



TOWN OF NEWTOWN
PLANNING & ZONING COMMISSION

MINUTES

REGULAR MEETING

Lower Meeting Room
Edmond Town Hall
45 Main Street
Newtown, CT 06470
February 7, 2019 at 7:30 p.m.

Present: Donald Mitchell, James Swift, Barbara Manville, Corinne Cox, Benjamin Toby, Roy Meadows, David Rosen

Also Present: Rob Sibley, Deputy Director of Planning and Land Use and Christine O'Neill, Clerk

Mr. Mitchell called the meeting to order at 7:31 p.m. Since Application 18.28, which was first on the agenda, was likely to take the longest, he suggested the Commission hear the other two applications first.

Public Hearing

Application 19.01 by Michael Burton, for a two-lot Subdivision of a property located at 77 Bennett's Bridge Road, as shown in a set of plans titled, "Subdivision Plan, Parcel A, prepared for Michael Burton, 77 Bennetts Bridge Road, Newtown, Connecticut" dated January 18, 2019, and supporting documentation dated December 21, 2005.

Larry Edwards of J. Edwards & Associates located in Easton, CT spoke on behalf of the application. The proposed subdivision is at the intersection of Gelding Hill, Bennetts Bridge, and Lakeview Terrace Extension. The project was started years ago, and when Lakeview Terrace became a town road, that enabled Mr. Edwards and Mr. Burton to create a subdivision. Mr. Edwards elaborated on this history of the property, explaining that the first cut created a lot 1A and lot 1B. The proposed subdivision would leave lot 1B with the original house and 1.27 acres while creating lot 2B with 3.5 acres and a conservation easement, plus an additional lot of 1.49 acres to be given as Open Space. A single additional home would be built on the front portion of lot 1B.

Mr. Swift asked when the town took over Lakeview as a public road. Mr. Edwards was unsure of the exact date, though Mr. Burton contributed that it was only Lakeview Terrace Extension and that Ron Bolmer, the Town Engineer, did sign off on this project. Mr. Mitchell asked if there was other Open Space in the area. Mr. Edwards said that there was none adjoining. He commented that the Open Space would not be public, "but we think it'll benefit the area." Mr. Meadows was wondering if the driveway had been flagged, because when he drove by to look at the property he was unable to identify it. Mr. Edwards responded that it was not flagged yet, but that they would have the flags up by Monday at the latest. He specified that the driveway was graded to town standards and would be filled with what was taken out for the house's foundation. He further explained, referencing the map, that the distance from the driveway to the corner is 215 feet, while 150 feet is the requirement. Mr. Meadows followed up with a question about the elevation, to which Mr. Edwards replied that the first floor of the house would be

just about level with the road. Mr. Mitchell commented that he did not see any archaeological reference or notation in the file and recommended that one be added. Mr. Swift inquired as to the value of the fee in lieu of Open Space that the Commission is entitled to request. Mr. Edwards explained that since the property is worth 75,000 – 100,000 dollars, the 10% fee would be about 10,000 dollars. Mr. Swift asked Mr. Sibley if there was any benefit to taking the Open Space. Mr. Sibley informed the Commission that the Conservation Commission will review this application at their meeting next week and submit their recommendation. Comment was opened to the public.

Barbara Godijon (sp?) of 50 Gelding Hill Road, Newtown, CT asked how many houses would be created from this subdivision. Mr. Edwards responded that the existing house and barns would remain, while one additional house was to be built.

Annie Sedlin of 3 Lakeview Terrace expressed that she owns a boomerang shaped property abutting the subdivision and wanted to understand exactly where the driveway and lot line were. Mr. Edwards demonstrated on the map. Mr. Swift asked what the setback required by the regulations was, and what the site plan showed. Mr. Edwards replied that a 25 foot setback was required, and the setback depicted in the site plan was 150 feet.

Michael Crowley of 12 Lakeview Terrace was concerned about his driveway, which was directly across from the subdivision. He explained that he shares his driveway with 16 Lakeview Terrace and thought the driveway would end up coming out in front of 14. Mr. Mitchell reminded the public that the driveway was to be flagged, allowing the neighbors to view its proposed position. Miss Sedlin asked if the brook on the property was protected, and Mr. Edwards reiterated that a conservation easement currently protected it.

John Truitt of 3 Wine Sap Road asked if the property was residential. Mr. Swift replied it was zoned as R-1 which meant it was approved for residential and farming. Mr. Crowley asked if that meant it could be used for landscaping business activities. Mr. Edwards replied that the usages for the proposed subdivision would be the same as what Mr. Crowley is able to do on his own property.

