

**MINUTES OF BUSINESS MEETING
HELD BY THE PLANNING AND ZONING COMMISSION
NOVEMBER 2, 2020**

VIRTUAL MEETING HELD VIA ZOOM

ROLL CALL:

Members Present: Eric Prause, Chairman
Patrick Kennedy, Vice Chairman
Michael Stebe, Secretary (not seated)
Jessica Scorso
Jessica Poland

Alternates: Bonnie Potocki, Sitting (in place of Mr. Stebe)
Teresa Ike

Absent: Julian Stoppelman

Also Present: Megan Pilla, Senior Planner
Gary Anderson, Director of Planning &
Economic Development
David Laiuppa, Environmental
Planner/Wetlands Agent
Katie Williford, Administrative Secretary

Time Convened: 7:03 p.m.

NEW BUSINESS:

DONALD MORRISON – Pre-application review to discuss a possible Special Exception for house conversion to three-family occupancy at 19 Winter Street.

Attorney Greg McCracken of Jacobs, Walker, Rice and Barry introduced himself and stated that he was representing Mr. Morrison.

Attorney McCracken explained that 19 Winter Street became a multifamily building at some point in the past, and a few years ago a fire destroyed most of it. Donald Morrison and his brother Michael purchased it, planning to rebuild the fire damage and rent it back out as a three-family house. Attorney McCracken stated that the owners bought the property under the understanding that it was a three-family house, they got their building permit with that same understanding, and the Assessor's card said it was a three-family. They put the work into the property, he said, and when it came time to get the Certificate of Occupancy (C.O.), they found out that they can't have a three-family in that zone without a special exception. Attorney McCracken said he believes they can meet the requirements of the zoning regulations at Art. II, Sec 1.00.02; Art. II, Sec. 5.02.01; and Art. IV, Sec. 20.01.01. He felt it was possible to present an application that would meet the zoning regulations, but would like input from the Commission to guide the process and help him make the best presentation on behalf of his

clients.

Mr. Prause asked if Attorney McCracken had specific questions for the Commission. Attorney McCracken responded by asking whether the Commission would consider an application for an after-the-fact approval. He noted that the owners thought that they were returning a three-family back to a three-family and are hoping to salvage their investment.

Mr. Prause asked for more background information about the property.

Mr. Anderson explained that the zoning district allows conversion from a single-family to a two- or three-family home, but it doesn't specifically allow a two-family to be converted to a three-family, which is what the applicant will be proposing. The property owner went to the Zoning Board of Appeals recently to request a variance, and that application was denied. The applicant would be proposing a text amendment to allow conversion of a two-family home to a three-family home in this zoning district, Mr. Anderson said.

Attorney McCracken said that would be the next step if he could not find that there was a conversion from a single-family to a three-family in past. If he was able to show the house was converted from a single-family to a three-family in the past, then they would seek after-the-fact approval to bring it into compliance. Otherwise, they would have to propose a text amendment as the next step.

In response to a question from Mr. Prause, Attorney McCracken stated that the house is in the Residence B (RB) zone.

Ms. Pilla noted that the applicant applied for a variance first at the advice of the Zoning Enforcement Officer, based on the wording of Art. II, Sec. 5.02.01 of the zoning regulations, which refers specifically to conversion of a single-family house.

Mr. Kennedy asked whether this was a nonconforming use that pre-existed zoning or was allowed when it was first put in. Attorney McCracken said he tried to find evidence that it was nonconforming and was not able to definitive information.

In response to questions from Ms. Potocki, Attorney McCracken said the address was always 19 Winter Street and the apartments were just lettered or numbered. The building is about 110 years old and his client took ownership in April 2017, after it had been fire damaged.

Mr. Kennedy noted that this issue came up in a past application. At that time, he questioned where the regulation says a two-family could be converted to a three-family. That always struck him as an error in the regulations that should be corrected because it doesn't make sense, Mr. Kennedy said.

Mr. Kennedy said that, if Attorney McCracken could not establish that this was a nonconforming use, he would have to apply for a text amendment. If the property has been used as a three-family for years without incident, he said, he did not see an issue with granting a special exception for it.

Mr. Stebe joined the meeting at 7:16 p.m.

