

Planning, Zoning and Housing Committee
of the Darien, Connecticut RTM

Special Meeting Minutes

Date: June 25, 2009
Place: Darien Town Hall, Room 119
Present: Adelman, Bacon, Bayne, Bishko, Cleary, Conologue, Hennessy, Jones,
Marston, Miller, Olvany, Sini, van der Kieft, Young
Absent: Fead, Magida
Attending: Evonne Klein, Linda Santarella, Seth Morton, Jeremy Ginsberg, Norm Guimond,
Mary Guimond, three residents that live in proximity 35 Leroy Avenue

This was a Special Meeting of the Planning, Zoning and Housing Committee.

The meeting was called to order at approximately 8:05 pm. The Special Meeting agenda was reviewed by John van der Kieft, PZ&H Committee Chairman. The Chair made a motion to rearrange the order of the special meeting agenda for the convenience of those sitting in the audience. Ms. Klein questioned if the order of a special meeting agenda could be changed. After brief discussion, the Committee agreed that the order could be changed. The Chair's motion was seconded and unanimously approved by the Committee.

The Chair reviewed the motive for the Special Meeting: "To Discuss and Form Point-of-View on Board of Selectmen Request to Provide Recommendation Whether Special Permit Should be Considered for 35 Leroy Ave. Design Alternatives" in order to secure the maximum number of housing equivalency unit points that are feasible and appropriate for the site as outlined by the Town of Darien's Request for Proposals for 35 Leroy Avenue.

The Chair stated that the Special Meeting might seem academic since The Community Homes at Leroy Avenue Advisory Committee (CHALAC) was already asked by the Board of Selectmen at its meeting on June 22, 2009 to address the question on whether additional units could be added to the site under the provisions of a special permit. However, the Chair went on to say that he believed it was important for the PZ&H to form a point-of-view on this topic since it was specifically requested by the Board of Selectman.

Mr. Ginsberg, Director of the Planning & Zoning Department, referred the Committee to his memo written to Evonne Klein dated May 26, 2009 which outlined Zoning provisions regarding the former Darien Library property at 35 Leroy Avenue. He summarized the contents of the memo and stated that the premise all along was to re-zone the entire property DB-1/DBR. Mr. Ginsberg also reviewed the content and history of Section 514 of the Town of Darien's Zoning Regulations and its related provisions.

Mr. Ginsberg said that the ultimate decision on the project will come from the Planning & Zoning Commission. He noted how a project fits the harmony of a neighborhood really depends on the specific plan that a builder would put forth and that the decision to use Section 514 would not override the other concerns of the P&Z Commission governing the overall design, neighborhood harmony, general aesthetics, etc.

The Chair reviewed the background of the current proposal for 35 Leroy Avenue's affordable housing development and explained that genesis of this Special Meeting was that an oversight was directly raised to the Board of Selectmen by a PZ&H Committee member a few weeks ago.

Mr. Ginsberg summarized the anticipated approval process for the 35 Leroy Avenue proposal.

Mr. Sini asked if the current proposal for 35 Leroy will require an application for a special permit. Mr. Ginsberg replied affirmatively. Mr. Sini then asked Mr. Ginsberg to review the special permit issued for Allen O'Neil. Mr. Ginsberg said the final proposal as passed by the Planning & Zoning Commission includes 107 units on 15 acres. He noted that the project is being challenged in the Courts. Mr. Adelman asked Mr. Ginsberg if he could provide an estimated completion date for the Allen O'Neil project. Mr. Ginsberg noted that there are too many variables to estimate a completion date for this project.

Mr. Young raised a Point of Order and asked that the Chair to keep the discussion within the PZ&H Committee members and include input from audience members only when they were asked.

Ms. Cleary asked Mr. Ginsberg how many units could theoretically fit at the 35 Leroy site if Section 514 was applied to its highest extent. Mr. Ginsberg walked everyone through the calculations for basic housing, senior housing and affordable housing and concluded the figure came to between 27-28 units. Mr. Guimond and Mr. Sini said they believed the number was 27 for affordable housing because the final calculation falls short of 28.

