

Last Appeal of Norwalk Zoning Decision on Library-Side Apartments Dropped

By Nancy Chapman 5 : 55 am EDT September 12 2017 6 Comments

Updated, 2:05 p.m.: Possibility of eminent domain, Tuesday email to Council.

NORWALK, Conn. – The way is clear for construction to begin next to the Norwalk Public Library, developer Jason Milligan said Monday.

While Mayor Harry Rilling said discussions continue regarding the city's effort to lock in an option to purchase the property, Milligan said he is "not overly optimistic." There have been repeated threats of eminent domain, Milligan said Tuesday, after appealing to the Common Council to give the issue more consideration.

Milligan, through 587 CT AVE LLC, owns 11 Belden Ave. and in April, 2016, won Zoning approval for a 69-unit apartment building over the objection of library fans, whose complaints included the need for parking in the area. The Norwalk Public Library Foundation, led by former Mayor Alex Knopp, appealed the Zoning Commission's decision, and Knopp eventually negotiated a deal for the city to buy a six-year purchase option for the property at a cost of \$460,000, locking in a \$4.8 million price.



A chain blocks the parking lot next to the Norwalk Public Library last week.

This was described as a win-win, but last week Milligan said he was dropping it.

The city had demanded too much, with too many lawyers involved in "changing" the deal through a 14-point addendum, he complained; the Common Council on Wednesday gave the addendum a bi-partisan blessing, unanimously voting to approve it with the caveat that one item be left open to allow Corporation Counsel Mario Coppola to negotiate terms regarding insurance on the property. To which Milligan promptly replied, "no deal.

On Friday, Rilling said, "We are hopeful we will be able to resurrect the deal through continued discussions."

On Monday, Milligan said, "There has been very slight movement in a very typical fashion. I am not overly optimistic this minute. We have always kept our options open and we have recently begun looking at the apartment project with fresh eyes now that all appeals/lawsuits have been cleared. ... the apartment project is ready to go.

The Library Foundation appeal was withdrawn in May.

There was another appeal on the Zoning Commission's approval of Milligan's development, filed by S&E Properties, owner of 15 Belden. The state judicial website shows that S&E Properties requested that its appeal be withdrawn on Friday, and a "withdrawal of action" filed Monday.

There is, however, a separate action against Milligan, not the Zoning Commission, that is still open. The S&E Properties action is against Milligan's 587 CT AVE LLC directly and concerns parking spaces; the trial date on that was moved recently from Sept. 9 to Nov. 28. Rilling said the city is still trying to secure the property.

"Discussions with Mr. Milligan have taken place as recently as this afternoon," Rilling said. "The city stands ready to sign an agreement that protects our interests as well as CT AVE, LLC. We will not discuss confidential negotiations in the media."

"I think it has been lost on many of the countless attorneys that pushed too hard that we are no longer bound to work with the city," Milligan said. "The agreement we had expired on 8/31. The last appeal to the apartment project was withdrawn September 7th."

On Tuesday, Milligan said Coppola has repeatedly threatened eminent domain.

Milligan emailed the Council on Tuesday to offer a version of the addendum that he said they had never seen.

"It is very unfortunate that the council has been placed in the position that it is now in. The council unanimously approved a library option agreement for 11 Belden Ave, with the expectation that some additional protections for the city would be added to the agreement," Milligan wrote. "Those 'additional protections' mushroomed into an entire rewrite of the option agreement. We tried to make it work given all of the new demands brought on by Marshall Goldberg and Mario Coppola.

On Sept. 6, "Mario Coppola called my former attorney allegedly on another matter, but then used 10 minutes of the call to disparage me personally and told this former attorney that the deal sent that morning was the deal, and that I could take it or leave it," Milligan wrote. "That sentiment was reiterated by the Mayor and (Assistant to the Mayor Laoise King). I told them that I reject the most recent changes, just as I had rejected Mario's 'FINAL' version. I made it extremely clear that they should not present that version to the council. Mario decided to present the version that was acceptable to himself and himself alone to the council. You voted on that version of the agreement. Unfortunately, that was a complete waste of time.

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He continued, "Despite all of this mistreatment, I left the door open with Mayor Rilling last Friday the 8th. We could try to keep this together if the City would honor the version of the agreement that he, Laoise and myself had created on 9/1/17. A prerequisite to any further discussion would be that our version of the agreement would need to be presented to you tonight. I have been told you will not be presented with the 9/1/17 acceptable version tonight. Thank you for your efforts. It remains puzzling that you were put in the position that you were.

6 comments

Donna Smirniotopoulos September 12, 2017 at 7:24 am

"We will not discuss confidential negotiations in the media." There is a transparent process for development through land use permits and land use approvals. Milligan went through that process and got the okay. Then the Library board, an extension of the City, belatedly sued the Zoning Commission, another City body, appealing the decision to grant Milligan permission to develop apartments. Only belatedly did the deal to save library parking become a matter of "confidential negotiations". It never should have reached this point. Norwalkers do not want their land use decisions made behind closed doors. Notice the word "belatedly"? I used it twice, but probably not enough times to make the point. This City approaches development ass-backwards. No development of consequence should wind up in litigation, followed by secret negotiations. The need to resort to hiring outside counsel is a symptom of dysfunctional government. And it's a top-down problem.

Donna Smirniotopoulos September 12, 2017 at 2:57 pm

@Nancy, is eminent domain really on the table?

This can't be the way Norwalk gets works done. Maybe the players here should go to group therapy.

Rick September 12, 2017 at 3:24 pm

Maybe Firetree has offered group therapy for city hall as one more deal is closed behind closed doors.

Lisa Brinton Thomson September 12, 2017 at 3:57 pm

Eminent domain? What's the library plan? I don't think we have one. The location of the current police station in South Norwalk started that way. Just recently, the CT Supreme Court ruled against Norwalk, with the payout north of \$1Million and I think the legal bill was substantial. 95/7 was eminent domain and then sat there for 20 years. The track record of the city doesn't appear to be strong.

Patrick Cooper September 12, 2017 at 4:25 pm

Milligan is practicing the fine art of negotiation to squeeze Norwalk, using his ownership leverage, and given his understanding of how our photo-op city hall works – the press. Wonder if the new Wall Street enterprise zone is part of this tango? It sure seems as if the only thing our leadership fears is bad press. If I needed to present a summation of why Lisa Brinton Thomson should be mayor, the initial comment made by @Donna Smirniotopoulos would work. Belatedly, I would like to say nice take, and it fits the Rilling campaign slogan – moving Norwalk ass-backwards.

Debora Goldstein September 13, 2017 at 3:22 pm

Pursuing eminent domain at the end of the process would be an epic fail. It would look punitive. Norwalk might have to do all the legwork themselves, which would look very different from when we have the state to help us take property on transportation projects.

We have paid lip service to the need to put more parking for the library over the years, and think it would stand up to legal scrutiny that we are suddenly making the case for eminent domain as a public good, after a deal falls apart?

Not to mention the fact that we would AGAIN be negotiating against ourselves? The failed option agreement would factor into the FMV for the price of taking the property. You just can't make this stuff up.

Folks, if the never-ending saga of lawsuits and controversies over land use decisions and absence of proactive planning around Norwalk's land use priorities is wearing thin, then I urge you to GET OUT AND VOTE THIS NOVEMBER. The choice of people you put in charge has consequences. This is what consequences look like.