

**TOWN PLAN AND ZONING COMMISSION
TOWN OF FAIRFIELD
MINUTES OF MEETING – JUNE 11, 2013**

The Town Plan and Zoning Commission held a meeting at 7:30 p.m., on Tuesday, May 28, 2013 in McKinley Elementary School, 60 Thompson Street, Fairfield, CT.

Members Present: Bryan LeClerc, Chairman; Seth Baratz, Vice Chairman; Rich Jacobs, Secretary; Pat Jacobson, Doug Soutar, Matt Wagner

Alternate Members Present: Gerry Alessi, Sally Parker

Town Officials Present: Michael Tetreau, First Selectman
Stanton Lesser, Town Attorney

Town Department Members Present: Joseph Devonshuk, Planning Director
James Wendt, Assistant Planning Director
Matthew Decker, Zoning Inspector
Dolores Sansonetti, Clerk

Chairman LeClerc announced that the Tuller Road Subdivision application in the public hearing segment would not be heard this evening and would be rescheduled at a later date.

Mr. Alessi sat in place of Mr. Kennelly.

Meeting Minutes Motion was made by Ms. Jacobson, seconded by Mr. Wagner and the members present **VOTED TO APPROVE** the Meeting Minutes of May 28, 2013 as corrected.

Appointment of Zoning Enforcement Officer Motion was made by Mr. Soutar, seconded by Mr. Baratz and the members present unanimously **VOTED TO APPROVE** Matthew Decker to the position of Zoning Enforcement Officer.

95 Chester Place Motion was made by Mr. Jacobs, seconded by Ms. Jacobson and the members present unanimously **VOTED TO RECOMMEND TO PUBLIC HEARING** the Resubdivision application of Walter Buck for three (3) lots in a R-3 Zone.

Outdoor Dining Michael Tetreau, First Selectman and Atty. Stanton Lesser, Town Attorney addressed the Commission on possible guidelines to be followed prior to granting seasonal outdoor patios on Town Property. A discussion followed concerning the Commission working with the First Selectman's office.

Closed Executive Session Motion was made by Mr. Baratz, seconded by Mr. Jacobs and the members present **VOTED TO ENTER** into closed executive session on pending litigation with the Town Attorney. After their discussion, motion was made by Mr. Jacobs, seconded by Mr. Wagner and the members present **VOTED TO RETURN** to public executive session.

201 Fairmount Terrace Motion was made by Mr. Baratz, seconded by Mr. Jacobs and the members present unanimously **VOTED TO APPROVE** the request of M & R Associates for 100% release of a \$23,390 bond pertaining to subdivision improvements in an A Zone.

Mr. Alessi listened to the tapes of the public hearing on May 28, 2013 and voted on this application.

Zoning Regulation Amendments Motion was made by Mr. Jacobs, seconded by Ms. Jacobson and the members present unanimously **VOTED TO AMEND** Sections 2.12, 32.1 and 32.1 and 32.8 of the Zoning Regulations for flood plain management as stated below:

2.12 Flood Management

All property and structures located within an area of special flood hazard shall be subject to the provisions of Section 32.0 of the Zoning Regulations pertaining to Flood Plain Management requirements.

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study (FIS) for Fairfield County, Connecticut dated **July 8, 2013**, and accompanying Flood Insurance Rate Maps (FIRM), dated [June 18, 2010], **July 8, 2013, (Panels 09001C0418G, 09001C0419G, 09001C0436G, 09001C0438G, 09001C0556G, 090010557G) and June 18, 2010 (Panels 09001C040F, 09001C0412F, 09001C0416F, 09001C0417F, 09001C0426F, 09001C0428F, 09001C0437F)**, and other supporting data applicable to the Town of Fairfield and any subsequent revisions thereto are adopted by reference and declared to be a part of this regulation. Since mapping is legally adopted by reference into this regulation it must take precedence when more restrictive until such time as a map amendment or map revision is obtained from FEMA. The area of special flood hazard includes any area shown on the FIRM as Zones A, AE, and VE, including areas designated as a floodway on a FIRM. Zone VE is also identified as a Coastal High Hazard Area. Areas of special flood hazard are determined utilizing the base flood elevations (BFE) provided on the flood profiles in the Flood Insurance Study (FIS) for a community. BFEs provided on a Flood Insurance Rate Map (FIRM) are only approximate (rounded up or down) and should be verified with the BFEs published in the FIS for a specific location. The FIS and FIRM are on file in the Office of the Town Clerk.

32.1 In all special flood hazard areas, A, AE, and VE Zones, the following provisions shall apply:

- a. Proposed development shall be reviewed to assure that all necessary **federal, state and local** permits have been received, **including** those from governmental agencies where approval is required by the Federal Water Pollution Control Act. Proposed development shall be reviewed to determine whether proposed building sites will be reasonably safe from flooding.

