

**TOWN PLAN AND ZONING COMMISSION
TOWN OF FAIRFIELD
MINUTES OF MEETING – JUNE 13, 2023**

The Town Plan and Zoning Commission held a Meeting at 6:30 p.m., Tuesday, June 13, 2023. The Town conducted its meeting at the Fairfield Fire School, 205 Richard White Way, Fairfield, Connecticut, and via WebEx.

Members Present: Tommy Noonan, Chairman; Lenny Braman, Vice Chairman; Meg Francis, Secretary; Kathy Braun; Alexis Harrison; Steve Levy.

Alternate Members Present: Tom Corsillo; Jeanine Pocoski and Peter Collins.

Town Department Members Present: Jim Wendt, Planning Director
Emmeline Harrigan, Asst. Planning Director
Matthew Decker, ZEO
Josephine Keogh, Clerk

Mr. Collins sat for Mr. Ford.

Meeting Minutes Motion was made by Ms. Francis, seconded by Mr. Braman and members present unanimously **VOTED TO APPROVE** the Meeting Minutes of May 23, 2023.

277-301 Berkeley Road Motion was made by Ms. Braun, seconded by Ms. Harrison to deny the Zoning Compliance application of Berkeley Road, LLC pertaining to the construction of a 40-unit residential development pursuant to Sect. 8-30g of the CT General Statutes.

Introduction

The subject site is comprised of 3 existing parcels, 277, 291 and 301 Berkeley Road totaling 32,699 square feet or 0.75 acres. Each of the parcels contains an existing dwelling; #277 is a 2-family dwelling, #291 is a single-family with in-law, and #301 is a 2-family dwelling according to the Tax Assessor's records.

The parcels are located on the east side of Berkeley Road and are bounded by the Tunxis Hill open space area to the east. This area is described as a working-class neighborhood filled with densely developed older houses and a history of inadequate drainage and parking. The small or non-existent driveways necessitate residents' cars and work trucks to be parked on the street. The three 2-family homes on the subject parcels were built between 1899 and 1977.

There are no sidewalks on Berkeley Road, forcing pedestrians, bicyclists, children, seniors and dog walkers to walk in the street, often in the middle of the street due to parked cars, causing a currently existing hazardous situation. Speeding was cited as an ongoing current

concern as well as a bottleneck directly in front of this site where the street narrows to about 29 feet wide. The street is used as a shortcut between the commercial areas to the south and Melville Avenue to the north, and safety concerns required the Police Commission to approve a warning sign of a hidden hill heading north towards Melville Avenue.

The site is in the Rooster River watershed which is a well-documented flood-prone area, owing to a history of dense development without adequate drainage, and has a “*recent history of significant flooding and property damage*”, according to Fairfield’s Inland Wetlands Agency. The Town has been undertaking multiple large scale flood control projects, including the purchase of properties to be used as flood plain detention. The subject parcels abut a wetland and watercourse system which is on and adjacent to this site in the open space area. Nearby residents testified about hidden streams and chronic flooding problems.

This neighborhood has already contributed significantly to the Town’s diversity of housing, including supplying much of the Town’s existing supply of middle housing as well as large quantity of affordable housing.

The proposal is to demolish the existing three 2-family houses and replace them with a 40-unit apartment building and associated parking and drainage structures. The proposed building is 33,777 square feet in size and is comprised of 4 occupied stories of 10 units each above a steel and concrete podium with 19 parking spaces below. The 40 units are comprised of 8 studios, 29 one-bedroom, and 3 two-bedroom units totaling 43 bedrooms. A total of 51 parking spaces are proposed or 1.28 per unit and 1.19 per bedroom. The height of the building is 47 feet at the street and 57 feet at the rear. A total of 6 units would be restricted at 60% median income and 6 units at 80% median income.

Impervious surfaces are described as increasing by 2-3-fold over the currently existing site with most of the wetlands 90-foot protective buffer to be built upon. A conditional wetlands permit was issued and is under appeal. The 51 parking spaces are distributed with 19 below the building, some subsurface due to the slope, and 32 on an exterior parking lot covering most of the north-eastern portion of the property, all within the wetlands buffer area. There is one point of vehicle ingress and egress, onto Berkeley, from the exterior parking lot, and cars must circulate through the parking lot to the rear, then turn right to access the parking below the building.

