

CITY OF NORWICH
ZONING BOARD OF APPEALS
September 13, 2016
Meeting Minutes

The regular meeting of the City of Norwich Zoning Board of Appeals was called to order at 7:04 p.m. Roll call was taken and it was determined that a quorum was present.

PRESENT: Marc Benjamin, Chairman
Henry Olender, Vice Chairman
Mark Kulos
Dorothy Travers
Peter Cuprak – Alternate
David Martin – Alternate
Robert Phoenix – Alternate

ABSENT: Raymond Dussault

ALSO PRESENT: Tianne Phoenix Curtis, Zoning Enforcement Officer
Linda Lee Smith, Recording Secretary

E. COMMUNICATIONS: None

F. ACCEPTANCE OF MINUTES

Upon motion by Robert Phoenix, seconded by Dorothy Travers it was voted unanimously to APPROVE the minutes of the August 16, 2016 regular meeting.

G. OLD BUSINESS:

- 1. V#16-09 – Application of O’Reilly Automotive Stores, Inc. for property located at 460 (474) West Main Street in a General Commercial (GC) zoning district. Requesting dimensional relief from the required 50-foot landscape buffer from a Residential District Line (Section 5.3.1), which bisects the rear 25-ft of the subject parcel, to allow a 0.0-foot buffer from the Residential District line to the proposed building, retaining walls, trash enclosure and a paved parking area. (Continued from August 16, 2016)**

Seated were Marc Benjamin, Mark Kulos, Henry Olender, Dorothy Travers, and David Martin

Tianne Curtis explained that everyone was present at the meeting last month except for Henry Olender and he was ready to be seated as a member on the variance tonight. Tianne Curtis explained the Public Hearing had been opened, there was conflict in the information in the legal ad vs. the variance they were requesting. Tianne Curtis stated the public hearing had been opened but didn’t take any testimony, the date of the next meeting was noted but because some the actual text had changed the legal ad needed to be republished in the newspaper. Ms. Curtis explained the request was the same but the verbiage had changed and that was why it’s listed on Old Business and continued and reopened. Ms. Curtis stated that she had entered all exhibits last month.

Attorney Harry Heller, 736 Route 32, Uncasville, CT represented O’Reilly’s Automotive stores. Attorney Heller stated he was seeking a variance from Sec. 5.3.1 of the zoning regulations 50’ buffer from commercial to residential. Attorney Heller explained the plan that was originally shown last month for property is on the southeast side of West Main St., $\frac{3}{4}$ of an acre and proposing 7,585 sq. ft. building with associated parking. Attorney Heller stated initially proposed

was a shared driveway access from West Main St. with Attorney Czaczkes property and there was some concern about the access and the drainage. Attorney Heller stated there is a low point on Attorney Czaczkes property with a catch basin and was concerned how the development of the site would impact the drainage. Attorney Heller stated since the last meeting they had discussions with the neighbor, and the neighbors engineer and have redesigned the area with the drainage from the basin to the back of the site, behind the retaining wall; and discharge to the created wetland area as part of the compensatory mitigation for the wetlands which they are proposing to build at the easterly side of the property. Attorney Heller stated the fill and replication had been approved by the Inland Wetlands Commission.

Marc Benjamin asked if the new additional drainage for wetlands had been approved by the Wetlands Commission. Attorney Heller stated the new 8' pipe has to be approved. Attorney Heller stated the fill for the building and replication to compensate for the fill had been approved.

Attorney Heller stated since last month they have gotten away from the concept of the shared driveway and moved their access a little bit further to the east away from Attorney Czaczkes property. They are proposing an in and out on one side of the property as well as a secondary on the opposite site. They are providing a dedicated drainage easement so that Attorney Czaczkes property will have a legal right to discharge storm water into the replicated wetland area. Attorney Heller stated the zone line was originally portrayed incorrectly on the plan presented at the last meeting, and the location of the zone line passes through the property with GC zone to the North R20 zone to the South. The property in the R20 district is owned by St. Peters and Paul's church.

Attorney Heller stated Sec. 5.3.1 requires a 50' buffer which is landscaped against the residential zone and which would apply southeasterly elevation of the property that they can't comply. The hardship is this property is an amalgamation of pre-existing lots that existed prior to zoning and have been combined as well as the 25' piece in the back has been acquired from St. Peter & Paul's church to create a parcel that will accommodate this development. Attorney Heller stated because of the location of the wetlands and the lack of depth from the property from West Main St. it's not possible design the site which would accommodate building sides and parking without intruding into the buffer zone against the residential district. Attorney Heller stated the hardship is unique and applies to the property and variance proposed is in conformance with the City's Comprehensive Plan which is embodied in the zoning regulations and maps. Attorney Heller stated it is one of the few undeveloped parcels on West Main St. and in addition the property is encumbered by the wetlands where development can occur on the property and requesting relief from the buffer requirements.

Attorney Heller stated the northwest portion of the St. Peters and Paul property is not going to be developed because of the wetlands. Attorney Heller stated they can't accommodate the landscape buffer on their property, the effect intended by the regulations is achieved by the fact that it's a fairly significantly wooded area on the adjacent St. Peters and Paul's church property and extends a couple hundred feet achieving the screening.

