

MINUTES
ZONING COMMISSION – REGULAR MEETING
MONDAY, November 20, 2023 at 7:00 P.M.
Simsbury Public Library – FSPL Room
725 Hopmeadow Street, Simsbury, CT 06070

I. CALL TO ORDER – Chairman Ryan called this meeting to order at 7:00 p.m.

Present: Town Planner, George McGregor; Assistant Director of Planning and Development Brittany MacGilpin; Zoning Chairman, David Ryan; Zoning Commissioners, Jackie Battos, Tony Braz, Bruce Elliott, David Moore, Diane Madigan, Tucker Salls

Absent: Donna Beinstein, Anne Erickson

Donna and Anne Erickson are absent. David Moore and Tucker Salls were seated as full members in Ms. Beinstein's and Ms. Erickson's absences.

II. APPROVAL OF MINUTES

October 16, 2023 regular meeting

- Mr. Braz had the following edits to the minutes:
 - Line 52 – Mr. should be replaced with Ms.
 - Line 125 – The O should be capitalized in CO.

MOTION: Mr. Moore moved to accept the Minutes for the October 16, 2023 regular meeting of the Commission as amended with the noted revisions. Commissioner Braz seconded the motion. The motion carried. (7-0-0)

III. PUBLIC HEARINGS AND/OR ACTION ON APPLICATIONS

Application ZC #23-36 of the Simsbury Zoning Commission, Applicant, for a text amendment to the Simsbury Zoning Regulations pursuant to sections 4.5, 5.5, and 17.4 and the establishment of a new section 8.7 to allow mobile food vendors as an accessory use in business, industrial, professional office, and planned area development districts.

- Mr. McGregor noted that as directed by the Commission this draft allows mobile food trucks at all commercial businesses and does not limit mobile food trucks to a food and beverage user. He explained that the Planning Commission provided a negative recommendation of this draft. They favored supporting the mobile vendor ordinance, limiting food trucks to food and beverage only. As such, a 2/3

majority approval from the Zoning Commission is required to approve any text amendment related to this.

- Mr. McGregor noted that an email was received from Sarah Nielsen with an attachment from Tom Ryan, which was provided to the Zoning Commissioners.
- Mr. Elliott called attention to the note from Sarah Nielsen, noting that as a significant number of the town restaurateurs were not available for tonight's meeting, he recommended leaving the public hearing open until the interested parties are available.
- Chairman Ryan opened the hearing to the public for comment.
- Steven Antonio, 133 Holcomb Street, spoke against this text amendment, noting a lack of transparency at the last meeting of the Zoning Commission and disagreed with debating the constitutionality of food trucks. He noted that the initial proposal provided protection to the restaurants in town, but it did not steer business only to them and provided single-payer allowance for special events. He noted that holding this meeting right before Thanksgiving prevented many of the interested stakeholders from participating. He urged the Commission to postpone this decision to another time when more of the public and interested parties could participate.
- Sarah Nielsen, Executive Director of Simsbury Main Street Partnership, spoke against this text amendment, noting that she had provided many comments from restaurateurs in the town and property owners and commented that this new amendment would negatively impact local businesses, especially as they struggle to recover from the effects of COVID. She noted that Simsbury recently won a statewide award for helping town businesses through COVID. She noted that this amendment would result in restaurants closing and will increase building vacancies in town, negatively impacting taxpayers. She noted the costs of operating a bricks and mortar restaurant is high and that by allowing an accessory use food truck for these businesses is both legal and fair, recognizing the money and capital that they put back into the community. She commented this draft of the amendment favors non-Simsbury businesses. She noted that Chick-fil-A did not come to the Zoning Commission with a business plan outlining the need for a food truck. She does not believe that this draft of the text amendment puts Simsbury first.
- Sharon Thomas, resident of 42 Brettonwood Drive, spoke in favor of this text amendment, noting that it allows the town to be inclusive and provides town residents with access to different foods and cultures. She noted that the employees of Chick-fil-A may not be able to afford local restaurants and does not believe that having a food truck for a limited amount of time took away from any local business. She also commented that by allowing outside food trucks to come

81 to Simsbury, this would allow that business owner an opportunity to consider
82 opening a business in town.

