

## Zoning Commission

### MINUTES

#### Public Hearings - Regular Meeting October 26, 2015

7:30 p.m.

Main Level Meeting Room

**MEMBERS PRESENT:** Mr. Averill, Mr. Reich, Mr. Solley,  
Mr. Sorce, Mr. Werkhoven  
**ALTERNATES ABSENT:** Mr. Sivick, Mr. Wyant  
**STAFF PRESENT:** Mrs. Hill, Ms. Pennell  
**ALSO PRESENT:** Mr./Mrs. Lyon, Mr. Campbell, Mr. Talbot,

#### **PUBLIC HEARINGS**

#### **Titus Park Properties/7 Titus Road/Special Permit:Section 8.4.1: Canopy at Service Station and 8.6: Reduction of Minimum Setback Requirement:**

Mr. Solley called the public hearing to order at 7:30 p.m. and seated Members Averill, Reich, Solley, Sorce, and Werkhoven.

Mr. Talbot, architect, stated that the drawings are the same as prior drawings submitted, (site plan and elevations A.101); that nothing has changed since the last submission. Mr. Talbot stated the only change on the drawing is that they are showing the 200 ft. setback from the Shepaug River. Mr. Talbot noted that the basic plan is to install a 24 x 24 ft. canopy over the new gas pumps. Mr. Talbot read letter dated 09-25-15 from Mr. Sean Campbell, owner of 7 Titus Park Properties, which explained the purposes of installing the canopy. The letter stated that this is required by Citgo in order to provide protection from inclement weather to both patrons and employees. Mr. Talbot stated the service station is permitted in the B2 district under a Special Permit. He stated that the canopy would not change the lot coverage of 89.3%. Mr. Talbot stated under section 8.6, approval of reduction of yard dimensions is requested due to the south side of the property on Titus Road being determined at the last Zoning meeting to be considered the front of the lot resulting in front yard setback to canopy from 50' to 3'-6", a reduction of 46'-6". Mr. Talbot stated the structure is within the 100 year flood plain and the structural columns will allow any flood waters to flow around the columns with no effect. The columns are 205' from the Shepaug River. Mr. Talbot stated there would be no signage on the canopy and there would be (4) LED recessed down lights that would be on only during working hours. Mr. Talbot

presented pictures of the new pumps showing that they would have Citgo signage and logo and showed the board members a photo 10-26-15, showing the gas pump that will have a valance which may have Citgo logo on the valance. He stated that the valance which is the only place the logo will be installed. However, no illuminated signs, no internal illumination other than required by patrons and employees to activate the pumps and pay with credit cards and no TV or audio communications. There will be touch screen for operation. Mr. Talbot stated the roof will be pyramidal with an asphalt shingle and a traditional fascia of 8" plus a crown vs the standard 16" tall white fascia. He stated the design reflects the hip roof of the building across the street from this property. Mr. Talbot stated that internal gutters will tie to leaders to sub-ground drains and that the roof height requested by Citgo is 14'-6" under canopy, with the top of the hip height peak being 19'-10". Mr. Talbot stated there is no change proposed to the service station itself as part of this application. Mr. Talbot submitted Mandatory Application for a Special Permit, Pre Application for all Land Use, Health and Building Applications dated 09-25-15, drawing that include site survey prepared by Roy Cheney dated 2/2016, drawing S-100 & S-200 Citgo Canopy Plan & Elevations dated 09-15-15, and also a photo of the pump from 09-25-15, photo of pump from 1961 and the new pump sketch.

Mr. Solley asked what the height of the peak of the gas station building itself is and Mr. Talbot replied 22'-3". Mr. Sorce asked if any customers or trucks that come to the establishment would not fit under the 14'-6". He stated that he and Mr. Campbell went and measured a cable that presently is suspended from a pole to the building, it was at 12'-6" and it was actually at 14'-6" and further stated that no one has come close to being that tall. Mr. Talbot stated if they chose to take the canopy down in elevation, that he felt it would be necessary to post a height restriction on the canopy. Mr. Reich wanted to know why Citgo was so concerned with the canopy. Mr. Campbell stated that Citgo would like canopy to look like all others on the market, but Mr. Campbell stated this is the canopy he himself wants and is pleased with it.

Mr. Solley read aloud Section 8.6 of the regulations for the Depot business district. Mr. Solley also read a letter from Mr. Michael Ackermann, abutting property owner of Titus Park Properties, in complete support of this project.

Mr. Solley asked if anyone had any questions and asked the public for their input. Mr. Lyon, representing the town and an abutting

property owner, gave his support of this project, is pleased with the design of the canopy and recommends not lowering it.

Mr. Solley asked if there were any questions for the commission. None noted.

