

**Process Efficiency Subcommittee  
of the Planning and Zoning Commission**

**March 14, 2018 at 1:00 PM**

**Room 309 – Westport Town Hall**

**MINUTES**

P&Z Commissioners in Attendance:

Greg Rutstein, Subcommittee Chair, and P&Z Member  
Cathy Walsh, Subcommittee Member, and P&Z Member  
Paul Lebowitz, P&Z Commission Chair  
Danielle Dobin, P&Z Commission Vice Chair  
Chip Stephens, P&Z Secretary

Public in Attendance (according to the sign-in sheet):

Bill Achilles, of Achilles Architects  
Peter Cadoux, of Cadoux Architects, and Westport resident  
Michael Calise, of Settlers and Traders, and Westport resident  
Rick Hoag, of Frederick William Hoag Architects  
Dan Katz, Westport resident and former P&Z Member  
Rick Redniss, of Redniss and Mead

P&Z Staff in Attendance

Mary Young, Planning and Zoning Director

**1- Introduction by Chairman Greg Rutstein of the *Purpose for the Process Efficiency Subcommittee:***

*Greg Rutstein welcomed meeting attendees. He referenced at this first meeting he hoped to address some of the upfront items that might be considered “low hanging fruit,” and flesh out and receive feedback on the more complex issues that will require more time and subsequent meeting discussions. Mr. Rutstein proceeded to recite the mission and objectives of the subcommittee as listed on the agenda:*

- To review, and where appropriate and lawful, revise various processes carried out by the Planning and Zoning Commission, staff, and applicants for the purpose of making such processes less time consuming and resource intensive.

Objectives:

- Better align responsibility for various processes (e.g., commission vs staff) where lawfully permitted
- Revise zoning regulations and (as necessary) internal policies to carry out the mission of this subcommittee
- Preserve an appropriate level of review/oversight of relevant processes so as to minimize the risk of having unintended and undesired consequences resulting from any changes to such processes
- Ensure the public is afforded sufficient transparency and the ability to engage on whether and how relevant processes should be revised

*Mr. Rutstein inquired whether any meeting attendees had any general comments or concerns before proceeding with the remainder of the agenda.*

*Dan Katz expressed his concern that some of the agenda items if implemented could reduce the role of both the public and the elected Planning and Zoning Commission. The democratic process should not be subverted. The non-elected staff should not be empowered to make decisions that affect property owners.*

*Cathy Walsh asked Mr. Katz to inform those present what his experience was on the Commission.*

*Mr. Katz replied he served on the Commission for 10-years, many moons ago. Mr. Katz continued that he objects to the item related to reading resolutions.*

*Danielle Dobin suggested the resolution topic is listed further on the agenda.*

*Mr. Rutstein responded he respects and appreciates Mr. Katz's opinions, and respectfully suggested Mr. Katz list his specific concerns when they come up on the meeting agenda, and inquired whether anyone else had any general comments.*

*Chip Stephens concurred with Mr. Katz's concerns and thanked him for his prior service on the Commission. Mr. Stephen's warned that some process changes made previously had to be reversed based upon lessons learned.*

*Mr. Rutstein clarified that one the purposes of the subcommittee is to separate the complex from the non-complex issues and focus the Commission's resources and public's voice on the complex and defer the non-complex to staff to increase efficiency.*

*Michael Calise identified his concern is public participation. He observed it is unknown without public participation what are and what are not the complex and controversial issues and concurred with Mr. Stephens.*

*Ms. Walsh offered that when she was the P&Z Chair, she organized a jump start to the formation of this subcommittee by organizing a meeting with some members of the Commission, including herself, Mr. Lebowitz and Mr. Rutstein and a member of the Town Attorney staff.*

## **2 – Bond Releases**

*Mr. Rutstein proceeded to describe the current processes for bond releases and potential alternatives for change as described on the agenda. He shared that the Town Attorney has confirmed the Commission has the authority to delegate bond releases to P&Z Staff. Mary Young circulated copies of the Town Attorney memorandum prepared by Peter Gelderman dated 1/25/18, referenced below.*

- Summary: Discuss proposal to delegate bond releases to P&Z staff. The Town Attorney's Office confirmed it IS within the authority of the Commission to delegate this responsibility, and the Commission may choose to delegate this authority to staff, see CGS §8-3(g)(2) and 8-25(d)(2). This should result in a more efficient process for all concerned.
- Implementation: The Town Attorney's Office advised a resolution should be prepared and voted upon by the Commission documenting their delegation of authority to staff to release bonds. No changes to the zoning regulations are required.
- Caveat: As not all bonds are the same, the Commission may want to retain authority to review some bonds prior to their release. Going forward, the following should occur:
  - Existing Bonds: P&Z staff should be directed to prepare a list of existing bonds being held and this list should be reviewed by the Subcommittee to distinguish what bonds should be delegated to staff versus what should be brought to the Commission for a vote prior to release. The subcommittee's recommendations should be reviewed and endorsed by the Commission at a future Work Session.
  - Future Bonds: If/when the Commission votes on a resolution that includes a requirement for a bond, the resolution should specify whether the bond release should be subject to staff or Commission action. The resolution default should delegate this authority to staff. Prior to any vote on the resolution the Commission can modify the language on a case by case basis to identify the bond release should be subject to Commission action.