The Applicant’s traffic consultant indicated traffic generation from the development would be 16 peak hour AM trips and 20 Peak hour PM trips, and opined that at an 85th percentile speed of 26 MPH, both Intersection Sight Distance and Stopping Sight Distance is achieved. The traffic consultant acknowledged that in locations where cars are parked on both sides of the street, there is less than 2 full lane width remaining. An engineering study provided by a resident indicted that sight line was not achieved when considering cars parked on the road near the site.

A great deal of neighbor testimony was provided with regard to traffic and pedestrian safety. As there are no existing sidewalks on Berkeley Road, and the road narrows directly in front of the site, concerns were raised around the safety of pedestrians, bicyclists and drivers from the proposed increase in dwelling units from 6 to 40, and the accompanying traffic, parking overflow and pedestrian use of the already congested road. Concerns were also raised regarding potential competition for the existing on-street parking, potentially exacerbating the existing conditions that often finds cars on both side of the street.

Discussion

The credibility of the traffic report is questioned. The speed study was conducted during Thanksgiving week of 2021, during the COVID pandemic, not reflecting accurate traffic flows in 2023 and beyond. Further, trip generation estimates solely relied on ITE (Institute for Traffic Engineers) data, which are generalized national estimates based on limited sample data sets and not adjusted for local or site-specific conditions. No effort was made to relate this data source to this project at this location within Fairfield. The traffic consultant's statement that only 12 vehicles in a development of this size in this area would exit during morning rush hour was found lacking in foundation. The data collection is out of date and neighbors reported that several dwellings in the neighborhood were vacant during the study period. Commissioners also noted that they were provided with credible evidence of the road narrowing in front of this site and the need for residents to park their cars and work trucks on the road due to very small or non-existent driveways, impacting public safety.

The record contains photographic evidence of complete blockage of the street by an Amazon delivery van when vehicles are parked on both sides of the street at the site's location.

Parked cars were not considered in the sight line review provided by the applicant's traffic consultant, who reasoned that in some other applications parked cars were not considered in sight line review by this Commission or the Town Engineering Department. The consultant did not provide a factual basis for omitting the current parking situation or exacerbation by overflow parking from the proposed development from the sight line analysis, or why comments solicited from town officials also omitted this consideration as a safety factor.

However, the record reflects that this Commission and the Town Engineering Department have considered parked vehicles in sight line review where actual local conditions establish that parked vehicles are more than transitory and should be considered to ensure public safety.

Neighbors provided credible testimony and evidence to document existing safety concerns arising from the prevailing existing conditions of on-street parking on both sides of the street which reduces the remaining travelled way to less than two lanes such that opposing traffic must yield to one another to safely pass on a consistent basis. Existing pedestrian safety is also compromised by this condition as there are no existing sidewalks on Berkeley

Road. The evidence verifies that the conditions are more than mere concerns.

While zoning regulations do not control in 8-30g applications they do provide evidence of the need for parking in the zone. This proposal represents very high density compared to the existing zoning regulations which would require 2.5 spaces per unit, or 100 spaces. Overflow parking is highly likely to occur, and will further exacerbate an already extremely burdened parking situation on the street, causing hazards to pedestrians and vehicles. The Commission finds that there is a certainty that 40 units of housing with 51 parking spaces will result in an increase in the existing on-street parking with limited capacity for its accommodation as well as increased pedestrian activity. This, coupled with the increase in traffic from the project itself results in a quantifiable public safety issue.

A neighbor submitted a sight line study prepared by an engineer that countered the applicant's study, establishing the sight line exiting the proposed driveway would be obstructed by the presence on-street parking creating an inadequate sight line. Removal of parking along the site frontage does not cure this defect and would further contribute to the lack of available parking in the area. The applicant's traffic consultant admitted that sight line data submitted was not the actual data from his study. The consultant said that sight lines exceeded the minimum requirement, so he merely submitted that minimum as the actual sight line data. This is not an adequate foundation on which to rely for site line adequacy. . Since the actual site line data is misrepresented/omitted from the submitted study, the study should be rejected until the actual observed sight line data is provided to this Commission in a fully revised report.

