

**TOWN OF BROOKLYN
PLANNING AND ZONING COMMISSION
Regular Meeting
Wednesday, September 4, 2019
Clifford B. Green Meeting Center
69 South Main Street
6:30 p.m.**

MINUTES

- I. Call to Order** – Michelle Sigfridson, Chair, called the meeting to order at 6:40 p.m.
- II. Roll Call** – Michelle Sigfridson, Carlene Kelleher, J. D’Agostino, Earl Starks, Alan Fitzgerald, Austin Tanner.

Staff Present: Jana Roberson, Director of Community Development.

- III. Seating of Alternates** – None.

- IV. Adoption of Minutes:** Regular Meeting August 20, 2019

Motion was made by J. D’Agostino to approve the Minutes of the Regular Meeting of August 20, 2019. Second by E. Starks. Motion carried (5-0-1). C. Kelleher abstained as she had not attended that meeting.

- V. Public Commentary** – None.

- VI. Unfinished Business:**

a. Reading of Legal Notice: None.

b. Continued Public Hearings:

1. **ZRC 19-001** - Draft Town of Brooklyn Zoning Regulations-Text Change
2. **ZC 19-001** - Draft Town of Brooklyn Zoning Map-Map Change

Motion was made by C. Kelleher to move Agenda Items VI.b.1 & VI.b.2 and VI.d.1 & VI.d.2 to Item VII.b. Second by A. Tanner. Motion carried unanimously (6-0-0).

c. New Public Hearings: None.

d. Other Unfinished Business:

1. **ZRC 19-001** - Draft Town of Brooklyn Zoning Regulations-Text Change
2. **ZC 19-001** - Draft Town of Brooklyn Zoning Map-Map Change

These Items were moved. See Item VII.b.

3. **SPR 19-005 Site Plan Review**- Gary Smith, 81 Hartford Road, Roof-mounted solar panels in Village Center District.

J. Roberson explained that the Applicant was not able to attend, but that the Commission would need to take action at this meeting.

- The property is in the VCD which is a design review district. It is not in the National Historic District because of the boundary location. She explained where the property is located and she said that the house had been nicely renovated to look more like the original (from photos of the outside).
- The proposed solar panels would be visible from the road. She referred to a drawing (included in packets to Commission Members) which shows the proposed layout of the solar panels (16 panels on the portion of the roof that faces west, 4 on

the portion that faces east, and two more on the rear portion behind the roof-mounted skylight).

There was discussion regarding whether something would need to be done with a tree in the vicinity.

Motion was made by J. D'Agostino to deny the application of Gary Smith to install roof-mounted solar panels at 81 Hartford Road with the finding that the design is not consistent with the design standards for the Village Center District, specifically that an alternate location exists where a ground mounted solar panel could be installed where it will have a minimal impact on the historic building and site and view from the road.

Second by E. Starks.

Discussion:

Ms. Sigfridson commented that an alternate location where a ground-mounted solar panel could be installed had not been discussed. Ms. Roberson explained that this may be true since they have a backyard with a southerly orientation. Ms. Kelleher feels that the house is in a location where it looks more like a mini commercial district and that area does not look like the rest of the VCD. She said that it doesn't make sense, from a practical perspective, to tell someone who is trying to be more energy efficient (in this area of the VCD) that they can't put solar panels on their house. Ms. Sigfridson agreed. Mr. D'Agostino said that he struggles with the issue of a property owner doing what they want with their own property and whether that should take priority over the responsibility of the Commission to protect a scenic by-way. Mr. Starks commented that the technology is improving and that maybe the Regulations should be changed. He is concerned with approving some and denying others. Ms. Roberson explained that because it is an exterior modification which is visible from the road, it needs to come before the PZC for design review. Ms. Sigfridson explained that most houses in Town are allowed to put solar panels on without going before the PZC, but this property is in the VCD which is why it comes before the PZC for design review. Ms. Sigfridson explained that the Commission could possibly work with the Applicant so that the solar panels could be allowed in this instance. Mr. Starks suggested removing solar panels from the Regulations to allow people to put them where they want. Ms. Roberson referred to the Department of the Interior's Standards for Historic Districts which are referred to in the Zoning Regulations (look for alternate locations).

