

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

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

### Minutes of the Public Hearing and Regular Meeting of August 9, 2017

Minutes of the Public Hearing and Regular Meeting of the Borough of Newtown Zoning Commission on Wednesday, August 9, 2017 at the Lower Meeting Room, Edmond Town Hall, 45 Main Street, Newtown, Connecticut. Chairman Doug Nelson called the meeting to order at 6:30 p.m.

**Commission Members Present:** Doug Nelson, David Francis, Brid Craddock and Margaret Hull.

**Commission Members Absent:** Michael Guman and Claudia Mitchell.

**Staff Present:** Donald Mitchell, Borough Attorney and Maureen Crick Owen, Zoning Clerk.

**Also Present:** 17 members of the public and Andy Gorosko, Newtown Bee press.

#### **Meeting:**

1. Revision to Section 12.05A – A draft of Section 12.05A of the zoning regulations was presented (see Attachment #1). Discussion took place that it was always the Commission's intent that village district applications may be referred, at the discretion of the Commission, to an architect. Inadvertently the language on at the discretion of the Borough of Newtown Zoning Commission was not included in the language. Mr. Francis made a motion to refer to Newtown Planning & Zoning Commission the proposed revisions to Section 12.05A of the Borough Zoning regulations. The motion was seconded by Ms. Craddock and unanimously approved.

2. Discussion took place about small temporary signs that contractors place on properties where they are/will be doing work. Discussion took place about what is a reasonable time period that the sign can remain on the property before and after the work is done. Ms. Craddock said that New Canaan allows the signs on properties only while the work is being done. She said they are not just for advertising. Discussion also took place about the Commission not regulating them but what is a reasonable amount of time.

3. Lexington Gardens update: Mr. Nelson said that the project is in the same position as it was before. The architect is not getting the go ahead from the owner to get the building permit for the "Morganti" building (building housing Chase Bank). He said that Newtown Savings Bank will be doing their own landscaping.

4. Landmark Building Overlay Zone: Mr. Nelson said it is the intent to refer the draft to the Newtown Planning and Zoning Commission for their comments. He said there can be public discussion at the hearing. He said there are two parts to this regulation. The

first is the mechanics and the second is uses. The discussion on this proposed regulation has been ongoing for months. It was stated that just because one use was allowed in one landmark building does not mean it would be allowed in another landmark building. The proposed draft is attached as Attachment #2. Ms. Craddock made a motion to refer to Newtown Planning & Zoning Commission the proposed Landmark Building Overlay Zone regulation. The motion was seconded by Mr. Francis and unanimously approved.

### **PUBLIC HEARING:**

*Applications of Teton Capital Co., LLC for site development plan, special exception and village district approvals for construction of 10 discrete buildings for an assisted living village on property located at 37 Church Hill Road.*

The public hearing was opened at 7:17 p.m. Mr. Nelson stated that he anticipated that this hearing would be kept open and that the written comments from the Borough agencies would be read at the continuation of the public hearing. He also stated that he resided at 14 The Boulevard and was within 1,000 feet of the subject property. He asked the applicant if it wished that Mr. Nelson recuse himself from this hearing. Mr. Donohue stated that he wished that Mr. Nelson remain sitting on this application.

Attorney Frank Scinto of Gager, Emerson, Rickart, Bower & Scalzo, LLP is representing the applicant on this application. He introduced the other people that will be presenting on behalf of the applicant. They are: Bill Donohue of Teton Capital, general partner of project, Jack Perry, architect, Mike Lillis of CCA, engineer, and Mike Galante, traffic engineer. He mentioned that the legal notice stated 10 discrete buildings when in fact it is 12. Attorney Mitchell stated that it was not an issue.

Mr. Donohue then spoke. He talked why Church Hill Village is different from Masonicare and Maple Woods. He talked about the town's population and it is rapidly aging. He said this project would accommodate the growth of the aging population in town and would accommodate the diversity per the POCD. The buildings will be cottage model of assisted living and he said it will "feel like home". He said it would be the easiest transition for people as it feels like home. He stated that it ties in well with the Borough's regulation and said no building exceeds 6,500 square feet. All buildings are linked by glass connectors. The buildings will be mostly single story and only one building will have 2 stories. Mr. Donohue said there would be concrete sidewalks with granite curbing.

