

**CITY OF NORWALK
ZONING COMMISSION
FEBRUARY 17, 2010**

PRESENT: Jackie Lightfield, Chair; Andrea Light; Larry Bentley; James White; Adam Blank; Michael Mushak; Bob Keyes (7:40)

STAFF: Mike Wrinn; Frank Strauch

OTHERS: Bill Andriopolous; Atty. Liz Suchy; Steve McAllister; Gary McIntyre; Chris Allen; Matt Popp; Henry Ditman; Jane Freeman; Mike Aurelia; Pat Duncan; Julie Burton; Rick Giordano; Steve Donagh; Lee Levey; Christine Names; Leigh Grant; Eric Nelson; Dan Grundman; Rob Comerford; Ben Neilds; Nancy Meany; Timothy Meyer; Larry Church; Mr. Richardson

I. CALL TO ORDER

Ms. Lightfield called the meeting to order at 7:30 pm.

II. ROLL CALL

Mr. Wrinn took the roll call.

III. PUBLIC HEARINGS

a. #10-09SPR/#25-09CAM – Curran – 9 Leonard St – 6 unit multifamily development

Ms. Lightfield opened the public hearing.

Mr. Bill Andriopolous, representing John Curran, turned in the green cards and described the proposal. He said that the plan involved renovating the structure, which he said was in very poor condition. He said that the plan would maintain the existing colonial architecture. Mr. Andriopolous addressed the Committee's requests with regard to protecting the tiger maple tree, keeping and matching the brick foundations, and providing the other two elevations. He discussed the site plan, pointing out that it provided more parking, better drainage, internal landscaping buffers, and perimeter fencing.

Ms. Lightfield asked if the plans indicated the changes from the last Committee meeting. Mr. Andriopolous said yes.

Ms. Lightfield opened the hearing to public comment. No one asked to speak.

Ms. Lightfield closed the public hearing.

b. #11-09SP – Silvermine Homes, LLC – 241 & 249 Silvermine Avenue – 11 unit conservation development

Ms. Lightfield opened the public hearing.

Atty. Liz Suchy, representing the applicant, turned in the green cards and described the area. She presented the plans and addressed concerns regarding the septic system. She pointed out that each unit would have its own septic system.

Atty. Suchy discussed changes to the plan, including the elimination of a secondary exit and the adjustment of the conservation easement line. She explained the details of the easement in perpetuity clause.

Mr. Steve McAllister discussed the details of the septic system, pointing out that the leeching fields were smaller than usual. He said that the catch basins would have filter inserts and also that the runoff would go into the rain gardens.

Mr. White asked who would be in charge of the maintenance plan for the catch basin filters. Mr. McAllister said that it would be the homeowners' association.

Mr. Gary McIntyre explained that he was both a neighbor and an architect for the project. He emphasized his concern about the condition of the Silvermine area in the long term. He described the proposed residences as arts & crafts style homes, which would be well-suited for empty-nesters.

Mr. Mushak asked about the maximum building height. Mr. Strauch pointed out that the height would need to meet the zoning regulation, which was 35 feet.

Mr. Chris Allen, a soil scientist, discussed the wetland delineation. He emphasized that the project would have no direct impact on the wetland.

Ms. Lightfield asked the reason for the depression in the middle of the property. Mr. McIntyre said that it was a natural grade. Mr. Allen explained that the area was a glacial outwash with gravelly soil. He added that agricultural use of the land in the past could also be a factor. He addressed drainage issues, adding that the area may have held water, but only for a short time.

Mr. Matt Popp discussed the landscape plans. He gave background about the site, which he said had been cleared in the 1930's. He addressed concerns about the Norway maple trees. Mr. Popp described the street trees and accenting plants which would be used on the property. He also discussed the boulder rows, fencing, and conservation easement markers.

Mr. Henry Ditman addressed traffic concerns on Silvermine Avenue. He discussed peak hours and traffic volume, pointing out that the four-way intersection had a level of service A.

