

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 April 13, 2022

Meeting of the Borough of Newtown Zoning Commission was held on Wednesday, April 13, 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 and Don Mitchell.

Commission Members Absent: none.

Staff Present: Maureen Crick Owen, Clerk.

Also Present: Monte Frank, Esquire, Borough Attorney.

Public: Joe Chapman and 2 members of the public.

The meeting was called to order at 7:02 p.m.

Mr. Nelson introduced Mr. Chapman as a potential candidate for the Borough Zoning Enforcement Officer position. Mr. Chapman spoke to his background and said that he is interest in pursuing this position.

Minutes: A motion was made by Mr. McDonald to approve the minutes of the meeting of March 9, 2022, seconded by Mrs. Hull and unanimously approved.

Chairman's Report: None.

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.

Mr. Nelson spoke to the revised plans being submitted on January 23 and that the applicant incorporated all 12 of Mr. Sullivan's comments into those drawings. He went on to explain that there has always been amendments to approved applications. He discussed the difference between substantial or non-substantial changes and how they were dealt with.

Mr. Nelson said while they went through the findings at the March meeting, the Board did not capture the reasons behind the voting.

REVIEW OF FINDINGS FOR SITE DEVELOPMENT, SPECIAL EXCEPTION
AND VILLAGE DISTRICT APPLICATIONS

NOTE: ALL FINDS/DOES NOT FIND WERE DETERMINED AT THE 3/9/2022 MEETING.

SITE DEVELOPMENT APPLICATION 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*).
Mrs. Hull said that the building exceeds the cover of the land. Mr. McDonald said it does not. Mrs. Mitchell said that it is not in harmony with the neighborhood because of the false front and back. She also said that if it was a smaller footprint there would not be a buffer issue. Mrs. Mitchell also said that the property is small. Mrs. Mitchell also said that she feels there is no safety on either side of the fence and that the fence is not a buffer.
- 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*).
No discussion took place.
- 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*).
Mr. Nelson stated that you can see the west side of the building from the because of no landscaping. He said they could make a stipulation that some trees could be planted to break up that façade. Mr. McDonald said that maybe a couple of the trees could be saved.
- d. **FINDS** that all details of the Site Development Plan are planned to **minimize excessive light and noise**; (5-0 *UNANIMOUS*).
Mr. Nelson said that the plan states 4,000 KW and in the past 3,000 KW have been used. He suggested this could be a stipulation. Mr. Nelson also said that lamp posts are required every 60' to 80' so that driveways can be accommodated. For this application, he is recommending 3 lamp posts and it would be consistent with that side of the street.
- 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*).
Mrs. Mitchell stated her reasons for not finding are those that she has stated previously.

- 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).
No discussion took place.
- 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).
Mrs. Mitchell stated that the minutes were incorrect and that it was a 5-0 vote as she voted finds.
- 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).
Mrs. Mitchell stated that there is no buffer and also said for all of the reasons she stated previously. Mrs. Mitchell said she does not feel that a fence is a buffer. Mr. Nelson stated that a buffer can be all or one. Mrs. Mitchell said that she disagreed. She commented as to sound, vibration and noise. Mr. Francis said that the school said they did not want plantings in the buffer. Mrs. Mitchell said that she does not think the school should be a part of this. Mr. Nelson said the school made it known they did not want a planted buffer.

SPECIAL EXCEPTION INITIAL FINDINGS

- a. **FINDS** that the proposed use is in harmony with the general **character of the neighborhood**; (5-0 UNANIMOUS).
No discussion took place.
- b. **FINDS** that the proposed use is not inconsistent with the **intent and purpose of the Borough's Zoning Regulations**; (5-0 UNANIMOUS).
No discussion took place.
- c. **FINDS** that the proposed use does not substantially impair **property values** in the neighborhood; (5-0 UNANIMOUS).
No discussion took place.
- d. **FINDS** that the proposed use will not create a **traffic hazard** on existing streets; (5-0 UNANIMOUS).
No discussion took place.
- 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).
Mr. Nelson said that people did speak to the adjoining neighbor to create a shared driveway but was told that it would create an issue with entering/exiting the property.

- 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).
Mr. Nelson said that “proposed use” should really be “proposed development”.
- g. **FINDS** that the proposed use is in keeping with the Plan of Conservation and Development; (5-0 UNANIMOUS).
No discussion took place.
- 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*)
Mrs. Mitchell said that the building is one-story. Mr. Nelson stated that Church Hill Village, Wells Fargo and the prior location of the Starbucks are all one-story buildings. Mr. Nelson also said that St. Rose has all different heights of buildings on their property. Mr. McDonald said that the side next to Dr. Young’s building looks long but that the proposed building is a better design than some of the others in the neighborhood. He recommended plantings in between Dr. Young’s property and the west side of the building to change the perception of the building.
- 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).
Mr. Francis said that whatever trees they can save they should save.

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*).
Both Mrs. Mitchell and Mrs. Hull said the fake roof does not fit. Mr. McDonald said that it is a real structure but unusable unlike what was proposed at the Morganti building.
- 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*).

Mrs. Mitchell said she has the same comments as she said previously for the other applications. Mr. Francis said that perhaps they can keep some of the existing plantings at the back of the property.

