

Wallingford Planning & Zoning Commission

Regular Meeting

March 13, 2017

7:00 p.m.

Robert F. Parisi Council Chambers

Town Hall

45 South Main Street

**MINUTES**

**PRESENT:** Chair Jim Seichter; Vice-Chair J.P. Venoit; Commissioners Jeff Kohan; Rocco Matarazzo; James Fitzsimmons; Armand Menard, Alternate; Kacie Costello, Town Planner.

**NOT PRESENT:** Gina Morgenstein, Alternate.

Chair Seichter called the Meeting to order at 7:07 p.m. and the Pledge of Allegiance was recited.

**Approval of Minutes – 2/15/17**

On page 7, under the motion to change the Zoning Regulation Amendment, Mr. Fitzsimmons noted that it should read “comments of the Wallingford Water and Sewer Division” not Wallingford Education Association.

**Mr. Venoit: Motion to approve the Meeting Minutes of February 15, 2017 as amended. Mr. Fitzsimmons seconded the motion.**

**Vote: Unanimous**

Chair Seichter announced that #1 Special Permit (special needs educational facility)/Specialized Education of CT, Inc., 5-9 Barnes Industrial Road South - **401-17** - (NO ACTION REQUESTED) – will be heard at the April meeting; Item #3, Site Plan (outdoor dining patio)/Rick’s on Five/765 North Colony Road - **#201-17** – will be heard at the April meeting.

**PUBLIC HEARINGS**

**2. Zoning Map Change (DD-40 to HOD –G)/Richello/103 North Turnpike Road - #502-17**

Mr. Venoit read the Legal Notice and noted the following correspondence for the record: Inter-Departmental Referral dated Feb. 22, 2017 from Erin O'Hare, Environmental Planner; Memorandum to Kacie Costello, Town Planner, from Erin O'Hare, Environmental Planner, dated Feb. 22, 2017; Letter from Kacie Costello, Town Planner, dated Feb. 28, 2017 to Joseph Richello, Applicant; Letter from Christopher Juliano, Juliano Associates, dated March 6, 2017, to Kacie Costello, Town Planner; Housing Opportunity District – General Statute Regulations.

Appearing in front of the Commission was Christopher Juliano, P.E., Licensed Land Surveyor, Juliano Associates, and Joseph Richello, Owner/Application. Mr. Juliano said in January, the new Regulation, Housing Opportunity District, was approved. He said he is seeking to get the zone changed at 103 North Turnpike Road, CT RT 150 which is an 8.77 acre property. He said Mr. Richello wants to apply the new housing opportunity district to this property. Mr. Juliano went over the zone change map, and showed the properties affected within 500 ft.

Mr. Juliano noted that most of the adjoining property is Town-owned. He said the subject property has a narrow entrance onto N. Turnpike Road and the bulk of the property lies to the east. He said the property is largely made up of wetland band to the east side and a sewer easement which runs north to south through the property. He said he recently received a Letter of Map Amendment (LOMA), to relocate the FEMA floodplain, which FEMA had out to Rt. 5 and which now runs through a portion of the property with a small island in the middle of the property. He said this would be changed with the proposal.

Mr. Juliano spoke about the zone change. He pointed out the Applicant is requesting the HOD General overlaid to this property so the site plan can move forward. He said the Applicant wants to construct a 36-unit age-restricted 62 and older apartment complex with associated parking for the facility. Ms. Costello said she is waiting for a review response from DEEP. She suggested there be no action on the zone change and the plan application and they be continued to April.

Mr. Juliano questioned how the DEEP would have an impact on the zone change itself. Ms. Costello said DEEP is reviewing the flood plain issue or the impact to the flood plain on the property and building housing in the floodplain. She said depending upon their comments, it could speak to the type of appropriateness of this use in general. Chair Seichter agreed that this application should be continued to April.

**Richello (Map Change) – #502-17 - Postponed to the April Meeting – NO ACTION TAKEN**

**MOTION: A motion made by Vice-Chair Venoit seconded by Mr. Fitzsimmons to postpone any decision to the April Planning & Zoning Commission Meeting.**

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

Chair Seichter took the agenda in the following order:

