

WATERTOWN PLANNING BOARD

DATE: October 10, 2018 PLACE: Town Council Chamber TIME: 7:00 PM COMMENCED: 7:00 PM
PURPOSE OF MEETING: Regular Monthly Meeting & Public Hearing
PRESENT: Jeff Brown, Chairman; Payson Whitney; Janet Buck; Gary Shaw; Jason Cohen
Steve Magoon, Director; Ingrid Marchesano, Clerk to the Board; Gideon Schreiber,
Senior Planner; Andrea Adams, Senior Planner

ADMINISTRATIVE BUSINESS

Payson Whitney motioned to approve Minutes of the September 12, 2018 meeting.
Janet Buck seconded the motion. VOTE: 5-0 In Favor

SELECTION OF A MEMBER TO REPRESENT THE PLANNING BOARD ON THE COMMUNITY PRESERVATION COMMITTEE

Chairman Jeff Brown noted that Jason Cohen had expressed an interest in representing the Planning Board on the Community Preservation Committee.

Janet Buck motioned to appoint Jason Cohen as the Planning Board statutory representative on the Community Preservation Committee.
Payson Whitney seconded the motion. VOTE: 5-0 In Favor

Chairman Jeff Brown announced that proposed Zoning Text Amendment regarding a height increase at Arsenal Yards will not be heard tonight.

CASE PENDING

- **56 Putnam Street;** Olivia Zhao, NxCentury Investment Realty Group, Inc. – **Special Permit**

Ken Leitner, Atty, this is a 3 family house located in a T zone. The owner received building permit to renovate in August. Today, the petitioner is asking for FAR increase to 0.565, to enclose the second story open deck. Criteria for SP was met, there will not be a height increase. First unit has partial basement, partial first floor. Second unit partial second floor and third floor. Four parking spaces are in the rear. One curb cut is on School Street, second curb cut is on Putnam Street, which makes it safer for the neighborhood. More green space will be provided. Third unit has independent egress.

Andrea Adams, permit for the third floor unit was added in 1940. The existing building permit is for renovations only. The proposed design is in keeping with the neighborhood. It is an appropriate location and the structure is consistent with its surroundings. There is no adverse effect on the neighborhood. Additional trees and landscaping will be added. Staff recommends conditional approval.

Gideon Schreiber, the project was reviewed by the zoning enforcement officer, the request is in keeping with building permit. The existing shed is coming down.

Janet Buck, tonight's petition is for enclosed porch and deck.

Jeff Brown, the stairs on second floor are very long. The trees seem to be on the property line.

Gideon Schreiber, there will be a 2 foot buffer and the trees will be planted in the middle.

Libby Shaw, Trees for Watertown, roots of the trees will be wider, 2 feet is not enough.

Janet Buck motioned to recommend to the Zoning Board of Appeals approval of the Special Permit under Section 5.05(r) to have FAR of .625, to build second story addition and to add a third story open

deck, based upon the finding that it meets the criteria set forth in the Zoning Ordinance subject to conditions set forth in the staff report.
Jason Cohen seconded the motion. VOTE: 5-0 In Favor

PUBLIC HEARING

Proposed Zoning Text Amendments

1. Retail Marijuana

Steve Magoon, the Town instituted moratorium to allow time to adopt regulations. It included 500 feet between establishments, buffer between schools. Few added things were from State regulations, including limiting number of facilities to 20% of package stores that would allow for 2-3 in Town by the district commission. Voters voted to allow such use, health department can control the facilities. Staff recommends that the Board recommends approval of the proposed text amendments in order to regulate locations of Adult Recreational Marijuana, comply with State Law, replace the current moratorium on Retail Adult Marijuana uses, and slightly modify the requirements for Medical Marijuana Treatment Facilities.

Curtis Whitney, 42 Grandview, the Board (or the Town) should carefully consider when an establishment becomes a location. Is it when the facility receives the Town permit, signs a Host Agreement, or opens its doors? I urge the Town to pay careful attention to the quality of the recreational use marijuana, because several types are ingestibles.

Joslyn Taggart, there are addiction treatment centers in Watertown. I suggest a similar 500 foot exclusion buffer to these as well. Mr. Magoon said this was not in the State law or regulations, and this was something Watertown could consider. He noted that the Special Permit process was also discretionary, and would allow the Board to take this into account at the time that an application was made.

Anne Sevetta, French Street, how much would the population have to increase to have more package stores? I support Ms. Taggart's comments. Mr. Schreiber suggested it would increase one for each 5,000 increase in population.

