



TOWN OF LEDYARD

Planning & Zoning Commission

Meeting Minutes - Draft Minutes

741 Colonel Ledyard Highway
Ledyard, Connecticut 06339

Chairman
Tony Capon

Special Meeting

Thursday, May 30, 2024

6:00 PM

Council Chambers - Hybrid Format

REMOTE MEETING INFORMATION

Join Zoom Meeting

<https://us06web.zoom.us/j/86895912518?pwd=HGjdtUIe9JRMWtLvc31jLnle5CruQ.1>

Meeting ID: 868 9591 2518

Passcode: 909318

I. CALL TO ORDER

Chairman Capon called the Planning and Zoning Commission Special Meeting to order at 6:00 PM at the Council Chambers, Town Hall Annex Building. The meeting was hybrid with some attending in person and others via zoom.

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL APPOINTMENT OF ALTERNATES

Present Commissioner Marcelle Wood
Chairman Tony Capon
Vice Chair Paul Whitescarver
Commissioner Howard Craig
Commissioner Jessica Cobb

Non-voting Alternate Member Matthew Miello
Alternate Member Beth E. Ribe

In addition, the following were present:

Elizabeth Burdick - Director of Land Use

Alex Samalot - Zoning Enforcement Official

Yaasmiyn Gonzalez - Land Use Assistant

IV. OLD BUSINESS

- A.** PZ#24-1SITE - 59 Kings Highway (Parcel ID: 92-1160-59), Gales Ferry, CT
-Applicant/Agent, Peter C. Gardner, Attorney, Mark Branse, Halloran & Sage - Owner: Donco, LLC for a 10-unit Mobile Home Park/Affordable Housing Development in accordance with CGS §8-30g. (Submitted 03-26-24, Date of Receipt 04-11-24, Tabled to

5/30/24 Spec. Mtng, Tabled to 6/13/24 Reg. Mtng, DRD 6-14-24)

Chairman Capon announced that due to possible conflict of interest he is recusing himself from further participation in Agenda Item 4A PZ#24-1SITE; Yields the chair to Vice Chairman Whitescarver.

Vice-Chairman Whitescarver asked Director Burdick for an update on PZ#24-1SITE. Director Burdick stated that she recommended the Application be postponed to the June 13, 2024 regular PZC meeting as meeting materials were not able to be posted to the Town website for Commissioners to view in time for the meeting & that many of the file documents had come in during the week. She stated that she communicated same with the same attorney of the Applicant, Mark Branse of Halloran & Sage and he agreed.

Vice-Chairman Paul Whitescarver tabled the application, PZ#24-1SITE to the June 13, 2024 regular meeting of the PZC to be held at Town Hall Annex.

RESULT: TABLED

V. PUBLIC HEARINGS/APPLICATIONS

- A. Public Hearing: PZ#24-2RESUB - 96, 98, and 100 Stoddards Wharf Rd., Ledyard, CT
Agent: Harry Heller, Esq. Heller, Heller & McCoy - Applicant/Owner: Avery Brook Homes, LLC, for an 18-Lot Resubdivision/Affordable Housing Development pursuant to CGS §8-30g. (Submitted 03-28-24, Date of Receipt 04-11-24, PH set for 05-09-24)

Chairman Capon opened the public hearing and stated for the record that Attorney Harry Heller of Heller, Heller & McCoy was in attendance on behalf of the Applicant and that Attorney Steven Studer may be in attendance via ZOOM. Chairman Capon outlined the process for the hearing. Chairman Capon reminded the public that they would be commenting on an incomplete application and there will be opportunity to comment at the next public hearing.

Director Burdick addressed the Commission and stated that she is currently in the process of reviewing all the file documents to provide a staff report to the Commission and that she was awaiting Town staff reports from the Town Engineer as well as a report from the Connecticut Department of Public Health. Director Burdick asked Attorney Heller to address the Commission to clarify additional information required to complete the staff reports.

Attorney Harry Heller of Heller, Heller & McCoy, 736 Norwich-New London Turnpike, Uncasville, CT addressed the Commission on behalf of the Applicant, Avery Brook Homes, LLC. He stated that Avery Brook Homes is proposing an 18-lot Resubdivision under the CT Affordable Housing Act, C.G.S. §8-30g on three parcels of land located at 96, 98 & 100 Stoddards Wharf Road (CT Route 214).

