



Town of Hamden

Planning and Zoning Department

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September 18, 2012, revised 9/19/12

MINUTES: THE PLANNING & ZONING COMMISSION, Town of Hamden, held a Public Hearing and Regular Meeting on Tuesday, September 11, 2012 at 7:00 p.m. in the Thornton Wilder Hall, Miller Memorial Library Complex, 2901 Dixwell Avenue, Hamden with the following results:

Commissioners in attendance:

Ann Altman, Chairperson
 Lee Campo
 Brack Poitier
 Michele Mastropetre
 Bob Roscow
 Jon Cesare
 Myron W. Hul
 Peter Reynolds
 Ralph Marottoli, Alternate sitting for
 Ryszard Szczypek

Staff in attendance:

Leslie Creane, Town Planner
 Dan Kops, Assistant Town Planner
 Tim Lee, Assistant Town Attorney
 Stacy Shellard, Clerk
 Sotonye Otunba'Payne, Stenographer

A. Public Hearing

Ms. Altman called the meeting to order at 7:02 p.m. The clerk read the Public Hearing items into the record. Ms. Altman introduced the panel and reviewed the Public Hearing procedures. Ms. Altman recognized in attendance Ms. Judy Kozak, Legislative Council President.

Ms. Altman asked that a moment of silence be observed in memory of those who died on September 11, 2001.

1. Proposed Amendment to the Hamden Zoning Map 12-929

29 Tabor St, 15 Dickerman St, 35 Murlyn St, 2974, 3000, 3040, 3014 Whitney Avenue

Change Zones from T-3 to T-4 & T-1

File available for review in the Planning Office & the Office of the Town Clerk

Bernard Pellegrino, Applicant

Deadline to open Public Hearing 11/3/12

Mr. Bernard Pellegrino, Attorney, addressed the Commission and reviewed the application. He submitted a handout (Exhibit 1) and reviewed the seven affected properties. Mr. Pellegrino explained that when the zoning map

became effective in 2010 the properties became legally non-conforming. The purpose of this application is to make the properties conform to the zoning regulations and eliminate the properties that are split zoned. Mr. Pellegrino submitted a zoning map (Exhibit 2) with an overlay of the proposed amendment to the zoning map. He reviewed the proposed zoning map of the affected properties, the current zones on the Whitney Avenue corridor and the current uses of the properties.

Ms. Altman asked for comments from the public in favor of the application. There were none.

Ms. Altman asked for comments from the public against the application:

Ms. Judy Kozak, 180 Cannon Street, First District Legislative Councilman, addressed the Commission and stated "if it is not broke don't fix it". She feels that the proposed properties as they are zoned works. Ms. Kozak asked for an explanation of a non-conforming property vs. a conforming property. She said that she has driven on Murlyn Road and it would not handle any additional development. She was appalled at the overgrowth of vegetation that is growing into the narrow road, and she noted there are no sidewalks. Ms. Kozak said she has addressed the conditions of the road with the Mayor and the Public Works Director. She said that when patrons park on the street near Side Street Cafe and a car needs to make a right on to Murlyn Road it is a problem, and that the area cannot handle any additional traffic. Ms. Kozak is against the amendment to the zoning map.

Ms. Teresa Tucker, 15 Villa Road, addressed the Commission. She asked what would be built on the sites. Ms. Tucker is concerned with the traffic in the area. She said that there is a lot of traffic because of the Side Street Cafe. Ms. Tucker explained that the residents in the area are the ones to clean the trash that is left on the street by the patrons of the Cafe and when it closes at night they are very loud. Ms. Tucker stated that she is tired of cleaning the trash and she does not like all the cars on the street.

Mr. Bob Mongillo, 34 Murlyn Road, addressed the Commission and stated that the traffic in the area changed when Side Street Cafe opened. He feels that if the zone is changed it would increase the noise and traffic in the area. Mr. Mongillo asked that the proposed amendment not be allowed. Mr. Mongillo referred to the Cease & Desist Order that was issued in 1997 to Side Street Cafe and he said nothing was done to correct the roof on the outside of the property.

Ms. Anne Balzano, 39 Villa Road, addressed the Commission and stated that there have been problems with Dickerman Street for the last 35 years because an entrance to the street was closed when the Route 10 connector was built. Ms. Balzano asked if the area is zoned R-1 why the land cannot be developed to open up Dickerman Street. Dickerman Street does not have a good site line and is a cow path. Ms. Balzano is concerned with safety on the street and she said that when patrons are leaving Side Street Cafe a hazard is created because they do not always walk well.

Ms. Sarah Clark, 4032 Whitney Avenue asked if the Public Hearing will be continued to the next P&Z meeting and if the public would be allowed to speak then. Ms. Altman stated that the public would be allowed to speak and that they can review the application at the Planning & Zoning Office. Ms. Altman asked Mr. Pellegrino to send the submitted exhibits to Mr. Kops as PDF's.

