notify the student body of the Town's rental requirements.

Look into whether a nuisance claim can be brought against violating property owners.

Explore whether towing of illegally parked cars is a viable option.

Initiate a town wide mailing to all property owners advising them of our rental provisions.

Investigate whether local colleges have any policies in place regarding off-campus housing.

The next item for discussion and consideration was the proposed Adaptive Reuse Regulation.

Two versions of the regulation, as prepared by the Town Planner, were reviewed. The first limited the adaptive reuse to existing non-conforming properties. Version 2 added historic properties as a potential non-conforming use.

At this point (10:20 p.m.) Commissioner Costa exited the meeting and alternate Tony Silber was designated as the fifth voting member.

Both versions required that the potential re-use be of similar intensity to the existing use. Version 2 referenced a Demolition Review Committee/Architectural Review Board who would make an initial determine as to whether a property should be considered for historic preservation.

The Town Planner indicated that he has been approached by several businesses regarding a potential adaptive reuse of a number of properties that are currently vacant.

Commissioner Chory had concerns that the proposed regulation, as written, did not adequately address road safety.

Upon inquiry, the Town Planner recommended that Version 2 be adopted.

The Commission then took action as follows.

MOTION MADE (Silber), seconded (Bean) to authorize the Town Planner to submit Version 2 of the proposed Adaptive Re-use Regulation, Art. II, Sec. 6, to Regional Planning for their comments and consideration and to schedule a Public Hearing pending the recommendations of Regional Planning. Vote: In Favor (3) Herbst, Bean, Silber – Opposed (2): Chory, Fox. MOTION CARRIES.

There being no further business to discuss a motion was made by Commissioner Bean and seconded by Commissioner Fox to adjourn. The May 20, 2009 meeting of the Planning and Zoning Commission adjourned at 10:40 p.m. with unanimous consent.

Respectfully submitted,



Helen Granskog
Clerk of the Commission