

**CITY OF NORWALK
ZONING COMMISSION
LOCATION: CONCERT HALL
April 25, 2012**

PRESENT: Joseph Santo, Chair; Emily Wilson; Jill Jacobson; James White; Michael Mushak; Nathan Sumpter; Adam Blank; Michael O'Reilly

STAFF: Michael Greene; Frank Strauch; Adam Carsen

OTHERS: Atty John Fallon; Atty Joe DiSilva

I. CALL TO ORDER

Joseph Santo called the meeting to order at 7:00 p.m.

II. ROLL CALL

Mr. Greene took the roll call.

III. CONTINUATION OF PUBLIC HEARING FOR REBUTTAL TESTIMONY ONLY:

a. #12-11 SP - Al Madany Islamic Center - 127 Fillow St - Mosque & multi purpose hall

Mr. Santo notified audience members that this was the rebuttal testimony for the applicant and there would be no sign-up sheet. The time to vote would have been 65 days; however, in this case, since it was a three part hearing, some of that time has been used. It may be possible that the commissioners could vote on this application at their next Zoning Commission meeting in May.

Atty Fallon began the presentation and went over the schedule of the rebuttal. He began with thanking and complimenting the commissioners about the way the hearing had been handled. As regards to the blasting, there was evidence in the record that there will be no need for it. As to the construction, the applicant would not be able to begin construction until they have received all of their approvals and have completed their fundraising. There would be no impact from the lighting. The wetlands permit has been approved.

The next issue he addressed was density. All requirements were compliant with the Zoning regulations. Atty Fallon noted that there were no F.A.R. requirements in the residential zone. Although the opponents seem to want the commissioners to deny the application because it is too big, Atty Fallon noted again that they had met all Zoning requirements; therefore, the application should be approved. He submitted an appellate case to the commissioners, Felsman v. Zoning Commission of City of Bridgeport, which overturned a trial court case that the application was an overuse of the property, similar to opponents' arguments in this application.

The next issue that Atty Fallon addressed was the location of the driveway. After consultation with the Department of Public Works (“DPW”), the driveway was moved which slowed down the progress of the project by one year. Also, the DPW has sight line guidelines and approved the sight lines for this project. Mr. Spears should have known that CONND.O.T. standards can only be used on state roads, not local ones such as Fillow Street.

Atty Fallon continued with a discussion of the parking requirements. Once again, he stated that the parking had been approved and met the Zoning requirements. He also referred again to the Felsman case. He addressed the concern about the multi-uses of the property. He noted that there were principal uses and accessory uses on the property. The regulations have no additional parking requirements for accessory uses. He later said that it would be difficult for the commissioners to deny the application based upon the parking on site.

Atty Fallon also discussed traffic and the concerns that growth had not been factored into the traffic study. His view was that the traffic study showed the scenario of the mosque being filled to capacity on a high holiday. However, the current congregation would not fill the mosque. This study would, according to Atty Fallon, then be able to be used when the mosque was filled to capacity. He also discussed the hours of the mosque as well as the peak hours of traffic and school dismissals. He believed that the traffic counts they had used were the most reliable, since they were the actual cars of the members of the congregation who would attend the mosque. This was better than the traffic counts at the mosque in Windsor. He also discussed current traffic conditions on Fillow Street. However, if the traffic was as bad as described then it should be a concern of the Police Department and the DPW. The application should not be denied because of the traffic issues. He also submitted another case to the commissioners, Bethlehem Christian Fellowship Church v. Planning and Zoning, Town of Morris. He believed that some of the arguments against the applicant in this case sounded similar to the ones against his client.

Atty Fallon continued the presentation by discussing the Windsor mosque. He said that Mr. Spears had not told them everything about that mosque. It is outside of Hartford but conveniently located near downtown, especially close to CIGNA and Met Life so that many of the employees could attend. There is also a full-time school on the property. There are three other mosques in the Hartford area.

Mr. Michael Galante continued the presentation by summarizing his letter dated April 9, 2012 which was in response to Mr. Spear’s letter, dated March 19, 2012. He addressed Mr. Spears comment that the applicant did not conduct a pedestrian safety study. Mr. Galante said that they did not because Fillow Street does not have sidewalks. He also stated that from the records that he received from the Norwalk Police Department, he could not say that the street was unsafe. Those records did not show any new accidents so he could not comment on them. He reiterated what Atty Fallon had said about the driveway and sight lines. He discussed his report on the Friday afternoon services.

Mr. Blank addressed an article in The Norwalk Hour. The article discussed that there were 100 men at the Friday service. It also discussed that there were no women because there were no accommodations for them to prayer in a separate area, as is the norm in a mosque. Mr. Blank wanted to know if there would be segregation of the men and women and where the women would pray in the new mosque. Mr. Galante did not have that answer.

