

**STAMFORD PLANNING BOARD
DRAFT MINUTES - TUESDAY, APRIL 11, 2023
REGULAR MEETING
VIA THE INTERNET & CONFERENCE CALL
6:30 P.M.
(REVISED APRIL 19, 2023)**

ZOOM WEBINAR

*Webinar ID: 850 6698 4000
Passcode: 159302*

Web & Phone Meeting Instructions

- If your computer/smartphone has mic and speaker then:
Type in, paste or click the following link: <https://us02web.zoom.us/j/85066984000>; **OR**
- If not, then **Call-in** using the **Phone Number & Passcode** provided above.
- Sign-up for Planning Board meeting updates by emailing lcapp@stamfordct.gov.

Web Meeting Ground Rules:

- The meeting shall be recorded and the video shall be posted on the City of Stamford website http://cityofstamford.granicus.com/ViewPublisher.php?view_id=8
- The Planning Board shall moderate the audio for attendees.
- Attendees shall be on mute and will be unmuted when called to speak by the Planning Board members.
- Applicants will have 20 minutes to make their presentation.
- Any applicant wishing to submit written testimony can send it prior to the meeting to lcapp@stamfordct.gov or submit through a Chat message to the Planning Board Chair during the meeting.

Stamford Planning Board Members present were: Voting Members: Theresa Dell, Chair; Jay Tepper, Vice Chair; Jennifer Godzeno, Secretary (Arrived at 6:35 p.m.); Michael Buccino and Michael Totilo. Alternates: William Levin and Stephen Perry. Present for staff: Ralph Blessing, Land Use Bureau Chief and Lindsey Cohen, Associate Planner.

Ms. Dell called the meeting to order at 6:30 p.m.

Ms. Dell introduced the members of the Board and staff present and introduced the first item on the agenda.

PLANNING BOARD MEETING MINUTES:

March 28, 2023: After a brief discussion, Mr. Levin moved to recommend *approval* of the Planning Board Regular Meeting of March 28, 2023; Mr. Tepper seconded the motion, and passed unanimously with eligible members present voting, 5-0 (Dell, Buccino, Levin, Perry and Tepper). (Mr. Totilo was absent at the March 28, 2023 meeting and was ineligible to vote.)

REQUEST FOR AUTHORIZATION

SUPPLEMENTAL CAPITAL PROJECT APPROPRIATION REQUESTS:

1. **CITYWIDE PEDESTRIAN SIGNAL & SAFETY UPGRADES - PROJECT #001328 - TOTAL REQUEST \$2,878,678.44:** This project will update the pedestrian infrastructure at the signalized intersections with reported pedestrian related crashes (excluding locations already slated to be upgraded as part of other projects). Unlike specific intersections or corridors, this project will reach across all of Stamford. The project addresses ADA compliance and mobility issues for those with mobility disabilities, it builds upon proven safety measures like “Yield to Pedestrian” blank out signs, Leading Pedestrian Interval and concurrent crossings, upgrades the City-owned signal infrastructure and improves walkability by making crossing the street easier and safer.

After a brief discussion, Ms. Godzeno recommended approval of Citywide Pedestrian Signal & Safety Upgrades - Project #001328 with a Total Request of \$2,878,678.44 and this request has been reviewed pursuant to Connecticut General Statute Section 8-24 and the City Charter Section C6-30-13 and finds this request to be consistent with CGS Section 8-24, and the City Charter Section C6-30-13, as well as consistent with the adopted 2015 Master Plan; Mr. Tepper seconded the motion and passed unanimously with eligible members present voting, 5-0 (Dell, Buccino, Godzeno, Tepper and Totilo).

PLANNING BOARD DISCUSSION:

- POLICY REVIEW:** Ralph Blessing, Land Use Bureau Chief, will discuss parking and affordable housing issues in follow-up to questions posed at the March 7, 2023 meeting.

Mr. Blessing made a presentation on Affordable Housing followed by considerable discussion and questions from the Board.

Ms. Dell thanked Mr. Blessing for attending the meeting and discussing Affordable Housing. Ms. Dell stated that since the Parking Study is not complete, Mr. Blessing would come back at a later date to discuss that issue.

Ms. Dell opened the discussion for the Zoning Board referrals and stated that these items are not on the agenda as a Public Hearing and public participation would not be allowed. These items will come before the Zoning Board as a public hearing and anyone wishing to speak or provide comments on these items would be allow to do so then.