**MOTION:** To close the public hearing Titus Park Properties, LLC/7 Titus Road/Special Permit: Sections 8.4.1: Canopy at Service Station and 8.6: Reduction in Minimum Setback Requirement. By Mr. Averill, seconded Mr. Reich and passed 5-0.

Mr. Solley closed the public hearing.

**Special Permit application/Section 13.11.3: submitted by Robert Berne for a Detached Accessory Apartment at 164 West Shore Rd.**

Mr. Solley called the public meeting to order at and seated members Averill, Reich, Solley, Sorce and Werkhoven.

Mr. Harold Tittmann represented Mr. Berne. Mrs. Hill informed the Commission that there is a letter dated 09-28-15 in the file submitted by Mr. Berne stating that he would reside on the premises during the duration of the permit. Mrs. Hill also stated that she has proof of the certified mailings. Mr. Solley referenced the letter, stating that Mr. Berne wrote, "I am writing to inform you as requested that I will reside on the property at 164 West Shore Road, New Preston, CT for the duration of the work that I am applying for". Mr. Solley questioned the language of the letter and asked if Mr. Berne intended to reside here part time. Mr. Tittman replied yes and added that Mr. Berne does not intend to rent the property out. Mr. Solley noted the letter of authorization dated July 17, 2015 on file for Mr. Tittmann. Mr. Tittman explained why a previous application had been withdrawn from the ZBA. Mr. Tittman noted the issue was the size of the guest house compared to the main house, as the proposed guest house. Mr. Tittmann realized after looking at the Zoning Regulations that they would qualify if they did the reverse and the existing house becomes the accessory apartment and the proposed main structure becomes the principle dwelling. (Mr. Tittmann referred to cite plans ST.01, A.08, and A.00.) Mr. Solley referenced section 13.11.3.G of the regulations, stating he has not made a determination about this, but it states that the accessory apartment must clearly be subordinate and smaller in size and scale than the existing dwelling on the property. Mr. Solley stated that what he felt the commission meant back in 1978 by this regulation is that they did not want a building lot

to appear as though it had two houses on it. They wanted one house for the primary structure and the other structure subordinate to it in some way. He noted an accessory apartment may not exceed 1200 sq. ft. Mr. Solley stated that he inspected the property and found the current primary structure is right on the lake. Mr. Tittman noted the existing structure is 1130 sq. ft., not counting a terrace and a mechanical space outside that must be accessed from the outside. Mr. Tittman stated there is no building now across the street, but there was a barn at one point in time. Mr. Tittman stated the lot includes the state road. Mr. Solley asked about lot coverage and Mr. Tittman stated they will be below the 15% and at 14.68%. Mr. Tittman said this was accomplished by removing the concrete pad and some other elements on the waterfront that now count as square footage and by now not counting a grassed area as coverage. Mr. Tittman stated in previous calculations when he originally applied for this project, they included an area of lot coverage but it actually was not and it is a grassed area. Mr. Tittman stated that his clients would like a two car garage and guest room, but realized this would be a problem with ZBA. Mr. Tittman explained that in order to present to Zoning for accessory apartment they had to increase the size of the proposed house to qualify under Zoning Regulations. The guest house, which will now be the existing house, must be 25% smaller than the proposed house in footprint and volume. Mr. Sorce asked how far apart the two buildings are and Mr. Tittman replied about 150 ft. apart on the 1.2 acre property.

Mr. Solley asked for a revised statement from Mr. Berne, property owner, containing proper wording that he will reside on the property for the duration of the permit. Mr. Solley stated that the applicant has also not obtained Health Department approval. Mr. Tittman stated the Washington Health Department sanitarian had no issues with the proposal, but was told they needed approval from the State. Mr. Solley questioned why state approval was needed. Mr. Tittmann informed the commission that this was because they were using one two bedroom septic for the two dwelling units. Mr. Tittmann said his client would like to get this project going before it gets too cold and requested approval conditioned on State approval, rather than waiting until the next meeting. Mr. Solley stated that will be up to the commission. Mr. Solley stated the applicant could have applied a little earlier to facilitate getting footings in. Mr. Tittman stated they have been going through this process for quite a while and did not decide this last minute.

Mr. Solley asked if the public had any comments. Mr. Talbot asked how many bedrooms there will be and square footage of the main house. Mr. Tittman replied one bedroom each. Discussion then pursued with regards to sq. footage and volume. Mr. Tittman referenced drawing ST.02 dated September 24, 2015 by Tittmann Design and Consulting. Mr. Solley stated the existing house volume is 17,738 cubic feet and the proposed new building is 24,192 cubic feet. Mr. Tittmann added that the footprint of the new dwelling is also larger than that of the existing house.

There were no questions from the commission.

