

Planning & Zoning Commission
Thursday, November 16, 2023 at 7:00 PM
Town Campus, Room A and via Zoom Webinar

MINUTES

VIRTUAL MEETING INFORMATION

[Webinar Link](#)

Webinar ID: 915 8196 6735

Passcode: 452138

CALL TO ORDER

The meeting of the Madison Planning & Zoning Commission was called to order at approximately 7:00pm by Chair Carol Snow. She read her public hearing statement and seated Michael Bugda to fill a vacancy.

1. Attendance

MEMBERS PRESENT

Carol Snow, John Dusza, Robert Reinhart, Janet Peckinpaugh, Jeffrey Downes and John Morgan

ALTERNATE PRESENT

Michael Bugda

MEMBERS ABSENT

Robert O' Connor

STAFF PRESENT

Town Planner, Erin Mannix

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. ***(Public hearing continued from October 19, 2023)***

Commissioner Bugda made the motion to continue public hearing # 23.43. Seconded by Commissioner Peckinpaugh and unanimously approved.

Chair Snow noted that the commissioners visited the site on November 11, 2023. She then asked if anyone from the public had any questions.

Cindy Gardner – 916 Boston Post Rd – states an updated invasive species management plan was submitted and they would like to make the view larger and work with their neighbors on doing such. They would also like to clean up the creek and have reached out to the Madison Conservation Land Trust to see if this would be okay. Ms. Gardner further states that in terms of privacy, security and safety, they still feel the area is not a good placement. Also, during the last meeting, it was suggested during public comments that funds could be allocated back to the Town and she would be in favor of having the funds possibly donated to the green trail or the Madison Conservation Land Trust. Commissioners asked about the breakdown / estimated cost of the viewing area. It was noted by Mrs. Mannix that all outstanding site improvements were bonded by the developer.

Mrs. Mannix asked for copies of the revised proposal for invasive management as the record did not show receipt and further asked for clarification on what is being proposed tonight. Ms. Gardner states they are proposing mowing all the phragmites on their property in order to have an extensive view; they have also reached out to the Madison Conservation Land Trust to see if they are allowed to do that. She states the Land Trust was very excited about the prospect of such as they believed the invasive are harming the marsh. She further asked if the commission is accepting of this - extending the view.

Chair Snow asked Mrs. Mannix if the fee in lieu option could be considered as that was a great idea. Mrs. Mannix states she would need to look into that as it was a bonded condition of approval for the application. And further states, in addition to installing the public viewing area, there's a requirement as part of the condition to maintain that viewing and maintain those invasive, to the property. Commissioner Reinhart asked what happens to the bonded funds if they are not used for site improvements. Mrs. Mannix states the commission has the authority to call the bond and they are ultimately returned to the developer if the work is not complete.

Commissioner Bugda asked if the current proposal is to continue the elimination of the view but expand the invasive species management to make the viewing area bigger. After discussions, it was noted an updated proposal is needed for the work that is now being proposed before the commission. Mrs. Mannix then asked if the applicant had anything in writing from the land trust about an arrangement. Ms. Gardner states no.

Adam Greenberg, one of the developers, stated if the money was returned because the elimination decision was made, they are willing to donate the funds to any organization.

Chair Snow states there were issues raised about parking dangers at the last meeting. Mrs. Mannix reviewed the site plan and stated there's no parking area on site and believed the intent of the area was mainly for pedestrians walking down the road, and the sidewalk connection is intended to both bring residents of the development to that area and to begin to have connections on the Post Road.

After further discussions, Chair Snow noted water access management was a condition that was important to DEEP and that this was part of the condition in allowing the development to go forward.

Mrs. Mannix states the commission has the authority to change conditions of approval as they are the governing body who required this public viewing area for consistency with the coastal act. She further stated the commission would need to reapply with DEEP for this new proposal for further comments. However, this is the commission's jurisdiction in making local coastal reviews and approval of coastal site plans. She further states she has heard from DEEP since the first meeting, inquiring about the status of this review and they reminded staff that the commissioner has the authority to appeal the commission's decision to the attorney general.

Amy Macey – states she does not have water views but lives in the general residence. She is the president of the HOA and the objective was to create something that would offer a better view for everyone who lives in town. Furthermore, it's her understanding that DEEP's requirement is a goal, it's an objective and the commission has the authority.

