

ZONING BOARD OF APPEALS
MINUTES
MARCH 11, 2015
TOWN HALL ANNEX – COMMUNITY ROOM 1

Chairman Stebbins called the meeting to order at 7:00 p.m.

I. ROLL CALL

Present: Kravits, Mencer, Stebbins, Manning, Russotto
Absent: Grady
Staff: Cullen, Quinn, Reiner, Town Attorney Michael Carey, Special Counsel Edward O'Connell, Gilot

II. PUBLIC HEARINGS

Chairman Stebbins reviewed the public hearing procedures. The Chairman gave a statement that the Board will not accept, allow, consider, tolerate or sympathize with insensitive, prejudicial or similar comments by anyone about the subject matter or persons associated with any matter or application before it for its consideration, whether such comments are oral or written, or made from the audience or the microphone.

1. ZBA#15-01 – 40 High Rock Road, Bright Horizons Children Centers LLC/Owner, Stonington Behavioral Health, Inc./Applicant, Brian Smith, Robinson & Cole/Applicant's Agent, for an appeal to the determination letter issued December 23, 2014 by the Manager of Inspection Services that the proposed use does not constitute a hotel/motel under any section of the Zoning Regulations. PIN #169809055861, Office Multi-Family Zone

Secretary Manning read the call of the hearing. It was noted that all mailings had been received and found to be in order.

Brian Smith, Robinson & Cole, 20 Trumbull Street, Hartford, represented the applicant, Bill Aniskovitch of Stonington Behavioral Health and also introduced his associate, Linnea McCaffery from Robinson & Cole.

The Chairman explained that the Board would hear testimony for the appeal first, and testimony for the variance would be heard separately, if needed.

Mr. Bill Aniskovitch, CEO of Stonington Behavioral Health, 75 Swantown Hill Road North Stonington, spoke about the appeal. Mr. Aniskovitch explained the history and the clientele of the institute. The institute has an outpatient program at 618 Poquonnock Road. Mr. Aniskovitch applied to convert the former Pfizer daycare center to The High Rock Inn, which would allow patients of the instituted to stay while in the rehabilitation program. The applicant requested reasonable accommodation. The clients who choose to stay would pay room and board of \$50 per day, with an average stay of 15 – 45 days, providing lodging, meals to transients, for compensation, as defined in the town's zoning regulations. A rooming house is defined as less than 12 people in the town's regulations; more than 12 would be a hotel/motel. Mr. Aniskovitch provided three letters of support to Secretary Manning and also stated that on Wednesday night,

Pastor Andy, of the Lutheran Church adjacent to the daycare center, said the church's council voted to support the proposed use. The pastor was not able to attend this meeting.

Attorney Smith said hotel/motel is the most appropriate use. The institute would provide lodging for compensation for 12 or more, for the accommodation of transients. Their proposal meets all the criteria; the average stay would be 28 days, meals provided, with compensation, and the average number of people would be more than 12. The applicants applied to change the use from daycare to hotel/motel, which is a use allowed in the OMF zone. No reason for the denial was provided by the Zoning Official. The applicant's request is to overturn the decision of the Zoning Official, based on the interpretation of the regulation and past practice by the Town. He stated that Fellowship House, which is a similar use, was characterized as a rooming house because it houses less than 12.

Mr. Smith said there are several zoning letters of compliance, dating from as far back as 1990, in the records to confirm that the town recognized the Fellowship House as a rooming house. Zoning compliance letters were provided in the exhibit. The zoning regulations define a rooming or boarding house as accommodations for 12 or less, and a hotel for over 12. The Fellowship House is not open for public accommodation – residents must be in the program; they are considered a transient population. The Stonington Behavioral Institute is considered a protected class, and must be reasonably accommodated.

Mr. Smith distributed an exhibit (4) with various surrounding towns' definition of hotel, motel, transient and rooming/boarding house.

Mr. Smith also distributed a memorandum of law (Exhibit 5) and discussed the memorandum, his legal basis for the appeal.

The Chairman asked about the Serenity Lodge, and asked see how this can be considered a hotel, since it was a daycare. Mr. Aniskovitch said an application was submitted to change the use to a hotel and renovate the building. It does not need to be a pre-existing hotel; it would be serving a protected class and not for public accommodation.

Attorney Michael Carey, Suisman Shapiro, Union Street, New London, represented Kevin Quinn, the Zoning Official for the Town.

Mr. Carey questioned Mr. Aniskovich about the Stonington Institute's application to Waterford in 2013, to convert a former nursing home on Rope Ferry Road to a congregate facility. The residents of the Waterford would be transferred to the Groton site for treatment. The charge would be \$50 per week. Waterford involved a higher degree of structure. The Institute also applied to convert the former Tamarack Lodge in Voluntown for the same use.

Residents would not be allowed to have cars or cell phones, but phones used to call out and in would be provided in the rooms. All residents must be participating in the Stonington Institute program. The ratio of staff to residents would be about 1:10 to 1:15. Staffing would depend on occupancy. Staff would manage the building, staff the kitchen, front desk coordinators, take care of paperwork, and collect the charges. There would be no security staff. A set visitation schedule would be set. All visits would be on-site. Currently Stonington Institute owns 11 individual houses in New London, Waterford, Griswold and Norwich; a mix of single-family, multi-family,

rooming houses, apartments, and condos. It would not be an Oxford House. Some of the current houses are staffed, some are not. Transportation is provided from the residences to the hospital site. The residents of the High Rock Inn would be able to walk, unless the weather was inclement. There would be televisions in the common areas, and residents would have access to computers in a computer area. Lights would be out at 11. The check-in and discharge procedures were reviewed. Transportation would be provided if someone wanted to leave the program early. There would only be a front and a back external door, and they would be staffed. Mr. Aniskovich detailed the arrangement of the pods, cafeteria, cooking arrangements, laundry and cleaning services. The residents cook themselves in all of the other houses. The institute provides food and menus, but the residents cook. The High Rock Inn would have a cafeteria space. Individual residents bring clothing, reading materials, religious items, whatever they would need to learn to lead a sober life. Mr. Aniskovich said he is not aware of any of this type of facility in the area.