Mr. Mitchell reiterated that the Commission needed the applicants to stake out the property showing the driveway and Mr. Meadows further requested the property boundaries be shown. Mr. Swift proposed that the applicants get some documentation from the Town demonstrating that the portion of Lakeview Terrace they are looking to subdivide is no longer private, and Mr. Mitchell confirmed that such documentation was necessary. For those reasons, and in anticipation of a recommendation from the Conservation Commission, it was determined that a vote could not be held at present.

Mr. Swift made a motion to continue to the hearing at the next regular meeting of February 21, 2019 at 7:30p.m., location to be determined. Miss Cox seconded. All were in favor and the public hearing was continued.

Application 19.02 by Grace Family Church, Inc., for an Amendment to a Special Exception for a property located at 13 Covered Bridge Road, for signage as described and depicted in documents submitted to the Land Use Agency January 22, 2019.

Attorney Tom Rickart of Chip Mazzucco Emerson LLC in Danbury, CT spoke on behalf of the application. The application was a proposed amendment to a special exception from 2007 which had since been modified in 2015 and 2017. Grace Family Church would like to add three signs – two directional and one on the building itself. Attorney Rickart distributed a map with a green and purple dot, each signifying the location of one of the double-sided directional signs. One would be on the corner of Covered Bridge Road and the applicant's property, and the other would be at the corner of Hawleyville Road and Covered Bridge Road. The sign on the building would be facing I-84. Attorney Rickart also submitted a letter of consent from the owner of 13 Hawleyville Road, and passed out renderings of the signs that had previously been submitted for the record.

Mr. Swift asked if the signs were to be illuminated, to which Attorney Rickart responded they were not. Mr. Meadows pointed out that the proposed sign for the building is larger than what is permitted in the regulations. Attorney Rickart confessed that he had reviewed the regulations and they were not clear as to what was permitted for a church. A sign company created a mockup for the applicant saying that 23 feet is "permitted" but when Attorney Rickart investigated further to find out how they determined it was permitted, he was unable to receive a straight answer. There was language saying that a wall sign could not be bigger than 10% of the building's façade, and the proposed sign was half the size that would be permitted in that case, but that regulation was not for their zone. Given the confusion, Attorney Rickart said the applicant tried to create a sign that was "tasteful and within the spirit of the regulations." Miss Cox wondered if the directional sign on the applicant's property would cause visibility issues for Covered Bridge Road, but Attorney Rickart said it was not a big sign and unlikely to block the view. Mr. Toby asked if there were any regulations about a building sign being on the back of the building, because it seemed like the purpose of this sign was to advertise to I-84. Attorney Rickart confirmed that it could be seen from I-84 and Mr. Sibley gave a reminder that the lack of landscaping in the back was approved in the original application. The Commission began to discuss the coloration of the sign, but Mr. Sibley reminded them that they have "no control over the content and visual aspects" of signage. Mr. Sibley was also asked by the Commission to help clarify what the regulations were regarding signs in the Hawleyville Design District, so Mr. Sibley explained that none of the specifications for signs in the HDD guidelines applied to what was being proposed. Mr. Meadows said that since the submitted narrative referred to "permitted signage," he expected a demonstration of what regulations specifically permit it. Attorney Rickart apologized for using that wording. Mr. Sibley said that it does conform to industrial wall sign square footage, but Mr. Mitchell said he was uneasy about applying business standards to a nonprofit organization.

Ultimately, Mr. Sibley explained that the Hawleyville Design District guidelines section on signs opens by saying that the following is all that is permitted, pretty directly indicating that no other signs are allowed; therefore, the applicant would need to first submit a text amendment in order to permit the signage. Mr. Swift, with agreement from the Commission, expressed that it was important to establish this now because it could set a precedent for future signs that may come before the Commission. Attorney Rickart said, "Rob has provided a level of interpretation that had not been received previously" when the applicant met with George Benson, Director of the Land Use Agency. Mr. Benson had indicated that it was up to the discretion of the Commission. Mr. Mitchell inquired when Grace Family Church was to hold its first service, and Attorney Rickart stated around April. Mr. Mitchell felt that was plenty of time to get a text amendment written and approved, without having to redo the current

application. Mr. Mitchell conveyed that he would like the Commission to be involved in the drafting of the text amendment, to which Attorney Rickart was amenable. Comment was opened to the public.

Charles Zukowski of 4 Cornfield Ridge Road pointed out that the maps Attorney Rickart distributed were not visible to the public. He wondered if that was allowed. He also wondered if any progress had been made on the suggestion he put forth at the last meeting, that PDFs of maps/site plans be digitized so that community members may view them without having to go to the Land Use Agency. The Commission expressed their collective agreement and Mr. Sibley said that a suggestion of this nature may impact the budget.

Bill Hicock of 14 Whippoorwill Hill Road wondered what control the Commission has over signage. Mr. Mitchell replied that that issue would be straightened out the text in the regulations.