Mr. Solley noted in reference to being "clearly subordinate" and addressing the issue of two houses on one lot on the property, he stated he feels in addressing this issue, the fact that the road does separate the two houses, to him indicates that there does not appear to be two houses on one lot. He stated if the road was not there, it would make the issue difficult. Mr. Werkhoven stated the key term is "clearly" and it is clear according to the calculations, but may not be clear when looking at the two buildings. Mr. Averill noted that the only way anyone can see the two buildings at once is from the water and noted that one house would be on the other side of the road.

Mr. Solley asked if there were any further questions. No questions.

**MOTION:** To close the public hearing for Special Permit application/Section 13.11.3: submitted by Robert Berne for a Detached Accessory Apartment at 164 West Shore Rd. per plans for the Berne Residence 15 pages dated 10/12/15 by Tittman Design and Consulting subject to the conditions 1.) State Health Department approval and 2.) Revised signed statement from the property owner regarding residing on the property for the duration of the permit. By Mr. Averill, seconded by Mr. Sorce, passed 5-0.

Mr. Solley Closed the public hearing.

#### **REGULAR MEETING:**

Mr. Solley called the meeting to order and seated members Averill, Reich, Solley, Sorce and Werkhoven.

Consideration of minutes

**MOTION:** To accept the 09/28/15 regular meeting minutes as written. By Mr. Sorce, seconded by Mr. Averill, and Passed 5-0.

**PENDING APPLICATIONS:**

**Titus Park Properties/7 Titus Road/Special Permit:Section 8.4.1: Canopy at Service Station and 8.6: Reduction of Minimum Setback Requirement:**

Mr. Solley asked for any comments from the commission. Mr. Averill stated he would like to commend the owner, Sean Campbell, for "bucking" Citgo Corporate and insisting on plans that are more appropriate for the Depot. . Mr. Averill feels this fulfills Section 8.6, fitting in with the architecture of the Depot. Mr. Sorce asked if the canopy was mandated by Citgo or Mr. Campbell requested it. Mr. Campbell stated he requested it. Mr. Solley stated he believes it was requested by the owner and that he feels that the design is architecturally pleasing. Mr. Averill noted with regards to the down lighting, it would only be lit while in business and they close at 5pm and closed Sunday and so lighting should not be an issue. It is noted that Peter Talbot's design over rides Superior Canopy.

**MOTION:** Having determined that the applicant has demonstrated Compliance with the criteria listed in Section 8.6 of the Washington Zoning Regulations, to approve the Special Permit application/Section 8.4.1:and 8.6: submitted by Titus Park Properties/7 Titus Road for 1.)for a service station canopy and 2.) for a reduction in the minimum setback requirement to 3'6":front yard setback "Site Plan and Elevations" sheet A.101 by Peter Talbot Architects, dated 09/23/15 and revised to 10/26/15 and "Canopy plans and elevations", Sheets s-100.00 and s-200.00, by Superior Canopy Corp., dated 09/15/15. By Mr. Solley, seconded by Mr. Sorce and passed 5-0.

**Special Permit application/Section 13.11.3: submitted by Robert Berne for a Detached Accessory Apartment at 164 West Shore Rd.**

Mr. Solley asked for a consensus from the commission regarding the State Health Department requirement. He suggested they could include a condition in that the permit will be null and void if State Health Department approval of the septic system is not received. Mr. Sorce asked why in the past the commission has waited for Health Department approval before acting on applications. Mr. Solley explained that this will prevent wasting

the commission's time with having a hearing and then finding out Health Department approval was denied. Mr. Solley asked the commission if they include this condition and move forward with a vote. The commission agreed. Mrs. Hill asked that a second condition be added for Mr. Berne to modify his written statement. Mr. Werkhoven asked Mr. Solley what would happen if there are changes requested for the septic plan. Mr. Solley stated that if there are drastic changes necessary, they will have to come back for another special permit.

**MOTION:** To approve the Special Permit application/Section 13.11.3: submitted by Robert Berne for a Detached Accessory Apartment at 164 West Shore Rd. per plans for the Berne Residence 15 pages dated 10/12/15 by Tittman Design and Consulting subject to the conditions 1.) State Health Department approval and 2.) Revised signed statement from the property owner regarding residing on the property for the duration of the permit. By Mr. Averill, seconded by Mr. Sorce, and passed 5-0.

**NEW APPLICATIONS:**

No new applications.

