

ZONING BOARD OF REVIEW MINUTES

Tuesday June 24, 2014 Meeting 7:00 pm

Town Council Chambers, Town Hall

Present: Richard Land, Renu Englehart, Jody Sceery, Ashley Cullion,
and Stephen Zubiago (Alternate).

Absent: Joseph Russolino (Chair).

Staff: Lea Anthony Hitchen, Assistant Town Planner; Wayne
Pimental, Building Official; and Peter Clarkin, Town Solicitor.

Mr. Land, Acting-Chair of the Board, called the meeting to order at 7:00 PM and introduced the members and staff present. He then read the Board's procedures into the record. Each person addressing the Board will first state his or her name and address for the record. The applicant and his or her legal representative will present the case and witnesses may be called to testify. Such testimony must be relevant to the application. Expert witnesses will be sworn in and there will be no prejudgment as to the expertise of any witness. Pictures, diagrams and other documents given to the Board as evidence will be appropriately marked as exhibits and will be retained by the Board for the record. Upon completion of the applicant's presentation all other persons wishing to offer evidence in favor of the application may then do so one at a time. Following that all persons wishing to offer evidence against the application may then do so one at a time. It is asked that comments are confined to the zoning matter being heard and that repetitive remarks are avoided. Cross examination or rebuttal may be allowed if the Board feels it would be appropriate and useful. All questions from the floor will be directed through the Chair only. After all relevant facts have been heard the Chair will call for a motion; the Board will then discuss the motion and the Chair will call for a vote. During the discussion among voting Board members, the Board will not accept and new and further testimony unless it is specifically requested by a Board member. The Board will make every attempt this evening to render a decision. The written decision will be recorded in the Town Clerk's Office as soon as possible following the approval of the minutes of the meeting.

Zoning Board of Appeal Hearings – 7:00 PM

- 1. Kristina Stark** for property located at 56 Somerset Street; Map 85 A.P. 2 Lot 204 (Zoned Residential, R-10). The Applicant requires a Special Use Permit to accommodate an accessory family dwelling unit (in-law apartment) on the property. Chapter 260 of the Town Code, Zoning Ordinance, Section 9C(2) and Table 1 of the Zoning Ordinance, Table of Permitted Uses by Zone, establish the provision for such accessories to be permitted by special use permit.

Ms. Kristina Stark, owner of the property, stated the property is currently a 2-family home which she intends to convert to a one-family with an in-law apartment. She confirmed her mother-in-law currently lives with her family and the plan is to create a space for her in the existing dwelling.

Ms. Englehart asked if the Applicant understands that once an in-law is approved the property owner is not allowed to rent it out and that it is strictly for family. Ms. Stark replied in the affirmative.

Ms. Stark explained the floor layout and plans noting the studio apartment on the first floor.

Ms. Cullion questioned if the only exterior alteration is the small porch and the new set of rear stairs. Ms. Stark confirmed that she wants to give her mother-in-law her own entrance which will require a back door and staircase.

Ms. Sceery asked if the Applicant has already gone through the Historic District Commission process. Ms. Stark noted that she has started the process – she has already received conceptual approval and will be on the July agenda for a final plan approval.

The Town Solicitor asked if the Applicant has been informed of being subjected to a yearly certification by the Zoning Official. Ms. Stark confirmed that Town Staff informed her of the condition.

Mr. Land opened the hearing for public comments.

With no public comments Mr. Land asked for a motion.

Motion by Ms. Englehart to approve the application as presented. Seconded by Mr. Zubiago.

Ms. Englehart stated that this type of application is commonly reviewed by the Board and felt that it met all the relevant standards.

VOTE: 5 – 0.

2. **Cumberland Farms Inc.** for property located at 3323 South County Trail; Map 11 A.P. 18 Lot 85 (Zoned Commercial, CH). The Applicant requires a Special Use Permit and Dimensional Variances in order to raze the existing structures and rebuild a new 104'x44' convenience store with fuel pumps. The Special Use Permit is required under Chapter 260 of the Town Code; Zoning Ordinance, Table 1, Permitted Uses by Zone. Additionally, Dimensional Variances are being sought under Chapter 260 of the Town Code, Zoning Ordinance, Table 2, Dimensional Requirements by Zone; Article VI, Off-Street Parking Regulations, Section 260-20 Off-Street Parking Spaces, Section 260-24 Off-Street Storage & Loading and Section 260-25D(2) Required Setbacks/Buffers.