*Ms. Walsh offered her support to Mr. Rutstein's suggestions.*

*Paul Lebowitz also offered his support and appreciated the suggestion that when drafting a condition requiring a bond, the proposal allows the Commission to determine whether its' future release should or should not be delegated to staff.*

*Mr. Stephens respectfully disagreed to Mr. Rutstein's proposal, a middle-of-the road alternative. Specifically, maintain current practices, but move the bond release items to the beginning of the Commission's meeting agenda, and bundle them.*

*Mr. Lebowitz clarified that under the alternative offered by Mr. Stephens, a motion could be made to approve all bond release items, rather than voting on them individually, to make the process faster. If any Commission member objected, that Commissioner could request discussion on an as-needed basis.*

*Danielle Dobin appreciated the compromise proposal offered.*

*Mr. Calise inquired if the “future bonds” proposal was still on the table.*

*Mr. Rutstein responded, “no,” due to the resistance offered by Mr. Stephens.*

*Mr. Calise identified he concurred with Mr. Stephens.*

*Mr. Rutstein suggested, going forward, consideration on how future bonds are handled might include criteria such as a threshold dollar amount that could distinguish significant bonds requiring Commission action versus those that don’t.*

*Mr. Stephens cautioned, that based upon his prior experience, it cannot be predicted ahead of time what might be categorized “simple.”*

*Rick Redniss observed the Commission could utilize a “Consent Agenda,” and offered to provide an example for consideration.*

*Peter Cadoux offered his support for the compromise alternative based on Mr. Rutstein’s ideas as modified by Mr. Stephens and Mr. Lebowitz. He appreciates not having any “interpretation,” put into the realm of staff to determine what is or what is not “significant.”*

*Mr. Lebowitz inquired what remains proposed for “Existing Bonds,” as referenced on the agenda.*

*Ms. Walsh replied the Existing Bonds will be handled as described herein: added to the Commission’s agenda, listed up front on the agenda, and bundled in anticipation of the Commission voting on them collectively.*

*Mr. Rutstein thanked everyone for their contributions and participation.*

### **3- Reading Full Resolutions**

*Mr. Rutstein identified that this item may be more complex than he originally realized and advised he will jump over this item for now in the interest of time, and move on to Agenda Item #4.*

### **4- Reconsider decision rendered at 1/23/14 P&ZC Meeting regarding how to administer Change of Use regulations**

*Mr. Rutstein requested Ms. Young describe the Change of Use definition in Sec. 5-2 of the Zoning Regulations and the proposed modification as described on the agenda. Ms. Young did so and simultaneously circulated the referenced memo dated 1/23/14 inclusive of a draft text amendment to implement the modification.*

- Problem: The existing definition in §5-2 for a “Change of Use” requires Site Plan review and provides no exemptions or waivers from Site Plan review in cases involving a conversion from a less intensive use to a more intensive use, that does not require expansion of a parking lot to support the change, but instead relies upon available excess parking on site.
- Solution: The Planning and Zoning Director in 2013 sought a finding from the Planning and Zoning Commission that the standards in §5-2, Change of Use (that require an increase in parking demand by more than three (3) spaces be approved subject to Site Plan approval from the Planning and Zoning Commission), be interpreted as only requiring Site Plan approval in those cases where such increase in parking requires the designation or construction of more parking. Such a finding would distinguish and exempt those cases where no additional parking is required due to available excess parking on site.
- A memorandum identifies the Planning and Zoning Commission denied the Director’s request at a Work Session held on 1/23/14. Subsequently and currently applicants who meet the parameters describe above are directed to file a Site Plan application for review by the Planning and Zoning Commission.
- Implementation: The Commission should revisit their 1/23/14 decision at a future Work Session as it appears both reasonable and practical to exempt from public hearing review those proposed “Changes of Use” that will generate no need to designate or construct additional parking on site.

*Mr. Stephens identified he is leery of supporting this proposal, but was concerned about issues of fairness.*

*Bill Achilles spoke in support of the modification citing the current practice causes unnecessary delays for applicants and disincentives’ businesses from locating to Westport; instead these businesses locate in surrounding communities that are more business friendly.*

*Mr. Lebowitz noted the proposal is to put forth a text amendment that will trigger a public hearing enabling all concerned parties to weigh-in before any adoption.*

*Mr. Redniss suggested the Change of Use definition be further modified to address the provision that requires Site Plan approval in cases where a tenant space has been vacant for more than a year citing the same rationale as Mr. Achilles. The Commission shouldn’t make it harder for “Mom and Pop” to lease their storefront if it has been empty for more than a year. Making it simpler to reoccupy available retail space would be a good thing.*

*Ms. Walsh and Mr. Rutstein concurred with Mr. Redniss.*

*Ms. Young summarized that the proposal as listed on the agenda could be further modified to suggest amendments to both the first and second bullets in the Change of Use definition listed in Sec. 5-2.*

