

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

Minutes of the Regular Meeting

Date: September 20, 2022

A link to the recording of the meeting is:

https://1drv.ms/u/s!ApV_BVCbHuQwuTZwjIWvxZfIHF60?e=Ks9IOB

Call to Order, Roll Call: Chairman Rick Smith called the meeting to order at 7:00 PM.
Members Present: Dana Oviatt, Beth Steele (Vice Chairman), Rick Smith, Blake Powell, Peter Drakos. Others: Janet Sutherland, Clerk.

Chairman's remarks: None.

A. Public Comment - Issues Not on the Agenda - Michael Noel inquired about shoreline construction, suggesting that the Commission should monitor contractors, especially through the winter, to maintain shoreline access. He noted a dock built at the bottom of Snake Hill ten years ago which cut off public shoreline access. Chairman Smith noted that zoning responsibilities only lay above the Coastal Jurisdiction Line, two feet above the mean high water line. The DEEP is responsible for anything below the Coastal Jurisdiction Line. Because of the way the law is written, the Commission sends a referral letter to the DEEP so they are aware of any work begin done. The Commission determines whether there is any adverse effect on coastal resources, or if there is anything else that the applicant can do to protect resources that the applicant hadn't considered. Smith and Noel clarified that the main concern was work done without a permit or that resulted in encroachment, which is illegal. Smith noted that, if the public is aware of such issues, they should report them to ZEO Bill Mulholland, who can refer the concern to the DEEP.

Paul Bates asked whether the newly revised zoning regulations reflect the change of jurisdiction to the Coastal Jurisdiction Line from the high tide line. Smith was unsure at the moment whether this was reflected in the regulations. Bates asked why the new DEEP term of Coastal Jurisdiction Line was being used. Smith responded that it reflects a change in the law, he believed, enacted in 2012. He agreed to check the regulations to see if they reflect the most current rules regarding jurisdiction.

B. Public Hearing on Applications for Design Review - None

C. New Applications for Design Review - None

D. New Business

The following applications are not yet complete but will be considered at future meetings. ZEO Mulholland needs to work more with the applicant of the first one, including to be sure that street side posting has been done so that neighbors are aware of the pending proposal. Most zoning departments accept new applications at their meetings, but Noank allows for Bill to sign off on applications two weeks prior to meetings, thus expediting the process for homeowners.

1. Application of Reagan Construction Group for a Certificate of Design Appropriateness under Section 2.26 of the Noank Zoning Regulations for the property of John O’Keefe at 17 Smith Court, Noank for potential consideration at the October 18, 2022 meeting.

The application is a design review for constructing a deck and changing a sunroom into an actual room. The deck will be on top of the renovated sunroom, so it won’t change the footprint of the house. Once Bill receives everything he needs from the applicant, it will be on the next agenda.

2. Receipt of Application for Municipal Coastal Site Plan Review – Docko, Inc. on behalf of Skip Jordan, 53 Riverview Avenue to repair and rebuild a stone seawall, for potential consideration at the November 15, 2022 meeting.

This is a Coastal Site Plan Review for a shoreline erosion structure (a seawall) that is at or above the Coastal Jurisdiction Line. The Chairman explained that it is being treated as being within Noank Zoning Jurisdiction, so it triggers a thirty-five day review by the DEEP. The Zoning Commission is not obligated to implement DEEP’s advice. The review is to assist the Commission in determining if there will be any impact on resources, and if there is a way to minimize any such impact on those resources. Consideration by the Commission will be on the November meeting agenda.

E. Old Business

1. Update on STR issues - One property owner has been contacted with a second notice by ZEO Mulholland. The Chairman noted that it is likely that there could always be a short-term rental in operation, as new people move to town and aren’t aware of the law, or others choose to break operate in violation. So far, no legal action has been taken, and most STRs from last year have been in compliance since the vote last August.
2. Discussion of Ways to Enhance Prospects for Long Term Renting in the Fire District -

The Commission, and subsequently, the Executive Committee chose to Opt Out of the Provisions of P. A. 21-29 on parking and accessory apartments. Chairman Smith noted the Commission and Executive Committee discussed enhancing the prospects for long term renting, so the discussion tonight is to determine what the Commission thinks is the best way to do that.

Commissioner Powell asked whether the appropriate state agency had been notified as to what our decision was, and did we receive a response?

Chairman Smith stated the obligation of the Commission was to notify them. If they had a problem or concern they probably would have commented by now. (Editor’s Note: This was incorrect. The statutory obligation was to publish notice of the decision in The Day, which was done. There was no obligation to notify state agencies and this was, properly, not done. The Chairman was confused by the Cannabis Act and the decision to prohibit Cannabis establishments in the Fire District, a decision which required notification of the Secretary of State’s Office. This was done).

