

**CITY OF NORWALK
PLAN REVIEW COMMITTEE
August 8, 2013**

PRESENT: Jill Jacobson, Chair; James White; Emily Wilson; Michael O'Reilly; Nathan Sumpter; Michael Mushak; Linda Kruk (arrived after the meeting began)

STAFF: Michael Wrinn; Frank Strauch

OTHER: Rose Hughes; Atty Liz Suchy; Chris D'Angelis; Alan Lo; Atty Robert Maslan; Atty Frank Zullo; Juan Perides; Michael Galante; Atty Al Vasko; Pete Romano; Phil Soriano

Jill Jacobson called the meeting to order at 7:34 p.m.

I. SITE PLAN REVIEWS & COASTAL SITE PLAN REVIEWS

a) #6-11SPR - SoNo Metro LLC - 11-15 Chestnut St - Mixed use development with 11,000 sq ft office and 17 multifamily units - Request for extension of approval time

Mr. Strauch began the presentation. He said that the applicant needed a second extension in order to receive their state funding. The commissioners agreed to place this on the Zoning Commission agenda later in the month.

b) #6-13SPR - iPark Norwalk LLC - 761 Main Ave - 6,924 sf 2nd floor addition to existing bldg - Preliminary review

Mr. Strauch began the presentation by orienting the commissioners as to which building in the iPark was requesting an approval to build a second floor. Since the total square footage was more than 20,000 sq. ft., it was before the commissioners as a site plan review. After showing the commissioners the plans for the new floor, he said that the Zoning Department staff recommended that the item be moved to the Zoning Commission agenda for a vote. They thought it would be an easy transition and the applicant had received all sign-offs. Ms. Wilson asked if there were any issues with parking but Mr. Strauch said there were none and that the Zoning Commission staff had been keeping count of that. Mr. Mushak asked if the current space was occupied. Mr. Strauch said that it was not but it would become 20,000 sq. ft. of medical office.

Mr. Mushak had questions about the bridge that connected the site to Main Avenue. He believed that there is concrete falling off it and asked Ms. Hughes what the plans were for fixing it. She said they would look into it. He also thought that it was wide enough for three lanes. He was concerned that with the addition of a second floor there would be more traffic coming into and out of the site. Mr. Strauch said that the applicant would have to work with the Connecticut Department of Transportation ("DOT") and that the Zoning Department staff would work with them as well.

c) #13-13CAM – TR Sono Partners LLC – 31-47 South Main Street - Proposed 62 space parking lot (resubmit 2012 application which expired) – Preliminary review

Mr. Wrinn began the presentation who told the commissioners that the applicant had an approval which expired. He oriented the commissioners as to the location of the property.

Atty Suchy continued the presentation. She explained that the site plan had been approved in 2012 but it expired as of June 29 of this year. She stated that a new application was filed in July which was the same as the one from the previous year. This parking lot would be used as backup parking as needed under the approval for 99 Washington Street as well as being used during the construction at 99 Washington Street.

Ms. Wilson asked about the total number of parking spaces which Atty Suchy said would be 62 spaces. Ms. Wilson also had questions about the drainage system for Mr. D'Angelis. Mr. Wrinn said that the drainage system had to be upgraded to Norwalk's standards. Atty Suchy said that the applicant had received most of its necessary approvals.

d) #15-13CAM – James Falsey & Two St. James Place LLC – 41 Rowayton Av – Renovation of single family residence – Preliminary review

Mr. Strauch began the presentation by orienting the commissioners to the location of the site. The applicant has a small house that they would like to renovate. A small part of the house will remain as the addition is constructed. It will be 2.5 stories. Although it is in a flood zone, it meets all the flood zone requirements. All the approvals that have been obtained are in the file. He discussed the drainage from the property including run-off from the house. The commissioners agreed to place this on the Zoning Commission agenda later in the month.

e) #2-85SPR – Fairfield County Investment – 235 Main St – Retail center – Request to modify landscaping

Mr. Wrinn began the presentation by showing the commissioners photos of the property. He said that the photos showed that there were not many trees left on the street. They were trying to get more trees in that area. However, there was concern about more trees being planted since it would obstruct the views of the signs. A large tree would be taken down but other trees would be put in its place. He described the trees that would be planted there which would be thin enough to not cause problems with the signs.

f) #15-11CAM – Norwalk Museum Partnership, LLC – 41 N. Main Street - Change of café use to replace approved restaurant – Determination of minor change

Mr. Strauch began the presentation by orienting the commissioners to the site. The applicant had an approval for a restaurant but would now like to change it to a café use. He showed the differences between the two projects. With this change, the bar can be bigger. Since the museum has left the building, the second floor would be used as office space. He said that the Zoning Department recommended that this should be a minor change.