The Chair noted that affordable housing unit construction at 35 Leroy represents a significant potential contribution for the housing unit equivalency points required for a moratorium in Darien. He also noted that there are a few proposed private developments in town that could also contribute housing unit equivalency points for a moratorium and that the required number of points could be reached by a combination of public and private affordable housing developments. The Chair indicated that in his view it would be a wise thing to do to see what the town can do beyond the 21 units.

Mr. Young asked Mr. Ginsberg to review Section 514.1. Mr. Ginsberg read him the section of the Town's Zoning Regulations.

Ms. Jones asked if a senior citizen bought the unit and also was a person of moderate income would the unit qualify as a moderate income unit. Mr. Guimond introduced himself as the Vice Chairman of CHALAC and clarified that the equivalency unit points are based on detailed

criteria set by the state. He went on to say that the mix of the units (e.g., studios vs. one bedroom) could also impact the equivalency unit points. He said unit mix could also impact the economics of the project.

Ms. Jones asked whether more studios could work on the site. Mr. Guimond said that the decision was totally up to the developer. He clarified that the Board of Selectmen set the criteria for the development. Mr. Guimond also noted that the Westhab, Inc. proposal was originally for 23 units, but then withdrew from the process.

Ms. Hennessy asked for further clarification on the unit equivalency points for Senior Housing. Mr. Ginsberg and Mr. Guimond provided that clarification.

Mr. Young asked Mr. Ginsberg if Section 514.1 was written for senior housing. Mr. Ginsberg explained that the section was originally written for the construction of Old Town Homes many years ago and at that time only allowed special provisions for senior housing. He went on to say that Darien's Zoning Regulations were amended in the early 1990's to include moderate income housing for the construction of Clock Hill Homes and the provisions for moderate income housing have been included in the Zoning Regulations since then. In Mr. Ginsberg's view there is no preference for senior housing over moderate income housing expressed or implied in Section 514 as it is currently worded.

Mr. Bishko inquired if the developer believed more units could be included on the site. He then read a quotation from a local newspaper article which indicated that more units could be constructed on the site. Mr. Sini read a quotation from the March 16, 2009 RTM meeting minutes when Mr. Kleutsch of Mutual Housing Association of Southwest Connecticut (MHA), stated that the site could handle additional units if the town wants it. Mr. Guimond said that it was MHA's decision to include 21 units in its original proposal and that is the proposal CHALAC reviewed. Mr. Guimond indicated he was originally against constructing 21 units on the property but then summarized CHALAC's review process for the current proposal from MHA and indicated he found it acceptable.

Mr. Bishko inquired how additional units would impact the economics of the project. Mr. Guimond, Ms. Klein and Ms. Santarella indicated their belief that it wouldn't materially impact the economics of the project. Mr. Olvany said if the town intends to apply for a special permit as allowed by Section 514 the RFP should be reopened to other developers. Ms. Klein said that many of the big developers are not interested in a project of this size and that's what limited the number of developers that submitted a proposal last spring.

Mrs. Klein stated that the size and shape of the property might inhibit the developer's ability to increase the number of units without making significant changes to the existing structures or the height of the structures.

Mr. Guimond said that CHALAC has tentatively scheduled a meeting for July 6, 2009 at 8 am in Town Hall. He indicated that it is a public meeting and all PZ&H members are invited to attend.

Mrs. Klein said she and the rest of the Selectmen wanted to conduct this in a direct and open process. Ms. Klein asked PZ&H Committee members to comment on what kind of development that they felt was appropriate for the site. Mr. Sini raised a Point of Order and stated that this topic was not on this Special Meeting's Agenda, and then re-read the agenda item that applied to the current discussion. Ms. Klein indicated that she thought it was important to hear direct feedback on this project from Committee members.

Ms. Cleary said that she was concerned about the timeline of the project if the town was to pursue a special permit under Section 514.

Ms. Santarella indicated that she believes that the Board of Selectmen has the obligation to look into the issue. She stated that since new information was found, she believes that CHALAC will have the meeting in the near future to objectively address the issue.