Ms. Eva Szigeti, 15 Murlyn Road, addressed the Commission and asked which commercial properties were established prior to the zoning map being amended and which were non-conforming. She also asked if the request to amend the map was initiated by the owner of Side Street Cafe and if he owns the parcel across the street. Ms. Szigeti is concerned with the noise, trash and traffic. She asked why some properties were split when the zoning map was amended in 2010. Ms. Szigeti feels that Murlyn Road cannot handle any additional traffic. She would like to see what the zoning was prior to and after the zoning map was amended. Ms. Szigeti asked when the next meeting would be and the clerk replied September 27, 2012.

Ms. Kozak stated that what people do not know is what bothers them. She has spoken with many residents who are asking what will be done or what the applicant's intentions are. Ms. Altman stated that the Commission is unable to predict this.

Ms. Leslie Creane, Town Planner, explained what the intent of T-1, T-3 and T-4 zones are. She said that a list of what can be built on the properties in question can be reviewed in Table 6.1 of the zoning regulations. Ms. Creane stated that the owner of a property is responsible for keeping it clean. Complaints about litter can be placed through the Planning Office. An applicant may be required to do a traffic report if there are concerns when proposing a change to a site. Anyone is allowed to park in legal on-street spaces. Concerns regarding parking on the street are a police matter. Ms. Creane said the Cease & Desist Order issued to Side Street Cafe may no longer be an issue because of the amendments to the zoning regulations. She also explained that any noise issue is a police matter. Ms. Creane discussed split zones. She said that the Planning Office can meet with residents who would like an explanation of changes in the zoning regulations and the zoning maps.

Mr. Dan Kops, Assistant Town Planner, explained that the zoning designations for the proposed properties were B-1 (business zone) prior to the zoning map being amended and became effective in 2010. He was unsure of what the property located on Murlyn Road was zoned prior to the zoning map being amended. Mr. Kops' reviewed the proposed properties, and the proposed zones which would make non-conforming properties conforming. Ms. Altman stated that Mr. Kops' report outlines the uses of the properties and she explained his comments are available in the Planning Office.

Mr. Pellegrino explained that five of the seven proposed properties were rendered non-conforming when the properties became split zoned in 2010 when the new zoning map took effect. The request to amend the zoning map includes the Tabor Street site. Mr. Pellegrino stated that he has spoken to the owners of the properties involved. He feels that by correcting the non-conformity at 29 Tabor Street it will result in its rehabilitation from a cleanliness standpoint and will be a benefit. There is no proposed building. Mr. Pellegrino understands that a portion of Dickerman Street is difficult, but the focus is on the Whitney Avenue side of the street. Mr. Pellegrino's client does not own the large site (previously Parva Buckle Company) across from the Side Street Cafe. The goal of the zoning regulations and map, and the roll of Planning and Zoning is to attempt to eliminate non-conformities and split zones. Most of the sites that were rendered non-conforming with the map amendment would be set up in a linear fashion with this proposed amendment.

Ms. Mastropetre asked if all the property owners have been notified of the proposed zone changes to their properties, and if they have responded to the changes. Mr. Pellegrino replied that letters were sent to the property owners after the application was filed. He has heard back from three out of the five property owners and they had no objections. Mr. Pellegrino did not receive a response from the owner of 35 Murlyn Street or the Parva site.

Ms. Altman asked that any correspondence from the property owners be submitted. Mr. Pellegrino stated that he will submit the correspondence.

Mr. Hul asked staff if a site is currently non-conforming to the zoning regulations is it grandfathered, and if it is non-conforming does it have any impact on the site. Mr. Kops replied if a use was conforming and because the zoning regulations changed it would be protected as a non-conforming use, and would be legally protected. Any subsequent changes to the site that expanded a non-conformity would require the owner to change the zoning regulation, the zone or receive a variance. As an example he referred to a change done where the business Thyme & Season is located in a split zone.

Mr. Hul asked Mr. Pellegrino to explain his comment that the proposed zone change would contribute to the cleanliness of the area. Mr. Pellegrino explained that he was referring to 29 Tabor Street which is a commercial property and the applicant would like to do things to clean up the site and protect the visual appearance of the site. Because of the non-conforming status of the site there are road blocks to doing the work. To cover the equipment located outside on the site would require a special permit and is not a permitted use in the T-3 zone but would be allowed in a T-4 zone. Mr. Hul asked if the Commission would have the authority to allow the changes on the

property if an application were to be submitted, and Mr. Pellegrino said a variance would be needed. Mr. Pellegrino said that if a property is currently non-conforming and is destroyed more than 50 percent there would be limitations preventing rebuilding and a property owner would have trouble when securing finance if the property were non-conforming. The non-conforming status can protect what exists but can cause difficulties if there is damage, getting financing or changing the use of a property. Mr. Pellegrino stated that the intent of the Whitney Avenue corridor in Mount Carmel when being re-zoned was to promote potential reuse, continued use or the redevelopment of this section when conforming with the new regulations. The split zone inhibits the intent of the amended zoning regulations.

