

STAMFORD PLANNING BOARD  
REGULAR MEETING  
MINUTES, TUESDAY, SEPTEMBER 24, 2013  
4<sup>th</sup> FLOOR CAFETERIA, GOVERNMENT CENTER  
888 WASHINGTON BLVD., STAMFORD, CT

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Stamford Planning Board Members present were: Theresa Dell, Chairperson, Claire Fishman, Roger Quick, Zbigniew Naumowicz, Jay Tepper, Michael Totilo, and Dudley Williams. Present for staff was Norman F. Cole, AICP, Land Use Bureau Chief; and David W. Woods, AICP Principal Planner.

Mrs. Dell called the regular meeting to order at 7:03 p.m. and announced that due to unexpected scheduling conflict that the Planning Board was reversing the order of the meeting and will take up the three referrals to the ZBA and Minutes of previous meetings.

***Zoning Board of Appeals Referrals:***

1. **ZBA Appl. 061-13 – 285 Haviland Road**, a variance for a “minimum side yard” for the proposed pool, proposed pool equipment and existing spa as defined in Section 7, Paragraph “O” of the City of Stamford Zoning regulations.

Mrs. Dell outlined the staff comments on this request for a variance by pointing out to the Planning Board that the location makes sense given that they are prohibited from placing the pool in the front yard. The variance is needed because this is an Access way Lot, meaning the ingress is located through a long driveway – due to the wetlands on all sides of their buildable upland property – this requires a 25’ setback so accessory buildings are not located close to the neighboring house’s front. In this case, the neighbor also has a pool close to their back lot line. Thus, this shouldn’t cause an undue hardship on the neighboring house.

The Board had no items to discuss so Ms. Fishman moved to recommend approval of ZBA Appl. 061-13. Mr. Williams seconded the motion, and it passed unanimously with eligible members present voting, 5-0 (Dell, Fishman, Quick, Totilo and Williams).

2. **ZBA Appl. 062-13 – 2635 Long Ridge Road**, variance of Section 6, paragraph A of Table III of Appendix “B,” to locate four (4) propane tanks to the restaurant and retail building in a front yard in the R-A2 Zoning District.

Mrs. Dell outlined the staff comments on this request for a variance by pointing out to the Planning Board that the development on an odd shaped non-conforming lot with frontage on all sides – that is, there are no side or back yard to put the propane tanks.

The Board had no items to discuss so Mr. Quick moved to recommend approval of ZBA Appl. 062-13. Mr. Williams seconded the motion, and it passed unanimously with eligible members present voting, 5-0 (Dell, Fishman, Quick, Totilo and Williams).

3. **ZBA Appl. 063-13 – 37 Westminster Road**, variance of Table III of Appendix “B,” to locate ease the side yard setback of 10.0 feet in lieu of fifteen (15) feet required, as well as asking for sixteen (16) percent building coverage in lieu of fifteen (15) percent required.

Mrs. Dell outlined the staff comments on this request for a variance by pointing out to the Planning Board that the hardship is that Zoning Changed from R-10 to R-20 and house was built to R-10 setback standards

The Board had no items to discuss so Mr. Quick moved to recommend approval of ZBA Appl. 063-13. Ms. Fishman seconded the motion, and it passed unanimously with eligible members present voting, 5-0 (Dell, Fishman, Quick, Totilo and Williams).

#### ***Planning Board Meeting Minutes:***

4. Meetings of 8/20/13, 8/27/13 & 9/3/13

Mr. Williams moved to approve the minutes of 8/20/13. Mr. Quick seconded the motion, and it passed unanimously with eligible members present voting, 5-0 (Dell, Fishman, Quick, Totilo, and Williams). Mr. Quick moved to approve the minutes of 8/27/13. Mr. Tepper seconded the motion, and it passed unanimously with eligible members present voting, 5-0 (Dell, Fishman, Quick, Tepper, and Williams). Mr. Tepper moved to approve the minutes of 9/3/13. Mr. Naumowicz seconded the motion, and it passed unanimously with eligible members present voting, 5-0 (Dell, Fishman, Quick, Naumowicz, and Tepper).

#### ***Request for Authorization:***

5. **License and Public Improvements agreement between the City of Stamford and Waterfront Magee LLC and the Strand/BRC Group LLC** for the licensing of City-owned land in connection with the development and operation of a boatyard at 205 Magee Ave. According to the agreement, in exchange for the granting of property rights by the City, Waterfront Magee and Strand/BRC Group would be responsible for certain proposed public improvements to City-owned parks and facilities.

Mrs. Dell invited comment from Board members.

Mr. Totilo said that he was in favor of the boatyard project but had concerns with aspects of the License Agreement. He commented that consideration should be given to modifying the License Agreement to authorize a straight 50 year term and to requiring that the Animal Shelter be rebuilt at a different location. Moving the Animal Shelter would free up more City property and provide options to maintain the buildings used by the Sea Cadets and potentially needed in the future by the WPCA. He said that the City should not be contributing \$500,000 toward the new Animal Shelter and that the start date to build the new boatyard should be clearly defined. He noted that the WPCA has additional land to provide for future expansion.

