

ORANGE ZONING COMMISSION  
MINUTES OF THE AUGUST 20, 2019 MEETING

Unapproved Minutes

The Town Plan and Zoning Commission held a meeting on Tuesday, August 20, 2019, 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  
Jack Demirjian, Zoning/Wetlands Assistant  
Glenn Chalder, Planning Consultant  
Robin Gengaro, Recording Secretary

ORANGE, CONN.  
TOWN CLERK'S OFFICE  
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2019 SEP 13 PM 3:47  
Mark B. O'Sullivan  
TOWN CLERK

Chairman Parente welcomed everyone to the meeting. He asked those seated at the table to introduce themselves for the record. He mentioned that Commissioner Kaplan is expected to join this meeting shortly.

Review of the Minutes from the August 6, 2019 meeting.

A motion was made by Ralph Aschettino and seconded by Judy Smith to accept and approve the Minutes from the August 6, 2019 meeting, as amended. The motion carried with the vote recorded as follows: Aschettino, aye; Smith, aye; Cornell, abstain; Parente, aye. The vote was recorded as 3-0-1 to accept and approve the motion.

There were no further comments.

Commissioner Kaplan joined the meeting at 7:09 p.m.

Discussion of possible regulations concerning roosters in the RES Residential District.

Chairman Parente stated that there is information in the Commission Members' packets pertaining to this agenda item. He stated that the Zoning office has received letters complaining about two or three roosters in town. Included in the packets were zoning regulations from neighboring towns where roosters have been banned. The regulations were provided by a resident.

Chairman Parente stated that the Commission cannot amend the regulations without a public hearing. A brief discussion ensued. Chairman Parente asked the Commission if they felt that there is enough of an issue to proceed to a Public Hearing. Commissioner Aschettino responded affirmatively. He stated that it appears to be an issue in neighboring towns as well as in Orange. Commissioner Kaplan noted that sometimes they are a real nuisance. Commissioner Aschettino ruminated whether a large parcel of land, as in a farm setting, would resolve the matter. Chairman Parente stated that there is language that ZEO Dinice drafted when this issue was initially on the agenda.

Zoning Enforcement Officer Paul Dinice stated that first, this matter would be referred to the Regional Planning Agencies. He explained the process.

Chairman Parente stated that at first, he didn't know how widespread this problem was. Discussion ensued regarding Common Law Nuisances in the Residential District.

Commissioner Smith noted that there are people in the audience who may wish to speak on this topic. Chairman Parente stated that anyone in favor of prohibiting roosters could speak at the Public Hearing.

A motion was made by Paul Kaplan and seconded by Ralph Aschettino instruct the ZEO to send out required referrals and schedule this matter for Public Hearing. 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.

ZEO Dinice stated that the Regional Planning Agencies have 35 days to review the issue. He stated that it depends on their meeting schedule when we hear back from them. He expressed his belief that the TPZC meeting regarding roosters would probably be in October.

ZEO Dinice read the proposed regulations into the record. He stated that this is a change from the current regulations. This amended language prohibits lots under farm status from having a rooster. Discussion ensued. Commissioner Aschettino commented that Orange is a farming town.

There were no additional comments.

#### Report of the Zoning Enforcement Officer.

ZEO Dinice stated that he inspected the three major projects currently under construction in town. The VA Care Center is almost completed. A final walkthrough is scheduled for next Wednesday. He stated that the construction went smoothly. The Building Department is close to issuing a Certificate of Occupancy. ZEO Dinice stated that the VA Care Center would not be operational for a while. Prior to being operational, medical equipment must be moved in and functioning. He noted that the use of the facility will occur during daytime hours. He stated that the construction at the FedEx distribution center was going smoothly. The site is clean, and materials are kept out of the road. All Sedimentation & Erosion controls have been maintained.

#### Old Business

There was no Old Business to discuss.

#### New Business

There was no New Business to discuss.

Chairman Parente called for a brief recess until the Public Hearings begin at 7:30 p.m.

#### PUBLIC HEARINGS (\*4)

Commissioner Kaplan read the legal notice into the record.

\*PETITION TO AMEND THE ORANGE ZONING REGULATIONS - -Submitted by property owner 35 Old Tavern Road LLC - To amend Article IV, Section 383-33 et seq., of the Orange Zoning Regulations to permit mixed use residential development in the Local Shopping Center (LSC) District. (Continued from the July 2, 2019 meeting.)

Planning Consultant Glenn Chalder joined the Commission at the table. Chairman Parente summarized the status of the application. Chairman Parente stated that the Commission decided not to hear this matter at the August 6, 2019 meeting because our Planning Consultant Glenn Chalder had submitted information to the applicant and the lawyer, Attorney Marjorie Shansky. In fairness, Chairman Parente stated that the Commission gave the applicant and the attorney time to review the new information. Also, there were only three commissioners present that evening. The public hearing was continued until tonight.