Janet Buck, location is part of the Special Permit process. Ms. Taggart suggested that the location of addiction centers should be included in the Ordinance.

Curtis Whitney, does the 500 foot buffer influence the ability of a petitioner to seek a letter of non-opposition from the Town? Mr. Magoon said the buffer was an exclusion zone. He said a letter of non-opposition is not a permit, and does not create an "established" retail marijuana store.

Councilor Palomba, I agree with Ms. Taggart's that a buffer should be placed around addiction treatment centers. The timing relative to the Ordinance change. Mr. Magoon said the moratorium ends in December. This means that the Council must also take action prior to the end of the moratorium. This could push this beyond the end of the moratorium. Another issue would be if the additional change was substantial enough to require a new process due to the necessary noticing. The Council will need a supermajority vote. Mr. Schreiber also noted the first Special Permit criterion was *appropriate use for the location*, which could deal with the concerns raised.

Janet Buck, the Watertown Boys & Girls Club should be added to uses/locations with the 500 foot buffer. Mr. Schreiber suggested this was a specific user, rather than a class of locations, such as parks. Mr. Magoon said this would have to be carefully defined. The intention was understood, and could be passed on to the Council.

Curtis Whitney, the “class” of use could be a community center, or one that offers children’s’ programs.

Payson Whitney, which Town Board would be the permit-granting board relative to the requirement for a Special Permit? Mr. Magoon said it would be the Zoning Board of Appeals in the PSCD or RMUD.

Janet Buck, clarification from staff is needed as to the points raised by Curtis Whitney. Steve Magoon said it would be reasonable to consider the location “established” when it received its Special Permit. The implications of someone not acting on an approval were in part already in State Law, in that there is a time limit to “activate” a permit. The Town was aware of the issues that might arise if an individual or company aggregated permits, but did not act on them, thereby effectively preventing others from seeking permitting. The quality control issue was controlled at the State level by the Cannabis Control Commission.

Jason Cohen, the 500 foot buffer applies to schools, but now does not apply to facilities in which children commonly congregate. Should these restrictions be removed?

Steve Magoon, the State’s initial guidance with medical dispensaries, there needed to be this buffer. The thinking now is that the buffer is overly broad, given actual practice. The concern is now for more impressionable children, which are generally in the schools as opposed to toddlers in day-cares.

Jason Cohen, is the approved medical dispensary a not-for-profit?

Steve Magoon, yes, it is.

Payson Whitney, questioned the number of liquor/package stores in Watertown, as this could relate to the number of retail marijuana outlets?

Steve Magoon, the number of package stores is fixed, unless the Town received more licenses. The Town could receive more based on population increases, or by a municipal petition.

Janet Buck, I am persuaded by Ms. Taggart’s comments relative to creating a buffer around addiction treatment facilities. What if an addiction treatment center wants to move into a certain location. How would the Town monitor this? Mr. Magoon said that with any of the uses that have the 500 foot buffer, the buffer to the use would be as of a particular date. So, if a retail marijuana store is in permitting, and daycare wants to locate next door, then they can do that, but they will know there may be a retail marijuana store next to them. He noted that the Town would need to survey locations of addiction treatment facilities. He expressed a concern that there could be lots of addiction treatment centers, or few, which would influence the areas of Watertown left to host a retail marijuana facility.

Steve Magoon, the Board should express its intentions concerning adding a 500 foot buffer around addiction treatment centers and the Boys & Girls Club.

Janet Buck motioned to recommend to the Town Council adoption of the proposed text amendment to:

- Remove the *TEMPORARY MORATORIUM ON RECREATIONAL MARIJUANA ESTABLISHMENTS*,
- Require a minimum distance of 500 feet between any Marijuana establishments,
- Require a 500 foot buffer from pre-existing public or private schools providing education for kindergarten through 12 grade,
- Limit Retail Adult Use Marijuana establishments to the Town’s “CB”, “LB” Commercial Zoning Districts, “I-1”, “I-2”, and “I-3” Industrial Zoning Districts, the “PSCD” – Pleasant

Street Corridor District, and the “RMUD” Regional Mixed Use Zoning District, subject to the granting of a Special Permit by the Special Permit Granting Authority (SPGA),

- Modify the regulations of Medical Marijuana Treatment Centers for consistency regarding the regulations of both uses, and
- Discuss the possibility expanding the definition of buffer zones.

Payson Whitney seconded the motion.

