



TOWN OF NEWTOWN
PLANNING & ZONING COMMISSION

MINUTES
REGULAR MEETING

Council Chambers
3 Primrose Street
Newtown, CT 06470
June 20, 2019 at 7:30 p.m.

Present: Don Mitchell, James Swift, Barbara Manville, Corinne Cox, Roy Meadows, Benjamin Toby

Absent: David Rosen

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

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

Public Hearing

Application 19.10 by Centrica Business Solutions, Inc., for an Amendment to a Special Exception, for a property located at 139 Toddy Hill Road, to allow installation of an array of solar panels, as shown in a set of plans titled, "Masonicare, Special Exception Amendment – Solar Array, Permitting Set, Not for Construction, 139 Toddy Hill Road, Newtown, CT," dated 5/17/19 and supporting documents submitted 5/21/19 and 6/20/19.

Mr. Mitchell stated that at the end of the last meeting, some Commissioners had expressed that they wished to take a site walk, and it was his understanding that they had.

Engineer Brian Baker with Civil 1 presented the application. He distributed a new map which showed five different views of the site for the solar array. The topography from the site plan and from the Town GIS was used to demonstrate the perspective from those views including the forested areas. In every case there is significant buffering from existing vegetation, Mr. Baker reported, therefore he felt there was no potential for visibility from any properties.

Miss Cox asked about the trees that were to be cut down. Mr. Baker explained that all the trees shown on the profile would remain after the clearing.

Mr. Swift said that during his site walk, he could see a house from the top of the plateau. Mr. Baker replied that view section #5 shows the closest house, which is approximately 500 feet away. Mr. Swift also mentioned that he had seen well-marked trails running through what he believed to be the array area. Ron Lewis with Centrica said that within the proposed array area, there are no trails. Mr. Baker demonstrated on the map that there was a trail going through the array area, though Mr. Lewis commented that it was not marked.

Mr. Mitchell shared that the Zoning Regulations do not require that new improvements not be seen by neighbors. Mr. Lewis clarified that they had provided these visuals based on the comments from the Commission at the last hearing, and Mr. Mitchell thanked him.

Mr. Swift asked if any growth would occur underneath the solar panels, to prevent runoff. Mr. Lewis and Mr. Baker explained that the stumps would remain from the tree-felling and that meadow-like growth would be expected beneath the array.

Mr. Mitchell opened the floor to public comment. No one came forward.

Mr. Swift made a motion to close the public hearing. Ms. Manville seconded. All were in favor and the public hearing was closed at 7:44 p.m.

Miss Manville read the resolution into the record:

BE IT RESOLVED by the Newtown Planning and Zoning Commission that Application 19.10 by Centrica Business Solutions, Inc., for an Amendment to a Special Exception, for a property located at 139 Toddy Hill Road, to allow installation of an array of solar panels, as shown in a set of plans titled, "Masonicare, Special Exception Amendment – Solar Array, Permitting Set, Not for Construction, 139 Toddy Hill Road, Newtown, CT," dated 5/17/19 and supporting documents submitted 5/21/19 and 6/20/19 – SHALL BE APPROVED.

BE IT FURTHER RESOLVED that it shall become effective July 13, 2019.

Mr. Swift made a motion to accept. Ms. Cox seconded.

Miss Manville commented she thinks it is wonderful that Newtown is adopting alternative energy methods. Mr. Mitchell agreed that it is consistent with the Plan of Conservation and Development.

The Commission voted as follows:

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

The motion to accept Application 19.10 passed unanimously.

Application 19.11 by James F. Walsh, for a Text Amendment to the Town of Newtown Zoning Regulations, to amend § 2.03, to expand the area where the overlay district is applicable to the area in the vicinity of Exit 11 of Interstate 84, as shown in documents submitted to the Land Use Agency 5/21/19 and updated maps submitted 5/29/19 and 6/14/19.

Mr. Mitchell gave the floor to Mr. Sibley, who wanted to provide a clarifying point for the Commission. Mr. Sibley explained that the site is currently zoned as M-5 which means that retail is allowed for the site. Via special exception, a landowner in that zone can apply to have a multi-store retail facility (a strip mall).

Kevin Solli of Solli Engineering ran through a summary of the proposal, which would allow for a property near Exit 11 to build a restaurant with a drive-through window. He spoke of the recently-

opened drive-through window at the Starbucks near Exit 10, which he reported has been successful so far.

