

MINUTES
PUBLIC HEARING
PLANNING AND ZONING COMMISSION
LISBON TOWN HALL
TUESDAY, JULY 3, 2018
6:30 P.M.

The Planning and Zoning Commission held the following Public Hearing in the Lisbon Town Hall, 1 Newent Road, Lisbon, Connecticut beginning at 6:30 PM on Tuesday, June 5, 2018.

6:30 P.M.: Application for Special Permit to allow a single-family residence to be built on a "Flag Lot." The subject parcel, 31 Strawberry Street, Lisbon, CT, is shown as Lot 39 on the Jeremy Development Subdivision (Subdivision) and is located west of Strawberry Street, Lisbon, CT, map/block/lot 17/005/0039, lot area 2.95 acres, in the R-40 zoning district. The applicant submits the application pursuant to Section 11 of the zoning regulations and Connecticut General Statutes Section 8-26a, under which it claims to be governed by the Lisbon Zoning Regulations in effect on June 2, 1987, the date of approval of the Subdivision by the Commission, including Section 9.8 thereof, "Flag Lots."

6:45 P.M.: Application for special permit approval by Nadeem Khalid in accordance with section 5C.2.1 and section 11 for installation of a drive-through and other commercial site improvements such as tank and pump installations, at 102 River Road, Lisbon CT 06351, map/block/lot 20/009/0000 in the BV- IV zoning district.

MEMBERS PRESENT: Robert Adams, Kim Sperry, Ben Hull, III, Garry Ritacco, Trevor Danburg,
Sharon Gabiga, Timothy Minor (ALT)
MEMBERS ABSENT: Ron Giroux, Cheryl Blanchard, John Dempsey
STAFF PRESENT: Michael J. Murphy, AICP, Consultant Planner-SCCOG, Lisbon Town Planner

The following Public Hearing was called to order by Chairman Robert Adams at 6:30 PM:

Application for Special Permit to allow a single-family residence to be built on a "Flag Lot." The subject parcel, 31 Strawberry Street, Lisbon, CT, is shown as Lot 39 on the Jeremy Development Subdivision (Subdivision) and is located west of Strawberry Street, Lisbon, CT, map/block/lot 17/005/0039, lot area 2.95 acres, in the R-40 zoning district. The applicant submits the application pursuant to Section 11 of the zoning regulations and Connecticut General Statutes Section 8-26a, under which it claims to be governed by the Lisbon Zoning Regulations in effect on June 2, 1987, the date of approval of the Subdivision by the Commission, including Section 9.8 thereof, "Flag Lots."

Michael J. Murphy, AICP, Lisbon Town Planner, explained to the Chairman and the Commission that the application before them last month was withdrawn, resubmitted as per the Commission's recommendation, and public notice and signage for the new application has met the required legal requirements.

Attorney Michael P. Carey of Suisman, Shapiro, Wool, Brennan and Gray, 75 State Street, New London, Connecticut, was present to represent the applicant. He stated that there were four flag lots approved for the Jeremy Subdivision in 1987 and three were approved subsequent to the subdivision approval, and were required to obtain special permit before building. It appears questionable that this lot would satisfy the requirements of a rear lot under the current zoning regulations, however it meets every requirement for the regulations of flag lots under the regulations in place at the time the subdivision was approved. The reason we are governed by those regulations is found in general statutes section 8-26. (A copy was provided for the record).

MINUTES
PUBLIC HEARING
PLANNING AND ZONING COMMISSION
TUESDAY, JULY 3, 2018
page 2 (cont)

He went on to say that this lot had never had a building permit and is subject to the zoning regulations of 1987, including section 9.8 "flag lots". He stated this is clearly a vacant lot under the statute.

Ben Hull asked why in the Jeremy Subdivision plan, that this lot was "not a building lot". Mr. Carey stated that the developer stated it did not meet the requirements of a building lot, but that it was to be considered a "flag lot" that would require special permit.