ZONING BOARD REFERRALS:

- ZB APPLICATION #223-04 - DARIUSZ LESNIEWSKI - 16 REMINGTON STREET - Site & Architectural Plans and/or Requested Uses, Special Permit, Coastal Site Plan Review and Application for Approval for Addition to the Stamford Cultural Resources Inventory (CRI):**

Applicant is proposing Critical Reconstruction of a historic house and the construction of two (2) new townhouses attached to the rear along with associated parking pursuant to Section 7.3.

The proposed project is located in Master Plan Category #4 (Residential - Medium Density Multifamily). To facilitate the proposed project, the Applicant has requested approval of four actions: **[a]** Site Plan approval as required per Section 7.3 and 19.D; **[b]** Special Permit pursuant to Section 7.3 (Historic Preservation) to allow for a density bonus allowing one additional dwelling unit, parking ratio of 1 parking space per dwelling unit, reduction in light and air setback, reduction of rear and side setbacks and building coverage; **[c]** Coastal Site Plan Review due to its location within the Coastal Area Management boundary and **[d]** addition of the Critical Reconstruction of the historic home to the Cultural Resources Inventory. The proposed project would have a total of three units - one in the historic home and two townhouses behind the historic home. These types of homes (single-family and townhome) are characteristic of MP #4 and provide for a transition between high-density multifamily to the west and single-family to the east. The proposed project would rehabilitate a culturally significant home in the South End, maintaining the historic character of the neighborhood that has seen significant change in the past decade. Approval of this application is recommended as it fits within the context of the neighborhood and is aligned with the Master Plan. Specifically, the proposed project supports the following Master Plan policies and strategies:

- Policy 5E: Balance new development with neighborhood preservation in the South End.
- Policy 6A: Maintain residential neighborhood character.
- Policy 6B: Preserve existing and create new affordable housing.
- Strategy 6C.3: Promote development of a variety of housing types.
- Policy 6D: Preserve historic buildings and districts.

Dariusz Lesniewski, Property Owner, made a presentation and answered questions from the Board. The Board specifically had concerns as to why this was being referred to as a historical reconstruction when the entire structure had been torn down and was being rebuilt. Mr. Lesniewski explained the circumstances of why the house was torn down in error due to a misunderstanding of the permitting process when the demolition permit was issued on the removal of the garage only. (NOTE: This application is classified as “Critical Reconstruction.”)

After some discussion, Mr. Tepper recommended **approval** of **ZB Application #223-04** and that this request is compatible with the neighborhood and consistent with Master Plan Category #4 (Residential - Medium Density Multifamily); Ms. Godzeno seconded the motion and passed unanimously with eligible members present voting, 5-0 (Dell, Buccino, Godzeno, Tepper and Totilo).

2. ZB APPLICATION #223-15 - SWEETSPOT STAMFORD, LLC and A & F HIGH RIDGE, LLC - 111-123 HIGH RIDGE ROAD - Special Permit: Applicant is seeking approval to operate a boutique hybrid cannabis dispensary providing service to both qualified medical cannabis patients and adult-use consumers. Property is located in the C-N Zone.

The proposed location is in Master Plan Category #7 (Commercial - Arterial). Per the City of Stamford Zoning Regulations, dispensaries are allowed by Special Permit approval of the Zoning Board only within certain commercial and manufacturing Zoning Districts, the C-N district being one district identified as appropriate for a hybrid retail establishment. The Zoning Regulations limit signage and prohibit display of marijuana or paraphernalia that is clearly visible from the exteriors. Per the City’s Zoning Enforcement Officer, the Applicant is grandfathered into the existing parking. The traffic report submitted as part of this application states that the existing parking is sufficient to meet the demand because the peak hours for users are different and customers aren’t competing for parking spaces and the existing roadway system has the capacity to handle increased traffic. The Applicant is also requesting a Special Permit to be exempt from the sidewalk requirements of Section 12.K since there is already a sidewalk network surrounding the property. Approval of this application is recommended as it is aligned with the more intensive commercial characteristics of MP #7 and supports the following Master Plan policies and strategies:

- Strategy 3B.4: Encourage the reconfiguration of...retail space to accommodate market trends and potential new users.
- Policy 4D: Enhance Parking Efficiency.

Ms. Dell once again stated this was not a public hearing so the public will not be allowed to speak. Ms. Dell mentioned receiving numerous emails and letters in favor and against this application. Ms. Dell also mentioned there was an online petition, which was initiated by Joseph Andreana, Jr., containing approximately 700 signatures. Ms. Dell lastly mentioned three emails received in Spanish, which she believed were against the application, and would have the letters translated for the public record.