Mr. D'Agostino asked what 7.04 KW DC 22 Modules roof-mounted solar array means (from Application). Ms. Sigfridson stated that there is no one present to answer that question. There was no information included in packets to answer questions regarding what it looks like or safety issues. He feels that not enough information was provided. Ms. Roberson explained that the Regulations do not have standards for evaluating the effectiveness of the solar system. The Design Review Standards do not specifically mention solar panels, but do have more general language.

There was discussion regarding the proposed locations of the components. Mr. Tanner stated that he also agrees with Ms. Kelleher. Mr. Fitzgerald stated that his opinion is that it would not be as objectionable regarding visibility from the road, but, going forward, he agrees with Mr. Starks so that this doesn't keep happening.

Motion to deny failed (2-4-0). C. Kelleher, A. Tanner, A. Fitzgerald and M. Sigfridson were opposed.

Motion was made by C. Kelleher to approve the application of Gary Smith to install roof-mounted solar panels at 81 Hartford Road with the finding that the location of the solar panels is consistent with the design standards for the Village Center District. Second by A. Tanner. Motion carried (5-1-0). J. D'Agostino was opposed.

VII. New Business:

a. Applications:

- 1. Request for Waiver of Special Permit** under Sec. 3.4.8.8 of the Brooklyn Zoning Regulations for Proposed Garage in the sideyard setback at 48 Allen Hill Road.

Bruce Woodis, KWP Associates, represented the Applicant, Kyle Hunton (seated in the audience). Mark Hunton, Owner, was also present.

Mr. Woodis gave an overview of Agenda Items VII.a.1 & VII.a.2 concurrently:

- The property is in the PC Zone and they would like to build a garage with a breezeway addition.
- Garage to be located across the driveway (where they currently park their cars).
- House located hundreds of feet from the road and can barely be seen.
- No negative impacts to the neighborhood. He feels that it would enhance the neighborhood.
- He explained that for Site Plan Review, they would need a waiver of Special Permit. He read from the Regulations.
- He explained that they also need a waiver for dimensional requirements to be allowed to reduce the sideyard setback to 6-feet+ and 8-feet+ depending on which corner you are looking at.
- If both waivers are granted, the Application for Site Plan Review could be received and heard at this meeting.
- The two telephone poles are just for service.
- The neighbor who would be most impacted by the closeness of the garage has signed the plan approving the proposal provided that Mr. Hunton install a privacy fence to the line of trees.

Ms. Roberson displayed an aerial photo. There was discussion regarding trees.

Motion was made by C. Kelleher to waive the Special Permit requirement as authorized under Sec. 3.4.8.8. of the Brooklyn Zoning Regulations for the proposal at 48 Allen Hill Road with the finding that it meets the requirements outlined in Sec. 3.4.8.8. Second by A. Fitzgerald.

Discussion:

There was discussion regarding the privacy fence which Mark Hunton, Owner, explained that the neighbor does not mind if the fence is installed after the construction is completed.

Motion carried unanimously (6-0-0).

2. **Request for Waiver of side yard setback** under Sec. 3.2 of the Brooklyn Zoning Regulations for Proposed Garage at 48 Allen Hill Road.

Motion was made by C. Kelleher to waive the side yard requirement as authorized under Sec. 3.2 of the Brooklyn Zoning Regulations for the proposal at 48 Allen Hill Road with the finding that it does provide access to the rear yard sufficient for use by fire trucks and equipment. Second by A. Fitzgerald. No discussion. Motion carried unanimously (6-0-0).

3. **pending granting of waivers** **SPR 19-006 Site Plan Review**, Kyle Hunton, 48 Allen Hill Road, PC Zone, Proposed construction of a 24'x24' garage and breezeway addition.

Mark Hunton, Owner, explained about the agreement that he and the neighbor had made regarding the privacy fence (they will agree on the type). They are in agreement that it go approximately (approx. 100 feet) halfway up the driveway (from the side of the garage to the walkway area). Kyle Hunton offered to get a signed agreement. Ms. Roberson explained that the PZC cannot condition a Site Plan Review. Ms. Sigfridson commented that it will be trusted that the issue of the privacy fence will be handled as good neighbors.