Mr. Galante also compared the traffic counts at the Windsor mosque to the Norwalk mosque. He did not understand why there were so many vehicles going in and out at various times at the Windsor mosque. The only explanation that he had was that it may have been due to the school dismissals. There was also an impact on traffic counts from CIGNA and MetLife which are close in proximity to the Windsor mosque.

Mr. Galante addressed Mr. Spear's comments regarding tractor trailers in the parking lot. He said he did not know many churches, synagogues, etc. that had tractor trailers in their parking lots. In this case, the biggest truck they anticipated was a FedEx truck.

He discussed the driveways of the mosque as well as the driveway of Stone Gate Condominiums. They knew the traffic volume from the condos. He also addressed the decrease in the level of service from A to B which he said was insignificant.

Mr. Sumpter asked for a clarification of the traffic counts. Ms. Wilson asked Mr. Galante whether his traffic study analyzed any other services at the mosque besides the Friday, 1 p.m. service. Mr. Galante said they used the Friday service since it had the highest amount of attendees. Ms. Wilson also asked if it included the multi-purpose hall. He said that he did not distinguish between a person going to the mosque and going to the multi-purpose hall. Mr. Mushak had a question about whether Mr. Galante's firm recommended traffic calming techniques. There were some techniques that they would recommend and some they would not. Mr. Santo asked about services on the other days of the week. Mr. Galante said that they didn't study them because the traffic counts would be so low and insignificant.

Atty Fallon continued the presentation. He addressed Mr. Blank's questions about the women who would worship at the mosque. The women would worship behind the men, as is the tradition. He also noted that the commission should feel comfortable about the traffic report because it did use the full capacity number of 435 people.

Atty Fallon addressed some of the comments from the public's previous attendance at the last two public hearings. One person said that the church on West Avenue would be a good place to have a mosque. Atty Fallon said that they had put a bid on the church but it was rejected. The applicant has looked for 4 years for a location. There is no feasible alternative for them.

Although the commissioners have stated that they are addressing this matter based solely on the Zoning regulations, Atty Fallon said it was relevant that this application was for a mosque. He then referred to the Religious Land Use &

Institutionalized Persons Act (“RLUIPA”). He also cited case law but did not have a copy of the case for the commissioners.

Mr. Blank had some questions for Atty Fallon. He asked whether Atty Fallon agreed that there were other sites for the mosque around Norwalk, if the mosque was willing to pay for it. Atty Fallon agreed that anything was possible. He then cited another case, Westchester Day School v. the Village of Mamaroneck.

Atty Fallon said that it would be a burden on the applicant if the application was denied. He agreed with the commissioners that this was a zoning matter and should be reviewed as such.

Mr. Santo did not agree with Atty Fallon that there were no other places in Norwalk that the applicant could go. He did not think that it had relevance to the decision whether or not the applicant could not afford other places in Norwalk. He also suggested “growing incrementally” by building the mosque first and then adding on later. This was the case for many of the churches and synagogues. He also said they have seen many traffic reports and they would choose what to consider from them. Atty Fallon had some follow-up remarks based upon his comments.

Mr. Blank’s question for Atty Fallon was what definition the commissioners should use for “accessory use.” Atty Fallon recommended that the commissioners review the Zoning Regulations for the definition. Mr. Greene said that he would provide it to them, if they did not have it. Mr. Blank further clarified his question which Atty Fallon answered. Mr. White asked how the gymnasium fit into the criteria as an accessory use.

Joe DiSilva, who worked with Atty Grenier, spoke up at this point that he would like a chance for a rebuttal of Atty Fallon’s presentation. Atty Fallon said that he had not discussed any new subject matter. Mr. Santo would not allow him to speak for the same reason.

Mr. Sumpter had another question for Atty Fallon about the multi-use building and whether he had any research on other buildings with a similar purpose at other mosques. He did not.

Mr. Santo closed the public hearing.

IV. REPORT OF PLAN REVIEW COMMITTEE, JAMES WHITE, CHAIR

a. Action on Item III a.

**** MR. SANTO MADE A MOTION TO SEND THIS MATTER BACK TO THE PLAN REVIEW COMMITTEE.**
**** MR. WHITE SECONDED.**
**** MOTION PASSED UNANIMOUSLY.**

VI. COMMENTS OF DIRECTOR

There were no comments.

VII. COMMENTS OF COMMISSIONERS

Mr. Blank stated that since he had arrived late and left early to the first Special Meeting of the Zoning Commission on April 4, 2012, he had reviewed the tapes of the meeting in the Planning and Zoning Department's offices prior to the following meeting.

The meeting was adjourned at 8:16p.m.

Respectfully submitted,

Diana Palmentiero