Mr. Jack Perry, architect and partner of Mr. Donohue's in this project, stated that there will be an access to the site from Church Hill Road. The access from The Boulevard will go to the Barn entrance. There will be glass connections to the common areas from the buildings housing the residents. There will be skylights in the walkways. The memory care unit will have an interior courtyard. He described the various buildings within the project.

Mr. Mike Lillis, Engineer of CCA, said the parcel is 3.97 acres with 2' contours. He discussed the drop in the property. He said the property goes from 350' to 528' which is about a 30' drop. He said there are no wetlands on the property. He provided information regarding the driveways within the project. He said the access from The Boulevard will be the main access for drop off and the access from Church Hill Road will be for deliveries. He said there will be 8 handicap parking spaces for vans and cars. There will also be a strip of grass pavers. He discussed the grading and drainage. He said while there will be the sidewalks along Church Hill Road and The Boulevard, there will be a second set of sidewalks within the property. He discussed the drainage easement on the neighboring property. He also talked about elms and maples with an array of shrubs for the landscaping.

Mike Galante, traffic engineer of Fred Clarke Associates, stated that this type of project is a low level traffic generator. He said he analyzed the driveways in the Fall of 2016 when the traffic signal had not been installed. He provided some statistics. He stated that the traffic impact from the project will be minimal. He also said he did not think the timing on the light would need to be changed.

Mr. Nelson asked the public for comments.

Dr. Moody, 6 The Boulevard: His property is adjacent to the project. He said he has met with Mr. Donohue. He supports the project.

Ken Lerman, 55 Main Street: He said he was an EMT with Newtown Volunteer Ambulance but was speaking for himself. He asked about the size of elevators and would they accommodate a full stretcher. Mr. Perry said yes.

John Madzula, II, The Boulevard: He said he does not feel like this project brings the New England charm and quaintness to the Borough. He suggested they revisit the design. He also said he does not understand why Church Hill Road is not the main access to the property and to make The Boulevard access the secondary access. He stated he was in opposition to the project.

Laura Lerman, 55 Main Street: She said she thinks it is the best offer given so far and has heard so many other ideas in the past. She said it is time to put the property to rest and that this is the best suggestion so far and can only get worse from here.

John Madzula, 20 The Boulevard: He has lived in the Borough for over 40 years. He thinks 40 parking spaces for the facility is not adequate. He talked about traffic circumventing the flagpole and use The Boulevard as a cut through. He spoke to the Village District regulations saying size, scale, proportion and design are all essential. He said there are standards set forth in the regulation. He said the Town has become more urban and the Borough is following suit. Mr. Madzula said he does not support the project and said it is not in harmony and adversely affects property values. He said Fairfield Hills campus would be a perfect place for this type of project. He requested that the Commission deny the approval.

Charley Gardner, Walnut Tree Hill Road: With the high speed of traffic on Church Hill Road, is there consideration being made for pedestrian traffic. Mr. Donohue commented that there are existing crosswalks there now and they are proposing a new crosswalk.

A motion was made to continue the public hearing to Wednesday, September 13, 2017 at 7:00 p.m. at the Lower Meeting Room, Edmond Town Hall, 45 Main Street.

There being no further business the meeting was adjourned at 8:45 p.m. The next regularly scheduled meeting will be held on September 13, 2017.

Respectfully submitted,

Maureen Crick Owen  
Clerk

**ATTACHMENT 1**

BOROUGH OF NEWTOWN ZONING COMMISSION

DRAFT 08.09.17 PROPOSED REVISION TO #12.05A.

12.05 A. All applications for new construction, substantial reconstruction **or rehabilitation** within the District and in view from public roadways (shall) **may** be subject to referral, **at the discretion of the Borough of Newtown Zoning Commission**, to an architect or architectural firm, landscape architect, or planner who is a member of the American Institute of Certified Planners selected and contracted by the Commission and designated as the village district consultant for such application upon receipt. The consultant shall report his findings to the Commission with 35 days after the referral.