Ms. Altman asked how the properties in the proposed application became involved. Mr. Pellegrino stated that his client Mr. DeNicola was the only person he had spoken to. However in the course of the analysis of the area it was noticed that other parcels were split zone parcels or rendered non-conforming and had similar issues. Ms. Altman said that the other property owners that are part of the application were not present at this meeting. Mr. Pellegrino said when he had spoken to three of the property owners involved they asked if it would cost them money, and when Mr. Pellegrino advised them no he was thanked.

Ms. Lisa Audette-Bova, 32 Glenham Road, addressed the Commission and stated that she represents the Investment Ten Corporation, 2974 Whitney Avenue. Ms. Audette-Bova explained that she did not respond to Mr. Pellegrino's letter because it was sent to the past board members and she had just received the mailing. Ms. Audette-Bove asked that she be allowed time to review the application. Ms. Altman asked Ms. Audette-Bova if the application was initiated in any way by the board that represents her property and Ms. Audette-Bova replied no.

Ms. Mastropetre asked if it is common practice for an applicant to include other parcels to its request. Mr. Kops said it has happened and when reviewing this request it was realized that other properties in the vicinity were split zoned. This application is an attempt to remedy the split zones and the State Statutes frown upon spot zoning. Mr. Kops explained that when the B-1 zone was changed it included commercial properties and residential properties, so that this request to include the proposed properties makes sense.

Ms. Creane stated that she understands the concerns of the residents in the area. Her prior comments were not meant to ignore the concerns of the residents, but to try and explain the proper authorities that could address their concerns.

Ms. Altman explained that the Planning & Zoning Commission cannot consider the impact on behavior or taxes. The Commission can consider the impact of traffic, but cannot regulate traffic or where people are parking.

Ms. Altman advised that the information presented at this meeting can be accessed through the Planning and Zoning Department.

Mr. Marottoli asked Mr. Kops if his example of Thyme and Season was a B-1 one zone prior to the zoning amendments and Mr. Kops replied yes. Mr. Kops reviewed the process that was used when the zoning regulations and maps were being amended and he said that there were some split zoned properties that fell through the cracks.

Ms. Mastropetre asked if only one of the proposed properties is a split zone. Mr. Kops explained there were several properties that are currently split zoned.

Ms. Altman asked for a motion to continue the Public Hearing until the September 27, 2012 meeting.

Mr. Poitier made the motion to continue the Public Hearing for Application 12-929 until the September 27, 2012 meeting. Mr. Campo seconded the motion. The motion passed unanimously.

2. Special Permit & Site Plan 12-1202/WS
75, 81 & 87 Benham St. R-4 Zone
Place of Worship

Bernard Pellegrino, Applicant
Deadline to open Public Hearing 11/3/12

Postponed at the applicant's request until the October 9, 2012 Meeting

B. Regular Meeting

1. Proposed Amendment to the Hamden Zoning Map 12-929

29 Tabor St, 15 Dickerman St, 35 Murlyn St, 2974, 3000, 3040, 3014 Whitney Avenue
 Change Zones from T-3 to T-4 & T-1
 File available for review in the Planning Office & the Office of the Town Clerk
 Bernard Pellegrino, Applicant
Deadline to open Public Hearing 11/3/12

Tabled

2. Special Permit & Site Plan 12-1202/WS

75, 81 & 87 Benham St. R-4 Zone
 Place of Worship
 Bernard Pellegrino, Applicant

Postponed at the applicant's request

3. Special Permit & Site Plan 03-999

20 & 36 Todd Street
 Request to call bond
 Ravenswood Construction, Applicant

Postponed

C. Old Business/ New Business

Ms. Altman stated that the next Planning & Zoning Meeting will be held on Thursday, September 27, 2012

1. Review minutes of July 24, 2012

Mr. Hul asked that condition 1.b.vi be amended for Special Permit & Site Plan 12-1203 to read "A dumpster be placed on a cement pad, bermed on three sides by a six inch curbing of asphalt and screened from view on four sides.

He also asked that the motion for Site Plan 12-1478 where it says "Mr. Lee" be changed to read "Mr. Campo".

Mr. Hul submitted typographical errors to the clerk.

Ms. Altman asked that on page 6, paragraph 6, 2nd sentence, should be amended to read "can address".

Ms. Mastropetre asked that on page 7, the motion for Application 12-928 be changed to reflect she only voted once.

Ms. Mastropetre made the motion to approve the minutes of the July 24, 2012 meeting as amended. Mr. Campo seconded the motion. Ms. Altman, Mr. Campo, Mr. Poitier, Ms. Mastropetre, Mr. Roscow, Mr. Cesare, Mr. Hul and Mr. Reynolds voted in favor of the motion. Therefore, the motion passed.

2. Minor Amendment – 1199 Whitney Avenue

Ms. Leslie Creane, Town Planner reviewed the application and advised the Commission that she had signed it.

D. Adjournment

Ms. Mastropetre made the motion to adjourn. Mr. Roscow seconded the motion. The motion passed unanimously. There was no further discussion.

The meeting adjourned at 8:21 p.m.

Submitted by: _____
Stacy Shellard, Clerk of the Commission