*Mr. Rutstein offered the word “different” could be better defined in the 2<sup>nd</sup> bullet to distinguish what types of changes should come before the Commission.*

*Rick Hoag also offered support for the suggestion made by Mr. Redniss clarifying that whether a storefront has been vacant for a short or long time does not matter in the zoning analysis.*

*Ms. Walsh offered the 2<sup>nd</sup> bullet should be stricken in its' entirety.*

*Mr. Katz spoke in opposition to the proposals being discussed citing the Commission is a land use commission not a commerce commission and it is outside the parameters of the Commission to attract businesses to the Town. Decisions such as modifying zoning regulations should not be made in reaction mode to temporary trends such as surplus vacant retail space.*

*Mr. Redniss replied that he disagrees completely with Mr. Katz.*

*Mr. Lebowitz clarified the language under discussion already exists in the regulations therefore it is appropriate that it be discussed. Mr. Lebowitz also asked why should there be any time parameters listed in the regulations. Why should we care how long something has been vacant?*

*Mr. Redniss inferred that the time limit may have been included in relationship to the term "abandonment," where previously included measuring intent when concluding abandonment, but that is no longer legal under case law.*

*Ms. Young offered that staff can look back at the regulations to see if it was identified why bullet number two was originally adopted in an effort to discern whether there remains merit in retaining it.*

*Mr. Rutstein concluded the discussion by suggesting the proposed modification itemized on the agenda as well as the modification suggested by Mr. Redniss should be reviewed by the Planning and Zoning Commission at an upcoming Work Session in anticipation of submitting a formal text amendment.*

### **3- Reading Full Resolutions**

*Mr. Rutstein identified he regrets that time constraints prevent discussion of this item on the agenda.*

**Problem:** The current practice is to recite out loud the contents of pre-prepared resolutions. Most of what is read out loud represents findings that are factual and have been previously listed in staff reports or in the circulated application materials. Alternative approaches should be explored that could be more efficient. Additionally, resolutions are requested before testimony is received and without direction provided by anyone other than the Chair which can be inefficient if these resolutions are incomplete or irrelevant.

- **Solution:** The Town Attorney's Office confirmed resolutions:
  - do not need to be prepared ahead of time;
  - do not need not be read out loud; and
  - any drafts should be available to the public under FOIA.

- Implementation: Proposal – Eliminating resolution preparation (prior to voting on an application) and instead identifying verbally what if any conditions should be added to a resolution of approval or what if any reasons should be added to a resolution of denial followed by staff preparing these resolutions (following the vote) with oversight by the P&Z Commission Secretary.

## 5- Other potential future process efficiency enhancements:

*Mr. Rutstein identified there was insufficient time available to discuss Item #5 on the agenda as these issues are more complex than the low hanging fruit discussed earlier.*

Not require a public “hearing” for certain types (or specific) applications where permitted by CT state law and as confirmed by the Town Attorney:

- CAM Site Plan Reviews
- Site Plans (not accompanied by a Special Permit)
- Subdivisions
- 8-24's

## 6- Summary

- Identify what if any follow-up is needed with the Town Attorney to confirm process for making suggested changes, i.e. text amendment, change to bylaws, combination of both?

*Mr. Rutstein advised he would connect with the Town Attorney again regarding necessary next steps to move forward on Item #3 listed on the agenda.*

- Receive any additional questions/comments from any meeting attendees.

*Mr. Rutstein inquired whether any members had any additional questions or comments*

*Mr. Cadoux asked whether the Subcommittee was limiting their focus to just the Planning and Zoning Commission, or reviewing the larger land use approval process that encompasses other land use boards.*

*Mr. Rutstein replied his subcommittee is focused on the Planning and Zoning Commission and staff processes, but he is aware of the recent audit on all the land use departments that recommends improvements are needed.*

*Ms. Young clarified the Planning and Zoning Department supports the Zoning Board of Appeals (ZBA), Historic District Commission (HDC), Architectural Review Board (ARB), and the Joint Committee (comprised of members of the HDC and ARB); therefore, any ideas offered by the subcommittee could be shared and/or implemented by the other boards and commissions staffed by the Planning and Zoning Department.*

*Mr. Cadoux advised he would share some suggestions at a future date that might improve the ZBA application process.*

*Mr. Rutstein identified he is open to all suggestions.*

*Ms. Walsh offered that Mr. Cadoux's suggestions or that of others could be considered by a new subcommittee she just established and will be chairing called the Zoning Regulation Revision subcommittee. Ms. Walsh encourage members of the public to submit any concerns to Mary Young for distribution to the Commission.*

END

The subcommittee meeting concluded at approximately 2:00pm. A second meeting date was not scheduled pending the Subcommittee's Chair availability. Ms. Young advised she would send notice of the 2<sup>nd</sup> meeting when known, to all persons present at the first meeting, and that such notice would be posted in the Town Clerk's Office, published on the Public Meeting calendar on the Town's website, and additionally published on the new "P&Z Notice," button on the home page of the Town's website established due to the efforts of the Communications Subcommittee Chaired by Danielle Dobin and on which Mr. Rutstein serves as a member.

Respectfully submitted by Mary Young, March 23, 2018