Chairman Parente read the written submittals into the record. Police Chief Bob Gagne stated his concerns in an email addressed to ZEO Dinice and the commission members. Chief Gagne stated that traffic is already a major concern in this area. There will be more residents, which would result in more calls for medical and police services. He noted that with a volunteer fire department, as we have, the police are responsible for both.

Tom Hurley, 1050 Garden Road, stated that he has concerns that the proposal will also impact Route 34 from Grassy Hill to the Derby line. Mr. Hurley suggested that the POCD needs to be re-examined and addressed before this application proceeds.

Mr. Hurley stated that no matter where it is, any area in town, they are trying to keep businesses out of residential areas. Mr. Hurley read a portion of the POCD into the record. He stated that he would welcome Glenn Chalder's comments.

Jeffrey Gordon, 362 Racebrook Road, stated that his house was built in 1984. His business is at 263 Boston Post Road, facing the Firelite Plaza. Mr. Gordon stated that he has been a planner, among other titles, for the past 45 years. Mr. Gordon stated that Transit Oriented Development District (TODD) is part of Smart Growth. The PRD regulation carries along Route 1. The POCD showed a Firelite schematic which eliminates a portion of Old Tavern Road. Discussion ensued.

Mr. Gordon expressed his belief that this is an opportunity to reinvent this plaza. It was built with a septic system prior to sewers. Mr. Gordon stated that we are running out of choices for diverse housing; the opportunities are dwindling.

Attorney Marjorie Shansky stated that she is representing 35 Old Tavern LLC. She commented that this is a minor amendment to the Orange Zoning Regulations. She thanked Mr. Chalder for his input. Attorney Shansky stated that she created a text amendment. She added mixed use as a Special Use, with a minimum of six acres per site. It must have city water/sewer. The request is to propose infill development and to revitalize an outdated retail center. This would be accomplished in accordance with the POCD. Future town center development has mixed uses. It is intended to be dense development. It would provide a viable retail use with a supporting residential component.

Attorney Shansky noted that mixed use development is transitional development. It will stimulate economic development. There are no changes to the bulk regulations being

proposed. There would be one mixed use building. Attorney Shansky distributed a rendering to the Commission. The first floor would be for commercial uses. The application would have to go to Wetlands first if the text amendment is adopted. Attorney Shansky suggested the possibility of a Riverwalk along the existing stream.

Attorney Shansky stated that the POCD is a vision document; it is not an implementing tool. Goals are achieved incrementally. There is an aging population to consider. It was noted that the Comprehensive Plan is found in the zoning regulations, not the POCD. Marjorie Shansky noted that the proposal is in accordance to POCD. Courts have determined that Comprehensive Plan is consistent with the proposed regulations. After a brief discussion, Attorney Shansky stated that this application is entirely consistent to the goals of the POCD. She stated that mixed use is an economic stimulus.

Mr. Hurley stated that he is concerned that there could be multiple eligible lots. Chairman Parente stated that there are two Local Shopping Center (LSC) zones in Orange. He stated that the Commission is considering amending the regulations to only effect LSC adjacent to Old Tavern Rd. He further stated that residential uses are not allowed in retail zones. Discussion ensued. Mr. Hurley stated that other areas could qualify, and he is concerned. Chairman Parente reiterated that there are currently two local shopping districts in town. Mr. Chalder stated that this application before us is only for text change. A lot of things must happen before it comes to fruition. He stated that everyone should be looking specifically at the site. Discussion continued. Mr. Hurley stated that if this amendment is approved, the profile of the town would change. He expressed his opinion that it is not very well thought through.

Chairman Parente stated that it would be comforting to know what the project would look like. Attorney Shansky stated that the proposal promotes smart growth. A lengthy discussion ensued.

Commissioner Kaplan stated that he is concerned with the density of the project. He thought it would be a more balanced site. He stated that he is not opposed to mixed use but rather how it is implemented. Discussion ensued. Attorney Shansky submitted a schematic for the record. Commissioner Aschettino expressed his belief that this is a good concept. Commissioner Kaplan stated that he is in support of mixed use with the proper controls. Chairman Parente concurred. Commissioner Aschettino added that he would want this proposal to blend in with the area. Commissioner Smith stated that the scope and scale are an issue. She stated that the a 2-story mixed use building might be more appropriate. Discussion ensued. Mr. Chalder suggested exploring what a PPD looks like. Discussion ensued.

Attorney Shansky asked for the hearing to be left open. After a brief discussion, it was determined that the Public Hearing would remain open until the next meeting, September 3, 2019.