Mr. O'Reilly asked whether other bars in the area were held to a smaller size. Mr. Strauch said that there may be some bars that were non-conforming. There was a discussion about the different designations of bars and restaurants. Atty Suchy said that the regulations put a limit on the size of a bar in a restaurant but not in a café. Mr. Mushak asked why there was a specific length size on the bar in a restaurant. Mr. Wrinn explained that had happened in the recent past. Mr. Wrinn explained it was only in the 2 design districts so that there would not be another restaurant with the size of the bar like the Black Bear. Atty Suchy explained the difference between what could be served in both a restaurant and a café. Mr. Mushak said that he agreed with some of the points of Atty Suchy's letter to the commissioners. He thought that the commissioners should consider making changes to the regulations. The commissioners agreed that this would be a minor change.

II. SPECIAL PERMITS

At this point in the meeting, there was a motion from Ms. Jacobson to amend the agenda so that Item II.e. would become II.a.

**** MS. JACOBSON MOVED:** that Item II.e. would now become Item II.a. on the agenda for the Plan Review meeting.

**** MR. WHITE SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

a) #13-13SP/#14-13CAM – Shorehaven Golf Club – 14 Canfield Ave – Replace 3,000 sq ft pool house & additions to tennis pro shop – Preliminary review

Mr. Wrinn began the presentation by orienting the commissioners to where the property is located. Since the property is so close the water, instead of raising the property, the applicant wants to build a new structure.

Atty Suchy continued the presentation. The applicants did not want the property to suffer from another major hurricane. She said that there was no intention to increase membership. The pool house would have the same footprint as the current one. The applicant would like to add onto the pro shop and make a covered breezeway. She asked that this be treated as a minor change. Mr. Wrinn reminded the commissioners that the Sprite Island application had a public hearing. Ms. Wilson asked if any neighbors had contacted the Zoning Dept. office but Mr. Wrinn said no one had. The commissioners said the application would be a minor change.

b) #6-13SP/#10-13CAM - R. Grosvenor Ely - 71 & 77 Rowayton Ave – Proposed 8 unit multifamily development – Final review prior to public hearing

Before the presentation began, Ms. Wilson recused herself and left the room. Mr. Strauch oriented the commissioners as to the location of the property. The applicant had all sign-offs except for one. There was one change from the Department of Public Works (“DPW”) that recommended one way in and one way out. He said that there was an update to the traffic report because of the changes in the sight lines. The application was ready for the public hearing during the Zoning Commission meeting later in the month.

c) #11-13SP – Norwalk Public Schools – Rowayton Elementary School – Roton Ave – Construction of gym and additional classrooms – Preliminary review

Ms. Wilson returned to the room prior to the beginning of this presentation. Mr. Wrinn began the presentation which he said was a similar project to the one at the Naramake School. He oriented the commissioners as to its location. He said there would be an addition which would include classrooms and a gymnasium.

Mr. Lo continued the presentation. He explained that there would be a 4 classroom addition for art and music. There was a walkway in the back of the building which would be used as construction access and later would be re-graded to be compliant with the Americans with Disabilities Act (“ADA”). Because of the re-grading, a Wetlands permit would also have to be provided. Some of the playground equipment would have to be moved around. He then went over the site plans which showed the current building as well as the proposed addition. Because of the way the building is currently situated, the new gymnasium would be built first and then demolish work would occur. Some bathrooms would also become ADA compliant as well.

Mr. Wrinn said that the public hearing could be on the Zoning Commission’s September agenda.

d) #9-13SP – 272 - 280 Main Av, LLC – 272 - 289 Main Ave – 108,209 sf retail: B.J.’s Wholesale & other minor retail with parking structure – Further review

Since there had been some questions regarding traffic, the Master Plan, consultants at the previous meeting, Mr. Wrinn said that Norwalk’s Corporation Counsel would answer the commissioners’ questions.

