



NEWINGTON TOWN PLAN AND ZONING COMMISSION

PUBLIC HEARING and REGULAR MEETING Wednesday, October 9, 2013

Town Hall Conference Room L-101, Lower Level
131 Cedar Street, Newington, CT 06111

7:00 p.m.

A G E N D A

I. ROLL CALL AND SEATING OF ALTERNATES

II. APPROVAL OF AGENDA

III. PUBLIC HEARING:

- a. Petition #52-13: Special Exception (Section 6.2.4: Free Standing Sign) at 3237 Berlin Turnpike. National Sign Corporation, applicant; Rockledge Properties, owner; Tracy Becker, National Sign Corporation, 780 Four Rod Road, Berlin CT, contact. Continued from September 25, 2013.

IV. PUBLIC PARTICIPATION (for items not listed on the Agenda; speakers limited to 2 minutes)

V. REMARKS BY COMMISSIONERS

VI. MINUTES:

- a. September 25, 2013

VII. NEW BUSINESS

- a. Petition #47-13: Zoning Text Amendment (New Section 6.15: Medical Marijuana). Town Plan and Zoning Commission, applicant.

VIII. OLD BUSINESS:

- a. Petition #44-13: Special Exception (Section 3.2.5: Convalescent or Nursing Home) at 2125 Main Street. Middlewoods of Newington, owner/applicant; David Lawler, 580 Long Hill Avenue, Shelton CT, contact. Continued from September 11, 2013.
- b. Petition #43-13: Site Plan Modification (Assisted Living) at 2125 Main Street. Middlewoods of Newington, owner/applicant; David Lawler, 580 Long Hill Avenue, Shelton CT, contact.
- c. Petition #51-13: Special Exception (Section 3.2.9: Child Care) at 82 Candlewyck Drive. Agnieszka Kaim, 82 Candlewyck Drive, Newington CT, owner/applicant, contact. Continued from September 11, 2013.

RECEIVED & RECORDED IN
NEWINGTON LAND RECORDS
2013 OCT -4 A 9:46

BY *Tanya D. Lane*
TOWN CLERK

IX. PETITIONS FOR PUBLIC HEARING SCHEDULING

X. TOWN PLANNER REPORT

a. Town Planner Report for October 9, 2013

b. Street name "Packard's Way"

XI. COMMUNICATIONS

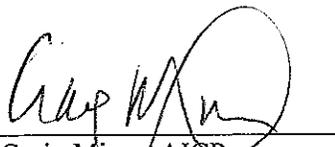
XII. PUBLIC PARTICIPATION (for items not listed on the Agenda; speakers limited to 2 minutes)

XIII. REMARKS BY COMMISSIONERS

XIV. CLOSING REMARKS BY THE CHAIRMAN

XV. ADJOURNMENT

Submitted,



Craig Minor, AICP
Town Planner

STAFF REPORT
Free-Standing Sign for Santander

October 3, 2013

Petition #52-13:

**Special Exception (Section 6.2.4: Free-standing Business Sign)
3237 Berlin Turnpike ("Santander")
National Sign Corporation, applicant**

Description of Petition #52-13:

The applicant would like to remove the existing "Sovereign Bank" sign, pylon and foundation, and replace it with an entirely new free-standing sign reflecting the new corporate owner. Section 6.2.4 allows such signs in any non-residential zone by special exception.

Staff Comments:

During the public hearing the TPZ asked the applicant for the height of the existing sign, and its dimensions. As of this writing she has not submitted that information to me.

cc:
file

STAFF REPORT
"Medical Marijuana Dispensary and Production
Zoning Text Amendment"

October 3, 2013

Petition #47-13

**Text Amendment for New Section 6.15 (Medical Marijuana Dispensary and Production)
Town Plan and Zoning Commission, applicant**

Description of Petition #47-13:

The State of Connecticut passed a law last year that allows the production (growing) and dispensing of "medical marijuana". Newington's zoning regulations are silent on this, so TPZ has directed me to draft a zoning amendment to regulated medical marijuana production and distribution in Newington as allowed by that law.

Town Planner Comments:

See my previous Staff Report for the background of this proposed amendment.

I have asked the GIS staff to prepare a map of known churches, playgrounds, etc. with a 1000' buffer around them, and a 1000' buffer around residential zone boundaries that abut Industrial and Public Land zones, so that an analysis can be done of potential MMJ distribution sites and production sites. As of this writing I have not received it.

cc:
file

STAFF REPORT
Modification to Middlewoods Assisted Living Facility

October 4, 2013

Petition #44-13:
Special Exception (Section 3.2.5: Senior Independent Living Facility)
2125 Main Street
Middlewoods of Newington Inc, applicant

Description of Petition #44-13:

The owners of this assisted living facility would like to increase the floor area of the building by constructing a 4750 s.f. addition within the existing interior courtyard. Any substantial change to an existing Special Exception activity requires a public hearing and a revised Special Exception. The applicants have also submitted site plans for TPZ review and approval as Petition #43-13.