Atty. Suchy noted that the applicant did have a storm water management plan.

Ms. Light asked about the square footage of impervious surface area. Mr. McAllister said that it was 26%; he agreed to calculate the exact number for the Commission.

Ms. Lightfield opened the hearing to public comment.

Atty. Jane Freeman, 777 Summer Street, spoke on behalf of the Norwalk Association of Silvermine Homeowners (NASH). She asked the audience to indicate by a show of hands if they were members of NASH. Atty. Freeman addressed the standards for special permits and also for conservation developments, adding that this application failed to comply with both sets of standards. She submitted an intervention petition, stating that NASH was a legal party to this application. She discussed pollution and impact to the Silvermine River and to the trees in the area. She said that if the project would unreasonably pollute resources, the Commission was required to request feasible alternatives for the application. Atty. Freeman said that NASH would present three alternatives to the current proposal.

Atty. Freeman cited regulations for special permits, pointing out that consideration needed to be made for ecologically important lands and also for alternatives to residential development. She also cited regulations concerning distance from the watercourse and the amount of area that could be developed. She emphasized that the applicant needed to earn the bonus density by providing a conservation benefit in return.

Atty. Freeman discussed the number of units in the development. She stated that a conventional residential subdivision would be a more appropriate use of the site and would provide the benefit of maintaining open space. She presented a map indicating a conventional subdivision (I-1) and asked Mr. Mike Aurelia to come forward to discuss it. Ms. Lightfield reiterated the rules of a public hearing

with regard to public sign-up; pointing out that Mr. Aurelia was not yet on the list and therefore could not come forward to speak at this time. Mr. Wrinn confirmed that Ms. Lightfield was following the correct procedure.

Atty. Freeman presented a map indicating the project's impact to the Silvermine River (I-2). She pointed out that a 40-foot width from the watercourse was not maintained around the whole development. She showed another map (I-3) and added that the area had been gerrymandered in order to achieve the 50% conservation easement. Atty. Freeman emphasized that this was not the kind of open space that a conservation easement is intended to provide. She presented the conservation regulations and discussed their goals and intent. She added that NASH saw no historical interest, wildlife preservation, educational value, or recreational value served by the project.

Atty. Freeman stated that she wanted to ask questions to Mr. Popp. Ms. Lightfield said that Ms. Freeman could ask questions now, but that Mr. Popp would answer them later in the applicant's rebuttal. Ms. Lightfield pointed out that Mr. Popp could also choose whether or not to specifically address Ms. Freeman's questions.

Atty. Freeman said that the applicant was not specially preserving areas of beauty any more than a conventional subdivision would be and therefore should be entitled to no bonus density. She submitted a Wetland Evaluation Function and Value Assessment (I-4) and discussed how the application failed to meet the necessary standards. She said that the applicant had not demonstrated plans to provide educational value, wildlife preservation, visual quality or recreation. She also stated that units 3, 8, 9, and 11 were actually within the conservation easement.

Atty. Freeman added that she wished to cross-examine the applicant. She requested that Mr. McAllister answer questions about the depth and surface area of the septic system and also about the type of equipment which would be used for installing the system. She also asked about the depth of the leeching field.

Atty. Freeman asserted that several of the rain gardens were in the conservation easement and would require digging for the pipes. She requested that Mr. McAllister address the level of disturbance expected from that work.

Atty. Freeman requested that the applicant comment on the size of the trees and their root structures, as well as the area of disturbance during the removal itself.

Atty. Freeman submitted a Declaration of Restrictive Covenants (I-5) and addressed the applicant's plan to maintain the area in its natural state. She said that NASH believed that the developer could not maintain the area in its natural state, given the excavation that would be needed at the property. She requested that the applicant state how deep the drainage pipe would be and also maintenance and repair plans in case of a failure of the septic system. She also requested that the applicant address the question of whether the fence was in the conservation area.

Atty. Freeman presented a memo from Aline Rochefort (I-6), stating her concerns about what was going on in the conservation area.

