

**PLANNING COMMISSION MINUTES**

**CITY OF NORWALK  
PLANNING COMMISSION  
June 10, 2008**

PRESENT: Torgny Astrom, Chair; Walter McLaughlin; Walter Briggs; Lee Levey; Leigh Grant; Frances DiMeglio; Donald Nelson

STAFF: Frank Strauch; Mike Greene; Adam Carsen; Lindsay McCurran

OTHERS: Don Straight; Atty. Liz Suchy; John Martucci; Bob Watson; Linell Jones; Keith Lyon; Marian Nadler; Tracy Gibson; Jeff Byington; Mario Gallasso; Madeline Fitzsimmons; Ellen Bayless; Atty. Peter Olson

**I. CALL TO ORDER**

Mr. Astrom called the meeting to order at 7:50 pm.

**II. ROLL CALL**

Mr. Greene took the roll call.

**III. PUBLIC HEARINGS**

**a) Subdivision #3609—17 Valley Road—Keith Lyon—2 Lots**

Mr. Astrom opened the public hearing. Mr. McLaughlin read the legal notice. Mr. Astrom went over the ground rules of a public hearing.

Atty. Suchy explained that the property involved a two-lot subdivision and that the guest cottage on one of the lots would remain a guest cottage. She added that a secondary lot would be created. She also said that both lots were fully compliant.

Mr. Martucci, an engineer, showed the site plan and discussed the ridgeline and runoff, as well as the property's proposed rain garden. He explained how the rain garden would retain water. Mr. McLaughlin asked what the square footage of the rain garden was. Mr. Martucci said it was about 1000-1200 square feet.

Atty. Suchy said that the applicant had asked for sidewalk and curb waivers and that no variances were sought or needed. She stated that the applicant had had meetings with the neighborhood association and had gotten its approval.

Ms. Grant asked how close the proposed trees were to the swale. Mr. Martucci said that they were about 10 feet away and not in the swale. Mr. Levey asked if there was any

protective barrier in front of the rain garden, in case of a vehicle slipping into it. Mr. Martucci said that there was not, but that the rain garden was only a foot deep and not a hazard.

Mr. Bob Watson, 16 Hilltop Road, said that he opposed the application. He said that the two houses on the property have always been fully occupied and that the proposal to add a third house to the property was not in compliance with Norwalk regulations.

Ms. Lynelle Jones, 10 Point Road, opposed the application, stating that this is not the first subdivision of the property and that the proposal actually involves three residences on one property. She disputed the guest house status of 19 Valley Road, saying that there has been separate residences on the property for at least 19 years. She added that the area was designated low-density and expressed concern for property values in the area.

Ms. Marian Nadler, 7 Valley Road, opposed the application, stating that the second house was always a rental.

Ms. Tracy Gibson, 21 Valley Road, opposed the application, expressing concern about traffic, safety and construction in the private neighborhood.

Mr. Keith Lyon, the applicant, stated that this was not an application to build, but just to re-subdivide the property. He said that it is required for an applicant to indicate on the site plan any possible proposed dwellings. He added that the two residences are not taxed separately and do not have separate utilities. He said that the cottage was not a rental unit.

Atty. Suchy presented a document indicating the approval of an on-site guest cottage. She emphasized that the property has not been in contravention of use and has been used only as a guest cottage, not as a rental. She added that the other lot would eventually be developed, as this is the intention of the application. She stated that the application fully complied with the regulations of the subdivision committee of Norwalk.

Mr. McLaughlin asked if 17 Valley Road and 19 Valley Road used the same driveway. Atty. Suchy said yes.

Ms. Grant asked what the house number of the guest cottage was. Atty. Suchy said that it was 19.

Mr. Nelson asked if 19 Valley Road had ever been rented out. Mr. Lyon said that the previous owners, the Harveys, had had a son and his family living there about 32 years ago.

