

ZONING COMMISSION
NOANK FIRE DISTRICT
10 WARD AVE
NOANK, CT. 06340

Approved Minutes of the Regular Meeting and Public Hearing

Date: Tuesday, March 15, 2022

Location: Noank Fire House, 10 Ward Avenue, Noank

A. Call to Order, Roll Call: The meeting was called to order at 7:00 PM. Members Present: Beth Steele (Chairman Pro Tem), Dana Oviatt,, Rick Smith (by audio ink), Blake Powell, Nip Tanner; Alternate: Hansina Wright; Others: Elizabeth Yerkes, Clerk; John Casey, Commission Counsel; William Mulholland, ZEO.

A link to the recording of the meeting is: https://1drv.ms/u/s!ApV_BVCbHuQwtnNzQr88yQkamVNe

Chairman's Remarks: None.

B. Public Comment for Issues not on Agenda: None

C. Public Hearing: [00:00:57]

Public Hearing Town of Groton Parks & Recreation Proposal for Site Plan Review and Application for Special Exception for the "Noank School" property. Parks and Recreation proposes to: 1) Retain the current uses as a community garden, Christmas tree nursery and fruit tree orchard; 2) improve accessibility by adding walking paths; 3) add sitting areas, benches, port-o-let and drinking fountain; and 4) create a space for play by adding a playground.

[00:01:38] Rick Smith recused himself. Chairman Steele seated Hansina Wright. Chair states that the Public Hearing notice was published in The Day newspaper on March 1, 2022 and March 11, 2022. Chair read e-mail correspondence into the record from George Brys, 4 Beach Rd, Groton CT, dated March 15, 2022: "I am a resident of both Mystic and Groton Long Point. I use this open space area almost daily to exercise my 20 lb terrier. I am very much in favor of this property remaining a park, however the proposed landscape and development plan by Kent and Frost calls for planting over most of the area with trees, to which I am vehemently opposed. There are very few pieces of open space in this town on which kids can fly kites, play pickup ball, or any other play requiring open fields. The area also has a magnificent sky and water view that would be totally destroyed if forested over. Please reconsider how this park will be developed to take into account these comments."

Chair asked the applicant, Mark Berry, Director of Groton Parks and Rec. how he sourced addresses for notifying neighbors who abut the subject property (89 Williams Ave/42 Smith Lane). Four of the 27 Certified Mail Return Receipt cards were not returned. Berry said Groton Town GIS coordinator determined all properties within 150 feet of the property and created the mailing list.

[00:06:24] Berry presented the project in accord with his narrative and January 18 presentation to the ZC. Brian Kent, landscape architect presented the history of the site, and summarized the site plan in accord with his January 18 presentation to the ZC. Kent said Parks & Recreation will have to request funding for the project and that it is not likely that the project will be completed in the next two years. Presentation concluded; Chair Steele asked ZC if it had questions.

[00:23:00] Wright asked that if there is a change to the site plan, will Groton Parks & Recreation notify ZC and public? Berry replied that the project will be completed in phases. He added that tree planting funds were raised from donors, and that playgrounds cost up to \$200,000. which would make any playground equipment part of a capital improvement plan. Applicants have not decided if the playground will serve ages 2 to 5 or 5 to

12. Berry said Parks & Recreation is required to return to ZC if it seeks a site plan modification, such as a smaller or no playground.

Powell asked about a landscape screen around the toilet. Kent said the proposal calls for stockade fence and evergreen trees surrounding it, with paved sidewalk leading to it. The portable toilet will be ADA-compliant and cleaned weekly, Berry said. He said permanent toilet facilities cost about \$280,000.

Chair asked the length of the paved loop walk. Berry did not know the loop measurement around the property perimeter. Kent guessed it measured 1/4 mile and said waypoint signs could be installed. Chairman asked several questions and pointed out that parking in the Williams St. lay-by was not part of the proposal. Berry said the former school bus lane was a pre-existing condition, and that there was no plan to post parking signs on Williams Street.

