



# TOWN OF NEW MILFORD

Office of the Zoning Commission  
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## ZONING COMMISSION REGULAR MEETING MINUTES OCTOBER 25, 2022

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NEW MILFORD, CT

**Present:** Charles Bogie, Vice Chairperson, *seated and voting*  
Greg Mullen, Member, *seated and voting*  
Robert DiMichele, Alternate, *seated and voting*  
Laura Regan, Zoning Enforcement Officer, *not seated or voting*

**Absent:** William Taylor, Chairperson  
Ron Evans, Secretary  
Joseph Baker, Member

### 1) CALL TO ORDER AND PLEDGE OF ALLEGIANCE:

Acting Chairperson Bogie opened the October 25, 2022 regular Zoning Commission meeting at 7pm and led the room in the pledge of allegiance and a moment of silence.

Mr. Bogie seated Mr. DiMichele for Mr. Taylor.

### 2) PUBLIC PARTICIPATION:

There was no public participation.

### 3) PUBLIC HEARINGS:

- a. Matthew Reynolds, Special Permit and Site Plan Applications, ZSA-22-41, under Section 025-110(B)(3) to allow a 2-story, 36' x 26' (936 SF footprint) detached residential accessory garage with a maximum peak height of 25', on property located at 159 Sunny Valley Road, Map 22.1, Lot 2.1A, in the R-40 Zone. *Request to waive class A-2 survey, existing conditions map, engineered site plan, parking and loading plan, stormwater management plan, lighting plan, landscape plan, traffic study, and soil erosion and sediment control plan. Close by November 22, 2022 or receive extension (65 days remaining)*

Mr. Bogie read the public hearing legal notice. Matthew Reynolds was present for this application and submitted the certified return receipts to the Commission. Ms. Regan reviewed her staff report, dated 10/18/22, with the Commission and gave an overview of the history, the existing conditions and the applicant's proposal. She noted that the property was part of a 4 lot subdivision and that this property was then approved for a 2 lot re-subdivision. Mr. Bogie said that the subdivision was approved with conditions, but the subdivision has expired. Mr. Reynolds said that prior to purchasing the property, he had asked that the previous owners merge the 2 lots that had been re-subdivided and the property is now one parcel. He has no intention of re-subdividing the property.

Mr. Reynolds said that there is an existing shed on the property that is used to store personal items, but more room is needed. The proposed garage would be used for cars and storage. There will be an additional bay at the rear of the building to allow more room for his items. Ms. Regan referred to item #1 of the staff report and asked if the driveway will be expanded, if there will be any alterations to the site or if the building will have electricity or have connection to water or a septic system. Mr. Reynolds said that he is not proposing to expand the driveway, there will be electrical, but the building will not be connected to water or a septic system. He understands that additional approvals would be needed if changes are proposed.

Ms. Regan referred to item #2 of the staff report and noted that the re-subdivision had proposed a large amount of earthwork that had not been completed. There seems to be some regrading occurring on the property and she asked how much fill will be brought onto the property or if there will be any excavation, as this could require additional approvals per the Zoning Regulations. Mr. Reynolds stated that he bought a backhoe and skid steer and that he has moved around top soil and removed some stone and rotted wood. No fill would be brought on or taken off the property.

Mr. Bogie stated that it looks like there is a big hole towards the rear of the property. Mr. Reynolds stated that in the future he would like to build a barn in this area and is cleaning up the area in preparation. Mr. Bogie said that he has noticed changes to the property and that a couple of berms have been removed. Per the application, the A-2 survey has been requested to be waived, but Mr. Bogie feels that an updated A-2 survey will be needed showing the existing conditions and see what has changed on the site since the re-subdivision was approved. Ms. Regan suggested adding a condition that an updated A-2 survey showing the existing topography will need to be submitted upon completion of the project. Mr. Bogie was amenable to have that condition added and said that he appreciates the work Mr. Reynolds has done to clean up the site.

Ms. Regan referred to item #3 of the staff report, which lists the standard recommended conditions of approval for a residential detached accessory structure, that the structure should not be used for business purposes or a residential dwelling without proper approvals. She mentioned that any lights would have to be directed downward and that if the tent garage, wood shed, or any other structure that did not have a Zoning permit were to remain on the property, permits would need to be obtained for them. Mr. Reynolds understood and stated that the tent garage is temporary and asked what the next step would be if he was approved. A brief conversation ensued regarding the permitting process.