After further discussions, it was noted that a proposal including the management of the invasive species on the property as well as a letter from Madison Land trust is needed to further determine what the commission is voting on. Also, a written proposal for the donation of the viewing funds can also be submitted, Mrs. Mannix would look to town counsel as to whether or not this is a viable option.

An extension to continue the meeting to the December 21st meeting was granted by the applicant.

Commissioner Peckinpugh made the motion to continue the hearing to the next meeting (12.21.23) seconded by Commissioner Reinhart and unanimously approved.

3. **23-46. 31 Stony Lane**, Map 36, Lot 25-2, Zone R-1, Owner: Barberr 12, LLC, Applicant: Thomas A. Stevens & Associates, Inc., Petition for Zone Boundary Change and Development Plan Approval to establish Open Space Conservation District (***Public hearing continued from October 19, 2023***)

Present for the hearing – Attorney Shansky, Adam Greenberg, John Giaganti, Chuck Mandel from Thomas A. Stevens and Associates and John Cunningham, landscape architect. Per Attorney Shansky, at the last meeting a brief introduction was given on the elements of open space conservation. She states section 27 of the regulations has defining standards that are required to be eligible for the open space conservation subdivision and their plans reflect that those standards are represented in what has been provided to the commission.

Mr. Mandel reviewed the site, which is a 5.82-acre parcel with 2.91 acres dedicated to open space. The owners are proposing 6 residential lots of different sizes. The proposed development has been before the Madison inland wetland agency and received favorable approval with one comment, that any activity within the 100ft regulated area, will need to come back before the agency. Test holes were conducted to prove septic system viability and approval from the Madison health director was received. The applicants also commissioned a traffic study that was completed by David Sullivan, of SLR Corporation. All lots will be served by public water and gas. Attorney Shansky states that as part of the regulations requirement, this was presented to ACCA and they were in support of the neighborhood.

Mrs. Mannix briefly discussed some notes in her staff report.

The hearing was open to the public:

Allan Katz – 363 Boston Post Rd – is in favor of the application.

Frank Angelino – 42 Stony Lane– states the developers have been very open and believe the project will be productive because of their approach.

Commissioner Morgan made the motion to close the public hearing, seconded by Commissioner Reinhart and unanimously approved.

The following resolution was read by Commissioner Morgan: Motion that the Madison Planning & Zoning Commission approve application #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 based upon the following findings:

1. The applicant has successfully demonstrated that the proposal is consistent with Section 27.1.1 of the Zoning Regulations as the location and layout of the proposed OSCD are in conformance with the intent of, and the goals and objectives contained in, the Plan of Conservation and Development. The proposed OSCD preserves a significant land area adjacent to the Neck River as open space and encourages more efficient development of land. The applicant has obtained favorable report from the Inland Wetlands and Watercourses Agency. Furthermore, the location and scale of this development helps preserve and protect the surrounding natural resources including inland wetlands and the Neck River.

2. The petition demonstrates consistency with Section 27.2 of the Zoning Regulations as the subject parcel meets the standards required for OSCD designation such as minimum district size, uses, density, architectural standards, yard requirements, and open space.

3. The approval of this zoning map change and Development Plan may now allow the applicant to proceed with the subdivision application process.

The effective date of this approval shall be November 30, 2023.

Seconded by Commissioner Bugda and unanimously approved.

4. **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

Present at the Hearing – Attorney Jeffrey Beatty and Chuck Mandel, professional engineer and licensed land surveyor.

Mr. Beatty states they are proposing the conversion of the winter club into a restaurant and believes their application is within the goals of the comprehensive plan of development. This would also improve safety on Boston Post Road by eliminating one

driveway entrance that is currently on the site and will generate tax revenue for the town. He further states they have satisfied and met the requirements of Section 32 regarding lot area and size. The applicant has also gone before the watercourse agency and received favorable approval.

Mr. Mandel states the Madison Oyster House is the name of the project and, in addition to approval from the inland wetland agency, they have approval from the state health department for the 150-seat restaurant – the permit was granted on August 1, 2023. They also had a positive review / response from the Madison architectural review committee. Mr. Stephan Nousiopoulos, architect for the project, reviewed the interior and exterior work on the site, including the upper residential area.

There were no public comments.