Attorney Heller stated under the Connecticut Affordable Housing Appeal Act, bulk

parameters of the zoning regulations and subdivision regulations are not allowed to be taken into consideration by Commission. The Affordable Housing Appeals Act allows Commissions to consider matters that affect public health and safety. Attorney Heller discussed the Affordable Housing Appeals Act under C.G.S. §8-30g adapted in 1989 in response to a Blue-Ribbon Commission Investigation on the availability of affordable housing in the State of Connecticut. Attorney Heller discussed that under The Affordable Housing Appeals Act - CGS §8-30g a developer is given a density bonus if at least 30% of the housing units are deemed affordable by way of the Affordability Plan submitted for the record by a 40-year deed restriction on the units and discussed formulas for rentals v. purchases.

Attorney Heller discussed the affordability plan prepared in March 2024 for the development. The lower median income for the region at that time of preparation was \$112,300. The maximum sale price for 15% of the units sold to a qualifying buyer at 60% or lower of the region's median income would be \$239,250, roughly \$200,000 less than the average sale price for a home in Ledyard. Another 15% that constitutes the 30% of the affordable homes sold to qualifying buyers between 60% and 80% of the region's median income would be \$316,875. Attorney Heller stated that any municipality in CT having less than 10% of its housing stock in affordable housing is subject to the Affordable Housing Appeals Act.

Attorney Heller added that affordability is largely obtained by increasing density and decreasing lot size. He said that 30% of the homes in the development may not seem significant, but the ability for someone to buy a home in the \$200,000 range is very significant to someone who otherwise would not be able to have the opportunity to enjoy homeownership.

Attorney Heller stated under the Affordable Housing Appeals Act, a Commission must justify the reasons for a denial of an affordable housing application or substantial modification to the application which comprises the affordability of the project itself. Attorney Heller went on to share that under the Affordable Housing Appeals Act, the burden is shifted to the Commission to show that there is not sufficient evidence in the records to support the denial or modification. Attorney Heller discussed the definition of "sufficient" and "substantial" as it pertains to the law in the affordable housing context. Attorney Heller stated sufficient evidence as enunciated in the case law means something more than a mere possibility of an adverse impact to a health or safety issue or another matter that is legally permissible to be considered by the Commission in adjudicating an application but is less than a preponderance of the evidence which would be the standard in a typical civil trial.

Attorney Heller also addressed Groton Utilities' intervening status in the proceedings as it pertains to the water shed. Attorney Heller submitted for the record, that protection of the water shed is a legally permissible consideration for the Commission. Attorney Heller stated the evidence submitted will be clear that the concerns of Groton Utilities will be a mere

possibility of an adverse effect on the water shed. Attorney Heller added if a determination is made to deny or modify the application to protect substantial public interest and health safety, it must also determine the decision clearly outweighs the need for affordable housing in the Town of Ledyard and that the public interest that have been enunciated as a justification for a denial or modification cannot be protected by reasonable changes to the proposed affordable housing development. This is the legal framework under which the applicant will be operating in this proceeding.

Attorney Heller presented select pages from the Resubdivision plan that was submitted with application showing three properties owned by Avery Brook Homes LLC, lots 96, 98, and 100 Stoddards Wharf Road as a part of the application. Attorney Heller discussed the various soils found on the properties. This area of town does not use municipal water and sewer and project proposes the installation of onsite portable water supply wells as well as onsite subsurface sewage disposal systems. Attorney Heller referenced an exhibit from Ledge Light Health District indicating that all of the proposed lots are suitable for the installation of the subsurface sewage disposal systems that can comply with soil characteristics and separating distances from other wells and septic systems with the requirements of the CT Public Health Code.

Attorney Heller shared the lot development plan for the subdivision. Sheet 3 of the plan is the lot development showing design of the project proposing access with a road to be dedicated as a Town Road Avery Court that will extend northerly from its intersection with Stoddards Wharf Rd in order to provide access to the proposed 18 lots in the resubdivision. Attorney Heller shared plans for storm water to be picked up in a closed drainage system. Attorney Heller referenced a report submitted by LBM Engineering demonstrating compliance with the Storm Water Management Ordinance for the Town of Ledyard as well as demonstrates compliance with the 2004 Connecticut Storm Water Quality Manual.

