

ORANGE ZONING COMMISSION
MINUTES OF THE FEBRUARY 20, 2018 MEETING

Unapproved Minutes

The Town Plan and Zoning Commission held a Meeting on Tuesday, February 20, 2018, at 7:00 p.m., Town Hall, 617 Orange Center Road. The following members attended:

Oscar Parente, Esq., Chairman
Judy Smith, Vice-Chairman
Paul Kaplan, Esq., Secretary
Ralph Aschettino
Kevin Cornell, Esq.

Paul Dinice, Zoning Enforcement Officer
Tamara Trantales, Administrative Assistant
Robin Gengaro, Public Recorder

Chairman Parente welcomed everyone to the meeting. He asked those seated at the table to introduce themselves for the record. Chairman Parente noted that there is a lengthy agenda this evening.

Request to locate Cheshire Fitness Zone at 564 Racebrook Road. Former William Orange Realty and Caldwell Bank Real Estate.

Chairman Parente stated that he had a conflict of interest regarding this proposal. Chairman Parente recused himself from these proceedings. He stated that Vice-Chairman Judy Smith will preside over this agenda item.

Vice-Chairman Smith stated that the use at this property is a nonconforming use in the Residential District. A real estate or law office locating at the property is acceptable. This proposal introduces uses which have never been there before.

Zoning Enforcement Officer Paul Dinice read a letter written by Ms. Marjorie A. Schenk into the record. Ms. Schenk is opposed to Cheshire Fitness locating at 564 Racebrook Road.

Vice-Chairman Smith asked if there were any questions. Commissioner Aschettino inquired if there would be any activities outside. Ms. Amy Kahill stated that there would not be any outside activities. She added that they do not foresee a change in traffic.

(Paul Kaplan arrived at 7:05 p.m.)

Frank D'Ostilio, owner of 564 Racebrook Road, asked ZEO Dinice if he had received the email from Jeffrey Gordon. It was sent at approximately 5:00 p.m. ZEO Dinice stated that Town Hall closes at 4:30 so it was not seen yet. Mr. D'Ostilio stated that he would read it into the record later in the meeting.

Commissioner Kaplan inquired whether traffic would decrease or increase with this proposal. Mr. D'Ostilio replied that there would be a decrease in traffic. Craig Goldstein explained that their appointments last approximately 45 minutes. The appointments are staggered throughout the day. A brief discussion ensued.

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Frank D. O'Stilio
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Mr. D'Ostilio stated that Mr. Goldstein would purchase the building. Mr. D'Ostilio stated that he was impressed by the Cheshire facility Mr. Goldstein owns. Mr. D'Ostilio added that Cheshire Fitness Zone would be a good neighbor. He believes that this use is not more intense than the uses in the past. He encouraged the Commission to vote affirmatively.

Commissioner Smith expressed her belief that this looks like an outstanding business. She suggested that the applicants look into other zones. Mr. Goldstein stated that the Boston Post Road is very busy and noisy. He believes that this atmosphere would be too stimulating for some of his patients.

Janet Harrison spoke in opposition of this proposal. Ms. Harrison stated that she lives directly behind 564 Racebrook Road. She is concerned that there would be additional traffic, deliveries, and outdoor use, such as a playground. Mr. Goldstein stated that they have no plans for outdoor use at all. Amy Kahill added that there would not be any medical supplies. The therapies are one to one. Mr. Goldstein added that they would never use all of the existing parking spaces.

Mr. D'Ostilio read the letter from Jeffrey Gordon, 362 Racebrook Road, into the record. Mr. Gordon is in support of this proposal. He believes it is an appropriate use.

Commissioner Cornell expressed his belief that the applicant's use is an asset to the community. However, the existing use is a nonconforming use in a Residential zone. Commissioner Cornell cited a portion of the zoning regulations. He stated that he believes this is a substantially different use than the previous nonconforming uses that were located on the premises.

Commissioner Aschettino questioned what else could be done with this property. He believes it would be beneficial to the town. Discussion ensued. Commissioner Aschettino stated that only the occupation is different. He believes this use is similar to a law office. Commissioner Cornell stated that it is a change of use; substantially different in nature.

After a lengthy discussion, Commissioner Aschettino expressed his opinion that this is the closest fit that we could find. He believes it would be beneficial to the town. Commissioner Kaplan added that it is not a more intense use.

