

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

Minutes of the Regular Meeting

Date: November 15, 2022

A link to the recording of the meeting: [https://1drv.ms/u/s!ApV\\_BVCbHuQwuVq-48RkjjwMEbLz0?e=OSvmGg](https://1drv.ms/u/s!ApV_BVCbHuQwuVq-48RkjjwMEbLz0?e=OSvmGg)

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 and Peter Drakos. Others: Janet Sutherland, Clerk.

Chairman's remarks: Smith informed Commission that he had attended the most recent Noank Executive Committee Meeting on November 8th and suggested they consider in the next budget cycle next July to hire a part-time Planner. The Planner would support the Zoning Commission, Water Department, Fire Department and the Executive Committee.

- A. Public Comment - Issues Not on the Agenda - None
- B. Election of Vice-Chairman - Smith introduced the annual election for Vice-Chairman and asked for nominations. Commissioner Oviatt nominated Beth Steele and Commissioner Powell seconded. Motion was carried unanimously. Beth Steele to serve for a one-year term.
- C. Public Hearing on Applications for Design Review - None
- D. New Applications for Design Review
  - 1. Receipt of 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.
    - a. Brief Description of Project and Application Status - Smith briefly described application, intended to renovate an existing sunroom to be rebuilt as a regular room with a second story deck that includes an entry door.
    - b. Solicitation of Public Interest in Application - None
    - c. Determination of Application Completeness - Commission found application to be complete.
    - d. Determination of Level of Review of Application & Need for Public Hearing - Smith found the application to be a straight-forward Site Plan.

**Motion (Steele/Drakos):** I move that the Noank Zoning Commission find that the application of Reagan Construction Group on behalf of John O'Keefe for a Certificate of Design Appropriateness to renovate an existing sunroom to be rebuilt

as a regular room with a second story deck that includes an entry door at 17 Smith Court, Noank is complete and that based on the potential impact on neighborhood architectural harmony and character, property values, historical integrity, and/or public health and safety, the appropriate level of review for the application is a Site Plan Review under Section 2.26.6.5; and that all specific submittal requirements that are not included in this application be waived because they would not aid the Commission in its determination of the application's compliance with Section 2.26.

**Motion carried unanimously, 5:0.**

E. New Business -

1. Applicant's Presentation, Review and Action on Application of Reagan Construction 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 to renovate an existing sunroom and add a second story deck and entry door.

The representative from Reagan Construction (Bruce) described the current layout of the sunroom. Reagan stated the only major layout difference would be the addition of two columns to help support the deck. Design will conform to the house's current design, will be adding a rail on the deck and entry door from the bedroom out to the deck.

Chairman Smith asked Bruce to confirm that all new design features will reflect that of the current property, and he confirmed that's correct.

Bruce continued that the project would begin in late April.

Smith stated that the commission is primarily concerned with design appearance or any increase on the footprint, which there is none. The railing addition to the deck is still below the peak of the house, and the exterior door is over the footprint of the house.

Steele asked aesthetically what would the new columns look like? Bruce responded they would match those on the wrapped porch as shown in images. Columns will be 6x6 instead of 4x4 and be wrapped white.

Oviatt asked if there was a plan for any exterior lighting to be added. Reagan responded no lights would be added to the house.

Smith pondered what additional questions the Zoning Commission had recently agreed should be an important part of the Design Review process, as they came up frequently as concerns, but no Commissioners could recall.

**Motion (Steele/Drakos):** I move that the application of Reagan Construction Group on behalf of John O'Keefe for a certificate of design appropriateness to

renovate an existing sunroom and add a second story deck and entry door at 17 Smith Court, Noank, be approved because it meets the criteria set forth in Section 2.26 of the Zoning Ordinance for the Noank Fire District.

**Motion carried unanimously, 5:0.**

2. Municipal Coastal Site Plan Review - Application of Docko, Inc. on Behalf of Skip Jordan, 53 Riverview Avenue to repair and rebuild an existing stone seawall.

Chairman Smith summarized the Commission's process for this Coastal Site Plan Review. First, Smith would read DEEP's comments into the record, then read ZEO Bill Mulholland's Letter of Advice to the Commission, next Keith Neilson would give a detailed description of the work that is intended, and then the Commission would deliberate and make a decision. Smith explained there is an existing seawall currently at 53 Riverview Ave, but the top rocks have been knocked out right to the base rock. The entire wall is above the Coastal Jurisdiction Line which places it in Noank Zoning Commission Jurisdiction. The Commission should focus on whether there are environmental impacts substantial enough to warrant some action, and did the Commission think there are actions that could be added to mitigate adverse impacts. Smith further explained the seawall is essentially an already present structure considered by DEEP and State Statute to be a Shoreline Erosion and Control Structure, therefore the Commission was required to complete a Coastal Site Plan Review for such a structure. The Plan was described as a rebuild of the seawall using sturdier rocks to restore it back to its original condition.