Motion was made by C. Kelleher to approve the application of Kyle Hunton to construct a 24' x 24' garage within the sideyard setback at 48 Allen Hill Road with the finding that the proposal is consistent with the Zoning Regulations and that the design is consistent with the site plan objectives and design guidelines for the Planned Commercial Zone. Second by E. Starks. Motion carried unanimously (6-0-0).

4. **SD 19-001- 1-Lot Subdivision**, David Ford, 3.16 acres in the Village Center District at the intersection of Brown and Hyde Roads, Assessor's Map 25/Lot 46-1.

Paul Archer, Archer Surveying, represented the Applicant who was seated in the audience. Mr. Archer gave an overview:

- The property is currently owned by John Farrell (not present) who resides in the existing house to the back of the property.
- Mr. Archer referred to the Parcel History Plan dated 7/9/2019 (included in packets to Commission Members) explaining that David Ford had owned the whole property (9.57+/- acres) in the past. He indicated a free split that had been done in 2011 (creating Mr. Farrell's lot) and a boundary line modification which had been done in 2016 (as it now exists).
- Mr. Archer referred to the Site Plan - latest revision 8/28/2019 (included in packets to Commission Members) and indicated the location where Mr. Ford would like to build a new residence for himself off of Brown Road. Mr. Archer indicated Mr. Ford's existing house.
- Mr. Ford is purchasing 1.73 acres from Mr. Farrell. Mr. Farrell will be left with 1.42 acres.
- Mr. Archer stated that it meets the minimum square footage for a lot in the VCD and has plenty of road frontage.
- Has been approved by the NDDH for a septic system (engineered). Ms. Roberson stated that she has received stamped plans.
- Mr. Archer stated that they are looking to create the two lots.
- Mr. Archer stated that he has shown the plans to Tom Rukstela and that Mr. Rukstela had no problems with where the driveway is proposed which is an existing roadway that goes through the property.
- Mr. Archer stated that, with the way the grades work, it is relatively simple one-lot subdivision.

Ms. Roberson's comments:

- It has gone through the IWWC for a jurisdictional ruling and they confirmed that there are no wetlands on the property and that they have no jurisdiction. (Letter dated 8/19/2019 included in packets to Commission Members).
- She has not heard from the Engineer yet.
- Open space dedication as not been discussed.

Mr. Archer explained that Mr. Ford had previously owned the property and is basically getting his own land back. He said that they could've done a boundary line modification and attached it to Mr. Ford's property and then come in for a subdivision. He feels that it's going from a family member to a family member.

Ms. Roberson questions whether this meets the language of the Statute.

Mr. Archer stated that, if open space were required, he proposed that, since they did not have an appraisal done, they use the assessed value of \$51,700 as the value of the property (ten percent is \$5,170) for fee-in-lieu.

Mr. D'Agostino left the room at 7:31 p.m. and returned at 7:35 p.m.

There was discussion regarding the existing road that goes through the property which is currently used by Mr. Ford. There was discussion regarding a large tree that had been cut down near proposed new driveway entrance – it was damaged in a storm and was taken down.

Ms. Roberson continued with her comments:

- Any silt fence or soil stockpile areas proposed?
Mr. Archer stated that they do not.
- She asked about the shed which is in the 8-foot setback.

Mr. Ford explained that Mr. Farrell put the shed there about three years. Mr. Archer stated that it would need to be moved over to Mr. Farrell's property.

- Ms. Roberson suggests that the Commission not act on this Application at this meeting for the following reasons: 1) Wait for comments from the Engineer; and 2) Get the open space issue resolved as Mr. Archer feels that they qualify for the exemption, but they are not doing what would qualify them for the exemption. Mr. Archer said that it would be legal matters to transfer and that this is the simplest and cleanest way to do it. He also commented that he does not feel that it is not necessary to hear from Syl Pauley regarding the split of the property. Mr. Archer explained the history again.

Ms. Roberson explained about the open space requirement and read from the Subdivision Regulations. She referred to the Statute. She commented that, typically, the Conservation Commission is asked for its opinion regarding land dedication or fee-in-lieu. Ms. Roberson stated that she does not have a problem with using the land appraisal as described by Mr. Archer rather than ordering a special appraisal. She looked it up and advised that it does not specifically authorize this. It says, "jointly select a certified Connecticut appraiser to submit a report." She stated that the Town uses Vision for the tax revaluation.