Attorney Heller introduced two new exhibits into the record and stated he would provide them to Attorney Studer. Exhibits introduced include Exhibit 34-24RESUB TwnLedyardResWaterUsage2024 Rec 053024 a partial print out of water usage in the Town of Ledyard from homes that are on public water supply, and Exhibit 35-24RESUB GPU WaterSystemMasterPlan LanduseWtrshds Rec 05302024 a Plan of the City of Groton Water Shed Lands in the Town of Ledyard.

Attorney Heller discussed concerns regarding pollutant run off from the proposed Avery Court road.

Peter Gardner- 1641 Rt 12 Gales Ferry, briefly assisted in identifying the location of Morgan Pond Reservoir on the Plan of the City of Groton Water Shed Lands.

Peter Gelderman- Law Firm of Birch and Moses 75 Broad St Milford, who is Attorney Studer's partner, stated Attorney Studer was unable to attend meeting and deferring to the next meeting with the intent to respond to Attorney Heller and the Commission once all of the evidence is submitted by Attorney Heller.

Chairman Capon reiterated that the answer to the question of whether Groton Utilities wanted to present their evidence, is they will once the all of the information is available.

Chairman Capon opened the meeting to public comment.

Randy Palmer- 101 Stoddard's Wharf Rd of Ledyard, stated he is familiar with Sandy Hollow Rd, and he encourages to take a look to see how many houses are there and how many people are fertilizing their lawns and this is what Groton Utilities "brought up last time."

Eric Treaster- 10 Huntington Way of Ledyard, stated he submitted an exhibit to the record and unsure if applicant has read it. It consists of several questions that he is hoping can be addressed by the applicant. He directed a question to Attorney Heller with the concern of gravel driveways and whether it would prohibit the homeowner from paving their driveways. Attorney Heller answered that there would be restrictive covenance that would prohibit paving. Mr. Treaster also asked Attorney Heller what the significance of the required Affordable Housing Plan is. Chairman Capon interjected and reminded Mr. Treaster that concerns and questions should be addressed to the Commission and not to the Attorney and that the Attorney can answer during the next meeting if he so chooses. Mr. Treaster expressed his concern for the electric bill cost and insurance cost difference between an affordable home, a 60% home, 80% home, and market rate home.

Director Burdick confirmed Eric Treaster's comments were received May 8, 2024 and forwarded at that time, to Attorney Heller and the Applicant.

Attorney Heller requested the hearing be continued to June 13, 2024 and also stated that if they did not get the Angus McDonald Gary Sharp Pollution Renovation Analysis to Attorney Studdard with enough time for their firm to review, that they would consent to an extension to the July meeting.

MOTION to continue the public hearing to June 13,2024 at 6:00PM at the Town Hall Annex Building and Zoom.

RESULT: APPROVED AND SO DECLARED

MOVER: Tony Capon

SECONDER: Howard Craig

AYE: 5 Wood, Capon, Whitescarver, Craig, and Cobb

- B. Discussion & Decision: PZ#24-2RESUB - 96, 98 and 100 Stoddards Wharf Rd., Ledyard, CT Agent: Harry Heller, Esq. Heller, Heller & McCoy - Application/Owner: Avery Brook Home, LLC, for an 18-Lot Resubdivision/Affordable Housing Development pursuant to CGS §8-30g. (Submitted 03.28-24, Date of Receipt 04-11-24, PH set for 05-9-24).

RESULT: POSTPONED

Chairman Capon noted informally that Commission has received a letter dated May 24, 2024 from Attorney Heller withdrawing applications PZ#24-3SUB & PZ#24-4CAM 1736 & 1761 Rt. 12. The letter could not be incorporated into the record due to this being a Special Meeting but will do so at the June 13, 2024 PZC regular meeting.

VI. ADJOURNMENT

Without objection the meeting adjourned at 6:49 p.m.

DISCLAIMER: Although we try to be timely and accurate these are not official records of the Town.