Ms. Potocki asked what steps Attorney McCracken had taken to determine if this is a

nonconforming use. Attorney McCracken replied that he looked at when the Residence B zoning district became effective and he believed this requirement has been there the whole time that district existed. He asked his clients if they had any information about when the house went from a single-family to multifamily, and they did not. Ms. Potocki said it would behoove Mr. McCracken and his client to show their efforts at due diligence.

Mr. Prause asked if Attorney McCracken's intention would be to change Art. II, Sec. 5.02.01 to refer to increasing the number of families in general. Attorney McCracken responded that that would be his intention if it gets to that point. He said he would offer a draft to the Town Planner to vet the language before he would submit a formal application.

Mr. Prause noted that, although Mr. Morrison's interests are in this house that has been functioning as a three-family successfully, a text amendment would impact more than just this house. There are other homes in the district that an amendment would apply to, so there may be some comments about this at a public hearing, Mr. Prause said. He suggested that Attorney McCracken be prepared to talk about home conversion and to make sure the proposal is not impacting the character of the area or jeopardizing single family property values. Attorney McCracken responded that the special exception process will take care of that on a case-by-case basis, and hopefully that would appeal to the public if they trust that process.

TOWN OF MANCHESTER WATER/SEWER – To remove silt from reservoir spillway and dispose of it offsite to allow water treatment personnel to accurately measure and maintain the reservoir as well as allow the spillway to function properly at 275 South Main Street. – Inland Wetlands Permit – Determination of Significance (2020-072); Inland Wetlands Permit (2020-072)

Mr. Anderson noted that Mr. Stebe had joined the meeting, so the Chairman should decide who would be seated. Mr. Prause decided to continue with Ms. Potocki seated.

Mr. Laiuppa stated that he would begin the presentation because Kyle Hopkins from the Water Department was on his way to join the meeting. He explained that, for ongoing maintenance of the dam at Globe Hollow Reservoir, the Water Department needs to be able to access as much of the dam structure as possible, and there is sediment built up. Mr. Laiuppa displayed a map and stated that the Water & Sewer Department wants to clean out the sediment that has built up on the backside of the dam. They submitted the application last month during the drought and intended to do the work while it was dry. Their plan is to drive in an excavator, keep it in the upland on the access road, and reach in with an arm to scoop the sediment out. After recent rain, the sediment is now submerged. Mr. Laiuppa said Mr. Hopkins told him that their intent is to do the work when it is dry; they are not hoping to do it while it is wet by dewatering or blocking it off in any way. If they get this permit, which is good for one year, they would wait until it dries off again. Mr. Laiuppa said he had asked Mr. Hopkins to reach out to DEEP Fisheries and DEEP Dam Safety Division. DEEP Fisheries had no concerns and Dam Safety said a local permit would satisfy their needs as long as there are no structural changes to the dam, which there are not.

Ms. Potocki asked if this is an ongoing activity or if this was the first time sediment had accumulated. Mr. Laiuppa said he did not know, and Mr. Hopkins just started. It may be that the Town had a maintenance permit but Mr. Hopkins was not aware of one, so Mr. Hopkins decided to apply for this permit so he could get started. Mr. Laiuppa did not know if there had been previous work to remove sediment from this location.

Ms. Potocki asked where the sediment will go. Mr. Laiuppa responded that they will take it off site to dry out, but the application does not specify where, because that was not part of the application.

In response to a question from Mr. Prause, Mr. Laiuppa confirmed that silt is building up at the entrance of the spillway. Mr. Prause asked if it is causing issues with the operation of the spillway and Mr. Laiuppa responded that Mr. Hopkins did not say it was impacting operation, but he did say it was impacting their inspection regimen. Mr. Prause asked if there would be any impact to aquatic life or the function of the wetland. Mr. Laiuppa said that, under normal conditions, this would be under water. Due to the drought, grass was growing on it, so it's becoming wetland, but when it's under water it is a waterbody. There is no detrimental impact from the proposed activity. Removing sediment would lower the grade, which would be restoring the waterbody to its previous condition, so it could almost be considered a restoration project, Mr. Laiuppa said.

In response to a question from Ms. Potocki, Mr. Laiuppa said there are no Natural Diversity Data Base hits at the location.