Ms. Wilson asked about the status of the traffic management plan that was being used by the DPW and what effect it had on Zoning regulations. Atty Maslan said it did not change the Zoning requirements. She also said that there were two other questions, one being about the scope of the applicant’s traffic study and the other about whether there should be third party peer review. As Atty Maslan began to answer her questions, members of the public asked Atty Maslan to speak up because they couldn’t hear him.

Atty Maslan said that if the traffic study showed that traffic improved at the six intersections used then there would be no need for further study. If the traffic did not improve, then the commissioners could ask for further analysis. However, they would have to be careful since it could ultimately end up in court.

Mr. Mushak asked about a peer review study. Neither Atty Maslan nor Mr. Wrinn could remember an application in which a peer review study had been done. Atty Maslan did not think the Zoning regulations gave the commissioners any authority to do that. Mr. Mushak thought that they could set up a condition on a case-by-case basis for a peer review study. He then said that the DPW traffic management study was in effect and being used by various departments including DPW. Mr. Mushak questioned why it did not apply to this application. Atty Maslan said it was a guidance document, not a regulation. Mr. Mushak thought the traffic management study was more comprehensive than the Zoning regulations because it asked for more information such as pedestrian counts, etc. He also believed that the study was to be used by the Zoning Department because of these stricter guidelines. He thought that it would be better to pay for the cost of a peer review study rather than facing what the cost would be if someone was hurt or injured. According to the traffic management study, the peer review was a technical study since the commissioners were not experts and give them another opinion. Mr. Mushak also discussed a study by the Southwestern Regional Planning Association ("SWRPA") which was completed in June 2012. Their study indicated that Main Avenue has a poor bicycle and pedestrian safety record for the region. Because of this study, he thought that the city would be remiss if it did not hire its own peer review study. He also thought that the scope of the traffic management study, completed by the applicant, should be increased. Mr. White suggested that the commissioners formulate some questions for DPW and seek their feedback. At that point, they could decide on their next steps. Mr. Mushak disagreed because the DPW is appointed by the Mayor, who is in favor of this application. Atty Maslan explained that the traffic management study is completed and is being used as a long term planning document and was not intended to be used for zoning applications. He then explained how it would be difficult to hire the peer review study if it is not specifically set forth in the zoning regulations as well as requiring the scope of the applicant's traffic study to be expanded.

Mr. Mushak said that there was language in the Zoning regulations which would allow the commissioners to change the requirements for a special permit "from time to time." There was a discussion between Mr. Mushak and Mr. Wrinn about what was in the forms that an applicant received for their traffic management studies and what was to be studied. Mr. Mushak then discussed a 2006 study which was part of and incorporated into the Master Plan. Since the subject property was 10 times the size of what was recommended by the Master Plan on Main Avenue, Mr. Mushak believed that the commissioners should recommend a peer review study and expand the scope of the applicant's traffic study.

Atty Maslan reminded Mr. Mushak that he had every right to ask questions of the applicant's experts. He was entitled to his opinion and could vote how he felt was best for the city. Atty Maslan also said that DPW was reviewing the traffic management study. There is also a state level of review which is not completed until after the Zoning

application process has been completed. Mr. Mushak thought that there would be traffic impacts that were greater than what the applicant's traffic engineer had studied. He also thought that the applicant should be held to a higher standard on their traffic study because of the unique size and location of the property. He asked for a vote on both asking the applicant to increase the scope of their study as well as asking for a peer review study. He believed both were within the purview of the Zoning Commission. He thought the Zoning Commission should go beyond the scope of the state's review as well since they knew their local concerns. Atty Maslan reminded him that they could not require the applicant to meet new requirements that were not part of the regulations. He reminded Mr. Mushak that there was a difference between asking for more information and requiring the applicant to provide more information. Mr. Mushak felt that because of statements in previous studies and the Master Plan, the Zoning Commission should handle this application in a careful manner. Atty Maslan noted that Mr. Mushak was concerned about planning, rather than the zoning regulations, which may or may not adopt planning recommendations. If they have not been adopted into zoning regulations then they would not be binding and would not be able to be defended in court. Mr. Mushak then wondered why the recommendations in the Master Plan had not been implemented in the Zoning regulations and asked whose responsibility that was. He was told that anyone could bring it up at a meeting. Atty Maslan also said that the Master Plan was recommendations. A member of the public suggested that one of the criteria of a special permit was that it had to comply with the Master Plan.