Mr. Swift made a motion to continue to the hearing at the March 7th meeting, 7:30 p.m., location to be determined. Miss Cox seconded. All were in favor and the hearing was continued.

Application 18.28 by NEMCO Limited Partnership, for a Special Exception and Site Development Plan Application for a property located at 26 Hawleyville Road, to construct a new gas station or filling station within a single structure as a retail convenience store and café and/or restaurant, as shown in a set of plans titled, “Site Development Plans NEMCO Limited Partnership 26 Hawleyville Road prepared for NEMCO Limited Partnership” dated December 26, 2018 revised February 5, 2019 and all supporting documents dated and received December 26, 2018, supporting documents received January 8, 2019, and supporting documents received February 7, 2019.

Attorney Peter Olson of 275 Greenwood Avenue, Bethel, CT introduced himself and submitted the affidavit and mailing list. The previous night, NEMCO Limited Partnership received a Certificate of Location Approval from the Zoning Board of Appeals and were now before the Planning and Zoning Commission looking for approval of a Special Exception and Site Development Plan. The process began last summer when NEMCO had a text amendment that (1) allows a gas station in the Hawleyville Design District if it has frontage on a highway and (2) is over 2000 feet from another gas station (meant to limit the number of gas stations in the area).

Attorney Olson introduced Matt Mitchell of NEMCO who discussed the history of this family-owned business and stated that the proposed establishment would “be built to serve the people in the area” with a “general store feel.” The hours were planned as 5 a.m. to 11 p.m., with the potential to be reduced in response to demand. The site plans show four self-serve gasoline pumps and a one-sided diesel pump. The marketing target is the local community, which is why there would be prepared foods as well as convenient grab-and-go items. Miss Cox asked if this would be open seven days a week and Matt Mitchell responded in the affirmative.

Maura Juan, the project architect, of 248 Main Street, Danbury, CT, handed out packets and displayed images of the proposed building and discussed the design. The inspiration for the design came directly from the Hawleyville Design District guidelines and the historic Hawleyville train station. Attorney

Olson pointed out that because aesthetics are so integral to the HDD guidelines, it is important that the Commission approves of the appearance of the building.

Russ Posthauer, the project engineer, of 40 Old New Milford Road, Brookfield, CT reviewed the site plan and pointed out the non-canopied diesel pump upon the request of Mr. Swift. The layout is not conducive to large tractor-trailers so the gas station is not expected to consistently attract vehicles much larger than those that would be used for a landscaping business (and the gas truck, which is smaller than a tractor-trailer). Mr. Posthauer also briefly described the safety measures that have been put in place, such as catch basins and valve systems, so that gasoline can't get into the ground. NEMCO also has an extensive spill plan that was submitted with the application. All the lighting is LED and there will be landscaping and sidewalks on the perimeter. The plan is to create defined driveways rather than just the current open expanse of pavement.

Miss Cox asked how many stores NEMCO owned and which was the most similar. Matt Mitchell replied they own seven stores, and the one in Bethel is the most similar. Mr. Meadows asked how the traffic flow would be directed around the gas pumps, and Mr. Posthauer indicated on the map. Although Mr. Meadows was a little concerned about cars having enough room to queue, Matt Mitchell commented that based on experience from the other locations this would not be an issue. Attorney Olson mentioned that the CT Department of Transportation District 4 had their plans under review, so they were waiting to hear back. Mr. Swift inquired about the installation of the tanks, a question that Norbert Mitchell of NEMCO fielded. He said all tanks are inspected by the State, Fire Marshal, and Building Inspectors. There are alarms, sensors, stop-buttons, and perimeter cameras that are always live in front of attendants. "From installation to function, we have a lot of safety measures built in," he stated. Miss Cox asked how individuals would access the allergy building behind the gas station. Attorney Olson said that there is another road further down, but the owner of that building is currently stating he has a right to an access way through the gas station property. Attorney Olson says the applicant does not concede that this right of access way exists. Comment was opened to the public.

Bill Hicock of 14 Whippoorwill Road asked if, by approving the 2000 foot provision in the original text amendment, they had theoretically approved the presence of more than one gas station in the Hawleyville Design District. Mr. Mitchell pointed out that if another gas station came before the Commission they would deal with the proposal at that time, but that they were only focusing on the current gas station.

Diane Beck of 12 Pheasant Ridge wondered if there were plans to have a propane fill station. Matt Mitchell replied that there were no such plans, and Attorney Olson added that granting this special exception would allow the sale of propane as part of "liquid fuels" but adding structures would need to come before the Commission again.