## **ATTACHMENT #2**

Borough of Newtown

Draft 08.14.17

The Borough Zoning Commission proposes to add the following new provisions to the Borough Zoning Regulations.

### Landmark Property Overlay Zone

I. Definitions - For purposes of the Landmark Property Overlay Zone, the following definitions apply:

A. Nonprofit and Not-for-Profit Uses are activities the primary purpose of which is to provide public benefit centered on philanthropic goals as well as social well-being, i.e., charitable, educational, religious, or other activities serving the public interest or common good which do not distribute profits to members or shareholders except in furtherance of such public benefits. Such uses do not include uses the primarily activity of which involve sales.

B - An Educational Uses are activities providing instruction, the primary purpose of which is to prepare individuals in furtherance or support of the public school curriculum.

2. Purpose - The purpose of this regulation is to encourage restoration and preservation of existing buildings of historical and cultural value to the Borough. Such preservation promotes the general health and welfare of the Freemen by protecting property values, fostering a sense of history and civic pride, preserving architectural heritage and protecting community amenities. This zone does not imply or result in the establishment of an historic district as detailed in Section 7-147a-1 of the General Statutes.

3. Landmark Property Overlay Zone [LPOZ]

A Location - Properties in a residential zone may be eligible for designation hereunder as Landmark Properties for inclusion in the Landmark Property Overlay Zone

B A Borough Landmark Property may be any property, with its

improvements, as designated by the Zoning Commission in accordance with this regulation.

4. Standards for Inclusion in LPOZ

A The Commission may rezone a property in a residential zone to include it in the LPOZ where it finds that the structure or structures on the site are not less than 40 years old and are architecturally or historically notable considering the following factors:

- 1) the uniqueness of the structure or structures,
- 2) the historical significance of the structure or structures,
- 3) the distinctiveness of the architectural character of the structure or structures,
- 4) the placement and/or treatment of unusual and/or historic structures on a site constitutes a unique estate setting significant to the Town's history and worthy of preservation and
- 5) the cultural importance of the property to the fabric of the Borough and the Town.

5. Rezoning Procedure - an application for rezoning of a property to LPOZ shall be processed in accordance with the requirements for a change of zone as contained in the general statutes and these regulations.

A Pre-Application

1) The Commission recommends that, prior to submission of an official application for approval of a Borough Landmark Property or Building, the applicant prepare and present a preliminary description of the proposed Landmark Property for informal study and consideration by the Commission.

2) There shall be a Landmark Review Committee, which shall constitute an outside consultation resource and not a municipal agency, composed of four (4) members which may include persons from the Borough Historic District Commission, the town zoning commission, the Newtown Historical society or one chosen by the Board of Burgesses and may include the Town Historian.

The applicant shall submit the proposal to the Landmark Property Review Committee or to its designated members prior to formal application to the Zoning Commission. The purpose of this portion of the review procedure by the Committee shall be solely to advise the Zoning Commission as whether the

application qualifies under the definition standards of this regulation as a Borough Landmark Building.

3) If the Landmark Review Committee fails to recommend a specific building or site for Landmark designation in its report, or upon a written petition opposing the application, signed by the owners of 20% of the properties lying within 500 feet of the property which is the subject of the application, such designation or proposed special exception use shall require the affirmative votes of four members of the zoning commission.

4) The designation of any property or structure as a historic structural or site by any state or federal agency having as part of its mission the preservation of historical sites, shall be given consideration in determining whether a particular property meets the requirements of this section. Such prior designation, however, shall not create a presumption that the property is a Landmark Property.

B Application Procedure - An application for a zone change to LPOZ shall be submitted in such form as the Commission may require and shall include the following in addition to that required by Sec. 6-14.1 of these regulations:

- 1) A written statement as to the historic and/or cultural significance of the proposed property for rezoning and the rationale as to why the application should be granted,
- 2) Information as to the type of use and proposed population occupying said property,
- 3) Specific architectural and landscape plans as to how the building or buildings on said property will be restored. No Certificate of Occupancy will be issued until the architectural and landscape plans have been satisfactorily completed,
- 4) A written statement supporting the request, including a synopsis of the evidence to be submitted in support thereof.