Chairman Stebbins opened the floor to comments from public in favor or against the Zoning Official's decision.

The following residents spoke in favor of the Zoning Official's decision:

Larry Tassone, 107 Johl Drive and George Avenue

Pete Reynolds, 48 Johl Drive

Greg Cebriwsky, 40 Johl Drive

Aimee Porazzi, 48 Johl Drive

Lorraine Conwell, 26 Johl Drive

Tom Frattali, 63 Johl Drive

Florence Tassone, 107 Johl Drive

The Chairman asked for any comments not in favor of the Zoning Official's decision. The following residents spoke in favor of the proposed use.

Bob Martin, 56 Indian Field Road

Raj Patel, 580 Poquonnock Road

Fritz Poppe, 21 Westwood Drive, Faith Lutheran, had no comment on the decision, but stated that the church supports any organization that helps other people with their problems.

Secretary Manning read three letters in favor of the applicant into the record.

- Joyce Olsen Resnikoff & Chris Regan Sr., MALL Inc., P.O. Box 176, Mystic CT
- Neil Ryan, Track Realty, 220 Route 12 Suite #4, Groton, CT
- Scott Gladstone, Freehold Real Estate Management, P.O. Box 577, Gales Ferry, CT

Kevin Quinn, Manager of Inspection Services and Zoning Official for the Town of Groton, distributed an exhibit, "Description of the Proposed Use". Based on the criteria described by the applicant, residents would not be allowed to have cars, group sleeping accommodations, not open to public, and must meet certain and specific criteria to stay. Mr. Quinn said the applicant has argued in court that occupants are not transient. Mr. Quinn discussed the use groups from the State building code, Section 310, Code Table 1004.1. In his opinion the occupant loads and calculations provided by the applicant with their application are not consistent and appear to meet the definition of a dormitory, not a hotel.

Attorney Smith said he has asked the basis for Mr. Quinn's denial in his letter of December 2014 and he had not heard these reasons prior to this hearing. Mr. Smith asked Quinn several questions about Fellowship House. Mr. Quinn stated that he does not feel he has the right to determine reasonable accommodation, that only a commission has the right to grant this.

The Board discussed the definition of hotel in the regulations, the medical treatment provided for the residents, public accommodation, reimbursement rates, and differentiation between hotel and rooming house.

Mr. Aniskovich discussed the treatment programs and length of stay which is determined by clinical objectives and the insurance company.

Staff entered the following items into the record:

- Stonington Institute website
- Staff Report included in the Board's agenda packet
- Reasonable accommodation 3 part test, Treasure Island (a case provided to Board in agenda packet).

Attorney Carey asked the Chairman to leave the hearing open to allow everyone time to read the material distributed by various parties tonight, and said there may also be other witnesses.

Carey said the Building Official does not have to give reasons for denial of a zoning permit.

The public hearing was continued to March 25, 2015.

Chairman Stebbins advised the public that there would not be any decision made tonight on either of the applications.

A member of the public asked if the neighbors could get their own attorney. The Chairman said yes.

2. ZBA#15-02 - 40 High Rock Road, Bright Horizons Children Centers LLC/Owner, Stonington Behavioral Health, Inc./Applicant, Brian Smith, Robinson & Cole/Applicant's Agent, for a variance to Section 2 (Definitions) for a use variance to permit a living accommodation for addiction disabled individuals consistent with the definition of Hotel/Motel. PIN #169809055861, Office Multi-Family Zone (Coastal Area Management)

Secretary Manning read the call of the hearing. It was noted that all mailings had been reviewed and found to be in order.

MOTION: To continue the public hearing to the next regular meeting on March 25, 2015.

Motion made by Russotto, seconded by Manning; so voted unanimously.

III. MEETING FOLLOWING PUBLIC HEARINGS

Decision on Public Hearing Applications

1. ZBA#15-01 - 40 High Rock Road, Bright Horizons Children Centers LLC/Owner, Stonington Behavioral Health, Inc./Applicant

The public hearing was continued to March 25, 2015.

2. ZBA#15-02 - 40 High Rock Road, Bright Horizons Children Centers LLC/Owner, Stonington Behavioral Health, Inc./Applicant

The public hearing was continued to March 25, 2015.

IV. CORRESPONDENCE

Staff distributed the CFPZA quarterly newspaper and reminded the Board about the CFPZA dinner to be held on March 26th at the Aquaturf restaurant.

V. APPROVAL OF THE MINUTES OF MINUTES OF November 12, 2014

MOTION: To approve the minutes of November 12, 2014 as amended.

Motion made by Mencer, seconded by Russotto, so voted unanimously.

VI. OLD BUSINESS – None

VII. NEW BUSINESS

- a) New Applications

Staff said there are two public hearings scheduled for the March 25th meeting. The first is for a variance at 156 Ocean View Avenue and the second is for a variance at Groton Utilities Water Filtration Plant Renovations, 1268 Poquonnock Road.

VIII. REPORT OF STAFF – None

IX. ADJOURNMENT

Motion to adjourn made at 9:26 p.m. by Russotto, seconded by Kravits. Motion passed unanimously.

Tom Manning, Secretary
Zoning Board of Appeals

Prepared by Debra Gilot
Office Assistant III

NOT APPROVED