At this point in the meeting, Ms. Wilson asked Atty Zullo to begin the presentation. In order to focus the remainder of the meeting, Mr. Wrinn asked if Atty Zullo could begin with answering some of the questions that had arisen from the previous committee meeting. However, Atty Zullo did want to discuss project items, generally and began his presentation. He first addressed the size of the project on the lot and called it a "big box" which he said sometimes has a negative connotation. He mentioned that there were other stores in the area that were larger than this one but were called "a good use." He reminded the commissioners how the site had been a Superfund site for many years and ruined the environment. He said that in the past he had clients that wanted to buy the site but he would not let them. He believes that his current client has the resources to help the traffic situation, as well as reducing run-off and cleaning it up. The federal government wants the ground water to continue to be monitored.

Atty Zullo then explained that the reason for the high amount of accidents on Main Avenue were the high number of curb cuts. There were too many strip malls. He quoted from the same study that Mr. Mushak had, which said that all new retail should be near the Merritt Parkway. He said that the study also said that Stop and Shop was undersized. The study also mentioned the proposed location which was part of the application. Mr. Mushak thought that Atty Zullo had not reviewed some of the material that he had read. The study seemed to say that "big box stores" should be on the same site as the Stop and Shop.

Juan Perides of Landtech, continued the presentation by discussing the circulation of traffic when vehicles entered the parking garage. There would be three

lanes, one to go into the garage and two to come out of it. Further into the garage, there would be two lanes of traffic for vehicles coming into it. The aisles would be blocked off both on the right and left as vehicles entered so that there would be less chance of stacking on Main Avenue. In the rear of the building, there would be employee parking. He also explained various ways for customers to enter the building when they had parked in certain areas. Mr. Perides was asked about lanes where customers could not park, as well. He explained that in the area closest to BJ's it would be necessary to have one way traffic. Atty Zullo explained that although there was extra parking in the back, in other BJ's Warehouses, the parking in the back is mostly used by employees. He believed they had enough customer parking. Mr. Perides also explained that there would be no other left turn into the parking lot, except at the signal light.

Mr. Galante continued the presentation. Mr. Sumpter asked what would happen if vehicles wanted to enter the parking garage from both the north and the south. Mr. Galante said that it would be controlled by the traffic signal so that no traffic southbound would get into the parking garage unless the signal was green. Mr. Galante also explained the process that has occurred with the state in the months previous to the filing of the Zoning application. Mr. Mushak asked what kind of crosswalk it would be. He was concerned about the elderly residents of the Laura Raymond homes which were next door to the project. Mr. Galante explained the "Don't Walk" signal. He also discussed the scope of the traffic study which the state agreed to. Mr. Mushak asked whether anyone on the city side agreed to the scope. Mr. Galante said it was reviewed by DPW but not by Zoning. Mr. Galante explained the improvements that they would be making. Mr. Mushak asked about the timing of the signals once someone has pressed the button to cross the street. Mr. Galante explained how it affected all of the intersections, not just the one that was pressed. He also explained how the Zoning application and the state DOT application run concurrently to get the process completed. Mr. Galante said that although the state approves their traffic plans, the applicant will complete the work, not the state. Mr. Mushak asked what would happen if there were 6 cars stacked in the traffic lane, trying to get into the parking lot. Mr. Galante explained how the video detection at these signals.

Mr. Perides continued the presentation by discussing the water quality issues and the different zones on the property. He then discussed how the trees on the property would be used for screening.

The architect for the property continued the presentation. She explained that they had added adjacent buildings to the model. She also went over some plans which showed views from the condos behind BJ's including a footpath. There was some discussion of the setbacks. She then showed the commissioners the floor plans for the garage as well as the store. There would also be additional rental space but no leases had been signed.

Mr. Mushak asked about the footprint of the building and whether the building would still have been two stories even though the Zoning regulations had changed in the last year. Atty Zullo said that they would need two stories. He also said that mechanicals on the roof would be screened and that the sound levels would meet the

Zoning requirements. Mr. Mushak asked whether there would be generators which the architect said would be on the side of the building. Mr. Wrinn told the commissioners that their packets would contain information about hours of operation, pickup of dumpsters, etc.

The architect then showed the commissioners a list of all the green initiatives that the applicant would provide including a white roof, low VOCs paints, and cardboard recycling.

