

**Wallingford Planning & Zoning Commission**

**Wednesday, February 15, 2017**

**7:00 p.m.**

**Robert F. Parisi Council Chambers**

**Town Hall-45 S. Main Street**

**MINUTES**

**PRESENT:** Chairman James Seichter; Vice-Chairman J.P. Venoit; Commissioners Jeffrey Kohan; James Fitzsimmons; Alternate Rocco Matarazzo; Kacie Costello, Town Planner.

**NOT PRESENT:** Armand Menard, Secretary; Alternate, Gina Morgenstein.

Chair Seichter called the Meeting to order at 7:00 p.m. and the Pledge of Allegiance was recited.

**Minutes – Dec. 12, 2016; January 9, 2017, January 30, 2017 (Special Meeting)**

**Dec. 12, 2016 Minutes**

**Mr. Venoit: Motion to approve the Minutes of Dec. 12, 2016 as amended.**

On page 14, last paragraph, Mr. Menard was not in favor of zero parking, but actually in favor of zero for the fee in lieu of additional parking spaces. Chair Seichter said Mr. Menard was in attendance at the Jan. 9, 2017 meeting and confirmed this statement.

**Mr. Fitzsimmons**

**Vote: Unanimous**

**January 9, 2017 Minutes**

**Mr. Venoit: Motion to approve the Minutes of January 9, 2017 as presented**

**Mr. Fitzsimmons: Second**

**Vote: Fitzsimmons – yes; Kohan –abstain; Venoit-yes; Matarazzo-yes; Seichter-yes**

**January 30, 2017 (Special Meeting)**

**Mr. Fitzsimmons: Motion to approve the Special Meeting of January 30, 2017**

**Chair Seichter: Second**

**Vote: Fitzsimmons-yes; Kohan-abstain; Venoit-abstain-Matarazzo-yes; Seichter-yes**

**PUBLIC HEARINGS**

1. Zoning Text Amendment/T.O.W. – E.D.C./4.9.B.9 & 4.10 B.6 (IX & I -5 zones) - **#501-17**

Mr. Matarazzo read the Legal Notice and noted all correspondence into the record:

Correspondence from Torrance Downs to Kacie Costello, Town Planner, dated Friday, January 20, 2017; Correspondence from Eugene Livshits, to Kacie Costello, Town Planner, dated January 11, 2017; Correspondence from Lauren Rizzo to Kacie Costello, Town Planner dated January 11, 2017; Summary Report, Town of Wallingford, CT dated July 1983 adopted February 1984; Report on Areas for Industrial Development which is a part of the POCD for Wallingford CT; File Copy Preliminary Report on Analytic Study and Plan Alternatives, Wallingford, CT, dated 11/7/58; Letter dated Dec. 12, 2016, Wallingford Planning & Zoning Commission, Attn: James Seichter, signed Joseph E. Mira, EDC Chair; Inter-Departmental Referral Application #501-17 received Jan. 11, 2017, signed by the General Manager; Proposed Regulations, excerpts from 1958; Public Notice by the Chair, Albert W. Hoff dated Feb. 6, 1963; Letter to John P. Gallagher, Director of Public Utilities Commission from Edward J. Harrier, Chairman; Plan of Development and Revised Zoning Regulations, Minutes dated June 21, 1971; Memorandum Planning and Zoning Commission dated June 18, 1982; Amendments to Regulations from Sam Pine dated May 29, 1984; Draft and 1985 writing of regulations (no date); Meeting Minutes P&Z Town of Wallingford, Regular Meeting March 11, 1991; Envision Wallingford 2005 POCD update; Industrial Expansion I-X and I-5 Zones timeline and background dated 2/10/16 Adopted Wallingford Plan of Conservation and Development 2016-2026 dated June 13, 2016; Staff referral report P&Z from Joann Rogulski, Regional Planner dated Jan. 10, 2017; Subject Proposed Zoning Regulations Minutes from Eugene Livshits to Kacie Costello, Town Planner, dated Feb. 14, 2017; Proposed Zoning Regulation Amendments for the Town of Wallingford from Kacie Costello, Town Planner to Eugene Livshits dated Jan. 10, 2017; Educational Philanthropic Regulations from Amy Souchuns to Kacie Costello, Town Planner (no date); Inter-Departmental Referral dated Jan. 9, 2017, signed by the Fire Marshal.

Chair Seichter announced that Item #7 Old Business for Rick's on Five, N. Colony Road- Applicant requested NO ACTION and will not be heard tonight.

Ms. Costello noted the three communications received by the P&Z tonight which were the email from Amy Souchuns, Staff Referral Report from the NVCOG and the email from Eugene Livshits, dated Tuesday, Feb. 14, will become in that order, Attachments 1V, 1W and 1X. Ms. Costello also noted in the P&Z packets that Attachment 6B was mislabeled and should be Attachment 1U as part of this Application.

Appearing in front of the Commission was Joseph Mirra, Chairman Economic Development Commission; Tim Ryan, ED Specialist and Jim Wolf, Vice-Chair, EDC. Mr. Ryan read a statement

which was distributed to the P&Z which became Attachment 1Y. He noted that on Monday, Dec. 12, 2016 the EDC by a unanimous vote, decide to propose the elimination of Philanthropic, Educational and Religious uses in Wallingford's Industrial Expansion District, because they are inconsistent with the purposes of these zones. He said the purpose for these zones is to provide industrial uses on or near major streets and to use key locations of lands with accessibility to I-91 and protect the watershed. He said the taxpayers have invested millions of dollars in roads and utilities in both zones in anticipation of a substantial rate of return in the payment of property taxes. He said PILOT agreements are not uncommon but they come at a fraction of the tax revenue. He said if an education user would locate at Bristol-Myers Squibb, could come off the tax rolls indefinitely. Mr. Ryan said the school bus traffic in an industrial zone, could pose a traffic hazard, as this type of traffic is not common in an industrial zone. He said there could also be potential housing needs spilling over into residential neighborhoods as well as the construction of dormitories in industrial zones should be avoided. He said the EDC is charged with growing the Town's grand list. Mr. Ryan pointed out there are \$22 million of property in Town benefitting from the religious/church exemption; another \$15.1 million benefitting from the philanthropic/charitable exemption and millions more under the education exemption mainly under Choate Rosemary-Hall.

