

***Borough of Newtown***  
***Zoning Commission***  
***Newtown, Connecticut***

**THESE MINUTES ARE SUBJECT TO APPROVAL BY THE BOROUGH OF NEWTOWN ZONING COMMISSION**

**Minutes from the Meeting of March 9, 2022**

Meeting of the Borough of Newtown Zoning Commission was held on Wednesday, March 9, 2022 at 7:00 p.m. at the Old Court Room, Edmond Town Hall, 45 Main Street, Newtown.

**Commission Members Present:** Doug Nelson, David Francis, Claudia Mitchell, Margaret Hull, Doug McDonald, Rick Davis (arrived at 7:25 p.m.) and Don Mitchell.

**Commission Members Absent:** none.

**Staff Present:** Maureen Crick Owen, Clerk.

**Also Present:** Monte Frank, Esquire, Borough Attorney.

**Public:** 3 members of the public.

The meeting was called to order at 7:00 p.m.

**Minutes:** A motion was made by Mrs. Mitchell to approve the minutes of the meetings of January 12, 2022 and February 9, 2022. The minutes of February 9, 2022 are amended to include: "Rick Davis and Don Mitchell were sworn in as alternate members by Attorney Monte Frank". The motion was seconded by Mr. McDonald and unanimously approved.

**Chairman's Report:** Mr. Nelson stated that the Board of Burgesses confirmed the appointment of Rick Davis and Don Mitchell. He said that two new restaurants were coming into the Borough. The first one is Quattro in the former bakery location in Lexington Gardens and an Indian restaurant in the former Dere Street location on Main Street. He said per state statute, restaurants have the right to outside dining. Mr. Nelson said he is going to prepare a draft text amendment regarding this and will present same at the April meeting. He also said that when they revised the zoning regulations to allow "personal services" in a professional zone, they did not define personal services. He will present a proposed text amendment also at the April meeting. He spoke to the hiring of a new ZEO and that they do have a couple of candidates.

**Old Business:**

1. Applications of EK Legacy LLC for site development plan, special exception and village district approvals for construction of a 6,500 SF medical office building on property located at 27 Church Hill Road.

Discussion took place regarding the applications. Mrs. Hull asked if Hugh Sullivan was satisfied. Mr. Nelson said that when they submitted revised plans the comments from Rob Sibley, Ron Bolmer and Hugh Sullivan were address.

Mrs. Mitchell said she has an issue with the single story building and that the applicant had a contemporary design. Mrs. Mitchell said if they had a 2-story building they could have a smaller footprint. Mr. Nelson said he had heard second hand that the building was one-story to serve people with physical disabilities. Mr. McDonald said it is a single story building and that was what was submitted.

Mrs. Hull asked what the buffer would be between the property and Hawley School. Mrs. Hull said the buffer needed greenery. Mr. Nelson said it would be the fence. Mrs. Mitchell asked if a 4' fence was a buffer. Discussion took place regarding shrubbery. Mr. Francis expressed concerns regarding Hawley School's input on the buffer. Attorney Frank said that you can take input for what it is worth and what school is asking for is not binding.

Mrs. Mitchell said she has issues with the footprint (size), one-story is not village district look and putting peak in front and back of building does not seem to her what we look at in village district.

Mr. McDonald questioned the lot coverage and Mr. Nelson confirmed they did not exceed lot coverage and that parking is adequate. Mr. Nelson said that they did not change the lighting in the revised plans submitted.

Mr. Nelson said he felt there needed to be some conditions added if the applications were to be approved. He suggested:

- a. All outside lighting needs to be changed to 3,000kw from 4,000kw as on the drawings.
- b. 3 lampposts are needed on sidewalk rather than 1.
- c. Fence does not need to extend past Hawley School.

Mr. McDonald said children can jump a 4' high fence and that a 5' high fence makes it harder for the children. He also felt the fence should come out closer to the street to prevent the children from cutting across the front of the lawn at Hawley School and running into the driveway/parking lot at 27 Church Hill Road. Mr. McDonald also said that shrubbery should be at the end of the fence (closest to street) to soften the look. He does not think the fence should be shortened. He also thinks a 5' high fence makes more sense.

The members then went through the findings for each application. See attached initial findings for more details. Given that one initial finding on each the special exception and village district application failed, the members agreed not to vote on these applications. The findings discussion will be continued at the April meeting.

