

**CITY OF NORWALK
ZONING COMMISSION
July 21, 2021**

- PRESENT:** Louis Schulman, Chair; Galen Wells; Mike Witherspoon, Richard Roina; Marcela Sapone (arrived at 6:27 pm)
- STAFF:** Steve Kleppin; Bryan Baker
- OTHERS:** Hiram Peck; Mark Vertucci; Attorney John Ryan; Alan Webber; Will Roth; Mike Galante; Atty Liz Suchy

I. CALL TO ORDER

Mr. Schulman called the meeting to order at 6:04 p.m. It should be noted that this meeting was held on Zoom.com with all participants calling in, separately.

II. ROLL CALL

Mr. Kleppin called the roll. Mr. Schulman announced that Mr. Roina had been appointed to another term as a Zoning Commissioner and Marcela Sapone was appointed as a new Zoning Commissioner. However, she would not be able to vote at this meeting as she had not been sworn in yet. He also announced that one public hearing for 132 Flax Hill Road had been removed from the agenda due to a deficient notice of the public hearing. It would be on the Zoning Commission agenda in August.

III. REVIEW AND ACTION ON PENDING APPLICATIONS

a. #2021-18 R/SPR/CAM – 25 Van Zant Street Condominium - 25 Van Zant Street – Building zone text amendment to create a “vocational/trade (workforce training center) school” use and to allow the use as a principal use in the Industrial #1 Zone in conjunction with a proposed vocational/trade school within an existing structure – Preliminary review

Ms. Wells recused herself from this item. Hiram Peck gave a brief overview of the application and what had changed since the previous meeting that they had appeared at a Zoning Commission meeting. He then noted that certain definitions had been added to the text amendment and a landscape plan had been submitted. He also addressed the parking standards that Zoning Department staff had made comments on. He also discussed the square footage of the building which was quite large. There was a discussion about what was leasable and what was non-leasable square footage. Mr. Peck would give them a breakdown of that square footage.

Mark Vertucci, the traffic engineer, on the project discussed the parking calculations in the applicant's parking study. The building is close to Metro-North and there are good bike lanes. They expect students to arrive at the building from these other modes of transportation. There was a discussion about items that the applicant should address at the public hearing. Mr. Peck said that the applicant was waiting for comments from the Department of Public Works (DPW).

There was a discussion about an easement which could affect the parking. Mr. Peck said that he was waiting for a copy of the easement from the state. There was a discussion about whether the parking spaces included in the easement should be included in the applicant's parking count. Mr. Schulman asked that this issue be resolved before the public hearing.

Mr. Schulman said that the Zoning Commission would like to see this project go forward but there has been a lack of information which sometimes prevents that. He also suggested that the text amendment be referred to the Planning Commission. The other option would be to hold the application until all questions had been addressed. Mr. Kleppin explained the referral process- so that they could start the process. There was a discussion about when the public hearing could be held and the referral would be sent to the Planning Commission.

b. #2021-20 R/M – Zoning Commission – Building Zone Regulation Text Amendment to create the East Norwalk Village TOD Zone (EVTZ) and to allow dwelling units and artist live/work spaces within the Industrial #1 Zone within designated areas on the map entitled “Designated I1 Properties for Residential Units in East Norwalk” by special permit in conjunction with a Building Zone Map Amendment to create the EVTZ – Preliminary review

At this point, Ms. Wells returned to the meeting. Mr. Kleppin began the presentation by explaining the process and what were the outstanding items. He discussed additional height and densities that developers could receive. He then suggested holding a joint meeting with the Planning Commission at the beginning of September. From there, they could begin the referral process. Mr. Schulman agreed that they should partner with the Planning Commission. Mr. Kleppin would send them some dates to review.

IV. REVIEW AND ACTION ON NEW APPLICATIONS

a. #2021-23 SPR – M.F. DiScala & Co. - 295 Westport Avenue – Proposed Jimmy John's Restaurant within existing commercial building – Report & recommended action

Mr. Schulman explained that this was a site plan modification. Attorney John Ryan said that the only modification was to the traffic plan. He noted that the Zoning Department was

concerned about the amount of traffic at the site. Mr. Schulman noted that they had only received the Transportation, Mobility and Parking (TMP) report earlier that day.

Alan Webber, the applicant, explained that the DiScalas owned many commercial buildings in Norwalk. He explained that the Jimmy John's was their first Connecticut location. There would be a drive-thru.

Will Roth explained the Jimmy John's franchise for the Zoning Commission. He noted that this was the only one in Connecticut.

