

Planning & Zoning Commission
Thursday, October 19, 2023 at 7:00 PM
Town Campus, Room A and via Zoom Webinar
MINUTES

VIRTUAL MEETING INFORMATION

Public Participation Information Below:

[Webinar Link](#)

Password: 452138

Call-in: 1 646 558 8656; Webinar ID: 915 8196 6735

CALL TO ORDER

1. Call to Order / Attendance

MEMBERS PRESENT

Carol Snow, John Dusza, Robert Reinhart, Janet Peckinpaugh, Robert O' Connor, and John Morgan

ALTERNATE PRESENT

Michael Bugda

OTHERS PRESENT

Town Planner, Erin Mannix

The meeting of the Madison Planning & Zoning Commission was called to order at approximately 7:01 P.M. by chair Carol Snow. She read her public hearing statement and seated Michael Bugda to fill a vacancy.

The Town Planner read the legal notice

PUBLIC HEARING(S)

2. **23-43. 916 Boston Post Rd., Map 39, Lot 3 & 4, Zone R-2, Owner/Applicant: The General's Residences at Fence Creek HOA, Inc., Special Exception Permit Modification and Coastal Site Plan, removal of the public access proposed viewing area.**

Commissioner Reinhart made the motion to open public hearing # 23-43. Seconded by Secretary Dusza and unanimously approved.

Cindi Gardner, owner / applicant of 916 Boston Post Road, reviewed the application for the commission. She stated when the contract was signed there was no mention of a viewing area and she later learned that the purchase sale agreement did refer to a public viewing area, dated May 2023, between the developers and the town. She is asking the commission to revise this portion of the project and remove the public gathering site from their private property. There is no view of the proposed area due to topography and the area has become a problem due to its proximity to Boston Post Road. She further states the area is noisy and safety and security becomes an issue.

Gerald Beddall, resident / applicant of General Residences at Fence Creek, states the entrance to this viewing area is on Boston Post Road, which is very busy and the view is obscured by the phragmites being 10-12ft tall. He also listed safety concerns and stated the installation of such a viewing area is not conducive to the residents of the community.

Amy Macey, president of HOA, states they are concerned about the installation of a public viewing area. She spoke about the noise level of the area, the safety issues such as vandalism / theft and further stated that a public viewing area comprises safety and security for all.

After the presentations, Mrs. Mannix reviewed her staff report dated October 19, 2023. In the report she highlighted the conditions of approval for the development of both 2019 and 2020. In 2019, approval was granted by the commission for 9 residential units on this parcel with 7 conditions of approval and in 2020, an application to modify the special exception, including a coastal site plan application, was approved with conditions by the Planning and Zoning Commission that included the first 4 conditions from the previous 2019 approval.

Mrs. Mannix further reviewed the May 2019 letter from Marcy Balint, senior coastal planner of land and water resources division of DEEP that detailed the department's concerns regarding the development. The concerns focused on the need for meaningful public access to render the site water dependent for the Connecticut Coastal Area Management Act. A copy of the letter was submitted to the commission along with an updated letter which was received on 10/19/23.

The overall letter states that the land and water resources division has reviewed the current modification for consistency with the goals and policies of the Connecticut Coastal Area Management Act and finds the modification to eliminate the public area is inconsistent with the water dependent use criteria of the Connecticut Coastal Area Management Act. However, the commission has the option to maintain or improve upon the current public access plan, or may wish to consider a different design that is equal to or provides a greater level of well-designed public access in an effort to provide a meaningful solution and render the proposal consistent with the water-dependent used criteria of the act.

Commissioner Peckinpugh states this proposed viewing area is extremely dangerous and an invasion for the property owners.

Mrs. Mannix further noted that this project is not complete and there are still some outstanding site improvements. She further states there's an agreement between the association who is now the property owner and the developer to complete those improvements. One of which is a sidewalk access along the Boston Post road which was required as part of this plan. The public access viewing is accessible directly from the sidewalks. Furthermore, there is a coastal access easement and maintenance agreement that was filed and has not been signed off because of the outstanding site improvements.