Attorney Elizabeth Noonan, of Adler, Pollock & Sheehan represented Cumberland Farms; she explained the application is for both a special use permit and dimensional variances. She explained Cumberland Farms plans to raze the existing building which consists of the Cumberland Farms store and D'Angelo's and create a new Cumberland Farms, noting that this is a program Cumberland Farms is doing throughout the state. She commented that it will be going from having two uses to just being a Cumberland Farms at some point next year.

Atty. Noonan confirmed that the new building will be slightly larger than what is there now and will be reconfiguring the pumps as well as number of pumps. She noted that the Staff Report and conditions have been reviewed and she is in agreement with both the report and conditions.

Atty. Noonan submitted the following into the record:

Exhibit #1 – Brian C. Giroux, P.E. of DiPrete Engineering resume;

Exhibit #2 – Eric M. Prive, P.E. of DiPrete Engineering resume;

Exhibit #3 – Proposed 8"x11" Cumberland Farms renderings.

Mr. Brian Giroux, P.E. of DiPrete Engineering explained the existing conditions of the subject property. He then verified that for the proposed site the new building will be about 4,500 s.f. in size with 6 new gas pumps (12 positions for fueling) and much improved circulation throughout the site. Mr. Giroux noted there will be 22 parking spaces which do not include any spaces located at the pumps; there are some parking spaces themselves located near the property line but are no closer than they are today. He disclosed that the new canopy is located outside of the side yard setback but within the front yard setback and the curb cuts will be in about the same location but will be improved upon per RIDOT guidelines. He explained there will also be new upgraded fuel storage tanks as well as a screened dumpster location that does not exist today.

As part of state permitting, Mr. Giroux explained the project requires approval from RIDEM for the underground fuel storage tanks, drainage system and septic system and will need a RIDOT permit for the revised curb cuts.

Mr. Giroux detailed the new drainage system for the site to which it must meet RIDEM water quality requirements – it will have a similar drainage pattern as it does today and will still flow towards South County Trail but the new system will pick up some drainage for water quality recharge in order to meet RIDEM requirements; additionally the improvement results in approximately 6,300 s.f. reduction in impervious area which helps in post development conditions.

Mr. Giroux explained the proposed landscaping for the site meets all of the East Greenwich requirements and there is also a submitted lighting plan which uses LED lighting, will be cut off and shielded to the surrounding areas and will be “dark skies” compliant. He noted that all of the other surrounding uses in the area are commercially based as well.

Mr. Giroux verified that the new building will require a dimensional variance for the side setbacks as the building is to be 35' from the property line on the north side and 36' from the south side where a 40' setback is required. In terms of parking, he noted the site would require 43 parking spaces and this project is providing 22 spaces; if the spaces at the gas pumps were included there would be an additional 12 for a total of 34. Mr. Giroux advised that if more parking was added to get closer to the required amount of spaces then it would reduce the amount of landscaping required.

Atty. Noonan commented that one of the issues raised at the Technical Review Committee meeting was possibly relocating a couple of parking spaces on the south side, particularly spaces labeled P1 and P2 as those spaces interfered with the loading area, employee parking spaces, etc. She verified that the site plan has not been amended to reflect that suggestion to date.

Mr. Giroux confirmed that the request for the special use permit is specifically for the gas pumps as there will be new gas tanks and new gas pumps installed.

Ms. Cullion questioned if there has ever been a conflict with customer parking and employee parking turnover with the dumpster use. Mr. Giroux testified that those particular parking spaces are not high use spaces and does not foresee an issue with P1 and P2 being used at the same time as the dumpster being emptied.

Mr. Clarkin asked how store deliveries are made. Mr. Giroux noted that deliveries are made in the vicinity of the employee parking spots; the drivers use a hand dolly to deliver the goods to the back entrance of the building at any point in the day.

Ms. Englehart recommended that it might be a good idea to remove P1 and P2 spaces. Mr. Giroux asserted the project will still work with 20 parking spaces. Ms. Cullion asked if the parking space width could be reduced to maintain landscaping while relocating the two spots considering the spaces are 10'x20'. Mr. Giroux commented that Cumberland Farms standard is to have a 10'x20' space for convenience purposes.