Mr. Williams said that he was prepared to approve the License Agreement, but felt that it needed improvement. He noted that the \$5 million was inadequate compensation for the use of City property. He also said that the off-site improvements needed to be better defined to know what work would be done. He also said that the Sea Cadets need to be provided with a satisfactory home.

Mr. Quick that he had a number of question about the License Agreement and asked how the Board could approve a new boundary for the License Agreement.

Mr. Tepper said that he had been under the impression that the License Agreement had to be voted up or down and asked what had changed that now allowed the Agreement to be modified by the Board. He noted that no one had spoken against Bridgewater relocating to Stamford. Any changes to the Agreement will need to be ratified by BLT. He asked wouldn't it be best to leave the decision about the License Agreement to the next Mayor. Regarding the \$5 million, Mr. Tepper said that the value should be based on the increased value of rezoning the 14 acres for office development. He urged that the Board deny the Agreement and that a better site be found for the boatyard and for Bridgewater.

Mrs. Fishman asked why there was a failure clause in the Agreement to deal with the circumstance where BLT fails to build or operate the boatyard. Commenting on the proposed improvements to Kosciusko Park, she noted that the park itself could use \$2 million in improvements. She said that the Animal Shelter clearly needs help, but that the License Agreement should be withdrawn and redone.

Mrs. Dell commented on aspects of the Agreement that she didn't like, noting that 40 years should be mandated and that the list of improvements shouldn't be capped at \$5 million. She said BLT should pay 100% of the costs to build a new Animal Shelter and that the Sea Cadets buildings should be saved. Operation and management of Czescik Marina should be put out to bid. There should be a defined start date for construction of the boatyard. She questioned whether the changes being considered were too great and whether it was feasible to modify the Agreement or whether it should be withdrawn and resubmitted.

Mr. Tepper asked why the Board should try to modify the Agreement, and suggested that it should be withdrawn, redone and resubmitted. He recommended that the Board deny the Agreement.

Mr. Totilo disagreed and said that the License Agreement could be modified and approved.

Mr. Williams noted that although the Agreement is flawed, that this is the first step of a lengthy approval process with many chances to fix the details, and urged the Board to move forward.

Mr. Quick asked Mr. Totilo what conditions of approval he would suggest.

Mr. Totilo said that he would recommend that the applicant be responsible for 100% of the cost of the identified off-site improvements, that the license term be a straight 40 years, that up to 2.4 acres of property be licensed, and depending on whether the Animal Shelter was relocated, to maintain the existing buildings and not displace the Sea Cadet program.

A general discussion ensued regarding when construction of the boatyard should begin. Mrs. Dell suggested that it be tied to the other zoning approvals of the boatyard and Bridgewater proposals, and start within 18 months of those approvals.

Mrs. Dell, noting that there were no more comments from Board members, called for a motion on the application.

Mrs. Fishman moved to deny the application without prejudice. There was no second to the motion.

Mr. Totilo moved to approve the application subject to the conditions as discussed, and asked Mr. Cole to summarize the conditions

Mr. Cole requested the opportunity to confirm and refine the wording of the conditions with Mr. Totilo.

Mrs. Dell called a brief recess at 8:30pm and called the meeting back to order at 8:45pm

Mrs. Dell announced that Mr. Totilo and Mr. Cole have gotten together and they have made recommendations to the Licensing Agreement which will be conditions to which the Licensing Agreement will go forward. So we will have Mr. Cole read the conditions and then we will have the Board discuss them. If the Board feels that these conditions are what they would like to pass forth to the City in regards to the Licensing Agreement.

Mr. Cole proceeded to read the draft conditions:

1. The Animal Shelter shall be moved to a different location.
2. The License Agreement boundary shall be redrawn to maximize the land available for boatyard purposes, but not less than two acres, achieving the saving of the Quonset buildings, with the location of the boundary line finally determined by the Operations Department and Water Pollution Control Authority to preserve their use of the Quonset buildings and provide for the potential needs of the WPCA in the future.
3. The applicant shall pay 100% of the cost of constructing the new Animal Shelter at the selected alternate location
4. The applicant shall complete all of the off-site improvements as enumerated in the undated memo titled "License Agreement Scope of Work for Public Benefits".
5. The Term of the License Agreement shall be a straight 40 years, and upon the end of the 40 year term the City would have the option of granting extensions of the Agreement.

Mrs. Dell commented that a condition should be added requiring that the management and operation of Czecsik Marina be put out to bid. She also noted that construction of the boatyard should commence within 30 days of the issuance of all necessary approvals and should be built before any other zoning approvals are built.

General discussion ensued whether these conditions would be binding and whether modifications to the Agreement would need to first be approved by the City and BLT.

Mr. Cole confirmed that the conditions and modifications would be binding and in effect would rewrite the Agreement, and that although an amended Agreement would need to be ratified by the City and BLT, that this ratification was no a precondition of the Board's approval.

Mike Totilo made a motion to approve the License Agreement between the City and Waterfront Magee and the Strand/BRC Group LLC with the conditions as read by Mr. Cole.