Ms. Cohen made some brief comments stating that this application was not a Master Plan map or zone change but is a Special Permit for allowance to operate a cannabis dispensary at this location.

Ms. Dell asked Ms. Feinberg for clarification in her presentation if the applicant was approved by the state to operate a dispensary.

Lisa Feinberg, Partner and Daniel Chappel, Carmody Torrance Sandak & Hennessey, LLP, made a presentation and answered questions from the Board.

Benjamin Herbst, Chief Business Development Office & Co-Founder and Blake Costa, Chief Operating Officer & Director of Security, Sweetspot, also made a presentation, showing a video to demonstrate a typical transaction at their Rhode Island facility, and answered questions from the board.

Ms. Dell had concerns about the location and asked why this location was chosen and why a site further up on High Ridge Road was not considered where there is quite a bit of empty office space available.

Ms. Feinberg stated there would still most likely be objections even if the location was further up on High Ridge Road and the closer to North Stamford one gets the more interested the North Stamford Association tends to be. There are also residential properties all along the eastern side of High Ridge Road. One major consideration of this location is the easy access to High Ridge Road. Ms. Feinberg compared this location with Curaleaf and Fine Fettle which have residential areas and children-oriented facilities near both of those dispensaries.

Ms. Feinberg also wanted to correct for the record that the online petition contained information that is factually incorrect. As Ms. Cohen had stated earlier, there is no change to the Master Plan and the applicant is not proposing to put the dispensary in a residential zone. The proposed location is in a commercial Master Plan and commercial zone. Also, there will not be any armed guards at the facility.

Mr. Costa stated that these dispensaries are very well camouflaged and also have a direct hit to black market sales of cannabis.

Mr. Herbst explained that finding a location for these dispensaries is extremely difficult. As cannabis is classified as a Class I drug with the Federal government, most landlords are not able to rent space for a dispensary if they have a certain type of mortgage with commercial properties. Mr. Herbst stated he spent about a year locating this space for their facility where the landlord was able and willing to rent to them.

After considerable discussion, the Planning Board voted to recommended *approval* of **ZB Application #223-15** by a vote of 2-0-3 (In Favor - Buccino and Godzeno / Abstain - Dell, Tepper and Totilo). Ms. Dell, Mr. Tepper and Mr. Totilo abstained as they felt the location of the facility is not neighborhood friendly as it is too close to the liquor store; Firefly, the pediatric care facility and the tutoring school, which are all in the same strip mall. This request is compatible with the neighborhood and consistent with Master Plan. Category #7 (Commercial - Arterial) (Attached please see the Law Department's April 18, 2023 memorandum regarding the effect of Planning Board abstentions and determination of approval in accordance with Robert's Rules of Parliamentary Procedure.)

OLD BUSINESS:

None.

NEW BUSINESS:

Next regularly scheduled Planning Board meetings are:

- April 25, 2023 (Regular Meeting & Public Hearing - Continuation of Master Plan Amendment #MP-442 - 91 Hope Street & Subdivision #4045 - 40 Signal Road)
- May 9, 2023 (Regular Meeting)

There being no further business to come before the Board, Ms. Dell adjourned the meeting at 9:25 p.m.

Respectfully Submitted
April 14, 2023

Jennifer Godzeno, Secretary
Stamford Planning Board

NOTE: These proceedings were recorded on video and are available for review on the Planning Board website at http://cityofstamford.granicus.com/ViewPublisher.php?view_id=20



CITY OF STAMFORD, CONNECTICUT
INTER-OFFICE CORRESPONDENCE

To: Lindsey Cohen; Ralph Blessing
From: Dana B. Lee Esq. /s DBL
Copy: Thomas Cassone, Esq.
Date: April 18, 2023
RE: Effect of Planning Board Abstentions

CONFIDENTIAL ATTORNEY COMMUNICATION

ISSUE:

What effect does the Planning Board's vote of two in favor with three abstentions have on a motion to recommend the approval of a special permit application to the Zoning Board?

BRIEF ANSWER:

According to Robert's Rules, the basic requirement for approval of an action is a majority vote, which means more than half of the members present and voting on a particular issue. Robert's clarifies that this means more than half of the votes cast by persons entitled to vote at a regular or properly called meeting, excluding non-votes or abstentions.

Here, the three abstentions are excluded. Consequently, the only votes cast by persons entitled to vote were the two in favor, which means the motion to recommend approval passed.

FACTUAL BACKGROUND:

This issue comes by way of Zoning Board Application # 223-15, from Sweetspot Stamford, seeking approval a special permit to operate a boutique hybrid cannabis dispensary providing service to both qualified medical cannabis patients and adult-use consumers.

