

Planning and Zoning Regular Meeting

Council Chambers 3 Primrose St

June 7, 2018 7:30 pm

These minutes are subject to the approval of the Commission at their next meeting. All related documents are available in the Land Use Department.

Present: Donald Mitchell, James Swift, Barbara Manville, Corinne Cox, Benjamin Toby, David Rosen, Robert Mulholland

Also Present: George Benson, Director of Planning and LeReine Frampton, clerk

Mr. Mitchell opened the meeting at 7:31 pm

Discussion and possible action:

Application 18.10 by the Town of Newtown for a text amendment to the Zoning Regulations of the Town of Newtown to remove the fee schedule – appendix A and remove 8.07.321, 8.08.337, 8.08.439, 9.09.224, 10.01.320, 11.01.220, 12.01.320, 13.01.300, 13.02.300.

Mr Benson explained that this would allow fees to be set by staff and inform the commission. He thought this change was done a while back but it was missed.

No further comments

Mr Swift moved to close public hearing and Ms Manville 2nd. approved

Application 18.13 by the Town of Newtown for a text amendment to the Town of Newtown Zoning Regulations 8.03.610 Parking schedule of minimum requirements, for affordable housing developments and dwelling units for elderly families.

Mr Benson addressed this application. Minimum parking spaces would be reduced to be in line with neighboring towns . Commission can request more. Special projects are determined with the assistance of the applicant.

Mr Mulholland requested that the one bedroom remain at 2 parking spots and not be reduced to 1.5 spots.

No further comments

Mr Swift moved to close public hearing and Ms Cox 2nd. Approved unanimous

Application 18.14 by the Town of Newtown for a text amendment to the Town of Newtown Zoning Regulations to include 8.01.626 Affordable Housing Development and dwelling units for elderly families. One single-facing or double facing sign, size 20 square feet.

Mr Benson addressed this. Wording for signage was omitted from the regulations for the zones. This wording is the same as other residential signage.

No further comments

Mr Swift moved to close public hearing and Ms Cox 2nd. Approved unanimous

Application 18.05 by Dauti Construction for a modification to the Site Development Plan for 95-99 Church Hill Rd, Edona Commons, originally approved 6/19/2011, as shown on a set of plans titled "As-built plan, Sheet 2 of 6, project #050-2005, prepared for Dauti Construction, LLC 95-99 Church Hill Road, Newtown, Connecticut" dated 4/3/18. (Continuation)

Engineer Steve Trinkaus spoke. Evergreen screening is in, screening between building and Church Hill Rd, Fire Marshall required pavement instead of pavers and gravel for emergency access road there is letter in file, access is 14.7% grade the max allowed is 15% so that complies, 20 instead of 19 parking spots, lawn and chain link fence is in, fence around wetland area, retaining walls relocated and changed a bit for landscaping, sidewalk is in to match town sidewalk. Split rail to green box fence approved by Steve McGuire.

Mr Swift inquired as to why pavement was required. Mr Trinkaus imagined it was to create all weather surface for emergency access, easier to remove snow in winter. Letter from Fire Marshall's office was read Mr Swift noted it said access was acceptable it did not state pavement was required. Mr Swift is concerned about drainage.

Mr Toby verified grade compliance.

Opened to public – no further comments

Mr Swift moved to close public hearing Ms Manville 2nd. Approved unanimous

Application 18.12 by Claris Construction for a text amendment to the Zoning Regulations of the Town of Newtown to amend the language of the M2A Zone as shown in a document titled "Article V Industrial Zones" received to the Land Use Agency on May 16, 2018.

Phil Clark principal of Claris came forward and Mr Benson presented. M2A was written for a big corporate development similar to IBM in Southbury which is now outdated. This amendment will add uses in zone such as warehouse. Language was for piece of property with 150' set back. Mr Benson feels it should be rewritten to what is already allowed. Medical offices, self storage facility, restaurant excluding drive thru, warehouse/wholesale business (turned down prior and lost Amazon project) were added.

Retail sales (25,000 sq foot max), personal services, and bank were changed from secondary uses to primary usage.

Only two lots in Newtown qualify for this change. These types of projects are why 3 million was invested in sewers by exit 9.

Road will be created through center of property across from Covered Bridge Road to allow traffic light.

