

STAMFORD PLANNING BOARD
APPROVED MINUTES - WEDNESDAY, NOVEMBER 28, 2018
CONTINUATION MEETING FROM NOVEMBER 27, 2018
GOVERNMENT CENTER - 6TH FLOOR SAFETY TRAINING ROOM
888 WASHINGTON BLVD., STAMFORD, CT

Stamford Planning Board Members present were: Voting Members: Theresa Dell, Chair; Jay Tepper, Vice Chair and Michael Totilo. Alternates: William Levin and Roger Quick. Absent: Jennifer Godzeno, Secretary & Voting Member; Michael Buccino, Voting Member and Claire Fishman, Alternate. Present for staff: David W. Woods, PhD, AICP, Deputy Director of Planning.

Ms. Dell called the meeting to order at 5:00 p.m. and introduced the members of the Board and staff present.

Ms. Dell called for a motion to bring forward ZBA Application #050-18 as the first item on the agenda. Mr. Tepper made a motion to bring forward ZBA Application #050-18; seconded by Mr. Totilo and passed unanimously with eligible members present voting, 5-0 (Dell, Levin, Quick, Tepper and Totilo).

ZONING BOARD OF APPEALS REFERRALS:

1. ZBA APPLICATION #050-18 - RDS ENTERPRISES VII, LP - 420 FAIRFIELD AVENUE - Motor

Vehicle: The property currently has industrial structures which are home to a wood-working shop, a car storage area, a car repair shop and a church. The space the applicant seeks to occupy is presently vacant and was most recently occupied by an auto parts retail and repair shop. The applicant seeks to operate an Automobile Sales Agency within a ±5,871 sq. ft. portion of the structure fronting on Fairfield Avenue. The Sales Agency will be for a Lamborghini dealership and will include a small vehicle display area, two (2) service bays, a parts storage area [only accessible to Sales Agency employees] and a small office space for employee use. The applicant plans to utilize the premises on a limited basis for approximately twelve (12) months, specifically to take delivery of vehicles already sold to customers in Connecticut, and prepare said vehicles for delivery. Over the course of the aforementioned twelve (12) month period, the applicant anticipates taking delivery of not more than six (6) to eight (8) vehicles. The applicant anticipates a maximum of two (2) employees working in the Sales Agency.

Applicant is seeking to operate an automobile sales facility for a Lamborghini dealership. Jason Klein, Associate with Carmody Torrance Sandak Hennessey, made a presentation and answered questions from the Board. After a brief discussion, Mr. Levin recommended **approval** of **ZBA Application #050-18** with the recommendation the Zoning Board of Appeals allow the applicant to ***occupy the space for twenty-four (24) months*** and that this request is compatible with the neighborhood and consistent with Master Plan Category #13 (Industrial - General); Mr. Totilo seconded the motion and passed unanimously with eligible members present voting, 5-0 (Dell, Levin, Quick, Tepper and Totilo).

ZONING BOARD REFERRALS:

1. ZB APPLICATION #218-56 - STAMFORD ZONING BOARD - 888 WASHINGTON BLVD. - Map

Change (TABLED from November 13, 2018 & November 27, 2018): The Stamford Zoning Board has filed an application to amend the City of Stamford Zoning Map. The proposal would change three properties on Victory Street, including 63 Victory Street and two (2) properties listed at 0 Victory Street currently located in the R-6 Zone, to the NX-D Zoning District.

Dr. Woods made a presentation focusing on “Spot Zoning” and discussing the possible decision the Planning Board could make which is whether to recommend approval of the rezoning of these three (3) parcels, currently zoned R-6, on our own or to change the zoning to NX-D. At the November 13, 2018 meeting members of the Board argued that this effectively was “spot zoning” (a provision in a General Development Plan which benefits a single parcel of land by creating a zone for use just for that parcel and different from the surrounding properties in the area). Regardless of whether this is spot zoning or not, the existing underlying use before the 1986 rezoning was Industrial. The current owner continues to utilize the parcels as Industrial as legal non-conforming uses and can continue to use these parcels as Industrial which means almost any approved use in Industrial can continue without Planning Board or Zoning Board review. What the zone change would do to NX-D is the following:

- a. Would lay out what can be done on these lots through a Special Exception application or as by-right.
- b. The NX-D zoning regulations also allow residential including R-6.
- c. “Spot Zoning” has historically been defined as “the reclassification of a small area of land in such a manner as to disturb the tenor of the surrounding neighborhood.” The Supreme Court of Connecticut has explained that: “[t]wo elements must coexist in order to constitute spot zoning in the sense of an illegal exercise of power by a zoning authority. First, there must be a change in zone affecting only a small area, and second, this change must be out of harmony with the comprehensive plan for the good of the community as a whole.”

The following cases review Spot Zoning: *Langer v. Planning & Zoning Commission of Town of Westport*, 63 Conn. 453, 313 A.2d 44, 48 (1972); *Michel v. Planning & Zoning Commission of Town of Monroe*, 28 Conn. App. 314, 612 A.2d 778 (1992); *Morningside Association v. Planning & Zoning Board of City of Milford*, 162 Conn. 154, 292 A.2d 893 (1972); *Kutcher v. Town Planning Commission of Town of Manchester*, 138 Conn. 705, 88 A.2d 538 (Conn. 1952).

After considerable discussion, Mr. Totilo recommended **approval** of **ZB Application #218-56**. However, the Planning Board questions why this is necessary, but will not object if the Zoning Board decides to move forward and finds this request to be compatible with the neighborhood and consistent with Master Plan Category #13 (Industrial - General); Mr. Tepper seconded the motion and passed with eligible members present voting, 4-0-1 (Dell, Quick, Tepper and Totilo / Levin Abstained).