**NEW BUSINESS**

**7. Site Plan (36-unit, age restricted housing complex)/Richello0/103 North Turnpike Road - #208-17**

Mr. Matarazzo noted all correspondence for the record: Letter dated Feb. 28, 2017 to Joseph Richello; Letter from Juliano Associates from Town Planner Kacie Costello, received March 7, 2017; additional letter from Juliano Associates dated Jan. 16, 2017 to Erin O'Hare, Environmental Planner; Letter from Juliano Associates dated Dec. 22, 2016 revised Jan. 3, 2017 to Erin O'Hare, received Jan. 17, 2017; memorandum to Kacie Costello, Town Planner, received Feb. 22, 2017; memorandum to Town Planner Kacie Costello received Feb. 22, 2017; memorandum to Kacie Costello, Town Planner, received Feb. 22, 2017; Inter-Office Memorandum to Kacie Costello, Town Planner received March 2, 2017 from Erik Krueger, Sr. Engineer, Water and Sewer Division; Letter dated Feb. 22, 2017 to Diane Ifkovic, State NFIP Coordinator from Kacie Costello, Town Planner; Letter from Kacie Costello, Town Planner, dated Feb. 28, 2017 to Joseph Richello, Owner/Applicant; Letter from Christopher Juliano, Juliano Associates, dated March 6, 2017 to Kacie Costello, Town Planner; Inter-Departmental Referral received Feb. 22, 2017 from the Fire Marshal; Inter-Departmental Referral from Erin O'Hare, Environmental Planner received Feb. 22, 2017; correspondence from Gina Morgenstein, Planning & Zoning Commissioner dated March 9, 2017.

Appearing in front of the Commission was Christopher Juliano, P.E., Licensed Land Surveyor, Juliano Associates and Joseph Richello, Owner/Applicant. Mr. Juliano went over the site plan. He said the driveway will be a loop circulation and noted he worked diligently with Town Staff and the Commission to come up with a proper mix for Regulation. He said this is being designed to meet all the Regulations which is two times what is being required for the underlying zone, i.e., all the setbacks are double, the required area is doubled and noted the Regulations have been tailored to meet this site and any future needs. He said there is a small watercourse on the north side of the property which feeds into the Quinnipiac River. He pointed out the large area of wetlands throughout the property and the sewer line which cuts through the middle of the property running north to south.

Mr. Juliano said the predominant issue Ms. Costello had mentioned was the floodplain. He showed the Commission a map of the current floodplain and another map of what the floodplain will look like after the project is completed. He pointed out the three areas currently outside the 100- year floodplain, which he said are defined by elevation 45. He said FEMA and the Federal Government acknowledged his survey and data so the three areas were identified and pulled out of floodplain. He noted that before, this entire area was in the floodplain.

Mr. Juliano said when the project is being done, fill will be deposited in the blue hatch area and this additional area will come out of the floodplain. He said another LOMA will have to be filed

to prove to FEMA that enough fill has been deposited to raise the ground above elevation 45 and pull it out of the floodplain. Mr. Juliano said in order to do this; compensatory storage has to be provided, meaning that for every cubic foot of fill placed in the floodplain, one cubic foot of area has to be given back. He said to do this a hole will be dug and enough material will be pulled out to satisfy the amount of fill being placed in the blue patched area. He noted this is a one-to-one compensatory storage. Mr. Juliano said the Town Engineer, as part of the wetlands application, requested cross sections so numbers could be compared. He noted there will be more compensatory storage than required. Mr. Juliano said once the Applicant has constructed the site work and installed the swales for the storm water handling, and filled in and created the pad for the building; an as-built will be created. He said the as-built will be submitted to FEMA and the Applicant will then receive a new LOMA. Mr. Juliano said all of this must be done before work begins on the project. Mr. Juliano spoke about the building construction which will be 36 units, three stories with 12 units per floor, located in the center of the buildable area, served by public water and sewer. He said the sanitary sewer will go out the side of the building and connect to the existing sewer in the back. He said there will be two large snow storage areas on the side and the areas along the parking won't have curbs so the snow can be pushed in that direction. He noted split rail fencing will also be installed as a parking barrier. Mr. Juliano pointed out that by request of Commissioner Morgenstein, a garden, 27 by 52, will be installed and will hold 27 4 ft. by 8 ft. plots.

Mr. Juliano spoke about landscaping. He said a small tongue of wetlands will be brought back to fruition and there will be new plantings along the buffer and the corridor along the stream will be rejuvenated with native bushes. He spoke about sedimentation and erosion control. He said stockpiled areas will be outside the 100 year floodplain. Mr. Juliano went over the site lighting plan, which he said was modified to bring down the pole heights to 14 ft. allowed by regulation. He said there will be two poles along the north side of the driveway and four or five poles around the parking lot. He said the rest of the building lighting will be on-building with full-cutoff to avoid light trespass. Mr. Juliano went over the building architecture and floor plan. He said there will be a 40 ft. building height. He said the units will be one and two bedrooms and the affordable units will be designated. Mr. Juliano said there will be a large community room on the first floor and a laundry room. He said there will be 10 apartments on the main floor: eight one-bedroom units and four two bedroom units with five one-bedroom and seven two-bedrooms on the second and third floors.

Mr. Fitzsimmons asked about the floodplain and said he was concerned about the potential for flooding. He asked Mr. Juliano to explain the raising of the land to remove it from the floodplain. Mr. Juliano said there is a base flood elevation associated with a 100-year storm. He said FEMA does its calculations and determines once there is a 100-year storm, which is 7.1 inches of rain in a 24-hour period, FEMA has modeled what will happen to the Quinnipiac and tributaries and how far it will flood which is the base flood elevation. He said in this area, we are at elevation 45. He said he needs to survey the property on the same datum used by FEMA

and compare. He said the Town and to some extent, DEEP, allows the filling in of a floodplain and to bring up a piece of property. He said for residential, the regulation is that the floor has to be one foot above base flood elevation. He said the finished floor for this project will be two feet above base flood elevation.

