



Town of
North Stonington, CT

PLANNING & ZONING COMMISSION

REGULAR MEETING

THURSDAY, MARCH 1, 2018 7:00 P.M.

**New Town Hall
Conference Room
40 Main Street
North Stonington, CT 06359**

MINUTES APPROVED ~ MARCH 8, 2018

1. CALL MEETING TO ORDER: Chairman Lou Steinbrecher called the Regular Meeting of the North Stonington Planning & Zoning Commission to order on Thursday, March 1, 2018 at 7:00 p.m. at the New Town Hall, Conference Room.

COMMISSIONERS PRESENT: Louis Steinbrecher, Chairman, Ann Brown Vice-Chair, Joseph Siner, Secretary, Lisa Wood and Alternate Members Pat Lewis and Connie Berardi

COMMISSIONERS ABSENT: Wayne Wilkinson and Alternate Member Ed McGowan

STAFF PRESENT: Planning, Development & Zoning Official Juliet Hodge and Administrative Assistant Cheryl Konsavitch

2. ADDITIONS TO THE AGENDA: None

3. PUBLIC COMMENT: None

4. WORKSHOP:

A. Ellyn Schlaget discussed the feasibility of a micro assisted living facility in an R80 zone

Ms. Schlaget discussed with the Commission a property she was interested in on Wyassup Road that she stated would be ideal to house 12 residents. Ms. Schlaget stated she would envision 8 bedrooms and there would be caregivers in shifts, a chef, house-keeping services, an aide and laundry services. Ms. Schlaget stated the residents would be able to live on their own with some help. This type of living facility would not be for residents who could not get around on their own and who would need 24 hour care.

The Commission discussed and stated that this is something they would be interested in pursuing and J. Hodge would assist Ms. Schlaget in drafting proposed regulations.

Public comment from John Olsen and Carolyn Howell stated they are in favor of this proposal and it would be a benefit for the Town.

5. COMMISSION REVIEW:

A. SPL #18-002 (Site-Plan) Application of Jason Horowitz (GBT Realty, Inc.) North Stonington DCTP, LLC, 9010 Overlook Boulevard, Brentwood, TN 37027 for property owned by Barbara Rubenstein Trust et al, for a site-plan review for a 9,224 sq. ft. 1-story retail building with associated parking, landscaping improvements, storm water detention/treatment system, private well, private on-site sewer disposal system & other utility infrastructure on property located at Clarks Falls Road in an HC Zone. Tax Map #112, Lot #4527 (*Commission review scheduled for 03/01/18 continued from 02/01/18; Commission received on 01/04/18; & PH must close on or by 03/09/18*)

Chairman Steinbrecher read the application into the record.

Seated: L. Steinbrecher, A. Brown, J. Siner, C. Berardi, P. Lewis

Mr. James Bernardino of Bohler Engineering and Mr. Bob Gage of GBT Realty Corporation were present for this continued application.

Mr. Bernardino and Mr. Gage went over the site plan and discussed the building material, design and site layout and answered Commission questions pertaining to the application. Mr. Bernardino stated they have received wetlands approval which Chairman Steinbrecher read the conditions into the record.

J. Hodge stated the Fire Departments comments have all been addressed.

MOTION by J. Siner, SECOND by A. Brown to approve SPL #18-002 (Site-Plan) Application of Jason Horowitz (GBT Realty, Inc.) North Stonington DCTP, LLC, 9010 Overlook Boulevard, Brentwood, TN 37027 for property owned by Barbara Rubenstein Trust et al, for a site-plan review for a 9,224 sq. ft. 1-story retail building with associated parking, landscaping improvements, storm water detention/treatment system, private well, private on-site sewer disposal system & other utility infrastructure on property located at Clarks Falls Road in an HC Zone. Tax Map #112, Lot #4527 **with bonding. MOTION CARRIED UNANIMOUSLY**

B. CU #18-004 (Change of Use) Application of Stefana Pecher, 15 Old Hamburg Rd., Lyme, CT 06371 for property owned by Eastern Pequot Nation/Wuttooantam Foundations, Inc., for a medical cannabis dispensary for State of CT patients with State MD issued MMJ cards for medicinal purposes & holistic services on property located at 391 Norwich-Westerly Road in a C Zone. Tax Map #101, Lot #7011T

Secretary Siner read the application into the record.

Seated: L. Steinbrecher, A. Brown, J. Siner, L. Wood, C. Berardi

Dr. Stefana Pecher and Jeff Horn, Architect were present for this application.