Road setback Rt 25 and 6 150' setback, front yard 50' setback, parking 25' setback

Still maintain control with special exception. Medical offices would be by Whippoorwill Hill for least obtrusion to neighbors, then second level down would be a less obtrusive, and bottom would be another type of build out.

Mr Mulholland noted that everything to be approved is special exception for the future. This just gives options. Warehouse was not passed prior due to not knowing the company name. Would like to find legal way to know name when applying for special exception.

Mr. Clark added soil scientist engaged buildings will be centered and built into the slope so they will be well hidden. Names will be known for approval. Medical is expanding due to hospitals are moving services into towns. With expanding population and job opportunities bus service could be improved into the area.

Public participation

Patrick Napolitano 13 Whippoorwill Hill supports medical office development and lower development, opposes project

Violates protection of residents (500-1000), reduces property values, where are trucks coming from and when, what roads are being used do we have any info on this? Sounds of backing up of trucks at night interfering with sleep, worried about water source and structural damage from blasting, quality of life of residents

Michael Riccardi 6 Whippoorwill Hill member of Hawleyville Fire

7 MVA (motor vehicle accidents) in month between Whippoorwill Hill and exit 9 medical yes – warehouse no

Mr Mulholland stated light at Covered Bridge was deemed not warranted by state but state implied if road installed and the property is developed the state would reconsider Mr Clark stated if state warrants need developer will absorb cost of light and bypass lane.

Mr Mulholland stated this is for a change the other issues addressed will be handled by special exception.

Mr Swift - check setbacks, Whippoorwill Hill protected , cannot zone based on user or owner

No further comments

Mr Swift moved to close public hearing Ms Cox 2nd. Approved unanimous

Application 18.08 by 18 Commerce Road LLC, for a text amendment to the Town of Newtown Zoning Regulations to add Medical Marijuana Dispensary Facilities as a use permitted by Special Exception in the M5 Industrial Zone as detailed in an application submitted to the Land Use Agency dated May 4, 2018.

Robert Hall, attorney 43 Main St represented 18 Commerce Road LLC

Request for 18.08 and 18.09 to have combined public hearings Mr Mitchell denied due to Legislative cannot be done with use. This is text cannot look at special exception at the same time.

M5 zone 5.06 State Legislature passed law in 2012 and regulations in 2013 regarding medical marijuana. Dispensary is retail type use.

Mr Benson inquired about prescription process. Tom Karvasky, dispensary Pharmacist in Bethel, explained patient must be diagnosed by doctor and placed in the system. Patient receives authorization to purchase from the state. Patient chooses a dispensary and meets with pharmacist for evaluation which takes about an hour. Pharmacist works out a plan for dosage. Evaluation includes condition to be treated, lifestyle and any other conditions the patient has. His plans have a slow start and increase slowly until reaching proper dosage.

Mr Mulholland inquired as to how many Newtown residents are in this program. That is not known but Bethel sees 150-200 patients per day per Mr Karvasky.

This open enrollment for dispensary license there are 70 applications for up to 10 approvals.

Jennifer Staack 6134 Avalon Way Dr Danbury works at Theraplant since 2014 (Marijuana producer) background 1st round of licensing 6 for the state then they added 3 more. 26,927 patients in the state, Fairfield County has the highest with over 5,000. Bethel is currently the only dispensary in Fairfield County. Applicants must meet specifications prior to being considered. Needs approval of location in M5 zone plus public water and sewer. This limits the locations in Newtown. Bethel has 12-15 employees, Newtown would probably need more due to larger facility.

Public comments

Daniel Rosenthal 9 Meghans Circle

Concerned for the community – both those needing medical help and the rest of the community. Bethel is close and so is the Brookfield facility so our citizens do have someplace to go. Concern over changing to recreational marijuana which is currently being considered by legislature. Would rather wait and see affects to communities with dispensaries first. Bethel litigated and lost, they then immediately changed zoning to forbid expansion or new dispensaries.

Dr Zijad Sabovic (with group) now 9 dispensaries, 4 producers adding 3-10 more in CT due to number of patients dispensaries are very secure used on many diseases that have no other course of treatment

Eileen Mitchell business 16 Commerce Rd

Supports many veterans that need this does not support location due to need of restraining wall to obtain required parking spaces.

