



TOWN OF NEWTOWN
ZONING BOARD OF APPEALS

MINUTES
REGULAR MEETING

Meeting Room 3
3 Primrose Street
Newtown, CT 06470
February 6, 2019 at 7:30 p.m.

Present: Alan Clavette, Barbara O'Connor, Ross Carley, Jane Sharpe, Christina Paradis, and Robin Buchanan (A)

Absent: Prerna Rao and Joseph Bojnowski (A)

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

Mr. Clavette called the meeting to order at 7:32 p.m.

Acceptance of Minutes

Mr. Carley moved to approve the minutes from December 5, 2018. Miss O'Connor seconded. All were in favor and the minutes from last meeting were approved.

Public Hearing

Application 18.18 by NEMCO Limited Partnership, for a Certificate of Location Approval for a gasoline station as required by Section 14-321 through 14-324 of Chapter 250 of the General Statutes, 1958 Revision, as amended, for a property located at 26 Hawleyville Road, as outlined in site plans titled, "Site Development Plans NEMCO Limited Partnership 26 Hawleyville Road prepared for NEMCO Limited Partnership" dated 12/26/18 revised 2/5/19, and supporting documents submitted to the Land Use Agency 12/26/18.

At the start of the meeting, the applicant presented a revised set of plans titled, "Site Development Plans NEMCO Limited Partnership 26 Hawleyville Road prepared for NEMCO Limited Partnership" dated 12/26/18 and revised 2/5/19, to supersede the previously submitted plans. The applicant also submitted the affidavit and mailing list.

Attorney Peter Olson of 275 Greenwood Avenue, Bethel, CT spoke on behalf of the application. Representatives from NEMCO – which is the real estate branch of the Norbert E. Mitchell fuel company based out of Danbury – who came to the meeting included: Matt Mitchell, Don Mitchell, Maura Juan (architect), and Russ Posthauer (engineer). Attorney Olson explained that although Section 14-322 of the CT General Statutes has been repealed, the Town of Newtown Zoning Regulations have not been updated to reflect that, which is why NEMCO had come seeking a Certificate of Location Approval. Although "most of the heavy lifting" would be done at the Planning and Zoning Commission hearing the following night, Attorney Olson said he would "treat this as a referral to" the Board to get input from them about the project.

According to the General Statute, there are two components the Board would be ruling on: (1) the suitability of the proposed gas station's proximity to gathering places such as churches, schools, etc. and

(2) that the use would not imperil the public. Attorney Olson said there are no places of gathering nearby, just a small church that is being used as a yoga studio. Since the guidelines for the Hawleyville Design District in the Zoning Regulations wish to promote business activities that will serve the neighborhood as well as Exit 9 of I-84, this combination gas station/deli/retail store will be an appropriate addition. The Planning and Zoning Commission already approved a text amendment allowing a gas station to be constructed in the Hawleyville Design District.

Matt Mitchell described NEMCO as a family business seeking to fit into the “character of the community,” which is why they are modeling the building after the old Hawleyville train station. Mr. Carley asked if the establishment would operate 24-hours, to which Mr. Mitchell responded that the hours had not been set yet, but there were no plans to make it 24-hours.

Maura Juan of 248 Main Street, Danbury, CT gave a description of the architecture of the building and attested that it “fits in well with the intentions of the Hawleyville Design District.” Mr. Carley asked if the footprint had changed and if the new building would be closer to the road. Miss Juan said that if there is a difference in the footprint, it is by inches.

Ross Posthauer of 40 Old New Milford Road, Brookfield, CT enumerated the revisions in the newly submitted plans.

- 1) Corrected typos
- 2) As per the health department, corrected septic and elevation specifications
- 3) Added a parking space

He stated that the gas station will not affect traffic flow from Route 25 and would close off a wide open driveway, thereby directing traffic with a one-way exit. Attorney Olson added that these plans are pending approval from Connecticut Department of Transportation District 4. The presentation was concluded and Mr. Clavette invited public comment.