Mr. Fitzsimmons wanted to know that with the fill, would this piece of property still fall under the Planning & Zoning flood regulations. Mr. Juliano said portions of the property will always fall under the floodplain regulations. Mr. Fitzsimmons noted that years ago, houses were flooded when the Quinnipiac flooded. He said the Town regulations state that the lowest floor including the basement, shall be elevated at least two feet above the highest adjacent grade. He pointed out Mr. Juliano had stated our regulations were one feet. Mr. Juliano explained the FEMA flood plain is one and Wallingford is more restrictive and we do comply. Mr. Fitzsimmons asked if this is still a floodplain, and if he were the owner of the property, could he still by flood insurance. Mr. Juliano said he will get the LOMA-F which will take the area out, the building will be outside the floodplain, but Mr. Richello will still need flood insurance for the base of the property. Mr. Fitzsimmons asked if the building as proposed would have a basement. Mr. Juliano said there will be no basement. Mr. Fitzsimmons noted that because the Owner/Applicant is proposing an affordability portion of this project, there is still no affordability plan. Mr. Juliano said he is waiting for that aspect of the project to be completed and will have this available for the April meeting. Mr. Fitzsimmons asked who would be responsible for enforcing the affordability or the age restriction. Mr. Juliano said he believed the enforcement and management would fall under one of two groups: the attorney appointed by the Applicant or possibly the Wallingford Housing Authority. Ms. Costello noted the affordability plan will have to lay all of this out.

Mr. Fitzsimmons said he was concerned about the floodplain issue for this site and requested additional information before the next meeting in April. He said the area is very wet and emphasized he is for affordable housing. Mr. Juliano said the floodplain was a big issue with the IWWC especially the low-lying area which is owned by the Town. He said that is the water in the front of this particular site. Mr. Juliano said the only other time he has seen water was because of the pipe under the culvert which is DEEP responsibility. He noted the Applicant hired someone to unclog this pipe to allow the water to flow freely.

Mr. Kohan asked how large the hole would be and how steep would the sides be, and would it be a hazard to the residents. Mr. Juliano said the overall depth would be two feet. He said there would be one-foot contours. He said this will be planted and when it is dry there will be no risk and with a storm, one is talking two feet maximum unless there was a 100-year storm. Mr. Juliano said there will be a fence along the back area. Mr. Kohan asked if there were plans for the area back towards the river as far as recreation or activities. Mr. Juliano said the IWWC requested this area be cleaned up. He said there is the existing clearing along the sewer line and clearing which runs along the trunk sewer. He said there has been discussion with the IWWC and with Ms. Costello regarding the property to the south. Mr. Juliano said Mr. Richello is open to suggestions from the Town.

Chair Seichter asked about the number of affordable units. Mr. Juliano said there will be approximately 12 affordable units. Chair Seichter asked about the mix of units, one and two bedrooms. Mr. Juliano said the mix will be 50/50 and the affordable units will be the same size as the other units. Chair Seichter said he would like to see the affordable units dispersed among the marketable units and on the individual floors and floor plans. Ms. Costello said for rental apartments there is a clause consistent with State law, that if one's income raised above the affordability maximum while they were living there, the next unit that opened up would have to be offered as affordable. Ms. Costello said all of here site design and engineering comments have been addressed. She said the one thing she mentioned to Mr. Juliano and DEEP is the impact of the basin in the front because it was taken out of the floodplain but below the elevation that defines the floodplain. Mr. Juliano said he ended up raising the area.

Chair Seichter entertained public comment. No public comment.

Mr. Juliano asked about the bond noting Ms. Costello's letter stated she would be working this out. He said he provided comment regarding the wetland bond and asked what this bond amount would be. Ms. Costello said she will calculate the bond amount this week.

Chair Seichter entertained a motion to continue this application to the April meeting.

**Motion: A motion made by Vice-Chair Venoit seconded by Mr. Fitzsimmons to continue application #208-17 to the April Planning & Zoning Commission meeting.**

**Vote: Unanimous**

### **NEW BUSINESS**

#### **4. Site Plan (addition to winery building )/Gouveia Vineyards/1339 Whirlwind Hill Road - #205-17**

Mr. Matarazzo noted all correspondence for the record: Inter-Departmental Referral received Feb. 16, 2017 from Erin O'Hare, Environmental Planner; Inter-Departmental Referral received Feb. 21, 2017 from the Fire Marshal; Letter from CW International to Eloise Hazelwood, DOH, received Feb. 21, 2017; Inter-Office memorandum to Kacie Costello, Town Planner from Erik Krueger Water and Sewer Division Sr. Engineer dated March 2, 2017; Letter dated March 8, 2017 to Gouveia Vineyards from Kacie Costello Town Planner; Letter from Loughlin Fitzgerald to Kacie Costello, Town Planner, received March 9, 2017; Virginia Data Collection Report, no date; Winery Trip Generation and Parking Generation Report; Copy of Email to Vivian Jones sent from Jeffrey Kohan to Kacie Costello, Town Planner, dated March 13, 2017; Email to Kacie Costello dated March 10, 2017 from Vivian Jones.

