

BERLIN PLANNING AND ZONING COMMISSION MEETING MINUTES

MARCH 2, 2023

I Call to Order

The Town of Berlin, CT Planning and Zoning Commission held a Regular Meeting on Thursday, March 2, 2023, at 7:00 p.m. in the Berlin Town Hall, 240 Kensington Road, Berlin, CT. The meeting was held in person and also available remotely.

II Pledge of Allegiance

Those in attendance stood for the Pledge of Allegiance.

III Roll Call

In attendance

Chairwoman Joan Veley

Commissioners June Daly; Diane Jorsey; Andra Millerd; Brian Rogan; Scott Hamel; Timothy Zigmont

Alternate Commissioner Steve Biella, Jr. (joined the meeting after review of the minutes)

Town Planner Maureen Giusti

Assistant Town Planner Dylan Willette

Town Counsel Jennifer Coppola

Excused

Alternate Commissioner Nikki Sambitsky

IV Approval of Minutes

a. February 16, 2023

Commissioner Jorsey stated two clarifications to Page 3 for the record:

- 1) Who had accused the commission of being “underhanded”?
 - (Petra Riley read a letter into the record from Ms. Linda Ahlstrand on her behalf. Ms. Ahlstrand was not in attendance at this meeting. The letter stated *“Under the governor’s Covid emergency powers, the only legal notification necessary to taxpayers about this potential amendment was to list it on the town website. Who reads that? This was legal, but underhanded and not ethical nor a fair way to communicate with townspeople”.*)
- 2) If a letter had been requested or sent to the Town Council
 - Attorney Coppola stated there had been a request made by the applicant to send a letter to the Town Council in support of the refund of the application fee. To the best of her knowledge, a letter has not been sent.

Commissioner Jorsey moved to approve the minutes, with the changes.

Commissioner Rogan seconded the motion which carried unanimously.

V Commission Business

In accordance with §8-24 of the Connecticut General Statutes, review and recommendation of the relocation of a portion of the town right of way for an abandoned section of Wigwam Road

Ms Giusti stated a section of Wigwam Road has been abandoned and the access that is provided is under water. Economic Development Coordinator Jim Mahoney and the Conservation Commission have been working with New Britain to re-align the right-of-way so it can be traversable and will create a connection to Sanctuary Lane to the Ragged Mountain trail.

Commissioner Jorsey moved to forward a favorable recommendation to the Town Council, subject to the following condition:

- a. All due diligence be incorporated.

Commissioner Rogan seconded the motion which carried unanimously.

I Requests for Bond Release

- a. Request of Marcus Bacon for release of Phase 1 site bond, Focus Physical Therapy & Sports Medicine, 1138 Farmington Avenue

Ms. Giusti stated the bond is for Phase I of the project which has been completed almost two years ago. Engineering staff has advised there is no objection to the bond release.

Commissioner Rogan moved to release the bond.

Commissioner Millerd seconded the motion which carried unanimously.

- b. Request of Marcus Bacon for release of an erosion control bond, Focus Physical Therapy & Sports Medicine, 1138 Farmington Avenue

Ms. Giusti stated this is also a bond for Phase I and the Engineering staff's opinion is the same.

Commissioner Jorsey moved to release the bond.

Commissioner Hamel seconded the motion which carried unanimously.

VII Public Hearings

- a. Special Permit Use Application of Linda Soukiasian for an Accessory Dwelling Unit at 5 Huckleberry Lane in the R-15 zone

A male speaker stated a ZBA Variance has been approved.

Ms. Giusti stated at the January 12, 2023 meeting of the Planning and Zoning Commission there had been some discussion about the application. She stated the plan before the commission is compliant with Section XI.T. of the regulations. There are no proposed exterior changes. She noted that Commissioner Biella was at the January 12th meeting and will be seated for Commissioner Hamel for this application.

Commissioner Hamel relinquished his seat; Commissioner Biella was seated.

Ms. Soukiasian joined remotely. She stated the proposal is for a 758 s.f. accessory dwelling unit which will be located in the current basement of her home. There will be no exterior changes. The unit will have a full bath and bedroom. Stairs from the unit go to the main level of the home and there is an existing door on the unit's level that goes outside.

Ms. Giusti stated the age requirement needs to be certified with the town each year. If rented as an affordable unit, it must be filed on the Land Records and used in perpetuity.

Commissioner Zigmont moved to close the public hearing.
Commissioner Jorsey seconded the motion which carried unanimously.

- b. Proposed Amendment of Planning and Zoning Staff to Berlin Zoning Regulations
Section XI.DD Planned Residential Infill Development
(Public Hearing Opened January 19, 2023; 2/2/23; 2/16/23)

Commissioner Biella relinquished his seat. Commissioner Hamel was seated.