Smith then read DEEP's comments into public record as required by State Law. Comments were provided in table form and not a text letter, so Smith stated the summary would be read in three parts beginning with Project Description:

“According to the application materials, the project entails improvements to an existing waterfront site including repairing approximately 25 linear feet of an existing stone wall with new stone, approximately 9 cubic yards over 200 square feet; and replacing and resetting existing random armor stone as rock backfill, all landward of the Coastal Jurisdiction Line. The application indicates that no work or excavation will be conducted waterward of the existing wall, and that the work is so minor in nature that no soil erosion or sediment controls will be necessary.”

Smith noted the Not Applicable items from DEEP's comments, then Issues of Concern for which none were checked. Smith next read the Summary and Recommendations:

“Based on the Coastal Site Plan application materials, the proposal appears to be consistent with all applicable policies and standards of the Connecticut Coastal Management Act.”

Smith concluded with DEEP’s Finding:

“Consistent with all Applicable Coastal Policies.”

Steele then asks for clarification on the address for the record, being 53 Riverview Avenue at the base of Snake Hill.

Smith then read ZEO Bill Mulholland’s letter into record:

“Chapter 444 of the Connecticut General Statutes delegates legal authority to the Zoning Commissions to adopt regulations and regulate activities, not otherwise exempted, taking place above the Coastal Jurisdiction Line (CJL) as defined by the State and within the defined coastal boundary of their respective communities to protect coastal resources and ensure compliance with the State of Connecticut’s coastal goals and policies. Zoning Commissions are charged with the review of Coastal Site Plans and may approve, modify, or deny activities proposed after evaluating the specific site and considering the potential effects, both beneficial and adverse, of the activities on coastal resources and their consistency with applicable State coastal goals and policies.

The commission approving any plan must find the application is consistent with all applicable goals and policies of the CAM Act and incorporates as conditions or modifications all reasonable measures which would mitigate any adverse impacts of the proposed activity on both coastal resources and future water-dependent uses.

In this application Docko Inc. is proposing to perform minor maintenance and repairs to an existing seawall. As submitted, the repairs, in my view, are only those necessary to stabilize the wall’s integrity. I note here that this application is considered minor because it could be viewed as an example of activity under Noank Zoning Regulations.

Keith Neilson of Docko Inc., the engineer for the project, is here and will present the application. He will review the CAM goals and policies as well as the overall Coastal Site Plan.”

Smith reminded the Commission it would not need to provide a reason if approving the application, only if denying or modifying, in accordance with State Law.

Keith Neilson for Docko, Inc began his presentation for the Coastal Site Plan, the owner Skip Jordan was also present.

Neilson described the seawall at 53 Riverview Avenue adjacent to concrete stairs leading down to the beach as being damaged by winter storms, but primarily fill that was pushed out of proper alignment by waves. Neilson stated his objective to restore the wall to its previous dimension and height using larger stones with greater mass making them more resistant to wave action, with remaining stones to be used for aesthetics and functionality to restore the fill and the wall's brace point.

Neilson continued that the project is above the Coastal Jurisdiction Line on the edge of a beach, and no resources would be impacted by this work. Neilson then referenced his drawing of the full extent of Mr. Jordan's seawall and the planned repairs. Neilson then referenced two locations on the map where an excavator could be located without disruption. The majority of the work would be done on the east side, with some on the west side of the property. There are no tidal wetlands, no submerged vegetation, no coastal resources but Neilson had referenced the DEEP's Coastal Site Plan and followed all regulations in the project. Neilson explained that the erosion and sediment control structure would protect this important area of public roadbed to avoid erosion and loss of property. A rail will be added. The project would be done within a week and Docko, Inc. would work with ZEO Mulholland regarding confirming details.

In the application, Neilson attempted to address all issues referenced in the Coastal Site Plan, and included performance standards as the project is in such a prominent location. Would be large equipment and large stones, but no excavation work, all completed on private property and not affecting public coastal access.

Smith asked Neilson to reiterate the benefits for the private property owner and additionally address the infrastructure issue due to the seawall's proximity to the road.

Neilson agreed the proximity to the road was a concern and the need to fill in the steep exposure leading to the beach with energy absorbing massive rocks.

Smith noted the point of this would be to prevent erosion, Neilson agreed, that is, to save the roadbed.