J. Hodge stated this is a Change of Use which is guided by Section 1203 but requires the applicant to give all the information that would be required under site plan, but with a plot plan. J. Hodge read the regulation and stated it doesn't need to come before the Commission.

A. Brown pointed out that this is a Planned Business Development and any change needs to be approved by the Commission per Section 606.1A. A. Brown read Section 108, Consistency with State and Federal Law which states that our regulations must comply with State and Federal law and we should not be approving anything that violates Federal Law.

Dr. Pecher went over her proposal and stated the patient must be buzzed in after showing identification at the front window which will be secured. After being buzzed in the patient is checked in by security and a log of their name and ID is taken as well as making a copy of it. They then enter the dispensary and may be

seated in the waiting area until the pharmacist or tech is ready for them. They then have a private conference with the pharmacist if this is their first visit, which can take up to an hour. If this is a repeat customer with few questions then the visit is quite quick, under 15 minutes. The medication is selected, purchased and the patient leaves the facility after checking out with security. Dr. Pecher also went over plans for the Holistic Center which would include a hyperbaric chamber. Dr. Pecher stated they still need to apply to the State to be a licensed facility and does not guarantee they will be chosen.

Mr. Horn went over the plan stating this modification is a change of use for existing building #4 to be designated as a medical facility which will be divided equally in 2 halves of 2100 sq. ft. each. The northern half which is A per the plan will be designated as a medical dispensary of pharmaceutical cannabis for State of Connecticut certified and registered patients legally issued medical cards by licensed medical doctor or physician. Mr. Horn stated the southern half which is B per the plan will be designated as a healthcare related use to be further defined as a holistic center.

Mr. Horn went over parking calculations for the building along with site design enhancement, traffic and lighting analysis.

The Commission discussed and P. Lewis stated that medical cannabis is not FDA approved and gave her input on the drug from her professional knowledge and clinical experience as a licensed pharmacist. A. Brown also commented on the legality of the drug.

The following people from the public commented on this proposal.

Carolyn Howell
Unidentified Male
Shawn Murphy

MOTION by C. Berardi, SECOND by L. Wood to APPROVE the CU #18-004 (*Change of Use*)
Application of Stefana Pecher, 15 Old Hamburg Rd., Lyme, CT 06371 for property owned by Eastern Pequot Nation/Wuttooantam Foundations, Inc., for a medical cannabis dispensary for State of CT patients with State MD issued MMJ cards for medicinal purposes & holistic services on property located at 391 Norwich-Westerly Road in a C Zone. Tax Map #101, Lot #7011T **AS SUBMITTED. MOTION CARRIED.**

In Favor: L. Steinbrecher, L. Wood, C. Berardi
Against: A. Brown, J. Siner

6. PUBLIC HEARING:

In accordance with subsection (j) of PA 17-155 & Subsection (a) of Section 8-2 of the Connecticut General Statutes as amended by PA 17-155, the N. Stonington Planning and Zoning Commission will hold a Public Hearing to decide whether to opt out of provisions regarding the installation of temporary health care structures as described in Section 1 of Public Act 17-155

Chairman Steinbrecher read the Act into the record.

Seated: L. Steinbrecher, J. Siner, A. Brown, L. Wood, P. Lewis

J. Hodge went over the act stating it would be a temporary health care structure meaning it would be a transportable residential structure that provides an environment in which a caregiver may provide care for a mentally or physically impaired person along with other specified criteria.

The Commission discussed and the following members of the public commented:

John Olsen
Shawn Murphy
Nita Kincaid

MOTION by A. Brown, SECOND by J. Siner to opt out of Public Act 17-155 with the following Resolution.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION TO OPT-OUT OF PUBLIC ACT 17-155
CONCERNING TEMPORARY HEALTH CARE STRUCTURES**

March 1, 2018

WHEREAS, the State of Connecticut Legislature has adopted a new Public Act 17-155 concerning 'temporary health care structures' that was approved on July 6, 2017 and went into effect on October 1, 2017.

WHEREAS, Public Act 17-155 approves 'temporary health care structures' as allowable accessory units in single-family residential zones, unless a municipality opts-out of the statute.

WHEREAS, a 'temporary health care structure' is defined by the Act as a transportable residential structure, not larger than 500 gross square feet, primarily assembled off-site, that is owned by a caregiver or mentally or physically impaired person and used as his or her residence.

WHEREAS, the subject Act pre-empts North Stonington's zoning regulations and requires the issuance of permits for 'temporary health care structures' as accessory uses that conform to standards set forth in the Act, even where local zoning regulations now otherwise prohibit such installation and use.