Mr. Ryan cited an excerpt from the Town's POCD, noting that Commercial/Industrial land in Town is in limited supply, with just 4% in commercial use and 13% in industrial use. He said the P&Z by supporting the EDC, is preserving the Commercial Industrial land which grows the tax base. Ms. Costello said she provided several of the attachments provided in the P& Z packets and called attention to Attachment 1-T which was a summary of the attachments and background on how the I-X and I-5 zones evolved over time.

Ms. Costello said she agrees with the EDC that this is not consistent with what the intentions of these zones were. She said Attachment 1-E was an industrial development plan, specifically talking about potential industrial uses in industrial zones and when the I-X (Industrial Expansion Zone) was first recommended. She said there are several references throughout the years to the industrial park and industrial park uses in that zone. She also referenced attachment 1-F, from the 1958 POCD. Ms. Costello said the intention of the zone was to focus on the industrial park type uses. Ms. Costello said Attachment 1-Q, which was when the language was originally added and noted decades went by that these zones existing before these uses were added. She quoted from the bottom of I-Q, noting that if someone wants to put a school in the I-X zone, those uses are permitted in other zones. She said there wasn't a lot of discussion about the broader impact of included those uses in these zones noting these uses are moving into commercial buildings, having a significant impact on other communities.

She said in doing our planning it is our responsibility in where we located those types of businesses and uses. He said the Town allows and welcomes these uses in other zones in Town so there are other zones and options. Ms. Costello said the actual language in the Regulation states that the types of uses referenced are vague and broad, noting an educational use could

be an afterschool teaching or tutoring program or a full-time boarding high school or university. She said the same thing is true of religious institutions, some are small and some large. She spoke about traffic impacts. Ms. Costello mentioned the P&Z has the option of considering the uses in the each of the use category separately. Ms. Costello spoke about the term "philanthropic", stating she wasn't sure what that term was intended to encompass or not encompass and didn't believe philanthropic use was a land use, but a non-profit organization could be an office or a warehouse distribution facility or might involve residential use. She said this language should be considered in all the zoning regulations.

Mr. Kohan said we need to expand on the definitions of philanthropic and educational uses. He said everyone can agree on the definition of religious uses. He said he considered the Food Bank to be a philanthropic business that does pay taxes. He cited the American Red Cross as an example of a non-profit use paying taxes. Ms. Costello said the Red Cross would be considered an office whether they are philanthropic or not, which is allowed in those zones. Mr. Kohan said we also need to expand on the definition of educational because there are daycares that provide education. He said he agreed with Ms. Costello's comments and give examples of educational and philanthropic uses to tighten this up.

Chair Seichter asked about daycare and whether it is allowed under a Special Exception. Ms. Costello said daycare is a somewhat separately regulated by the State and can be a supportive use for uses in that zone noting that Bristol Myers-Squibb had their own daycare.

### **Public Comment**

Diane Whitney, Attorney with Pulman and Comley, representing Bristol Myers-Squibb, (BMS), spoke about the property and stated that BMS prefers to sell its property to a similar user and has vigorously trying to do this for the past year. She said there has been no interest in the property and brokers told them there is unlikely to be an interest. Atty. Whitney said the opposition to this proposed regulation change is that it reduces BMS's ability to sell the property and reduces its value. She said a private taxpaying school is interested in the property and this has been discussed with the EDC and the Mayor's office. She said if the Regulation goes into place, the sale will be lost. Atty. Whitney said there will also be a loss of flexibility in the use of the property and property owners would not be able to lease their property to any of the forbidden uses. She said there needs to be clarification citing the possibility of the Red Cross wanting to lease office space.

Atty. Whitney said there could be legal problems and the proposed amendment would prevent the lease or sale while BMS continues to pay property taxes. She said this proposed regulation would hinder the most productive use of this property and is not apparent this change is consistent with the Town's POCD which was enacted less than one year ago, and which calls for more flexible uses in the Industrial Zones. Atty. Whitney said the P&Z's act under Statutory Police Powers which sets limit what the P&Z can do. She cited Harris v. Zoning Board of New

Milford which states to be valid, the change must reasonable promote the health safety and welfare of the Community. She said this change will only protect the tax base of the Community and no authority can be found this is a valid exercise of Police Power to make a zoning change to simply protect the tax base of the community.

James Panczykowski, Executive Vice-President of Binswanger Company, representing BMS gave some background on the marketing efforts which he said have been robust in attempting to try to find a similar user to occupy their space. He said the marketing efforts for BMS began a year ago. Mr. Panczykowski said what is in front of the P&Z is an alternative user class, i.e., a university, an education use. He said if he is unable to identify a perfect user for this facility, but able to capitalize on the interest out there for educational uses, that is a tremendous benefit not only for BMS but for the Town.

He said there are other uses for these types of buildings in CT, citing the former Aetna building in Middletown which was torn down and will now become a Fed-Ex distribution center. He spoke about the develop ability of the site relative to its industrial use. He said this is a special use building, not industrial, and a research property. He said the land site itself it is not well figured or situated for industrial development. He said the BMS site is impacted by wetlands and 60 ft. slopes and regulations that affect the wetlands and development around the wetlands and there is a bridge that traverses a river which has a weight issue. He said the developable acreage is half of what is on the site. Mr. Panczykowski said the best possible use is what we endeavor to find. He said if the Regulations are changed, the property will lose a lot of its value.

Amy Souchuns, Attorney with Hurwitz, Sagarin, Slossberg and Knuff, representing her client Y&O-Wallingford, focused on the two Barnes and Village Lanes property which were acquired by her client a few years ago because of their educational uses. She said the text amendment would eliminate those uses which would have a real immediate and potential impact on these properties one of whom is looking to expand. Atty. Souchuns gave background on what her clients have done with the property. She said there is not a great deal of interest in true industrial use in the market, stating this space is flex space.

She said allowing the education use provides a positive benefit to the Town because even if there is no user, her client will continue to pay property taxes and said a variety of uses will ensure the property is leased and being used. Atty. Souchuns noted that on 29-33 Village Lane property, the High Road Student Learning Center is located. She said their use has been in this location since the text amendment allowing this particular use in 1991. She said the real concern is to allow this use to continue and expand noting they provide a much needed use in the community. Atty. Souchuns said her client wants this use to continue.