Ms. Giusti and the commission reviewed the revised document.

Ms. Linda Ahlstrand, no address given, stated some revisions were favorable. She also suggested some other revision. She spoke about the denial of the abolishment of this regulation that had been proposed and received denial at the February 16, 2023 Planning and Zoning Commission meeting.

Attorney Coppola stated the public hearing shouldn't be closed in case substantive changes were to be made. She explained the process for addressing litigation against the town.

Commissioner Rogan moved to continue the public hearing to March 16, 2023.
Commissioner Jorsey seconded the motion which carried unanimously.

VIII Old Business

The following items had been previously combined for the public hearings for discussion; when voted on in "Old Business" separate actions will be taken.

- a. Applications for 550-554 Berlin Turnpike Associates, LLC, 502 Berlin Turnpike; Map 10-2/Block 83, Lot 13B, 522 Berlin Turnpike; Map 10-2/Block 83/Lot 13; 554 Berlin Turnpike, Map 10-2; Block 83/Lot 14
(PH 10/6/22, 11/3/22, 12/1/22, 12/15/22, 1/12/23)
 - i. Zoning Map Amendment request from Berlin Turnpike-1 (BT-1) to Berlin Turnpike Development (BTD)
(Must decide by 3/18/23)
 - ii. Special Permit/Site Plan Applications for a mixed-use development, including 106 residential units within three (3) buildings, a retail building and reconfiguring the parking lot for two (2) commercial buildings. *(Must decide by 3/18/23)*

Ms. Giusti stated the BT-1 zone allows for a certain type of mixed use development; however, the property would need to be re-zoned to BTD in order to allow for the Special Permit/Site Plan applications as proposed by this applicant.

Chairwoman Veley stated she realizes the applicant has put a tremendous effort into the project, but she can't "wrap her head" around a housing building in the back of the site and has the appearance of being institutional. She stated her concern for only having one access out of the property; the electrical towers; and no matter how they tried to arrange or landscape the buildings, they will still have truck traffic going into ABC industry on the same site. She stated the people who worked on the project bring a high level of professionalism to the town. The proposal does bring a commercial property to the front, and in this situation housing in front may be preferable but the parcel isn't right for the amount of housing proposed.

Commissioner Rogan stated the zone is being studied as part of the Plan of Conservation and Development and they don't have an answer about how the zone works and he is hesitant to allow the change without results from the zone study. He noted other projects approved for the proposed zone change have been on empty parcels. He stated this parcel has an industrial type use on it and is surrounded by the south and west with industrial uses. Intent to highlight commercial along turnpike and incentivize developers with residential. He noted the intent to promote development of empty parcels is not being met. The parcel doesn't fit for the proposed.

Commissioner Zigmont stated looking at other developments on the Berlin Turnpike, the retail located in the front portion of properties filled quickly and the mixed use is how the town develops properties. There are a couple of other sites that may be developed with mixed use on the Berlin Turnpike. He stated he does not like the electrical towers, even what the studies state. There is nothing different in this proposal except the commercial building already exists on the site. He noted mixed use development is designed to build clientele for the commercial uses in the front.

Chairwoman Veley stated there are numerous encumbrances on the subject property – the ABC buildings; power lines; wetlands in the back. She stated if the ABC buildings weren't there, the

development could be moved up and potential ability to have additional accesses. She stated the site doesn't flow due to several issues working against this development.

Commissioner Daly stated the site may be noisier for residents; the view in the back of the site is nice; the site has easy access to a major thoroughfare; and apartment dwelling isn't necessarily long-term.

Commissioner Millerd stated she recognizes the developer has put a lot of effort into the proposal; however, when she drives by, she notices the power lines. She stated it is difficult to visualize how the site will be laid out and she would like to see more visual plans. She stated the apartments won't be seen from the highway; trucks will be going into the main and second buildings with apartment traffic and children walking and possibly riding their bikes; she noted concern with the location down back by a swamp, water tower, and power lines. She stated the information on how it would fit was not clear.

After short discussion regarding submitted architectural information, Chairman Veley reminded the Commission that they were deliberating on the zone change application.

Commissioner Jorsey stated her agreement with Chairwoman Veley and Commissioner Rogan's comments. She stated the subject parcel seems to be a better fit for other industrial uses to the back. There are industrial uses on two sides; the river divides this property from other areas of mixed use and there is not a way to blend everything, it's a line of demarcation. She noted it would be more complimentary to expand the industrial type use.