Attorney Heller stated the hardship requirement has been met and the harmony with the City's Comprehensive Plan has been met.

Attorney Heller stated that Mr. Aubrey, Engineer representing the Czaczkes property to redesign the drainage with the neighbors, and Josh Swerling from Bohler Engineering were present to answers any questions.

Mark Kulos asked about the provision fencing on the westerly side between the property and the Attorney Czaczkes property. Josh Swerling from Bohler Engineering, 352 Turnpike Road, Southborough, MA presented. Mr. Swerling stated it's the southwest side where there is a guard rail and wall. Mark Kulos asked what size the wall was going to be. Mr. Swerling stated at the curb cut it is about half a foot and follows lawn to the back its 7' and the one corner to where the parking is Attorney Czaczkes line is about 4'H and it drops off significantly another 3' to the trash enclosure; and it's going to be a VERSA block wall.

Mark Kulos asked if there would be a 7' drop from the building to the wetlands area. Mr. Swerling stated yes. Mark Kulos asked Mr. Swerling if he had talked to the neighbors individually whether it would be sufficient for screening. Mr. Swerling stated the neighbors had been notified but he hadn't talked individually to them.

Mark Kulos was concerned because today it is wooded and questioned if they'd maintain some sort of screening for the neighbors. Attorney Heller stated O'Reilly's had purchased a portion of the rear property from St. Peters and Paul's. Mark Kulos stated it was originally 4 lots and 2 pieces came from St. Peters & Paul's. Mark Kulos asked how far were O'Reilly Automotive Store from the Hospice property. Attorney Heller stated quite far and it's screened pretty well.

After much discussion ensued Attorney Heller stated the only area where they have a problem is at the back corner where the dumpster and a couple of parking spaces would be located. Marc Benjamin stated it's not a big concern as it looks like Attorney Heller stated through acquisition converted portion R20 into GC. Tianne Curtis stated there hasn't been an official map amendment that changes the zoning district and it doesn't automatically change because of ownership.

Marc Benjamin stated the problem area is the retaining wall which is a landscape feature, a screened fence and a dumpster and a couple of parking spots in a landscape buffer.

Mark Kulos asked if he's looking for the variance on the side setback from 10'-0'. Attorney Heller stated not on setback only on the landscape buffer. After much discussion the board understood and the hardship is they have to create wetlands in that location.

Donald Aubry Engineer, South Windham, CT spoke in reference to the office building next door and the catch basin for the storm water and the water table. Mr. Aubry was concerned with the 6" pipe which has overflowed; and the office building has a groundwater problem in the basement. Mr. Aubry stated they are going to an 8" pipe doubling the capacity, and all draining the groundwater infiltration system he felt was a reasonable balance. Mr. Aubry was in support of the variance application.

Motion was made by Mark Kulos second by Marc Benjamin to close the public hearing.

H. NEW BUSINESS: None

I. DISCUSSION/DECISION ON APPLICATIONS

1. V#16-09 – Application of O'Reilly Automotive Stores, Inc. for property located at 460 (474) West Main Street in a General Commercial (GC) zoning district. Requesting dimensional relief from the required 50-foot landscape buffer from a Residential District Line (Section 5.3.1), which bisects the rear 25-ft of the subject parcel, to allow a 0.0-foot buffer from the Residential District line to the proposed building, retaining walls, trash enclosure and a paved parking area. (Continued from August 16, 2016)

Seated were Marc Benjamin, Mark Kulos, Henry Olender, Dorothy Travers, and David Martin

Upon motion by Mark Kulos, second by Dorothy Travers motion carried unanimously to APPROVE V#16-09 as requested.

Mark Kulos stated the hardships were the rear of the property is a wetlands area which is undevelopable as there would be no conflict with a building that would be going to the rear of the property. Mr. Kulos stated the uniqueness of the property was put together with 4 different lots, and it's also one of the only undeveloped lots on West Main St., and the uniqueness is its touching both GC and the R20 districts goes through the rear of the property.

Dorothy Travers stated there is a buffer of trees in the back and also the plants in the rear buffer.

Mark Kulos stated on the plan showing the easterly wooded area and they're leaving as much natural environment so that the water will flow into the buffer areas.

David Martin stated the hardships were the size of the lot and it goes into the residential, and they've done what they can to limit the impact and it's a reasonable request.

Henry Olender stated what he liked was everyone worked with their neighbor and came up with an agreement for the size of the culvert that needed to be installed to take the water away from the parking lots and he supports it.

Marc Benjamin stated it's a wetlands property and very difficult to develop; it's the best reasonable use of the property; with the restrictions their hands are tied to what landscaping can be done because of the wetlands. Marc Benjamin stated the amount of area that is truly being requested, the majority of it is landscaping happening within that district, a couple parking spots, and it's a reasonable use and request, and the development of the property needs to move forward, and it fits in with the neighborhood, it's not injurious to anyone and it's a well thought out plan, and he will support it.

J. OTHER MATTERS: None

K. ADJOURNMENT

Upon motion by Dorothy Travers and second by Robert Phoenix it was unanimously voted to adjourn at 7:43 p.m.

Respectfully submitted,
Linda Lee Smith
Recording Secretary