A few Committee members questioned why the PZ&H Committee was offering its point-of-view on this issue since the Board of Selectmen already asked CHALAC to address the issue of pursuing a special permit found under Section 514. Ms. Klein said that it was important that PZ&H weighs in on this issue and asked for additional feedback from Committee members.

Ms. Hennessy and Ms. Conologue spoke in support of looking into the special permit option, but voiced some concern with the impact that the provisions of the special permit would have on density in the neighborhood. Mr. Marston asked for further clarification on density allowed by Section 514. Mr. Young spoke in favor of looking into the special permit option but also wondered what its impact would be to the neighborhood. Mr. Olvany stated that due to the current status of the real estate financing environment, he is not worried that a review of the current proposal would cause a material delay in the project. Mr. Adelman stated that a special permit could maximize the value of the property for the town and it will be worthwhile to see what type of development is feasible for the property. He noted that the town should carefully consider the pros and cons of pursuing a special permit and should consider the resources already expended against the 21-unit plan when assessing whether to pursue a different plan.

Ms. Guimond introduced herself as a RTM member from District 6 and said she has represented the neighbors of 35 Leroy throughout this process. She said that 8-30g poses the greatest risk to her District. Ms. Guimond said she believed the timing of the project will definitely be impacted if a special permit is pursued. Ms. Guimond reviewed the history and timeline of the current proposal and noted how the neighbors have been very flexible with the scope of the project thus far. However, she noted the neighbors are against pursuing a special permit that falls under Section 514. She said that if the town pursued a special permit it would be viewed as a "bait and switch" by the neighbors. Mr. Sini said he took exception to that term and the option should certainly be looked into because it was missed by CHALAC and various town officials the first time around.

Mr. Morton said he was glad Section 514 was found and there is no choice but to send it back to CHALAC for a recommendation. He indicated that the Board of Selectman will review that recommendation and at that point it must decide whether or not to pursue a special permit.

Mr. Young reminded the Committee that the Planning & Zoning Commission will have the final say on any proposal on what it believes is appropriate for the site. Mr. Olvany mentioned that anyone will have the ability to comment on the proposal during the public comment section of the hearing.

Ms. Hennessy asked the Chair to clarify what question was before the Committee. The Chair clarified that Committee was asked to provide a point-of-view on whether the Board of Selectmen should have CHALAC reconsider additional units for the development of affordable housing at 35 Leroy since the provision allowed by Section 514 was recently brought to light.

A neighbor of 35 Leroy inquired about the density of Allen O'Neil versus 35 Leroy under the special provisions permitted of Section 514.

Linda Santarella said that CHALAC has an obligation to complete a thorough review of the issue, with the potential impact to the neighborhood and density in mind. Since she served on the committee that reviewed the Clock Hill proposal, she is sensitive to the complexities associated with a special permit.

Mr. Young moved for the PZ&H Committee to provide a recommendation to the Board of Selectmen to consider a special permit for 35 Leroy Ave. design alternatives. It was seconded by Ms. Hennessy.

The Chair allowed for additional comments. Ms. Bacon said she supported the consideration of a special permit, but stated she is also concerned about density as well as the potential impact of this exploration on the timing of the project, especially in light of the perceived deadline posed by the expected release of the 2010 census data in late 2011/early 2012. Ms. Guimond stated her view that Section 514 is the town's 8-30g. Ms. Bayne said the provision exists and should be looked at. She noted that the property has a special configuration and wetlands that could limit the amount of development. The Chair spoke in favor of looking into the special permit option.

The Committee voted unanimously to provide a recommendation to the Board of Selectmen to consider a special permit for 35 Leroy Ave. design alternatives.

The Committee reviewed the May 20, 2009 draft Special Meeting minutes (revised 6/15/09). The document was approved with the revisions.

Mr. Young asked the Chair to require approval of the Committee's minutes only after Committee reviews them with their revisions (i.e., not allow the approval of minutes with the anticipated inclusion of revisions).

Ms. Bayne asked to add an item for discussion to the Special Meeting. It was determined that this could not be done at a Special Meeting.

The Special Meeting was adjourned at 9.40 pm.

Respectfully submitted by John Sini, Jr., Clerk (Recorded with assistance from Frank Adelman)