

ASHFORD PLANNING AND ZONING COMMISSION
ASHFORD, CT / REGULAR MEETING MINUTES
VIRTUAL MEETING via Zoom
Monday, January 9, 2023

Present: Jeffrey Silver-Smith (Chair), Janet Bellamy, Luther Brauch, John Calarese, Gerald Dufresne, Alex Hastillo (Secretary), Doug Jenne, Catherine Sampson, Jeffrey Schillinger, Mark Schnubel, Richard Williams, Nord Yakovleff, and William Falletti, 1st Selectman

Guests: Mike D'Amato, Facilitator and Zoning Enforcement Officer
Dorian Famiglietti, R & M Holdings, Mike Panek, Sandra Ek, Linda Roy, Blythe Kaufman, Martin Connors, Jeff Wyman, Rob & Carolyn Trotta, Paul Varga, R. Corriveau

Document supplied to members: PZC ByLaws dated and accepted January 10, 2022

1. Call to Order and Seating of Alternates

The Chairman called the meeting to order at 7:03 p.m. All members present.

2. Approval of December 12, 2022 Minutes

MR. DUFRESNE MOVED AND MR. SCHILLINGER SECONDED A MOTION TO APPROVE THE MINUTES OF THE REGULAR MEETING OF THE P&ZC ON DECEMBER 12, 2022 AS CORRECTED. MOTION PASSED WITH ONE ABSTENTION FROM MS. SAMPSON.

Corrections: p.3, 8 B, Motion statement: line 2 should read ...short-term rental, 21 Lakeside Dr...

3. Public Comments The correction to the Minutes was provided here.

4. Bills *Chronicle:* \$1,360.83 /

5. Correspondence - none

6. Public Hearing **A. PZ-22-9:** Application for Short-term rental at 88 Ashford Lake drive, Owner J. Pufahl (**To be Postponed to February 13**)

7. Unfinished Business - none

8. New Business **A PZC-22-4:** 3 Lot Subdivision. 385/393 Pumpkin Hill Road, Owner T. Bunte. Applicant D. Famiglietti

Atty. Famiglietti provided a detailed review of the 3 lot subdivision application initially received back in October 2022. Th land represents the estate of Irene Bunte. No work is to be done on the property that does contain wetlands. The Ashford IWWC's agent Mr. Fitzback sent an email, 11/29/22, with a positive recommendation; however letters to all abutters had not been sent and were mailed out Dec. 12, 2022. Mr. D'Amato has been informed. The map showing the 3 lots was put up on the screen by Eric Peterson, Engineer from Gardner & Peterson Assoc. who created the site map. Lot 1, 393, 70 acres, the largest (in yellow) has a home owned by Tim Bunte. Lot 2 (in blue) and lot 3, 385 (in pink) were easily observed. A second map showed the new subdivision in green, an Ag lot owned by T. Bunte. An Ag lot was defined during questioning as a landlocked parcel, with no road access, that can be used for agriculture (per Mr. Williams).

The applicants are asking for two waivers of regulations regarding subdivision. First they ask for a waiver of the requirement to establish open space if there is a 3 or more lot subdivision. They are asking for consideration of only two lots, because lot 1, since 1984, has had required open space for 38 years. Lot 3 (pink) of 10 acres is all open space and expected to remain that way. The second waiver concerns the requirement to survey the entire boundary of lot 1. This would be an expensive project because the lot is so large, and the lot has been this way for so many years with no issues.

Mr. Brauch noted that Public Act (PA) 490 [CT Gen. Stat. sect. 12-107a - 107f designed to reduce the tax burden on undeveloped land] is not a method for preserving land. It does protect land from development for a period of years however per Mr. Brauch.

One abutter whose home is seen surrounded by lot 3 had no objections to the application.

Ms. Famiglietti explained her reasoning for the waivers: only two lots to be considered, not three, and federal law requires a "need" for the open space. Mr. Yakovleff wondered if all paper work had been completed; Mr. D'Amato responded that it had. Mr. Williams and Ms. Bellamy thought approval should be granted. Mr. D'Amato noted that if the land were to be sold or to be developed then the approval process would start anew regarding open space and other concerns, etc.

The following text was supplied by Zoning Officer Mike D'Amato.

Motion to approve: PZ-22-3: 3 Lot Subdivision at 385/393 Pumpkin Hill Rd. Owner: t. Bunte.

Applicant: D.Famiglietti [was made by Mr. Williams and seconded by Ms. Bellamy]. With the following text included the motion passed unanimously.]

Referenced Plans: Subdivision of Land of Estate of Irene D. Bunte. 385 Pumpkin Hill Rd. Prepared by Gardner & Peterson Associates, LLC. Dated 09/16/22. Sheets 1-3 Inclusive.

Findings:

1. The Plan submitted meets the criteria of the Town Zoning and Subdivision Regulations
2. The waiver requests as outlined within the application are appropriate.
3. The application was reviewed by the Inland Wetlands and Watercourses Commission on 11/1/22, as required.

