

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

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

Minutes of the Meeting of March 8, 2017

Minutes of the Meeting of the Borough of Newtown Zoning Commission on Wednesday, March 8, 2017 at the Lower Meeting Room, Edmond Town Hall, 45 Main Street, Newtown, Connecticut. Chairman Doug Nelson called the meeting to order at 7:00 p.m.

Commission Members Present: Doug Nelson, David Francis, Brid Craddock, Lucy Sullivan, Michael Guman, Claudia Mitchell and Margaret Hull.

Commission Members Absent: None.

Staff Present: George Benson, Director, Land Use, and Maureen Crick Owen, Zoning Clerk, and Donald Mitchell, Borough Attorney.

Staff Absent: Jean St. Jean, Borough Zoning Enforcement Officer.

Public Present: 21 members of the public and 1 member of the press.

[Note Margaret Hull was sworn in as an alternate member prior to the meeting by D. Mitchell.]

Chairman Nelson opened the public hearings at 7:03 p.m.

Public Hearings:

Application of St. Rose Church Corp. for special exception and site plan approvals to construct a 2,100 square foot one-story structure to house the "Faith Food Pantry" on property located at 46 Church Hill Road, Newtown.

Chairman Nelson read the legal notice. The following letters were read into the record:

1. Conservation Official dated 02.08.17; and
2. Borough Engineer dated 03.03.17;
3. Police dated 02.06.17;
4. Fire Marshal dated 02.10.17;
5. Health Department dated 03.02.17;
6. Planning and Zoning dated 02.21.17.

Chairman Nelson commented on the from the Borough Engineer that a traffic study was not required as one had been submitted within the past few years and would not add value to this application.

John Madzula, 20 The Boulevard, architect for the project presented the application. He explained that the Faith Food Pantry had been housed at St. John's Church in Sandy Hook but that the church had closed and the building is for sale. Currently they have a temporary location on Peck's Lane. The building will be 30' x 70' on the eastern side of the property in the back nestled near the soccer field. It will be adjacent to the Knights of Columbus and maintenance buildings. The 15' fire lane will be asphalt. The building will consist of two large rooms – one for marking and sorting and one for the pickup room for the customers. In addition, there will be a custodial area, bathroom and lobby. The building will be slab on grade and will conform to the other buildings on the site. It will be cedar siding.

Lee Paulsen, 119 Boggs Hill Road, Newtown, President of Faith Food Pantry, is glad that St. Rose reached out to them to help them. It will be a good home.

Mr. Madzula said Msgr. Weiss is a very big advocate of this project.

Chairman Nelson asked about hours of operation and how people come and go. Mrs. Paulsen said they are open two times a week. Their hours are 10:00 a.m. – 12:00 p.m. on Tuesday and 6:00 p.m. – 7:30 p.m. on Thursday. She said they are going to be changing their hours a little bit. Volunteers arrive prior to opening time. When individuals wish to donate, they meet the donor at the building. They get deliveries at any time. About 10-12 volunteers would be at the building during the open hours.

Mr. Madzula showed the entire parking lot which is really for Sunday worship and that there is plenty of parking.

Chairman Nelson asked about lighting. There is an overhang of 2' and they are going to have lights under the soffit and they will be down lighting. Mr. Madzula said they will comply with dark sky compliant and said they are identified on the electrical plans. Mr. Madzula also confirmed that there are lights at the property now.

Attorney Mitchell asked about signs. Mr. Madzula said there would be a simple sign that says Faith Food Pantry. Chairman Nelson asked that they submit a sign application.

There being no further discussion or questions. The hearing was closed at 7:55 p.m.

Application of Saint Roses Church Newtown for special exception, site plan and village district approvals to construct a 1,675± square foot addition to the church, the installation of a memorial garden, repaving the main parking lot and associated site, utility and landscaping work on property located at 46 Church Hill Road, Newtown.

Chairman Nelson read the legal notice. The following letters were read into the record:

1. Conservation Official dated 02.07.17; and
2. Borough Engineer dated 02.07.17;

3. Police dated 02.06.17;
4. Fire Marshal dated 02.10.17;
5. Health Department dated 03.02.17; and
6. Planning and Zoning dated 02.21.17.