Commissioner Drakos questioned whether the Executive Committee had taken a view on enhancing long term rentals, because it seemed to be a policy issue and perhaps

not necessarily a zoning point? Chairman Smith noted that it would be the Zoning Commission's responsibility to decide if there is a zoning change needed for this to happen, because we already have regulations in effect that do that in limited ways. Drakos wondered if the Executive Committee had affirmed that this was something they thought the Zoning Commission should look at in terms of its regulations?

Mike Noel (Chairman, Executive Committee) noted the Executive Committee (EC) had not discussed it. The EC accepted the Commission's recommendation and stuck with it, but said it could be discussed.

Smith noted the importance of Mr. Drakos's question: Does a major initiative that's a fundamental policy call for the Fire District, have to emanate from the Executive Committee or can it emanate from the Zoning Commission if it has to do with use of properties, which is a Zoning issue?

Both Chairman Smith and Chairman Noel agreed either body could initiate but the discussion should be kept open for the benefit of the community, even though Smith noted that Zoning has more authority and can make policy changes on land use against the wishes of the Executive Committee. He also noted that this would be unlikely.

Commissioner Oviatt discussed potential options of changing size of the apartment, the size of the lot, or allowing separate structures. In one provision of the Noank Zoning regulations, the size of an apartment created within an older (pre-1965) single family dwelling currently has to be 850 square feet, but this number could be reduced (actually, increased Ed. Note). Lot requirement is 10,000 sq. ft., it could be changed to make progress towards having more accessory apartments. The Commission could amend the zoning regulations to decide if accessory apartments should be detached or not. He felt this would be considered a major initiative.

Chairman Smith asked for clarification on reducing the 850 sq. ft. size. Both Oviatt and Smith agreed increasing would be the preferred option, although reducing would possibly incentivize tiny houses.

Commissioner Powell agreed that allowing a detached structure as an accessory apartment would be a major initiative and require public input. Smith agreed and mentioned changing any of these provisions would require a public hearing.

Commissioner Oviatt added that allowing more than one accessory structure needs to be discussed as well. Public Act 21-29 allowed for more than one structure on a single lot of sufficient size. Also, parking regulations – currently a dwelling needs two spaces, and an accessory dwelling would require an additional two parking spaces.

No further ideas were mentioned. Smith asked if anyone felt strongly enough about any of these items to recommend a regulation change. There were none.

Smith noted there were two ways to obtain public comment. The most rigorous is when a regulation is drafted through a formal rule making process, then, by law, any member of the public can comment. A decision is made to either continue with the regulation, or if enough public disapproval has been submitted to influence a change in the Commission's thinking, the proposal can be withdrawn and further discussion of amendments considered. The other way is to announce an informal public information

meeting just as a regular meeting is announced for the public, and then listen to the Noank public's views, prior to drafting a regulation proposal.

Commissioner Powell suggested there should be some sort of outline of items under consideration before having a public information meeting. Mr. Drakos agreed that items should be discussed before making any amendment, adding that the parking issue may attract public attention above others.

Commissioner Steele suggested having a public information meeting prior to making any formal decisions as this would benefit the Commission. Mr. Drakos agreed.

Commissioner Powell requested there be an outline for a range of issues that need to be addressed. Ms. Steele stated there should be no suggestions or answers on the outline, to which Powell agreed, and Steele furthered that all of Oviatt's items should be included.

Commissioner Steele noted there are five "big ticket items" that may be related to other issues, but at least if those five are put out in front of the public the Commission is going to get feedback that's going to lead to the thought of how they interact with other issues.

Chairman Smith suggested that the October meeting should include an informal public information meeting for Noank residents and property owners to see how they feel about enhancing long term rental opportunities.

3. Discussion of Ways to Enhance Transparency in the Design Review Process

The Noank Zoning Commission requires three actions to let the public know that there is a proposal for a design review in an effort to determine if there is public interest, and therefore a need for a public hearing. The requirements: 1) a sign is posted on the street side of the property twelve days prior to the meeting alerting the public that there is a proposal for design review that will be considered at a meeting on the specified date, 2) the one-page application form is posted to the Fire District website, and 3) the sign informs people that they can view the proposal during the ZEO's office hours or email nfdzoning@gmail.com to arrange to review the application. Chairman Smith noted there had been two additional suggestions at past meetings to increase transparency – more notification to neighbors and putting the entire package online.

Commissioner Powell stated that a goal should be uploading the entire design review package to the zoning website to help answer any of the public's questions.