Regarding Special Permit applications, Stamford Zoning Board regulation 19.C.3. provides in pertinent part:

All applications for Special Permit shall be referred to the Planning Board for an advisory report and acted on in the same manner as provided under Section 19.B.3.d. of these Regulations.¹ **If the Planning Board recommends denial of an application for Special**

¹ Stamford Zoning Board Regulations § 19.B.3.d. provides as follows:

Permit, such Special Permit shall not be granted except by the affirmative vote of four members of the Zoning Board; the Zoning Board of Appeals must follow Section 8-6, CGS and vote by four affirmative votes whether or not the Planning Board recommends approval or denial. (91-019)

(emphasis added).

On April 11, 2023, the Planning Board held a regular meeting wherein Sweetspot Stamford's special permit application was discussed. A quorum was assembled at the meeting, as all five members were present.² On motion to recommend the approval of the special permit, the five-member Planning Board voted two in favor; zero against; with three abstentions. (In Favor - Buccino and Godzeno / Abstain - Dell, Tepper and Totilo).

The Planning Board follows Robert's Rules of Parliamentary Procedure.

ANALYSIS:

The Planning Board follows Robert's Rules of Parliamentary Procedure. Robert's Rules, Chapter XIII, § 44, entitled "Majority Vote—the Basic Requirement," provides as follows:

d. Referral to Planning Board

- (1) All applications for variances to authorize the operation of a use other than those specifically listed as "Permitted Uses" in the LAND USE SCHEDULE for the district in which the subject property is located, and all applications for variances from the SCHEDULE OF REQUIREMENTS FOR AREA HEIGHT AND BULK OF BUILDINGS, approval of which would (1) reduce the required minimum number of square feet of Lot Area per family, (2) reduce off-street parking and loading requirements, (3) increase maximum permitted Building Heights or bulk beyond permitted limits in the SCHEDULE, or (4) result in greater Building bulk in ratio to Lot Area than permitted in the Regulations, shall be referred to the Planning Board for an advisory report of its recommendations, which recommendations shall outline all factors considered, and which shall not be binding upon the Zoning Board of Appeals. Each such application shall be referred to the Planning Board at least thirty (30) days prior to the date assigned for a public hearing thereon. Failure of the Planning Board to report within 30 days shall be construed as no response. A statement of the vote of the Planning Board recommending approval or denial, or proposing a modification of such application shall be publicly read at any public hearing thereon. The full report of the Planning Board regarding such application shall include the reasons for the Board's vote therein and shall be incorporated into the records of the public hearing held thereon by the Zoning Board of Appeals.
- (2) The Planning Board, in reviewing such matters, shall set forth its opinion as to whether or not the proposed use or feature is in reasonable harmony with the various elements and objectives of the Master Plan and the comprehensive zoning plan, and in case of a recommendation for approval, may suggest conditions deemed to be necessary in the granting of any such application

² Robert's Rules of Parliamentary Procedure defines "quorum," in pertinent part, to mean "such a number as must be present in order that business can be legally transacted. The quorum refers to the number present, not to the number voting." *Robert's Rules*, Article XI, § 64.

[T]he basic requirement for approval of an action or choice by a deliberative assembly, except where a rule provides otherwise, is a *majority vote*. The word majority means “more than half”; and when the term majority vote is used without qualification—as in the case of the basic requirement—it means more than half of the **votes cast** by persons legally entitled to vote, **excluding blanks or abstentions**, at a regular or properly called meeting at which a quorum is present.

(emphasis added)

We are not aware of any other rule adopted by the Planning Board that would apply to the Planning Board’s vote on the application for a special permit. As set forth in Robert’s Majority Vote Rule, what is determinative is the number of votes **cast** by the Planning Board members. Abstentions, however, are **not votes**. That is, the authors’ official interpretation explains that:

The phrase “abstention vote” is an oxymoron, an abstention being a refusal to vote. To abstain means to refrain from voting, and, as a consequence, there can be no such thing as an “abstention vote.”

[Robert’s Rules Official Interpretation, www.robertsrules.com/faq.html]

As a result of the application of the Majority Vote rule, there were two votes cast at the April 11, 2023, regular meeting of the Planning Board, and both were in favor of recommending the application. Consequently, under Robert’s Rules, the motion passed. For purposes of Stamford Zoning Board regulation 19.C.3., the Planning Board *did not* recommend denial of the application, therefore, the affirmative vote of four members of the Zoning Board is not required per that regulation.