Amy Farmer, program director at Best Academy on Village Lane. She said her program is hoping to expand and serves the classic autism population which requires specialization, noting there are not many facilities in the State which offer this service and noted there referrals are

increasing. She noted her facility has been in Wallingford for many years and are a for-profit school. Mr. Mirra noted that the amendment is for the I-X and I-5 zone in its entirety and not focused on one particular parcel. He said the property is relatively limited, 4 percent commercial and 13 percent industrial left. He said several years ago, it was brought to them that a shell of a building on RT 68 should be converted to residential because it wouldn't be completed and now it is a well-run hotel. Mr. Mirra said these districts were meant for one use, industrial and commercial. He said the Town will be here for many years and this amendment is on a long-term focus and not a snapshot in time and feel strongly about this. He said this is prime real estate and needs to stay this way. Mr. Wolf pointed out to Mr. Kohan, that the CT Food Bank is tax exempt. Mr. Ryan said the EDC feels educational uses are not consistent with the stated purpose of the I-X and I-5 zones, thus their position is not solely to protect the tax base. He noted that by allowing education use, the Town can't control whether the user would be an owner or a tenant, one a taxable use and one not.

Mr. Kohan said educational needs to be more defined, and would not want to see us prevent the sale of BMS to the educational for-profit. He said the zone has been out there for years, and have not had any religious or educational uses come into play other than the Food Bank. He noted many companies have educational centers and this wording would prevent this from being constructed in this zone. He said this is something that should be allowed, but based upon the wording, may not be allowed. He said the business that has an educational center, will be paying taxes, because it is a for-profit business. He said he would not want to see this prevented from going into this zone.

Mr. Fitzsimmons noted that for this particular Regulation change, Chair Seichter was very clear in the beginning of discussion the latest POCD, and that the P&Z would take action on the plan. He said page 14 of the Plan states that concerns were raised that Wallingford may need to adjust its economic development strategy and industrial land use Regulations to keep pace with the changing needs in the business community; addressing these concerns can strengthen the local tax base and provide job opportunities to residents. He pointed out there were similar comments in 10-year plans the P&Z have adopted over the years. He said the EDC presented a well thought-out request to amend our Regulations for both the I-X and I-5. Mr. Fitzsimmons said the I-X and I-5 are extremely important to Wallingford. He said the Town is well balanced and the Regulation change makes sense and the enacting is timely and is consistent with the last three POCD's reviewed for the record.

Chair Seichter said what is being proposed is not targeted towards any specific property, but is being looked at as the two zones we have currently and the uses in those zones and looking to develop those zones. He said he feels comfortable in what the EDC is proposing is for the benefit of the development of those zones. He said the focus has to be on the long range. Chair Seichter said he was in support of the proposed amendment. Ms. Costello said we are looking to expand but with appropriate uses for these zones. She said these zones have been very specifically considered over the years in terms of what the permitted uses are. She said the

P&Z's purpose is to look at the long term plans and the development of the Town as a whole. She said this is about land uses, not about who pays taxes or doesn't pay taxes and who is non-profit or profit. She said we need to focus on the land uses.

Mr. Kohan said he couldn't get over the educational use. He said if a business wants to build an educational center in that zone, it is going to be an office building, the school could be an office building. He asked would that be allowed in this zone with this wording. Ms. Costello said the Commission has previously determined that training facilities as part of a larger business, are a accessory use to that larger use. Mr. Mirra said we are not excluding education from the Town, there are many other zones. He said this is prime property for Wallingford, and the tax base. Mr. Kohan said he understood this, but to limit potential businesses that may or may not pay taxes but contribute to the quality of life in Town, is short sighted.

Chair Seichter entertained a motion to close the Public Hearing at 8:22 p.m.

**Mr. Venoit: Motion to close the Public Hearing at 8:22 p.m.**

**Mr. Fitzsimmons: Second**

**Vote: Kohan-yes; Fitzsimmons-yes; Venoit-yes; Matarazzo-yes; Seichter-yes**

Chair Seichter entertained a motion on the application.

**Mr. Venoit: Motion to approve a Zoning Regulation Amendment (remove Sections 4.9.B.9 and 4.10.B.6 in their entirety) for the Town of Wallingford Economic Development Commission (EDC), to remove "Educational, religious, or philanthropic use" of any sort in the Industrial Expansion (IX) and Interchange (I-5) Zoning Districts, as proposed in the subject application, effective February 17, 2017, because: religious, educational, and philanthropic uses in our IX and I-5 zones are inconsistent with the purposes of zone and consistent with our Plan of Development**

**Subject to:**

**1. Comments of the General Manager Wallingford Education Association dated January 10, 2017.**

**Mr. Fitzsimmons: Second**

**Vote: Kohan-NO-Fitzsimmons-yes; Venoit-yes; Matarazzo-yes; Seichter-yes**

2. Zoning Text Amendment/PZC/4.8.B.9 – "Human Crematory" – **901-17**

Mr. Matarazzo read the Legal Notice and noted all correspondence for the record: Staff Referral Report to P&Z from Joann Rogulski dated Feb 14, 2017; Email from Eugene Livshits to Kacie Costello, Town Planner, dated Feb. 14, 2017; Referral of Zoning Petition from Torrance Downs

to Kacie Costello, Town Planner dated Jan. 20, 2017; Proposed Zoning Regulation Amendments for the Town of Wallingford from Eugene Livshits dated Jan. 11, 2017; Proposed Zoning Regulation Amendments for the Town of Wallingford from Lauren Rizzo dated Jan. 11, 2017; Packet on Crematory Manufacturing from Larry Stuart, Jr. dated July 27, 2016; Inter-Departmental Referral dated January 9, 2017 from the General Manager; Inter-Departmental Referral dated January 9, 2017 from the Fire Marshal; Inter-Office Memorandum from Erik Krueger, Sr. Engineer, Water and Sewer Division to Kacie Costello Town Planner, dated Jan. 31, 2017.