Commissioner Oviatt agreed, while suggesting what should precede that effort is getting the message out to the public that there is an application for design review. He felt that current signage is difficult to see, even for walkers. Powell noted that the design review is also on the agenda that is sent out to the public. Oviatt clarified that he did not believe the Noank Fire District's email list reached enough people in Noank, and that coming up to the fire house is potentially difficult for some.

Commissioner Oviatt referenced a previous proposal about potentially adopting "the Zoning Review Board" (Ed. Note: he meant the Zoning Board of Appeals) requirement for applicants to mail out letters to residents living within 200 ft.

Commissioner Drakos asked Mr. Oviatt to clarify changing the sign size. Oviatt showed images of sign postage, suggesting it is difficult to see the posting, and reiterating that non-walkers would have greater difficulty viewing the posting. Chairman Smith noted that the ZEO now instructs applicants to place the sign at the sidewalk for better viewing. He noted two logistic problems in increasing the sign size. It is easier to print on 8.5 x 11 paper and much more difficult to have a larger sign created.

Smith asked that the commission should consider the logistic implications of their suggestions for a large sign and a mounting board. Posting at the edge of the sidewalk may be sufficient. In addition, uploading design review applications to the website may be a problem. Many application packages include an A-10 sheet, and uploading a large document that is readable may be too much for the website. He noted that the Clerk of the Fire District previously mentioned there are limitations to the file size of items that can be uploaded. This is a logistics and resource problem.

Commissioner Oviatt clarified that his concern was not so much the size of the sign as it was to have letters mailed out to neighbors. The size of the sign may not be essential if people are notified by mail by the applicant. The onus should be on the applicant. Requiring a Certificate of Mailing was discussed as an option for proof, as this might be needed if made a requirement.

Commissioner Drakos suggested that there should be limitations on what the process requires of applicants, and perhaps the ZEO could decide which applications would require a Certificate of Mailing so that minor applications don't require a high degree of notification. Oviatt agreed, suggesting that there be a categorization of applications for large or substantial remodeling activities. He repeated that having mail sent out to neighbors within 200 ft should be a requirement.

Smith believed Mulholland required a Certificate of Mailing for some part of the process but this happened only once or twice a year (Ed. it is for variances by the ZBA). A less expensive way of providing proof from the USPS was suggested by Alternate Sina Wright and this would be looked into by the Chairman, but adopting such a provision would require a rule change. Drakos asked what level of application would require this additional notification. Smith noted this would be a problem and it should only be done as a regulation change if absolutely necessary. Powell noted he would be satisfied if, informally, applicants were encouraged to simply let their neighbors know what they were proposing.

Commissioner Steele asked how many complaints into lack of transparency the Commission had received, to which Smith replied there was one, and it influenced the Commission to change its process to better include public input with a potential public hearing, consistent with its current regulation.

Chairman Smith noted that the Zoning Commission could require applicants to send letters, make a bigger sign, or get the word out to neighbors in a more informal way. He suggested starting slowly and having the ZEO ask applicants to make notifications to their neighbors without making any formal rule change. Applicants could then be questioned about this during their presentation. Powell noted that if an applicant chose not to make such notification, the Commission could always require a public

hearing. Drakos agreed with this approach noting it could be part of the applicant's presentation.

Chairman Smith stated he would so instruct the ZEO.

Commissioner Powell restated his preference to have all application materials on the Fire District website. Steele and Smith discussed the difficulties of obtaining a PDF of a large A-10 images to upload to the website for small scale applications submitted by property owners who do not have an architect. Powell suggested even a low quality image would suffice as anyone with further questions could visit the office during office hours to review the application.

Commissioner Powell proposed a Historic Database for the public to access at least one year after a project has been completed. Chairman Smith said he would discuss this with the ZEO.

4. Approval of Meeting Minutes

Commissioner Oviatt asked for clarification under Old Business on dark night standards – "Dark Night Standards regarding lighting will remain a guidance for future applicants." He referred to an email sent out by Smith saying that ZEO Mulholland would enforce dark night standards. Smith noted that he instructed Mulholland to require two things of applicants; first, he will tell the applicant that the lights should be pointed down as much as possible and away from neighboring properties. Second, the applicant should be asked about lighting during presentation and the applicant's acknowledgement of these two requirements should be recorded in the meeting record to be referenced in case of any objections.

The minutes of the Regular Meeting of July 19, 2022 were approved without objection.

5. Approval of ZEO Reports

It was suggested that ZEO reports be made available online.

The ZEO reports for July and August 2022 were accepted without objection.

F. Added New Business - None.

G. Motion to Adjourn carried unanimously at 8:57 pm (Steele/Drakos).

Respectfully submitted,

Janet Sutherland
Clerk, Noank Zoning Commission