Because only 4 TPZC members are hearing this request, Commissioner Cornell asked Zoning Enforcement Officer Paul Dinice if any motion would be defeated if there were a 2 to 2 vote. ZEO Dinice replied that if there was a 2 to 2 vote the motion would fail to pass.

As there were no further comments, a motion was made by Paul Kaplan and seconded by Ralph Aschettino to accept and approve Cheshire Fitness Zone to be located at 564 Racebrook Road. The motion failed with the vote recorded as follows: Kaplan, aye; Aschettino, aye; Smith, nay; Cornell, nay. The vote was recorded as 2-2. The motion failed and the request was denied.

Review of the Minutes from the February 6, 2018 Meeting.

Chairman Parente stated that the Minutes are not ready for review this evening.

Request by the Southern Connecticut Hebrew Academy Hebrew Day to extend the time limit to use and occupy temporary classrooms.

Rabbi Hecht stated that he thought that they would have the funds by now to construct more classrooms. As this isn't the case, he requested that the Commission consider an extension for two more years.

Zoning Enforcement Officer Paul Dinice stated that the Building Inspector does not have the authority to grant an extension. The State Building Inspector may approve a waiver of the Code, if the Commission approves this request. A brief discussion ensued. ZEO Dinice stated that he has not received any complaints concerning the temporary classrooms. He further stated that if the Commission votes to approve an extension, it can include the condition that a waiver be applied for and obtained from the State Building Department.

A motion was made by Paul Kaplan and seconded by Kevin Cornell to accept and approve the request by the Southern Connecticut Hebrew Academy Hebrew Day to allow them an extension of their temporary classrooms for two years. The approval is subject to the condition that they obtain all necessary CT State and local Building Department approvals. The motion carried with the vote recorded as follows: Kaplan, aye; Cornell, aye; Aschettino, aye; Smith, aye; Parente, aye. The vote was recorded as 5-0 to accept and approve the motion.

There were no further comments.

SITE PLAN APPLICATION – Submitted by Go Green LLC. For property known as 391 Boston Post Road. The proposal is for a change of use to locate an ice cream shop in retail/office space. (Nikos Ice Cream Shop.)

Dan Baughman, 391 Boston Post Road, stated that he would like to locate a candy and ice cream shop in the existing building. He noted that it is the former Curves Gym location.

Zoning Enforcement Officer Paul Dinice stated that all required department head signoffs have been obtained, with comments. He read the comments into the record.

Commissioner Aschettino inquired if there would be major alterations. Mr. Baughman stated that they would only be making changes to the interior of the building. He added that the sign size would remain the same.

Chairman Parente stated that this application seems straight forward. The use is permitted. Commissioner Smith inquired about the comments made by the department heads. Additional information is required by the Health Department. That information can be submitted after Zoning Approval. It was determined that the comments on the signoff sheet should be reviewed and complied with prior to the issuance of a Building Permit.

A motion was made by Paul Kaplan and seconded by Judy Smith to accept and approve the Site Plan Application for Nikos Ice Cream Shop, 391 Boston Post Road. All Department Head comments must be addressed and complied with prior to the issuance of a Building Permit. The motion carried with the vote recorded as follows: Kaplan, aye; Smith, aye; Cornell, aye; Aschettino, aye; Parente, aye. The vote was recorded as 5-0 to accept and approve the motion.

PUBLIC HEARINGS 7:30 p.m. *(4)

Commissioner Kaplan read the legal notice into the record.

PETITION TO AMEND THE ORANGE ZONING REGULATIONS. Submitted for Senior Living Advisors, LLC for property owner Indian River Road LLC. To amend & edit Section 383-14 regarding the definition of *Elderly Assisted Living Residential Facility*. To amend Section 383-14 to add a definition for *Dwelling Unit, Senior Independent Living*. To Amend the Orange Zoning Regulations to create a *Senior Mixed Use District*. (Continued from the December 5, 2017 and January 2, 2018 meetings.)

PETITION TO AMEND THE ORANGE ZONING MAP – Submitted by Senior Living Advisors, LLC. The proposal is to change four parcels from Light Industrial LI-2, to a proposed SENIOR LIVING DISTRICT. The parcels are 197 Indian River Road a.k.a. Assessors Map 14-4-1; 231 Indian River Road a.k.a. Assessors Map 14-4-1-A; 239 Indian River Road a.k.a. Assessors Map 23-3-1B; and 245 Indian River Road a.k.a. Assessors Map 23-3-1. The application and map is on file in the Zoning Office at the Orange Town Hall.