Atty. Freeman added that she wanted to know how much of the Upland Review area would be disturbed by the project. She also requested that Mr. Popp indicate in his rebuttal the height and growth rate of the replacement trees.

Atty. Freeman distributed the regulations to the Commissioners. Ms. Light commented that she made her decisions about such applications based on the recommendations of the Conservation Commission itself, adding that she did not see the reason for this extensive presentation. Atty. Freeman addressed the issue of the value of the land, adding that Zoning should ask Conservation to comment on the value of the land. Ms. Lightfield noted that Atty. Freeman did have the right to demonstrate more extensive analysis.

Atty. Freeman explained that the density on the site was not in character with the rest of the area, adding that the development's homes had virtually no exterior living space. She distributed the Plan of Conservation & Development and pointed out how Best Management practices were not being met by the applicant. She also distributed a Fact Sheet comparing conventional subdivisions and conservation developments. Atty. Freeman also presented alternatives with fewer residential units. She reiterated that the Commission needed to consider whether the applicant conformed to the regulations for a special permit and for a conservation development.

Mr. Mushak asked what the maximum size was for a home in a conventional development. He pointed out that the Commission needed to consider what the developer *could* do, rather than what it *might* do. Mr. Wrinn explained that the determining factor for house size involved the footprint coverage, not simply the home's square footage.

Mr. Mushak added that more small houses could actually mean fewer "McMansions." He also discussed the Norwalk Tree Alliance's recommendations for cutting Norway maples, which are an invasive species.

Mr. Blank asked if an area had to already be pristine in order to qualify for a conservation easement.

Mr. White said that one could argue that the area was not actually in a natural state due to the presence of an invasive species. Atty. Freeman said that the question was only whether the area had conservation value. Mr. White emphasized that those were two different questions.

Mr. Pat Duncan, 990 Silvermine Road, submitted his signed letters and resume. He read a letter from Peter Viterello opposing the development, which he said would establish a negative precedent. He said that the conservation strip was not satisfied by the application and also that the drainage work would cause excess disturbance. He added that the applicant was not using Best Management Practices for storm water.

Ms. Julie Burton, 14 Sunwich Road, said that as the coordinator of the Norwalk Neighborhood Association, she was concerned about the conservation easement and about the potential for drainage problems and flooding at the site.

Mr. Rick Giordano, 37 Williams Street, stated that he opposed the project. He addressed the issue of home size in the development.

Mr. Steve Donagh, 269 Silvermine Avenue, discussed the intermittent stream on the property. He also explained the importance of the square footage and cubic footage of the homes, noting that a home's footprint should not be the only consideration. He said that the character of the area was its diversity of size and architecture. Mr. Donagh emphasized the difference between the precise letter of the law and the judgment of the Commission. He urged the Commission to consider the intent of the regulations. He stated that the Commission should avoid being misled by the numbers provided by the specialists. He said that the development was not designed to conserve.

Mr. Lee Levey, 100 Comstock Hill Avenue, said that as the president of NASH, he was concerned about the land density and land use issues of the project. He said that the development would be on one of the last large open pieces of land in Norwalk. He discussed concerns about the septic system and drainage. He added that 16-inch trees would be replaced by 2-inch trees, whose growth rate was not known. Mr. Levey also stated that the limited size of the patios and decks on the development would encourage homeowners to push their belongings closer to the conservation easement. He said that nothing would be conserved by the development.

Ms. Christine Names, 223 Silvermine Avenue, spoke in opposition to the project, stating that the strip of conservation land was too close to the proposed residences.

Ms. Leigh Grant, 99 Comstock, said that she was a former president of NASH, a SWRPA representative, and a former Planning Commissioner. She gave background about the area and

described the types of homes, pointing out that the area included many odd lot sizes and non-conforming lots. She urged the Commission to consider the characteristics of the land itself. Ms. Grant said that she had concerns about drainage, the septic system, inland wetland protection, and catch basin maintenance plans. She asked the Commission to consider the phrase, "Less is more," when deciding on the application.