Ms. Costello provided a brief overview and noted the request is to add human crematories in an Industrial Zone when they are at least 500 ft. from a residential district. She noted that animal crematories are already allowed in an Industrial Zone. Mr. Fitzsimmons asked for a point of clarification regarding the 500 ft. from a boundary of a residence or rural residence district. Ms. Costello said it would be clearer if it said residential or rural residential district. She said the State law is 500 ft. from any actual residence. She said the word district applies to residence and rural residence.

Appearing in front of the P&Z was Matt Bailey, President of BC Bailey Funeral Home, the longest continual operating business in Wallingford. He said he is looking to add human crematories to the Industrial Zone. He said he hasn't found a site or location as of yet. He said the technology is clean and quiet. He noted he has operations in Waterbury and State-wide as well, but wants to keep the home base in Wallingford. Mr. Kohan asked if there was a time of day to schedule the cremations. Mr. Bailey said most crematories operate during the business schedule, normal working hours. Mr. Bailey went over activity at the property. He said most are operated by a single individual. He said there could be upwards of five cars per day depending upon volume of business.

### **Public Hearing**

No Public Comment

Mr. Fitzsimmons asked if there were still 19 crematoriums in Connecticut. Mr. Bailey said there are between 19 and 20.

Chair Seichter entertained a motion to close the Public Hearing at 8:36 p.m.

**Mr. Venoit: Motion to close the Public Hearing at 8:36 p.m.**

**Mr. Fitzsimmons: Second**

**Vote: Kohan-yes; Fitzsimmons-yes; Venoit-yes; Matarazzo-yes; Seichter-yes**

Chair Seichter entertained a motion on the application.

**Mr. Venoit: Motion to approve a Zoning Regulation Amendment (add Section 4.8.B.9.K) for the Wallingford Planning & Zoning Commission, to allow human crematories in Industrial zones, provided they are at least 500 feet from the boundary of a residence or rural residence district, as proposed in the subject application, effective February 17, 2017, because: it fits within the current Regulations.**

**Subject to:**

- 1. Memo from Erik Krueger, Sr. Engineer, Water and Sewer Division dated January 31, 2017.**

**Mr. Fitzsimmons: Second**

**Vote: Kohan-yes; Fitzsimmons-yes; Venoit-yes; Matarazzo-yes; Seichter-yes**

- 3. Zoning Text Amendment/PZC Modifications & Clarification to Sections 2.2 – “Definitions”, 5.2.C – “Additional Area Regulations”; 6.2 – “Accessory Buildings-Location”; 6.11.C – “Required Minimum Parking Area” 6.15L – “Accessory Apartments” and proposed new Section #6.33 – “Building Orientation”**

Mr. Matarazzo read the Legal Notice and noted all correspondence for the record: Staff Referral Report to the P&Z from Joanne B. Rogulski, dated Feb. 14, 2017; Subject Letter proposed Zoning Regulation Amendments for the Town of Wallingford from Eugene Livshits, to Kacie Costello Town Planner, dated Feb. 14, 2017; Subject Letter Referral proposed Zoning Regulation Amendments for the Town of Wallingford from Kacie Costello Town Planner, to Eugene Livshits, dated Feb. 14, 2017; Referral of Zoning Petition to River COG from Kacie Costello, Town Planner to Torrance Downs, dated January 20, 2017; Proposed Zoning Regulation Amendments for the Town of Wallingford from Lauren Rizzo to Kacie Costello, Town Planner, dated January 11, 2017; Inter-Departmental Referral Planning & Zoning dated January 9, 2017 from the General Manager; Inter-Departmental Referral Planning & Zoning dated January 9, 2017 from the Fire Marshal.

Ms. Costello said she keeps a tab on things in the Regulations that need to be clarified or modified to be consistent with the Regulations. She went over the proposed clarifications noting that in Section 5.2, roof overhangs and gutter systems count towards the gross floor area and the cover measurement. She said this came about because of large building overhangs. She said the change to 6.2 is to clarify the difference between attached and detached with accessory structures.

Ms. Costello said 6.2. #3 is the same and part of this change; Section 2.2. clarifies there is no difference between a temporary building and permanent building; Section 2.2, clarifies how

building heights are measured; floor area goes back to the concept of coverage and the clarification; She said in the Index and in Section 1.14, the RM-11 and RM-12 was omitted so there was a technical correction and in the parking requirements, there was one change, that restaurant, nightclubs, taverns, pubs with or without provisions for a dance floor, all under one parking requirement; she said she removed zoning regulations applicable to the CA-6 zone because there are now separate Section; Section 6.15L Certificate of Occupancy for Accessory Apartments, add that it would be a zoning permit or Certificate of Occupancy with the affidavit submitted each year instead of January 31; Building Orientation, any building constructed on a thoroughfare has to be facing the road.

Chair Seichter entertained questions from the Commission. There were no comments. Chair Seichter said for the benefit of the public, these items were discussed in Public at workshops and with the Town Planner.

### **Public Comments – None**

Chair Seichter said he appreciated the time and effort Ms. Costello put into this to clean up the Regulations.

Chair Seichter entertained a motion to close the Public Hearing at 8:48 p.m. He entertained a motion on the application.

**Mr. Venoit: Motion to approve a Zoning Regulation Amendment (Sections 2.2, 5.2C, 6.2, 6.11. C, 6.15.1 and add Section 6.33) for the Wallingford Planning & Zoning Commission, to clarify language in and the intentions of the particular zoning regulations, make minor modifications, and add a requirement that buildings along thoroughfares be oriented towards the street, as proposed in the subject application, effective February 17, 2017 because: it clarifies the intentions of the Regulations.**

**Subject to: N/A**

**Mr. Fitzsimmons: Second**

**Vote: Kohan-yes; Fitzsimmons-yes; Matarazzo-yes; Venoit-yes; Seichter-yes**

4. Zoning Text Amendment/PZC/4.2.F.14 –Residential hobby honey beekeeping #903-17

Mr. Matarazzo read the Legal Notice and noted all correspondence for the record; Staff Referral Report to Planning and Zoning Commission from Joanne Rugulski dated Jan. 14, 2017; Referral regarding Proposed Zoning Regulation Amendments for the Town of Wallingford from Lauren Rizzo dated Jan. 11, 2017 to Kacie Costello, Town Planner; Referral of Zoning Petition to River COG from Torrance Downs dated Jan. 20, 2017; Referral regarding Proposed Zoning Regulation Amendments for the Town of Wallingford from Eugene Livshits to Kacie Costello, Town Planner,

dated Jan. 11, 2017; Inter-Departmental Referral from the General Manager Neil Amwake dated Jan. 9, 2017; Inter-Departmental Referral dated Jan. 9, 2017 from the Fire Marshal; Petition to adopt regulations regarding residential hobby beekeeping from J.H. Torrance Downes dated Jan. 24, 2017 to P&Z Chairman James Seichter; Inter-Departmental Referral dated Feb. 1, 2017 from Erin O'Hare, Environmental Planner.