Attorney Toni Marie Gelineau stated that the applicant would be presenting and discussing both Petitions together. The applicant is proposing amendments to the zoning regulations to create a Senior Living District. The initial Petition to amend the map was withdrawn. A new Petition to Amend the Map was submitted for 4 parcels as listed above. Now all four parcels are involved to create a definition and to create a living district. Attorney Gelineau stated that she reviewed all of the information and documents submitted.

Craig Flaherty, Redniss & Mead, Senior Engineer and Principal of firm, stated that he has reviewed the report which Glenn Chalder prepared. It resulted in changes to the originally proposed text. A brief discussion ensued. The term “Mixed Use” was removed and changed to Senior Living District. Mr. Flaherty stated that all of Mr. Chalder’s suggestions were incorporated into the revised text. Mr. Flaherty prepared a clean copy of the proposed text. Mr. Flaherty reviewed each of Mr. Chalder’s points for the Commission. A lengthy discussion ensued.

Chairman Parente stated that this type of use makes sense in this area. He noted that nonconforming uses would become conforming. Commissioner Aschettino added that there is a need which has been identified. Mr. Flaherty stated that this proposal is consistent with the Plan of Conservation and Development (POCD). Discussion ensued. It was again noted that the initial Petition to amend the Orange Zoning Map was withdrawn. The pending Petition to Amend the Zoning Map concerns 197 Indian River Road, 231 Indian River Road, 239 Indian

River Road, and 245 Indian River Road. It is proposed to change these properties from Light Industrial LI-2 to Senior Living District (SLD). Discussion continued. Commissioner Cornell expressed concern that if only 2 of the 4 properties were changed to Senior Living District, it might constitute Spot Zoning. He would like Town Attorney Vincent Marino to advise the TPZC on this issue.

Attorney Gelineau presented a legal summary. She stated that the curb cut would align with the Christmas Tree Shop plaza. Discussion ensued.

Chairman Parente stated that he also wanted to hear comments from the Fire Marshal and from the Town Attorney. The Public Hearing will be continued until the March 6, 2018 meeting.

George Findley, Indian River Road, commended the T.P.Z.C. He stated that he is in favor of the new zone name as well as the development. He believes that it is a good development.

There were no further comments.

Chairman Parente called for a five minute recess at 9:15 p.m.

APPLICATION FOR TEMPORARY SPECIAL USE EARTH MATERIALS REMOVAL & FILLING – Submitted by Orange VA, LLC c/o Joshua Hausman. For the cut of 9,460 cubic yards of earth material; and the fill of 9,430 cubic yards of material. All earth work is in conjunction with the proposed construction of a 57,370 sq. ft. Veterans Administration Community Care Center. A SITE PLAN APPLICATION; SITE PLAN APPLICATION – ARCHITECTURAL STANDARDS SUPPLEMENT; and SITE PLAN APPLICATION – LIGHTING SUPPLEMENT have also been submitted.

SITE PLAN APPLICATION – Submitted by Orange VA, LLC c/o Joshua Hausman. For the construction of a 57,370 sq. ft. Veterans Administration Community Care Center. A SITE PLAN APPLICATION – ARCHITECTURAL STANDARDS SUPPLEMENT; APPLICATION FOR TEMPORARY SPECIAL USE EARTH MATERIALS REMOVAL & FILLING, and SITE PLAN APPLICATION – LIGHTING SUPPLEMENT have also been submitted.

Mr. Joshua Housman of Orange VA LLC stated the he would be developing the property for the Veterans Administration. Mr. Ryan Dean, Landscape Architect with the SLAM Collaborative, stated that it is an 8 ¼ acre site. He described the size of the project. Three hundred parking spaces are proposed. He reviewed the design of the building. He stated that Inland/Wetlands unanimously approved this proposal. A Temporary Special Permit Earth Materials was required because of the cut and fill required for the construction of the building. A discussion ensued regarding drainage and proposed parking spaces. Mr. Dean stated that the VA has security standards regarding lighting. Orange also has lighting regulations. They were able to meet all lighting standards and regulations.

