



TOWN OF WESTPORT
PLANNING & ZONING DEPARTMENT
Town Hall, 110 Myrtle Avenue
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www.westportct.gov

3:30 – 5:00 PM

Action Minutes
Enforcement Subcommittee
February 19, 2020 Room 201, Town Hall

Members Present: Co-Chairman: Alfred Gratrix Jr., Chips Stephens

Members not present:

Staff Present: Cindy Tyminski, Deputy Director Planning & Zoning &
Stephanie McNally, Administrative Assistant II, Planning & Zoning.
Pete Gelderman, Town Attorney.

Public Attendees: Richard Stein, Morley Boyd, James Ezzes.

Public Comment: Richard Stein, Morley Boyd, James Ezzes.

1. New Complaints.

- a. **233 Hillspoint Rd-** Construction not consistent with P&Z CAM and ZBA approvals. Zoning Officials inspected on 12/20/19. Cease & Desist and Revocation filed on 12/20/19 after discussion with Attorney Gelderman. Plan provided for zoning permit (issued in 11/2019, not consistent with the ZBA, CAM approvals). On 12/23/2019, hand delivered C&D and Revocation to Mr. Nisenson in office at 9AM. Building Department revoked building permit on 12/23/2019. Staff requested applicant bubble plans to show differences and provide an as built of what has been constructed. Attorney Gelderman met with attorney for 233 Hillspoint Road. The applicant's explanation for making the changes is that they thought it would make the approved plans "better." Attorney Gelderman shared that he suggested that they submit a new ZBA variance to address the changes that have been made from their previous approval. Mr. Stephens noted that the applicant put up some pump jacks and a stone wall after the Cease & Desist was issued. Attorney Gelderman stated that there should be no work on site. The Building Department found that the requests in the limited scope-zoning permit were not needed to make the building weather tight. (CT)

- b. 10 Heathwood Ln-** Complaint for work exceeding scope of the zoning permit. The Zoning Official inspected site on 2/13/20. Construction was on going on and calculations on how much of the exterior walls were removed were requested to see if this work constitutes New Construction. The Developer came into the office to speak to the Zoning Official and it was determined that since more walls were removed than initial proposed, it is a new construction and requires a new zoning permit. (LM)
- c. 1040 Post Road East-** Complaint for an installed fence over property line and created a parking lot without permits. This a newly submitted complaint and has not been acted upon as of now. (SR)
- d. 190 Main Street (Wine Bar) -** Complaint for music in an Outdoor eating area. Zoning Official inspected 2/13/20, and no music was heard. The current regulations have a typographical error in them. Mr Boyd stated that regardless of the typographical error, the regulations do in fact state that no music is allowed therefore this should remain a valid complaint. Ms. Tyminski stated that that was correct; the regulations now say that now music is not permitted in outdoor dining area. . Mr. Stephens suggested that a Text Amendment be discussed by the Regulation Subcommittee. (LM)
- e. 90 Post Road East-** Complaint for music in the Outdoor eating areas at this address and this establishment operates a twice a week outdoor concert series. Noise complaint filed with Police on 7/15/19, 8/31/19, 9/13/19, 9/28/19. (SR)
- f. 690 Post Road East-** Complaint for large illuminated sign at corner. Mr. Stephens mentioned that this sign has been denied over 10 years ago. Staff to review the history of the approvals and denials for this project. (SR)
- g. 6 Clifford Ln-** Complaint for stockpiling material brought in from off site. On 12/27/19, staff inspected site and it was noted that it appears to be standard conditions for demolished house. On 1/23/20, called owner who confirmed that he had bought the property after the prior owner demolished the house. The site is stable, the equipment on site is there for construction and he will be applying for a Zoning Permit in a few weeks. There does not appear to be a zoning violation at this time. Follow up on Zoning Permit filing. (SR)

- h. **19 Maple Ave N-** Complaint for property states that there are 3 families living where two families are approved for since July 2017. Staff will write a letter to the owner requesting access to the inside of the dwelling to verify compliance. (SR)

2. Proactive Enforcement.

- a. **605 Post Road East (Fresh Market)** - Installed a sign that is not compliant. Mr. Stephens noted that during the ZBA and the P&Z approval process for the new parking lot and façade improvements, it was discussed that the signs on the plans were not complaint. The applicant stated during the approval process that they were going to file a Text Amendment for the signs. It was explained that Director issued a Zoning Permit for the Fresh Market Sign. Mr. Stephens requested that staff not issue Zoning Permits for signs for the rest of the development unless they are compliant. Ms. Tyminski explained that the Owner of the property did come in to discuss the issue of the signs with her. The owner understands that the signs as drawn will require variances or they must be modified to comply with the regulations. . (SR)