#### New Business:

1. Proposed text amendments to Paragraph 7.09.A.3 regarding buffer requirements.

Discussion took place regarding the proposed text amendment regarding buffers. Mr. Nelson presented a proposed text amendment regarding buffers to provide more clarity. He said that after some more thought he felt the proposed language could make it more cloudy. Mr. Mitchell suggested to have the language read that one or more of the following items make a buffer. Mr. Nelson said he wants to make sure that the wording

is correct and reflects what has been done previously. Mr. Mitchell said that you can treat different properties within the context of the special exception. Mr. Nelson said that as a commission they should be in consensus of what it says.

Attorney Frank said that the objective of the commission is to determine as to what is an effective buffer. He said you are required to consider depth and density which includes planted, masonry, fences and natural buffers. He said you can pick a remedy for a particular project.

Discussion took place regarding an adjoining neighbor providing input at a hearing on buffer of proposed project (i.e. Church Hill Village). Attorney Frank said you can take input as to what two neighbors agree on, but the commission still has to make the decision if it is an effective buffer. He said you need to look at other facts if you cannot meet the requirement under normal circumstances.

Mr. McDonald said that we have to have some standard that protects light, sound, odor and vibration to neighboring properties.

Mr. Nelson read the definition of "planted buffers" from the zoning regulations. Mr. Francis said we may determine planted buffer is not necessary. Attorney Frank said if you cannot apply 2.16D then you have exceptional conditions. He said most applications are bound by the regulations. He said if it is impossible to apply the planted buffer then the other language applies. He said you then go through the analysis and define what is an effective buffer.

Mr. Mitchell said he felt they were trying to do something on the fly and that the entire regulations need to be looked at in more depth. He said buffer requirements are scattered throughout the regulations.

2. Any new proposed signs – none.
3. Acceptance of any new applications - none.

A motion was made by Mrs. Hull and seconded by Mr. McDonald to adjourn the meeting at 9:30 p.m.

The next regularly scheduled meeting will be held on Wednesday, April 13, 2022 at 7:00 p.m.

Respectfully Submitted,

Maureen Crick Owen, Clerk

**INITIAL FINDINGS FOR SITE DEVELOPMENT, SPECIAL EXCEPTION  
AND VILLAGE DISTRICT APPLICATIONS**

**SITE DEVELOPMENT APPLICATION INITIAL FINDINGS**

- a. **FINDS** that the **architectural design and renderings** of buildings, including, *among* other elements, the building material, roofline and building elevations, are of such character as to **harmonize with the neighborhood**, and to **protect the property values** in the neighborhood; (3-2 *FINDS: DOUG NELSON, DAVID FRANCIS AND DOUG McDONALD; DOES NOT FIND: CLAUDIA MITCHELL AND MARGARET HULL*).
- b. **FINDS** that all details of the Site Development Plan are designed and arranged so as not to create a **health or safety hazard** to persons or property on or off the road on which the development is planned; (5-0 *UNANIMOUS*).
- c. **FINDS** that all details of the Site Development Plan are planned to conserve as much of the **natural terrain and vegetation** as possible; (4-1 *FINDS: DOUG NELSON, DAVID FRANCES, MARGARET HULL AND CLAUDIA MITCHELL; DOES NOT FIND: DOUG McDONALD*).
- d. **FINDS** that all details of the Site Development Plan are planned to **minimize excessive light and noise**; (5-0 *UNANIMOUS*).
- e. **FINDS** that all details of the Site Development Plan are in keeping with the **general intent and spirit of the Borough Zoning Regulations**; (3-2 *FINDS: DOUG NELSON, DAVID FRANCIS AND DOUG McDONALD; DOES NOT FIND: CLAUDIA MITCHELL AND MARGARET HULL*).
- f. **FINDS** that **utilities and drainage** have been so laid out so as not to **unduly burden the capacity of such facilities**; (5-0 *UNANIMOUS*).
- g. **FINDS** that the **streets and drives are suitable and adequate** to carry anticipated traffic within the site; (4-1 *FINDS: DOUG NELSON, DAVID FRANCES, MARGARET HULL AND DOUG McDONALD; DOES NOT FIND: CLAUDIA MITCHELL*).
- h. **FINDS** that the Site Development Plan complies with **all applicable sections of these regulations and all other applicable Borough, Town or State laws, ordinances, regulations and codes**. (5-0 *UNANIMOUS*).

**SPECIAL EXCEPTION INITIAL FINDINGS**

- a. **FINDS** that the proposed use is in harmony with the general **character of the neighborhood**; (5-0 *UNANIMOUS*).
- b. **FINDS** that the proposed use is not inconsistent with the **intent and purpose of the Borough's Zoning Regulations**; (5-0 *UNANIMOUS*).