A traffic study is not required per Chairman Nelson. Chairman Nelson mention that all previous maps regarding St. Rose projects have been done in the scale submitted which is 1= 40'.

Katy Lynch of Langan Engineering of New Haven, representing the applicant submitted revised plans. She stated that for this project it is an addition to the front of the front of the building of just less than 1,700 square feet, two small building additions towards the back of the church, new sidewalk to the door, pushing the portico forward, pulling the driveway out, redoing the sidewalk from Church Hill Road into the property, making entrance an accessible entrance from the side, bell garden, improving pedestrian safety by putting in some crosswalks and sidewalks which will break up the car traffic in the parking lot, and restriping it. No change to the parking requirement as they are not altering the seating within the church.

Chairman Nelson asked if the other Borough agencies have seen the revised plans. Ms. Lynch said they have not.

Regarding the comment about an opportune time to mark the pedestrian crossings at the entrances to Church Hill Road, Ms. Lynch said the sidewalk actually crosses the driveway and it is a visual because it continues so they are not proposing anything additional to that. They have also added the ISDs to the plan – intersection site distances. They have provided the amount of earth being removed to the grading and drainage plan. They are cleaning up the drainage a little. They are not altering the grades much. By putting in the median they are able to catch some of the drainage rather than it drain all along the parking lot and will help with ponding. They are open to the option of permeable pavers. They are working on a geotechnical investigation of the site to determine the soil infiltration rates. Pending the results, they will look into the use of permeable pavers in the front drive as well as slotted pipe within the storm water system. They added the fire hydrant as requested by the fire marshal. The project will impact the sewer line and they are working with water and sewer authority. They will be doing new landscaping in the improved areas. The bell garden will have landscaping.

A lighting plan was submitted with revised plans. Lights are 24' tall and are dark sky compliant. There are two existing poles along the road that they are replacing.

The sidewalk continues across the driveway (is faded on plan). The sidewalk does continue on the driveway and felt it was a visual enough of an indicator. The rendering covers it. She provided street view images which showed this. The only new sidewalk is on the interior of the lot.

The landscape plan names the plant, size, caliber and type. None of the storm basins are going to be changed.

The lighting details are on the plans. At the front of the church along driveway will be the typical overhead poles. The 5 poles are more lantern type. They are proposing something along those lines. They modeled the fixtures after what the Borough has. It is similar but not exact.

Brooks Fisher, architect, spoke about the overall project. They are adding an addition to the front of the church which will look very much like it does today. Four bells were donated and they are now being used for the bell garden. This area will allow for contemplation or instruction. The bells will be automatic and surrounded by brick walls. The bell garden became a way to control the traffic and allow for pedestrian safety. This design allows for safe passage throughout the site.

They are proposing a new steeple. The doors and windows will look the same. The building will be closer to the street because of the expansion. A bride's room, a cry room, stairs to the choir loft and a bathroom will be added in the expansion. The front of the church will be a pedestrian safety zone. It will become more of a community space after church worship. In the memorial garden, walls will be uplit and bells will be lit as well.

Chairman Nelson stated that the other Borough agencies have not seen the revised plans. He wants to circulate the revised drawings with those agencies for their comments.

Dan [unknown last name], Co-Chair of Building Committee of St. Rose, appreciated the comments. A number of parishioners have worked hard on keeping the good things of St. Rose today and what their plans are for the future.

Chairman Nelson said they are going to keep the public hearing open and it will be continued to their next meeting which is April 12, 2017 at 7:00 p.m. at the Borough Office.

Application of Gager, Emerson, Rickart, Bower & Scalzo LLP for proposed amendments to the zoning regulations to allow assisted living facilities only in the Professional Zone as outlined in a document dated January 30, 2017.

Chairman Nelson read the legal notice and briefly summarized the proposed amendment. Currently the Borough zoning regulations do not address assisted living facilities as an allowable use. The proposed regulation would allow assisted living facilities by special exception in a professional zone subject to the following:

- (1) Must have access to public water and sewer;
- (2) Must border and have access to an Arterial Street (as defined in Article I, Section 2 of Town of Newtown Zoning Regulations);
- (3) Minimum lot area: 3 acres;

(4) Maximum building size: refer to definition of business building in §B70-2.02;

(5) Parking: 1 space per 6 assisted living units plus 1 space per employee on the largest shift (same as assisted living facility parking requirements in Article VIII, §3, 8.03.610 of Town of Newtown Zoning Regulations).