Conditions which must be met prior to signing mylars:

1. A copy of the final approved plans with revisions shall be submitted to the Zoning Officer for review and comment.
2. All final plans submitted for signature shall require the seal and live signature of the appropriate professional(s) responsible for the preparation of the plans.
3. The exemption from the open space requirements shall be noted on the final mylars along with a notice stating that any lot subject to the waiver shall be liable for its proportional share of the total open space fee at the time of subsequent sale or transfer to a non-exempt person if that lot is sold or transferred within five years of the approval date.
4. The plans shall be modified to include:
 - a. A copy of this approval.
 - b. A copy of the EHHD approval (if any)
 - c. The expiration date of this approval.
 - d. To indicate the total buildable area, as defined, for each lot.

General Conditions:

5. Within one (1) year, the final mylars with signature shall be filed in the Town Clerk's office and digital PDF shall be provided to the Zoning Officer.
6. The conditions of this approval shall be binding upon the applicant, landowners, and their successors and assigns.
7. Any modifications to utilities, easements or grading are subject to review by Town staff.
8. This project shall be constructed and maintained in accordance with the final mylars. Minor modifications to the approved plans that result in lesser impacts may be allowed, subject to staff approval.
9. By accepting this approval and its conditions, the applicant, owner and/or their successors and assigns acknowledge that right of Town staff to periodically enter upon the subject property for the purpose of determining compliance with the terms of this approval.

With such a long motion it was suggested that having the text ahead of time might be an idea. Would having text ahead of time be prejudging the issue?

8. New Business B. PZ-22-1: text Amendment Application: Article 300-14 (definitions) and Article 300-19 (Interstate Interchange Development Zone). Applicant: Campanelli Rodolakis LM Acquisition LLC & Ashford Realty Trust, LLC (**no discussion, for receipt only**)

MR. WILLIAMS MOVED AND MS. BELLAMY SECONDED A MOTION TO RECEIVE THE PZ-23-1 TEXT AMENDMENT APPLICATION: ARTICLE 300-14 (DEFINITIONS) AND ARTICLE 300-19 (INTERSTATE DEVELOPMENT ZONE) APPLICANT CAMPANELLI RODOLAKIS LM ACQUISITION, LLC & ASHFORD REALTY TRUST, LLC. MOTION PASSED UNANIMOUSLY.

8. New Business C. Election of Officers

MS. SAMPSON MOVED AND MR. WILLIAMS SECONDED A MOTION TO REMOVE THIS ITEM FROM THE AGENDA. MOTION PASSED UNANIMOUSLY.

8. New Business D. Review of By-Laws

MR. SCHNUBEL MOVED AND MR. DUFRESNE SECONDED A MOTION TO APPROVE THE PZC BYLAWS AS CORRECTED. MOTION PASSED UNANIMOUSLY.

Corrections: p.3 Article X no. 7 last sentence should read ... hearing attendees decide any... / Article XI should read ...approved by acceptance of at least six (6)...

8. New Business E. Review of Definitions for "Primary Residence"

Several definitions, supplied by Mr. D'Amato, for "primary residence" were read by the Chairman. A discussion followed with the thought that a combination should be put together including length of time living in the residence and a variety of ways to document the person linked to the residence.. Agreed to by most members was that to be a primary residence one should live there for a majority of the days in a year, i.e. 183 days (50% of the year plus one day). The documentation required should verify this length of living in the residence. It was noted that the PZC should be very careful in what they list for documentation. The IRS list of documents was appreciated.

One member wondered if a moratorium on applications for short-term rentals should be put in place until this definition has been approved and added to the regulations. This cannot be done per Mr. D'Amato as it requires a long procedure just as adding the definition itself requires a text amendment procedure to complete. He also suggested that until the definition is approved, and in the regulations, all new incoming applicants should be advised of the PZC's thinking so there is consistency about handling this matter of "primary residence." Mr. D'Amato also stated that in court if there is no official definition then Webster's dictionary is used.

Mr. Panek made the note mentioned above of 183 days within a given year, and Mr. Trotta added that the Commission should not use subjective words such as "majority" or "frequently" and should be cautious so that things mentioned can be substantiated. Both were thanked for their input by the Chair. Ms. Bellamy added that the legal address for tax purposes should be included.

The Chairman will discuss a combination definition with Atty. Slater and bring back results for the next meeting.

9. Zoning Officer Report

The office is a bit quieter now although work on applications continues; in answer to a question, he stated that evening hours have been reduced due to the fact that the assistant is out on maternity leave. He announced the Conn. Bar Land Use Training session will be Saturday March 18, 2023; he will supply notices at the February meeting. He reminded members that the affordable housing draft is in his document space on the town web site.

10. Adjourn

MR. DUFRESNE MOVED AND MR. SCHNUBEL SECONDED A MOTION TO ADJOURN. MOTION PASSED UNANIMOUSLY AT 8:42 P.M.

Respectfully submitted by Valerie B. Oliver, Recording Secretary, 1/10/2023