Mr. Eric Nelson, 259 Silvermine Avenue, explained that the area was extremely wet, contrary to the information given by the applicant's soil scientist. He also stated concerns about the maximum house size and about the trees in the area.

Mr. Dan Grundman, addressed an earlier comment about 11 smaller homes being preferable to 6 McMansions. He said that McMansions may have sold in a good market and suggested that the developer scaled back the home size in response to a bad market. Mr. Grundman emphasized that zoning should not be dictated by the market.

Mr. Rob Comerford, 255 Silvermine Avenue, explained that he did not want the Norway maples to be removed, as they provided privacy for residents and shelter for wildlife. He also addressed concerns about the septic field, the water quality, and the groundwater remediation system. Mr. Comerford also stated concern about the impact of the development on the character of the neighborhood.

Mr. Ben Neilds, 247 Silvermine Avenue, stated that the applicant did not obtain his permission to deny right of way into the property. He described plans for access to the development through his own property. He described a conversation with the tax assessor concerning the right of way. Mr. Neilds addressed density in the area, pointing out that 22 cars could be expected at minimum in the 11-unit development. He also stated that the east branch of a stream was not indicated on the applicant's map. He showed a photograph of water pooling in the area of the stream.

Mr. Mike Aurelia, 72 Oak Ridge Street, said that he was a wetland scientist and was representing NASH. He submitted his resume and a copy of his report. Mr. Aurelia discussed the catch basin, which he said was at a critical corridor. He also addressed concern about why the stream disappeared on the property, explaining that there could be a farmer's drain or a tile drain underground. He discussed conservation issues on the property and submitted the DEP's storm water report. He discussed the importance of impervious surface area and the impact of the project on water quality.

Ms. Nancy Meany, a resident of the Silvermine area, said that although the Commission was required to make decisions based on facts, it was still important to consider the observations of residents of the area. She noted that the water problems in the neighborhood may not be recorded anywhere officially.

Mr. Timothy Meyer, 273 Silvermine Avenue, explained that his property abutted the development. He said that although the project was called a conservation development, it seemed mostly about development. He addressed concerns about water on the site, stating that he had replaced a septic system and discovered that nothing would grow on the pervious soil that remained. Mr. Meyer expressed concern about the effect on the soil of removing the Norway maple trees.

Ms. Lightfield stated that the public hearing would be continued to March 10th to allow for the applicant's rebuttal.

c. #1-09MV/#13-09CAM – Hollywood Restorations – 115 Woodward Av – Auto body repair – Revocation of permit

Ms. Lightfield opened the public hearing.

Atty. Larry Church, representing the property owner, gave background about the site. He explained that Mr. Richardson had built the body shop years ago and now wanted to retire, while an employee opened his own business on the sit. Atty. Church said that the employee had gotten a variance and

CAM approval, but never obtained a building permit because he did not do any building. He said that a cease & desist had been issued, after which the variance and CAM approval were re-granted. He added that the tenant could no longer be located and that Mr. Richardson now wanted to reapply. Atty. Church said that he wanted the public hearing to be continued to allow Mr. Richardson to get the building permit.

Mr. Strauch said that this was an unorthodox solution to the problem, but that the applicant had submitted the fee for unauthorized modifications.

The Commission agreed to continue the hearing to March 17th.

IV. REPORT OF PLAN REVIEW COMMITTEE, JAMES WHITE, CHAIR

a. Action on Items III a., b. and c.