For maximum structural coverage in percentage of lot area for assisted living Assisted Living Facilities only 35%” (usually 25%). In order to facilitate access to building entrances, parking spaces may be closer than 20 feet from the street line. In order to facilitate access to building entrances, parking may be in the front or side of the buildings.

Attorney Frank Scinto of Gager, Emerson, Rickart, Bower & Scalzo was present on behalf of the applicant. He turned the presentation over to Bill Donahue, Managing Partner of Teton Capital, developer of assisted living facilities. Mr. Donahue said that Newtown has Maplewood and Masonicare and that there are 2,500 residents that are 75+ years old. This population is aging rapidly and there is a need for this type of facility. He discussed how skilled nursing has changed over the years and how it has been made to be less institutionalized. He discussed the “green house” environment which is a more humane and dignified care. Their proposal is a hybrid concept between the two. The site is in the middle of town rather than on the outskirts. They want residents to feel engaged and intergenerational aspects are important. Mr. Donahue turned the discussion over to Jack Perry, the architect for the project. Chairman Nelson said that while this application is a regulation change he thought it might be beneficial to the public in attendance to discuss the proposed development at a high level because this proposed change is new to the Borough. Mr. Perry said the proposed site is at the corner of The Boulevard and Church Hill Road. All buildings would be one story, except for the common area which takes advantage of the grade of the property. He described the “neighborhood” where the residents would live and how they connect to the common areas and the amenities. There would be a total of 62 units. Proposed access to the site would be off of The Boulevard and another one off of Church Hill Road.

Mr. Perry said that the parking they are asking for is to allow to keep the walking connections between the neighborhoods. And the percentage of coverage is the function of the amount of units they will request and the necessary support square footage for the common area itself.

Chris Fadus, 5 Sunset Hill Road, Newtown, asked about a buffer between the neighborhood behind the project and the project and about traffic impact. Mr. Perry stated they are required to maintain a buffer to any residential neighbor and would put a landscape buffer or fence after talking to the neighbors. There is not a lot of traffic other than the employees themselves. Chairman Nelson said the commission gets into all that when a formal application is made and a lot more detail will be provided at that time.

William Colbert, 25 Old Roxbury Road, Roxbury, asked how much of the property will be for parking. Mr. Perry said of the 35% coverage they are asking for, parking would be about 5%. Mr. Perry said total coverage would be under 60%.

Attorney Mitchell asked about the access on The Boulevard that serves about 12 parking spaces. He confirmed with Mr. Perry that the amount of traffic generated by that driveway would be for people checking in and for emergency vehicles. He assumes that the residents do not drive which was a correct assumption.

Mr. Guman asked if the zoning regulations provide sidewalks and they do.

The public hearing was closed at 7:31 p.m.

Note: The letter from Planning and Zoning Commission dated 02.21.2017 was not read at the public hearing but is a part of the record and was provided to the applicant.

Meeting:

Acceptance of Minutes of the Meetings of December 14, 2016 and February 8, 2017 of the Borough of Newtown Zoning Commission – tabled until next meeting.

Old Business:

1. Application of St. Rose Church Corp. for special exception and site plan approvals to construct a 2,100 square foot one-story structure to house the “Faith Food Pantry” on property located at 46 Church Hill Road, Newtown.

The commission discussed the application. They went through the site development findings. A motion was made by Mr. Francis to approve the site plan application of St. Rose Church Corp. to construct a 2,100 square foot one-story structure to house the “Faith Food Pantry” on property located at 46 Church Hill Road, Newtown, as presented, subject to the following conditions:

1. Knox Box per Acting Fire Marshal’s letter 02.10.17;
2. Applicant to provide lighting plan to the Commission; and
3. Site Plan and surveys shall comply with Paragraph 7 of the Borough Engineer’s letter dated 03.03.17.

The motion was seconded by Ms. Craddock and unanimously approved.