Commissioner Cornell inquired about including the Town Attorney's views on this matter. Chairman Parente concurred.

There were no further comments.

Chairman Parente called for a ten-minute recess.

\* APPLICATION FOR SPECIAL USE - -Submitted by Indian River Road, LLC, for property known as 197 Indian River Road - The proposal is for a three-story assisted/independent living and memory care facility with associated parking, utilities and landscaping. A SITE PLAN APPLICATION has also been submitted in conjunction with this project. (Continued from the August 6, 2019 meeting.)

\*APPLICATION FOR TEMPORARY SPECIAL USE EARTH MATERIALS REMOVAL & FILLING - -Submitted by Indian River Road, LLC, for property known as 197 Indian River Road. - To include earthwork of approximately 60,000 cubic yards of Cut; & 60,000 cubic yards of Fill material to result in a 'balanced site'. This application is related to the construction of an assisted/independent living and memory care facility at the property. An APPLICATION FOR CERTIFICATION OF SOIL EROSION AND SEDIMENT CONTROL MEASURES has also been submitted. (Continued from the August 6, 2019 meeting.)

Brian Phillips, Langan Engineering, New Haven, CT, on behalf of the applicant. Mr. Phillips stated that he presented at the last TPZC meeting. The pertinent signoffs have been obtained, including the approval from the Traffic Commission. The Fire Marshal is satisfied. ZEO Dinice stated that he sent the signoffs electronically to the TPZC. Mr. Phillips noted that the Traffic Commission commented they would like the applicant to widen the entrance to the facility to ensure that emergency vehicles had room to go around an accident or occurrence at the entrance. Mr. Phillips stated that he had addressed all concerns.

Chairman Parente asked Commissioners Cornell and Kaplan if they had viewed a recording of the meeting, since they were absent for the actual meeting. They replied affirmatively.

There were no comments or questions from the audience.

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

Chairman Parente stated that this is a permitted use in the Senior Living District. All signatures have been obtained. All comments from the department heads have been addressed to their satisfaction. All requirements have been met. Lighting and Architectural supplements have been submitted. A traffic report was submitted. There will be minimal increase and impact of traffic. Chairman Parente noted that these are housing options for an aging population

A motion was made by Ralph Aschettino and seconded by Paul Kaplan to accept and approve the APPLICATION FOR SPECIAL USE, 197 Indian River Road. The motion carried with the vote recorded as follows: Aschettino, aye; Kaplan, aye; Smith, aye; Cornell, aye; Parente, aye. The vote was recorded as 5-0 to accept and approve the motion.

\*APPLICATION FOR SPECIAL USE - Submitted by Richard & Michele Gustafson, for property known as 786 Derby Milford Road - Request for larger ground coverage as per Section 383-26I (3)(a). To construct a 36' x 40' barn.

Rich Gustafson, 786 Derby Milford Road, stated that he has lived here 20 years. He would like to locate a barn on his property to store tools, etc. He stated that the barn would be authentic. It would have a New England look. Mr. Gustafson stated that he needs more room on his property to store his tools, which are needed for landscaping and property maintenance. Chairman Parente inquired if it would be visible from the street. Mr. Gustafson replied that it would be buffered by lots of trees, and he is going to plant more. A brief discussion ensued. Commissioner Cornell stated that he drove by the house. He stated that the property drops off significantly. He agrees with Mr. Gustafson that the barn would only be visible when looking down the driveway.

Commissioner Kaplan inquired whether the TPZC has allowed similar structures before. ZEO Dinice replied affirmatively. Commissioner Aschettino asked if there would be water in the building. Mr. Gustafson stated that there would be electricity but no water. Chairman Parente noted that this building is larger than what is usually allowed. It would be well buffered and hidden on the site.

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

Chairman Parente stated that it is within the Commission's discretion to approve. He read a portion of the zoning regulations into the record. Mr. Gustafson requested to waive the requirement of an engineered sealed plan. ZEO Dinice stated that Mr. Gustafson will have to submit traditional application forms for the zoning and building departments.

Commissioner Kaplan stated that the barn was harmonious with the neighborhood. A large structure was also previously removed. A motion was made by Paul Kaplan and seconded by Ralph Aschettino to accept and approve the Application for Special Use for Richard & Michele Gustafson, 786 Derby Milford Road, to construct a 36' x 40' barn, subject to the following conditions: the temporary structure on the lot must be removed. The requirement to waive an engineered sealed site plan was included in the motion. 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.

There were no additional comments.

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 10:03 p.m.

8/20/19

TPZC MINUTES

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Respectfully submitted,

Tamara Trantales,  
Administrative Assistant