Appeared Mr. Ed Edlemen, architect for the project. He reviewed the building design.

Mr. Dean stated that the main entrance of the building would be on Edison Road, directly across from Aurora Products. A discussion ensued. Zoning Enforcement Officer Paul Dinice stated that he has reviewed the proposed use with Town Attorney Vincent Marino. The Veteran's Administration is a Federal Agency, therefore permitted by the Orange Zoning Regulations.

Katie Gagnon, Civil Engineer, stated that this application conforms to the Orange requirements. Ms. Gagnon reviewed the proposed drainage system. A brief discussion ensued. Ms. Gagnon stated that this project was approved by the Traffic Commission on February 12, 2018. It is anticipated that this proposed use will not negatively impact local traffic.

Ms. Gagnon stated that this would be an outpatient facility. There would be six exam rooms and approximately 75 employees. Commissioner Smith asked what the hours of operation would be. Mr. Dean stated that they would be open from 9 a.m. to 6 p.m. Discussion ensued.

Resident Steve Hechtman questioned the need for security guards. Mr. Dean stated that there would be VA security. This is customary and part of West Haven VA security personnel.

Chairman Parente asked if the Commission needed additional information. Commissioner Cornell stated that it appears that the applicant has met all of the requirements.

A motion was made by Paul Kaplan and seconded by Ralph Aschettino to close the Public Hearings. The motion carried with the vote recorded as follows: Kaplan, aye; Aschettino, aye; Cornell, aye; Smith, aye; Parente, aye. The vote was recorded as 5-0 to accept and approve the motion.

Commissioner Kaplan stated that the proposed traffic levels are acceptable. Commissioner Cornell expressed his belief that this proposal is much less intense than an office building. Chairman Parente stated that this is a permitted use.

A motion was made by Paul Kaplan and seconded by Ralph Aschettino to accept and approve the APPLICATION FOR TEMPORARY SPECIAL USE EARTH MATERIALS REMOVAL & FILLING in conjunction with construction of a 57,370 sq. ft. Veterans Administration Community Care Center. Included with the motion were all standard conditions always incorporated into approvals for Temporary Special Use Earth Materials Permits. The motion carried with the vote recorded as follows: Kaplan, aye; Aschettino, aye; Cornell, aye; Smith, aye; Parente, aye. The vote was recorded as 5-0 to accept and approve the motion.

A motion was made by Paul Kaplan and seconded by Ralph Aschettino to accept and approve the SITE PLAN APPLICATION; A SITE PLAN APPLICATION – ARCHITECTURAL STANDARDS SUPPLEMENT; and SITE PLAN APPLICATION – LIGHTING SUPPLEMENT for the construction of a 57,370 sq. ft. Veterans Administration Community Care Center. The motion incorporated all standard conditions for Site Plan approval. The

motion carried with the vote recorded as follows: Kaplan, aye; Aschettino, aye; Cornell, aye; Smith, aye; Parente, aye. The vote was recorded as 5-0 to accept and approve the motion.

There were no further comments.

Report of the Zoning Enforcement Officer.

Zoning Enforcement Officer Paul Dinice stated that the Zoning office has been really busy. There are several pending applications for the next meeting. ZEO Dinice stated that he has issued 40-50 warnings for sign violations on the Boston Post Road. He has also issued several abatement orders.

ZEO Dinice stated that there is a pending hearing before a Citations Officer for 119 Buttonball Road. The tenant has vacated the premises.

ZEO Dinice stated that 756 Derby Milford Road was issued an Anti-Blight Notice of Violation. They have ten days to clean up their property. If they fail to do that they will be fined. If the fine is not paid the property will be liened. 772 Derby Milford Road was also cited for two accessory structures that that were located on the property. The ZEO has received a call from the property owner's attorney.

There were no further comments.

Old Business.

There was no Old Business to discuss.

New Business.

There was no New Business to discuss.

As there were no further items on the agenda, a motion was made by Paul Kaplan and seconded by Ralph Aschettino to adjourn the meeting. The motion carried with the vote recorded as follows: Kaplan, aye; Aschettino, aye; Smith, aye; Cornell, aye; Parente, aye. The vote was recorded as 5-0 to accept and approve the motion.

The meeting was adjourned at 10:02 p.m.

Respectfully Submitted,

Tamara Trantales
Administrative Assistant