

MINUTES
PLANNING COMMISSION SPECIAL MEETING
OCTOBER 15, 2009 – 7:00 P.M.
TOWN HALL ANNEX – COMMUNITY ROOM 2

I. ROLL CALL

Regular members present: Pritchard, Roper, Sherrard, Steinfeld
Alternate members present: Zod, Kane (left at 9:15)
Absent: Fitzgerald, Munn
Staff present: Murphy, Davis, Carey, Doolittle

Chairman Sherrard opened the meeting with roll call at 7:03 p.m.

II. ITEMS OF BUSINESS

1. Mystic River Residential Care, 12, 14, 16 Godfrey Street

Chairman Sherrard stated that the voting members for this application will be: Steinfeld, Roper, Pritchard, Sherrard and Zod, with Kane as an alternate.

Michael Carey, Town Attorney, discussed the accommodations that the applicant has asked for relating to buildings with non conforming uses. He suggested that the Commission consider voting on the different elements of the reasonable accommodation request specifically, does the applicant represent qualified individuals under ADA and is each request for reasonable accommodation both reasonable and necessary. He gave examples of similar cases relating to “necessary and reasonable” to help the Commission in their analysis.

Staff discussed previous applications denied by the Zoning Board of Appeals based on lot coverage and set back requirements.

The Commission and Attorney Carey discussed how zoning regulations would impact this application if it were a non ADA residential life care facility.

The Commission asked the Town Attorney for his opinion of what type of use this actually is. Attorney Carey responded that the use does not fall under any of the permitted use categories and therefore it is non-conforming and is being held to the bulk and dimensional standards that would generally apply to other like uses in this zone. He also suggested that the Commission apply such site plan regulations to the proposal only after ruling on the reasonable accommodation request.

The Commission also questioned who had the burden of proof in deciding if this plan is the only way the reasonable accommodation could be requested. Attorney Carey explained that the applicant does not have to demonstrate that this is the only way this can be done, and that the Commission is entitled to explore alternatives that may be better, or suggest modifications to what’s proposed to obtain an equally beneficial or better solution to meet the Commission’s requirements. Attorney Carey stated that burden of proof is on the applicant to prove that the residents are “qualified individuals,” that the request is “necessary” and “reasonable.”

The Commission discussed various options with respect to potential draft motions and directed staff to draft motions consistent with the guidance and suggestions provided by the Town Attorney, and limited at this time to the issues of qualification of the residents, and the necessary and reasonable finding.

Chairman Sherrard called for a recess at 8:07 pm for this purpose. The Commission reconvened at 8:24 pm.

MOTION: The Planning Commission finds that the applicant is acting on behalf of qualified disabled individuals per the Fair Housing Act and the Americans with Disabilities Act.

Motion made by Sherrard, seconded by Pritchard, so voted unanimously.

The Commission questioned if the application is approved, does this require the applicant to stay with the current use. Attorney Carey answered that yes, if they wish to change the use of the facility a new or modified special permit would be required.

MOTION: Mystic River Residential Care, 14 Godfrey Street, the Planning Commission finds that the proposed reasonable accommodation to section 8.6-2 (A) is reasonable and necessary, reserving the right to deny or modify the site plan application on compliance with the applicable zoning regulations.

Motion made by Sherrard, seconded by Pritchard, so voted unanimously.

MOTION: Mystic River Residential Care, 12, 14, 16 Godfrey Street, the Planning Commission finds that the proposed reasonable accommodations to section 8.6-2 (B) for 12, 14 and 16 Godfrey Street are reasonable and necessary, reserving the right to deny or modify the site plan application based on compliance with the applicable zoning regulations.

Motion made by Sherrard, seconded by Steinford, so voted unanimously.

Having rendered decisions on the initial “findings,” the Commission turned its discussion to the “site plan” and related zoning regulations.

The Commission questioned the building configuration and inquired if there are any functional reasons why this building footprint could not be changed in order to address the issues raised. The Owner responded that the building configuration is based on State health requirements that residents continue to live in their home during construction and that this requires the building to be extended east, then north, but only after getting past the existing building.