Staff Comments:

This expansion will result in four additional studio apartments and two more one-bedroom units; an additional dining area; an activity room with seating for 50 persons; a physical therapy room; and two nurses offices, a wellness office, and an examining room. There will be no change to the exterior appearance of the building nor to the parking area.

At the last public hearing the following issues were discussed:

1. A landscaped berm. No such berm was ever a requirement.
2. Parking in the rear of the building. The neighbor complained that staff are parking along the outside curb of the perimeter driveway, which is close to her house. The applicants stated that they will install No Parking signs, and that the management will tell the staff to stop parking there and enforce it. They also offered to have fire lane striping put on the pavement.
3. Parking spaces needed. During the hearing a Commissioner asked how many staff persons are on site during the largest shift. The facility director has told me that "during the busiest time of day we would have approximately 15-17 people in the building; however of the group, at least four (or even a couple more, depending on who is scheduled) of those folks takes the bus to get to work so they do not take up parking spaces."
4. Noisy trash pickup: The applicants addressed during the meeting on September 25 by agreeing to no trash pickup before 8:00 a.m.
5. Fence: The applicants offered to install a fence along the rear property line, running from a point (at its east end) opposite the last parallel parking space, to a point (at its west end) opposite the first perpendicular parking space.

cc:
Middlewoods of Newington
file

To see all the details that are visible on the screen, use the "Print" link next to the map.



STAFF REPORT
Modification to Middlewoods Assisted Living Facility

October 4, 2013

Petition #43-13:
Site Plan Modification
2125 Main Street
Middlewoods of Newington Inc, applicant

Description of Petition #43-13:

The owners of this assisted living facility would like to increase the floor area of the building by constructing a 4750 s.f. addition within the existing interior courtyard.

Staff Comments:

See my comments under the Special Exception #44-13.

cc:
file

STAFF REPORT
Family Day care at 82 Candlewyck Drive

October 4, 2013

Petition #51-13

Special Exception (Section 3.2.9: Child Care)

82 Candlewyck Drive

Agnieszka Kaim, owner/applicant/contact.

Description of Petition #51-13:

This petition is to operate a family day care at the residence at 82 Candlewyck Drive. Section 3.2.9 allows day care in any zone by special exception.

Staff Comments:

During the public hearing the applicant stated that she has changed her mind about parents parking on Salem Drive; parents will be told to park in the driveway. She said that the family's cars will be put in the garage to keep the driveway available for parents.

Several young parents spoke in favor of the application, expressing the need for home day care in the neighborhood.

The applicant clarified that to comply with her State license requirements there will be no infants among the two-to-six children that she will be caring for, because that would require an assistant. There will be no additional staff. She will have a person available to cover for her when she can't be there.

The abutting neighbor at 16 Salem Drive requested a fence to provide noise abatement. In my opinion this is unnecessary. The applicant stated that there will be two scheduled outdoor play times. Children playing in the backyard of a home day care will not be any noisier than the children and their friends of any average-sized family. The applicant has stated that she will plant "tall evergreens" along the existing fence.

The Commission discussed possibly approving this for one year to start, with the option of the Commission granting an extension after finding that there have not been any problems. The zoning regulations currently specify that the initial approval be for two years, with the renewal process apparently left up to the Building Official:

- D. A zoning permit will be issued for two (2) years and coincide with the state license or renewal date. The permittee must apply to the Building Department for permit renewal. The permit shall be issued without hearing upon verification that conditions of the Special Exception and site plan approval are in compliance. The permit shall become null and void if not renewed.

Note that this language does not say *who* will verify that the conditions of the Special Exception have been complied with; but typically the Building Department and the Planning Department staff work closely on all matters of shared jurisdiction.

cc:
Applicant
file



TOWN OF NEWINGTON

131 Cedar Street Newington, Connecticut 06111

John Salomone
Town Manager

Town Planner

Craig Minor, AICP
Town Planner

Memorandum

To: Town Plan and Zoning Commission
From: Craig Minor, Town Planner
Date: October 4, 2013
Re: **Town Planner Report of October 9, 2013**

1. **Zoning Enforcement Issues Raised at Previous TPZ Meetings:**

a. **Outside Chairs at 1125 Willard Avenue:** The ZEO told me that the owner said that he would remove the chairs (which were moved from the front of the building to the side of the building!) by Friday, September 27. As of yesterday they were still there. I have directed the ZEO to issue a Notice of Violation which includes a warning that there will be a \$150 a day fine for continued violation.

2. **Old Performance Bonds held by Town:** See attached.

3. **Status of the "Modern Tire" Appeal:** Judge William Mottolese has denied Modern Tire's request to reconsider his original decision. See attached.

4. **Newington Junction TOD Planning:** The TOD Committee has not met since my last report.

5. **"Low Impact Development" Regulations Project:** The LID Committee is due to meet the afternoon of the October 9, 2013 TPZ meeting.