Appearing in front of the Commission was Joan Molloy, Atty. Loughlin Fitzgerald representing Joseph Gouveia, Applicant, George Cotter, OCC Group, Engineer. She said this is an application for site plan approval for a proposed addition to the existing building at Gouveia Vineyards.

Atty. Molloy said Mr. Gouveia over time has increased the number and type of grapes produced. She noted Mr. Gouveia needs more room to house equipment and to produce wine and construct a walkway between two of the patios. Mr. Cotter went over the site plan. He showed the processed parking area to the south with a wraparound to the rear of the building with additional parking and an approved tent. Mr. Cotter showed the existing building, noting the main floor is the seating area for wine tasting and down below is the wine making area which would be expanded to a two-floor addition; the first floor being the wine making and the second floor, 1,444 sq. ft. to be seating. He said there would be no change to the previously approved layout. He pointed out the existing septic system areas for the main floor and the lower floor. Mr. Cotter said there would be a walkaround overhang to allow people to walk from side to side around the outside of the second floor of the building. He showed where the addition to the building would be located. Chair Seichter asked the existing square footage of the wine seating area. Atty. Molloy said it was 3,200 sq. ft. Mr. Cotter went over the overflow parking area. He said comments from Ms. Costello were addressed regarding improvements to the parking layout and to ensure driveway access to the property. Chair Seichter asked about the overflow parking and the parking spaces. Mr. Cotter said there were 73 spaces located in the vicinity of the processed driveway and 130 on the overflow as shown. Chair Seichter asked how the overflow lot would be marked. Mr. Cotter said there will be ropes installed to designate location and staff members on hand to guide people to the site. Ms. Costello said her comments were addressed from the March 9, 2017 letter from Atty. Molloy. She asked about the outdoor storage noting it was behind the existing building but will be moved back with the building. She asked if there would be enough room for outdoor storage. Atty. Molloy acknowledged there would be sufficient outdoor storage.

Ms. Costello noted the driveway was 18 x 22 ft. wide and recommended a 24 ft. clear area that cars can drive on if they have to pass by each other. She also commented about the question of traffic generation. She said she included information she could find noting there is not a comparable use in the ITE book. Atty. Molloy said based on provided information regarding drinking establishments, she said this facility would average 35 vehicle trips per peak hour. Atty. Molloy said there was a peak hour for the generation and recognizing this establishment would have a different peak hour, the vehicle trips would be 45 trips per peak hour but noted it would be spread out because people who visit Gouveia stay for a while and the traffic is spread out over that period of time. She said based upon her information, she didn't believe Gouveia triggered a Special Permit.

Atty. Molloy emphasized that Mr. Gouveia has altered his hours and reduced his evening hours on Saturdays and Sundays to reduce neighborhood impacts, he closes at 6 p.m. Atty. Molloy noted the property is a restricted use area, but noted Mr. Gouveia is allowed to develop his property for farm related operations which she pointed out was approved in 2012 by the Dept. of Agriculture. Mr. Fitzsimmons asked about capacity of people inside and outside if the property was improved. Mr. Gouveia said current capacity is 290 persons. Mr. Fitzsimmons

noted the Fire Marshal commented that he has no problem with the site but would require detailed building plans to determine occupant load. Atty. Molloy said once the plans are completed, this can be determined. Mr. Fitzsimmons asked about the septic. Mr. Cotter said the system has functioned adequately and noted it is a divided system between the upstairs seating and the downstairs wine making. He said there are two septic tanks. Mr. Fitzsimmons said he agreed with Ms. Costello regarding the recommendation of the widening of the driveway. He asked about buses noting the current plan doesn't provide for this. He said the buses should be designated on the plan.

Chair Seichter asked about the septic system and the 290 figure and wondered if this figure was based upon indoor people. He asked if the people outside wouldn't need facilities. Mr. Cotter said the system functions adequately with everyone on site-indoor and outdoor. He said he doesn't anticipate a problem, but noted there is a plan in place to modify the existing system. Chair Seichter noted there is parking for 203 vehicles and asked what the plan would be if more than 203 vehicles showed up. Atty. Molloy said Mr. Gouveia has indicated there are clearly designated parking areas and staff is on-site to direct the vehicles to the overflow which she acknowledged included the 203 vehicle figure. Atty. Molloy said there is additional parking on a grassed area. Chair Seichter asked where this is noted on the plan. Atty. Molloy pointed out the additional parking locations on the site plan. Mr. Cotter, in answer to Vice-Chair Venoit's question, noted the proposed addition would be 1,444 sq. ft. per floor. Atty. Molloy distributed photos of the wine making area to illustrate why additional space is needed.

Mr. Matarazzo mentioned Vivian Jones email regarding the vineyard possibly being in violation of zoning violations. Ms. Costello said her office wasn't aware of any zoning violations. She said there are inconsistencies with Gouveia's previously approved site plans.