The Commission discussed screening and landscaping, parking, staffing, moving the dumpster and generator away from the abutting property, paper street maintenance and snow plowing, and certain operational limitations intended to address abutter concerns.

The Commission directed staff to prepare and provide a draft motion for their consideration regarding the site plan.

Chairman Sherrard called for a recess at 10:09 pm for this purpose. The Commission reconvened at 10:42 pm.

The Commission and staff discussed and revised the draft motion. The Commission felt that two items could be addressed as technical items by staff including

that trees be at least 3” in caliper and that a “bike rack” be provided on site for the residents, staff and patrons of the facility.

MOTION: To approve site plan application #09-09, Mystic River Residential Care, 12, 14 & 16 Godfrey Street, with the following modifications to the plans:

1. Add one parking stall at the northerly end of the proposed parking area, and increase the depth of all parking stalls to a minimum of twenty feet.
2. Provide a portico, awning or some similar treatment at the two access doors on the easterly building fascia and the one on the south building fascia.
3. Provide a coordinated landscape plan, to be approved by the Director of OPDS, for the southerly area between the building front and the street, to include additional deciduous and evergreen plantings, a landscaped berm or berms and tall evergreen plantings at the southeast portion, in order to break up the visual mass and extensive horizontal plane of this elevation.
4. Provide in plan view and construction details, a fifty-foot long decorative masonry sound attenuation wall along the easterly side of the delivery driveway and extending northerly to enclose the proposed refuse dumpster area of #12 Godfrey, including necessary adjustments to the proposed landscaping in this general area, to be approved by the Director of OPDS.
5. Provide a note on the plan that the applicant shall be responsible for the maintenance of and snow removal on the proposed access drive to be located within the Town’s right of way.
6. Provide an access easement to the Town of Groton for that portion of the site driveway that extends onto the southwest front portion of #14 Godfrey Street, in a form acceptable to the Town Attorney prior to the recording of the plan in land records.
7. The emergency generator shall be enclosed within a sound attenuation structure, to be approved by the Director of OPDS, and testing will be limited to the frequency and times of day as noted in the application record.
8. Provide a note on the plan that the applicant shall in good faith attempt to arrange refuse pickup between the hours of 10:00 am and 5:00 pm and provide written evidence to the Director of OPDS of this request prior to the issuance of a zoning permit.
9. Provide a note on the plan that the frequency and time of deliveries shall comply with the application record.

10. Provide a note on the plan that #12, #14 and #16 Godfrey shall be legally merged by single deed and legal description, duly executed and recorded in the Land Evidence Records of the Town of Groton, prior to the issuance of a zoning permit.
11. Provide a note on the plan that the number of residents shall be limited to 25 and that all residents shall at all times be “qualified” as that term is defined by the FHA and/or ADA, and that the residents shall be limited to persons who comply with these definitions.
12. Revise note 19 on the plans to indicate that the improvements shall comply with the architectural plans of record and that any changes or deviations shall require prior approval by the Planning Commission.
13. Provide a note indicating that the applicant shall provide an erosion control surety in an amount and form to be approved by the Town Attorney prior to the recording of the plan in land records.
14. Provide a note indicating that the parking requirement shall be reviewed after one year following the issuance of a final certificate of occupancy and if it is determined that additional parking is necessary, the Commission reserves the right to require such parking at that time.
15. Technical items raised by staff shall be addressed.

Motion made by Roper to modify bulk of building towards Godfrey Street, no second.

Motion made by Sherrard, seconded by Pritchard, motion passed 4-1 (Roper opposed).

Commissioner Roper explained that his opposition was not to the use, but based on his opinion that had the Commission, neighbors and applicant been given more time, a better design could have been developed that was more consistent with the neighborhood.

III. ADJOURNMENT

Motion to adjourn at 11:28 p.m. made by Sherrard, seconded by Pritchard, so voted unanimously.

Jeffrey Pritchard, Secretary
Planning Commission

Prepared by Katie Doolittle
Office Assistant II