Ms. Sceery clarified that landscaping requirements will still be met if the two parking spaces are relocated. Mr. Giroux said he would have to verify but would make sure the requirement is met.

Ms. Hitchen noted that the front three gas pumps are in the front setback by 12' and will also need relief. Atty. Noonan amended the application to reflect that front setback relief was requested for the front three gas pump structures.

Atty. Noonan submitted Ms. Maureen Chlebek's resume into the record as Exhibit #4.

Ms. Maureen Chlebek, P.E., a traffic engineer of McMahon Associates, explained the traffic findings of the area including the turning movements at Route 2, identified the peak hours and reviewed accident data over a three year period and developed crash rates for the intersection which she found to be fairly low. She found the Cumberland Farms redevelopment would result in an increase of about 32 "new" vehicle trips, with 16 vehicles entering and 16 vehicles exiting during the weekday morning peak hour and an increase of 26 "new" vehicle trips, 13 entering, 13 exiting, during the afternoon peak hours. Ms. Chlebek noted this was a minor increase in traffic volume to the site and South County Trail.

Ms. Chlebek summarized that there would be no issues with the line of site/site distance, internal circulation of site as well as maneuverability of delivery trucks within the site. She also explained the capacity analysis indicated that the proposed development would not have any appreciable impact on the operations of the study area intersections or roadways and the site access modifications will improve the overall access and safety to the site; South County Trail is a state road and will therefore submit a physical alteration permit to RIDOT to which that agency does not have issues at this point.

Ms. Chlebek advised that she has worked on a number of Cumberland Farms redevelopment plans and believes that this particular site has more than enough parking spaces on this plan even if P1 and P2 spaces were eliminated in her opinion.

Mr. Land questioned the TRC's perspective of relocating the P1 and P2 parking spaces. Ms. Chlebek noted the TRC felt as though it was a matter of configuration and an unconventional way of positioning parking spaces. She felt that Cumberland Farms typically has a high turnover rate of parking.

Atty. Noonan commented that having met with the TRC and not objecting to the Staff Report's conditions the Applicant remains amenable on the parking spaces either to eliminate P1 and P2 or move the spots, she would leave it up to the Board.

Mr. Land opened the hearing for public comments. No public comments.

With no further questions Mr. Land asked for a motion.

Motion by Ms. Englehart to approve the application with amendment to include the front setback relief of 12' for the three front gas pumps and the following conditions:

- The East Greenwich Department of Public Works (Engineering Department) shall review and approve final site plan engineering, especially as it pertains to grading and drainage, stormwater management, and erosion and sediment control.
- Any lighting added to the property shall be confined to the site and not spill onto any adjacent property. Such lighting shall also adhere to the "dark skies principles," shall not shed upward and shall be of an intensity to satisfy the minimum requirements for parking lot security.
- A Final Landscaping plan shall be submitted for approval by the Technical Review Committee.

Seconded by Ms. Sceery.

Ms. Sceery commented that the proposed project is a great improvement and will be voting in favor of the application.

Mr. Land stated that having reviewed the application and heard the testimony it is his view the application meets the relevant standards required

for a special use permit and dimensional variances and he too will be voting in favor of the application. He added the project is a significant improvement of the site and does not see any negative effect of the proposed changes.

VOTE: 5 – 0.

Zoning Board of Review Business

1. Minutes: Review/action on the minutes of the May 27, 2014 meetings.

Motion by Ms. Sceery to approve the May 27, 2014 minutes. Second by Ms. Cullion. Motion supported 4 – 0.

2. Elections of Chair and Vice-Chair.

Ms. Englehart nominated Mr. Land to be Chair of the Zoning Board of Review. Seconded by Ms. Sceery.

VOTE: 5 – 0.

Mr. Land nominated Ms. Englehart to be Vice-Chair of the Zoning Board of Review. Seconded by Ms. Sceery.

VOTE: 5 – 0.

With conclusion of all business, there was a motion by Ms. Sceery, second by Mr. Zubiago to adjourn at 7:45 PM. Motion supported 5-0.

Minutes respectfully submitted by:

Lea Anthony Hitchen,
Assistant Town Planner

For more information, please refer to the recording available in the Planning Department.