A plan of the site was shown as commissioners asked where the property line ends and where the approved site is for viewing. The viewing area includes a proposed bench on the inside of the stone wall that was shown on the property. The viewing area is to be identified by a sign and be deed restricted in perpetuity for such access.

After further discussions, the hearing was opened to the public.

Laura Downes – 54 Quarry Ledge – states she attended the meeting in May of 2019 and the offer of putting the viewing stand for the public was part of that proposal. She states the developer of the property would have had a cost for building the viewing stand and parking space and suggests that they make an exchange and provide a donation to the Madison land conservation trust in order to compensate the people of Madison for taking away what was legally agreed to.

Matt Bennett – 917 Boston Post Rd – states the plans from 2019 are not what was ultimately approved nor is what is stated tonight. He further states that before this development, there was no coastal use or public viewing area. So, the development did in no way limit water-dependent use or general public access to the coastal waters. He continues to say there is no view from this site and it is an intrusion of privacy and a risk to safety.

Joseph Maco – 22 Randi Drive – believes the public is entitled to access the viewing area and to ask the commission to change something that was presented is not proper.

After comments and further review, it was suggested by the applicant to the commission to do a site visit. It was noted that a special site visit meeting would be planned and published. Furthermore, the applicant should provide some information or follow up on the invasive removal or provide an alternate suggestion for viewing.

Commissioner Reinhart made the motion to continue public hearing #23-43 to November 16, 2023. Seconded by Commissioner Dusza and unanimously approved.

3. **23-44.** Applicants: Julie Ovian and Frank Angelino; Petition for Regulation Text Amendment Section 32 Planned Development District

Chair Snow motioned to open Public hearing #23-44. The motion was unanimously approved.

Applicant present - Julie Ovian and Frank Angelino.

Mr. Angelino states he's a member of POST. He states Boston Post Road was designated as a scenic road and in order to preserve this or address the commercial use in the scenic area, they are proposing one sentence to be added to the PDD eligibility. Furthermore, if this text amendment is approved, it will not affect the winter club project.

Julie Ovia states she lives at 317 Boston Post Road and in 2009, the town of Madison land use office applied to the state for a portion of Boston Post Rd to be designated as a scenic road. In order to qualify for scenic road designation, the state roadway under consideration must have a minimum of one mile and have significant natural or cultural features such as farmland, etc. and she is asking the commission to consider the additional phrase that would protect the scenic road from development.

After the review, Mrs. Mannix asked Mrs. Ovia to identify the parties by name and address, petitioning for this amendment so that the commission can determine compliance with section 17.2 of the regulations. Mrs. Ovia states they are the sole applicants.

The eligibility section 32.3.2 was shown to the commission along with the light industrial district plan. The addition is proposed for (iii)

(iii) must further be located within an area bounded to **the** west by the Commercial 'C' District or Transition 'T' District along the centerline of Mungertown Road; bounded to the north by the Transition 'T' District or Light Industrial 'LI' District; bounded to **the** east by the centerline of Stony Lane; and bounded to the south by the centerline of Boston Post Road; **and in no event shall any lot or parcel be located adjacent to or bounded by a state designated scenic road.**

Commissioner Snow asked if everyone was aware of the requested proposal.

Mrs. Mannix states the planned development district is a floating zone and should a property meet criteria A through E for section 32.3.2, they may be eligible to apply to the commission for a planned development district. And, in doing that, that process includes a zoning map amendment and a master plan approval.

After discussions, Mrs. Mannix reviewed her staff comments dated 10.19.23 and the approved text language from February 2023. The commission will need to consider how this proposed amendment could impact the goals of the district as a whole and whether or not it's consistent with the goals and policies of the current plan of conservation and development.

The hearing was then opened to the public for comments.