Chairman Steele asked Berry whether Groton intends to hold special events or organized team sports in the Noank School Community Gardens/Park. Berry said no: no organized team sports or additional lighting are planned; he said Park hours could be posted if needed. Discussion ensued about phased construction. Both private and town contractors would do the work. Chairman asked whether Groton will truck in manure or other pungent fertilizer to staging area near Community Gardens; Berry said the town will not bring in manure, that neither alcohol nor camping are allowed in the park. ZC members had no further questions.

Chairman opened the Public Hearing to public comment [00:37:25].

In Favor:

Michael Speller, 15 Smith Lane, asked applicants to relocate or remove the public toilet. As drawn now, the toilet sits 20 feet off of his property line.

Ed Johnson, 87 Main St., agrees with criticism of toilet location and said if it must be in the plan, put it more centrally on the property.

Zell Steever, 81 Main St. approved.

Liz Raisback, 81 Main St. suggested Noank Fire District contributes to the project.

Eugenia Villagra, 76 Riverview Ave. approved.

Lorna Occhalini, 49 Prospect Hill Road wants the toilet relocated; asked about overhead power lines through new trees on Williams St. (north) side. Chair asked applicants, who said there are no power lines there.

Robert Petersen, 37 Prospect Hill Rd, shared others' concerns about the portapotty. He asked about trash collection in the community gardens area. Chair asked applicants whether trash bins were planned for garden area. Berry replied that there is no plan to install them.

Ann Wilkinson, 10 Harbor Court wants toilet to be removed from the plan.

Lynn Marshall, 118 Pearl St. wants publicity and fundraising about the project. Suggested "naming" opportunities for fundraising.

Chair asked if moving the toilet is feasible. Applicants said toilet must be within 25-feet of where the truck can service it. Powell asked whether there is a requirement to have a toilet; Oviatt asked what the underlying assumption is for having it, if there is no legal requirement for it. Applicant replied that it would be a convenience for children at the playground.

Mike Noel, 100 Williams St. favors plan; said Community Garden gets a lot of use, the gardeners are respectful and pick up after themselves, and he does not expect that to change.

Clint Wright, 24 Westview Ave. favors plan. He said when (Town) demolished the school, it destroyed and capped the well which supplied "tremendous amounts" of fresh water. He suggested re-drilling the well with solar panels, not only as an ecological experiment but a free source of water for the gardens.

No additional comments in favor were forthcoming; nobody spoke against the plan.

Chair called for "General" public comment:

Rick Greenspan, 53 Williams St. described proposed area for apple orchard as boulder-filled and overgrown. He said his house is about 15 feet from boundary and that he has seen fox, skunk, raccoon, coyote, deer, bobcat, and recently a mountain lion in that area, and that trees there cast significant shade. He asked consideration to relocate orchard somewhere with better soil, sunshine, and accessibility for caretakers. Addressing those with toilet concerns, he said, "for a lot less than

\$280,000 you can use my restroom." Greenspan furnished ZC with nine color photos of the area of concern. No further General comments were forthcoming. Applicants had no response.

Action: Motion to close Public Hearing (Powell/Oviatt) [01:01:31]. Motion carried unanimously.

Discussion: Powell said his concern is the toilet. Chairman reiterated Wright's suggestion to locate it on a parking spot. Oviatt said any location will put the toilet "in somebody's way" and asked again what is the rationale for having it in the first place. Chair thought the rationale provided was that future use may bring more children who will use a bathroom. Wright said visitors may find a public facility "helpful" and that it is a "hygiene issue." Tanner said many parks have no toilets. He suggested ZC approve it without the toilet and ask applicants to return to ZC after they have examined least-intrusive options for the neighborhood. Chair wanted reassurance that evergreen screen at mulch area be planted with 6-foot-high minimum trees at inception. Chair favored Tanner's suggestion, to approve with omission of toilet. Wright agreed with requirement of 6-foot minimum trees at inception. She asked about procedure viz major and minor modifications to the plan (toilet issue) and whether tabling discussion is possible until applicants find a solution. Chair said she sensed it would be a major procedural modification.