Ms. Costello said this was also initiated by a member of the Public who will make a small presentation tonight. She said the issue is that beekeeping is considered an agricultural activity and there would have to be five acres to have a farm. She said the nature of beekeeping is such that five acres shouldn't be required for someone to conduct this hobby beekeeping for themselves. She said there was a workshop on this and learned a lot about this hobby. She said there is a good Regulation which looks at best management practices, how the hive is oriented, the availability of water and the number of colonies permitted based on the size of the property. She said this will minimize the impact the beekeeping will have on the area and noted the path of flight was also discussed. Ms. Costello said a provision for landscaped barriers was also included in the regulations if the beekeeping is less than 50ft. from a property line. She said this is being called "hobby beekeeping" so commercial beekeeping is prohibited. Ms. Costello said the proposal is to allow this in a residential zone.

Chair Seichter asked about the colony shall be a maximum of 4 ft. in height and asked if stacking could be 24 ft. Ms. Costello said the structure in its entirety would be 4 ft. Chair Seichter asked about the water supply and a clear flight path and shall be a distance of 25 ft. He said for a larger parcel, one needs to be 50 ft. from the property line. He asked if the flight path for the water be 50 ft. away and go towards the interior of the property. Ms. Costello said the intention of the Regulation is that the flight path is oriented into the property. Chair Seichter said where the colony has to be 50 ft. from the property line, so should the water source. Ms. Costello said this made sense to her.

Appearing in front of the Commission was Catherine Smith, Hope Hill Road, Mark Creighton, State Apiary Inspector and Steve Dinsmore, President of CT. Beekeepers Association who presented a video on beekeeping. Mr. Creighton noted that beekeeping contributes \$3.5 billion annually to the CT agricultural economy and there are 1,647 registered beekeepers in CT and 8,000 hives in the State. He went over the health issues of the bee population. Mr. Kohan asked if there are any other species besides *Apis Mellifera* that can be used to produce honey in CT.

Mr. Creighton said there are some bumblebee species that produce honey on a limited basis. He said he believes the Regulations are good. He said he was OK with the 6 ft. high wall and if that would mitigate any problems. Mr. Creighton said he uses different structures around hives for different purposes. He said plants and shrubbery can be used for a windbreak and also use barriers to cause the bees to elevate in the hive. Chair Seichter asked the difference between colonies and nuclei. Mr. Creighton said a nucleus colony is a half size hive with half the bee

population. He said the beekeepers try to use this to mitigate swarming which is a reproductive function and noted this also keeps the bees from being lost to nature. Chair Seichter asked about the water supply and the clear flight path. Mr. Creighton said bees are resourceful and noted anything reasonable around the hive, the bees will find it.

### **Public Comment**

Steve Dinsmore, 57 Chesterfield Road, East Lyme, commented on Item G, stating the colony should be a maximum of 4 ft. in height. He noted not all colonies are height specific, some are constructed longitudinally so they expand front to back. He said if the height is restricted, there could be swarming. He said it is much safer to continue to put boxes on so the bees don't feel constrained. He recommended the height restriction be eliminated. He said the highest bee hive he has seen is 8 ft.

Mr. Creighton said some beekeepers have hive stands or cinder block to make the hive look aesthetic. He said with the 4 ft. restriction, this would prohibit this and recommended 6 ft. Chair Seichter said the height of the fence should probably be raised to 8 ft. Mr. Matarazzo commented that if the hive is allowed to be raised in height and the fence to 8 ft. there might have to be a permit. Ms. Costello noted that any fence over 6 ft. needs a permit and noted the maximum height altogether can't be over 8 ft. without a variance. Mr. Creighton said no matter how high the colony is the entrance location isn't changing and isn't a function of their flight path. He said a higher fence wouldn't be needed.

Mr. Venoit said he is OK with 14.G changing from 4 ft. to 6 ft. in height and with 14.H going from 25 ft. to 50 ft. from the property line. Chair Seichter said he isn't suggesting where the hives can be 25 ft. from the property line that the water source has to be 50 ft., it is just in that situation where if the colonies have to be 50 ft. from the property line, then we are talking about the clear path where the water source should also be 50 ft. so it is consistent.

Ms. Costello noted that for the distance of the water source to the property, it could be modified to state that the water source shall be located the same minimum distance from the property line as the colony.

Chair Seichter entertained a motion to close the Public Hearing at 9:22 p.m.

**Mr. Venoit: Motion to close the Public Hearing at 9:22 p.m.**

**Mr. Fitzsimmons: Second**

**Vote: Kohan-yes; Fitzsimmons-yes; Venoit-yes; Matarazzo-yes; Seichter yes**

Chair Seichter entertained a motion on the application.