Ms. Sigfridson commented that she does not feel that Mr. Ford qualifies as transferring from a family member to a family member. She asked what is to happen to the house that Mr. Ford is currently residing in. Mr. Ford stated that it is to be sold to a third party.

Mr. Tanner stated that he has no problem with the split, but the technicalities should be checked out.

Ms. Sigfridson does not feel that it is necessary to send this to the Conservation Commission. Ms. Sigfridson feels that a fee-in-lieu of open space is appropriate and she said that less than ten percent may be fair. She asked how the other Commission Members feel about waiting for input from the Town Engineer regarding the lot split. Ms. Roberson commented that she is aware that there will be additional reviews, but this Application was just received in her office last week and she feels the Commission should wait to act until the next meeting.

Mr. D'Agostino agrees with Ms. Roberson. Mr. Tanner sees no problem with the split, other than that the open space issue needs to be resolved. Mr. Starks stated agreement with Mr. Tanner. Ms. Sigfridson suggested waiting to allow Staff more time to review it and to draft a sample motion. Discussion ensued regarding whether to wait or not.

Motion was made by A. Tanner to approve SD 19-001- 1-Lot Subdivision, David Ford, 3.16 acres in the Village Center District at the intersection of Brown and Hyde Roads, Assessor's Map 25/Lot 46-1 with the following conditions (per discussion):

- Ten percent (of the appraised, pre-subdivision land value for 3.16 acres) of \$51,700 (appraised value on record in the Town of Brooklyn) for fee-in-lieu of open space - \$5,170. (The Applicant and the Commission jointly agreed to using Vision Appraisal Services as the Connecticut certified appraiser for this project.)
- A note will be added to the plan that the shed will be in compliance with the Zoning Regulations.

Second by E. Starks. Motion carried unanimously (6-0-0).

5. **SP 19-001 – Special Permit**, Toudis, LLC, 445 Providence Road (Dunkin Donuts/Grill 445), Construction of additional parking for a multi-unit commercial development.

Ms. Roberson explained that this Application had been withdrawn.

b. Other New Business: None.

1. ZRC 19-001 - Draft Town of Brooklyn Zoning Regulations-Text Change

The following information was provided to Commission Members for review:

- Ms. Roberson explained that copies of a list of official revisions that have occurred between the opening of the Public Hearing on July 16, 2019 and September 4, 2019 had been provided to Commission Members (The list states “Between May 5 and Sept. 4, 2019). It was posted with the Town Clerk and also on the website today. She stated that she has addressed all of the items that she had been asked to, however, she suggested that the Commission may want to revisit the Minutes of July 16, 2019, because a lot of comments (from Paul Archer) had been received at that meeting and she is not sure if they had all been reviewed by the Commission (she will re-distribute the 7-16-19 Minutes).
- A table showing the types of permit required for accessory small solar energy systems (dated 9/4/2019) was included in packets to Commission Members. Ms. Roberson explained that this is what had been decided upon by the Commission and is how it exists in the current Regulations. She explained that there was only once instance for Special Permit, ground mount in the VCD, everything else is by Site Plan Review. The Scenic Route 169 Overlay Zone does not have anything specific regarding solar panels. She explained that it is an overlay zone for design review and the underlying zone is RA.

Discussion:

M. Sigfridson suggested that the Commission discuss what it wants to do about the issue of how to decide, on a case-by-case basis, whether to allow flush-mount roof systems in the VCD.

There was discussion regarding flush mount vs. other.

There was discussion regarding a suggestion by Mr. D’Agostino that, if visible in the VCD, it be by Special Permit.

There was discussion regarding consistency. Ms. Kelleher noted that the VCD itself is not consistent and that she does not have a problem with treating them differently as long as the Commission is consistent when making those decisions. It needs to be made clearer. She stated that, in the past, there was discussion regarding dividing the VCD into two sections.

There was discussion about the Table. There was agreement to change VCD, Zoning Section 4.A.3.4, Ground-Mount or Other, If Not Visible By Site Plan Review.

There was discussion regarding if someone in the VCD wants to install a ground-mount and it is denied, would the Commission have the flexibility to suggest that they could do roof-mount. Ms. Roberson explained that the three options with Special Permit are: approve; modify and approve; and deny.

