

CITY OF NORWICH ZONING BOARD OF APPEALS

June 14, 2021

Regular Meeting Minutes

The regular meeting of the City of Norwich Zoning Board of Appeals was called to order at 7:07 p.m. Roll call was taken.

PRESENT: Marc Benjamin, Chairman
David Martin
Peter Cuprak
Dorothy Travers
Robert Phoenix

ABSENT: Gregory Schlough

OTHERS: Richard Shuck, Zoning Enforcement Officer, and Katherine Rose,
Recording Secretary

Marc Benjamin called the meeting to order at 7:01 p.m. Marc Benjamin stated all seated members would be voting on all matters.

A. COMMUNICATIONS: None.

B. ACCEPTANCE OF MINUTES: Robert Phoenix made a motion to accept the May 11, 2021 minutes. Dorothy Travers seconded. The motion passed unanimously.

C. OLD BUSINESS: None.

D. NEW BUSINESS:

- 1. V# 21-07: Myrtle Drive (Property is located off of Myrtle Drive, Dominican Dr., & Wisconsin Ave.):** Request for Use Variance to ZR Sec. 4.1.1, Conformity Requirements; to permit use of the property for development of up to 80 apartments in the Business Park Zone. Property of The Estate of Margaret Stanley. Application of Alexander Gebbie, Ever Real Properties, LLC., Assessors Map # 21, Block # 1 Lots # 5, 5.1, 5.2, & 5. RD, BP Zone Property is located off of Myrtle Drive, Dominican Dr., & Wisconsin Ave.

Richard Shuck read Exhibits A - H into the record.

Mark Block, attorney for the applicant, explained that Ever Real Properties has a contract to purchase property from the Stanley Estate which included the remaining parcels of the property originally developed by William Stanley. Mark Block continued that the property as originally developed was subdivided which became in part St. Jude's Commons, Cambridge Estates and the FedEx warehouse. Mark Block explained the layout of the property and area which was located on the west side of

Myrtle Drive and surrounded St. Jude's Commons. Mark Block stated that Ever Real properties was seeking to construct up to 80 multi-family apartments in two buildings, one of which was located on the large parcel that was southwest of the St. Jude's commons and across from Myrtle Drive to the south. Mark Block stated the applicant was seeking to utilize the property as originally developed in the early 1990s when it was in the IP Zone. Mark Block explained that aside from the Fedex warehouse the subdivision was developed as entirely residential and has sat vacant for approximately 30 years as it was supposed to become a residential housing unit as the IP zone allowed such in the industrial park at that time, which was how Cambridge Estates was built. Mark Block stated when the zoning for the industrial park was changed to the business park that multi-family residential units were omitted from the permitted uses allowed within the zone. Mark Block stated the applicant was seeking the variance to allow for multi-family units as the property was originally planned for as it is the logical development of the property and was compatible with the original community. Mark Block stated the alternative would be for the property to remain undeveloped instead of returning to the city tax roll. Mark Block stated the property had ample parking available with access through Myrtle and Dominican Drive and was not overburdening on the surrounding community in any way. Brandon Handfield, civil engineer, explained that the topography, frontage and other limitations existed which made the space a difficult commercial business property and it was surrounded by residential development. Robert Phoenix questioned the proximity of the property to Franklin. Mark Block added that the property extended into the Town of Franklin however the applicant was not purchasing any property over the town line. Richard Shuck and Mark Block stated they had both been contacted by some abutters with potential concerns.

Matthew Hoberman, attorney at Butler Norris Gold of 254 Prospect Street, Hartford, stated he represented one of the abutters who felt there were other reasonable uses of the property and the point of a variance was to show a hardship and why that hardship prevents the reasonable use of the property which they felt did not exist. Matthew Hoberman continued that Exhibit B only showed a small portion of the location that would be used and although the applicant stated topography would be an issue the fact that there is a Fedex property and other businesses within the area showed that there are many other reasonable uses for the property. Matthew Hoberman added that there were no other multi-family uses in the zone and perhaps they were omitted to limit housing in the business park. Matthew Hoberman stated his client would like the city to look into other potential uses before granting a variance and look at the neighboring lots to determine why this specific lot would be deserving of a variance.

Mark Block responded that the property was developed in 1997, almost 30

years ago, since which the property has sat feral and that the owner had been unable to develop the property within the allowable uses permitted in the business park zone. Mark Block continued that the property was surrounded by residential properties and that the owners' hardship from their perspective was that there was not reasonable available use to market the property as commercial or industrial for sale and that the most logical use for the property would be as multi-family apartments.

Marc Benjamin what the total size of the parcel was and how much square footage the buildings would take up. Mark Block responded that the large parcel was about 37.14 acres, the small parcel was about 3.62 acres and that the conservation area which separated Norwich Woods from Dominican Drive was 9.17 acres with the total footprint of the buildings combined being less than an acre. David Martin asked if the property had been actively marketed for sale. Mark Block responded that he was contacted by Lyman Commercial Realty and was not sure of the history. Robert Phoenix noted that the circumstance was another situation where zoning was changed which led to unintended consequences as although the business park is not currently zoned residential the original industrial zone use did have residential components so he assumes the original owner went forward with plans to increase residential components in the property with the door being shut on the project because of the change in the zoning laws. Discussion ensued on revealing the identity of the property owner or property represented by Attorney Hoberman and tabling the application until the client could be contacted.