- 83 • Kevin Farley, owner of Farley Mac’s restaurant, spoke against this text
84 amendment. He noted that when Tractor Supply allowed the Chick-fil-A food
85 truck, he lost a significant amount of business. He explained that he is struggling
86 to recoup his personal losses that he experienced due to opening a new restaurant
87 in town at the start of COVID and noted that he pays a significant amount of town
88 taxes, while Chick-fil-A does not. Rather than bringing in new eateries to the
89 town, the town needs to bring in more businesses and venues to support the
90 existing restaurants.

91
92 **MOTION:** Mr. Moore moved to continue the matter to the January 17, 2024 regular
93 meeting of the Zoning Commission. Ms. Madigan seconded the motion. The motion
94 carried. (7-0-0)

95
96 **Application ZC #23-39** of the Simsbury Zoning Commission, Applicant, for a text
97 amendment to Simsbury Zoning Regulations pursuant to section 17.4 to update the
98 definition of “Family” in order to comply with State legislation related to Family Group
99 and Family Care Homes.

- 100 • Mr. McGregor spoke with Town Attorney and his recommendation was to add
101 Family Group and Family Care Homes to the definition of “Family” in the
102 regulations. Additionally, he noted there was a positive referral from the Planning
103 Commission on 11/14/2023.
- 104 • Ms. Madigan and Ms. Battos inquired for additional context regarding the state
105 legislation change. Mr. McGregor responded that the state legislation gives
106 family childcare homes and group childcare homes protection to ensure they are
107 not overburdened by special permit requirements. The state legislation is
108 effective December 1, 2023, at which time the town must attest compliance or
109 provide a plan to achieve compliance.
- 110 • Ms. Madigan commented that the wording implies this applies to group homes.
111 Mr. McGregor responded that this does not apply to group homes. The wording
112 says family childcare homes or group childcare homes.
- 113 • Mr. Ryan opened the floor to the public. No public comments were made.

114
115 **MOTION:** Ms. Madigan moved to close the public hearing. Mr. Moore seconded the
116 motion. The motion carried. (7-0-0)

117
118 **MOTION:** Mr. Moore moved to approve ZC #23-29 for a text amendment to Simsbury
119 Zoning Regulations pursuant to section 17.4 to update the definition of “Family” in order
120 to comply with State legislation related to Family Group and Family Care Homes subject

121 to the staff memo dated October 16, 2023. Mr. Braz seconded the motion. Mr. Salls
122 abstained. The motion carried. (5-0-1)

123 124 **IV. NEW BUSINESS SITE PLAN REVIEW**

125
126 **Application ZC #23-40** of SL Simsbury LLC, Applicant/Owner; Holden Sabato, Agent;
127 Type 2 Application pursuant to the Hartford-Simsbury Form Based Code (HSFBC), to
128 amend the approved site plan to add an outdoor play area and revise parking lot
129 configuration in support of a pre-k/childcare facility at 1 Cooper Avenue a.k.a. The Ridge
130 at Talcott Mountain – 250 Hopmeadow Street (Assessor’s Map F17, Block 154, Lot 009-
131 3-2) Zone HS-FBC.

