



TOWN OF NEWTOWN
PLANNING & ZONING COMMISSION

MINUTES

REGULAR MEETING

Thursday, November 19, 2020 at 7:00 p.m.

Zoom Virtual Meeting Participation Information

Thursday, November 19, 2020 at 7:00 P.M.

Call-In Number: +1 929-205-6099

Meeting ID: 973 0055 9813 #

Website: <https://zoom.us/j/97300559813>

Present: Don Mitchell, Jim Swift, Dennis Bloom, Corinne Cox, Barbara Manville, Andrew Marone, David Rosen

Staff: Rob Sibley, Deputy Director of Planning, Christine O'Neill, Clerk

Mr. Mitchell called the meeting to order at 7:05 p.m.

Public Hearing

(continued) Application 20.09 by Paul Hilario, for a Special Exception and Site Development Plan, for a property located at 135-139 Mount Pleasant Road, so as to permit the construction of buildings to store trucks and equipment and to perform repairs, as demonstrated on a set of plans titled "Site Development Plans Prepared for Hilario's Service Center, Inc." dated 3/10/17 last revised 10/23/20, and documents submitted to the Land Use Agency 8/12/20, 8/14/20, 9/2/20, 9/17/20, 9/21/20, 9/29/20, 10/13/20, and 10/26/20.

Nick Yuschak of CCA shared that there are no new exhibits, but reviewed the landscape buffer on the lot. He referenced the portion of the Zoning Regulations that call for a planted buffer between commercial and residential properties that constitutes a "visually impenetrable screen year-round." Mr. Yuschak displayed the landscape plan and pointed out the shade trees near the west parking lot and the large area of existing vegetation. It is off the property, but it is a couple of hundred feet deep and includes a wetland which cannot be developed. Near the back of the property, the wooded wetland shifts to be within the property lines. Mr. Yuschak demonstrated several wetland mitigation plantings on the plan. Along the south side of the property, a 6 foot tall solid fence screens the lot from view. The fence continues to run along the east side of the property. When it ends, the applicant is proposing dogwood and bayberry to fill in the understory to supplement the off-property trees, along with arborvitae for additional screening.

Mr. Swift asked about the material of the fence behind the rearmost building. Mr. Yuschak said that was up to the applicant. Mr. Swift wondered if there would be plantings in front of the fence, so it wouldn't just be 200 feet of solid fence that a neighbor could see. Mr. Yuschak was unsure how much would truly be visible to the neighbors. He displayed an aerial photo to demonstrate how far away the nearest residences would be. Mr. Yuschak pointed out that in order to buffer the fence, the plantings would need to be on a different property. Mr. Mitchell said that didn't make sense since there is an obligation for the buffer plantings to be maintained, which would not be possible if they were on the same property.

Mr. Yuschak said they were thinking of natural, muted tones such as dark green for the fence. Mr. Swift requested no white. Mr. Mitchell asked about the colors of the buildings, and if they would complement the fence. Applicant Paul Hilario said he wasn't sure what the Commission was envisioning for the color of the building. Mr. Mitchell suggested something "muted." Ms. Cox contributed beige.

Mr. Mitchell expressed his concern that the buffer on which the applicant is relying for the western boundary is not on the property, which means there is a possibility in the future that it could be developed as technology improves and land becomes scarcer. Mr. Yuschak was fairly confident that because the area has wetlands and watercourses, it was highly unlikely to be developed.

Ms. Manville wanted Mr. Yuschak to go over the plantings along Route 6. Mr. Yuschak reviewed the rest of the landscape plan, which included staggered shade trees like oaks and maples.

Ms. Cox wondered, since the shade trees are relatively tall, what would screen the lower level. She also wanted to know who would maintain the grass. Mr. Yuschak said they wanted to leave the building visible. Mr. Hilario replied that his landscape contractor would maintain the grass.

Mr. Mitchell invited public comment on the landscape plan.

Wayne Addressi of 13 Lovells Lane, Newtown shared that Route 6 is a gateway into Newtown, so he was especially concerned about the appearance. He suggested more evergreens to buffer the east side of the property. Mr. Addressi wished to know if the Commission was satisfied with the level of landscaping. Ms. Cox agreed that she was concerned about the level of screening in the front, saying that she did not want to see the building. Mr. Addressi appreciated the applicant's attempt to grow his business, but cautioned about the unsightly history of the property. He also brought up some questions about the exact impact of the lighting. Finally, he asked if the Commissioners had visited the site and felt they had a good sense of what the improvements would look like compared to the current state of the property.

Mr. Bloom said he agreed that the property looks "just terrible" right now. He hoped that the proposal before the Commission would significantly improve the property. Mr. Mitchell shared that it was his understanding that the properties in question were rundown and unsightly before Mr. Hilario acquired them. Mr. Mitchell also replied that in terms of lighting, the Commission had already reviewed and discussed the photometric plan and it does meet the regulations. Mr. Mitchell did not want to ask things of the applicant above and beyond what the regulations require.

Mr. Addressi asked if this application was for a special exception. Mr. Mitchell explained that the term "special exception" used in the State Statutes often causes confusion: it does not imply that the Commission is actually making an exception to the Zoning Regulations. It simply means certain uses require more scrutiny from the Commission and a special set of regulations that apply beyond the allowed uses.