Allan Katz – 363 Boston Post Road – Mr. Katz states the amendment is minor and by not having this designation, the town is opening itself up to some unknown entity, whether it be an apartment building, or high-density housing.

Attorney Christopher McKeon – resident of Madison – states the 2013 plan of conservation and development encourages the town to use the PDD, and the scenic road statute does not require the elimination of commercial development. He further states the commission is currently updating the plan of conversation and how can any changes to the PDD be considered without the benefit of that. Mr. McKeon states there are significant and sufficient protections and legitimate bases and factors to be considered for this change.

Donald Liepelt – 315 Boston Post Rd – is in support of the proposal.

Terry McGuire – 11 Maplewood Ln – states she believed this meeting was to reverse all that took place in February and wonders if her property is safe.

Chair Snow states they are protected in other ways and her area is not really impacted by this.

Mrs. Mannix states they are on the south side – the area that could be potentially eligible for a planned development district does not include any parcel directly south of the post road.

James – 279 Boston Post Rd – is uncomfortable with this proposal as it seems to single out the farm as no one else on the plan shown is eligible at this point.

Kristin Morris – 30 Canborne Way – urged the commission to approve the proposed amendment to preserve the scenic road.

Joseph Maco – 22 Randi Drive – urged the commission to add this addition.

Kingsley – states if this designation is done, it will be singling out one property which would be spot zoning.

Kevin Ovia – 317 Boston Post Rd – states for the zone that was approved in Feb 2023, the map was released that day of the proposed PDD zone and was voted on at that meeting.

Dave Forest – 19 Maplewood Ln – in favor of the text amendment

Penny –states if the POCD is so important, then why was the PDD implemented rather than waiting for the POCD to be completed?

After comments and further discussions, **Commissioner Dusza made the motion to close the public hearing. Seconded by Commissioner Bugda and unanimously approved.**

It was noted that the commission has 65 days to deliberate on this application.

Chair Snow made the motion to continue the public hearing deliberation to the November 16th meeting. Seconded by Commissioner Morgan and unanimously approved.

4. **23-46. 31 Stony Lane**, Map 36, Lot 25-2, Zone R-1, Owner: Barberry 12, LLC, Applicant: Thomas A. Stevens & Associates, Inc., Petition for Zone Boundary Change and Development Plan Approval to establish Open Space Conservation District

Commissioner Reinhart made the motion to open the public hearing, seconded by Commissioner O'Connor and unanimously approved.

Present for the hearing – Attorney Shansky, John Giaganti, Tony Buldoc, Tom Stevens and Chuck Mandel from Thomas A. Stevens and Associates.

Attorney Shansky gave an overview of the application – she states they are seeking a space conservation district designation for the open space conservation section of the regulations and the intent is to provide alternatives to conventional residential development based on the determination that the designation is consistent with the goals of the plan of conservation and development. She further states that this application received approval from the Wetlands Agency.

Mr. Mandel reviewed the open space conservation subdivision, and states that the proposed consists of 6 lots. The parcel size is just under 6 acres and they are proposing a 50% open space dedicated open space. They have done expensive soil testing along with monitoring groundwater for over a year and the lots will have public water and gas along with underground electricity.

It was noted that this was a brief introduction of the application to the Commissioners. Chair Snow also noted that feedback from ACCA would be great for the next meeting.

Commissioner Reinhart made the motion to continue the public hearing to the November 16th meeting; seconded by Commissioner O'Connor and unanimously approved.

PENDING APPLICATIONS

5. **23-35. 28 Toffee Ln.**, Map 13, Lot 119, Zone R-5, Owner(s): Michael J & Patricia A Cosgrove, Coastal Site Plan to legalize installation of 8ft x 12ft storage shed and fencing within 25ft of a critical coastal resource

Present for the application – applicant, Michael Cosgrove and the engineer for the project.