VOTE: 5-0 In Favor

2. LEED Standards

Jeff Brown, can the staff clarify where this would apply? I am concerned what the cost penalty to a developer would be to go from Silver Certifiable to actual Certification?

Gideon Schreiber, it would be any project over a certain size or would require Site Plan Review. Developers submit a construction management plan, which is monitored through the Building Permit process.

Gary Shaw, if development follows the State’s energy Stretch Code, a project is about 90% of the way to Silver certifiable.

Jeff Brown, asked Steve Magoon how this requirement has influenced development or redevelopment in Watertown?

Steve Magoon, the requirement was currently only in the Regional Mixed Use District, but the Amendment would create a level playing field for similar projects.

Jason Cohen, is there any way to verify compliance? The value engineering generally knocks out LEED activities.

Steve Magoon, there is the option to require LEED certification. This provides monitoring, but also costs a developer additional money. The Town has not so far gone this step. The value engineering should take before the project gets submitted to the Town. I am confident in the Building Department’s ability to follow up on these requirements.

Curtis Whitney, would a 2,500 square foot project be subject to LEED Cerifiability? Is there a “safety valve” or an exemption for the smaller developer or properties?

Gideon Schreiber, the trigger is Site Plan Review. The project was minor enough to not require Site Plan Review, the requirement would not apply.

Carolyn Day, I have been doing LEED Certifications as an architect for over 10 years. My analysis to answer the cost question for her clients is that “Certified” adds between zero to one percent to project cost. Going to *Silver Certified* is between to zero to 2% cost increase. The standard in Boston is Silver Certified, and the costs, including the consultant is relatively low.

Ed Lewis, Watertown’s Energy Manager, I am in favor of the proposed Text Amendment. The new Building Code changes that took place in January go further than even the Stretch Code.

Councilor Palomba, the Town knows that it’s important to build sustainability based on Climate Change. This is a step that should be taken, especially now that there is a building boom. Let’s move the bar now on stronger sustainability when there is a booming market.

Hellen Sussou, the United Nations Climate Change report was recently published. This report shows the need to do more to pay attention to sustainability. I commend Watertown for making progress, and being a leader in this regard.

Brian Haywisen, WEC3, the Committee had discussed the LEED proposal. WEC3 had not taken a formal vote on the issue, but that there is a strong consensus of the need to support sustainable development. The new State baseline energy code is going to require many of these measures, and that there will be a relatively quick payback. I urge the Planning Board to consider requiring Silver Certified if it was overly concerned about verification.

Jason Cohen, there is a concurrency period when the Council rolls out a new LEED version. Ms. Day said there should be a new version published (Version 4.1). She said the new version will only tweak things, but should not negatively affect what the Town is proposing to do. Mr. Schreiber noted the existing language requires use of the current version, as applicable.

Jeff Brown closed the public comment session.

Janet Buck motioned to recommend to the Town Council to amend Section 9.03(c)(7) of the Zoning Ordinance to require LEED Silver Certifiability in all new developments that require Site Plan Review in the NB, LB, CB, I-1, I-2, I-3, RMUD and PSCD Districts.

Payson Whitney seconded the motion.

VOTE: 5-0 In Favor

3. Solar Requirement

Payson Whitney, should the height of the solar panels be included in the height of any parking structures?

Gideon Schreiber, the Zoning Ordinance already exempts up to 15 feet for certain things on the roof, such as solar canopies and elevator penthouses. This would also be reviewed as part of the permit process. Solar structure over a garage floor helps with storm water and snow management. Janet Buck said that her view was that a solar array would be rooftop equipment.

Steve Magoon, parking structures are already expensive to build. Setting the height at "x" and counting the solar canopy against that has the effect of penalizing the solar canopy.

Jason Cohen, how would this requirement deal with "green roofs"? Would that be precluded?

Gideon Schreiber, the "remaining" 50% of the roof could accommodate a green roof, or it could be under the solar installation, if it was for stormwater management.

Joslyn Taggart, if someone wanted to have a green roof, they could put the solar array over the parking area, leaving the roof available to be a "green roof." Or, vice versa. Or, the green roof could go under the panels.

Ed Lewis, Watertown's Energy Manager, I support this Amendment. This Ordinance closes the loop on development doing the solar assessment, but not following through on installation of a solar array. This Amendment is in line with new requirements coming into effect as a result of the State Building Code. The developers have options that could make it a zero cost option for them. Increases the sustainability of Watertown's buildings, and gives developers a new marketing tool. Installation of solar is generally a local employment and economic multiplier.