Oviatt asked why the Zoning Enforcement Officer could not just accept 'like for like' to approve the seawall project. Smith responded with the pros and cons - any erosion control structure proposed for reworking it needs consultation and a Coastal Site Plan Review, which automatically requires giving the DEEP thirty-five days to comment on the project. If instead ZEO Mulholland, Smith and Lawyer John Casey had decided the project was exempt per Noank Zoning

Regulation, then contacting DEEP or completing a Coastal Site Plan Review would not be required. According to state statutes, the only exemption is for regular walls on land, but this project would clearly be in the coastal area boundary that is 1000 feet or some elevation, and Casey recommended reviewing the application as a Coastal Site Plan.

ZEO Bill Mulholland commented that some projects are subjective judgements but Noank's location means seawall repair is a common occurrence, therefore the DEEP and State require local ZEOs to monitor such projects. After consultation, Mulholland believed this seawall repair would require a Coastal Site Plan Review due to its location near the Coastal Jurisdiction Line.

Drakos noted that he appreciated the detailed presentation by Neilson, then asked what the height of the seawall would be compared to the remainder of the wall, Neilson responded it would match. Drakos then asked if the seawall would run up to the gate shown in photographs. Neilson responded no, pointed to his presentation map to indicate a potential return stone addition. Drakos then clarified his reference to two and a half feet of stone along the road on the lot. Skip Jordan then clarified that yes that wall had been eroded leading up to the gate and would be repaired. Drakos asked how high that would be, just at the base of the gate? Jordan responded yes.

Powell asked to confirm the project would last a day or two, and once started would it be immediately finished? Neilson responded he could see no reason to pause, once the stone is received and ready to install the project can be immediately completed. Neilson added that he spoke with contractors who prefer to work during low tide to avoid breaking waves on the beach causing disruptions.

Powell further asked if there were any immediate neighbors and had they been informed of the project? Neilson responded that he received no comments from neighbors when the project was brought up to all.

Smith noted there is no standard procedure for a Coastal Site Plan Review but asked Commissioners to motion for approval, such as:

“Application is consistent with the goals and policies of the Coastal Area Management Act and all reasonable measures have been taken to mitigate any potential adverse impacts from the proposed activity on coastal resources.”

**Motion to Approve without Modifications (Drakos/Powell). Motion carried unanimously.**

## F. Old Business

1. Residential Renting Opportunities - Consideration of public comments from October 18, 2022 informal public information meeting and deliberation on enhancement of residential renting opportunities in Noank and potential ways to accomplish this goal.

Smith reminded the commissioners that Draft Minutes from the previous meeting had been sent out that summarized the public comments, and noted that he had forwarded (or provided) Nip Tanner's and Steve Pendery's written submissions and Groton and Stonington Zoning Regulations that deal with accessory dwellings as provided by Paul Bates, and Zell Steever's map of Noank apartments.

Powell asked the purpose of the map? Oviatt responded the map was to advocate for the Noank Zoning Commission to complete a baseline check of how many Long-Term Rental opportunities are currently in the village compared to future LTRs if the regulations are changed, additionally Tanner made this point in his letter.

Smith brought up the issue raised by the public concerning off-street parking in an effort to avoid exacerbating the current limited parking issues, particularly in the village. Smith noted Pendery's idea that would allow property owners to rent out open off-street parking spaces. Smith added this may add to the amount of on-street parking, and asked the Commission for best ways to avoid this.

Smith raised another public concern regarding corporate ownership, yet the Burdick family has corporate ownership to manage their family home which is atypical of the public's concern. Smith then asked the Commission whether there was any difference between general corporate ownership versus family corporate ownership. Smith noted he was pleased the general public was receptive to enhancing opportunities for Long-Term Rentals in an effort to increase diversity and long-term residents in the fire district. While too early for a proposal, the Commission was invited to discuss potential regulation changes.

Steele noted that the Commission could not distinguish between a family LLC or a real estate LLC, then questioned why the Commission should be concerned with this when the goal is to further long-term renting.

Drakos asked Steele how does the Commission define LTR, Steele responded anything over thirty days. Drakos asked if Steele meant longer than thirty day, responded no. Steele then referenced the Short-Term Rental debates when the public was concerned with corporate owners creating mini-hotels in Noank. Steele furthered that whether corporate or family owned, Long-Term Rentals over thirty days are currently permissible.

Oviatt responded by referencing Groton's Regulation that allows for owner-occupied Accessory Dwelling Units (ADUs), then asked if that would be a solution to corporate ownership. Steele responded if the public is worried about corporate ownership, that could be a solution, then asked if an individual must live in the unit to be owner-occupied. Oviatt responded yes, then added he found owner-occupied regulation interesting and wondered the reason. Smith noted Groton's regulation requires the owner to live in one structure on the property, but did not specify which. Steele added that if living in Groton, the owner can rent out the entire house and not have to live on the property. Smith asked if owner-occupied made her pensive, Steele responded yes. Powell then raised the issue of the number of ADUs allowed on each property, and whether owner-occupied or not was less of a concern. Powell added he did not think corporate ownership was an important issue for this debate.