- 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).*
Mrs. Mitchell said she is stuck on the one-story with the fake rook lines. She does not like the way it looks from the side.
- d. **FINDS** that the removal or disruption of historic, traditional or significant structures or architectural elements has been minimized; *(5-0 UNANIMOUS).*
Mr. Nelson said that the current structure is on the verge of being condemned.
- 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).*
Mrs. Mitchell said she has the same comments as she said previously for the other applications.
- 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).*
Mr. Francis said that a stipulation would be appropriate to eliminate the monolithic look and by adding plantings it would break up that look. Mr. McDonald said that doing anything to break up the left side of the building (when facing front of building) would change his mind. Mrs. Mitchell said there is no way to see the building in proportion to the buildings around the subject property and she has not seen a perspective drawing.
- g. **FINDS /** that proposed parking is to the rear of the building(s) and away from street lines; *(5-0 UNANIMOUS).*
No discussion took place.
- h. **FINDS** that the placement of proposed buildings does not interfere with vehicular or pedestrian traffic; *(5-0 UNANIMOUS).*
Discussion took place regarding the concern about safety and extending the fence.
- 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).*
No discussion took place.

- 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).
No discussion took place.
- k. **FINDS** that the proposed building(s) is designed and placed so as not to unreasonably obstruct public views; (5-0 UNANIMOUS).
No discussion took place.
- 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).
No discussion took place.
- 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.
No discussion took place.

Mr. Nelson confirmed that granite curbing is on the drawing and part of the plan. Mr. Nelson proposed stipulations as follows:

1. Change outside light wattage.
2. Change sidewalk lighting to three lamp posts.
3. Fencing between 27 and 29 Church Hill Road and stop 1' to 2' before the sidewalk. Mr. McDonald said that way children cannot cut through the driveway. Mr. Francis said that the fence should be 5' high with screening at the end so it is less visible as you drive by; it will soften the look and break it up. Mrs. Mitchell said why can't we have landscaping all along the fence. Mr. Nelson said because the school wants to see through the fence.
4. On west side of building add appropriate trees to minimize the side of the building.

Mr. McDonald made a motion to approve the application of EK Legacy LLC for a site development plan approval for construction of a 6,500 SF medical office building on property located at 27 Church Hill Road subject to the following stipulations:

1. All outside building and area lighting shall not exceed 3,000K (3,000 degrees kelvin).
2. The sidewalk lighting shall start 60' to 80' from the light post on 25 Church Hill Road and shall continue to be spaced 60' to 80' along the front of the property. There shall be a total of three (3) light posts.
3. The proposed fence between 27 Church Hill and 29 Church shall extend beyond the proposed structure as presented on the plans but shall be five (5) feet high and not four (4) feet as on plans. Landscaping appropriate enough to minimize the street view of the fence shall also be included.

4. Trees and shrubbery shall be planted along the west (left) side of the proposed structure. Enough trees and shrubbery and/or physical alteration shall be done to break up the monolithic view from the street.

The motion was seconded by Mr. Francis. The vote was as follows:

Doug Nelson	Yes
David Francis	Yes
Doug McDonald	Yes
Margaret Hull	Yes
Claudia Mitchell	No

The motion passed 4-1.

Mr. McDonald made a motion to approve the application of EK Legacy LLC for a special exception approval for construction of a 6,500 SF medical office building on property located at 27 Church Hill Road subject to the following stipulations:

1. All outside building and area lighting shall not exceed 3,000K (3,000 degrees kelvin).
2. The sidewalk lighting shall start 60' to 80' from the light post on 25 Church Hill Road and shall continue to be spaced 60' to 80' along the front of the property. There shall be a total of three (3) light posts.
3. The proposed fence between 27 Church Hill and 29 Church shall extend beyond the proposed structure as presented on the plans but shall be five (5) feet high and not four (4) feet as on plans. Landscaping appropriate enough to minimize the street view of the fence shall also be included.
4. Trees and shrubbery shall be planted along the west (left) side of the proposed structure. Enough trees and shrubbery and/or physical alteration shall be done to break up the monolithic view from the street.

The motion was seconded by Mrs. Mitchell. The vote was as follows:

Doug Nelson	Yes
David Francis	Yes
Doug McDonald	Yes
Margaret Hull	Yes
Claudia Mitchell	Yes

The motion passed unanimously.

Mr. McDonald made a motion to approve the application of EK Legacy LLC for a village district approval for construction of a 6,500 SF medical office building on property located at 27 Church Hill Road subject to the following stipulations:

1. All outside building and area lighting shall not exceed 3,000K (3,000 degrees kelvin).

2. The sidewalk lighting shall start 60' to 80' from the light post on 25 Church Hill Road and shall continue to be spaced 60' to 80' along the front of the property. There shall be a total of three (3) light posts.
3. The proposed fence between 27 Church Hill and 29 Church shall extend beyond the proposed structure as presented on the plans but shall be five (5) feet high and not four (4) feet as on plans. Landscaping appropriate enough to minimize the street view of the fence shall also be included.
4. Trees and shrubbery shall be planted along the west (left) side of the proposed structure. Enough trees and shrubbery and/or physical alteration shall be done to break up the monolithic view from the street.

The motion passed 4-1.

The motion was seconded by Mr. Francis. The vote was as follows:

Doug Nelson	Yes
David Francis	Yes
Doug McDonald	Yes
Margaret Hull	Yes
Claudia Mitchell	No

The motion passed 4-1.

Mrs. Mitchell said that the commission needs to discuss buffers, awnings, etc. Mr. Nelson said that his intent is that the commission go through the regulations and propose revisions and will address at future meetings.

New Business:

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

A motion was made by Mr. McDonald and seconded by Mrs. Mitchell to adjourn the meeting at 8:45 p.m.

The next regularly scheduled meeting will be held on Wednesday, May 11, 2022 at 7:00 p.m.

Respectfully Submitted,

Maureen Crick Owen, Clerk