Brian Roth of 27 Hawleyville Road, Newtown, CT shared that he and Christal Preszler of the Economic and Community Development Department had previously tried to secure a grant to improve Hawleyville with sidewalks, benches, and landscaping. He was very pleased to see that, although they did not get the grant, NEMCO was incorporating several of these elements and helping to beautify the district. He wanted more detail on the lighting and the hours of operation. Miss Juan elaborated that the lighting was all dark sky compliant with no spill over, mostly building-mounted with the exception of the canopies

and a few poles in the back of the property. Miss Juan, and later Mr. Posthauer, referred to the photometric plan to explain the lighting. Mr. Toby wanted to know if the curbs were to be granite, as the image in the documents seemed to indicate. Mr. Posthauer responded that the plan was currently asphalt, but that since the sidewalk was State property it was not entirely within their control. Mr. Swift and Mr. Toby were in favor of requiring a good faith effort to obtain granite sidewalks, with the understanding that DOT may not allow it. Mr. Sibley said that if the Commission were to make this a condition of approval, he would like for them to point to a specific regulation backing it up. Otherwise the decision could be appealed, because it is discretionary. Attorney Olson said that NEMCO would make a good faith effort regardless. Mr. Swift and Mr. Mitchell agreed that it would be helpful in the future to work on design district standards.

Attorney Tom Beecher came forth to speak on behalf of Dr. Jeffrey Miller of 28 Hawleyville Road, Newtown, CT - Mission Allergy, Inc. Dr. Miller did not oppose the project but wished to preserve a right of way that has existed since 1951, stated Attorney Beecher. He handed out packets that showed an old map and some screen shots from Google Maps demonstrating an access route to Mission Allergy through the 26 Hawleyville Road property. Attorney Beecher explained that although he knows the Commission does not have jurisdiction to determine ownership, he hoped they would not approve a site plan that had curbing or fencing that would obstruct Dr. Miller's right of access.

Glen Hopper, owner of 24 Hawleyville Road who currently resides at 279 Chain Trail, Southbury, CT, announced that his property was more affected by this proposal than anybody else's. He stated that he was never notified about any of this "until after the fact." Mr. Hopper's concerns were as follows: traffic surrounding the gas station without a stoplight to regulate it; noise (railroad tracks causing big trucks off the highway to brake suddenly); lack of monitoring what would go into the groundwater; and that a gas station was "not friendly" and "not in harmony with Hawleyville." After Mr. Hopper had finished speaking, Attorney Olson referred to the mailing list he had submitted and was able to confirm that a letter had in fact been sent to Mr. Hopper.

Mike (inaudible) of Fox Run Lane South asked how the property would supply drinking water. Don Mitchell of NEMCO replied that they would have their own well on site, which is required if one is supplying water to more than 25 people.

Andy Gorosko, reporter from the Newtown Bee, asked if this matter was to go to the Hawleyville Design Review Board. Mr. Mitchell responded that the Board was voluntary, so no, it would not go before them.

Mr. Swift made a motion to close to public hearing. Mr. Meadows seconded. All were in favor and the public hearing was closed at 10:15 p.m. The only discussion among the Commission was Miss Manville asking what their responsibility was regarding Dr. Miller's claim to access. Mr. Mitchell replied that the Commission plays "virtually no role" in this dispute.

BE IT RESOLVED by the Newtown Planning and Zoning Commission that Application 18.28 by NEMCO Limited Partnership, for a Special Exception and Site Development Plan Application for a property located at 26 Hawleyville Road, to construct a new gas station or filling station within a single structure as a retail convenience store and café and/or restaurant, as shown in a set of plans titled, "Site

Development Plans NEMCO Limited Partnership 26 Hawleyville Road prepared for NEMCO Limited Partnership dated December 26, 2018 revised February 5, 2019 and all supporting documents dated and received December 26, 2018, supporting documents received January 8, 2019, and supporting documents received February 7, 2019 SHALL BE APPROVED. BE IT FURTHER RESOLVED that the application shall become effective March 2, 2019.

Mr. Swift made a motion to approve Application 18.28. Mr. Meadows seconded. The Commissioners voted to approve Application 18.28 as follows:

Donald Mitchell – AYE
Barbara Manville – AYE
James Swift – AYE
Corinne Cox – AYE
Roy Meadows – AYE

The motion to approve Application 18.28 passed.

Other Business

Mr. Swift distributed a letter to the editor that he planned to submit to the Newtown Bee thanking former Planning and Zoning Commission chairman/member Bob Mulholland for his years of service. The Commission was very supportive.

Acceptance of Minutes

Mr. Mitchell made a motion to approve the minutes from January 17, 2019. Mr. Meadows seconded. All members were in favor and the minutes were approved.

Adjournment

Mr. Rosen made a motion to adjourn. Miss Cox seconded. All members were in favor and the meeting was adjourned at 10:32 p.m.

*Respectfully submitted,
Christine O'Neill, clerk*

Please note that the next regular meeting will take place in the
Lower Meeting Room of Edmond Town Hall on Thursday, February 21, 2019