

**ZONING COMMISSION
NOANK FIRE DISTRICT
10 WARD AVENUE, NOANK, CT 06340**

Minutes of the Regular Meeting

Date: Tuesday, October 19, 2021, 7:00 PM

Location: Noank Fire House, 10 Ward Avenue, Noank

Commission members present: Rick Smith (Chair), Beth Steele, Nip Tanner, Dana Oviatt, Blake Powell, Hansina Wright (Alternate). Others: Elizabeth Yerkes (Clerk)

A. Call to Order, Roll Call: The meeting was called to order at 7:00 PM. A link to the MP3 recording of the meeting is: https://1drv.ms/u/s!ApV_BVCbHuQwsjoyE_rIcFiPS8ZR

B. Public Hearing: None

C. Public Comment - Issues not on the Agenda: None

D. Applications for Architectural Design Review: None

E. Application for Home Occupation Permit

1. Consideration of the Application of Ronald and Elizabeth Greene, 44 Brook Street for a Home Occupation Certificate to operate an art gallery (paintings) on the premises.
2. The applicants were not in attendance.
3. Chair summarized: the application is consistent with the application for the approved structure they built four years ago, for an art studio. The applicants need a Home Occupation certificate to conduct a business as an art gallery, and seven conditions in Noank's ordinances need to be met. Chair said the prudent thing to do is not discuss the application until applicants are in attendance. Commissioners concurred to defer discussion until applicants arrive or until the next meeting. Later in meeting, Chair asked Mr. Mulholland, Zoning Official, if it was advisable to put the matter on the November Zoning Agenda. Mr. Mulholland agreed.

F. Approval of Regular Meeting Minutes of September 21, 2021- No comments or discussion. Minutes approved without objection.

G. Approval of September 2021 Zoning Enforcement Official Report. No questions or discussion. Without objection, the Commission approved the report of September 2021.

H. Old Business

1. Update on STR Issues: Chair summarized: Very little correspondence this month. The first STR enforcement letters will go out this week. Counsel has advised not to

discuss particular STR enforcement issues in public, so this is a status report. Commissioner Tanner said he was puzzled - he said at last month's meeting, Commissioners were told the letters would go out in a week or ten days and asked why it took so long. Chair replied that double-checking addresses and properties took time.

I. New Business

1. Public Comment Session on Three Issues

a. Public Act 21-1, Cannabis Establishments.

Larry Dunn, 91 Crosswinds Drive. Mr. Dunn opposed authorization of Cannabis Establishments because they would contradict Items 1 and 3 of the zoning commission's purpose, that is, 1) to promote health, safety, general welfare and convenience of community; 2) to preserve historic sites and structures; 3) lessen street congestion; 4) prevent overcrowding of land; 5) encourage development of housing opportunities for all NFD (Noank Fire District) citizens.

Zell Steever, 81 Main Street opposed growing and/or dispensing cannabis products in Noank.

Sam Greenfield, 82 Front Street neither supported nor opposed PA 21-1. He suggested the matter be put to a referendum by Noank residents. Chair replied that the statute requires ten percent of the electors to request a referendum, once the Commission decides one way or the other. Commissioner Oviatt asked if a referendum would be the final decision? Chair confirmed that it would be; that if the Zoning Commission (ZC) decides against allowing cannabis establishments, a referendum is how the public can say it wants the zoning commission to pursue it. Chair clarified that PA 21-1 determines that Noank likely must go through a text amendment to prohibit or to set rules (e.g. operating hours, proximity to church). If allowed, they must be treated like any other business.

Paul Bates, 47 Church Street opposed Cannabis Establishments in Noank. Mr Bates asked if there is an opt-out provision. Chair replied that ZC can amend its regulations to prohibit or restrict cannabis businesses. Members of the public could call for a referendum to see what the Noank public wanted to do. PA 21-1 does not have a layer of Executive Committee decision-making over the ZC.

Commissioner Tanner asked if the ZC doesn't modify its regulations to allow cannabis establishments, would PA 21-1 prohibit them? Chair said the law allows a municipality to amend zoning regs to prohibit them. Usually, if a zoning ordinance does not allow an activity (use of a lot), the activity is prohibited. Powell said his interpretation is that it's allowed until we prohibit it. Chair believed a Public Act would overrule zoning law. [Ed. Note: PA. 21-1 allows one retailer and one grower per 25,000 residents unless Noank (ZC) votes to prohibit them.]

b. FEMA "look-back" period

Under the current Noank Zoning Ordinance, if remodeling costs over a ten-year period exceed 50 percent of the structure's market value, the owner is required to flood-proof the property (e.g. elevate the structure, install flow-thru plates).

Chair summarized: A real estate agent asked the commission to look into shortening this period. A shorter period, 1-2 years, provides greater opportunity to preserve historic and architecturally significant structures because not much time elapses before you reach the 50-percent threshold. A longer look-back period is attractive to those worried about structures being inundated and, inevitably, raising the cost to the National Flood Insurance Program (NFIP, administered by the Federal Emergency Management Program - FEMA), that is, all taxpayers, in the event of major flooding. Under the longer (current) look-back period, anyone buying or improving a property would be more likely to have to flood-proof it, minimizing the risk of costly repairs after a flood but enhancing the prospects that the structure would be torn down and replaced.

Public Comment:

Larry Dunn, 91 Crosswinds Drive supported a reduction to 3-year look-back. Mr. Dunn said it would convenience the community and preserve historic sites and structures. Oviatt asked, why three years? Mr. Dunn said he broke down a 30-year horizon of sea-level rise but said he did not do a quantitative analysis. Oviatt: the reason people want one to two years is so people can afford to modify their homes.