Regarding the issue of roof-mount in the VCD: J. Roberson to draft specific language to add about solar panels in the design standards.

Mr. Fitzgerald and J. Roberson read from Section 6.N.2 (page 140) of the Draft and it was decided that punctuation needs to be corrected. Also, Ms. Roberson will change all instances of “flush mount” to “roof-mounted systems” in accordance with Section 6.N.

- Ms. Roberson explained that, regarding the handout (income limits/affordable housing) that Joe Voccio had provided at the meeting of August 20th, she had

incorporated the sixty percent figures for the area median income. This information sheet was provided to Commission Members. Ms. Roberson explained that the income limit for a 4-person/3 bedroom household making sixty percent of the area median income, annual income would not exceed \$60,540. Maximum rent that would qualify is \$1,574 for the inclusionary zoning regulation as written. Median rent for the County is \$847 and the Fair Market Rent is \$1,326. The maximum is still higher than the median for the County. She noted that fifty percent of renters are already overburdened with their housing costs (pay more than thirty percent of income on housing).

Ms. Roberson stated that First Selectman, Rick Ives would like to see this kind of measure extended to other types of households, not just multi-family. It does not have to be included in this Draft before acting on it, but he would like the Commission not to wait, but to keep working on it. Mr. Ives would like to address affordability for people who are seeking to own a single-family home. Discussion ensued.

Making a percentage of units affordable as a requirement with no density bonus was discussed. Ms. Roberson commented that if the developers' bottom line is hurt too much, they won't do it at all. Ms. Kelleher commented that the Commission would need to look at how this would work with the Conservation Subdivision Regulations.

Ms. Roberson stated that income verification is involved and if someone makes more money than 60 percent of the area median income, they won't be able to buy the affordable units. Ms. Kelleher stated that she objects to this as she does not understand it. Ms. Roberson stated that the idea is to make it available to people who would otherwise be priced out.

Ms. Sigfridson explained that the previous discussion of the Commission would be giving developers a density bonus for setting units aside as affordable, but the rents that they were going to be able to charge were still more than market rents, so they were getting a density bonus without having to give anything up to have to do it. So that is why the Commission lowered the median income from 80 percent to 60 percent.

Ms. Roberson will update the list of revisions to the Draft for the next meeting.

Mr. D'Agostino stated that he still has concerns regarding 6.P and 6.O and will meet with Ms. Roberson to discuss them.

There was discussion and Ms. Roberson explained that when issuing a new permit, no other permits that have been issued are relevant. Conditions cannot be applied to a new permit that relate to failure to comply with a previously permit.

Mr. Tanner suggested changing Section 9.D.3 of the Draft Regulations (page 199) regarding the requirement for $\frac{3}{4}$ affirmative vote of all Regular Members for waiver of application requirements. He proposes that it be changed to $\frac{3}{4}$ of all Voting Members present. There was agreement among Commission Members. Ms. Roberson will do a text search to find all instances.

2. ZC 19-001 - Draft Town of Brooklyn Zoning Map-Map Change – No Discussion.

Motion was made by J. D'Agostino to table ZRC 19-001 - Draft Town of Brooklyn Zoning Regulations – Text Change and ZC 19-001 – Draft Town of Brooklyn Zoning Map – Map Change to the next regular meeting of the Brooklyn Planning and Zoning Commission on Tuesday, September 17, 2019, at 6:30 p.m. at the Clifford B. Green Memorial Building located at 69 South Main Street, Brooklyn, CT. Second by E. Starks. Motion carried unanimously (6-0-0).

VIII. Reports of Officers and Committees:

1. Budget (included in packets to Commission Members). No discussion.
2. ZEO's Report (included in packets to Commission Members).
The ZEO will attend the next meeting. The ZEO will be meeting with Mr. Rawson to discuss his application.
3. Correspondence.
Public Hearing regarding zoning changes in Pomfret opened on August 21st.
4. Chairman's Report – None.

IX. Public Commentary

Mark Olivo, 49 Pomfret Street, offered to have a solar expert present to answer questions during the presentation for his application for solar panels. Ms. Sigfridson feels that would be helpful.

X. Adjourn

M. Sigfridson adjourned at 9:14 p.m.

Respectfully submitted,

J.S. Perreault
Recording Secretary