**Mr. Venoit: Motion to approve a Zoning Regulation Amendment (add Section 4.1.F.14) for the Wallingford Planning & Zoning Commission, to allow residential hobby beekeeping, as proposed in the subject application, effective February 17, 2017, because: it clarifies the Regulations to allow for Residential Hobby Beekeeping.**

**Subject to:**

- 1. A modification of 14.G from 4 ft. to 6 ft.**
- 2. Modification of 14.H – Eliminate and shall be a distance of 25 ft. or greater from any property line modifying to and shall be a distance of any property line equal to the requirement of .I and .II**

**Mr. Fitzsimmons: Second**

**Vote: Kohan—yes; Fitzsimmons-yes; Venoit-yes; Matarazzo-yes; Seichter-yes**

- 5. Zoning Text Amendment/PZC/6/9.G-LED (Electronic) Sign Moratorium -#904-17**

Mr. Matarazzo read the Legal Notice and noted all correspondence into the record: Staff Referral Report to the P&Z Commission from Joanne Rogulski, dated Feb. 14, 2017; Subject Letter from Eugene Livshits to Kacie Costello, Town Planner, dated Feb. 14, 2017; Subject Letter from Kacie Costello, Town Planner, to Eugene Livshits, dated Jan. 10, 2017; Subject Letter from Eugene Livshits to Kacie Costello, Town Planner, dated Jan. 11, 2017; Subject Letter from Torrance Downes to Kacie Costello, Town Planner, dated Jan. 20, 2017; Subject Letter from Lauren Rizzo to Kacie Costello, Town Planner, dated Jan.11, 2017; Inter-Departmental Referral, received Jan. 11, 2017 from Neil Amwake, General Manager Water and Sewer Divisions; Letter to James Seichter, Chairman, P&Z Commission, received Jan. 30, 2017 signed by Torrance Downes; Inter-Departmental Referral received Jan. 13, 2017 from the Fire Marshal; Inter-Departmental Referral received Feb. 1, 2017 from the Chief Building Official.

Ms. Costello said this is a potential issue in her office for quite some time. She noted it has been brought to her attention as more electric message boards are now seen. She said the proposal is to have a moratorium on these signs so the P&Z can have workshops and discussions as to whether they should be allowed in Wallingford and where they should be located, and the types of restrictions which would be appropriate for these signs.

Ms. Costello noted that because this is new technology, the current signage regulations don't contemplate those types of signs. She noted these signs fall under different names, LED signs, electronic message display signs and electronic message centers. She said these signs are composed of tiny LED lights. She said this would not be a reference to an LED light bulb used internally like a cabinet sign, but for an actual LED display sign. Ms. Costello said she believes the language is appropriate and if the moratorium is approved, there will be further discussion.

She said because there have been issues with brightness, size and movement versus non-movement, it is appropriate to hold up on having any additional new LED signage.

**Mr. Fitzsimmons: Motion to approve a Zoning Regulation Amendment (add Section 6.9.G) for the Wallingford Planning and Zoning Commission, to place a 9-month moratorium on the issuance or allowance of installation of LED or Electronic signage, in order to give all the Commission the opportunity to pursue appropriate regulation of such signage, as proposed in the subject application, effective February 17, 2017, because: The Planning & Zoning Commission would like time to explore allowance and appropriations of the Regulations of such signs.**

Mr. Venoit asked if the moratorium was on stagnant LED signage. Ms. Costello said currently the Zoning Regulations don't allow for moving or flashing sign. She said she recommends discussing the minimum time between sign change messages which are usually 5 to 8 seconds so instead of getting flashing, one gets one picture or another. Ms. Costello said currently the Regulations state there cannot be flashing signs, but it is not specific enough. She said her department is also running into brightness issues. She said for the time being, it might be appropriate to prevent any new signs.

**Public Comment – None**

Chair Seichter said this has been an issue members of the Commission have mentioned over the past numerous months. He said this moratorium will give the Commission the opportunity to see how this can be regulated better. He said it is the flashing, but the brightness issue on some signs and supported the sign moratorium. Ms. Costello said as proposed this moratorium would be for nine months.

Chair Seichter entertained a motion to close the Public Hearing at 9:33 p.m.

**Mr. Venoit: Motion to close the Public Hearing at 9:33 p.m.**

**Mr. Fitzsimmons: Second**

**Vote: Kohan-yes; Fitzsimmons-yes; Venoit –yes; Matarazzo-yes; Seichter-yes**

Chair Seichter entertained a motion on the application.

**Mr. Venoit: Motion to approve a Zoning Regulation Amendment (add Section 6.9.G) for the Wallingford Planning and Zoning Commission, to place a 9 month moratorium on the issuance or allowance of installation of LED or Electronic signage, in order to allow the Commission an opportunity to pursue appropriate regulation of such signage as proposed in the subject application, effective February 17, 2017 because: The P&Z would like time to explore allowance, appropriateness of Regulations of such signs.**

**Subject to: N/A**

**Mr. Fitzsimmons: Second**

**Vote: Kohan-yes; Fitzsimmons-yes; Venoit-yes; Matarazzo-yes; Seichter-yes**

**NEW BUSINESS**

1. Site Plan (vehicle storage building)/ T.O.W. Electric Division/100 John Street - **#203-17**

Mr. Matarazzo noted all correspondence for the record: Inter-Departmental memo received January 13, 2017 from the Fire Marshal; Inter-Departmental memo received Jan. 13, 2017 from the Fire Marshal; Letter from Town Planner Kacie Costello dated Jan. 19, 2017 to Richard Hendershot, Gen. Mgr. Electric Division; Inter-Departmental memo received Feb. 1, 2017 from the Chief Building Inspector; Interoffice Memorandum from Erik Krueger, Sr. Engineer, Water and Sewer Division to Kacie Costello, Town Planner, dated Feb. 1, 2017; Letter to Kacie Costello, Town Planner, from Silver/Petrucci Associates dated Feb. 9, 2017.

Appearing in front of the Commission was Richard Hendershot, Electric Division General Manager; David Stein, Principal Silver Petrucci Architects; Ryan Haley, Architect, Silver Petrucci and Jeff Franson, Electric Division Supt.

Mr. Stein explained the proposal is for a free-standing pre-engineered metal building on the existing campus to house the vehicles that are used by the Electric Division. He said currently, a portion of those vehicles are located in an existing facility and some vehicles are also stored outside. Mr. Stein said the goal is to create a facility that can also accommodate miscellaneous storage. Mr. Haley went over the site plan. He said new site drainage will be added, along with a new oil/water separator, and a new Fire Dept. connection to the water main. Mr. Ryan said the building will be 10,800 sq. ft. and is approximately 180 ft. by 60 ft. in size and 27 ft. above grade. He said 10 new bays for the trucks will be added.