Mr. Bogie opened the floor to the public.

Chris Cosgrove, 143 Sunny Valley Road, stated that he is in full support of this application.

Mr. Mullen noted that Mr. Reynolds said that he has some machines and asked if any machinery would be stored on the property and if Mr. Reynolds is doing all the work himself. Mr. Reynolds stated that he is mostly doing the work himself. He no longer has the backhoe and the would not be storing the skid steer on the property long term. Mr. Mullen asked, if built, what the barn would be used for. Mr. Reynolds stated that he was not sure at this time, perhaps a truck or one piece of equipment. He has been thinking of farming the property and the barn may be used for livestock.

Ms. Regan noted that a memo was received from the Inland Wetlands Enforcement Officer stating that an Inland Wetlands permit was not required.

***Mr. Bogie moved to waive the class A-2 survey, with the condition that a final As-Built A-2 survey be submitted of the property upon completion of the project, existing conditions map, engineered site plan, parking and loading plan, stormwater***

*management plan, lighting plan, landscape plan, traffic study, and soil erosion and sediment control plan for Matthew Reynolds, Special Permit and Site Plan Applications, ZSA-22-41, under Section 025-110(B)(3) to allow a 2-story, 36' x 26' (936 SF footprint) detached residential accessory garage with a maximum peak height of 25', on property located at 159 Sunny Valley Road, Map 22.1, Lot 2.1A, in the R-40 Zone. The motion was seconded by Mr. DiMichele and carried unanimously.*

*Mr. Bogie moved to close the public hearing for Matthew Reynolds, Special Permit and Site Plan Applications, ZSA-22-41, under Section 025-110(B)(3) to allow a 2-story, 36' x 26' (936 SF footprint) detached residential accessory garage with a maximum peak height of 25', on property located at 159 Sunny Valley Road, Map 22.1, Lot 2.1A, in the R-40 Zone. The motion was seconded by Mr. DiMichele and carried unanimously.*

- b. Bee Farm, LLC, Special Permit and Site Plan Applications, ZSA-22-39, under Chapters 60, 140, 175, and 180 to allow the construction of 2 additional buildings, 36' x 60' and 48' x 100', for storage, industrial, and business uses; earth excavation in excess of 700 CY; and associated parking, drainage, exterior lighting, and landscaping on property located at 568 Danbury Road, Map 4, Lot 20, in the IC Zone. **Request to waive traffic study. Close by November 22, 2022 or receive extension (65 days remaining)**

Mr. Bogie read the public hearing legal notice. Russell Posthauer, P.E., of CCA, was present for this application and submitted the certified return receipts to the Commission. Ms. Regan stated that a application was previously submitted for this project and withdrawn by the applicant. Her staff report, dated 10/24/22, contains a majority of the information from her previous staff report, as a lot of the comments and questions remain the same.

Mr. Posthauer said that 2 buildings are being proposed, which will be built in phases. One building will have 3 units and the other 4 units and only one building will have a bathroom. A sidewalk is being proposed. The property is served by Aquarion Water and it is proposed to be connected to municipal sewer. Ms. Regan asked if a sidewalk will be built or if the area will just be a sidewalk right of way for possible future construction. She noted that there are no sidewalks on neighboring properties in this area. Mr. Bogie concurred and that the Commission has not required sidewalks for other projects in this area. Mr. Posthauer stated that he could add a sidewalk easement to the plans instead. Ms. Regan noted that the right of way easement would have to be 4ft instead of the 3ft currently noted on the plans.

Mr. Posthauer explained that the buildings would be tied into the existing drainage system and indicated the location on the plans. Some trees would be removed, but would be replaced. He noted that the site has been cleaned up a little. Ms. Regan stated that some work has been done, but the site still needs to be cleaned up as there is still a lot of miscellaneous items on the property, such as boats and trailers with cars on them that are located in parking spaces. Mr. DiMichele noted that he goes by the site frequently and it does not appear that anything has changed on the site since the property was last before the Commission, it is still untidy. Mr. Bogie inquired about the landscaping. Ms. Regan said that landscaping was required per the 2003 approval, but was never implemented. Mr. Bogie would like to see landscaping implemented sooner rather than later. Mr. Posthauer noted that a landscaping plan was submitted with this application and that a landscaping bond is already in place from the previous approval. Ms. Regan recommended increasing the landscaping bond.