32.8 **Definitions**

- i.i. **Substantial Improvement** – means any repair, reconstruction, or improvement of a structure the cost of which equals or exceeds 50 percent of the market value of the structure either (1) before the “**start of construction**” of the improvement or repair is started, or (2) if the structure has been damaged, and is being restored, before the damage occurred. **This term includes structures that have incurred “substantial damage”, regardless of the actual repair work performed.** For the purpose of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term shall include the cumulative cost of any repairs, reconstruction or improvement for which less than one year has transpired between issuance of a certificate of occupancy and the issuance of a subsequent permit. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications **which have been previously identified by the local code enforcement official** and which are [solely] the **minimum** necessary to the National Register of Historic Places or a State Inventory of Historic Places, **provided that the alteration will not preclude the structure’s continued designation as a historic structure.**

Zoning Regulation Amendments Motion was made by Mr. Wagner, seconded by Mr. Baratz and the members present unanimously **VOTED TO AMEND** Sections 2.8.2, 11.7 and 31.2.35 of the Zoning Regulations regarding post Sandy Recovery as stated below:

ZONING REGULATION AMENDMENTS

2.8.2 No non-conforming use, building or other structure:

2.8.2.5 shall be penalized or otherwise require a variance for setback or lot coverage to elevate an existing structure to the required elevation standards of the National Flood Insurance Program and for the necessary entrance and egress stairs and landings required as a result of elevation.

Beach District

- 11.7 No building or other structure shall exceed a height of two (2) stories or thirty (30) feet, whichever is less in height **except that one foot of additional height shall be permitted for every two (2) feet of vertical distance between existing average grade and the base flood elevation.**

Definitions

- 31.2.35 Add to the definition of story the following: **For structures within a 100-year flood zone, an unfinished, unheated crawl space built in accordance with the standards of the National Flood Insurance Program regulations with a clear height not exceeding six (6) feet shall not be considered a story.**

1262 Post Road Motion was made by Mr. Jacobs, seconded by Ms. Jacobson and the members present unanimously **VOTED TO APPROVE** the Special Permit application of 1262 Post Road Holdings, LLC pertaining to additions and renovations to an existing building in the Cent. Des. Dist., subject to the following conditions:

1. An application for an overall sign plan is required and such plan shall be designed to be sensitive to the historical nature and design of the building.
2. A bond shall be posted to secure site improvements.
3. Finalization of permits.

1243 Post Road Motion was made by Mr. Baratz, seconded by Mr. Wagner to approve the Compliance application of Fin Restaurant to expand an outdoor dining patio in the Cent. Des. Dist.

For motion: No one

Against motion: Baratz, Wagner, LeClerc, Jacobs, Jacobson, Soutar, Wagner

Therefore, this motion failed and the application is denied for the following reason:

1. The proposed patio expansion impacts the health and safety of the tenants and visitors to the adjacent building at 1261 Post Road.

1427 Kings Highway Motion was made by Mr. Baratz, seconded by Mr. Jacobs and the members present unanimously **VOTED TO DENY** the Compliance application of Keystone Novelties for a temporary tent sale in the Des. Comm. Dist. for the following reason:

1. The proposed temporary sale does not comply with Section 12.6.1 of the Zoning Regulations.

427 Stillson Road Motion was made by Mr. Wagner, seconded by Ms. Jacobson and the members present unanimously **VOTED TO APPROVE** the Compliance application of Stillson, LLC to establish a retail use (hair salon) in a portion of an existing building in the Des. Comm. Dist.

111 Black Rock Turnpike Motion was made by Mr. Jacobs, seconded by Ms. Jacobson and the members present unanimously **VOTED TO APPROVE** the Compliance application of Invest II to establish an indoor recreational facility in a portion of an existing building in the Des. Comm. Dist.

85 Mill Plain Road Motion was made by Mr. Jacobs, seconded by Mr. Wagner and the members present unanimously **VOTED TO APPROVE** the Compliance application of 85 Pond Mill LLC., to establish an indoor recreational facility in a portion of an existing building in the Des. Ind. Dist.

1326 Post Road (a.k.a. 12 Unquowa Place) Motion was made by Mr. Baratz, seconded by Mr. Wagner and the members present unanimously **VOTED TO TABLE** the Compliance application of Irish Hound, LLC for seasonal outdoor dining in the Cent. Des. Dist.

PUBLIC HEARING

1. **1410 South Pine Creek Road** Request of Calvin Munson for 100% release of a \$4,985.00 bond pertaining to subdivision improvements in an R-3 Zone.

Calvin Munson presented this application to the Commission.

At the end of the public hearing, it was the consensus of the Commission to go back into executive session.

Planning Discussion Motion was made by Mr. Jacobs, seconded by Ms. Jacobson and the members present unanimously **VOTED TO RECOMMEND TO PUBLIC HEARING** a draft amended to Sections 2.7 and 5.2.1 regarding frontage and access. Discussion followed on an overlay zone to the Westport Line.

EXECUTIVE SESSION

1326 Post Road Motion was made by Mr. Wagner, seconded by Mr. Alessi to approve the Compliance application of Irish Hound, LLC for seasonal outdoor dining in the Cent. Des. Dist.

For motion: Wagner, Alessi, LeClerc, Jacobson

Against motion: Baratz, Jacobs, Soutar

Therefore, this motion was approved with the following conditions:

1. Subject to the execution of a lease with the Town.
2. No additional signage is permitted.
3. Season runs April 1st through the end of October.
4. There shall be no outdoor music or sound system.
5. Tables and chairs must be removed in the off-season.
6. Filing of Notice.

SUPPLEMENTAL AGENDA

65 Station Street Compliance application of Mark Finlay for expanded parking (10 spaces).

It was the consensus of the Commission not to discuss this application at this time.

This meeting adjourned at 10:50 p.m.

Richard B. Jacobs
Secretary

Dolores Sansonetti
Clerk