Mr. Stein noted the height and rear setback requirements are compliant with Zoning Regulations. He noted the building will be placed over an existing paved area so impervious paving will not be reduced and said the grade of the building will be raised slightly but no storm drainage will be altered. He said with parking, no modification of existing parking spaces will take place and there will be no need for additional parking. He said the rear of the building will be screened. Mr. Stein pointed out the building will have bathrooms which are code, but said there will be no office use. He said of the nine bays, there will be a linear bay to allow equipment to be staged. He said there will also be a mezzanine in the building for equipment storage.

Chair Seichter asked Ms. Costello to clarify a statement from the Chief Building Department which stated accessibility regulations require mezzanine activities also be available on the first

floor level or provide lift to the second floor. Mr. Stein explained that the mezzanine level is dedicated just to storage. He said the Building Official is addressing that because of handicap requirements; accessibility has to be provided.

Ms. Costello said all of her concerns generally have been addressed by the memo and can be conditions of approval. Ms. Costello asked how wide the landscape buffer in the current landscaped area was. Mr. Haley said he believed it was in excess of 30 ft. Ms. Costello said this wasn't an issue because John Street ends before the landscape buffer ends. Ms. Costello said it was unclear where the property line was. She was concerned over what might fall under the review umbrella and said it appears it is one big property to the west going towards and across John Street. Ms. Costello asked if the parking shown is compliant with current requirements. Mr. Haley said the regulations require 88 spaces and there are 104 spaces and are 9 by 18. Mr. Hendershot said the former loading dock area will house the dumpster.

Chair Seichter asked Ms. Costello to expound on the property lines. Ms. Costello said there was a determination that this is all one property. She said typically, when a modification to a site is reviewed, the site is looked at as a whole. She said the Commission needs to make a determination about how far their reach applies here. She said we know where the property line is but there is no survey. Mr. Stein went over the property line. He said the parcel as it continues down to Wastewater Treatment Plant and down, it is a contiguous parcel. He said he has not mapped or looked at all of the other components that go along with this project. Chair Seichter noted that from a zoning standpoint, this property is all one piece. Ms. Costello said that was her understanding.

#### **Public Comment – None**

Chair Seichter entertained a motion on the application.

**Mr. Venoit: A motion to approve a Site Plan for the Town of Wallingford Electric Division, to construct a 10,733.4 sq. ft. truck storage building at the Electric Division facility at 100 John Street, as shown on plans entitled: "Town of Wallingford, Truck Storage Facility, 100 John Street, Wallingford, Connecticut 06492", dated January 6, 2017, subject to:**

- 1. Memo from Chief Building Official dated Feb. 1, 2017;**
- 2. Memo from Water and Sewer Division Sr. Engineer Erik Krueger dated Feb. 1, 2017;**
- 3. Stormwater be addressed to Town Engineer's satisfaction;**
- 4. Memo from Town Planner Kacie Costello dated Jan. 19, 2017**

**Mr. Fitzsimmons: Second**

**Vote: Kohan-yes; Fitzsimmons-yes; Venoit-yes; Matarazzo-yes; Seichter-yes**

**OLD BUSINESS**

1. Site Plan (outdoor dining patio) Rick's on Five/765 North Colony Road - #201-17

(NO ACTION)

Chair Seichter took the agenda in the following order.

**SURVEY WAIVER REQUESTS**

10. Sunwood Development Corp/423 Center Street

Mr. Matarazzo noted all correspondence for the record: Letter from Sunwood Home Builders and Remodelers to Kacie Costello, Town Planner, dated Dec. 22, 2016.

Appearing in front of the Commission was Robert Wiedenmann Jr., Sunwood Development Corp who told the Commission this property is on the corner of Center St and S. Elm Street. He said the porch was removed as part of the demolition to prepare it to be rebuilt. He said Ms. Costello had a question about the setback. Mr. Wiedenmann Jr. said there was no survey so he is requesting a waiver. He said he found a monument shown on the plan adjacent to the corner of the sidewalks of the two feet and were able to determine the porch area was well within the requirements. Chair Seichter noted there were two front yards and both the setbacks are both 10 ft. Ms. Costello confirmed this. Chair Seichter said based upon Mr. Wiedenmann's determination and the monuments found, it seems the Applicant is well within the requirements.

Chair Seichter entertained a motion on the Application.

**Mr. Venoit: Motion to approve a survey waiver for Sunwood Development Corp. at 463 Center Street.**

**Mr. Fitzsimmons: Second**

**Vote: Kohan-yes; Fitzsimmons-yes; Venoit-yes; Matarazzo-yes; Seichter – yes**

11. Ruggiero/ 1410 Rhey Avenue

Mr. Matarazzo noted all correspondence for the record: Letter from Judith Ruggiero to Town of Wallingford Town Planner's Office dated Jan. 27, 2017.

Appearing in front of the Commission was Chris Ruggiero who said he is looking for a survey waiver. He said the photos show the house is in the middle of the property. He said the dimensions have been listed for the current placement of the sunroom which will be placed where the deck used to be.

Chair Seichter entertained a motion on the Application.

**Mr. Venoit: Motion to approve a Survey Waiver for Ruggiero at 1410 Rhey Avenue**

**Mr. Fitzsimmons: Second**

**Vote: Kohan-yes; Fitzsimmons-yes; Venoit-yes; Matarazzo-yes; Seichter-yes**

**MAP FILING EXTENSION REQUEST**

**8. Resubdivision/Ibar/58 North Branford Road – #102-16**

Ms. Costello said the map filing extension request is for a one-lot subdivision the Commission approved for Ibar at 58 North Branford Road which she said had the issue with the barn which was close to the front property line and will be over the property line. Ms. Costello said the Applicants have requested a 90-day extension.

Chair Seichter entertained a motion.

**Mr. Venoit: Motion to approve a 90-day extension for a re-subdivision application at 58 North Branford Road**

**Mr. Fitzsimmons: Second**

**Vote: Kohan-yes; Fitzsimmons-yes; Venoit-yes; Matarazzo-yes; Seichter -yes**

**8-24**

**9. Water Main Replacement & Extension Projects/W&S Divisions/Long Hill Road, North Main Street and North Street (replacements) off of South Broad Street (extensions)**

Ms. Costello said this is an 8-24 referral based upon expansion of utilities. She said to stay on the safe side, this was made an 8-14 referral and this project is for water main replacements and extensions on Long Hill Road, North Main Street, and North Street.