3. Old Business.

- a. **14 Cob Drive-2/3/20** Zoning permit issued for home occupation - nutritionist. Sign meets requirements. (Processed, SR).
- b. **Grassy Plain-** No longer on complaint list as of 2/19/20, No violation per P&Z Director (MY).
- c. **46 Compo Mill Cove-** 7/22/19, C&D recorded on Westport Land Records. Currently in court.
- d. **50 Compo Mill Cove-** CAM Site Plan is currently pending to be heard by P&Z on 3/5/20.
- e. **30 Evergreen Ave-** Owner submitted a pre-application to the Historic District Commission and stated that they will reconstruct the porch as it was. (CT).
- f. **99 Hillandale Road-** No such address, (Processed, LM).
- g. **10 Little Fox-** Currently awaiting P&Z Commission decision. (LM)
- h. **10 Mills St-** Variance granted 1/21/20. Applicant to record on land records and submit a Zoning Permit application. (SR)
- i. **7 Old Hill Farms-** Moved to processed, no action taken as of 2/19/20 (MY).
- j. **9 Old Hill Farms Road-** 1/22/20 Owner submitted new survey that confirms that the garage is still where it was originally - maintenance & repair to garage was done in place. Owner will provide confirmation of attic (SR).

- k. **1433-1435 PRE-** No action taken since last enforcement meeting (SR)
- l. **561 Post Road East (Terrain)-** No action taken as of 2/19/20, recommend a NOV be issued(SR).
- m. **215 Post Road West (Settlers & Traders)-** No action taken as of 2/19/20. – Committee suggests that staff look at the historic use of the property and ask owner for documentation. (SR)
- n. **6 Quarter Mile Road-** Issued C&D 1/30/20. This property needs to be re-inspected (LM).
- o. **44 Reichert Circle-** The Zoning Officials inspected the site, verified location of coop, spoke to owners who are preparing survey to either get a ZP for complaint location or apply for variance. Coop may be in setbacks (LM).
- p. **521 Riverside Ave (Saugatuck Rowing Club) –** Variance denied 1/21/29, NOV sent 1/28/20, abeyance issued per P&Z Director. Applicant will return to P&Z Commission. (LM)
- q. **580 Riverside Ave-** 1/16/20 discussions with Health department had resulted in them saying that they had issued a food license and had no problem with the changes Will follow up with them, Public Works (grease trap), tenant & property owner regarding zoning violations. P&Z Director notes that as long as the subtenant has access to the original tenant's space the patio can be calculated based on the total area. If circumstances change and Lobster Burger is limited to a smaller area then the patio has to get smaller or additional parking must be provided. On 1/17/20, the Director met with Jim Donaher and Pete Romano who agreed that they would take care of this issue. (SR).
- r. **575 Riverside Ave & 585 Riverside Ave-** No additional action taken as of 2/19/20.
- s. **64 Saugatuck Ave-** 1/23/20 Inspected- only one kitchen on 2nd floor and one kitchen on 1st floor. The second first floor kitchen in the back area has been totally removed and converted to an open area that currently has a table for a computer. No zoning violation at this time regarding the number of dwelling units. On record as 2-family dwelling. (SR).
- t. **3 Treadwell Ave-** No action taken as of 2/19/20. Mr. Gratrix suggested a NOV needs to be issued by staff.(SR)
- u. **8 Turkey Hill Road-** Letter sent to owner in regards to the dwelling unit and water fixtures in the garage. The Owner preparing variance application and the waterline has been separated from other house. (LM)
- v. **41 Turkey Hill Road South-** The Zoning Official will reinspect and put an NOV on file.

4. Other Issues.

- **Mr. Stephens asked Attorney Gelderman why we just cannot “fine” offenders.**
 - Courts always need to administer the fines.
 - Cannot have any applications pending to bring into compliance.
- **Attorney Gelderman explained what we should do to enforce if people know we cannot fine.**
 - Be vigorous and attentive.
 - Begin the process right away and reach out to the violators.
- **Mr. Ezzes asked Attorney Gelderman how to make sure staff approves only conforming applications.**
 - Staff cannot vary the regulations, only the ZBA is able to do that.
 - Mr. Stein mentioned that perhaps the ZBA and P&Z denying applications that are after the fact would set a precedent.
- **Mr. Stephens would like a member of staff to ride around the town and take note of violations for signs and sandwich boards.**

Respectfully submitted by S. McNally 2/20/20