Ms. Grant pointed out that both properties had been listed as 17 Valley Road in a code enforcement letter of compliance. Atty. Suchy agreed to examine that wording. She also said that the property met the zoning definition of guest cottage. Mr. Strauch explained that in 1984, the property was deemed a legally conforming guest cottage, which can be

used as living quarters, but not rented out. He added that the property had been given a Certificate of Occupancy as a guest cottage.

Ms. DiMeglio asked who was responsible for assigning a house number to an address and what makes a property an address. Mr. Strauch said that the DPW was responsible for such decisions and could explain the process.

Mr. Astrom closed the public hearing.

b) Subdivision #3610—28 Orlando Road—Trust of Ida Giovagnoli—2 Lots

Mr. Astrom opened the public hearing.

Mr. Byington, a real estate appraiser, showed the site plan and explained that the property would be subdivided into two lots. He added that the existing house is in poor condition. He discussed drainage at the site and described the characteristics of the neighborhood, adding that the lots of this property are slightly larger than those surrounding it. He stated that the property has met all zoning regulations for the A zone. Mr. Byington showed a drainage plan for the property.

Mr. Mario Gallasso, 32 Orlando Road, expressed concern about the possible worsening of drainage problems at the site. He stated that catch basins at the site overflow regularly and that water remains on the property for weeks at a time. He said that he approves of the subdivision, but wants to see it come with a remedy of the drainage problem. Mr. Gallasso also said he was concerned about the demolishing or partial take-down of the house, as well as the number of trees marked for removal on the property.

Madeline Fitzsimmons, 26 Orlando Road, asked whether the drainage problem existed on the front or the back of the property.

Mr. Byington addressed the concerns about drainage, stating that the drainage system is at the rear of the property and that the new system should improve drainage. He said that he would discuss the tree removal with the buyers of the property.

Ellen Bayless, a real estate agent, explained that there were two new dwellings planned for the property. She discussed the house on the property. Mr. Astrom stated that the issue of house construction needed to be discussed elsewhere. Mr. Byington said that the property existed as two lots for tax purposes, according to documents from 1951.

Mr. Astrom closed the public hearing.

IV. REPORT OF SUBDIVISION COMMITTEE—Leigh Grant, Chair

a) Action on Items III (a) and (b)

Item III a) Subdivision #3609—17 Valley Road—Keith Lyon—2 Lots

\*\* MS. GRANT MOVED TO REFER THE ITEM BACK TO COMMITTEE.  
\*\* MR. BRIGGS SECONDED.  
\*\* MOTION PASSED UNANIMOUSLY.

Item III b) Subdivision #3610—28 Orlando Road—Trust of Ida Giovagnoli—2 Lots

\*\* MS. GRANT MOVED TO REFER THE ITEM BACK TO COMMITTEE.  
\*\* MR. BRIGGS SECONDED.  
\*\* MOTION PASSED UNANIMOUSLY.

b) Action on Subdivision #3608—11 Ox Yoke Lane—Mark Suda—2 Lots

There was a discussion of the deed restriction questions. Mr. Strauch said that it was up to the neighbors to take Mr. Suda to court, if there were issues regarding the deed restrictions. Ms. Grant said that the Commission needed to deal with the item as it is.

\*\* MS. GRANT MOVED: RESOLVED that subdivision application # 3605, submitted by Mark and Michelle Suda. for a 2 lot subdivision at 11 Ox Yoke Lane and as shown on a plan entitled "Preliminary Resubdivision Map, Property and Topographic Survey, 11 Ox Yoke Lane, prepared for Mark R. Suda, Jr., Michelle L. Suda, Norwalk, Connecticut, Scale 1" = 20', dated February 1, 2007, and certified "substantially correct" by William W. Seymour & Associates, P.C. - Darien, Connecticut, Mark S. Lebow, Land Surveyor, Registration No. 15564 be approved, subject to the following reasons:

1. That all required soil and sedimentation controls be in place prior to any site work; and
2. That any additional soil erosion and sedimentation controls deemed necessary by the staff be installed at the direction of the staff; and
3. That a surety, in an amount to be determined by staff, be submitted to guarantee the installation of the required improvements; and

BE IT FURTHER RESOLVED that the street curb requirement be waived as conditions do not warrant the installation.