6. **Revision to Sign Regulations:** The Sign subcommittee has not met since my last report.

cc:
file

Phone: (860) 665-8575 Fax: (860) 665-8577
cminor@newingtonct.gov
www.newingtonct.gov

10/04/2013

TOWN PLAN & ZONING DEVELOPMENT BONDS

| Project Name/Address/ID # | Bond Amount / Staff Comments | Date Funds Deposited | Full Name of Depositor |
|--|--|----------------------|---|
| 2 Niro Landscaping 46 Commerce Court #24-02 | \$6,000 Cash <ul style="list-style-type: none"> • Compliance inspection by town staff: landscaping was <u>not done</u>. Letter sent 6/27/2013. • Owner responded 6/26: out-of-town; will respond more fully upon return in August. • Left phone message 9/24/13. | 2002 | Peter Niro Commerce Court Realty 860-666-1891 |
| 4 4 Play Sports Bar 512 Cedar Street | \$2,500 Cash <ul style="list-style-type: none"> • Compliance inspection by town staff: landscaping was <u>not done</u>. Letter sent 6/24/2013. • Owner responded 7/8: wants to attend TPZ meeting to ask for relief. • Owner will apply for Site Plan Modification (9/23/13). • Spoke with owner's surveyor re pursuing the above (9/30/13) | 1995 | Anthony Gallicchio, owner. |
| 6 Fountain Pointe 435-485 Willard Avenue #45-06 | \$5,000 Cash <ul style="list-style-type: none"> • Owner is working on the outstanding items. | 2007 | Richard Rotundo, owner. |

10/04/2013

TOWN PLAN & ZONING DEVELOPMENT BONDS

| | | | | | |
|----|--|--|------|--------------------------------|--|
| | | | | | |
| 7 | Global Granite 3320 Berlin Turnpike #18-08 | \$37,000 Cash <ul style="list-style-type: none"> Compliance inspection by town staff: paving and fencing not done. Letter sent 8/7/2013. Left phone message 9/25/13. Owner returned my call; phone tag. | 2008 | GGM Properties LLC | |
| 15 | LA Fitness 3563 Berlin Turnpike #42-07 | \$5,000 Cash. <ul style="list-style-type: none"> Compliance inspection by staff on 8/27: final paving not done. | 2009 | Newington-Berlin Retail LLC | |
| 18 | ZAG Machine 39 Progress Circle | \$4,200 Cash <ul style="list-style-type: none"> Final course of paving not done (10/21/2011). Letter sent to owner 9/30/13. | 1992 | Adam Z. Golas, owner | |
| 25 | 95 Waverly Drive (Lot #23) #01-04 | \$5,000 Cash <ul style="list-style-type: none"> Residential driveway installed too close to side line. Letter sent 7/22/13. 8/1: homeowner will try to work out with neighbor. Second letter sent 9/25/13. Owner called me 9/30: neighbor will sell him a strip of land. | 2006 | Jaime Ibarrola 860-604-3096 | |

10/04/2013

TOWN PLAN & ZONING DEVELOPMENT BONDS

| | | | | | |
|----|--|----------|---|------------|-------------------------------------|
| 26 | Newington Professional Center (Reno Properties) 1268 and 1300 Main Street #15-10 | \$20,000 | <ul style="list-style-type: none"> Compliance inspection by town staff on 7/31/2013: grading deficiencies noted. Email sent on 8/1/2013; owner replied that he will have his construction manager address this. | 09/12/2011 | Newington Professional Center C LLC |
| 27 | Hops/IHOP Restaurant 3260-3280 Berlin Turnpike | \$5,700 | | 2000 | |
| 28 | Mills Construction 63 E. Cedar Street | \$1,500 | | 2000 | |
| 29 | Target Richards Street | \$10,000 | | 2003 | Sycamore tree? Nothing in file. |
| 30 | Premier Financial 141 Maple Street | \$5,000 | | 2003 | |
| 31 | MORETCO ? | \$3,338 | No info on file as to who this is. | 2006 | |
| 33 | Rockledge Drive street trees #03-01 | \$10,000 | In default (street trees). Owner has agreed to forfeit the bond, with no restrictions. | 7/24/2007 | Premier Building and Development |

DOCKET NO: HHDCV126035007S

SUPERIOR COURT

ORDER 080812

MODERN TIRE RECAPING COMPANY,
INC. Et Al

JUDICIAL DISTRICT OF HARTFORD
AT HARTFORD

V.
NEWINGTON TOWN PLAN AND ZONING
COMMISSION

10/2/2013

ORDER

ORDER REGARDING:
08/21/2013 118.00 MOTION TO REARGUE/RECONSIDER

The foregoing, having been considered by the Court, is hereby:

ORDER: DENIED

This motion presents a textbook example of the use of a motion to reargue to persuade a court that its decision was erroneous. The motion introduces nothing new or overlooked by the court but merely critiques the court's analysis of applicable case law.

Judicial Notice (JDNO) was sent regarding this order.

080812

Judge: A WILLIAM MOTTOLESE