Chair Seichter entertained Public Comments.

Ed Makepeace, 50 George Washington Trail, said Gouveia has done a great job in Wallingford. He said he is opposed to the further expansion of the winery which he said would significantly impact the character of the east side. Mr. Makepeace showed photos of the cars at the vineyard which he said have become a major traffic generator. He noted these photos were taken Oct. 11 and said he counted 423 vehicles with 66 vehicles parked on the other side of the pond. He said this amounts to 846 vehicle trips in and out in one hour which is eight and one half the limit of the trip generator. He noted there are 200 to 300 trips per day on Saturdays. Mr. Makepeace said the traffic will probably go up if there is a 50% increase in the square footage of the facility. He said there is poor infrastructure, narrow roads and wetlands. He encouraged the P&Z not vote and deny the application until there is a major traffic study done. He said the Town has gotten away from the intention of the regulations. He noted the typical vehicle flow during the summer at Gouveia can be 200 to 300 cars per hour on a typical summer weekend. He said the road entering the vineyard should be widened and straightened.

David Jones, 8 Windswept Hill Road, said the traffic generated in the area is too much. He said he didn't move to this area to experience this. Mr. Jones said the traffic is increasing more and more. Mr. Jones noted there are two other vineyards which are only a few miles from Gouveia and if he puts on an addition, the other vineyards will want to do the same. He noted we are in a wetlands area and noted there have been more accidents in the area and more drunk driving arrests and is against the addition to the vineyard.

End of Public Comment – 8:41 p.m.

Atty. Molloy said she referred to the data provided to her and noted that she accepts on certain weekends, there are a large group of individuals that go to the vineyard. She said she didn't believe the large group of cars doesn't make this a major traffic generator; this has to do with peak hours and the number of trips during the peak hour. Mr. Gouveia pointed out the photos of Oct. 11 that Mr. Makepeace distributed was Columbus Day weekend and was more than an average day. He said currently, he has less people visiting than in 2011. He said he voluntarily decided to close on Saturdays at 6 p.m. and on Sundays he closes earlier. He said he believes he has been a good neighbor. Mr. Gouveia said when he first opened the winery, the State required that 51% of the grapes come from the vineyard, now it is 25%. Ms. Costello commented on the potential traffic study. She said most of the data she looked at puts it around 100 and when it is close, the P&Z has most of the times in the past required a traffic study to verify. She said the P&Z could also require a peer review which is a neutral third party hired by the Town. She noted both the traffic study and the peer review are paid for by the Applicant.

Ms. Costello recommended the P&Z wait for the outcome of the study before a Peer Review is done. Mr. Matarazzo said he understood Mr. Gouveia needing more space and the resident's concern and said he would support a traffic study. He said he couldn't responsibly vote on this application tonight without seeing the results. Ms. Costello said if a traffic study was done, a traffic engineer would be hired to do the counts. She said the peak hours are during the summer and noted the information probably wouldn't be available to the P&Z until that time and recommended withdrawing the application and moving forward later. Atty. Molloy asked if the issue driving the traffic study is the expansion of the public space or the addition of the wine making operation. Chair Seichter said the issue for him would be the expansion of the public space. Atty. Molloy said Mr. Gouveia would probably give up the expansion of the public space just so he could obtain the expansion of the wine making space. Mr. Fitzsimmons said he agreed with Mr. Matarazzo that the manufacturing is a lot different than the public space and didn't see the need at present for the study. Mr. Kohan said he agreed with the current thinking that the manufacturing space is fine. He asked about the people directing the traffic and how many people drive in, see the full lots and leave. He said the main priority is the manufacturing and expanding the business also has to be considered. Mr. Kohan said the future traffic study would be something to consider. Chair Seichter said the feeling of the P&Z would require a traffic study if the plans were just the manufacturing.

Chair Seichter asked Ms. Costello about revised plans. She said the P&Z should continue this application for a month to consider the new plans. Atty. Molloy emphasized that Mr. Gouveia is anxious to get the bathrooms installed and the manufacturing noting that timing becomes an issue. Mr. Gouveia said one of his biggest issues is the bathroom and noted he spent \$8,000 on portable bathrooms. He said if he is allowed to put a bathroom inside for the women, he will scrap all of the other submitted plans and in the fall he will cut down 15,000 to 20,000 vines. Ms. Costello said Atty. Molloy and her staff could get together to discuss the new proposed layout, i.e., possibly manufacturing on the first floor and first floor bathrooms if the P&Z agreed that this wouldn't necessitate a traffic study. Mr. Gouveia noted the bathrooms would be on the main floor now. Chair Seichter said he believe Mr. Gouveia was saying that the most important item would be expanding the bathrooms in the existing building and if this occurred, he would seriously consider not going forward with expanding the manufacturing site and then eliminating some of the vines. Ms. Costello said nothing is needed from P&Z to make internal changes just building permits. She noted there are some inconsistencies between the approved plans and the actual parking layout and what is used for parking. Chair Seichter said the elimination of the plans could be eliminated from the current plans and just show the designation of the parking and the overflow parking. Ms. Costello said Mr. Gouveia is in conformity and can go forward with the bathrooms. Atty. Molloy said she will discuss other options with the Applicant.