Mr. Wrinn began to discuss scheduling the public hearing. He suggested that a Special Meeting should be held on September 19. Mr. Mushak then asked whether Ms. Wilson would put on the next Zoning Commission agenda a vote for a peer review as well as an expanded traffic study. He thought this would then push a public hearing to October. Mr. Wrinn said that there would be other considerations, including cost, which Mr. Mushak thought the city should not be concerned with. Mr. Wrinn reminded Mr. Mushak that the Zoning Commission must hold a public hearing within a certain timeframe under the regulations. He did not think they would be able to hold the public hearing in October without asking for another extension. There was a discussion between Atty Zullo and Mr. Mushak about the fact that the Zoning Commission would be adding requirements to the application that were not part of the regulations. Mr. Mushak said that the peer review would be something that the city would handle, not the applicant. Mr. Mushak was told that Norwalk had not previously hired their own experts. He wondered if Stamford had hired experts. Ms. Wilson suggested asking the applicant at this meeting about a peer review. There was a discussion about whether the traffic management study had been adopted by the DPW and/or Zoning. Mr. Mushak thought that there were grey areas as to jurisdiction which he was not pleased with. He noted how a member of the public reminded the commissioners that the Master Plan should be considered when making their decision about this special permit. He also believed that because this was a special permit, the commissioners were allowed an extra layer of scrutiny. There was a discussion as to what would happen if the application was denied and the Planning Commission was asked to sub-divide the property. Mr. Mushak thought that it was not necessary to accept the first taker on the project while Atty Zullo thought that the city had waited for 20 years and that this would be the best applicant.

At this point, Atty Zullo asked about the date of the public hearing. Pending confirmation of a conference room that would be large enough for the public, it would be held on September 19. Mr. Mushak asked Atty Zullo about a peer review. He thought it was unfair to ask at this point.

Mr. Mushak asked the applicant to leave the model. It was later decided that they would return it at the public hearing because the architect still had other changes to make to it.

e) #10-13SP – Bender Plumbing – 235 Westport Ave – 30,000 sq ft retail and wholesale distribution warehouse - Preliminary review

Mr. Wrinn began the presentation by orienting the commissioners as to the location of the property. Some of the buildings on the site will be demolished. Billboards will be taken down. There will be new multi-story building with a basement and a new parking lot. He told the commissioners that the staff was concerned about two driveways.

Atty Vasko continued the presentation. He said that two buildings would be demolished and construct a two story building. Most of the building would be warehouse with some retail and office space. There would be 41 parking spaces which would be on-site. Many non-conformities of the property would be fixed. Since there is no drainage, it would be improved. He explained the two curb cuts but added that they were contemplating making it one way access. Drivers currently back out of the parking lot onto Route 1.

Pete Romano, the engineer on the project, continued the presentation since Mr. White had a question about the size of the trucks that would be delivering. Mr. Romano said that tractor trailers would be making deliveries. Mr. White thought it would be a better idea to have one entrance and one exit. The landscaping and screening behind the building would remain. He believed that this was a good project.

Phil Soriano, the architect on the project, continued the presentation. He went over the design of the building which included a 2 story glass tower. He showed the commissioners the plans for both floors of the inside of the building.

Mr. Galante, the traffic engineer, continued the presentation. He said that as the site is now, the parking is unsafe because of the fact that they have to back out of the parking lot. They had discussions about the tractor trailers entering one way, backing into the loading dock and then leaving from the other side. It would be controlled with signage. He went over the traffic counts and how they arrived at those counts.

Mr. Sumpter asked how the business would run if the buildings were to be demolished. He was told that there would be a time when there was no business being conducted. Mr. White asked how long it would take to construct and he was told that it would take 1 year.

There was some discussion as to when to schedule this public hearing.

f) #3-10SP – Maplewood – 73 Strawberry Hill Av – Congregate housing facility - Unauthorized modification to approved plan without prior authorization to add multi-purpose room

Mr. Wrinn said that this would be re-scheduled for the next committee meeting due to the attorney's illness.

III. RELEASE OF SURETY

a) #15-07CAM – Harbor Avenue, LLC – 25 Harbor Avenue – Reconstruction of existing building – Request for release of surety

Mr. Strauch began the presentation. He said that staff recommended release of the surety because all improvements have been installed.

At this time, all of the commissioners introduced themselves to the newest commissioner, Linda Kruk.

The meeting was adjourned at 10:17 p.m.

Respectfully submitted by,

Diana Palmentiero