Mr. Cole asked if Mr. Totilo intended to incorporate the two additional recommended conditions into his motion and Mr. Totilo replied yes.

Teri Dell said that there was a motion on the floor and called for a second to the motion? Mr. Williams seconded the motion.

Mr. Quick asked if there would be discussion on the motion.

Mrs. Dell replied OK and announced that there would be further discussion on the motion.

Mr. Quick commented that he felt that alternate members should be allowed to participate in the discussion, and that he would rather table a decision until the conditions and modifications have been reduced to writing so that he could understand what he was voting on.

Mr. Williams agreed with allowing alternates to participate.

Mrs. Dell announced that she had decided to allow alternate members to participate.

Mr. Tepper asked whether BLT or the City would build the Animal Shelter.

Mr. Quick agreed with Mr. Tepper's point and said that BLT should contribute the funds needed to build the Animal Shelter, but that it should be put out to bid. By consensus this was incorporated as a condition of approval.

Mrs. Dell stated that there is a motion on the floor now to approve the Licensing Agreement with the City and BLT. We had a motion by Michael seconded by Dudley, discussion by the Board. So do I have any further commitments to the proposal? We have two in favor. Roger?

Mr. Quick said that he needed more information.

Ms. Dell asked if he was abstaining.

Mr. Quick replied no, I vote no at this time.

Mrs. Dell asked Mrs. Fishman how she voted.

Mrs. Fishman replied, I don't know at this time. I need more information.

Mrs. Dell asked, "So you're voting no?"

Mrs. Fishman answered in the affirmative.

Mrs. Dell announced that she was also voting no.

Mrs. Dell reported that the acceptance at this time is denied with a 3 to 2 vote. So at this time I need another motion from the floor. What we would like to do with the Licensing Agreement and the conditions that have been proposed. Roger would you like to make a motion?

Mrs. Dell, responding to a comment from the public in attendance, said that the application wasn't denied. The motion was denied of the conditions, not the application. There still has to be a motion on the floor what to do with the Licensure Agreement and the conditions.

Mr. Quick made a motion that staff put together in a formal fashion the conditions outlined tonight by Mr. Totilo and get them to the Board as fast as possible. He said that hopefully next week the Board could make a final decision based on the added conditions.

Mrs. Dell announced that there's a motion on the floor to table until the conditions have been reviewed by the City. Motion made by Roger, seconded by Claire. All in favor of tabling it until next week? Mrs. Dell announced the vote of three in favor (Dell, Quick and Fishman) and two opposed (Totilo and Williams) and stated that the application is tabled until next week.

Mr. Williams commented that the Board had a motion to move the Agreement as amended. That was denied. So we're not tabling it. It's done. We don't have to do anything. There was a motion to revise the Agreement that was voted down.

Mrs. Dell asked Mr. Cole if that was correct, whether the License Agreement's been turned down. "Wait a minute, let's just get this straight before we continue. I'd rather err on the side of understanding what we just did. Roger, when you made your motion, did you make your motion to deny the entire License or to have the conditions reviewed by the City and then brought back to us for a vote of either approval or denial next week? I just want to make sure that we all understand where we're coming from. Excuse me, there will be no more talking from the audience. We appreciate your comment because we really have to get this straight. This is a very important legal matter for the City and we have to have this done properly for the residents. So now back to Roger. When you made your motion I thought you were making your motion to wait until next week to vote on this, that you wanted the conditions brought to the City and BLT for their comments. If you were proposing to do away with the conditions and vote down the License Agreement, that's what we need to know. We need to know specifically what you were proposing."

Mr. Quick said that he apologized if he wasn't clear, that what he was attempting to do was say we are not denying the application tonight. What we are denying is voting on the application with the conditions as read by Mr. Cole because I thought we needed more time to actually see them in front of us and analyze them and then vote next week on either approving or denying the application with conditions.

Mrs. Dell replied that is exactly what I thought that we were voting on and Clair thought she was voting on, so with that being said, this discussion is tabled until next week. Mr. Cole will print out the recommendations and conditions. He will present them to the City. The City has a week to look them over and give us an opinion on this. If anything can be done on the conditions that are there, either give us some recommendation from the Engineering department, the financial people. We would welcome that. And next week the actual vote will be taken. So as it stands, 3 to 2 to table until next week. With that being said, this portion of our meeting is adjourned until next week.

### ***Old Business***

### ***New Business***

Mr. Tepper told the Board that the State is mandating that the 15 regional planning agencies be reorganized into eight larger regions. In his role as a member of South West Regional Planning Agency's Board of Directors, at the latest meeting of SWRPA's Board voted to recommend to organize north to include Houston Valley instead of along the coast to the Greater Bridgeport RPA. He was one of the two votes to vote against this proposed merger, preferring instead the merger with Greater Bridgeport.

There being no further business to come before the Board, Mrs. Dell adjourned the meeting at 9:40 pm.

Respectfully Submitted,

Claire Fishman, Secretary  
Stamford Planning Board

**Note:** These proceedings were recorded and are available for review in the Land Use Bureau located on the 7<sup>th</sup> floor of Government Center, 888 Washington Boulevard, during regular business hours.