Mr. Solli wanted to focus on the Department of Transportation project proposed for the roadways around the parcel that would be affected by the text amendment, and how that project would improve traffic. One of the big changes would be an on-ramp for I-84 before the stoplight close to the high school. The width and capacity of the streets would also increase. Mr. Solli put up a slide that depicted the “queues” or traffic backups that currently occur at intersections during morning peak hours. The DOT projects a roughly 90% decrease in the queues.

As far as the schedule for this DOT project, it is expected to be completed in 2022. Mr. Solli addressed the comments from the last hearing that called out this application as premature, pointing out that the text amendment allowing a drive-through at Starbucks was passed in 2015, and the store opened just a week ago in 2019. As such, Mr. Solli felt this application was appropriate as a first step in the development process.

Mr. Toby asked if there was information about pedestrians and cyclists. Mr. Sibley responded that he has been working hard with DOT to implement sidewalks and pedestrian crosswalks, which are now part of the DOT plan.

Ms. Cox did not understand why Mr. Solli would be talking about less traffic, when that would ostensibly reduce the customer base and be unable to support the business that could be developed there. Mr. Solli explained that there wouldn't be fewer cars passing by; rather, the traffic flow would be better managed and more efficient.

Mr. Solli continued with the queue projection slides for the afternoon peak hours, which showed similarly drastic improvements.

Mr. Mitchell stated that Route 34 used to be transit corridor from New Haven to Danbury, especially for freight, but due to Stevenson Dam's weight restrictions the tractor trailers were finding other routes. However, DOT plans to remedy the weight restriction and Mr. Mitchell expects a resurgence of tractor-trailers on 34. Furthermore, tolls on I-84 would be a disincentive which may encourage truck drivers to take 34. His concern is that while the DOT project being discussed tonight may alleviate traffic, the future Stevenson Dam project could increase the truck traffic coming from New Haven to Newtown. Mr. Solli wasn't sure that taking such a roundabout route to save money on tolls could be justified for freight vehicles.

Mr. Swift asked if it would be safe to say that this project would increase driver speeds, as it reduces deadlock. Mr. Solli said that those cars would be going the speed limit, and essentially traveling as cars do now during non-peak hours. Mr. Swift also wondered if all the people who currently get off on Exit 10 due to the backup on Exit 11 would, after the completion of the DOT project, shift back to Exit 11. Mr. Swift felt that a prediction cannot be made about how the traffic will be in the future. Mr. Solli agreed, but stated that the best we can do is use engineering and scientific tools to do analyses and make projections.

Mr. Meadows asked Mr. Solli to speak a bit more about how he, as a traffic expert, had reached conclusions based on the data. Mr. Solli spoke about his process as a traffic engineer and how the software he uses works. He confirmed that he has replicated the DOT studies in his own software and

generated his own projections. Mr. Meadows asked if the input data was all taken from DOT or if Solli Engineering had done their own counts. Mr. Solli said that they had not performed any redundant counts. Mr. Meadows was concerned about the volume of cars going through the intersections now will not be the same as three years from now when the project is finished. Mr. Solli reiterated that the projections are rooted in science and engineering. Mr. Meadows wondered how the numbers the DOT generated differed from the numbers that Mr. Solli generated. Mr. Solli said that he was using the same input variables as the DOT, but that the DOT doesn't share their models which makes it difficult to compare results. Mr. Meadows pointed out that this was not an independent study from the DOT. Mr. Sibley shared that there are 3 dozen traffic studies for this area, which can be provided to the Commission.

Mr. Meadows asked for more specifics about the entrance/egress and traffic lights for the proposed site. Mr. Solli reminded Mr. Meadows that this is an application for a text amendment, not a site development plan - specifics such as driveways is something that would be visited during a site development plan application. He did clarify that the entrances and exits would be stop-sign controlled, with the driveway connecting to Toddy Hill Road having a left- or right-turn option.

Ms. Cox wanted to know why the hearing was going on when Mr. Solli had already been told that Newtown did not want more drive-throughs. Mr. Solli explained that the drive-through was at the heart of this application and that the hearing was still open for him to make his case and address concerns.

Mr. Mitchell was wondering about how trip generation would differ between a restaurant with and without a drive-through. Mr. Solli said that he would be able to reference a trip generation manual and get back to him with that information.