Action: Motion: [1:09:42] I move to approve the Town of Groton Parks & Recreation Proposal for Site Plan Review and Application for Special Exception for the "Noank School" property with conditions. Parks and Recreation proposes to: 1) Retain the current uses as a community garden, Christmas tree nursery and fruit tree orchard; 2) improve accessibility by adding walking paths; 3) add sitting areas, benches, drinking fountain; and 4) create a space for play by adding a playground. No port-o-let (public toilet) is approved. Any trees/shrubs planted in the mulch area of the Community Gardens will be 6-feet-high minimum at inception (Tanner/Powell). Motion carried unanimously.

Chair said the Special Permit becomes effective when applicants record it in Town Of Groton land records.

Notice of ZC decision will be published in The Day newspaper on March 24, 2022.

Chair excused Wright and re-seated Smith [01:15:10].

D. [01:15:20] Applications for Design Review:

Receipt of Application for Design Review Under Section 2.26 of the Regulations for the property of James English at 31 Potter Street. Chair read ZC's new review protocol and new rules for offering public comment in the architectural design review section of ZC meetings.

a. Brief description of project and application status: Mr English proposes to replace shakes on his house with clapboard.

b. Solicitation of public interest in application: Chair read rules for public interest expression and then asked if anyone in audience wished to comment briefly on the application. No one came forward.

c. Determination of application completeness and determination of whether a public hearing was necessitated: Chair opened discussion among commissioners. Tanner said application does not warrant a public hearing; that the ZC already authorized ZEO to approve many of this applicants' project items; and that the only major change was shakes to clapboard. Powell noted lack of public input and said no hearing is needed. He suggested ZC consider what objective criteria might warrant an automatic public hearing, such as changing footprint, height, prominent architectural features.

Action: Motion: [01:21:01] I move that a public hearing is not warranted for the application of James English, 31 Potter Street (Tanner/Powell). Motion carried unanimously.

Chair asked for a motion to determine that the application is complete. Chair opened the discussion. Tanner expressed concern that the application did not adhere to ZC's requirement for photographs of all structures within 200 feet of the subject property's perimeter, not from the center of the subject property or from the dwelling. Tanner handed out copies of instructions he wrote for applicants. It lists 17 steps for how to use Groton's GIS viewer. He said the application for 31 Potter Street includes a map that measures the 200-foot requirement from the center of the subject property or from the dwelling, which does not meet ZC's

regulations. He expressed disappointment with the ongoing problem of applications not meeting the requirements.

Smith concurred and said he would raise the subject again with ZEO and staff, and categorized the problem as "procedural." Oviatt asked who checks that the applications are complete before ZC receives them?

Chair replied that the ZEO does. ZEO Bill Mulholland responded that it is the applicants' responsibility not staff's to check for the completeness of their applications. He asked whether ZC wants to keep applications simple enough for homeowner to complete without professional assistance. ZEO suggested that ZC might include requirements in regulation 2.26, and so, it becomes "part of the process" and everyone sees it. Chair read from the cited regulation: "applicant shall also provide commission with all required comparative information regarding lots within two hundred feet of the lot in which the development is proposed." Chair suggested that the language of this might be clarified in the Omnibus Text Amendment that ZC is working on. Clarification could say applicant must measure the 200 feet from the boundary instead of from the structure or center of the property, which is the default view when one clicks on Groton's GIS viewer. Tanner surmised that the present applicant Mr. James English was capable of following instructions Tanner wrote to elicit the correct result from Groton GIS viewer.

