

**CITY OF NORWALK  
ZONING COMMISSION  
SPECIAL MEETING  
MARCH 25, 2009**

**PRESENT:** Jackie Lightfield, Chair; James White; Robert Hard; Andrea Light; Michael Mushak; Larry Bentley; Robert Keyes (7:10)

**STAFF:** Mike Greene; Mike Wrinn; Adam Carsen

**OTHERS:** Atty. David Waters; William Hennessey; Atty. Frank Zullo; Bob Ready; Geoffrey Cole

**I. CALL TO ORDER**

Ms. Lightfield called the meeting to order at 7:00 pm.

**II. ROLL CALL**

Mr. Greene took the roll call.

**III. PUBLIC HEARINGS**

**a. #1-09SPR—166 Glover Ave LLC (c/o Bldg & Land Technology)—166 Glover Avenue—Application amendment to remove previously approved parking structure**

Ms. Lightfield opened the public hearing and went over the ground rules. Atty. David Waters, representing the applicant, turned in the green cards and explained that the application sought to eliminate a parking structure that had been part of an approved plan. He showed the property on a map, explaining that the applicant wanted to infill the parking area immediately to the south of the building. Atty. Waters discussed the background of the application, stating that the property had been approved as medical office use in August 2008. He emphasized that there was no application pending for anything other than medical office use on the site. He discussed the relationship between the active treatment areas and the number of parking spaces on the property. Atty. Waters also pointed out that this was the first time that an applicant had come before the Commission with the purpose of *not* building something. He added that signoffs from the DPW and the Fire Marshall had been submitted and that the applicant still intended to submit a post-development traffic study, as requested.

Atty. Frank Zullo stated that he believed the applicant's May 2007 approval to be void. He presented copies of letters previously sent to the Commission concerning the property.

Ms. Lightfield pointed out that Corporation Counsel does not vote on the item and that only the Zoning Commission could overturn it.

Atty. Zullo explained that the term "medical office" did not appear anywhere in zoning regulations. He added that an integrated mixed use could have been sought, but that it did not fit under the office term.

The meeting was interrupted at 7:25 pm. by an emergency alarm. It was re-convened at 7:30 pm.

Atty. Zullo said that he believed that when the Commission approved the application in 2007, it was under the impression that the use would be for physicians' offices. He pointed out that the 2007 application had included no floor plans. He explained that the definition of medical office use was relevant and that the proposed use was inconsistent with this zone. Atty. Zullo also discussed the applicant's change in the name of the center, from "Stamford Hospital Ambulatory Care Center" to "Stamford Hospital Ambulatory Building." He addressed the details of parking requirements for the property, stating that 50% of the building would require only 22 spaces and 146 spaces would be allotted for a non-designated area. He said that 168 parking spaces were not enough for the property. Atty. Zullo pointed out other sites in the region in which the use was inconsistent with the zone.

Ms. Lightfield stated that Zoning did not take into consideration other properties when making its decisions.

Atty. Zullo emphasized that the Zoning Inspector should be equipped with the information to make a reasonable estimate as to the number of parking spaces needed for the site. He showed a map of Norwalk Hospital and discussed its parking situation, as well as the parking at 40 Cross Street and 148 East Avenue. He addressed the issue of determining parking needs based on gross square footage and active square footage.

Atty. Zullo stated several concerns remaining with the application. He pointed out that the applicant had only submitted floor plans for half of the building and did not take into account patients and visitors, but only physicians. He added that when the fitness use of 20,000 square feet was denied, the applicant himself had referred to the building as a health care facility. Atty. Zullo emphasized his belief that the applicant was working on a piecemeal basis and that there was not enough transparency in the process. He added that the applicant's presentation to the ZBA in November 2008 had made no mention of Stamford Hospital. He also said that it was the opinion of Robert Maslin of Corporation Counsel that the May 2007 application was valid for medical office use, but void for a health care facility. Atty. Zullo also presented a letter from Donald Reid advising the denial of this application.

Robert Ready, a resident of Wilson Point and a former Chair of the Board of Norwalk Hospital, described the application as part of an "elaborate shell game." He said that the applicant continued to seek an outpatient hospital, which would serve only insured patients and would also weaken Norwalk Hospital. He added that there was a lack of candor on the part of the applicant.