Mr. Meadows asked if improving Wasserman Way was part of this DOT project. Mr. Sibley confirmed that there would be two left-turn lanes (one with the option to turn right) from Wasserman Way going towards the high school and that the off-ramp from I-84 was to be shifted for better turn radiuses.

Mr. Solli put up a preliminary rendering of what the façade of a building on that property might look like. He restated that he felt this was an opportunity to turn a lot that was currently an eyesore into something that fits in well with the character of the community.

Mr. Solli talked about the last time drive-through windows came to the Commission, explaining that it was in the context of a text amendment allowing it in shopping centers, which was voted down. Mr. Solli felt that having drive-through windows in shopping centers was a very different proposal from allowing a restaurant with a drive-through near an I-84 exit.

Mr. Meadows asked for more clarification on a restricted turn into the lot. Mr. Solli said the DOT is looking at putting in a raised median to prevent an eastbound driver making a turn onto the on-ramp, which would also prohibit anyone from going directly from the site's driveway to the on-ramp. Mr. Swift pointed out that the DOT could change the plans and do away with the raised median. Mr. Sibley replied that this is the final design, and there is very little change that could happen at this point. Mr. Swift countered that the same had been said with an application that they approved for Church Hill Road, but DOT had changed something after the Commission's approval anyway. Mr. Sibley clarified that the DOT had made a change within the parking lot of a *private* property; as far as the design of this *public* highway, this design was final.

Mr. Mitchell opened the floor to public comment.

Neil Nacewicz of 7 Yearling Lane, Newtown, CT stated that he enjoyed the presentation and he is for the idea of the convenience of a drive-through.

Dan Holmes of 2 Spring Road, Newtown, CT, a member of the Pootatuck Watershed Association, asked if the property is already zoned for a strip mall, and if the only change would be the addition of the drive-through. Mr. Mitchell explained that it would allow restaurant with a drive-through. He asked if the drive-through would necessitate the need for more pavement or parking spots. Mr. Solli replied that the parking requirement is the same for a restaurant with or without a drive-through. Mr. Holmes was concerned about storm water runoff, as the lot is in an Aquifer Protection District. Mr. Mitchell and Mr. Sibley shared that another application would have to come forth with a site development plan, and at that time they would review such specifics.

Tim Sullivan of 9 Clearview Drive, Sandy Hook, CT shared that he is extremely concerned that Newtown is considering a drive-through. He felt it would take away from the small town experience of running into a neighbor by walking into a business. Traffic was also a concern, he stated, sharing that non-locals (who would be coming off the Interstate for the restaurant) are more likely to get into accidents according to police reports.

Michele McLeod of 22 Still Hill Road, Sandy Hook, CT agreed that there is no need for another drive-through restaurant in Newtown. She stated that Toddy Hill Road does not need more traffic added. She felt that the traffic projections were invalid if a restaurant would generate more trips. She contested the comment made at the last meeting that the people who speak at these meetings are the vocal minority, stating instead that the developer is the vocal minority.

Tim O'Connell of 15 Webster Place, Newtown, said he would like to see more smart development in the town and supports this application. The DOT project with the median seemed to him like it would be a significant improvement. He felt that this would be a safer alternative than high school kids going to Misty Vale. Mr. O'Connell welcomed the convenience of a drive-through.

Tom Santella of 12 Yearling Lane, Sandy Hook is in favor of the amendment. He felt that with the right amount of oversight regarding aesthetics, the environment, and safety, the project could benefit that part of town. He stated that it seemed convenient and appropriate.

Dawn Nacewicz of 7 Yearling Lane, Newtown. She shared that the timing of this application seems perfect to her, and that the prospect of this development was exciting. She felt that this was part of moving forward as a town, adding that she has faith that the Commission will give this project the proper oversight.

Andrea Santella of 12 Yearling Lane, Newtown felt that this idea is wonderful. As a mother who had driven children to sports, the convenience of a drive-through would be great as long as it was executed safely. She felt that people coming off the highway would get back on the highway quickly and would not add much more traffic in town.

Charles Zukowski of 4 Cornfield Ridge Road, Newtown stated that he was not speaking for or against the project. He was wondering if there was any chance that the State would sell the five properties they

acquired and create a commercial development at that intersection. Mr. Mitchell said there are a number of vacant properties in that area and no one knows what will happen with them.

Karen Holden of 68 Berkshire Road, Newtown had emailed the Commission about her traffic concerns, and thanked them for taking the time to read her message. She felt that during Mr. Solli's presentation, there was an absence of discussion about how the addition of a drive-through would increase traffic. She asked the Commission not to approve the application.