Carolyn Day, would the proposed Text Amendment also apply to municipal buildings, noting the Town has several large construction projects scheduled.

Steve Magoon, the municipal buildings will attempt to comply with the same requirements.

Janet Buck motioned to recommend to the Town Council Amend Article VIII/Other Regulations to add a new Section 8.05, and amend Section 9.03(a), third paragraph, to require an updated Solar Energy System Assessment, as required under the new Section 8.05:

- Require projects of 10,000 square feet or more or 10 residential units to include a solar energy system on 50% of the roof area of buildings and 90% of uncovered area of parking structures,
- Provide exemptions for a lack of a solar-zone or for load feasibility, and
- Section 5.04: Amend/clarify that solar systems are not included in Building Coverage or Impervious Cover.

Payson Whitney seconded the motion.

VOTE: 5-0 In Favor

4. Affordable Housing

Fred Reynolds, Chair of the Watertown Housing Partnership, a detailed and complicated study was done over a year, Watertown is booming. This particular type of facility is looked at as a business, which is generating a 17% return on investment. I suggest the proposed Text Amendment is not unduly burdensome to potential facility developers.

Jeff Brown, where does the Town stand on the 10% requirement?

Fred Reynolds, a 10% set aside is not adequate. Increasing the set-aside has helped the Town make slow progress.

Andrea Adams, Watertown has approximately 7% of its units as affordable. Adding in new units that are designated as affordable, but not yet counted by the State brings Watertown to a bit over 8%. The base number will reset in 2020, and include all of the new units that are not affordable, eroding Watertown's progress.

Councilor Feltner, I thank the Planning Department and the Housing Partnership for its good works, Watertown is in good shape per the number of units counted as affordable.

Cliff Cook, a member of the Housing Partnership, the denominator for the fraction that determines Watertown's affordable housing percentage re-sets as part of the 2020 Census, that number will include any Assisted Living units, because the US Census classifies them as Housing Units. This is not true for Skilled Nursing or Dementia Units. Addressing this issue is important, so that Watertown's affordability gap does not grow larger if more of these facilities came in, without contributing affordable units. There is a strong need for affordable Assisted Living units. The Partnership looked closely at the cost issues, and the proposed Text Amendment is a reasonable balance.

Curtis Whitney, I support affordable Assisted Living. The key is service versus the rental factor, and this plays a large determinant in whether such facilities would succeed. The analysis by Mr. Hassman provided the expected return number cited by Mr. Reynolds. Mr. Hassam was clear that subsidies, including Federal and State reimbursements need to be part of the cost structure to make such a project financially sound. He submitted comments from the Department of Housing and Urban Development relative to the services portion. He also submitted a document from an Assisted Living Facility trade group, noting that most residents need assistance. He said there is a large turnover, as well. I had obtained operating costs figures which are 49 to 60 percent of the facility costs. I urge the Board to think these issues through, and do more cost analysis.

Steve Magoon, the Partnership has discussed these issues, including service costs. I suggest the Partnership's analysis strikes this balance.

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David Leon, Housing Partnership, this was the genesis of the lower requirement for a smaller facility. It was set at 5% rather than the starting level of 15%.

Fred Reynolds, this issue was raised. The Partnership was and is sensitive to this issue. I acknowledge that subsidies are necessary. At the same time, I suggest that getting the Federal or State support was something for a developer to find.

Gary Shaw, this is a very complex issue, I am not sure about it.

Janet Buck, I am impressed by the level of research. I have also worked with clients who have developed 100% affordable Independent or Assisted Living. I acknowledge the need for a mix of subsidies, and that it is hard, but doable. The Text Amendment sets a reasonable bar.

Janet Buck motioned to recommend to the Town Council to Amend Section 5.07, to:

- Add definitions for Assisted Living, Independent Living and Dementia Care/Skilled Nursing,
- Create an affordable unit contribution for Assisted Living facilities based on the number of Assisted Living units (5% for up to 75 units and 10% for 76 or more units),
- Allow a fee in lieu contribution for Assisted Living units, and
- Exempt Dementia Care and Skilled Nursing from the requirements of 5.07.

Payson Whitney seconded the motion.

VOTE: 4-0 Gary Shaw abstained

Jeff Brown adjourned the meeting and public hearings at 8:55 PM.

MEETING ADJOURNED: _____ MINUTES APPROVED: _____
For more detailed Minutes see the DVD dated 10/10/18 which is available in the DCDP office.