BE IT FURTHER RESOLVED that the sidewalk requirement be waived as conditions do not warrant the installation.

BE IT FURTHER RESOLVED that the street tree requirement not be waived and that where practical, any existing street trees which meet the street tree requirements, be retained and utilized towards the street tree requirement; and

BE IT FURTHER RESOLVED that the effective date of this approval shall be June 20, 2008.

\*\* MR. MCLAUGHLIN SECONDED.  
\*\* MOTION PASSED UNANIMOUSLY.

c) Action on Subdivision #3549—J. Velez—1 Indiana Place—3 Lots—Request for release of maintenance surety

\*\* MS. GRANT MOVED: RESOLVED that the maintenance surety held on Subdivision #3549 – J. Velez -1 Indiana Place – 3 Lots be approved for release as the required improvements have been properly Installed, certified, and maintained.

BE IT FURTHER RESOLVED that the effective date of this approval shall be June 20, 2008.

\*\* MR. LEVEY SECONDED.  
\*\* MOTION PASSED UNANIMOUSLY.

d) Action on Subdivision #3556—Silverstone, LLC—12 & 14 North Seir Hill Road—3 Lots—Request for release of maintenance surety

\*\* MS. GRANT MOVED: RESOLVED that the maintenance surety held on Subd #3556 – Silverstone, LLC – 12 & 14 North Seir Hill Road – 3 Lots be approved for release as the required improvements have been properly installed, certified, and maintained.

BE IT FURTHER RESOLVED that the effective date of this approval shall be June 20, 2008.

\*\* MR. LEVEY SECONDED.  
\*\* MOTION PASSED UNANIMOUSLY.

e) Action on Subdivision #3558—ML Builders LLC—17 Hunt Street—4 Lots—Request for release of maintenance surety

\*\* MS. GRANT MOVED: RESOLVED that the maintenance surety held on Subd #3558 – ML Builders LLC – 17 Hunt Street – 4 lots be approved for release as the required improvements have been properly installed, certified, and maintained.

BE IT FURTHER RESOLVED that the effective date of this approval shall be June 20, 2008.

\*\* MR. MCLAUGHLIN SECONDED.  
\*\* MOTION PASSED UNANIMOUSLY.

The Commission adjourned at 8:52 pm., in order to return to the Land Use Committee meeting.

V. REPORT OF LAND USE COMMITTEE—Fran DiMeglio, Chair

Referrals—Report & recommendation

a) Zoning Commission referral--#5-08R—Zoning Commission—Proposed amendments to Article 100 regarding the distance between package stores

The Commission agreed to send the item back to Committee, rather than voting on it tonight.

b) Zoning Commission referral--#16-07R—POKO/IWSR Partners LLC—Proposed amendments to 118-504 Central Business Design District Subarea A regarding automated parking

0. \*\* MS. DIMEGLIO MOVED: RESOLVED that the proposed amendment to the Building Zone Regulations as shown on a certain document entitled "#16-07R - POKO IWSR, LLC - Proposed amendments to Section 118-504 Central Business Design District regarding automated parking for developments in Subarea A and related technical amendments" and dated revised draft June 5, 2008, be approved. □