III.a) #10-09SPR/#25-09CAM—9 Leonard Street

**** MR. WHITE MOVED: RESOLVED that application #10-09SPR/#25-09CAM, submitted by John P. Curran, Jr. for a 6-unit multifamily development as shown on various plans by Grumman Engineer, Norwalk, CT, site plan date 6/12/09 and revised to 12/14/09 and the architectural plans by ADA Architects, Norwalk, CT, date 10/15/09 and revised to 12/11/09 be APPROVED with the following conditions:**

1. That all required CEAC signoffs are submitted; and
2. That a surety, in an amount to be determined by staff, be submitted to guarantee the installation of the required improvements; and
3. That all soil and erosion controls be in place and verified by an inspection by Staff prior to the start of any work on the site; and
4. That any additional needed soil and sedimentation controls be installed at the direction of the staff; and
5. That the site plan be revised to add landscaping between parking spaces #8 and #9; and
6. That any graffiti on the site, now or in the future, be removed immediately; and
7. That any changes to the plan be reviewed and approved prior to those changes being implemented; and
8. That a stormwater maintenance plan be submitted to staff; and

BE IT FURTHER RESOLVED that reason for this approval is that the proposed project complies with the Norwalk Building Zone Regulations, Section 118-504, Central Business Design District and Section 118-1451, Site Plan Review; and

BE IT FURTHER RESOLVED that this proposal complies with all applicable coastal resource and use policies; and

BE IT FURTHER RESOLVED that the effective date of this approval shall be February 26, 2009.

**** MR. BLANK SECONDED.
** MOTION PASSED UNANIMOUSLY.**

III.b) #11-09SP—Silvermine Homes, LLC

**** MR. WHITE MOVED TO CONTINUE THE HEARING TO MARCH 10, 2010.
** MR. KEYES SECONDED.
** MOTION PASSED UNANIMOUSLY.**

III.c) #1-09MV/#13-09CAM—Hollywood Restorations

**** MR. WHITE MOVED TO CONTINUE THE HEARING TO MARCH 10, 2010.**

**** MR. BLANK SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

b. #1-09SP/#1-09CAM – TR Sono Partners – 43 South Main St – 121 room hotel with 7,764 sq ft office & 70 space indoor valet parking garage – Request for one year extension of approval time – Report & recommendation

**** MR. WHITE MOVED: RESOLVED that the request for a one year extension of time for special permit application #1-09SP and coastal site plan application #1-09CAM by TR Sono Partners, LLC – 43 - 47 South Main Street for a 121 room hotel with 7,764 square feet office and 70 space indoor valet parking garage in a new building as shown on a set of plans entitled "SoNo Hotel, South Main Street, South Norwalk, CT." by Beinfield Architecture, PC; Wesley Stout Associates; Cabezas-DeAngelis, LLC and other related plans dated October 29, 2008 as revised to March 30, 2009 be approved, subject to the following conditions:**

1. That the original conditions of approval remain in effect; and

2. That the new approval deadline for obtaining permits will be April 24, 2011; and

BE IT FURTHER RESOLVED that the effective date of this action be February 26, 2010.

**** MR. KEYES SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

c. #3-07SPR – American Cancer Society – 38 Richards Av – 13,350 sq ft office - Request for one year extension of approval time – Report & recommendation

**** MR. WHITE MOVED: RESOLVED by the Norwalk Zoning Commission that application #3-07SPR, American Cancer Society, NE Division, Inc, for the construction of a 13,350 SF office building at 38 Richards Avenue be granted a ONE-YEAR extension of approval time.**

**** BE IT FURTHER RESOLVED that the new deadline is April 27, 2011 and all conditions of the original approval shall apply.**

**** MR. KEYES SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

d. #19-05SP – St. George Greek Orthodox Church – 238 W. Rocks Rd. – Parish hall - Request for one year extension of approval time – Report & recommendation

**** MR. WHITE MOVED: RESOLVED that Special Permit application #19-05, St. George Greek Orthodox Church at 238 West Rocks Road be granted a one year extension of the approval time for the construction of a church community center; and**

BE IT FURTHER RESOLVED that the new deadline is February 24, 2011.