For the area encompassing the proposed building or use, the burden shall be upon the applicant to show that the proposed designation or use is reasonably necessary to the preservation of the building or site and is consistent with the Plan of Development and the comprehensive zoning plan.

At such time as the application for designation is approved, the Borough

Landmark Building or Property shall be considered established and these regulations and the Zoning Map shall be considered to be modified to permit establishment of the building as approved.

Upon receipt of a combined application for rezoning and special permit by the Commission, the applicant shall submit the necessary information for site plan review as stated in these Regulations. In acting upon any rezoning special permit and site plan, the Commission may take into consideration the recommendations of any Town agencies or outside specialists with which it consults, such as but not limited to the Borough's architect, the Historic District Commission, and the Newtown Historical Society.

#### C HEARING/FINDINGS -

The Commission, after a public hearing, may approve the application for rezoning to LPOZ if it finds that

1. the building or property, based on factual, historical and social data and/or expert opinion, possesses a degree of historic significance, architectural uniqueness or cultural value which would represent a severe cultural loss to the community if destroyed or altered or allowed to deteriorate and that the preservation of the landmark building warrants special regulations for its protection and proper use,
  2. the property complies with the requirements of this regulation,
  3. rezoning of the property to LPOZ is consistent with the Plan of Development and the comprehensive zoning plan,
  4. sufficient evidence has been presented to establish that there would be no reasonable use to which the property in question could be adapted within the constraints of the underlying zone that would allow the preservation of the property by way of additional economic uses not available thereunder and that
  5. without additional LPOZ uses, the property is likely to
    - a) fall into disrepair or
    - b) be lost to the community.
6. USES - Landmark Property Uses by Special Exception
- A An applicant may, but is not required to, submit an application for special

exception uses hereunder at the same time that an application for designation of a Landmark Property is submitted.

B The uses potentially allowed by special exception in Landmark Properties may include:

1. Uses currently allowed in Residential Zone as principal uses and accessory uses may be allowed on a Landmark Property as non-principal uses;
2. Not-for-Profit and Non-Profit Uses
3. Charitable Uses
4. Educational Uses

C. Any use modification made pursuant to this regulation shall be the minimum modification that is reasonably expected to accomplish the end of a self-sustaining Building or site.

D. The Commission may attach any condition or conditions to its approval as it considers necessary in order to protect the public health, safety, convenience and property values and in order to assume continuing conformance to the approved application.

## 7. Application Procedure - Landmark Property Uses

A. An application to permit LPOZ uses shall be processed in accordance with the requirements for special exceptions.

B. The owner of land that has or is to be rezoned as LPOZ or his designee shall file an application with the commission for a special exception for proposed uses on such Landmark Property as meet the requirements of this regulation in such form as required by the commission. Such application shall include:

- 1) a statement explaining the efforts previously made to achieve self-sufficiency for the property,
- 2) a signage plan for the particular use and, in the case of multiple uses, for the property as a whole,
- 3) a parking plan,
- 4) a lighting plan,
- 5) a statement that the proposed Borough Landmark Building or use is consistent with the Plan of Conservation and Development and the comprehensive zoning plan,
- 6) a written statement specifying in detail the particular provisions of

those Zoning Regulations that the proposal would affect, if approved which it is proposed be modified and setting forth any additional standards which are proposed concerning the permitted uses, building, and other structures and

7) a statement explaining how the proposed uses are necessary for the preservation of the Building and/or site,

8. Miscellaneous

A Parking Requirements - Parking for any Landmark Property Uses shall, to the extent reasonably possible, conform to the minimum parking requirements for like uses in the Professional or Business zones with due regard being given for the residential character of the underlying zone, provided, however, that

- 1) additional or different parking facilities may be required to meet conditions existing for the particular property and the specific uses allowed hereunder,
- 2) additional or different parking facilities may be required to meet conditions existing for the particular property and the specific uses allowed hereunder,
- 3) any additional or different parking facilities required hereunder shall not significantly affect the residential character of the neighborhood and
- 4) Parking in a front yard shall be discouraged.