Diane Beck of 12 Pheasant Ridge, Newtown, CT asked if there would be a sign on the highway encouraging truck traffic. Don Mitchell replied that this establishment was “not a truck stop” and that they were “here to serve the community.” Mr. Carley asked if repair work was to be done, and Attorney Olson responded that it was not. Miss Beck began to bring up concerns regarding the small business and tenants in that location and how they would be affected, but Mr. Sibley stated that these concerns could be addressed by the Planning and Zoning Commission at tomorrow night’s meeting.

Glen Hopper of 79 Chain Trail, Southbury, CT (owns property at 24 Hawleyville Road, Newtown, CT) asked about the hours and Matt Mitchell repeated that he did not envision a 24-hour establishment. Mr. Hopper asked if 18-wheelers would be accepted at the gas station, to which Matt Mitchell responded that they would not be turned away. Mr. Hopper commented it would be difficult to get out of this gas station at peak hours with highway traffic plus rail road traffic (trucks braking at the tracks). He stated that he is not against the gas station, but that it will bring down his property value. Attorney Olson reminded him that the DOT approval is still pending and that traffic reports are only required for establishments with 50+ parking spaces whereas the gas station would have 17. Miss Beck added that she has concerns about traffic funneling off Exit 9 from I-84, to which both Mr. Clavette and Miss O’Connor responded that traffic has increased everywhere in Newtown.

When Mr. Clavette asked Mr. Sibley for his comments, Mr. Sibley said that most of what he had heard was zoning-related and should be addressed at the Planning and Zoning Commission meeting tomorrow night. He also said that Statute 14-321 replaced 14-322 and that he wanted the Board to know that they do have statutory authority to make a ruling on this application. The public hearing for Application 18.18 was closed at 8:08 p.m.

The vote for this application occurred later in the evening, at 8:22 p.m. Miss Sharpe made a motion to approve the application because the conditions were met regarding the proximity of gathering places, and it was in keeping with the character of the neighborhood. Mr. Carley seconded. The Board voted to approve Application 18.18 as follows:

Alan Clavette – AYE

Barbara O'Connor – AYE

Ross Carley – AYE

Jane Sharpe – AYE

Christina Paradis – AYE (alternate member voting as full board member in the absence of Miss Rao)

*BE IT RESOLVED by the Newtown Zoning Board of Appeals that **Application 18.18** by NEMCO Limited Partnership, for a Certificate of Location Approval for a gasoline station as required by Section 14-321 through 14-324 of Chapter 250 of the General Statutes, 1958 Revision, as amended, for a property located at 26 Hawleyville Road, as outlined in site plans titled, "Site Development Plans NEMCO Limited Partnership 26 Hawleyville Road prepared for NEMCO Limited Partnership" dated 12/26/18 revised 2/5/19, and supporting documents submitted to the Land Use Agency 12/26/18 **SHALL BE APPROVED**. BE IT FURTHER RESOLVED that the application shall become effective March 2, 2019.*

Application 19.01 by Matthew Dickie, for a property located at 11 Spring Trail, Sandy Hook, CT for a variance of Chart VII-I of the Zoning Regulations of the Town of Newtown, so as to permit the construction of a garage closer to the property line than the 50-foot road front setback allows, as shown on a set of plans entitled "Zoning Location Survey prepared for Matthew Dickie 11 Spring Trail, Newtown, Connecticut" dated 10/23/18, revised 10/30/18, last revised 1/7/19

Mr. Dickie introduced himself and submitted his affidavit and mailing list. He explained that he would like to construct a detached garage. Spring Trail is on one side of his property, Lakeview Terrace is on the other, and the back of the property has a sharp slope. The further back from the road he goes, the closer he comes to the cliff. He is further limited in his placement of the garage by the location his septic and well. The regulated setback is 50ft from either side, but his property is only 100ft wide at the point where it is most appropriate to build a garage. Mr. Dickie pointed out where his driveway is on the map at the request of the Board. There was no public comment. The public hearing for Application 19.01 was closed at 8:14 p.m.