It is not resolved whether the project can be constructed as designed. An abutting neighbor testified of an existing underground drainage or the presence of an un-named watercourse on the site. This is supported by a study for a Tunxis Hill Park floodplain remediation study prepared for the Town by SLR dated 2/8/22 and discussed during the hearing. The Inland Wetland Permit, which is under appeal, requires further inquiry into this issue which has yet to be performed. A condition of the permit requires: *““Conduct further investigation of subsurface drainage structure, including excavation to determine existing limits, construction details, terminus and origin on-site. The results of the investigation shall be mapped and submitted to the Conservation and Engineering Departments for review and approval, including the need to alter, mitigate or re-route the existing drainage structure in any way.”* The result of that required further investigation will likely change the design of the project or limit its ultimate implementation. Without that change, unacceptable adverse impacts, including flood control and water degradation are likely to result, as concluded by the Wetlands Agency.

This condition was imposed after the Wetlands Agency found that the significant expansion of impervious surfaces is of great concern, and that the storm water detention system was expected to exceed the design capacity and the overflow system would need to be used. The Agency stated that *“as proposed, negative impacts are anticipated to degrade overall water quality both on-site and off-site based on the coverage of additional impervious surfaces...the intent of the upland review area [buffer] is... protecting stream banks from*

erosion, providing flood water conveyance, providing groundwater recharge and storage, water quality functions including shade to moderate water temperature, trapping sediment, renovating surface water runoff and isolating pollution sources...”

The Commission takes note of the fact that the proposal would eliminate 6 existing housing units of duplexes, or ‘middle housing’, in a working-class neighborhood, which provides naturally occurring affordable housing of a scale that enhances the community and does not introduce hazards. The Commission is also mindful of avoiding a concentration of affordable housing within the limited geographic area of this proposal considering other existing and approved projects.

The area of Town where the site is located is already home to a concentration of affordable housing that far exceeds the affordable housing located the rest of the town with more units approved that have yet to be built.

The public policy of our state is not to concentrate all the lower-income people in one area. It is also the policy of our state and the Town of Fairfield to increase our "middle housing" stock. This application eliminates already-existing middle housing that does not add traffic, overflow parking or pedestrian hazards.

The Commission finds that there is substantial evidence in the record that the proposal provides inadequate sight line when considering the documented conditions currently in existence that cannot be fixed by this Commission, and that the proposed development will result in added flooding in this local area. For the foregoing reasons, the Commission finds that the proposed development would result in quantifiable harm to the neighborhood and to public safety, which harm clearly outweighs the need for affordable housing, and that the public interest cannot be protected by reasonable changes to the development.

For the motion to Deny: Braun, Harrison, Francis, Collins
Against the motion: Noonan, Braman, Levy

1215 Post Road Motion was made by Mr. Braman, seconded by Mr. Levy and members present unanimously **VOTED TO APPROVE** the Zoning Compliance application of David O’Shaughnessy for outdoor dining at Mecha Noodle Bar with the following conditions of approval:

1. A suitable barrier shall be installed for the protection of patrons.
2. No outside music or sound system.
3. No additional signage.
4. Subject to annual re-certification.

226 Pine Creek Avenue Motion was made by Ms. Braun, seconded by Mr. Braman and members present unanimously **VOTED TO APPROVE** the Coastal Site Plan application of Beaches II, LLC pertaining to demolishing an existing single-family dwelling and constructing a new single-family dwelling with the following conditions of approval:

1. Architectural Plans to be in conformance with Fairfield's Flood Protection Regulations (Section 32) and all Zoning Regulation requirements.
2. Soil erosion and sedimentation controls installed **and** maintained during the entirety of the construction project at the subject site.

PUBLIC HEARING

2500 Black Rock Turnpike Special Permit application of Phil Cerrone, Architect, on behalf of Lenox Properties, LLC for a 65'x 23' addition to an existing retail building. Des. Comm. Dist.

Phillip Cerrone, Architect, presented the proposed application to the Commission.

Public comments followed.

The Public Hearing was continued to June 27, 2023.

The meeting adjourned at 8:35 p.m.

Meg Francis, Secretary

Josephine M. Keogh, Clerk