Mike Galante, the traffic engineer, continued the presentation by going over the traffic study. He said that the Zoning Department staff did not have any comments on it. He explained how Jimmy John's was a drive-thru. It had been a former bank. He also explained the traffic counts that were used. He explained the times of day that the store would be busy. He showed them a comparison between the proposed use as opposed to the bank use. He also noted that this was not a Chick-Fil-A. He explained the different times between Chick-Fil-A, Dunkin' Donuts and Jimmy John's which could process an order in 90 seconds. He discussed the way finding in the parking lot.

There was a discussion about the added traffic as well as the traffic on Westport Avenue. Mr. Galante and Mr. Webber made some suggestions as to how cars could be accommodated. There was also a discussion about the TMP report which the commissioners had received before the Zoning Commission report. Mr. Kleppin summarized it for the commissioners. There was a concern about the queuing on Westport Avenue. He noted that the entrance would be on Wolfpit and the exit would be on Westport Avenue. The circulation would be counterclockwise and had worked for the bank. Mr. Kleppin explained the staff's concerns. Mr. Webber discussed his concerns which could be a detriment to the other owners in the shopping center. Mr. Roth then explained differences between McDonald's and Jimmy John's. He also said there are less transactions than McDonald's. He also said that they could shut down the drive thru if there are problems.

There was a suggestion that the applicant should respond to the TMP report before the process continues. The next Zoning Commission meeting would be on August 5.

b. #2021-29 CAM – Crystal, LLC – 314 Wilson Avenue – Proposed farmer's market and beer garden use – Report & recommended action

Atty Liz Suchy, the attorney for the applicant, began the presentation by noting that the neighbors had been notified of the filing of the application, including those at Village Creek. She then showed them the site plan for the proposed project and explained what was currently in the area. She gave a description of the proposed use and showed them pictures. A similar use had been approved in 2011. She showed them what was currently there. There had been a similar operation from 2012 - 2014. There would be a beer garden and live music. Food

would be prepared in a commercial kitchen in the building. The applicant had also hired a restaurant expert to help with this project.

There were concerns about the live music and its impact on the residents in Village Creek. Mr. Schulman discussed the possibility of holding a public hearing so that the residents could attend. Zoning Department staff recommended a noise/acoustical report which would study their recommendations. Mr. Baker made some recommendations to mitigate the noise. There was a further discussion as to what types of music would be played. There was not a lot of space for many people. Atty Suchy further explained the farmer's market concept as well as the food that would be made in the commercial kitchen. Eddie Fahmy said there would not be any concerts where tickets would be sold.

There was a discussion about whether to hold a public hearing or not. Mr. Roina was not sure. Mr. Witherspoon said there should be a public hearing. Ms. Wells said that this had been approved and operational a few years ago. She asked if there had been any complaints but Atty Suchy was not sure. She said she could obtain this information. There was a discussion about the process for the approval. There was a revision to the resolution.

*** MR. ROINA MOVED: THEREFORE BE IT RESOLVED** by the Norwalk Zoning Commission that application #2021-29 SPR/CAM – Crystal, LLC – 314 Wilson Avenue – Proposed farmer's market and beer garden use be **APPROVED** subject to the following conditions:

1. That the site will be developed in accordance with the following plans:
 - a. Site Survey entitled "Property Survey prepared for Crystal, LLC" prepared by Edward J. Frattaroli, Inc. dated 6/14/21; and
 - b. Architectural drawings entitled "Updated Tenant Chart & Parking Requirements" prepared by Andriopoulos Design Associates, dated 6/21/21; and
2. That all CEAC sign-offs be submitted prior to the issuance of a zoning permit; and
3. That a surety be submitted, in an amount to be determined by Staff, to guarantee the installation of the required erosion and sediment controls prior to the issuance of a zoning permit; and
4. That all erosion and sediment controls be installed and maintained prior to the start of any construction or site work and that additional controls be installed at the direction of the Commission's Staff, as needed; and
5. That a Connecticut licensed engineer shall certify that all of the required improvements, including any required off-site improvements, were installed to City standards prior to the issuance of a Certificate of Zoning Compliance; and