ZEO Mulholland summarized the ZC's existing architectural review material and said there would be, if Tanner's sheet were included, four pages of applicant checklists. John Casey, Town of Groton counsel, mentioned that application requirements are spread throughout section 2.26. He suggested 1) putting all requirements in a coherent subsection, 2) that ZC have discretion to waive a particular application requirement requested by an applicant (e.g. changing windows, like for like) for which he doesn't need to provide comparative properties 200-feet from boundary.

ZEO and Smith said ZC already has the discretion to waive application requirements that aren't necessary for that application's compliance with section 2.26. Smith said he wants to stress to ZEO that he must tell applicants to obey the measurement requirement of all structures within 200-feet of the subject property's perimeter. Chair called for a motion of completeness of the application. Casey said ZC must determine the level of review.

Action: Motion: [01:36:54] Smith moved that the ZC approve the application of James English, 31 Potter St. as a site plan review without a public hearing and that ZC waive requirements for further site plan review since they do not assist the commission in its review (Smith/Tanner). No discussion was forthcoming. Motion carried unanimously.

E. New Business [01:37:54]:

Review and Action on Application for Design Review Under Section 2.26 of the Regulations for the property of James English at 31 Potter Court (sic) Street. Attorney Casey announced that he was leaving the meeting. Tracy Funari, representing the applicant, presented the proposal. She gave a history of the family's ownership and deferred maintenance of the house exterior. The prior generation of owners had decided to put clapboards on but never got around to it. Chair asked the material of the clapboards. Funari said smooth-sided Hardyplank and maintaining existing exterior wood trim.

Action: Motion: [01:44:05] (Powell/Oviatt) I move to determine that, based on the potential impact on neighborhood architectural harmony and character, property values, historical integrity, and/or public health and safety, the level of review deemed appropriate for this application is a site plan review under Section 2.26.6.5, and to both waive all specific submittal requirements that are not included in this application because they would not aid the commission in its determination of the application's compliance with Section 2.26; and to accept the application as complete, and to approve the application of James English, 31 Potter Street, Groton CT 06340 for a certificate of design appropriateness to replace siding, windows, roof, skylight, door, decking, and railing on the existing residential structure at 31 Potter Street, Noank because it meets the criteria set forth in Section 2.26 of the Zoning Ordinances for the Noank Fire District.

No discussion. Motion carried unanimously.

F. Review of Draft Proposed Ordinance Changes [1:45:43]. Chair suggested this item and remainder of agenda be put off to April ZC meeting, citing late hour and wish for robust discussion once Rick Smith returns. Smith objected. He wanted to take 10 minutes to get a sense of ZC's comfort level in setting a public hearing date for the Draft proposed ordinance changes; to approve ZEO reports and January's minutes. Chair asked if commissioners were uncomfortable setting a date for public hearing. Tanner was confused about section 2.26.3.10 which ends with "adjoiners or for site users" and wants it clarified before bringing to the public. In addition, Tanner said, throughout section 13, "regulations" and "regulation" are used interchangeably and inconsistently. Tanner wants it resolved before taking the ordinance to a public hearing. Smith said he consulted Casey, town counsel, and said "site users" was understood to mean "people who share a property line with you," however, Smith said, the exact meaning was unclear to both Smith and Casey. Tanner suggested "we ought to decide what we want to say and then say it, not just leave something" unclear in the document. Smith said ZC could go to public hearing and bring proposed language for it. Smith said he would look at and address the consistent use of "regulation" in Section 13.

Commission scheduled public hearing on Draft Proposed Ordinance Changes on May 3, 2022.

H. Approval of Meeting Minutes - Regular meeting of January 18, 2022. Approved without objection.

I. Approval of Zoning Enforcement Officer's Reports - January & February 2022. Approved without objection.

Motion (Tanner/Powell) to adjourn. Approved unanimously. 8:57 PM.

Respectfully Submitted,

Elizabeth Yerkes, Recording Secretary