- c. **FINDS** that the proposed use does not substantially impair **property values** in the neighborhood; (5-0 UNANIMOUS).
- d. **FINDS** that the proposed use will not create a **traffic** hazard on existing streets; (5-0 UNANIMOUS).
- e. **FINDS** that the proposed use does not create a **health** hazard to persons on or off the lot on which the use is proposed; (5-0 UNANIMOUS).
- f. **FINDS** that the proposed use is in compliance with all applicable sections of the Borough Zoning Regulations and all other applicable Town and State laws, ordinances, regulations and codes; (5-0 UNANIMOUS).
- g. **FINDS** that the proposed use is in keeping with the Plan of Conservation and Development; (5-0 UNANIMOUS).
- h. **DOES NOT FINDS** that the **architectural design** of the proposed building is in harmony with the design of other buildings on the lot and within 1,000 feet of the perimeter of the lot for which the special exception is sought; (3-2 FINDING FAILED; DOES NOT FIND: CLAUDIA MITCHELL, MARGARET HULL and DOUG McDONALD; FINDS: DOUG NELSON, DAVID FRANCES)
- i. **FINDS** that construction proposed on the site will be carried out so as to utilize the site in a manner which results in the least defacement of the natural features thereon, such as trees, rock outcroppings, etc. (5-0 UNANIMOUS).

#### VILLAGE DISTRICT INITIAL FINDINGS

- a. **FINDS** that the proposed buildings and modifications to existing buildings are constructed with appropriate materials and of appropriate design; (3-2 FINDS: DOUG NELSON, DAVID FRANCIS AND DOUG McDONALD; DOES NOT FIND: CLAUDIA MITCHELL AND MARGARET HULL).
- b. **FINDS** that the proposed buildings and modifications to existing buildings are reasonably harmoniously related, to the extent of such improvements, to their surroundings, the terrain in the district and the use, scale and architecture of existing buildings that have a functional or visual relationship to the proposed building or modifications to existing buildings; (3-2 FINDS: DOUG NELSON, DAVID FRANCIS AND DOUG McDONALD; DOES NOT FIND: CLAUDIA MITCHELL AND MARGARET HULL).
- c. **FINDS** that proposed spaces, structures and related site improvements visible from public roadways are designed to be reasonably compatible, to the extent of such improvements, with the elements of the area of the village district in their vicinity; (4-1 FINDS: DOUG NELSON, DAVID FRANCIS, MARGARET HULL AND DOUG McDONALD; DOES NOT FIND: CLAUDIA MITCHELL).

- d. **FINDS** that the removal or disruption of historic, traditional or significant structures or architectural elements has been minimized; (5-0 UNANIMOUS).
- e. **FINDS** that the proposed improvements are designed to achieve the compatibility objectives set forth in the regulation; (3-2 FINDS: DOUG NELSON, DAVID FRANCIS AND DOUG McDONALD; DOES NOT FIND: CLAUDIA MITCHELL AND MARGARET HULL).
- f. **DOES NOT FIND** that the proposed design and placement of buildings are 1) appropriate for a scenic rural New England village, 2) recognize architectural scale, rhythm and proportion and, 3) avoid large monolithic building forms; (3-2 FINDING FAILED; DOES NOT FIND: CLAUDIA MITCHELL, MARGARET HULL and DOUG McDONALD; FINDS: DOUG NELSON, DAVID FRANCES).
- g. **FINDS** / that proposed parking is to the rear of the building(s) and away from street lines; (5-0 UNANIMOUS).
- h. **FINDS** that the placement of proposed buildings does not interfere with vehicular or pedestrian traffic; (5-0 UNANIMOUS).
- i. **FINDS** that proposed loading and unloading areas are located at the rear or side of the building(s) and are reasonably screened from view from adjacent properties, streets and parking areas; (5-0 UNANIMOUS).
- j. **FINDS** that proposed utility equipment is located to the rear of side of the building(s) and is appropriately screened, both visually and otherwise; (5-0 UNANIMOUS).
- k. **FINDS** that the proposed building(s) is designed and placed so as not to unreasonably obstruct public views; (5-0 UNANIMOUS).
- l. **FINDS** that proposed road and driveway improvements conform to regulatory requirements and that properly designed sidewalks are included in the plans; (5-0 UNANIMOUS).
- m. **NOT APPLICABLE - FINDS/DOES NOT FIND** that a waiver of setback requirements set forth in Sections 5.03 and 5.04 of the Zoning Regulations is reasonably necessary in order that the proposed improvements comply with Village Design District Regulations. Such setback requirements are hereby waived to the extent shown on the latest revised plan submitted to the Commission.