Mrs. Mannix briefly reviewed her staff report that was also shared with the applicant. She recapped the regulations and the process the applicant has gone through with the PDD. The report identified the applicant's eligibility and the requirements in section 32 and how they met those requirements.

Commissioner Reinhart made the motion to close the public hearing. Seconded by Commissioner Peckinpaugh and was unanimously approved.

The following resolution was read by **Commissioner Peckinpaugh:**

Motion that the Madison Planning & Zoning Commission approve application #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 based upon the following findings:

1. The applicant has successfully demonstrated that the proposal is consistent with Section 32.2.1 of the Zoning Regulations as the location, uses, and layout of the proposed PDD are in conformance with the intent of, and the goals and objectives contained in, the Plan of Conservation and Development. The proposed PDD is in harmony with the surrounding neighborhoods and land uses and its location on the Boston Post Road will help provide convenient access to the site while minimizing impacts to adjacent and other local residential streets. The applicant has provided a traffic report which identifies recommendations to help ensure safety and operational issues at the main driveway. The applicant has obtain regulated activity permit through the Inland Wetlands and Watercourses Agency. Furthermore, no historic resources are present on the site that require protection.

2. The petition demonstrates consistency with Section 32.3.2 of the Zoning Regulations as the subject parcel meets the characteristics required for eligibility for PDD designation such as minimum district size, parcel location, and minimum lot frontage.

3. The Commission has considered Section 32.3.3 of the Zoning Regulations in making this decision and determined that the proposed conversion of a mixed use building from a club to a full-service restaurant with a residential unit on second floor is an appropriate development of this currently vacant building. The project will further the

goals of the 2013 POCD by providing appropriate economic development in Town. Potential benefits include employment, food and housing, and tax revenue.

Seconded by Commissioner Dusza.

Chair Snow added the following to the last statement of the first paragraph:

Furthermore, no historic resources are present on site that require additional protection.

The motion was unanimously approved.

PENDING APPLICATION(S)

5. **23-44.** Applicants: Julie Ovian and Frank Angelino; Petition for Regulation Text Amendment Section 32 Planned Development District (*Deliberation tabled from October 19, 2023*)

The proposed text amendment (section 32.3.2 iii) was shared for the commissioners. The proposed new language states "and in no event shall any lot or parcel be located adjacent to or bounded by the state designated scenic road".

Chair Snow stated at first, she thought the language was simple and not complicated, but through the hearing process she realized that there are 15 properties included in this stretch of Boston post road. Also, during the hearing, two property owners were in favor of this text amendment and two that were in opposition, including the owner of the only property that qualifies for a PDD to land on the section of Boston Post road. She further states she would be more influenced if everyone of those owners were in favor of this. After looking into the existing regulations, there are many layers of protection. She continues to say the existing 2013 POCD clearly states the intent is to protect scenic and historic resources.

During discussions, Commissioner Dusza asked what are we really giving up if we do approve this. Commissioners agreed there are so many protective layers and factors outlined in the PDD to protect property owners and a thorough review of this amendment was done over four public hearings to narrow the scope of the text.

The following resolution was read by **Commissioner Peckinpaugh:**

Motion that the Madison Planning & Zoning Commission deny application #23-44. Applicants: Julie Ovian and Frank Angelino; Petition for Regulation Text Amendment Section 32 Planned Development District based upon the following findings:

1. **The proposal to reduce the eligibility criteria for the Planned Development District is inconsistent with the 2013 Plan of Conservation and Development (POCD) as the intent of the regulation is to permit modification of the strict application of the standards and provisions in the zoning regulations to accomplish specific purposes such as diversifying the Town's housing**

portfolio, encouraging open space and economic development by allowing residential, commercial, or a mixture of uses in a comprehensively planned setting. The PDD requires sensitivity in design in order to achieve a development that will be complementary to adjacent land uses while advancing the Town's planning directives.

2. The Commission finds that Section 32.2.1 provides adequate language for the protection of natural and historic resources including, but not limited to, historic sites and landscapes, archaeological and/or scenic vistas. The regulation currently requires that particular care be made to limit the visibility of development from scenic and rural roads.
3. The Commission finds that the timing of this petition is concurrent with the update of the Plan of Conservation and Development which has been underway for several months. The Commission acknowledges the applicants' petition, however, does not seek to make further amendments to the Planned Development District, Section 32, until additional public outreach and community involvement is gained through the planning update process. The Commission encourages the applicants to actively participate in this process.