John Faulise, of Boundaries, LLC, 179 Pachaug River Drive, Griswold, Connecticut submitted legal notice return receipts and copies of the signage posted on the property, for the record. The lot is governed under section 8-26 of Connecticut general statutes and is governed by 9.8 of 1986 Planning and Zoning regulations. He pointed out that materials have been submitted with the application from the original subdivision plans, showing the lot outlined with requirements of a special permit for developing. Also submitted is a permit that allows for regulated activity in the inland wetland upland review area; notice from Uncas Health District for approval of the septic system; a copy of the minutes from the June 2, 1987 Planning and Zoning Commission regular meeting minutes when Jeremy Subdivision was approved; a graphic depicting abutters within 500 feet of the property. Also noted was 9.8 of zoning regulations consisted of four points: 9.8.1 (driveway to front an existing street). Strawberry was deeded Sept 6, 1987. Section 9.8.2 refers to the size of the lot. 120,000 square feet is required and this lot meets those requirements with 128,603 square feet. Section 9.8.3, access strips, is only 290 feet long with a driveway to serve the lot. The adjacent lot has shared the driveway since before the adoptions of the regulation that prohibits shared driveways, so it is considered nonconformity. This lot has and maintains its own driveway and is in place. 9.8.4 - access strip should not be located within 300 feet of a flag lot in the same subdivision. The closest is 850 feet north of this lot.

Mr. Faulise referred the Commission to the site plan, which was also submitted with the application, pointing out the location of the house, septic and wetland area. All regulated activities are outlined in the original subdivision plans.

Mr. Carey added the only change in the applications is the siting of section 9.8.

Mr. Murphy prepared a staff report, and entered it into the record. The report was provided to the Commission in their packets. He stated that abutters were notified, legal ad was more extensive than usual and they will supplement the application fee to cover the almost \$500 legal ad, which they agreed to do. He then stated that the difference between the regulations is the buildable area. However, they intend to meet the current regulation's set back requirements, and they will meet those requirements (50 feet from each boundary line). The town attorney was consulted, and it was determined that there could be some merit to their request regarding statutes 8-26.a. Section 9 also protects the applicant and relieving the applicants of buildable area requirements, approved before Sept 29, 2000 of regulations adopted after the approval of the subdivision. Section 8.5.1 protects well arc encroachments in previously approved subdivisions.

Mr. Murphy then made note of the fact that construction was planned close to a large tree, and he recommends the condition to protect that tree. The health department currently has no issues with the sewage plan as submitted by Mr. Faulise, and the fire marshal has reported no issues as well. In his report, he mentioned "not a building lot", however the plan had a lot number but it was not approved, as it required a special permit. He made note that he did not get any questions from the public at the time of the process of noticing this application. This is the final flag lot in this subdivision.

MINUTES
PUBLIC HEARING
PLANNING AND ZONING COMMISSION
TUESDAY, JULY 3, 2018
page 3 (cont)

The Chairman asked for comment in favor of the application, to which there was none.

The Chairman asked for comment in opposition to the application. Donald Burke, 29 Strawberry Street stated he was not opposed to the application, but wanted clarification about what was going to be done with all the water from that back lot. He said there is drainage system that comes from that development. Mr. Faulise stated there is no proposed activity in regard to grade changes on the property line adjacent to Mr. Burke's property. He also said there is a large wetland system that drains to the south/southwest towards the adjacent property, similarly in front of 29 Strawberry, but they discharge to the north. The site development plan shows a wetland system to the northwest, draining to the northwest of the property. Mr. Burke asked if the Wetlands Commission (Conservation Commission) went to the property, to which Mr. Faulise stated that the members of that Commission walked the property before granting their permit.

Ben Hull asked what the basis of the concern of the tree is. Mr. Murphy replied that it is a fundamental environmental concern that when constructing near a tree intended to preserve, you try to protect it. The tree is on the lot. Mr. Hull then asked if the tree is causing them any hardship. Mr. Faulise stated that it is marked as a benchmark for construction purposes. They will surround the tree with snow fence to protect it. They are not tying the hands of the construction company, however, and if it becomes apparent that the tree must be removed, then it will be if necessary. It will be located 25 feet off the proposed garage area of the house.

This public hearing was closed at 7:09 P.M.