Continued to the April P&Z Meeting. Chair Seichter entertained a motion.

**Motion: Vice-Chair Venoit made a motion to continue - #205-17 – to the April Meeting. Mr. Fitzsimmons seconded the motion.**

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

### **NEW BUSINESS**

#### **5. Site Plan (ripe de bois composting facility)/Green Envy Products LLC/Sterling Drive - #206-17**

Mr. Matarazzo noted all correspondence for the record: Stormwater Pollution Prevention Plan received Feb. 10, 2017; Letter dated March 2, 2017 to Green Envy Products, LLC from Kacie Costello, Town Planner; Inter-Departmental Referral received Feb. 16, 2017 signed by Environmental Planner; Inter-Departmental Referral received Feb. 21, 2017 signed by the Fire Marshal; Inter-Departmental Referral received Feb. 16, 2017 and Feb. 22, 2017 signed by Steve Civitelli; Letter from Juliano Associates received March 9, 2017 to Kacie Costello Town Planner and an attached site plan; Letter dated March 2, 2017 to Green Envy Products, LLC., from Kacie Costello, Town Planner.

Appearing in front of the Commission was Christopher Juliano, P.E. Licensed Land Surveyor, Juliano Associates. Chair Seichter wondered if this was a permitted use in the I-X zone. He

asked Mr. Juliano to focus on why he believes this is a permitted use in the I-X zone. He said the activity is composting which is supported under Section 4.9.B.6 which states that agriculture is allowed in the I-X zone. Mr. Juliano said composting is an agricultural activity recognized by the DEEP. He noted the IWWC also recognized this as an agricultural activity and was exempt under the Wetlands Regulations. He said if the P&Z didn't believe this was an agricultural use, than it is a manufacturing use under Section 4.9.B.4 of the regulations where raw materials, wood, horse manure and rainwater, combining those and coming up with a finished product.

Chair Seichter pointed out that if this were viewed as manufacturing, a building of 25,000 sq. ft. would be required. Ms. Costello confirmed this. Mr. Juliano said this is the only other definition this use can fall under. He said it is better if this is outside because the rainwater is needed and noted this process is heavily regulated by the DEEP. He said it is his professional opinion this falls under agriculture. Ms. Costello said she was struggling with whether this is part of a larger farming or agricultural facility or is it a commercial operation. Mr. Juliano said if this were part of a larger facility, this could be done without any regulation but because it is stand-alone, this is why it falls into general permitting and the DEEP category. He said this business also falls under the small composting facility. Ms. Costello pointed out that within the I-X zone the permitted uses are agriculture, farming, trucking, forestry, nursery, gardening, including greenhouses, the keeping of livestock and poultry. She said this sounds like this isn't a farming activity, but DEEP is classifying this as an agricultural activity. Mr. Juliano said this is an agricultural activity and is not farming as far as raising livestock or growing food. Mr. Fitzsimmons said he checked the zoning book as to where this operation fits in the I-X zone. He asked about the end product. Mr. Juliano said it would be compost for retail sale. He said everything will be trucked on and off the site. He said the material for the composting is fine wood shavings. Mr. Fitzsimmons stressed that he wasn't a farmer but wouldn't categorize this operation as a farm.

Chair Seichter said he was on the fence of where we are. He asked Mr. Juliano for additional information and was not prepared to make a decision of whether this function belonged in the I-X zone. He said he looked to continue this to the April meeting. Ms. Costello said she can provide additional information and pointed out that if a specific definition isn't provided in the zoning regulations, it references the American Heritage College Dictionary. She said she could look into whether there are any other towns where this use takes place. Mr. Juliano said the Applicant Green Envy has a facility in Middlebury. He recommended tabling both applications in order to get more information from DEEP and the Town Attorney.

Mr. Juliano went over the site plans for both the Sterling Drive and Tankwood Road sites. He went over the specifics on the Sterling Drive site. He said on Sterling Drive the property is approximately 11 acres. He said there are offsite wetlands to the west and to the middle of the property created by a storm drainage easement. Mr. Juliano said DEEP wants a 300 ft. setback for composting because of the odor. He said there will be a driveway off of Sterling Drive into a diamond shaped configuration to store the raw manure with three composting piles. He said the

process is only in high gear March, April, May and June with three people working on-site and 10 vehicles per day maximum. He said at the third stage there will be a screener vehicle.

Mr. Juliano said the Tankwood Road site is similar and will have three parking spaces. He said the only difference is that it is a larger site. Ms. Costello said all her technical comments were addressed. She said she was concerned about truck traffic on Tankwood Road. She questioned the screening of the outdoor material and noted it all had to be screened. Mr. Juliano said screening will be added to the Sterling Drive site but not to the Tankwood Road site because no one will be able to see the composting piles. He said if it is required, it will be done. Ms. Costello asked if these piles would be visible to the adjacent properties. Mr. Juliano said it is a cleared field and the piles could be seen if one walked the property line. He said he would look into this.