The application was modified to remove the coastal plan to legalize the storage shed and the only item to remain is the fencing within 25ft of a critical coastal resource. A picture of the site was shown to the commission. Mr. Cosgrove reviewed the history of the site and indicated that this is the result of a complaint received by the land use department and the complaint was specifically for the installation of a shed which is going to be removed. The applicant is seeking permission to retain the 6-foot stockade fence. This was also referred to the state for comments. Comments include the potential for obstruction or diversion of flood waters and waves and the ability for fencing to act as a physical barrier or trap debris. The engineer spoke about the aspects of the fencing.

After discussions, the following motion was made by Commissioner Morgan.

The Madison Planning & Zoning Commission approve Application 23-35. 28 Toffee Ln., Map 13, Lot 119, Zone R-5, Owner(s): Michael J & Patricia A Cosgrove, Coastal Site Plan to legalize installation of privacy fencing within 25ft of a critical coastal resource with the following condition:

1. The detached storage shed on site located without permits shall be removed by December 1, 2023.

This approval is made based upon the finding that the proposal is consistent with the policies and goals of the Coastal Area Management Act of the State of Connecticut. The effective date of this approval shall be November 3, 2023. Seconded by Commissioner Reinhart and unanimously approved.

6. **23-47. 31 Stony Lane**, Map 36, Lot 25-2, Zone R-1, Owner: Barberry 12, LLC, Applicant: Thomas A. Stevens & Associates, Inc., Six lot subdivision within Open Space Conservation District

Tabled.

8-24 REFERRAL

7. Acquisition of 1.39 acres on Copse Road, Map 65, Lot 1 referral pursuant to CGS Section 8-24

Mrs. Mannix reviewed the acquisition for the commissioners and stated this is a donation which is adjacent to Bauer Park. Additionally, this acquisition is consistent with the Plan of Conservation and Development because it will provide additional open space in the Town's Bauer Park.

Commissioner Bugda made the motion to approve the acquisition of 1.39 acres on Copse Rd referral pursuant to CGS Section 8-24. Seconded by Commissioner Reinhart and unanimously approved.

REQUEST FOR EXTENSION

8. **23-03 & CSP 9 Neck Rd.**, Map 41, Owner: Watrous Realty, LLC; Applicant: Mady Devel, III, LLC, Second request for 90 day extension for filing mylar for three (3) lot subdivision

Commissioner Reinhart made the motion to approved the request for 9 Neck Rd for a 90-day extension for filing mylar for three lot subdivision. Seconded by Commissioner Dusza and unanimously approved.

RECEIPTS

9. **23-49. 251 Boston Post Rd**, Map 35, Lot 53, Zone R-1, Owner: My Four Boys, LLC, Applicant: Thomas A. Stevens & Associates, Petition for Zone Boundary Change Planned Development District per Section 32 to convert club into a restaurant with residential unit above with associated site improvements *(Receive and schedule public hearing)*

Commissioner Reinhart made the motion to receive and schedule public hearing # 23-49 for November 16, 2023; seconded by Commissioner Dusza and unanimously approved.

Per Mrs. Mannix, application # 23-50 was received prior to tonight's meeting for 14 Railroad Ave and a public hearing is required.

Commissioner Dusza made the motion to schedule public hearing # 23-50 for December 7, 2023; seconded by Commissioner Bugda and unanimously approved.

APPROVAL OF MINUTES

Commissioner O' Connor made the motion to approve the minutes of October 5, 2023 as submitted; seconded by Chair Snow and unanimously approved.

Commissioner Reinhart made the motion to approve the special meeting of October 10, 2023 as submitted; seconded by Commissioner Bugda and unanimously approved.

10. [October 5, 2023 Regular Meeting](#)

11. [October 10, 2023 Special Meeting](#)

REMARKS

12. Commission Chair

None.

13. Town Planner

None.

ADJOURNMENT

The meeting of the Planning and Zoning Commission adjourned at 11:16pm; and unanimously approved.