The following Public Hearing was called to order by Chairman Robert Adams at 7:10 P.M.:

Application for special permit approval by Nadeem Khalid in accordance with section 5C.2.1 and section 11 for installation of a drive-through and other commercial site improvements such as tank and pump installations, at 102 River Road, Lisbon CT 06351, map/block/lot 20/009/0000 in the BV- IV zoning district.

The applicant and property owner, Mr. Nadeem Khalid, was present. He stated his intent was to upgrade the tanks and to install a new canopy, move the large sign, and remove the current diesel pump, reducing the site from 5 pumps to 4 pumps. He stated the site is surveyed, and he submitted photos of the signage. He explained that the property will be fenced along the perimeter, with handicap parking in specified areas. He is proposing a new drive through. He showed where the new garbage dumpster will be located. He also stated there would be new landscaping and signage to guide traffic. He showed what the new canopy was to look like, saying it would be the same dimension as the existing canopy. He submitted illustrations of the back and side views of the building. He asked the Commission to please give their blessings so that they can begin replacing the tanks.

Mr. Murphy provided a staff report for the Commission. He has not reviewed the new information the Commission has before them. He stated the applicant was requested to apply for a special permit for the drive through specifically. He had the applicant provide the zoning permit application because of the extensive signage changes. He noted for the record that it is an improvement, because the signs will be reduced in size on the canopy and the large sign to the rear of the property will be coming down. This hearing is for the drive through permit only. The Commission needs this additional information so Mr. Murphy can review it and present to other agencies. The applicant needs to address some additional issues

MINUTES
PUBLIC HEARING
PLANNING AND ZONING COMMISSION
TUESDAY, JULY 3, 2018
page 4 (cont)

on the site plan. He recommends that the hearing be continued. It may be extended to the August meeting. He notes that the building official has no major issues but will require detail of the demolition of the large tower sign, and full plans for the improvements. He also asked of the applicant, what his plans are for certain items:

With the reorientation of the canopy, the curb cuts must be narrowed and the island must be extended.

Mr. Murphy made note of the big propane tank, and had questions about the applicant's plans for the tank. It is important that the applicant lay out his plans for those utilities associated with it, in Mr. Murphy's opinion, and noted it was in the area of the drive through.

The diesel pump will be removed but will be located in the regular pump area.

Kim Sperry had a comment about the current "outdoor dining", which to her knowledge has never been formally permitted. The picnic tables have been there for years, but with the change of traffic flow, what will be done with those tables? Mr. Khalid stated that the picnic tables would be removed for the sake of public safety.

Mr. Khalid asked the Commission to please consider making a decision right away so he may start the process of replacing the tanks. Chairman Adams responded that the Commission could not rush into a decision, as they are not in receipt of all the plans and documentation at this time.

Mr. Murphy stated that tank removal and replacement with tanks in the same locations, and the elimination of the diesel tanks is regulated by the Building Official and Fire Marshal. He stated this should not stop him from getting new tanks, but he does not recommend going into that type of expense and risk until after the August meeting, in his opinion. The applicant must provide public notices for abutters.

Gary Ritacco asked if the property has been purchased, or leased? Mr. Khalid replied that he has purchased the property.

Ben Hull asked how long does it take to get the tanks? Mr. Khalid replied it will take 6 to 8 weeks. Chairman Adams stated that it is certain the applicant will have to notify the DEEP before moving the tanks. Mr. Murphy stated that the replacement of the tanks before approval of this plan is at the applicant's prerogative to do so if he chooses, but doing so does not imply that the plans for this application for Special Permit for the drive through are approved.

Chairman Adams asked if anyone was there to speak in favor of the application, to which there was none. Chairman Adams asked if anyone was there to speak in opposition of the application, to which there was none at the time.

This Public Hearing was continued to August 7, 2018, 6:30 P.M.

(Out: 7:36 P.M.)

Elaine Joseph, clerk

Approved: _____

Robert Adams, Chairman

RECEIVED FOR RECORD AT LISBON
ON 7/10/18 AT 29:05am
LAURIE TIROCCHI, TOWN CLERK
Laurie Tiocchi