Public Comment- None. Chair Seichter entertained a motion to continue this application to the April meeting.

**Motion: Mr. Matarazzo made a motion to continue application #206-17 to the April P&Z meeting. Mr. Fitzsimmons seconded the motion.**

**Vote: Unanimous**

**6. Site Plan (ripe de bois composting facility)/Green Envy Products LLC/90 Tankwood Road - #207-17**

Mr. Matarazzo noted all correspondence for the record: Letter dated March 2, 2017 to Green Envy Products from Kacie Costello, Town Planner; Inter-Departmental Referral received Feb. 16, 2017 from Erin O'Hare Environmental Planner; Inter-Departmental Referral received Feb. 21, 2017 from the Fire Marshal; Inter-Departmental Referral received Feb. 16, 2017 from Steve Civitelli; Letter from Juliano Associates dated March 3, 2017 to Town Planner Kacie Costello; set of revised plans dated March 9, 2017.

Chair Seichter entertained a motion to continue **#207-17** to the April P&Z meeting. Mr. Fitzsimmons seconded the motion.

Vote: Unanimous

Chair Seichter took the agenda in the following order:

**SURVEY WAIVER REQUEST**

**15. Survey Waiver Request/R. Criollo/11 Washington Street**

Mr. Matarazzo noted all correspondence for the record: Letter dated Feb. 22, 2017 to Kacie Costello Town Planner from Rodolpho Criollo.

Appearing in front of the Commission was Nilda Ortiz, on behalf of Mr. Criollo and Rodolpho Criollo. Ms. Ortiz said Mr. Criollo wants to make a 3 ft. addition in the back of the house in order to make the second floor bathroom larger. She said Mr. Criollo would like to level the roof on the second floor. Ms. Ortiz asked if a land survey was required or just a survey request. Chair Seichter asked Ms. Costello where the actual property line was but noted there was another line drawn indicating the fence was the property line which differs from the given plans. He said it was close as far as the setbacks. He wanted to know what information supports that the fence is the property line.

Ms. Ortiz said Mr. Criollo spoke with his neighbor and specified that the fence belonged to the neighbor and is 86 inches from his property. Chair Seichter asked if the fence is on the property line. He said looking at how close this is, maybe or maybe not the setback is being intruded upon and this is why a survey is needed. Ms. Ortiz said she was confused because Mr. Criollo is not building on the property line. She said he needs three feet behind his property. Chair Seichter said the issue is not with the back but looking at the right side of the building because the house doesn't run parallel to the property line, it is skewed and angled. He said it is the back right corner of the house. Chair Seichter said the Applicant will need a survey to show the proposed addition doesn't intrude into the sideyard setback.

Ms. Costello said sometimes both people think the fence is the property line and it is not. She said anything new would have to match the setback or a variance would be required. Ms. Ortiz said the Applicant will do the land survey. Chair Seichter said if the survey shows the proposed addition to the house intrudes into the sideyard setback, the Applicant can go to the Zoning Board of Appeals and obtain a variance. Chair Seichter said the Applicant can also decide to not have the addition run the entire length of the back of the house. Ms. Ortiz said the Applicant is planning to have the addition half the length of the house. Chair Seichter said the plans show the entire back of the house and if this wasn't the case, then that addition wouldn't intrude into the setback.

Ms. Ortiz said the Applicant wants to also construct a two-car garage in the back. Ms. Costello said the side yard setback is 6 ft. Chair Seichter said the Applicant has six feet of setback and the property is 50 ft. He said even without a survey, if the Applicant wanted to build a 30 ft. garage in the center of the property, based on the information here, the P&Z could make a determination on this and a survey wouldn't be needed, but if there is already a survey for the addition, it makes things easier. Ms. Ortiz asked if the garage could be attached. Ms. Costello said if it is detached, the garage could be 5 ft. from the property line and if it is attached, it could be 6 ft. Ms. Costello said she would discuss options with the Applicant.

Chair Seichter entertained a motion.

**Mr. Matarazzo: Motion to deny the Survey Waiver Request for 11 Washington Street. Mr. Fitzsimmons seconded the motion.**

## **Vote: Unanimous**

Chair Seichter took the agenda in the following order.

## **DISCUSSION**

### **16. Neighborhood Business District/Juliano**

Mr. Matarazzo noted all correspondence for the record: Letter from Juliano Associates dated March 3, 2017 to Kacie Costello, Town Planner, received March 7, 2017.

Appearing was Christopher Juliano, P.E., Licensed Land Surveyor, Juliano Associates. Mr. Juliano gave an overview of a survey done for 570 Center Street, a defunct gas station. He said his client would like to continue the gas station use, convenience store by demolishing the existing structure and building a new structure. He said the property is zoned R-6, which is an existing non-conforming use which pre-dates zoning. Mr. Juliano said he noticed there is a neighborhood business district which doesn't seem to be applied anywhere. He said he wants to work with the P&Z and staff without having to go to ZBA or go around the regulations. Mr. Juliano said he would like to put this neighborhood business district in this entire area to give the existing business owners some incentive to do improvements to their businesses.