**OTHER BUSINESS:**

**Washington Park Foundation/1 Green Hill Road/Revisions pending Zoning Permit**

Mrs. Hill stated she asked Mr. Woodward, agent and Mr. Day, president of the Washington Park Foundation, to attend because even though they did get a regular zoning permit for the original use of that property, they had come to the commission for a review and she felt it was a courtesy that they come to commission with their revisions. She thought they were minor revisions. Mr. Woodward compared the current proposal to the original plans dated July 8, 2014 by Mr. Peter Talbot. Mr. Woodward stated that the only real changes from the original proposal are the stone wall at the corner; no building or parking changes. Mr. Woodward stated an air conditioning compressor, generator and an above ground propane tank are all off the table. Mr. Woodward stated they proposed to put a buried propane tank in and would only see top which will be hidden by plantings. Mr. Woodward noted there will be more green area and stonewall section will be further from the road. Mr. Solley asked how Mr. Woodward feels the changes would impact the Farmer's Market. Mr. Day replied that the Farmer's Market will continue as it has and

stated recently they actually painted off a specific area and conducted the Farmer's Market in that space. Mr. Day noted that next year the Farmer's Market will utilize some of the interior of the building. Mr. Averill questioned if there would be vehicle access to that central area. Mr. Day stated no, but they will be addressing this by having a conversation with the farmers. Mr. Day stated the idea they are working with is to assign farmers different entry points and to supply push carts. Mr. Averill stated that every single vendor backs their truck up to that area and unloads then goes to park their vehicle. He does feel it may be an issue with the farmers. Mr. Averill further questioned if it would be an issue for access for an ambulance. Mr. Solley inquired if this area in question will in fact be closed off and no access available. Mr. Day said this is correct. Mr. Day stated that with the commission's approval, they would expect to begin construction immediately and have it completed by Memorial Day. Mr. Solley asked if there was any structures on the property that they felt would need further permits. Mrs. Hill noted that they will be demolishing a shed and a building a pergola. Mr. Solley asked what the commission approved a year ago. Mrs. Hill replied that a year ago Zoning had agreed that the plans were fine and so had authorized zoning officer to approve a regular permit and said he could also approve the proposed revision. Mr. Solley stated that nothing proposed comes under the heading of a special permit needed and Mrs. Hill agreed. Further discussion continued regarding the setting of the pavers. Mrs. Hill informed Mr. Woodward and Mr. Day that Inlands and Wetlands may ask further questions on the subject of the pavers and they stated they will be prepared to explain this to them. Mr. Averill and Mr. Sorce again brought up the issue of it being a difficult area for farmers to access with their items to unload them. Mr. Day addressed this stating the idea is a loading dock which is accessed by two parking spots. It is an opening in which you can come around to the loading dock and access the opening to come around to the garage door with a fork lift. He noted there are no steps and it is all close to grade. Mr. Sorce inquired if there is drainage built into this project and Mr. Woodward said yes it will be installed. Mr. Solley asked if there will be proper pitch on the surface so that water will not be pooling in this area. Mr. Woodward said this is being addressed and Mr. Neff is handling that. Mr. Solley inquired about lighting, stating there was an existing light at the corner. Mr. Woodward stated lighting plans would not change. Mr. Solley asked Mr. Woodward and Mr. Day if they are seeking a vote on this. Mr. Woodward stated that ideally they are looking for the commission to state that the zoning officer can sign off on these minimal changes so they can start the project. Mr. Solley stated that since this is such a central point of the Depot, he is requesting they ask the zoning officer to share any issues with him and Mrs. Hill. Mr. Sorce

questioned how the zoning officer would determine small changes if they come up. Mr. Solley stated he felt that accompanying our consensus, that any changes be referred to Mrs. Hill who in turn will refer to Mr. Solley. Mr. Woodward assured the commission that there has been a lot of time vested in this plan with all involved and none of the parties involved are interested in changing anything and anxious to get the project started. Mr. Solley asked the commission for consensus to hand this off to zoning officer. All members were in agreement.

**Enforcement:** The enforcement report by Mr. Ajello dated October 26, 2015 was circulated.

Mrs. Hill had one question for the commission. Reference zoning regulations 6.5, it talks about requiring a special permit for "new construction within 50 to 75 feet of Lake Waramaug". Mrs. Hill noted that new construction is vague. She stated there is currently on a property a retaining wall and a walkway. The retaining wall has collapsed and property owner wants to rebuild the wall and walkway to the original dimensions. Mrs. Hill asked the commission if they considered this new construction. Commission stated this was a repair and not new construction.

Mr. Reich inquired about the proposed revisions to the regulations and if they were progressing. Mr. Solley stated that Mrs. Hill can compile everything that has been done since last public hearing so the commission can have in front of them what was agreed to and go from there. Mr. Solley would like to have this happen for the month of December.

**MOTION:** To adjourn the meeting. By Mr. Solley, seconded by Mr. Averill. Mr. Solley adjourned meeting at 9:00 p.m.

FILED SUBJECT TO APPROVAL.

Donna Pennell, Land Use Clerk.