The vote for this application occurred later in the evening, at 8:24 p.m. Miss O'Connor made a motion to approve the application as the hardship was demonstrated by the topography of the property, the

location of the well and septic, and the application was in conformance with the neighborhood. Mr. Carley seconded. The Board voted to approve Application 19.01 as follows:

Alan Clavette – AYE

Barbara O'Connor – AYE

Ross Carley – AYE

Jane Sharpe – AYE

Christina Paradis – AYE (alternate member voting as full board member in the absence of Miss Rao)

*BE IT RESOLVED by the Newtown Zoning Board of Appeals that **Application 19.01** by Matthew Dickie, for a property located at 11 Spring Trail, Sandy Hook, CT for a variance of Chart VII-I of the Zoning Regulations of the Town of Newtown, so as to permit the construction of a garage closer to the property line than the 50-foot road front setback allows, as shown on a set of plans entitled “Zoning Location Survey prepared for Matthew Dickie 11 Spring Trail, Newtown, Connecticut” dated 10/23/18, revised 10/30/18, last revised 1/7/19 **SHALL BE APPROVED**. BE IT FURTHER RESOLVED that the application shall become effective March 2, 2019.*

Application 19.02 by Lorraine Chilson, for a property located at 4 Wiley Lane, Newtown, CT for a variance of Chart VII-I of the Zoning Regulations of the Town of Newtown, so as to permit a 12-foot extension to the bedroom/bathroom closer to the rear property line than the setback allows, as shown on a set of plans entitled “Improvement Location Survey prepared for Lorraine M. Chilson depicting property situated at 4 Wiley Lane Newtown, Connecticut” dated 10/1/18 and documents submitted to the Land Use Agency 1/18/19

Miss Chilson’s affidavit and mailing list were submitted to the Land Use Agency prior to the meeting.

Miss Chilson explained that her house had been built in 1945 and was already closer to the road than the current setbacks allow. Her washer and dryer have been in her kitchen for years and so she would like to create a laundry area by expanding her bedroom/bathroom. She cannot go further into the front yard due to septic or the side yard due to the well. She also stated that the road was 14 feet lower in elevation than her yard, meaning the expansion of the house would not appear obtrusively close. Miss Chilson asked the Board to refer to the photos she submitted, as well as three letters of support from neighbors. There was no public comment. The public hearing for Application 19.02 was closed at 8:21 p.m.

The vote for this application occurred later in the evening, at 8:26 p.m. Mr. Clavette made a motion to approve the application as the hardship was demonstrated by the topography and preexisting location of the house, and the application was in conformance with the neighborhood. Mr. Carley seconded. The Board voted to approve Application 19.02 as follows:

Alan Clavette – AYE

Barbara O'Connor – AYE

Ross Carley – AYE

Jane Sharpe – AYE

Christina Paradis – AYE (alternate member voting as full board member in the absence of Miss Rao)

*BE IT RESOLVED by the Newtown Zoning Board of Appeals that **Application 19.02** by Lorraine Chilson, for a property located at 4 Wiley Lane, Newtown, CT for a variance of Chart VII-I of the Zoning Regulations of the Town of Newtown, so as to permit a 12-foot extension to the bedroom/bathroom closer to the rear property line than the setback allows, as shown on a set of plans entitled "Improvement Location Survey prepared for Lorraine M. Chilson depicting property situated at 4 Wiley Lane Newtown, Connecticut" dated 10/1/18 and documents submitted to the Land Use Agency 1/18/19 **SHALL BE APPROVED**. BE IT FURTHER RESOLVED that the application shall become effective March 2, 2019.*

Adjournment

Mr. Clavette moved to adjourn the meeting. Mr. Carley seconded. All were in favor and the meeting was adjourned at 8:28 p.m.

*Respectfully submitted,
Christine O'Neill, clerk*