



Town of Westport
Planning and Zoning Commission
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To be published in the Norwalk Hour on Thursday, July 13, 2023, and Thursday, July 20, 2023

LEGAL NOTICE OF HEARING

Notice is hereby given that the Westport Planning and Zoning Commission will hold a Remote Public Hearing on Monday, July 24, 2023, at 7:00 P.M.

The public may attend using the link to be published on the agenda prior to the meeting. The meeting agenda will be available at www.westportct.gov on the "Meeting List and Calendar" web page one week prior to the meeting.

- 1. 20 Rices Lane:** Special Permit/Site Plan Appl. #PZ-23-00222 submitted by Daniel and Dayna Haggarty, property owners, for excavation and fill activities to create a more level yard in the Residence AA district, PID #B12073000.
- 2. Text Amendment #831:** #PZ-23-00358 submitted by Michael Calise to modify §28, Business Preservation District (BPD), to allow for greater Building Area, Floor Area Maximum, FAR, Height, Stories, and Setbacks and to adaptively reuse an existing drive-in on parcels wholly within the BPD zone, having at least 2-acres, while preserving existing Historic Structures. A copy of the text amendment is available on-line at www.westportct.gov on the Planning & Zoning Office web page under "P&Z Pending Applications & Recent Approvals." A copy may also be viewed at Town Hall, 110 Myrtle Ave., in both the Town Clerk's Office and Planning & Zoning Office and is attached.
- 3. 57 Evergreen Avenue:** Special Permit/Site Plan Appl. #PZ-23-00383 submitted by Cindy Tyminski of Moon Gardens LLC, for property owned by Genevieve Freedman Trustee, for excavation and fill activities associated with renovations to the existing home, pool, and proposed conversion of a portion of the garage to an ADU, for a property in the Residence A district, PID #D10063000.

Text Amendment #831

Submitted: 6/16/23

Received: 6/26/23

Public Hearing: 7/24/23

Adopted: _____

Effective date: _____

Deleted language is ~~[struck out and in brackets]~~; New language is underlined.

§28 BUSINESS PRESERVATION DISTRICT (BPD)

28-1 Purpose

These provisions are intended to retain the residential scale and massing of the existing buildings, ~~[and are not intended to lead to the wholesale redevelopment of these areas to intensify the commercial use] limiting the intensity of development~~ and not intended to eliminate existing architectural scale and features. These BPD provisions are designed to create a zoning classification which would afford a reasonable and desirable linear, visual transition between established commercial areas. Frame residential structures in commercial areas along arterial streets tend to be replaced by larger more modern structures. The historical architectural design and building scale of such areas is more residential than more recently developed areas in the General Business District. Consequently, a limited business type zone is required to conserve the value of property while preserving such areas and existing buildings therein from the standpoint of compatible land uses, architectural design, building scale and physical appearance. The BPD provides for such preservation and development. (813, 03/27/2023)

28-2 Permitted Uses

In a Business Preservation District, no land, building, or structure shall be used, and no building shall be hereafter erected, altered, or added to, unless otherwise provided in these regulations, except for one (1) or more of the following uses:

28-2.1 Principal Uses

28-2.1.1

Any use permitted in the Residence AAA District, subject to the same approvals and conditions as in §11-2, herein.

28-2.1.2

The following uses are permitted only in a principal building existing on the premises at the time the BPD boundary is established and subject to Site Plan approval in accordance with §43, herein. This provision shall not be deemed to prevent new construction and use of a principal building on a lot, provided that such new construction or re-construction shall strictly adhere to the purposes of this district.

- a. Stores and shops where goods are sold and services are rendered primarily at retail.

- b. Grocery stores, delicatessens and Retail Food Establishments.
- c. Restaurants.
- d. Cafes and Taverns.
- e. Business, professional, medical, healthcare professionals, insurance, real estate and other offices.
- f. Banks
- g. Undertaker's establishments.
- h. Off-street parking lots, decks & garages.

28-2.2 Special Permit Uses

The following additional uses are permitted only in a principal building existing on the premises at the time the BPD boundary is established and subject to Special Permit and Site Plan Approval in accordance with §43, herein. This provision shall not be deemed to prevent new construction and use of a principal building on a lot, provided that such new construction or reconstruction shall strictly adhere to the purpose of this district.

28-2.2.1

Veterinary hospitals and animal clinics. There shall be no more than one outside exercise area for animal runs. The use of such area shall be limited to the period from 8:00 A.M. to 8:00 P.M.

28-2.2.2

Inclusionary two-family and multi-family dwelling units, subject to the provisions of §32-12, herein.

28-2.2.3

Commercial Wireless telecommunication service facilities, in conformance with §32-16.

28-2.2.4

Bank drive-in within 500 feet of another bank drive-in as permitted by §28-2.3.6. Lots having two or more acres and wholly in the Business Preservation District with an existing bank drive-in no longer in use in an existing historic building may adaptively re-use the drive-in for any use allowed under §28-2.1.2.

28-2.2.5

Indoor & Outdoor Commercial Recreation and Entertainment Uses.

28-2.3 Accessory Uses

28-2.3.1

Uses customarily accessory to a permitted principal use including the manufacturing, processing or assembly of goods which is incidental to the conduct of a retail business conducted on the premises, subject to the provisions of §32-7, herein.

28-2.3.2

Outdoor storage and display is permitted in accordance with §32-6, herein.