Keith Alexander of 8 Fawnwood Road, Newtown commented that the current traffic projections by the DOT seem to have been underestimated based on his experience. He shared that he enjoyed the quietness of Newtown and did not want to jump to a change when Starbucks' drive-through window just opened 24 hours ago. He also felt that this amendment was a foot in the door for even more drive-throughs.

Mr. Solli responded to the comments. He said that any development on this property will be subject to high standards for water quality and storm run-off. Considerable geometric improvements are being made to Toddy Hill Road and its intersection with Berkshire Road both by the Town and the DOT project. Mr. Solli further stated that when a site development plan comes before the Commission, a traffic analysis will be done to examine the additional trips that would be generated from a drive-through. He also shared that although he is not a community member, he lives in the next town over and his children go to camp here.

Mr. Mitchell stated that in his lifetime, he felt that Newtown would remain spread out and rural, with people dependent on their cars even as the town continues to develop.

Mr. Toby echoed one of the public comments that by approving this amendment, this opens the door to more potential drive-through windows in Newtown.

Ms. Cox asked if the landowner could develop with "light industry," even the Commission voted down this application. Mr. Sibley read from the Zoning Regulations (section 5.06) what is currently allowed in an M-5 zone. Ms. Cox shared that she is really concerned with the aesthetics of Newtown as a country town.

Mr. Solli asserted that the proposal is consistent with the POCD in terms of encouraging economic development. He shared that the argument about setting precedent was invalid, since the Commission has the authority to make a legislative decision not to accept future applications for drive-throughs – and the existence of a precedent would not be enough to overturn that decision.

Barbara Gardecki of Walnut Tree Hill Road, Newtown shared that Exit 14 and 15 already have a lot of eatery options. She stated that she is against drive-throughs and is tired of all the construction already going on at Church Hill Road.

Mr. Swift made a motion to close the public hearing. Mr. Meadows seconded. All were in favor and the public hearing was closed at 9:25 p.m.

Miss Manville read the resolution into the record:

BE IT RESOLVED that Application 19.11 by James F. Walsh, for a Text Amendment to the Town of Newtown Zoning Regulations, to amend § 2.03, to expand the area where the overlay district is applicable to the area in the vicinity of Exit 11 of Interstate 84, as shown in documents submitted to the Land Use Agency 5/21/19 and updated maps submitted 5/29/19 and 6/14/19 SHALL BE APPROVED.

BE IT FURTHER RESOLVED that it shall become effective July 13, 2019.

Mr. Swift made a motion to accept. Mr. Meadows seconded.

Ms. Manville stated that she does not feel a drive-through is acceptable for that area. She feels they will be setting a bad precedent by accepting another drive-through. Mr. Meadows inquired if she didn't like the location, or the idea of a drive-through in general. She confirmed that she feels drive-throughs in general are not appropriate for Newtown.

Mr. Mitchell shared that the arguments saying the drive-through would increase the tax base and that it is business-friendly does not make much sense in light of the fact that the property is already zoned M-5. He felt that the Commission already took a position within the last year and he did not feel that much has changed.

Mr. Meadows stated that he has heard positive feedback about the drive-through window at Exit 10, and wondered what other Commissioners had heard. Mr. Swift, Ms. Cox, and Ms. Manville felt the two could not be compared because of the difference in the locations. Mr. Swift explained that putting a drive-through window near Exit 11 would change the whole dynamic of that area; Ms. Manville concurred that Exit 10 already had a restaurant, gas stations, and lots of development. Mr. Mitchell stated that there is plenty of development potential for that property without approving a drive-through.

The Commission voted as follows:

Donald Mitchell - NAY
James Swift - NAY
Barbara Manville - NAY
Corinne Cox - NAY
Roy Meadows - AYE

The motion to accept Application 19.11 was disapproved 4-1.

Director's Report

Mr. Sibley shared that a training session for the Commissioners is in the works, likely in early fall.

Minutes

Mr. Mitchell made a motion to approve the minutes from June 6, 2019. Mr. Swift seconded. All members were in favor and the minutes from June 6, 2019 were approved.

Adjournment

Mr. Toby made a motion to adjourn. Mr. Mitchell seconded. All members were in favor and the meeting was adjourned at 9:37 p.m.

*Respectfully submitted,
Christine O'Neill, clerk*