The commission then went through the special exception findings. A motion was made by Mrs. Sullivan to approve the special exception application of St. Rose Church Corp. to construct a 2,100 square foot one-story structure to house the “Faith Food Pantry” on property located at 46 Church Hill Road, Newtown, as presented, subject to the following conditions:

1. Knox Box per Acting Fire Marshal’s letter 02.10.17;

2. Applicant to provide lighting plan to the Commission; and
3. Site Plan and surveys shall comply with Paragraph 7 of the Borough's Engineer's letter dated 03.03.17.

The motion was seconded by Mr. Francis and unanimously approved.

A motion was then made by Ms. Craddock to approve the site development and special exceptions application of St. Rose Church Corp. to construct a 2,100 square foot one-story structure to house the "Faith Food Pantry" on property located at 46 Church Hill Road, Newtown, as presented, subject to the following conditions:

1. Knox Box per Acting Fire Marshal's letter 02.10.17;
2. Applicant to provide lighting plan to the Commission; and
3. Site Plan and surveys shall comply with Paragraph 7 of the Borough's Engineer's letter dated 03.03.17.

The motion was seconded by Mrs. Sullivan and unanimously approved.

2. Application of Saint Roses Church Newtown for special exception, site plan and village district approvals to construct a 1,675± square foot addition to the church, the installation of a memorial garden, repaving the main parking lot and associated site, utility and landscaping work on property located at 46 Church Hill Road, Newtown – no action taken.
3. Application of Gager, Emerson, Rickart, Bower & Scalzo LLP for proposed amendments to the zoning regulations to allow assisted living facilities only in the Professional Zone as outlined in a document dated January 30, 2017 – no action taken.
4. Danbury Ambulance Service – Referral by Zoning Enforcement Officer for Commission's recommendation for ZEO to issue a certificate of zoning compliance concerning applicant's proposed use at 77 Main Street.

Chairman Nelson explained that the Commission has been asked to make a specific recommendation on would Danbury Ambulance Services' use of 77 Main Street be considered as a municipal use. He stated that they had discussion regarding at their February meeting and is asking for additional comments/discussion. One member asked if Newtown Ambulance was volunteers and a non-profit company. Yes to both questions. It was stated that Danbury Ambulance Service ("DAS") is a for profit company. Chairman Nelson said the specific request of the commission is do we feel that this is a municipal use within the intent of the regulations. This came up because DAS does have a paramedic contract with Newtown Volunteer Ambulance ("NVA") to provide one piece of equipment and a paramedic 24/hours 7/days a week. Attorney Mitchell said there is one paramedic SUV and one paramedic and any additional backup would be coming out of DAS's facility in Danbury. Attorney Mitchell said it is a 3 year contract and is coming up for renegotiation in the next few months.

A member asked what DAS would be doing in that building. Chairman Nelson stated that they did not have to delve deeply into that question because what they are considering is if what DAS is doing a municipal use. Chairman Nelson asked would we consider what DAS is doing a municipal use if they were responding to Southbury, Monroe or Trumbull out of the premises at 77 Main Street. Chairman Nelson felt that municipal use is within the Town of Newtown. NVA is under an obligation to act as backup for surrounding towns in the event of a disaster. Municipal use is not absolutely restricted to Newtown. But that is on a special basis and not on a daily basis.

Mr. Guman asked if NVA can take private calls. No they cannot as they are a 911 responder. It was discussed that DAS takes private calls such as wheel chair transports.

Chairman Nelson asked for data from NVA as to how many times does DAS provide a backup paramedic. NVA said that on average 3.4 times per week DAS provides a backup paramedic. Information was requested from NVA on how many times DAS provides backup ambulance service but that information was not provided to the commission.

There was discussion about the intensity of the proposed use. Attorney Mitchell stated that the proposed use has less to do than the narrow question – is it a municipal use. Attorney Mitchell said that if the Commission was to recommend that DAS's use is not a municipal use there are other avenues that can be taken.