Geoffrey Cole, President and CEO of Norwalk Hospital, explained that the applicant's lack of transparency was a concern. He stated that parking requirements cannot be determined, if the use of the property remains unclear. He asked for a show-of-hands as to those who were opposed to the application; a significant majority of the members of the public raised their hands.

Atty. Waters stated that his rebuttal would address issues specific to this site. He discussed the Commission's denial of Healthtrax, pointing out that Stamford Hospital returned with a proposal that was more likely to comply, after it was first turned down by Zoning. He added that the plans themselves were what was important, not what the facility was called.

Ms. Lightfield asked if there would be any overnight stays at the facility. Mr. Hennessey said no. She asked if ambulances would be arriving to an Emergency Room. Mr. Hennessey said that there would be no ER. He described the services that would be offered at the center, pointing out that the primary care physician was present tonight. Mr. Hennessey said that no advanced or invasive care was anticipated. Ms. Lightfield pointed out that the word "anticipated" had been used a lot during the hearing, but stated that the Commission wanted assurance about the intended use. Mr. Hennessey pointed out that the building would not be all fitted up at once, but that doctors' offices were what were intended. Mr. Keyes stated that this was not the applicant's original intent.

Mr. Hennessey stated that he did not believe that the letter of original intent was germane any longer. He said that the opposition was relying on this letter and also that the opposition held a position of anti-competition.

Mr. White added that the Commission did not intend to approve any use not permitted by Zoning regulations.

Atty. Waters discussed the Heath and Wellness Center at i-park, delineating numerous instances during 2007 and 2008 in which a zoning permit had been issued for a portion of the building. He pointed out that on each occasion; staff examined what was being proposed and whether it complied. He said that this application should be treated the same way. He added that what Norwalk Hospital did with the Health and Wellness Center is exactly what it is telling this applicant that it should not do. Atty. Waters also said that the details of use at The Berkeley were equally undetermined, when the Commission approved it. Mr. White pointed out that this application was in a different zone from The Berkeley.

Atty. Waters cited the minutes from a previous public hearing, pointing out that supporters had alluded to the advantages of moving Norwalk Hospital "off the hill" and the presence of outpatient services.

Ms. Lightfield asked if the C.O. had been approved for the entire building. Atty. Waters said yes. He discussed a minor change regarding the addition of towers to the building. He described the details of several C.O.s obtained so far and submitted copies of all C.O.s and permits to the Commission.

Atty. Waters discussed the background of the property, adding that Vectron had been an industrial and office

development. He said that there had been no application to convert to medical offices on the part of i-park. He described inconsistencies between i-park and this application. He also disputed the necessity of a fit-up permit, discussing how the process was usually arranged. Atty. Waters pointed out what he called an arbitrary and capricious standard as to parking requirements. He cited the minutes of a public hearing with regard to parking requirements for The Berkeley. He suggested that all applicants needed to be treated equally by the Commission.

Ms. Light asked if Stamford Hospital were also a not-for-profit hospital. Mr. Hennessey said yes. Ms. Light asked about the intended primary care physician. Mr. Hennessey said that it was Dr. Reza, whose office was now in Norwalk.

Ms. Lightfield asked if the applicant would return with a request for a different use, if this application were approved with 168 parking spaces. Atty. Waters said yes, explaining that the applicant would need to demonstrate that it had sufficient parking in order to obtain permits.

Ms. Lightfield closed the public hearing.

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

##### **a. Action on Item III a.**

- \*\* MR. WHITE MOVED TO SEND THE ITEM BACK TO COMMITTEE FOR FURTHER REVIEW.**
- \*\* MR. HARD SECONDED.**
- \*\* MOTION PASSED UNANIMOUSLY.**

#### **V. COMMENTS OF THE DIRECTOR**

There were none tonight.

#### **VI. COMMENTS OF COMMISSIONERS**

There were none tonight.

#### **VII. ADJOURNMENT**

- \*\* MS. LIGHTFIELD MOVED TO ADJOURN.**
- \*\* MS. LIGHT SECONDED.**
- \*\* MOTION PASSED UNANIMOUSLY.**

The meeting was adjourned at 8:44 pm.

Respectfully submitted by Charlene Smith.