**** MR. KEYES SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

e. #9-06SP – 110 Richards Ave LLC – 110 Richards Av – 17,600 sf office addition - Request for one year extension of approval time – Report & recommendation

**** MR. WHITE MOVED: RESOLVED that the request for a one year extension of time for special permit #9-06SP - 110 Richards Avenue, LLC - 110 Richards Avenue – Renovations and addition to 110 Richards Avenue for a 116,200 sq ft office building as shown on various plans**

by Telfer-Palmquist Architects dated January 10, 2007 as revised to February 9, 2007, be approved, subject to the following conditions:

1. That the original conditions of approval remain in effect; and
2. That the new approval deadline for obtaining permits will be March 2, 2011; and

BE IT FURTHER RESOLVED that the effective date of this action be February 26, 2010.

**** MR. KEYES SECONDED.**
**** MOTION PASSED UNANIMOUSLY.**

f. #7-90SP – Rogowsky – Tower Plaza – 120 New Canaan Ave – Request for release of maintenance surety – Report & recommendation

**** MR. WHITE MOVED: RESOLVED** that the request to release the maintenance surety held on Special Permit #7-90-Tower Plaza—120 New Canaan Ave be **APPROVED** as the required improvements have been properly installed and maintained; and

BE IT FURTHER RESOLVED that the effective date of this approval shall be February 26, 2010.

**** MR. KEYES SECONDED.**
**** MOTION PASSED UNANIMOUSLY.**

g. #1-10CAM – K. Dimitrov – 82 Gregory Blvd – Convert Single family residence to two-family residence –Report & recommendation

**** MR. WHITE MOVED: RESOLVED** that Application #10-07CAM, submitted by Nathan Peter, for property at 3 Fourth Street, as shown on a site plan entitled “Plot Plan, of Property Prepared for Kostadin Dimitrov, #83 Gregory Boulevard, Norwalk, CT”, Scale 1”=20’, Dated October 20, 2009 by Wayne J. Arcamone, Land Surveyor License #15773, and as shown on architectural drawings by Ana Petrova entitled “Site Plan and Exterior Elevations, 83 Gregory Boulevard., Norwalk, CT” Pages A1 to A3, Scale ¼”=1’-0”, dated 10/13/2009”, be **APPROVED** subject to the following conditions:

1. That all required soil sedimentation and erosion controls are in place prior to the start of any construction; and
2. That any additional needed soil sedimentation and erosion controls be installed at the direction of the Staff; and

BE IT FURTHER RESOLVED that this proposal complies with all applicable coastal resource and use policies.

BE IT FURTHER RESOLVED that the effective date of this approval shall be February 26, 2010.

**** MR. KEYES SECONDED.**
**** MOTION PASSED UNANIMOUSLY.**

h. #2-10CAM – B. Cherner - 3 Outer Rd – Construction of single family residence – Report & recommendation

**** MR. WHITE MOVED: RESOLVED** that application #27-08CAM, construction of a single-family residence for the property 3 Outer Road and as shown on the site plans and architectural drawings plan by Cherner Design dated December 16, 2009, be **APPROVED** subject to the following conditions:

1. That all required soil sedimentation and erosion controls are in place prior to the start of

any construction; and

2. That any additional needed soil sedimentation and erosion controls be installed at the direction of the Staff; and

BE IT FURTHER RESOLVED that this proposal complies with all applicable coastal resource and use policies.

BE IT FURTHER RESOLVED that the effective date of this approval shall be February 26, 2010.

**** MR. KEYES SECONDED.
** MOTION PASSED UNANIMOUSLY.**

V. APPROVAL OF MINUTES: January 19 and 20, 2010

**** MS. LIGHT MADE A MOTION TO APPROVE BOTH SETS OF MINUTES.
** MR. WHITE SECONDED.
** MOTION PASSED UNANIMOUSLY.**

VI. COMMENTS OF ASSISTANT DIRECTOR

There were none tonight.

VII. COMMENTS OF COMMISSIONERS

There were none tonight.

VIII. ADJOURNMENT

**** MR. WHITE MADE MOTION TO ADJOURN.
** MR. KEYES SECONDED.
** MOTION PASSED UNANIMOUSLY.**

The meeting was adjourned at 12.02 pm.

Respectfully submitted by Charlene Smith.