B Signage - A Borough Landmark Property may have one free standing sign, having not more than two sides that identifies the Property and its uses meeting the following requirements:

1. The portion of the sign identifying the Property shall be no larger than six (6) square feet on each side, with the longest side being not more than three times the length of the shortest side.
2. The sign may contain additional area for individual uses permitted in or on the premises and for or not more than two specific events taking place therein or on the grounds thereof. Such additional sign area shall not exceed two (2) square feet per use and/or specific event. Such event signs may be changed from time to time without prior approval and are limited to events taking place or are planned to occur within the 30 days next following any change in the event sign.
3. The overall sign, including identification and use/event portions thereof, shall not exceed ten (10) feet in height with the longest side being not

more than three times the length of the shortest side.

4. Building identification signs permanently built into the building's architecture may remain.

5. Signs shall otherwise conform to the standards contained in sections 6.01 through 6.06 of Borough of Newtown Zoning Regulations.

C Lighting - Lighting for any Landmark Property Uses shall conform to the lighting standards applicable to uses in the Professional Zone, limited, as needed, by the presence of non-residential uses in a residential neighborhood.

D Building/Lot Coverage - No more than 60% of the site shall be occupied by building, parking areas and drives.

E Application for additional approved uses shall be made and acted upon in the same manner and procedure as required for the initial application.

#### 9. Control Provisions

A A site rezoned by the Commission to LPOZ shall continue to bear its original zone designation with the initials LP appended to indicate the Landmark Property Overlay Zone. All zoning regulations and controls applying to the underlying zone shall continue to govern the LPOZ site except as modified pursuant to this section.

B No alteration of the exterior from that existing at the time of application or as shown in approved architectural plans for additions resulting in an increase in floor area will be permitted unless approved by the commission upon reapplication for a special permit and site plan review.

C Removal, Alteration, Modification or Addition Without a Special Permit. If any structure or building is removed, altered, modified or added to after the granting of a LP application or during the pendency of any application for LPOZ designation before the Zoning Commission, all zoning rights as defined below applicable to said site shall be reduced by 50% except that this shall not apply if the Commission has thereafter denied the LP zone for the site or if the Commission has granted a Special Permit for the removal, alteration, modification or addition and further provided that, in the case of less than total removal of the building or structure, upon application for Special Permit pursuant to this regulation, the Commission may grant zoning rights between 50% and 100% of those specified for the underlying zone by these regulations. Zoning rights as

used above shall include the following:

- 1) the maximum floor area authorized,
- 2) the maximum building area authorized,
- 3) the maximum area covered by building, parking and drives,
- 4) the maximum number of dwelling units,
- 5) on a residentially zoned lot, the maximum number of dwelling units determined by applying the standards for multi-family housing and
- 6) special exception LP uses.

D If the principal building on property zoned LP is destroyed, the LP zone designation and any LP special exception shall expire and thereafter be null and void.

E No reconstruction, alteration, demolition, or addition shall be made to the exterior of any existing structure nor shall any additional structure be constructed upon a site in the LP zone, unless there shall have been received a special permit upon application thereof from the Commission pursuant to this regulation. In issuing such special permit the Commission shall consider the effects of the proposed work upon the protection, enhancement, perpetuation and use of the structure(s) which cause it to meet the Landmark Property standards set forth herein. Ordinary maintenance and repair for which no building permit is required by the Building Code of the State of Connecticut shall be excepted from this requirement.

Minor work which is limited to a change in, addition to, or removal of the parts, elements or materials of the exterior of a structure, shall be excepted from the Special Permit requirement provided that a certificate of appropriateness is issued by the Historic District Commission, if applicable. The requirement of this section shall not apply to any case where the Building Department, the Fire Department, or the Department of Health shall direct that work be done to remedy conditions dangerous to life, health, or property. Where such condition is not of imminent danger, notice of not less than 8 days shall be sent to the Zoning Commission and the Historic District Commission, if applicable, prior to directing such work.

#### 10. Special Enforcement Procedures

The Zoning Enforcement Officer and the Zoning Commission shall be charged with the enforcement of these regulations pursuant to the provisions of the Borough Zoning Regulations; provided, however, that the Zoning Enforcement Officer and any enforcement agent may consult with the Review Committee or any of its members when

determining questions of enforcement arising out of interpretations of the guidelines set forth in this regulation.