Drakos noted his agreement with Smith on the positive reception from the public regarding enhancing Long-Term Rentals. Drakos added he did not believe the parking issue received enough attention, as over-crowding could ruin the charm of the small village. Drakos referenced the Noank Zoning Regulations requirement for two parking spaces per ADU, and the Public Act required one space, then suggested altering that regulation. Oviatt referenced Pendery's letter noting nothing would solve parking issue without enforcement, to which Smith responded that the Commission has no authority over parking enforcement on Town streets.

Smith asked the Commission to brainstorm a list of issues considered important, then began with parking, corporate ownership issues, owner-occupancy, and number of ADUs per lot. Steele added the size of not only the unit, but the lot itself and whether it can accommodate such a structure. Smith noted that Commissioners should view a new example on Allyn Street, then added any new structure must conform to principal residence and existing surrounding structures. Powell noted Architectural Design should be a requirement, any new structure must comply with Noank Zoning Regulations and Design Review.

Oviatt advocated the Commission go back even further and research regulations in towns such as Groton and Stonington regarding ADUs to use as a reference point. Oviatt added Zell Steevers and Nip Tanner previously offered to compare current LTRs within the village, and how that number could potentially change with new regulations.

Drakos asked Oviatt how current ADU statistics would assist in creating regulations, Oviatt responded this would aid in a projection of future LTRs. Drakos questioned if existing ADUs or new structures would be included, Oviatt responded yes, then recommending viewing Stonington's regulations on ADUs



to better understand what should be considered when changing Noank's regulations.

Smith remarked on Steever's comments from the October 18<sup>th</sup> Meeting, encouraged Commissioners to be data-driven but emphasized the need for research to be volunteer work. Oviatt noted interest. Smith continued that the Commission must follow rules and regulations of a Regular Meeting if more than two Commissioners meet, but was unsure of rules regarding one Commissioner meeting with volunteers and would get clarification from John Casey on a sub-committee. Smith asked about additional interest in collecting data, Powell questioned would that change lot size? Smith responded no, Section 2.13 of the Regulations does not include ADUs in the sense that Public Act 21-29 addressed them. Steele noted Regulations currently include accessory structures and lot size accommodation, and would the Commission be altering Regulations to allow for more coverage to accommodate ADUs. Smith responded these could be included in the discussion. Steele questioned whether this was an equal protection issue, then mentioned that she could not build a garage on her property under current regulations, but a neighbor with half the lot size can. Smith asked if the neighbor had a non-conforming pre-existing use, Steele responded yes. Steele clarified if the Commission passed a regulation regarding ADUs would that affect pre-existing structures. Smith clarified that the Commission regulates use as well as structures, therefore changing a use could potentially affect a pre-existing structure. Both agreed it would a good point to discuss further.

Oviatt noted that discussion came from looking back at the Commissions baseline, and wondered if more research should be done first. Smith suggested Oviatt begin research, and would confirm legal requirements with John Casey. Smith questioned if Commission felt enhancing renting opportunities was a worthwhile pursuit. Powell stated he was in favor of accessory dwelling units whether attached or detached. Drakos commented his favor that non-conforming structures remain as such. Smith reiterated his question to the Commission if the topic was a worthwhile pursuit, all responded yes.

Drakos asked if the Commission should be wary of a large public response, Smith responded that could happen. Smith noted the Commission should pursue long-term renting opportunities, but should be prepared for unintended consequences. Powell stated if Commission adheres to regulations, they could potentially control any issues. Drakos asked if an existing accessory building could not be converted to an apartment. Steele clarified any new structure would have to conform to regulations, while an existing structure could be altered to an ADU if already pre-existing non-conforming. Oviatt mentioned Stonington Regulations cover this issue. Steele read existing structures that are considered historic structures and don't comply with the new set-back requirements may be permitted to be converted to an ADU with a Special Use

Permit, then notes 5-foot set-back requirement. Smith stated he would make note of the issues raised in preparation for the next meeting, and asked if Oviatt was willing to lead on this activity?

2. Approval of Meeting Minutes - The minutes of the Regular Meeting of October 18, 2022 were approved without objection.
3. Approval of ZEO Report - The ZEO report for October 2022 was approved without objection.

Smith asked if the Commissioners had any additional questions regarding this meeting. Drakos asked if the discussion would be continued, Smith replied yes there will be many discussions on the topic. Drakos asked for clarification on the process, would there be a public hearing? Smith responded yes a change to the Regulations would require a formal public hearing.

**Motion to Adjourn carried unanimously at 8:16pm (Powell/Steele).**

Respectfully submitted,

Janet Sutherland  
Clerk, Noank Zoning Commission