- 132 • Mr. Donohue, representing SLC Simsbury Owner of the Ridge at Talcott
133 Mountain, addressed the Commission, noting that they are requesting an
134 amendment to the originally approved site plan to include a play area as the
135 proposed use of the building is for a childcare facility.
- 136 • Holden Sabato, Development Director at The Silverman Group, commented that
137 they have been in lease negotiations with The Goddard School to occupy the
138 currently under-construction commercial building.
- 139 • Mr. McGregor provided background, noting that the building is approved for a
140 multi-use tenant. The amendment adds an outdoor play area for a childcare
141 facility. This is being brought to the Commission because it changes the parking
142 area and includes the addition of an outdoor play area.
- 143 • Mr. McGregor noted that the Design Review Board recommended approval with
144 the following two conditions:
 - 145 ○ The applicant includes a berm with landscaping along the frontage.
 - 146 ○ They recommended an earth tone color for the play areas and that the play
147 areas be a solid padded material, not a shredded material.
- 148 • Mr. Salls inquired about why the Design Review Board requested the berm. Mr.
149 McGregor noted that this would help screen the play areas.
- 150 • Ms. Madigan inquired about the remaining 6,000 sq. ft. of the building that is still
151 available. Mr. Sabato noted that the Goddard School will take the entire bottom
152 level and part of the top level and would like the opportunity to expand to the
153 remaining open area on the top floor in the future.
- 154 • Mr. Elliott inquired about the change in parking. Mr. Sabato responded that there
155 will be 5 fewer parking spaces. Mr. McGregor noted that the master plan had its
156 own parking standards, and it was done on a complete master plan-wide basis.
157 The numbers used are a generalized commercial number.
- 158 • Mr. Braz inquired how many children would be attending the school. Mr.
159 Goddard responded that the school anticipates approximately 120-140 students.

- Ms. Madigan inquired if are the school is moving from Avon to Simsbury or if they are opening a new location. Mr. Sabato responded that the school is opening a new location.
- Mr. Salls asked if playground is open to public when not in operation by the school. Mr. Sabato responded that the playground is not open to the public and is private for The Goddard School use only.
- Mr. Elliott noted the struggles with the development of this building and encouraged the applicant to increase commitment to the construction process to finish the building sooner.
- Mr. Salls inquired if The Goddard school expects most of the students to come from the local development. Mr. Sabato responded that there is no connection between The Goddard School and the residences at The Ridge.

MOTION: Mr. Braz moved to approve Application ZC #23-40 of SL Simsbury LLC, Applicant/Owner; Holden Sabato, Agent; Type 2 Application pursuant to the Hartford-Simsbury Form Based Code (HSFBC), to amend the approved site plan to add an outdoor play area and revise parking lot configuration in support of a pre-k/childcare facility at 1 Cooper Avenue a.k.a. The Ridge at Talcott Mountain – 250 Hopmeadow Street (Assessor’s Map F17, Block 154, Lot 009-3-2) Zone HS-FBC subject to the following findings and conditions:

1. The application is consistent with the Site Plan Requirement of the HS-FBC.
2. The application conforms to the Hartford North Master Plan of Development.
3. The project shall be developed in substantial conformance to the submitted Site Plan amendment dated July 13, 2023 revised August 24, 2023 titled The Goddard School Floor Plan Data Plan.
4. The applicant shall incorporate the change into the final as built into the Hartford North site.
5. Additional berm and landscaping in front of play area, working with staff to provide conformity.
6. Non-shredded play-based beige in color to be used in the area.

Ms. Madigan seconded the motion. The motion carried. (6-0-0)

V. GENERAL COMMISSION BUSINESS

Approval of the 2024 calendar

- Ms. Battos suggested holding a second meeting in February and September.

199 **MOTION:** Mr. Moore moved to approve the calendar as modified to include a meeting
200 on February 21, 2024 and September 4, 2024. Mr. Braz seconded the motion. The
201 motion carried. (6-0-0)
202

- 203 • Mr. McGregor noted that the Town Attorney has received legal correspondence and
204 he would like to brief the Zoning Commission via a special meeting on November
205 27, 2023 if possible, on this correspondence. If the Commission is not available, the
206 Town Attorney is not available to meet until after December 4, 2023. The
207 Commission decided to wait until the new Commission is seated for the legal
208 briefing.
- 209 • Mr. Ryan read closing remarks to conclude his last meeting as Chairman of the
210 Commission. The Commissioners thanked Mr. Ryan for his years of service.
211

212 **VI. ADJOURNMENT**

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214 **MOTION:** Mr. Moore moved to adjourn. Ms. Madigan seconded the motion. The
215 motion carried. (6-0-0)
216

217 Chairman Ryan adjourned the meeting at 8:04 P.M.
218

219 Respectfully Submitted,
220

221 Cara Blackaby
222 Commission Clerk
223