Commissioner Rogan moved to deny the zone change for the reasons stated by the commissioners and the following:

- a. The commission is still studying the zone.
- b. It is an industrial developed property and others approved to be developed within the Berlin Turnpike Development Zone were on empty parcels.

The motion was seconded by Commissioner Jorsey.

The motion carried five in favor to two opposed.

Voting in favor: Jorsey, Hamel, Millerd, Rogan, Veley

Voting in opposition: Daly, Zigmont

Attorney Coppola clarified that the Special Permit and Site Plan applications should be voted on separately and can include additional reasoning.

Commissioner Zigmont stated he had a procedural question. He stated there are new commissioners and this application has been before the commission "almost a year". Without proper review, the new commissioners can't make a proper decision. In the past, if a commissioner was not seated for the public hearing, he or she could not participate in the vote.

Attorney Coppola stated the question is if they have reviewed all of the record, as membership can change during the pendency of an application. She noted that this is a “hybrid age” with methods of reviewing the record, such as audio, video, etc. She stated her concern is that this matter is being raised at this point. The commission may need to re-open the deliberation on the application because a commissioner has raised this issue. She stated Attorney Sullivan has stepped out of the room and she will go to advise him of what has happened so he can step back in. She left the room to speak to Attorney Sullivan. Ms. Giusti noted she was looking back at meeting attendance and discussion should wait for Attorney Coppola to return.

Attorney Coppola returned minutes later and stated for the record, she had just spoken with Attorney Sullivan. She recommended the best course of action is to notice the matter for reconsideration or rescission to address the issue. The deliberation for the Special Permit and Site Plan should be continued to the next meeting. It is problematic for the issue to be raised at the time – after the vote has been taken – and it needs to be addressed. Attorney Coppola provided further clarification regarding her recommendation.

Commissioner Rogan questioned if there is enough statutory time to re-notice or if an extension would be needed.

Commissioner Rogan moved to call a five-minute recess.

Commissioner Jorsey seconded the motion which carried unanimously.

Commissioner Hamel moved to reconvene after the five-minute recess.

Commissioner Jorsey seconded the motion which carried unanimously.

Attorney Coppola stated after some quick research, her recommendation remains – notice the decision for potential reconsideration, which may include revocation; notice will be published. The Special Permit and Site Plan Applications should not be considered at this meeting as the zone change decision may change. A Special Meeting will be scheduled.

Commissioner Rogan moved to continue the deliberation on the Site Plan and Special Permit Applications to the next meeting.

Commissioner Jorsey seconded the motion.

After reviewing the calendar and publication deadlines, Commissioner Rogan amended his motion to continue the deliberation on the Site Plan and Special Permit Applications to the March 16, 2023 Special Meeting.

Commissioner Jorsey amended her second.

The motion carried unanimously.

- b. Special Permit Use Application of Linda Soukiasian for an Accessory Dwelling Unit at 5 Huckleberry Lane in the R-15 zone

Commissioner Rogan moved to approve the application.

Commissioner Jorsey seconded the motion which carried unanimously.

c. Proposed Amendment of Planning and Zoning Staff to Berlin Zoning Regulations
Section XI.DD Planned Residential Infill Development

Commissioner Jorsey moved to continue the application to the next meeting.

Commissioner Rogan seconded the motion which carried unanimously.

IX Planner Comments

Regarding the matter of bonds which are submitted for approved developments, Ms. Giusti advised Surety Bonds are stated in both the policy documents of 2014 and the updated 2018 version as being unacceptable. Engineering staff recalls surety bonds as being problematic if a bond is called as it takes an extended amount of time. Cash or an Irrevocable Letter of Credit with an automatic renewal clause are currently accepted. She asked for any history of the policy the commissioners may recall in their years on the Commission and comments from the Commission were received.

Attorney Coppola stated Town Counsel Attorney Donofrio typically reviews surety bond matters and has expertise in procedures for the review of surety bonds. Ms. Giusti stated the bonding for projects is the decision of the Planning and Zoning Commission and perhaps Attorney Donofrio could join a future Planning and Zoning Commission meeting to present current information regarding surety bonds. The Commission discussed the matter further.

Commissioner Jorsey asked if the commission would be interested in establishing a regulation that would prohibit outdoor firing ranges.

Chairwoman Veley agreed the matter should be considered.

X Adjournment

Commissioner Jorsey moved to adjourn.

Commissioner Rogan seconded the motion which carried unanimously.

The time was 10:00 p.m.

Respectfully submitted,

Frances M. Semnoski
Recording Secretary

RECEIVED FOR RECORD
BERLIN TOWN CLERK



11/6/2023, 8:47:11 AM