0. BE IT FURTHER RESOLVED that the reasons for this action are:

- 1) To implement the Plan of Conservation and Development goal to "Strengthen the revitalization of the Norwalk and South Norwalk downtowns by encouraging mixed use development (ie. Offices, stores, services, restaurants and theaters together with housing, parks and cultural facilities" (p. 19); and
- 2) To implement the Plan of Conservation and Development goal as amended by the Wall Street Area Planning Update to "use public land assets to support new development and provide needed public parking in two locations: in the area along Isaac Street (south of Wall Street) and in the area near the High Street parking lot" (p.2); and
- 3) To implement the Plan of Conservation and Development goal to "Review parking and loading requirements and amend as appropriate to reflect current parking demand" (p. 19); and
- 4) To implement the Plan of Conservation and Development policy to "Strengthen retail activity in Norwalk Center and South Norwalk and place emphasis on people oriented uses" (p.31); and
- 5)

BE IT FURTHER RESOLVED that notice of this action be forwarded to the Norwalk Zoning Commission.

\*\* MR. BRIGGS SECONDED.

\*\* MOTION PASSED UNANIMOUSLY.

c) Zoning Commission referral--#6-08R—Zoning Commission—Proposed amendments regarding fee-in-lieu of parking regulation

\*\* MR. ASTROM MOVED: RESOLVED that the proposed amendment to the Building Zone Regulations as shown on a certain document entitled "#6-08R - Zoning Commission - Proposed amendments to Section 118-1222 regarding Payment in Lieu of Parking" and dated May 29, 2008, be approved with the condition that the Parking

Authority be notified of the Zoning Committee changes to regulations;

BE IT FURTHER RESOLVED that the reasons for this action are:

- 1) To implement the Plan of Conservation and Development goal to "encourage the use of mass transit" (p. 17); and
- 2) To implement the Plan of Conservation and Development goal to "Review parking and loading requirements and amend as appropriate to reflect current parking demand" (p. 19); and

BE IT FURTHER RESOLVED that notice of this action be forwarded to the Norwalk Zoning Commission.

\*\* MS. GRANT SECONDED.

\*\* MOTION PASSED UNANIMOUSLY.

d) Action on Plan of Conservation & Development

\*\* MR. BRIGGS MOVED TO APPROVE THE PLAN AS WRITTEN.

\*\* MR. MCLAUGHLIN SECONDED.

\*\* MOTION PASSED UNANIMOUSLY.

#### VI. APPROVAL OF MINUTES

\*\* MR. BRIGGS MOVED TO APPROVE THE MINUTES FROM MAY 13, 2008 AS PRESENTED.

\*\* MS. GRANT SECONDED.

\*\* MOTION PASSED UNANIMOUSLY.

#### VII. COMMENTS OF THE DIRECTOR

There were none tonight.

#### VIII. COMMENTS OF COMMISSIONERS

Mr. Briggs asked for confirmation that the two subdivisions would be discussed at the next meeting. Mr. Strauch discussed Subdivision #3609, adding that none of the members of the public had ever put forth a complaint before regarding the nature of occupancy. Mr. Nelson said that there must be a better definition of occupancy. Mr. Strauch added that the zoning approval regarding the guest cottage is on record and cannot be refuted. Mr. Levey asked if the subdivision of the land made the property less conforming. There was a brief discussion of non-conformity. Ms. DiMeglio asked what criteria are used by the DPW, when it assigns a number on a street. Mr. Carsen explained that the process did not represent any higher zoning truth. Mr. Nelson asked that staff find out when the guest cottage was assigned a separate mailbox.

#### IX. COMMENTS FROM SWRPA

Ms. Grant said that the last meeting had been a utilitarian meeting. She discussed the two FEMA maps, adding that the line for flooding had gone up. She also discussed the traffic calming issue, stating that SWRPA would meet with a specialist, who had done similar work for Stamford. Mr. Astrom added that this was part of the Master Plan for PCD.

X. ADJOURNMENT

- \*\* MR. BRIGGS MOVED TO ADJOURN.
- \*\* MR. MCLAUGHLIN SECONDED.
- \*\* MOTION PASSED UNANIMOUSLY.

The meeting was adjourned at 7:30 pm.

Respectfully submitted by Charlene Smith