Ms. Regan said that the uses of the buildings still need to be clarified. There are currently parking issues on the site and the the clarification of the proposed uses will determine the amount parking that would be required. She also commented that more information is needed on the floor plans, such as

the use for each unit. Ms. Regan recommended that all of the infrastructure, landscaping, parking, drainage, be completed during phase 1, to avoid any issue if phase 2 is not completed. She also recommended that Mr. Posthauer contact the Sewer Commission to see if this property will need to connect to the Town sewer system in phase 1. Mr. Posthauer said that he would provide clarification on the uses and correct the plans. He did not have an issue with the recommendation for the phasing and will contact the Sewer Commission.

Mr. Mullen asked if there were any concerns with the building lot coverage as there seems to be a large amount of building coverage on a small property. Ms. Regan explained that per the Zoning Regulations the maximum amount of lot coverage, for buildings, outside storage, etc., is 30% for lots 30 acres or less and 30% of the property will need to be landscaped or left in a natural state. The application states that 17% of lot coverage is proposed and per the plans 59.8% of the site will be landscaped. Sheet N1 has a Zoning table, but only the required and proposed lot coverage percentages are provided. She also noted that there was a discrepancy in regards to the dimensions and height of Building 9 that will need to be corrected. Mr. Posthauer stated that he would verify and provide the accurate lot coverage percentages for the next meeting.

Ms. Regan had concerns with the loading area that is parallel to Building 6, as it is close to Route 7 and the driveway narrows in this area, and questioned how the loading and unloading would be managed. Mr. Bogie noted that tenants are parking in the driveway on an adjacent property, a brief discussion ensued. Ms. Regan noted the plans show the removal of a shed that is for the tenants of the house. She recommended relocating the shed so that the tenants of the house may still store their items. She requested that lighting specifications be provided, as well as a table of the use and parking for each building and the associated units. Mr. Posthauer stated that he will provide the information.

Ms. Regan stated that when the previous application for the site was submitted there was an illegal third dwelling unit in the house and after a recent inspection by the Fire Marshal it was found that another illegal dwelling was in Building #3. Mr. Bogie stated that the dwellings would have to be removed prior to the issuance of a Zoning permit. Ms. Regan said that the removal of the illegal dwelling units and a site inspection before the issuance of a Zoning permit could be a condition of approval.

Mr. Mullen asked if landscaping was required when the existing buildings were approved. Ms. Regan stated that in 2003 the Zoning Commission approved a site plan for the construction of 3 buildings, but only 1 building was built and no landscaping was implemented. Mr. Mullen agreed with Ms. Regan's recommendation to increase the landscaping bond. Ms. Regan noted that a memo was received from the Inland Wetlands Enforcement Officer, dated 10/24/22, stating that the Inland Wetlands Commission approved this project on 2/10/22 and the modified plans did not require any additional permits. A memo from the Fire Marshal, dated 10/24/22, was received stating that there were no comments or concerns. A review is still forthcoming from the Department of Public Works.

Mr. Bogie opened the floor to the public. There was no public participation.

Mr. Mullen asked what could be done about the tenants parking in the driveway on the adjacent property and felt that the site might not have enough parking for the uses. Ms. Regan said that there is an easement for the driveway to pass and repass, but that the vehicles parked in the right of way would be a civil matter and Mr. Posthauer would have to demonstrate if there would be enough parking for this site. Mr. Posthauer stated that the tenants park in this area because it is convenient for them. He will pass on the Commission's concerns regarding the parking to the property owner, but because the parking is on another property, the property owner would not be able to enforce the parking issue. The application was continued to the November 8, 2022 Zoning Commission meeting.