ZONING BOARD OF APPEALS REFERRALS (Con't):

2. **ZBA APPLICATION #049-18 - DIAMOND MOTORS & TIRES, LLC - 78 MAGEE AVENUE - Motor Vehicle:** Applicant operates an automobile repair shop in a one-story building on the property. Applicant is seeking certification of location approval in accordance with §19(1.3)(b) to lease part of the existing automobile repair shop to another automobile repair business.

Applicant is seeking to change an existing Motor Vehicle repair use to another Motor Vehicle repair use on the same site. Staff recommends approval and this request is compatible with the neighborhood and consistent with Master Plan Category #13 (Industrial - General). After a brief discussion, Mr. Quick recommended **approval** of **ZBA Application #049-18** with the recommendation the Zoning Board of Appeals **prohibit the applicant from opening a car wash or auto body repair shop** and that this request is compatible with the neighborhood and consistent with Master Plan Category #13 (Industrial - General); Mr. Levin seconded the motion and passed unanimously with eligible members present voting, 5-0 (Dell, Levin, Quick, Tepper and Totilo).

3. **ZBA APPLICATION #052-18 - CAROLYN MUESSLE - 202 JUNE ROAD - Variance of Section 6A (Accessory Buildings):** Applicant owns a two-story residence with a two-car detached garage, wood shed and a pool. Applicant would like to install a 22kw generator (48.5 in. wide x 30 in. tall x 26 in. deep) using the existing propane tank to fuel. Applicant is requesting: [1] a variance to allow an accessory structure in the front yard; [2] to allow four (4) AC condensers and a 5 ft. x 11 ft. wood shed to remain in the front yard; [3] a front street setback of 38 ft. in lieu of 60 ft. and [4] street centerline setback of 65 ft. in lieu of 85 ft.

Staff concurs with the first hardship requested by the applicant that running the gas and electrical on the west side would be problematic but disagrees with the others as follows:

#2: The applicant contends that an “unsightly generator box” would be detrimental to the home value. This is not a hardship and it is self-inflicted.

#3: Staff questions whether the distance is prohibitive as the applicant claims.

After a brief discussion, Mr. Quick recommended **approval** of **ZBA Application #052-18** and that this request is compatible with the neighborhood and consistent with Master Plan Category #1 (Residential - Very Low Density Single-Family); Mr. Totilo seconded the motion and passed unanimously with eligible members present voting, 5-0 (Dell, Levin, Quick, Tepper and Totilo).

4. **ZBA APPLICATION #051-18 - LOUIS EVENO - 45 LEONARD STREET - Variance of Section 6A (Accessory Buildings):** Applicant owns an existing 2½ story single-family residence with patio, pool and the foundation only for a garage. Applicant is proposing to complete the construction of a one-car garage on the southwesterly portion of the parcel and is requesting: [1] a side yard setback of .7 ft. in lieu of the 5 ft. required for a detached garage and [2] a side yard setback of 4.5 ft. in lieu of the 5 ft. required for an existing shed.

The applicant mistakenly started working on their existing garage that needed to be demolished. He believed since he was just rebuilding the existing structure, there was no need for a permit. Upon being notified that he did need a building permit and this variance, he came into Zoning Enforcement, met with Jim Lunney and started this process. After a brief discussion, Mr. Tepper recommended **approval** of **ZBA Application #051-18** and that this request is compatible with the neighborhood and consistent with Master Plan Category #2 (Residential - Low Density Single-Family); Mr. Totilo seconded the motion and passed unanimously with eligible members present voting, 5-0 (Dell, Levin, Quick, Tepper and Totilo).

5. **ZBA APPLICATION #055-18 - RUSSELL DAVIS - 127 GUINEA ROAD - Variance of Table III, Appendix B:** Applicant owns a two-story single-family residence which consists of 4 bedrooms and 3 bathrooms. Applicant is proposing to construct a 17 ft. 4 in. x 23 ft. addition to the front of the dwelling. Applicant is requesting: [1] a front yard setback of 52.5 ft. in lieu of the 60 ft. required; [2] a street centerline setback of 76.5 ft. in lieu of the 85 ft. required and [3] a sideyard setback of 32.2ft in lieu of the 35 ft. required. Due to the slope in back of the house the applicant is restricted in building behind the dwelling. What the applicant is seeking is minimal relief of the existing front, side and centerline setbacks required in an RA-2 Zone. After a brief discussion, Mr. Quick recommended **approval** of **ZBA Application #055-18** and that this request is compatible with the neighborhood and consistent with Master Plan Category #1 (Residential - Very Low Density Single-Family); Mr. Levin seconded the motion and passed unanimously with eligible members present voting, 5-0 (Dell, Levin, Quick, Tepper and Totilo).

PLANNING BOARD MEETING MINUTES:

11/13/18: After a brief discussion, Mr. Quick moved to recommend approval of the Planning Board Minutes of November 13, 2018; Mr. Levin seconded the motion, and passed unanimously with eligible members present voting, 5-0 (Dell, Buccino, Quick, Tepper and Totilo).

OLD BUSINESS:

NEW BUSINESS:

Next regularly scheduled Planning Board meetings are:

December 4, 2018 - Planning Board & Zoning Board Holiday Dinner

December 11, 2018 - Capital Budget Review

There being no further business to come before the Board, Ms. Dell adjourned the meeting at 6:00 p.m.

Respectfully Submitted,

Jennifer Godzeno, Secretary
Stamford Planning Board

NOTE: These proceedings were recorded on video and audio tape and are available for review in the Land Use Bureau located on the 7th Floor of the Government Center, 888 Washington Boulevard, during regular business hours.