Mr. Addressi replied that if an applicant is investing in improving a property, that applicant should presumably do his best to appease the community. Mr. Mitchell commented that outdoor vehicle storage had already been discussed at length in prior meetings. Mr. Addressi said that part of an approval process should be to create a list of items that the Commission cannot technically enforce, but that they feel would improve the property. Mr. Mitchell firmly stated that the Commission could not simply go on feelings or opinions, and were bound by the regulations. When an applicant comes in for an application, it gives the Commission some control over the fate of that property - but the role of this Commission is not enforcement.

Mr. Hilario expressed it was troubling to hear Commissioners say that this business should screen itself from the public view. He implored the Commission to maintain a balance between proper screening as per the regulations, while allowing his small business to be seen from the road. Mr. Mitchell assured him that he did not see it as part of the Commission's authority to mandate that a business be invisible. Mr. Swift wholeheartedly agreed with Mr. Hilario, commenting that the landscape architect did a really nice job.

Mr. Mitchell brought up the other outstanding issue from last meeting, which was the interpretation of the regulation that requires the entrance of a public garage to be 300 feet from the entrance of any other public garage, filling station, playground, church, etc. Mr. Mitchell spent a lot of time researching the regulation to establish intent and studied the wording to see if the grammar gave clues as to how it could be interpreted. Since it was an ambiguous regulation, Mr. Mitchell explained, it should be interpreted in favor of the applicant. But this still did not address the fact that the emergency exit is too close to the other entrance.

Mr. Swift said that the emergency exit would only receive very limited use. Mr. Mitchell agreed in theory, stating he was in favor of two egresses, but that the regulation was pretty clear on this matter.

Mr. Hilario wondered if the regulation could be amended, since some of the language from it was from 1972. Mr. Mitchell suggested that Mr. Hilario could take the following steps:

1. Continue this public hearing.
2. Revise the site plan to eliminate the emergency exit from this proposal, and have that approved at the next Commission meeting.
3. Create a new application for a text amendment to fix the regulation.
4. Once that is passed, submit a third application to amend the special exception, in order to add an emergency exit which would now be permissible.

Ms. Cox felt this was a safety issue, and Mr. Hilario should be allowed to have the emergency exit. Mr. Mitchell agreed, but reminded her that the Commission does not have the authority to make an exception to the Zoning Regulations.

Mr. Mitchell pointed out that there was no sign plan included in the plans submitted. If this proposal were approved as is, he explained, Mr. Hilario would need to come in again to get a sign plan approved. Mr. Mitchell and Mr. Hilario reasoned that it would make sense to come back, after the potential text amendment, to amend the approval for two reasons: one, to add the emergency exit, and two, to submit the sign plan.

Mr. Mitchell invited public comment.

Charles Zukowski of 4 Cornfield Ridge Road, Newtown stated that he was supportive of a business expanding and contributing to the tax base. He wondered, though, if the one area where backing up is necessary on the site should include auditory screening so no one needs to hear the backup beeps late at night. Mr. Zukowski further shared that he had observed in old maps of the property and the drainage report that there may be water flowing underground on this property; therefore, he suggested extra caution in installing the foundation of the rear building. He also explained that Eversource supplies power for all facilities in this area, but there is a possibility that this could be hooked up to both C6 and C7 to improve reliability of electricity. Finally, he said the old railroad right-of-way to the south might be developed into a road or driveway at some point, which could be another possible area to put an emergency exit.

With no further comment, Mr. Mitchell entertained a motion to close the public hearing. Mr. Swift asked if closing the public hearing meant Mr. Hilario would be unable to amend the site plan to get rid of the emergency exit. Mr. Mitchell asked Mr. Sibley for confirmation. Mr. Sibley thought it would satisfy the public process if the Commission made the elimination of the emergency exit a condition of approval.

Mr. Swift made a motion to close the public hearing. Ms. Cox seconded. Mr. Hilario asked if it would be better for him to keep the public hearing open so he could submit his sign plan. After some discussion, Mr. Hilario and the Commission decided this would be best.

Since Mr. Swift had made a motion to close, and there was a second, the Commissioners had to vote on that. All Commissioners were opposed to closing the public hearing, so the motion failed.

Mr. Mitchell made a new motion to continue the public hearing to the next regular meeting of the Planning and Zoning Commission on Thursday, December 3 at 7 p.m. via Zoom. Ms. Cox seconded. All were in favor and the public hearing was continued.

Minutes

Mr. Mitchell made a motion to approve the minutes from the meeting of November 5, 2020. Ms. Cox seconded. All were in favor and the minutes from the meeting of November 5, 2020 were approved.

Adjournment

Mr. Rosen made a motion to adjourn. Mr. Marone seconded. All members were in favor and the meeting was adjourned at 8:15 p.m.

*Respectfully submitted,
Christine O'Neill, Clerk*

A recording of the meeting can be found here:

<https://drive.google.com/drive/folders/1Ku5piUXjyya9BlUW-LUikqNKn2obUdjk>