In response to a question from Mr. Prause, Mr. Laiuppa said there were no staff comments on the application.

Inland Wetlands Permit – Determination of Significance (2020-072)

MOTION: Mr. Kennedy moved to find the proposed activity at the above referenced location as shown on the inland wetlands permit application 2020-072 will not have a significant impact on the wetlands and therefore will not require a public hearing. Ms. Scorso seconded the motion and all members voted in favor.

Inland Wetlands Permit (2020-072)

MOTION: Mr. Kennedy moved to approve the inland wetlands permit for regulated activities associated with removal of silt from the reservoir spillway at 275 South Main Street. Ms. Scorso seconded the motion.

Mr. Prause said this is a cleanup of the spillway for better inspections of the dam, and there is really no impact to the characteristics of the wetland or watercourse.

All members voted in favor of the motion.

The reason for the approval is that the proposed activity does not disturb the natural or indigenous character of the wetlands by significant impact or major effect.

The approval is valid for 5 years. The work in the regulated area must be completed within one year of commencement.

ADMINISTRATIVE REPORTS:

Discussion of possible zoning regulation amendment clarifying landscaping and screening requirements for places of worship.

Ms. Pilla said that staff is considering a possible text amendment to clarify landscaping screening

requirements for special exceptions for places of worship. This topic came up during consideration of the 104 Hilliard Street application for a special exception to allow a place of worship in the Industrial zone. There was discussion during the hearing about this particular regulation, which requires screening via landscaping, fencing, or walls when a residential property is adjacent to a proposed location of a place of worship. That is less feasible when the place of worship is proposing using an existing space instead of building a new building. That applicant ended up inserting privacy slats in the existing fence. Another anticipated application involves a similar situation. In Art II, Sec. 9, the General Requirements for Business Zones, Sec. 9.14.04 (a) lists requirements for schools and places of worship. Ms. Pilla displayed the existing text and the proposed addition, shown in red, which was an option for the Commission to waive or modify the requirement if existing natural conditions are sufficient to constitute the screen or if screening is infeasible or unnecessary due to site configuration or location. Language was copied from existing sections in the regulations for consistency.

Ms. Pilla noted that this same section exists in Art. II, Sec. 1, General Requirements for Residential Zones, and she is open to proposing the same exact change there. So far, the issue has only come up in a business zone.

Mr. Kennedy said he was glad this issue is being addressed because it has come up before. The inability to waive this requirement doesn't make sense, especially with existing buildings, he said.

Ms. Potocki said it would be fine to waive the requirement unless the public has attended the hearing or submitted letters expressing concern about screening. Mr. Anderson noted that the Commission would decide whether a waiver is in the public interest or not; they would make that determination at the public hearing. Ms. Potocki acknowledged that the Commission would weigh that in its decision making.

Mr. Prause asked about the anticipated schedule for a formal application. Ms. Pilla said the application would not come before the Commission until at least December 7th.

APPROVAL OF MINUTES:

October 5, 2020 – Public Hearing/Business Meeting

MOTION: Mr. Kennedy moved to approve the minutes as written. Ms. Scorso seconded the motion and all members voted in favor.

Ms. Potocki noted that there was an error in the October 19th minutes, in which LED lights were being discussed but it was written as "LID."

October 19, 2020 – Public Hearing/Business Meeting

MOTION: Mr. Kennedy moved to approve the minutes with the modification that errors concerning "LED" and "LID" be corrected. Ms. Scorso seconded the motion and all members voted in favor.

RECEIPT OF NEW APPLICATIONS:

Ms. Pilla said there were no new applications to receive.

A special exception modification and erosion & sedimentation control plan for 1339 Tolland

Turnpike are tentatively scheduled to be heard on December 7th. As of now, nothing is scheduled for the second November meeting, Ms. Pilla said.

The Chairman closed the business meeting at 7:53 p.m.

I certify these minutes were adopted on the following date:

November 16, 2020
Date

Eric Prause, Chairman

**NOTICE: A DIGITAL RECORDING OF THIS BUSINESS MEETING CAN
BE HEARD IN THE PLANNING DEPARTMENT.**

R:\Planning\PZC\2020\11 - November 2\Minutes\Business Meeting Minutes 02 NOV 2020.docx