Robert Phoenix made a motion to continue the public hearing and seek a legal opinion from City Council. David Martin seconded.

2. **V# 21-08: 28 Falls Ave (AKA 16 Falls Ave.):** Request for Use Variance to ZR Sec. 2.1, Commercial Bulk Requirements; to reduce the front yard setback to 0 Ft. where 20 ft. is required, for the construction of a 5 ft. x 34 ft. ramp. Property of Mary Anna Holdings, LLC. Application of Zack Turner, Thayer's Marine Inc., Assessors Map # 101, Block # 4 Lots # 63+65 WD Zone

Richard Shuck read Exhibits A - E.

Zack Turner of 5 Deerbrook Road in Preston stated he was looking to construct a 5 by 30 foot ramp in front of the existing building for access to the middle of the building and to the raised electrical panel that is needed in order to get the required building permit. Zack Turner stated their goal was to construct one ramp and access point opposed to multiple. Susan Mattern, Survey Group Manager at DGT Associates of 148 Route 2, Preston, stated that the site at the Thayer's Marine complex was currently being utilized as boat storage which would continue and that the full site

plan would be presented at the Commission on City Planning meeting the next day which would involve improvements to the one story brick building with retail space for marine associated sales and a maintenance area for the Thayer's Marine business. Susan Mattern showed the area where the property owner wished to construct a handicap ramp and two van sized handicap spaces with an easement associated that would encompass the spaces and go out to access Falls Avenue, and its proximity to the existing property line. Susan Mattern continued that the ramp would be located at the northeast side of the building to allow access to the retail area with an electrical meter installed at the top of the ramp sitting 8 feet above flood grade. Susan Mattern stated that in order to comply with ADA requirements, which state a span of a handicap ramp cannot extend 30 feet before a reset or turn platform is required and that one foot of change in grade is permitted within 12 feet, they required a variance as the current property line would not allow the 36 feet of length required to create ramp with the proper turn platforms. Susan Mattern explained that due to the slope if the ramp was placed in an alternate area it would be more challenging for a person in a wheelchair trying to maneuver the ramp. Susan Mayer stated Thayer Marine requested the electrical meter be installed at the ramp as it is required to be above flood zone elevation at 14.4 feet and that the proposed design would sit the meter at 15.5 feet high. Richard Shuck explained that due to the elevation of the building whether stairs or a ramp were seeking to be put in place a variance would be required and that the variance requested is for the ramp in the rear of the building closest to the ramp for the parking garage.

Robert Phoenix made a motion to close the public hearing. Dorothy Travers seconded.

E. DISCUSSION AND POSSIBLE DECISIONS:

- 1. V# 21-07: Myrtle Drive (Property is located off of Myrtle Drive, Dominican Dr., & Wisconsin Ave.):** Request for Use Variance to ZR Sec. 4.1.1, Conformity Requirements; to permit use of the property for development of up to 80 apartments in the Business Park Zone. Property of The Estate of Margaret Stanley. Application of Alexander Gebbie, Ever Real Properties, LLC., Assessors Map # 21, Block # 1 Lots # 5, 5.1, 5.2, & 5.RD, BP Zone Property is located off of Myrtle Drive, Dominican Dr., & Wisconsin Ave.

The hearing was continued with no discussion.

- 2. V# 21-08: 28 Falls Ave (AKA 16 Falls Ave.):** Request for Use Variance to ZR Sec. 2.1, Commercial Bulk Requirements; to reduce the front yard setback to 0 Ft. where 20 ft. is required, for the construction of a 5 ft. x 34 ft. ramp. Property of Mary Anna Holdings, LLC. Application of Zack Tarner, Thayer's Marine Inc., Assessors Map # 101, Block # 4 Lots #

63+65 WD Zone

Robert Phoenix made a motion to approve the application for discussion. Peter Cuprak seconded. Robert Phoenix stated that the hardship is fully justified in that a variance is needed for any construction to the exterior of the building based on the proximity to the property line in that area opposed to another due to the topography of the land. David Martin added that the ramp may not be ADA compliant but would still be an assistance to any with a disability and even if the ramp were stairs the variance would still be required. All voted in favor. The motion passed unanimously.

F. STAFF UPDATES: Richard Shuck reported that the format of in-person meetings would require an option for the public to call in or access via ZOOM but committees also have the opportunity to remain remote. Discussion ensued.

G. ADJOURNMENT: A motion was made by Robert Phoenix to adjourn at 8:22 PM. Dorothy Travers seconded. All voted in favor. The motion passed unanimously.

Respectfully submitted,
Katherine Rose
Recording Secretary