Seconded by Commissioner Bugda 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

Chuck Mandel, agent for the applicant, states this is 5.82 acres with 2.91 acres dedicated to open space. They are proposing 6 residential lots on the site and all have been tested by the health department – a B100A approval was received as well as a favorable referral from the inland wetland agency.

Commissioner Reinhart made the motion to approve application #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 as shown on record subdivision map, "Open Space Conservation District Subdivision Plan-The Residences at Barberry", 31 Stony Lane & Fort Path Road, Madison, CT prepared by Thomas A Stevens and Associates, Inc, dated July 21, 2023 revised to October 31, 2023 with the following conditions:

1. **The Open Space Area shall be protected in perpetuity with a conservation easement as prescribed in Section 27 of the Madison Zoning Regulations. This Conservation Easement and maintenance plan shall be filed on the land records at the time of filing the record subdivision map.**

The effective date of this approval shall be December 14, 2023 and upon filing of the record subdivision map.

Seconded by Commissioner Bugda and unanimously approved.

7. **23-52. 1320 Boston Post Rd.,** Map: 31, Lot 44; Zone: C; Owner/Applicant: 1320 Post Road Associates Realty, LLC; Site Plan Modification and Coastal Site Plan application for 20ft x 30ft tent within existing parking lot for outdoor dining.

Per Mrs. Mannix, the applicant, is seeking a site plan modification and a coastal site plan approval to allow a 20ft x 30ft tent for outdoor dining within the existing parking area. The restaurant has maintained outdoor dining since COVID and now, under the revised statutes, seeks approval to permanently allow seasonal outdoor dining. The property is located within a coastal zone and triggers a coastal plan application. The tent will be anchored with appropriate sand bags and will not require any site disturbance. There are no anticipated coastal impacts from this project and it complies with zoning. The only recommended condition would be no live entertainment.

Commissioner Peckinpugh made the motion to approve application #23-52. 1320 Boston Post Rd., Map: 31, Lot 44; Zone: C; Owner/Applicant: 1320 Post Road Associates Realty, LLC; Site Plan Modification and Coastal Site Plan application for 20ft x 30ft tent within existing parking lot for outdoor dining with the following condition:

1. **No outdoor live entertainment is included in this approval.**
2. **The applicant shall maintain appropriate protection of the dining area from vehicular traffic.**

This approval is made based upon the finding that it complies with the Madison Zoning Regulations and that because there is no site disturbance, there will be no adverse impacts anticipated on the coastal resources. This proposal is consistent with the coastal use and resource policies of the State of Connecticut.

The effective date of this approval shall be November 30, 2023.

Seconded by Commissioner Bugda and unanimously approved.

8. **23-50. 14 Railroad Ave.,** Map 49, Lot 54, Zone D-Downtown District, Owner/Applicant: 14 Railroad Avenue, LLC; Application for Special Exception modification per Section 6.2.2.2 and Major Downtown Village District alteration to previously approved thirteen (13) unit multifamily development with associated site improvements to alter the proposal and reduce the development to eight (8) units with associated site improvements ***(Public Hearing scheduled for December 7, 2023)***
9. **23-51. 48A & 48B Wall St.,** Map 38 Lots 36 & 37; Zone: D; Owner/Applicant: Saltwater Property Group, LLC and Saltwater Property Group II, LLC; Site Plan Review & Downtown Village District Major Alteration applications to merge lots 36 & 37, demolish the existing structures on lots 36 & 37 and construct a new three-story commercial office building with associated site improvements. ***(Public Hearing scheduled for December 21, 2023)***

APPROVAL OF MINUTES

Commissioner Peckinpaugh made the motion to approve the minutes of November 2, 2023. Seconded by Commissioner Peckinpaugh.

Chair Snow states that under section one, built in environment should be *built environment*.
The motion was unanimously approved as amended.

Commissioner Peckinpaugh made the motion to approve the special walk minutes of November 11, 2023. Seconded by Chair Snow and unanimously approved.

10. [November 2, 2023](#)

11. [November 11, 2023 Special Walk Meeting](#)

REMARKS

12. Chair's comments

Chair Snow thanked commissioners and staff for all the work completed so far.

13. Town Planner's Comments

None.

ADJOURNMENT

The meeting of the Planning and Zoning Commission unanimously adjourned at 9:07am.