Zell Steever, 81 Main Street, opposed shortening the look-back period. Mr. Steever is a Noank resident and chair of Groton's Sustainability and Resiliency Task Force. He summarized: If you shorten the period from ten to two years, you will have people "nickel-and-dime their way through to avoid FEMA responsibility." This then places the burden on the community. When a house is flooded, the public pays for some of its rebuilding. There's an unreal expectation of storm flooding that will happen in the next 30 years. Mr. Steever offered to have the Task Force make a formal recommendation to the Commission.

Sam Greenfield, 82 Front Street, supported a one or two-year look-back period. Cited renovation of his Stonington borough historic home rental property. Stonington has a one-year look-back. Mr Greenfield thought that a longer period forces owners to change the character of the house and neighborhood.

Paul Bates, 47 Church Street supported a 0-year or 1-year look-back. Mr. Bates speculated that many in the Noank flood zone do not have federal flood insurance, and if the banks don't require it, they won't seek it out.

Jesse Stratton, 31 Spring Street, Noank resident and member of Groton Sustainability and Resiliency Task Force. Summarized: the task force has given recommendations to the Town. In Groton, there is a one-foot-above base flood level requirement for living space. The goal is to make all structures more resilient. Whether or not they require FEMA insurance, someone will

pay for the damage. Noank could actively participate in the FEMA Community Rating System (CRS) Program. It recommends a longer look-back, and did a CBA on longterm improvements.

Jim O'Donnell, 16 Brook Street, Prof. Marine Sciences at UConn. Thought 10 years is sufficient and wise look-back period; detailed FEMA insurance, and said it is not a self-sustaining program. A way a town could limit rate increase is to participate in CRS. How much a town complies with policies determines discount on policy.

Chair commented that Noank does not participate in FEMA CRS Program because the administrative investment is more substantial than Noank can afford. Oviatt and O'Donnell discussed CRS program, FEMA, and length of look-back period.

Bill Mulholland, Zoning Official, commented that the CRS Program in East Lyme requires a long certification; those East Lyme residents in flood zones see an approximate 10-percent rate reduction. Cost to East Lyme is about \$75K/year. A lot of work and bookkeeping. East Lyme dropped from 10 year to two year because people stopped maintaining the exterior in favor of the interior and the exteriors were becoming blighted. People wanted to be at the beach. In most communities the FEMA regs are contained in the town zoning regs. Chair clarified: if you don't have flood insurance and you're in an AE or VE zone, what's the implication of the look-back period? Mr. Mulholland: Zoning cannot give you a permit unless you meet the zoning code, because it applies whether you have flood insurance or not. The standard is a zoning law. For a variance, you have to prove a hardship.

Eleanor Wenderoth, 50 Pearl Street asked whether Noank could benefit from joining the same FEMA program Groton participates in. Chair said that Mr Mulholland indicated it deserved an inquiry. It may be, however, that Noankers may abhor the thought of ceding any authority to Town of Groton.

c. Public Act 21-29, Accessory Apartments and Parking.

Commissioner Tanner commented that Noank can accept the Public Act or opt-out, or possibly look at what the bill is trying to accomplish and where it meshes with Noank regs. Suggests Noank could amend regs to be more to its satisfaction rather than adopt the state bill in its entirety. Then opt-out. Get closer to achieving the intentions of the bill. Chair: we would have to keep an eye on January 1, 2023, which is the opt-out deadline. There's no reason Noank couldn't opt-out and do what Tanner is describing.

Public Comment:

Larry Dunn, 91 Crosswinds agreed with Tanner. Supports ADU concept. Does not support ADUs in RV-12 and VC zones; supports one parking space for newly established ADUs in addition to the existing one. If ADUs are allowed, it opens the possibility for people to misuse them for STRs. Intent of legislation is to increase long term rentals.

Commissioner Tanner commented that the law empowers communities to prohibit use of ADUs as STRs, but community has to be pro-active.

Zell Steever, 81 Main Street supports opt-out now from ADU and parking provision. Recommends a public meeting with attorney present to explain Noank code, new law, differences and similarities. Thinks regulations may require explicit prohibition of STRs.

Sam Greenfield, 82 Front Street agreed with Commissioner Tanner. Suggested the ZC consult American Planning Association, CT Chapter. Suggested an independent study on the ADU issue. Asked does the new law solve any of the issues raised during STR discussion?

Paul Bates, 47 Church Street supported opt-out.

Lynn Marshall, 118 Pearl Street supported concept of long-term rentals and affordable housing. Unintended consequences need attention: right now, you're required to have double the lot size to put in a new apartment; is there any provision to restrict commercial interests buying homes and operating them as businesses? Suggested restrictions and revisit of Floor Area Ratio and design review "so we don't get GLP houses and accessory buildings."

Commissioner Tanner commented that there exist 18 rental apartments in two blocks of Noank—there are a lot of rental apartments in the fire district, and a lot of economic diversity, though not yet racial diversity. Oviatt asked the area of an average apartment. Marshall replied 600 to 900 s.f. is average, 1,200 is spacious. Chair said the town can't regulate to a size smaller than 30 percent of house size or 1,000 s.f. whichever is less, but can regulate to a larger size. Discussion centered on details of apartment size, speculation about commercial landlords, etc.

Ben Greenfield, 82 Front Street complimented the commission for its forbearance on STR matter.

Adjournment: Motion to adjourn, 8:20 PM. (Powell/Steele) Respectfully Submitted,

Elizabeth Yerkes, Recording Secretary