Ms. Mitchell asked what were the specific facts concerning NVA and municipal use. Attorney Mitchell explained that when NVA came before the Commission to ask for a finding on if they would be able to use 79 Main Street as an extension of their use of 77 Main Street. At that time, the Commission found that they were sufficiently governmental and governmental is an allowed use in a residential zone. Attorney Mitchell went on to explain that NVA was not for profit and they provided a service that municipals had very often provided a long time ago. Other factors related to that finding were: NVA was not for profit; NVA provided a service to the municipality; NVA received financial support from the Town that was not tied to the services they provided (grant) and those municipal grants are restricted to those situations where the donee is to provide service to the public (charities, public service organizations). NVA's territory is restricted to Town of Newtown except in emergency situations when they might have to help other surrounding towns.

Discussion took place about who owned 77 Main Street and what other uses could that property be used for. Allowed uses in a residential zone are by special exception and such uses, among others, could be nursery school, cemetery, municipal use.

Chairman Nelson again reiterated that the specific request is DAS a municipal use. He said if commission found that they were not, there are other ways to address this such as a zone change.

Ms. Craddock stated that they are to follow the guidance of the Town's Plan of Conservation and Development which is to work towards keeping Main Street residential. It would change the character of the area. The buildings that are business or professional use already existed prior to zoning or are allowed because of the zone.

Chairman Nelson polled the members on their recommendation to the ZEO if she should issue a zoning compliance certificate to Danbury Ambulance Service. The following is the "polling" results:

Lucy Sullivan – No
Brid Craddock – No
Mike Guman – No
David Francis – Yes
Doug Nelson – No

Based on the members' answers, the recommendation to the ZEO is to not grant the zoning compliance certificate to Danbury Ambulance Service.

5. Edmond Town Hall uses.

Attorney Robert Hall provided a draft of regulation changes for uses in the Edmond Town Hall. The Commission also received a letter from the First Selectman. Previously the definition of a professional person was revised. It would also include medical professionals. A suggestion was made that that might be too wide. Perhaps it could be revised to exclude medical and dental if you wanted to narrow it. Discussion took place regarding offices consisting of less than 800 square feet. George Benson said they took it out of the Town's regulation but unsure why there was a minimum size. Ms. Craddock commented that there is a great deal of parking at ETH. Mr. Benson said they would like to have offices with the minimal amount of people coming into those offices. Chairman Nelson said they wanted to get the process started but reasonably vetted before sending the draft to the Planning and Zoning Commission. Most of the offices in ETH are less than 800 square feet. Also this will impact other uses in the professional and commercial zones.

Mr. Guman raised the idea of putting ETH in another zone. Chairman Nelson said that is an option. Mr. Benson said spot zoning is fading as a problem. As long as it goes along with the overall plan and is not detrimental to the town. He said the Town just won a case on appeal about spot zoning. He said that the position on spot zoning has changed a lot in the last 5 years. At the next meeting there will be a revised draft presented with the intention to send it to P&Z for their comments. Mr. Francis said that whatever is proposed for ETH consideration needs to be given to existing professional zone if no logical basis for 800 square feet then there is no logical basis. It would need to be addressed. If you do it for professional zone you do it for business zone.

The 800 sq ft referenced in First Selectman Llodra's letter is only specific to ETH. A draft regulation will be presented at the next meeting.

6. Update on Lexington Gardens project – Discussion took place regarding the “Morganti” building (building where Chase is located). The decorative banding will be kept. Doors will be changed. Shutters will be added. And building would be painted white. If the applicant proposes anything different than what was approved, it most likely will require a public hearing. There was discussion that there are comments about not painting the building white as was approved. The Morganti building was an integral part of the entire Lexington Gardens project.

New Business:

1. Main Street Streetscape – Mr. Benson said that if the commission wished that Mr. Hotis would make his presentation to them he would ask Mr. Hotis.
2. Borough of Newtown signage compliance – tabled.
2. Any new proposed signs, if any – none.
3. Acceptance of any new applications - none.

Zoning Enforcement Officer’s Report – No report due to absence of ZEO.

There was no executive session regarding the pending litigation of Robert Grossman v. Borough of Newtown Zoning Commission and Hunter Ridge, LLC. The board agreed that Attorney Mitchell shall defend the case on behalf of the BZC.

There being no here being no other business to transact the meeting was adjourned at 9:55 p.m. The next regularly scheduled meeting will be held on April 12, 2017.

Respectfully Submitted,

Maureen Crick Owen
Zoning Clerk