#### 4) OLD BUSINESS:

- a. MIR Properties, LLC, Site Plan Application, ZSA-22-36, under CGS, Chapter 126a, Section 8-30g, The Affordable Housing Land Use Appeals Act, to allow the conversion of an existing building from a funeral home to a 6-unit multifamily housing development with 2 (30%) designated affordable housing opportunity units, and associated parking, lighting, landscaping, and utility improvements, on property located at 87 Park Lane Road, Map 50.1, Lot 2, in the B-1 zone. ***Request to waive existing conditions map, stormwater management plan, traffic study, and soil erosion and sediment control plan. Decision by October 25, 2022*** or receive extension (65 days remaining)

Russell Posthauer, P.E., of CCA, was present for this application. He stated that he spoke with the property owner and that the owner is willing to allocate unit 4 and unit 2 for affordable housing. Mr. Bogie felt that the two units, as one was quite larger than the other, didn't meet the requirements of C.G.S. 8-30g, which states that the affordable dwellings should be the same in size and quality as the market rate dwellings. Mr. Mullen felt that the affordability units should be within 15% of the market rate dwellings.

Ms. Regan noted that the Commission had requested architectural floor plans and she had consulted with the Building Department and confirmed that architectural plans would be needed for the Building permit as well. This property could be a good site for affordable housing, but it would be beneficial to have an architect see what would best work within the building and submit a general floor plan. The affordable dwellings would need to within 15% of the market rate dwellings. Mr. Posthauer noted that he had found the Aquarion Water valve. He asked if inspections occurred for previous approved affordable housing projects to ensure that the affordable dwellings were similar to the market rate dwellings and felt that more guidance was needed for the affordable housing requirements. Ms. Regan answered in the affirmative that inspections occurred and that guidance would need to come from the State as 8-30g is a Connecticut General Statute.

***Mr. Bogie moved to accept the 50 day extension for MIR Properties, LLC, Site Plan Application, ZSA-22-36, under CGS, Chapter 126a, Section 8-30g, The Affordable Housing Land Use Appeals Act, to allow the conversion of an existing building from a funeral home to a 6-unit multifamily housing development with 2 (30%) designated affordable housing opportunity units, and associated parking, lighting, landscaping, and utility improvements, on property located at 87 Park Lane Road, Map 50.1, Lot 2, in the B-1 zone. The motion was seconded by Mr. DiMichele and carried unanimously.***

- b. 47 Poplar Owners, LLC, Site Plan Modification Application, ZSA-22-37, under CGS, Chapter 126a, Section 8-30g, The Affordable Housing Land Use Appeals Act, to allow stormwater management modifications to the 11/12/19 Site Plan Approval for the construction of a 32-unit multifamily apartment building with 10 (30%) designated affordable housing opportunity units, and associated landscaping, parking, drainage, lighting, and utilities, on property located at 1 Buczek Lane (aka 47 Poplar Street), Map 35.4, Lot 79, in the R-20 Zone. ***Request to waive building floor plans & renderings, parking & loading plan, lighting plan, landscaping plan, traffic study, and soil erosion and sediment control plan. Decision by October 25, 2022*** or receive extension (65 days remaining)

Ms. Regan gave the Commission a brief recap of the application. The application was submitted in August for a modification to the stormwater management. After several weeks of working with the

applicant, a memo was received by Mark Rosa, P.E., of the Department of Public Works, dated 10/25/22, stating he has reviewed the revised stormwater management information and it is in compliance with the Zoning Regulations. Per Mr. Rosa's suggestion in item #3 of his memo, condition #1b was added to the modified resolution of approval, which references the original approved plans prepared by Arthur H. Howland & Associates, as this application was only for the modification to the stormwater management and retaining walls. Mr. Bogie asked if there were concerns or any noted changes on the new plans in terms of grading. Ms. Regan stated that was the one of the main reasons for the added text in condition #1b of the modified resolution. If previously approved items were not reflected on the revised plans prepared by Mr. Mastrogiacomo, the Arthur H. Howland & Associates plans would supersede the revised plans, as they contain the pertinent information from the original approval, with the only exception being the drainage modifications. She noted that the applicant will also need to revise and finalize the affordability plan. A condition was also added to the modified resolution that a letter from a professional engineer will be required stating that the earthwork and grading was completed in accordance with the approved plans and is stable. A brief discussion ensued regarding the wording for waiver request on the agenda as many of the requested items have been previously submitted.