6. That a surety be submitted, in an amount to be determined by Staff, to guarantee the completion and maintenance of the site plan and any and all modifications to the plan and all work required as a condition of approval under this special permit prior to the issuance of a Certificate of Zoning Compliance; and
7. That the operation shall be limited to the hours proposed, specifically Thursdays and Fridays from 4:00pm to 11:00pm and Saturdays and Sundays from 12:00pm to 11:00pm; and
8. That beginning on May 1, 2022 that the hours of operation shall become and limited to Monday through Friday from 4:00pm to 11:00pm and on Saturdays from 12:00pm to 11:00pm and on Sundays from 12:00pm to 6:00pm; and
9. That a sound study be submitted demonstrating that the outdoor music will comply with the noise ordinance; and
10. That noise meters be installed to monitor the sound levels of the outdoor music; and
11. That a violation of the noise ordinance may result in the revocation of the allowance for live music as part of this approval; and
12. That the parking spaces shown on the architectural drawings shall not be used to store equipment when the farmer's market and beer garden use is in operation; and
13. That any revisions to the approved plans be submitted to the Zoning Commission for approval; and
14. That any and all conditions required by Norwalk DPW shall be applicable to this approval; and
15. That any and all conditions required by Norwalk TMP shall be applicable to this approval; and
16. That any and all conditions required by Norwalk WPCA in a memo dated 7/12/21 shall be applicable to this approval; and
17. That this approval is subject to Section 118-1460 C. of the Norwalk Building Zone Regulations; and
18. That a building permit must be issued within one (1) year from the effective date or this SPR/CAM application shall become null and void, unless an extension of time is applied for and granted by the Commission; and

BE IT FURTHER RESOLVED that this application complies with all applicable Coastal Area Management goals, policies and regulations; and

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BE IT FURTHER RESOLVED that this application complies with Section 118-530 and all other applicable sections of the Norwalk Building Zone Regulations; and

BE IT FURTHER RESOLVED that the effective date of this action is July 30, 2021.

Mr. Witherspoon seconded.

Louis Schulman; Galen Wells; Mike Witherspoon; Richard Roina approved.

No one opposed.

No one abstained.

**c. #2021-30 – 122 Washington Street – Live music request for Il Posto –
Report & recommended action**

Mr. Roina recused himself from this matter. There was a discussion about complaints about noise on Washington Street in general.

*** MS. WELLS MOVED: THEREFORE BE IT RESOLVED** by the Norwalk Zoning Commission that application #2021-30 - 122 Washington Street – Live music request for Il Posto be **APPROVED** subject to the following conditions:

1. That all windows and doors shall remain closed while the entertainment is underway, except for the normal passage of people into and out of the premises; and
2. That the recommendations provided in the sound report by David Greenberg of Creative Acoustics, dated July 4, 2021 are applicable to this application; and
3. That this approval is subject to compliance with Norwalk City Ordinance Chapter 68: Noise; and
4. That this approval is subject to Section 118-1460 of the Norwalk Building Zone Regulations; and

BE IT FURTHER RESOLVED that the effective date of this action is July 30, 2021.

Mr. Witherspoon seconded.

Louis Schulman; Galen Wells; Mike Witherspoon approved.

No one opposed.

No one abstained.

V. DISCUSSION OF OTHER ITEMS

a. Status report on the Industrial zones study, zoning regulations rewrite and South Norwalk TOD study

Industrial Zones study - Before Mr. Kleppin began the presentation, Mr. Roina returned to the meeting. He said he would review the revised drafts tomorrow and send them out on Friday to the committee members. There would be another meeting in a few weeks.

Zoning Regulations rewrite - The consultant would give an overview of the process. The only Zoning Commissioners that had not met with them were Josh Goldstein and Richard Roina. Mr. Kleppin would coordinate with the consultants for new times.

South Norwalk TOD study - There had been a brief meeting about community outreach.

b. Discussion of merging the Planning & Zoning Commissions

Mr. Schulman said that there had been a public hearing of the Ordinance Committee. The only comments were negative, three written and one person spoke. All suggested that they not be re-combined. There would not be further action until September when it would be referred to the full Common Council.

VI. APPROVAL OF MINUTES: June 23, 2021

**** MR. WITHERSPOON MOVED to approve the June 23, 2021 meeting minutes.**

Mr. Roina seconded.

Louis Schulman; Galen Wells; Mike Witherspoon and Richard Roina approved.

No one opposed.

No one abstained.

VII. COMMENTS OF DIRECTOR

Mr. Kleppin had no comments.

VIII. COMMENTS OF COMMISSIONERS

Mr. Schulman welcomed Marcela Sapone to the Zoning Commission. **She would be sworn in at a**

IX. ADJOURNMENT

Mr. Roina made a Motion to Adjourn.

Mr. Witherspoon seconded.

Louis Schulman; Rod Johnson; Galen Wells; Nick Kantor; Mike Witherspoon; Richard Roina and Josh Goldstein approved.

No one opposed.

No one abstained.

The meeting was adjourned at 7:51 p.m.

Respectfully submitted,

Diana Palmentiero