28-2.3.3

Wholesaling and warehousing

28-2.3.4

Outdoor Eating Areas for Restaurants, Cafes, Taverns and Retail Food Establishments subject to the requirements in §32-20 and initial administrative approval in the form of a Site Plan Waiver from the Planning and Zoning Director pursuant to §43 and a Zoning Permit. Thereafter the use is subject to an annual Zoning Permit from the Planning and Zoning Office renewed by May 1st each year provided there are no changes, or a new Site Plan Waiver must be obtained.(814, 04/01/2022)

28-2.3.5

One attached dwelling unit, provided the density does not exceed 20 bedrooms per acre.

28-2.3.6

Bank drive-in; except that no lot shall be used for a drive-in bank, if such lot is located within a radius of 500 feet from any other lot used for a bank drive-in provided that the Planning & Zoning Commission may permit, upon a Special Permit Approval in accordance with §43 of the regulations, and so long as the Commission shall find that such use shall maintain or improve the traffic level of service and safety conditions in and around the site. The application must be accompanied by a traffic report supplied by the applicant.

28-2.4 Prohibited Uses

The following uses in addition to those listed in §32-7, herein, shall be prohibited: gasoline filling stations, automobile service establishments, motor vehicle repair garages, any lot, establishment, agency or dealer for new, rental or used motor vehicles, automobiles, motorcycles, trucks, mobile homes, trailers, campers, boats, farm or other heavy equipment, hotels, motels, motor-inns, drive-in restaurants, newspaper and job printing establishments, commercial marinas and heavy commercial uses such as lumber yards, septic tanks sales, construction equipment yards, contractor's storage yards, etc.

28-3 Lot Area (See Definition)

No minimum requirement, except that no lot shall have less than 50 feet of frontage on at least one street.

28-4 Setbacks (See §31-4 through §31-8, also.)

No principal building, structure or use shall extend closer than thirty (30) feet from any front lot line or Residential District Boundary Line having a residential use, fifteen (15) feet from any side lot line and twenty-five (25) feet from any rear lot line. No accessory building or structure shall extend closer than thirty (30) feet from any front lot line or Residential District Boundary Line, and fifteen (15) feet from the side and rear lot lines.

28-4.1 Building Spacing

Groups of buildings on a single lot shall be so arranged that the minimum horizontal distance between the nearest walls or corners of any principal and/or accessory detached buildings shall not be less than one-half the sum of the heights of such adjacent buildings.

28-4.2 Setback Exemptions

Canopies up to 500 square feet over outside exercise areas for Veterinary Hospitals and Animal Clinics, where adjacent to non-residential uses, may be located within required side and rear setbacks. (See §28-6.1)

(804, 01/28/2022)

28-5 Height

No building or other structure shall exceed two and one-half (2-1/2) stories and a height of thirty (30) feet, except for an addition that matches the existing pitched, gable, or gambrel roof line of an existing building on that lot. Lots having two (2) or more acres and wholly within the Business Preservation District may receive an additional ten (10) feet in height and shall not exceed three and one half (3-1/2) stories providing an existing Historic Structure is preserved.

28-6 Coverage (See Definitions)

The building coverage shall not exceed twenty percent (20%) of the area of the lot which lies within the Business Preservation District.

28-6.1 Coverage Exemptions

Buildings housing Veterinary Hospitals and Animal Clinics may be allowed a canopy over outside exercise areas. Such canopy shall not exceed 500 square feet which is exempt from Building Coverage calculations.

(804, 01/28/2022)

28-7 Building Area

No building shall have more than 2,500 square feet of building area Lots having two (2) or more acres and wholly within the Business Preservation District shall not have more than 12,500 square feet of building area providing an existing Historic Structure is preserved.

28-8 Floor Area

28-8.1 FAR

No buildings or structures in any Single or Multiple Use Development, as defined herein, shall exceed a Floor Area Ratio (FAR) of 0.25 on the area of the lot that lies within the BPD zone; except for two-family or multi-family dwellings. No buildings or structures in any Single or Multiple Use Development which contains two-family or multi-family dwellings, shall exceed an FAR as described in §32-12. In any Multiple Use Development containing two-family or multi-family dwellings, any incremental increase in floor area above the maximum allowable FAR for the non-residential uses shall be used for dwelling(s) units, only. No dwelling unit approved under these bonus provisions shall thereafter be changed to any non-residential use. Floor area used for parking and loading shall be excluded from the FAR. Lots having two (2) or more acres and wholly within the Business Preservation District shall also exclude mechanicals, elevators, stairways, storage, and basements, from FAR and shall not exceed a Floor Area Ratio (FAR) of 0.50 providing an existing Historic Structure is preserved.

28-8.2 Maximum

No one floor shall exceed an area of 2,500 square feet Lots having two (2) or more acres and wholly within the Business Preservation District shall not exceed a single floor area of 12,500 square feet providing an existing Historic Structure is preserved.

28-9 Architectural Design

The architectural design, scale and mass of buildings and other structures, including, among other elements, the exterior building material, color, roof-line, and building elevations shall harmonize and be compatible with the other buildings in the BPD District so as to preserve and improve the appearance and beauty of the community. New construction or reconstruction shall adhere to the design purpose of this district, in whole or in part.(813, 03/27/2023)

28-9.1.1

Buildings shall be designed to achieve a small scale and residential appearance.

28-9.1.2

Pitched roofed buildings shall be required.

28-9.1.3

Roof-top mechanical equipment shall be prohibited; except for energy conservation systems such as solar energy panels.

28-9.1.4

Buildings shall be designed and located on the site so as to retain the existing topography and natural features of the land to the greatest extent possible.

28-10 Signs

Signs shall be permitted in accordance with §33 of the Supplementary Regulations.

28-11 Parking and Loading

Off-street parking and loading shall be provided in accordance with §34 of the Supplementary Regulations.

28-12 Landscaping, Screening and Buffer Area

Landscaping, screening and buffer areas shall be provided in accordance with §35 of the Supplementary Regulations.