WHEREAS, a participating municipality must approve or deny a permit within 15 business days after application, but cannot deny a permit if the applicant provides proof of compliance with the statute and applicable building and public health codes.

WHEREAS, the Planning and Zoning Commission of the Town of North Stonington believes the legislation, as written, is well intentioned; however, it may have numerous possible unintended consequences for the Town. The Commission identified the following reasons it voted to opt out of Public Act 17-155:

- "Temporary" structures may exist in place for many years unregulated as enforcement would be difficult;
- The 15-day expedited permit timeframe could be unrealistic as structures are required to comply with all applicable health, building, and fire codes. Reviews will be required that will almost certainly extend beyond this 15-day period;
- The requirement that the land use office staff determine appropriate residency through a doctor's note is inappropriate as staff is unqualified to make such a determination. This could also potentially result in FOI, HIPAA, and variance controversies and legal actions;
- Requirement that land use office staff determine that the resident "caregiver" owner is "unpaid" would be extremely difficult if not impossible to prove;

- Other potential issues with enforcement and problems with removal of the structure after the occupant moves out or is deceased could occur;
- Has the potential to conflict with many long-time zoning regulations and established/desired land use patterns;
- North Stonington has no city sewer and most lots are serviced by private well. Added unit could cause older septic systems to fail or may not meet health code requirements;
- The danger of a “patient” living in a trailer or RV outweighs the benefit.

WHEREAS, the Planning and Zoning Commission finds that the 2013 Town Plan of Conservation and Development is silent on temporary health care structures or other similar facilities.

WHEREAS, the Planning and Zoning Commission wishes to further evaluate and study the potential consequences of Public Act 17-155 prior to committing to such legislation.

WHEREAS, a public hearing on the matter was properly noticed and held on March 1, 2018 to solicit public comment on the proposal pursuant to the subject Act.

WHEREAS, public comments were heard from (3) Town resident(s) concerning the proposal to opt-out of Public Act 17- 155,

WHEREAS, said public comment(s) expressed

- John Olsen of 358 Wyassup Rd: There may be circumstances where the person needing care may need a separate unit for sense of privacy and to give care givers some relief.
- Shawn Murphy of 23 Kingswood Dr.: There is benefit to a unit being temporary in that the caregiver does not have to make a permanent modification to their home.
- Nita Kincaid of 49 Babcock Rd.: Expressed concern about the fact that all residential lots are serviced by septic systems and most by private well. Hooking up to old and potentially undersized systems could be complicated (or not feasible).

NOW, THEREFORE, BE IT RESOLVED for the reasons noted herein, the Planning and Zoning Commission of the Town of North Stonington on this 1st day of March, 2018, votes to opt-out of the legislation. The Commission recommends that the Town via a vote of the Board of Selectmen, complete the process of opting out of Public Act 17-155 concerning temporary health care structures, a copy of which is attached to this resolution as Exhibit' A'.

BE IT FURTHER RESOLVED that the motion for the adoption of the forgoing resolution was made by Commissioner Brown and was seconded by Commissioner Siner and passed by a vote of 5 to 0.

The following Commissioners voted in favor of the resolution: Louis Steinbrecher, Ann Brown, Joseph Siner, Lisa Wood, and Pat Lewis

The following Commissioners voted against the resolution: none

The following Commissioners were absent: Wayne Wilkinson

MOTION CARRIED UNANIMOUSLY

7. PLANNING ISSUES & DISCUSSION:

A. Ordinance revisions & proposed zoning change & POCD Action Item Priorities

J. Hodge discussed the proposed new fee schedule that would need to be submitted to the Selectmen for a Town Meeting and stated she will review the ordinance revisions with the Commission at next week's meeting along with the POCD Action Item Priorities.

B. Budget

J. Hodge briefly went over the proposed budget for the next fiscal year.

8. SENIOR PLANNER & ZONING OFFICIAL'S REPORT/ISSUES:

ZEO Activity Report/February

J. Hodge went over her activity report for February with the Commission.

9. NEW APPLICATIONS: None

10. OLD BUSINESS: None

11. NEW BUSINESS: None

12. REVIEW MINUTES:

Review minutes of Regular Meeting of 02/08/18

The Commission accepted the minutes of 02/08/18 as written.

13. ADJOURNMENT:

MOTION by J. Siner, SECOND by C. Berardi to adjourn the meeting at 9:20 p.m. MOTION CARRIED UNANIMOUSLY.

Respectfully Submitted,

Cheryl Konsavitch

Cheryl Konsavitch, Administrative Assistant
Planning & Zoning Office