

Town of Colchester

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**ZONING BOARD OF APPEALS
REGULAR MEETING
Tuesday, January 16, 2024 - 7:00 PM
Senior Center Meeting Room
95 Norwich Ave, Colchester
MINUTES**

RECEIVED
COLCHESTER, CT
2024 JAN 23 PM 2:58
OSILE FURMAN
TOWN CLERK

Members Present: Chairman L. Robinson, Vice Chair P. Reading, B. Setchinsky, M. Solis and J. Radachy via Zoom.

Also Present: ZEO I. Kisluk; Planning Director D. Sorrentino; Land Use Assistant S. Churchill; Appellant J. Doran of Niantic Bay Group, LLC; Atty. S. Rutkowska of Arch Law Group for Niantic Bay Group, LLC; Atty. M. Branse and T. Plotkin of Halloran & Sage for the ZEO; Public

1. **Call to Order** – Chairman Robinson called the meeting to order at 7:01 PM
2. **Legal Notice** – D. Sorrentino read the legal notice of location change as published in the Rivereast News Bulletin on 1/12/24
3. **Applications/Public Hearings**
 - A. **ZBA 2023-004 - Appeal of Notice of Zoning Violation and Order to Cease and Desist** dated September 28, 2023 and issued to Niantic Bay Group, LLC of 1967 N. Rose Hue Path, Hernando, FL 34442 for failure to provide required affordable housing within the Jordan Lane Affordable Housing Development (P&ZC Application 2021-015) that was permitted pursuant to Section 8-30g of the CT General Statutes a/k/a the Affordable Housing Land Use Appeals Act. Niantic Bay Group, LLC has submitted a “claim of error, requirement or appeal of decision made by Zoning Enforcement Officer” related to said Notice of Zoning Violation and Order to Cease and Desist. Property Locations: 34 Jordan Lane (ID#03-00/001-514); 24 Jordan Lane (ID#3-00/001-517); 22 Jordan Lane (ID#3-00/001-518); 20 Jordan Lane (ID#3-00/001-519); 16 Jordan Lane (ID#3-00/001-520); 12 Jordan Lane (ID#3-00/001-521); and 10 Jordan Lane (ID#3-00/001-522). Zoning District: Suburban Use (SU) – Chairman Robinson went over the procedure and rules for the Public Hearing. Attorney Branse for the ZEO discussed the claimed conflict of interest raised at the previous meeting and submitted several exhibits intended to demonstrate that J. Doran was never his client. Atty. Branse summarized the ZEO’s position to the Board, including that the application submitted to the Colchester Planning & Zoning Commission by Niantic Bay Group was for an 8-30g affordable housing project, that is what the P&ZC approved and at no time thereafter did it become anything else. He discussed the motion made by the P&ZC when they approved the application and asked the Board to uphold the Order as issued by the ZEO. Attorney Rutkowska responded by stating actions made by the Town led J. Doran to believe it was not an 8-30g approval. She said that the compliance that Town is asking for in the Order is not feasible. J. Doran presented his comments to the Board regarding the claimed conflict of interest with Atty. Branse, statements made by town

staff at the 9/6/23 P&ZC meeting and discussed other subdivisions and multi-family development projects in Town.

Break for 5 minutes at approximately 8:30 PM. The Board reconvened at 8:36 PM.

Board members asked questions and discussions ensued between Members, Atty. Branse, Atty. Rutkowska and J. Doran. Questions and discussions included but were not limited to: statutes of limitations for zoning enforcement; responsibilities of Town officials versus responsibilities of the developer for compliance; timing of the enforcement action taken; changes to the development over time; allowable development densities; J. Doran's understanding of the approval the project received from the P&ZC and what responsibility he had to perform in accordance with the approval; and whether home sale price information is provided at the time of Building Permit or Certificate of Occupancy.

D. Sorrentino responded to comments made by J. Doran.

Chairman Robinson asked for public comment.

Mr. Russi, Waterford, CT – Contractor for Jordan Lane. Asked if the town has any checklist regarding the building of the house and the subsequent sale. Atty. Branse advised that Demarco Agency, the Developer's Affordability Administrator would have been responsible for those actions.

Chairman Robinson asked for any additional comments in favor of the application, there were none. Chairman Robinson asked for any additional comments in opposition to the application, there were none.

Chairman Robinson asked for any questions for the Board – A. Rosano, 38 Jordan Lane, asked what can be done to remedy this for the other property owners.

J. Doran presented 3 options for the Board with stated ramifications for each potential action. Chairman Robinson discussed next steps. Both Attorneys for the Appellant and for the ZEO were in favor of closing the public hearing. The next regular meeting of the Board is scheduled for 2/20/24. Atty. Rutkoska requested a Special Meeting if possible.

The total number of Exhibits entered into the record by both the ZEO and the Appellant during this proceeding is 102, which Exhibit are numbered accordingly.

L. Choman, Mystic, CT – Realtor representing a prospective buyer of a house on Jordan Lane asked about the timeline for a possible resolution.

Motion by P. Reading to close the public hearing. 2nd by B. Setchinsky. Vote was unanimous, motion carried. Motion by P. Reading to continue deliberation until the next meeting. 2nd by B. Setchinsky. Vote was unanimous, motion carried.

4. **Minutes of Previous Meetings** – Motion by P. Reading to table discussion of the minutes. 2nd by B. Setchinsky. Vote was unanimous, motion carried.

5. **Old Business**

A. Continuing Education Requirements Update – no discussion

6. **New Business**

7. **Correspondence** – None

8. **Adjournment** – Motion by P. Reading to adjourn. 2nd by J. Radachy. Vote was unanimous, meeting adjourned at 10:00 PM.

Respectfully submitted by: S. Churchill, Land Use Assistant