Laura Duffy 17 Pilgrim Lane SH licensed psychotherapist opposed to location

Mental health issues fall into many conditions covered by medical marijuana and that list is growing this location is not big enough patients are getting around requirements and getting scripts from doctors unwarranted

Mr Swift asked what if recreational is approved? Atty Hall said it hasn't been passed gonna be a mess doesn't know impact.

Donna Culbert – email – opposed

Chief Viadero – email – opposed

Mr Mitchell closed public hearing for text amendment

Discussion and decision to vote on this item.

Following motion moved by Mr Swift and 2nd by Mr Mulholland

BE IT RESOLVED by the Newtown Planning and Zoning Commission that **Application 18.08 by 18 Commerce Road, LLC, for a Text Amendment to the Town of Newtown Zoning Regulations to add Medical Marijuana Dispensary Facilities as a use permitted by Special Exception in the M-5 Industrial Zone as detailed in an application submitted to the Land Use Agency dated May 4, 2018** IS HEREBY FOUND CONSISTENT WITH THE PLAN OF CONSERVATION AND DEVELOPMENT AND SHALL BE APPROVED WITH THE FOLLOWING CONDITIONS _____ NONE _____

BE IT FURTHER RESOLVED that the application shall become effective July 2, 2018.

Discussion –

Mr Mulholland – personally qualifies to use it but thinks it is premature and is not justified for Newtown. Not a long drive to Bethel.

Ms Cox – agrees with Mr Mulholland

Mr Mitchell – concerned about state preemption

Mr Benson – Legislature says state won't mandate towns to allow dispensary

Mr Mitchell/Mr Benson – state says towns can't ban producing unless all pharmaceutical producers are banned but does not say that for dispensary.

Vote taken – motion passes

Mr Swift, Mr Mitchell and Ms Manville yes

Ms Cox and Mr Mulholland no

Motion passes 3-2

5 minute recess - 10:30 Mr Mitchell called meeting back to order

Application 18.09 by 18 Commerce Road, LLC, for a Special Exception for a property located at 18 Commerce Road, for a Medical Marijuana Dispensary Facility as proposed in an application submitted to the Land Use Agency on May 4, 2018 and detailed on plans titled "Health Vitality Center of CT, Property Map prepared for 18 Commerce Drive, LLC, 18 Commerce Road, Newtown, Connecticut 06470" dated May 3, 2018.

Atty Hall spoke to application. Aquifer protection district is behind the building; 25-26 spaces needed; more available than needed; 16-17 spaces applicable to industrial use; retaining wall; mail list sent and documentation submitted; corrected plans submitted 1"=1200' (old 600'); included traffic study from Commerce Road change and it is favorable; followed dark sky lighting; zero lumens by property line and up to 2 by building and travel way; fleet vehicles will be left in back; side door for deliveries of product, goes into locked area only dispenser can enter; parking lot re-stripped not changed;

Drawing C5 shows retaining wall had to cut into hillside to produce parking, man made pitch to build wall, blocks are very large and lock together; Ridge Rock; Gravity walls

Mr Swift asked about block finish instead of just a concrete wall. Was assured there would be a finish and it would look nice.

Mr Swift asked about crosswalk safety – business does not generate much traffic other than patients

Discussion on road traffic and parking inadequacies; signage to indicate parking spot allocations; virtually no wetlands issues; impact statement

Eileen Mitchell 16 Commerce Rd business

Her parking lot was dug up and redone to accommodate their needs; problem with restraining wall safety; if she can't use her back entrance she is out of business; worried about security of neighboring businesses; it is all industrial once retail comes in can any retail come in; already problems with trucks getting in and out; what hours will they be operating; does not agree

Ms Staack – hours minimum 40 hour week; security designed by company that designed other dispensaries in state with no issues; building must be discreet

Mr Swift moved to close public hearing Ms Manville 2nd approved

Open public hearing

Application 18.11 by Prithvi Real Estate Management, LLC for a Special Exception for a property located at 94 South Main Street, for a veterinary facility as proposed in an application submitted to the Land Use Agency on May 16, 2018 and detailed on plans titled "Pleasant Paws Pet Center, 94 South Main Street, Newtown, Connecticut, Prepared for Prithvi Real Estate Management, LLC." dated May 8, 2018.

