

Milligan, Norwalk Library Foundation, set to tangle in court

By Nancy Chapman [2 : 20 am EDT May 26 2017](#) [1 Comment](#)

Apartments would be constructed in the lot next to the Norwalk Public Library, in a plan developed by Jason Milligan and approved by the Zoning Commission. The Norwalk Public Library Foundation and S&E Properties have appealed the Commission's decision.

NORWALK, Conn. – An appeal challenging the construction of apartments next to the Norwalk Public Library is going to court next week, despite efforts to negotiate a settlement.

The Common Council on Tuesday cancelled its executive session regarding a purchase option that would have settled the lawsuit filed by the Norwalk Public Library Foundation, an appeal of the Zoning Commission's approval of Jason Milligan's plan to build apartments at 15 Belden Ave.

The proposed purchase option includes city-owned property on Cross Street and Wilton Avenue, according to Library Foundation minutes.

Milligan, under the entity 587 CT Ave. LLC, won Zoning approval in April, 2016, to build "The Lofts at Mott Avenue," [a 5-story, 69-apartment building](#), at 11 Belden Ave. In June, the library Board appealed the decision. The Council discussed a settlement during an executive session at its May 9 meeting. Another was scheduled for Tuesday but it was cancelled without comment.

NPL Board of Trustees Chairman Alex Knopp declined to explain.

A pre-trial conference was held Wednesday morning. Attorney Greg Cava, who represents the Library Board, said the trial will begin next week, as scheduled.

Judge Donald Mintz said in an April 6 court order, "The court is scheduling an 8-8n hearing for the 5/25/2017 Administrative Appeals Calendar. If the settlement falls through the Court Trial is scheduled for 5/31/2017."

Asked if the settlement had fallen through, Cava said he was not authorized to speak about the proposed settlement. "I want to assure Norwalk residents that I am leaving no stone unturned to protect future parking for the library, including both litigation and negotiation, but it serves no purpose to comment now on these necessary approaches at such a sensitive time for trying to bring both to a constructive conclusion," Knopp said in a Thursday email.

The Library Board's case has been consolidated with that of S&E Properties, owner of the neighboring 11 Belden Ave.

The trial is continuing in a "bifurcated" way, Cava said. The first part of the trial will concern the "standing" of the plaintiffs: whether or not the Library Board is an aggrieved party. The second part of the trial would concern the merits of the appeal.

Milligan calls the lawsuit "frivolous," but said he is "also optimistic that we can resolve our issues despite the lawsuit, not because of it."

"Discussions continue. I really hope we will have a resolution soon," Milligan said Thursday in an email.

The developer has been clear that he does not think the Library Foundation has legal authority to stop his development.

"The actual library clearly would have standing to bring the appeal, but they are an extension/department of the City, and appeal is a lawsuit against Norwalk Zoning, which is also an extension/department of the city," Milligan said. "The city can't sue itself, so the Library Foundation is trying to skirt the law. They are simultaneously saying they are the library and are not the library. The whole thing is sneaky and a huge waste of money. The city legal department is defending us and the zoning approval. The library foundation is suing us and the city/zoning commission."

Knopp in January said that while the library can't sue the Zoning Commission, because both are city agencies, the Norwalk Public Library Foundation, Inc. is a federally certified non-profit organization that supports library functions through private voluntary donations and is deeply affected by Milligan's plan.

Under Connecticut law the plaintiff in a zoning appeal has to have an interest in the use of the land and be impacted by the Zoning decision, he said.



"The trustees are claiming that because of our significant financial support of so many activities in the library, really dozens of them, that we will be sufficiently aggrieved by this zoning decision to have sufficient standing to bring the appeal," Knopp said.

The Foundation's Board members are appointed, with five members appointed by Norwalk's mayor, two members appointed by The First Taxing District and two members appointed by the Second Taxing District.

"The lawsuit was not needed to get us to discuss options for the area," Milligan said Thursday in an email. "We have been open to collaborative ideas from the day we purchased the property. It is sad that so much money and time has been wasted. In the remote chance the library foundations wins the lawsuit against the city, zoning and us, they don't actually win any parking or improvement to the area. What would they win?? NOTHING!"

"I think it would be the right thing to do to withdraw it," to save the city the embarrassment of losing the case, Milligan said in a phone call last week.

Minutes from the April 13 Library Foundation Board of Trustees meeting, which have not been approved yet according to the city's website, offer information about the proposed settlement presented to the Council.

They say:

"Mr. Knopp presented a side by side comparison of the values the city would gain by the current draft of the Option Agreement compared to the estimated value of the properties at 31 Cross St. and 1 Wilton Ave. He said that the values may change if the agreement is changed and that the parties are waiting for the final appraisals. But he felt confident in expressing the conclusion there is comparable value on both sides of the option agreement He also noted the following aspects of the plan:

- "Value to city residents of library parking (priceless)
 - "Value to city residents of library modernization (priceless)
 - "No current operating funds required (no impact on mill rate or taxes)
- "No current capital funds required (vs. schools plan)"

A lot owned by Norwalk and the Norwalk Redevelopment Agency fronts the Norwalk River, on the corner of Cross Street and Wilton Avenue.

The Wilton Avenue property is .2 acre on the Norwalk River, across the street from what is now Bogey's Grill. It's co-owned by the city and the Redevelopment Agency, according to the city's website.

The Cross Street property is .63 acre, is also owned by the city, land records say. It is across the street from Cablevision.

The minutes also mention that Knopp was authorized to transfer \$10,000 in foundation funds to be held in escrow by the city, to provide for timely completion of property transfers. The minutes indicate that the city will refund the money from Corporation Counsel litigation funds.

Last week, Knopp said that as Library Board President he had "worked diligently in coordination with the Mayor's office to use both judicious litigation and constructive negotiation to expand opportunities for more library parking with the lowest possible impact on the city budget."

"I have been very quiet," Milligan said last week, explaining that the public outcry bothers him. "We have been open from day one, from day one we were willing to collaborate. They didn't need to sue us to get a conversation... We spent a fortune to get to point that we are, when people are interesting in collaborating."

The public should understand that there are ways to get more parking for the library without spending large amounts of public money, he said.

"I can come up with 100 ways," he said. "It's going to take time."

Rem [May 26, 2017 at 8:42 am](#)

Great, more letters to write to the Common Council. I'm not clear with one of the points in the article: what is the relationship between the .2 acre lot and the .63 acre lot with the lawsuit?

Also, in Stamford, P&Z likes to see retail or other community development with these types of projects. Even if retail cannot be done if that would result going over the FAR (easy to do with existing buildings), any community-based concessions are looked upon very favorably by the board. What, pray tell, has this property developer done other than vehemently defending himself?

Lastly, it was mentioned somewhere on NaN that the parking dilemma for the Library was first brought up in the 1980's and perhaps should be mentioned again, especially in light of this lawsuit as it is not an excuse for anti-development but rather a frustration with apparent promises made years ago.