Ms. Costello said the Commission should vote to support or not support this proposal.

Chair Seichter entertained a motion.

**Mr. Venoit: Motion to approve a water main replacement and extension project, Water and Sewer Division, Long Hill Road, North Main Street and North Street for replacements off of South Broad Street (extensions)**

**Mr. Fitzsimmons: Second**

**Vote: Unanimous**

## **BOND RELEASES & REDUCTIONS**

12. Special Permit/F/Panza (McDonald's)/608 North Colony Road - #401-15

Ms. Costello said this bond can be released.

13. Subdivision/Sunwood Development/195 Chimney Hill Road - #105-14

Ms. Costello said this is approved for a reduction to \$93,869 as proposed.

14. Special Permit/Infinity Route 5/1094 North Colony Road - #411-14

Ms. Costello said this bond is not ready to be released.

Chair Seichter entertained a motion on the bond releases and reductions.

**Mr. Venoit: Motion to release the bond for special permit Panza McDonald's, 608 N. Colony Road, and a reduction to \$93,869 subdivision, Sunwood Development, 1094 Chimney Hill Road**

**Mr. Fitzsimmons: Second**

**Vote: Unanimous**

## **REPORTS OF OFFICERS AND STAFF**

15. Acceptance of 2016 Annual Report

Ms. Costello noted one correction on the second page in #3 which states: "the approval of 370 new residential units" and is actually 313 residential units. Chair Seichter noted on the first page, the first sentence reads "In the Planning and Zoning Department2016" should read "for 2016 with spacing and a few commas and semicolons. He said on the second page, below the chart, on "a" it states "despite the fact that the number of Applications in 2016" the end of the sentence states "was up from 2015 by about 52% (and up from by about 250%)," there seems to be a year missing. Chair Seichter said on the last page, where Amy Torre is mentioned, the second line states "and is a wonderful asset" doesn't sound like his language. He suggested changing the word "wonderful" to "valuable employee".

Mr. Venoit said the 370 to 313 should be changed in the chart on the second page.

Chair Seichter entertained a motion to approve the 2016 Annual Report with amendments.

**Mr. Venoit: Motion to approve the 2016 Annual Report as amended**

**Mr. Fitzsimmons: Second**

**Vote: Unanimous**

16. Potential 2017-2018 Budget Item Requests

Ms. Costello said she just handles the budget administratively because internally, the budget doesn't change from year-to-year. She said biggest item is the COG dues which we have no control over. She said in the interest in moving our interests in the Action Agenda in the Plan of Development forward, she wanted the Commission to consider whether or not there are some things they would like to do in the next year pursuant which would involve an outside consultant or something of that nature so she can request it in the budget. She said specifically, she thinks would be appropriate is to hire a consultant to do a full parking plan which would include impacts of the parking associated with the rail line and whether it is pay or not pay, a streetscape plan, gateway areas and pedestrian movement in connection with the parking plan. She said there are no resources to do this internally.

Chairman Seichter said this is the general consensus of the Commission. Ms. Costello said the TOD plan was \$75,000 and anticipates the cost would be less than that. Chair Seichter said one of the areas he is concerned about if one looks at Cherry Street going from the old train station into the platforms, and where the parking lots are, making those much more appealing.

17. Administrative Approvals

- a. Site Plan/Seymour Sealing/147 North Plains Industrial Road - **#212-16**
- b. Site Plan/Service Station Equipment/155 John Street - **#237-16**
- c. Change of Use/Stefanowski/33 Fair Street - **#318-16**
- d. Change of Use/Gambardella/3 Buel Street, Unit 2 - **#301-17**
- e. Change of Use/Kern/521 Main Street, Yalesville - **#302-17**
- f. Change of Use/New England Concession LLC/950 Yale Avenue - **#306-16**

Ms. Costello noted the administrative approvals. There were no questions from the Commission.

18. ZBA Decisions of January 17, 2017

Ms. Costello noted the ZBA Decisions of January 17, 2017.

19. ZBA Notice for February 21, 2017 (Tuesday)

Ms. Costello noted Item #1, noting this is a pending application with the P&Z which is the patio expansion for Rick's on Five which was done without approvals. She noted in the plan review, there are several other issues on that site and several other non-conformities, and the Applicant is going back for more variances. She noted the Applicant already received one parking

variance. Ms. Costello said she was concerned about a shed located on the property which wasn't approved, and if the shed wasn't there, the Applicant wouldn't need the coverage variance. She said there are things the Applicant could do to be more in compliance than they currently are. She asked the P&Z whether they wanted to issue a report to the ZBA on this application.

Mr. Fitzsimmons noted the Applicant is requesting seven more variances and already have one approved and they are all related, i.e., the sidewalk is needed, the coverage is needed. He said this is a lot for this site. Mr. Fitzsimmons said this is all related to the outdoor dining and is a huge issue. Mr. Venoit said Rick's on Five is extremely successful which can be a bad thing in that they don't have enough parking. Mr. Fitzsimmons said this is a classic example of doing something without permission. He said he would request a report because the Applicant is attempting to correct what they did. Ms. Costello said this came up because of the site review. She said the P&Z is concerned about the number of variances required and the shed. She said some of the parking is on State property and doesn't count towards meeting their requirement. Ms. Costello said the P&Z could comment on the parking. Chair Seichter said the consensus is that the P&Z comment on everything.

Ms. Costello said noted the CFPZA is having their annual conference and will take place March 23 at the Aqua Turf in Plantsville.

#### 20 Zoning Enforcement Log

Ms. Costello noted the Enforcement Log. She said complaints have been received regarding the Cemetery Association building on Prince Street. She said the wall plays into it in relation to the slope of the driveway. Mr. Kohan noted he never remembered the P&Z discussing the cutting of the wall. Ms. Costello said the P&Z discussed the fact there would be access through the wall. Chair Seichter said he vaguely recalls discussing the gate.

#### **Adjournment**

Mr. Venoit made a motion to adjourn the Meeting at 10:22 p.m. Mr. Fitzsimmons seconded the motion which passed unanimously.

Respectfully submitted,

Cynthia A Kleist

Recording Secretary