Kevin Solli, Solli Engineering 501 Main St Monroe requested both applications to be heard together -discussion followed – request granted

Application 18.15 by Prithvi Real Estate Management LLC, for a Zone Change for a property located at 94 South Main Street, from an R-1 Zone to the Special Design District #5 (SDD5), as shown on a map titled “Pleasant Paws Pet Center, 94 South Main Street, Newtown, Connecticut, Sheet 1.40” dated May 8, 2018.

Mr Solli addressed application. Corner Greenbriar and Rt 25; special design District 5 approved for this project; small wetlands pond; 48 parking; entrance on 25 and Greenbriar; sidewalks; access on three sides for emergency; dumpster completely screened in; small grass area for animals to use after surgery; retaining corner on parking lot; improved grading for sight line coming out of Greenbriar; public water and utilities will come from Greenbriar; septic system; extensive landscaping; colonial design for signage; LED dark sky; traffic impact study (55 trips am peak and 69 trips pm peak both driveways will work) driveway on Greenbriar before residential so it should not impact neighbors

Warren Freedenfeld – architect of Pleasant Paws Pet Center description of floor plan; 2 floors; translucent roof over play area outside; 24’ tall building; flushing system on the dog walks which goes into septic; acoustics to control noise

Discussion on Greenbriar driveway; materials on side of building; amount of parking; size; glass; color

Neil Chadhaury 1 Southbrook Lane problem with Greenbriar driveway (other neighbors attended but had to leave due to late hour) appreciates sight line improvement; please move dumpster to other side; extend landscaping to fill in Greenbriar driveway; no other business has driveway into neighborhood

Ms Cox – would like to get rid of yellow blocks
Mr Mulholland - dormers make it look 3 stories
Mr Swift – what is overall height
Mr Mulholland – plantings in front of building

Discussion on peaks; changing driveway on Greenbriar; septic is near corner of Greenbriar and 25
Mr Swift made a motion to continue to 6/21/18 7:30pm in Council Chambers. Mr Mulholland 2nd approved unanimous

Motion to move following application made by Mr Swift and 2nd by Ms Manville.

BE IT RESOLVED by the Newtown Planning and Zoning Commission that **Application 18.09 by 18 Commerce Road, LLC, for a Special Exception for a property located at 18 Commerce Road, for a Medical Marijuana Dispensary Facility as proposed in an application submitted to the Land Use Agency on May 4, 2018 and detailed on plans titled “Health Vitality Center of CT, Property Map prepared for 18 Commerce Drive, LLC, 18 Commerce Road, Newtown, Connecticut 06470” dated May 3, 2018.** IS HEREBY FOUND CONSISTENT WITH THE PLAN OF CONSERVATION AND DEVELOPMENT AND SHALL BE APPROVED WITH THE FOLLOWING CONDITIONS: none
BE IT FURTHER RESOLVED that the application shall become effective July 2, 2018.

Discussion on special exception 18 Commerce Rd LLC Medical Marijuana dispensary

Mr Mulholland –doesn’t like traffic study or parking lot or traffic flow
Mr Mitchell - agrees
Ms Cox – concerned using marijuana in parking lot

General concern over legalizing recreational

Vote taken – motion passes

Mr Swift, Mr Mitchell and Ms Manville yes

Ms Cox and Mr Mulholland no
Motion passes 3-2

Motion to move following application by Mr Swift 2nd by Ms Manville

BE IT RESOLVED by the Newtown Planning and Zoning Commission that **Application 18.12 by Claris Construction for a Text Amendment to the Zoning Regulations of the Town of Newtown to amend the language of the M2A Zone as shown in a document titled “Article V Industrial Zones” received to the Land Use Agency on May 16, 2018.** IS HEREBY FOUND CONSISTENT WITH THE PLAN OF CONSERVATION AND DEVELOPMENT AND SHALL BE APPROVED WITH THE FOLLOWING CONDITIONS: none
BE IT FURTHER RESOLVED that the application shall become effective July 2, 2018.

No discussion

Vote taken - Motion passes unanimous

Mr Rosen moved to adjourn Ms Cox 2nd Mr Mitchell adjourned 12:40am

Respectfully submitted,
LeReine Frampton, clerk