#### 5) NEW BUSINESS:

None

#### 6) ACCEPT FOR PUBLIC HEARING:

- a. Margery Feldberg, Special Permit and Site Plan Applications, ZSA-22-42, under Section 025-050(C), Chapters 175 and 180, and Variance 20-3129 to allow a slaughterhouse and animal processing facility within an existing building on property located at 32 Hine Road, Map 70, Lot 10, in the R-60 & R-80 Zones. **Suggested Public Hearing Date: November 22, 2022**

*Mr. Bogie moved to accept Agenda Item 6a for Public Hearing on the date suggested. The motion was seconded by Mr. DiMichele and carried unanimously.*

#### 7) BUSINESS MEETING:

- a. Discussion and possible decisions on the evening's agenda

**Agenda Item 3a:** Matthew Reynolds, Special Permit and Site Plan Applications, ZSA-22-41, under Section 025-110(B)(3) to allow a 2-story, 36' x 26' (936 SF footprint) detached residential accessory garage with a maximum peak height of 25', on property located at 159 Sunny Valley Road, Map 22.1, Lot 2.1A, in the R-40 Zone.

*Mr. Bogie moved to approve Matthew Reynolds, Special Permit and Site Plan Applications, ZSA-22-41, under Section 025-110(B)(3) to allow a 2-story, 36' x 26' (936 SF footprint) detached residential accessory garage with a maximum peak height of 25', on property located at 159 Sunny Valley Road, Map 22.1, Lot 2.1A, in the R-40 Zone subject to the following stipulations: 1) That the use of the detached garage shall be customary accessory to the single family residence and shall not be used for any business or commercial purposes or as an accessory residential dwelling unit without first demonstrating compliance with the Zoning Regulations and obtaining all required approvals; 2) That any exterior lights be installed and directed in a manner that prevents objectionable light and glare into the street or across property boundaries; 3) That permits shall be obtained for any structures that are to remain that were erected without permits; 4) That a final As-Built, A-2/T-2 survey be submitted upon completion of the project. The motion was seconded by Mr. DiMichele and carried unanimously.*

**Agenda Item 4b:** 47 Poplar Owners, LLC, Site Plan Modification Application, ZSA-22-37, under CGS, Chapter 126a, Section 8-30g, The Affordable Housing Land Use Appeals Act, to allow stormwater management modifications to the 11/12/19 Site Plan Approval for the construction of a 32-unit multifamily apartment building with 10 (30%) designated affordable housing opportunity units, and associated landscaping, parking, drainage, lighting, and utilities, on property located at 1 Buczek Lane (aka 47 Poplar Street), Map 35.4, Lot 79, in the R-20 Zone.

*Mr. Bogie moved to Adopt the Modified Resolution of Approval for 47 Poplar Owners, LLC, Site Plan Modification Application, ZSA-22-37, under CGS, Chapter 126a, Section 8-30g, The Affordable Housing Land Use Appeals Act, to allow stormwater management modifications to the 11/12/19 Site Plan Approval for the construction of a 32-unit multifamily apartment building with 10 (30%) designated affordable housing opportunity units, and associated landscaping, parking, drainage, lighting, and utilities, on property located at 1 Buczek Lane (aka 47 Poplar Street), Map 35.4, Lot 79, in the R-20 Zone. The motion was seconded by Mr. DiMichele and carried unanimously.*

b. Discussion and possible decision on the following closed public hearings

**8) ACCEPTANCE OF MINUTES:**

a. October 11, 2022 Regular Meeting Minutes

*Mr. Bogie moved to the approve the October 11, 2022 Regular Meeting Minutes as written. The motion was seconded by Mr. Mullen and carried unanimously.*

**9) BILLS AND COMMUNICATIONS:**

a. Bill: Cramer & Anderson, dated 10/1/22, regarding misc. professional services, \$855.00

*Mr. Bogie moved to pay the bill for Cramer & Anderson, dated 10/1/22, regarding misc. professional services, \$855.00. The motion was seconded by Mr. DiMichele and carried unanimously.*

**10) ANY BUSINESS PROPER TO COME BEFORE THE COMMISSION:**

There was no other business.

**11) ADJOURNMENT:**

*Mr. Bogie moved to adjourn the October 25, 2022 Regular Zoning Commission meeting at 8:39pm. The motion was seconded by Mr. DiMichele and carried unanimously.*

Respectfully Submitted,



Tanya Pond  
Acting Recording Secretary