Mr. Juliano said now his client could only do repairs and improvements to the existing property. Ms. Costello asked the P&Z if they are interested in having a dialogue about permitted uses in a neighborhood business district, of which gas stations are not. She recommended this as a Special Permit instead of a Site Plan. She also asked the P&Z if they would be interested in creating a neighborhood business district in that area. She said she believes there was conversation about this at some point in the past. Chair Seichter said the general consensus would be to have a discussion on this.

Ms. Costello suggested a workshop either the last Monday of March or the end of April (April 24) along with the sign moratorium. Chair Seichter recommended April 24 at 7 p.m. to discuss the neighborhood business district and the sign moratorium.

## **BOND RELEASES & REDUCTIONS**

**8. Special Permit/VW Homes/ North Farms Road (The Willows) - #413-07 – Ms. Costello said this was ready for release**

**9. Subdivision/Sunwood Development/195 Chimney Hill Road (S&E bond) - #105-14. Ms. Costello recommended a \$3,000 reduction.**

**10. Special Permit/Choate/East Main Street (Kohler Environmental Center) - #414-10. Ms. Costello said she was awaiting additional information.**

11. Special Permit/Choate/205 North Elm Street (Headmaster's Residence) - #405-12. Ms. Costello recommended release

12. Special Permit/Choate/205 North Elm Street (Lanphier Center) - #414-13. Ms. Costello said this is not ready.

13. Special Permit/Choate/Rosemary Lane (Faculty Housing) - #412-14. Ms. Costello recommended release.

Mr. Kohan asked about #8 VW Homes noting the bond was created for a different LLC. He said there was a different legal notice on the back because the original was disbanded. He asked Ms. Costello when that Legal Notice was issued. Ms. Costello said she would have to research the answer.

Chair Seichter entertained a motion.

**MOTION: A motion by Mr. Matarazzo to make a bond reduction of \$3,000 for #9 195 Chimney Hill Road, Sunwood Development to the S&E Bond and release to Choate North Elm Street, Headmaster's Residence and a release of Special Permit Choate Rosemary Hall Lane, Faculty Housing. Mr. Fitzsimmons seconded the motion**

**Vote: Unanimous**

#### **SPECIAL PERMIT EXTENSION**

14. Special Permit (filling)/Old North Colony Properties, LLC/12 Old Colony Road - #404-09. Ms. Costello said the Applicant is requesting a one-year extension, continuation of their stockpiling permit to April 9, 2018. She said she has no objections.

Chair Seichter entertained a motion.

**Mr. Matarazzo: Motion to grant the extension to the Special Permit (filling) for Old North Colony Properties - #404-09. Mr. Fitzsimmons seconded the motion.**

**Vote: Unanimous**

#### **ELECTION OF OFFICERS – Postponed**

#### **REPORTS OF OFFICERS AND STAFF**

##### **18. Administrative Approvals**

a. Site Plan/Brennan-Falconieri/75 Thorpe Avenue

Ms. Costello said the P&Z approved administratively a detached garage building at 75 Thorpe Avenue.

## 19. ZBA Decisions of February 2017

Ms. Costello said all of the Rick's on Five variances were approved. Chair Seichter wondered what the approvals were based on noting that when he looked at the Zoning Regulations and what a variance can be based on, this didn't meet any of the criteria. Ms. Costello said she understood the conversation was lengthy, but they all were approved.

## 20. ZBA Notice for March 20, 2017

Ms. Costello noted Item #1,711 North Colony, for two-vehicle parking pads in the landscaped area and Item #4 special exception for adult daycare facility at 29 North Plains Highway.

## 21. Zoning Enforcement Log

Ms. Costello noted that she included a copy of the summons regarding the court challenge to the regulation change in the I-X and I-5 zones. She said she included FEMA updating the Flood Insurance Rate Map panels which need to be adopted and slightly change the language. She said a public hearing must be scheduled. The Commission decided to have the public hearing in May.

Ms. Costello presented the Zoning Enforcement Log. Mr. Kohan asked about the Special Permit Henry McCully cemetery issue and requested an update. He asked about the cut into the wall and the roadway. He asked Ms. Costello to find out if someone is buried in this spot. Ms. Costello said she didn't believe this was under the jurisdiction of the zoning regulations but will research. Ms. Costello said the material was removed and there is movement forward. She said the issue with the wall impacts what might happen with everything else. Chair Seichter spoke about the dog pound and quarterly site inspections, and asked Ms. Costello to put this on an agenda.

## **ADJOURNMENT**

Mr. Matarazzo made a motion to adjourn the meeting at 10:08 p.m. Mr. Kohan seconded the motion which passed unanimously.

Respectfully submitted,

Cynthia A. Kleist

Recording Secretary