

Planning & Zoning Commission

Monday, May 11, 2015

7:00 p.m.

Robert Earley Auditorium

Town Hall – 45 South Main Street

## **MINUTES**

**PRESENT:** Chairman James Seichter; Commissioners Jeffrey Kohan; James Fitzsimmons; J.P. Venoit, Secretary (arrived at 7:50 p.m.); Town Planner Kacie Costello; Recording Secretary Cynthia Kleist.

Chair Seichter called the Meeting to order at 7:10 p.m.

**Approval of Minutes** – February 24, 2015; April 13, 2015, April 20, 2015 – Tabled to the June Meeting.

### **PUBLIC HEARINGS**

1. Special Permit (government facility – cemetery maintenance building)/Town of Wallingford/60 Prince Street - #405-15.

Mr. Kohan read the Legal Notice and noted all correspondence into the record: a letter from Kacie Costello, Town Planner, to Henry McCully, Public Works Director, dated May 6, 2015; checklist from Kacie Costello, Town Planner; memorandum from Dept. of Engineering to Kacie Costello, Town Planner, dated May 4, 2015; interoffice memo from Erik Krueger, Sr. Engineer, Water & Sewer Divisions, to Kacie Costello, Town Planner, dated May 6, 2014.

Appearing in front of the Commission was Henry McCully, Public Works Director and Christopher Juliano, of Juliano Associates, P.E. and license land surveyor, representing the Applicant.

Mr. Juliano told the Commission the two lots at 60 Prince Street will be combined into one lot in order to construct a maintenance building, small office and cafeteria rooms. He went over the site plan. He said the inside of the building will be 32ft. x 58ft. and the parking lot will be connected to the cemetery and the pedestrian access way. He said this building will replace the existing main building on the property because it is not large enough. He noted the building will be residential in character to blend in with the neighborhood and would be clapboard construction. Mr. Juliano said there would be one garage door for access on the side and two

overhead doors for access in the front. He said there would be no access doors on the residential side.

Mr. Juliano said the Town plans to take down the old fence and replace it with new privacy slat fencing. He said the majority of the building will be for storage, i.e., backhoes, trailers and outside storage for dirt and mulch which will be placed in the screened parking lot area. Mr. Juliano addressed Ms. Costello's comments regarding the height of the building, the specific use of the building, the drive way gate. He said people will be coming into this area off Prince Street and will be by appointment only to meet with cemetery association representatives. He noted there will be on-street parking on Prince Street. Mr. Juliano also addressed the size of the gate where vehicles will access at the rear of the property. He spoke about the driveway which will be paved. He said there will be 24 ft. between the building and the parking lot which meets the regulations. He addressed the stormwater issue. He said the water flows from the south corner of the property on Prince St. to the north corner of the property and the elevation is two feet which makes the property virtually flat. He said all the stormwater will remain on the property so no storm drainage is necessary and if a problem arises, S & E controls will be implemented.

Mr. Juliano noted there will be no garbage dumpster because the facility will only generate office trash. He said garbage receptacles will be placed in the storage area which will be picked up by Public Works. Mr. Juliano also spoke about outdoor sign which will be a small granite monument sign located in front of the building to identify the address of the property. He said the Applicant will check with Ms. Costello to ensure the sign complies with Section 6.9. He spoke about HVAC and outdoor lighting. He said a small residential HVAC unit will be installed at the back corner possibly behind the privacy fence and said lighting will only be installed at the entryway and the three overhead doors for security purposes and will not be floodlights.

Mr. Juliano addressed comments from the Engineering Dept. (curb cut) and Water & Sewer which left stubs for proposed use. He said he will meet with them to give them a stub count to ensure everything is adequate.

Mr. Seichter said he had a difficult time understanding how the outdoor parking and storage area works. He said in the parking area, there is one handicapped space and two spaces for other vehicles and the gate which takes people to the back of the property. He asked how materials would be stored and how much would be stored. Mr. Juliano said the storage of materials will take place in front of the gate and will be small; one half yard and is not long-term storage. He said the materials may have to be moved to gain access, but will be minimal for mowing. He said some of the materials (two or three yards) may be stored inside.

Mr. Fitzsimmons asked about the exact locations of the four gates on the property. Mr. Juliano said there will be a pedestrian gate located in the southwest corner of the property; a gate for the driveway which will prohibit the public from driving onto the property after hours and another gate will be a vehicular access gate which grants access from the parking lot to the cemetery and a fourth gate to allow access for maintenance equipment. Mr. Fitzsimmons asked

if the gates would be locked. Mr. Juliano said the gates will be locked when no one is in the building.

outside storage of materials allowed outside of proposed storage area or inside the building. Ms. Costello recommended a condition of approval that on the final plans the storage area be labeled and the standard condition of approval of Water & Sewer comments.

Chair Seichter entertained public comments at 7:35 p.m. There were no public comments. Chair Seichter entertained a motion to close the public hearing at 7:35 p.m.

**MR. FITZSIMMONS: MOTION TO CLOSE THE PUBLIC HEARING AT 7:35 P.M.**

**MR. KOHAN: SECOND**

**VOTE: KOHAN-YES; FITZSIMMONS-YES; SEICHTER –YES.**

Chair Seichter entertained a motion on the application.

**MR. FITZSIMMONS: MOVE THE COMMISSION APPROVE A SPECIAL PERMIT (GOVERNMENT BUILDING/FACILITY/USE) FOR THE TOWN OF WALLINGFORD, TO CONSTRUCT AN OFFICE/MEETING/MAINTENANCE BUILDING AT 60 PRINCE STREET FOR USE WITH THE ADJACENT CEMETARY, AS SHOWN ON PLANS ENTITLED "SITE LAYOUT AND DEVELOPMENT PLAN, LAND OF TOWN OF WALLINGFORD, #58 & #60 PRINCE STREET, WALLINGFORD, CONNECTICUT, DATED 04/02/15, SUBJECT TO:**

- 1. COMMENTS OF THE DEPT. OF ENGINEERING DATED MAY 4, 2015**
- 2. COMMENTS OF THE WATER & SEWER ENGINEER DATED MAY 6, 2015;**
- 3. ADDITIONAL STRIPING OF ONE HANDICAPPED PARKING SPOT ALONG THE NORTHERNMOST SECTION OF PRINCE STREET AS NOTED DURING THE MEETING**
- 4. NO LONG TERM STORAGE OUTSIDE TO BE USED OUTSIDE THE DESIGNATED STORAGE AREA;**
- 5. FINAL PLANS TO SHOW OUTSIDE STORAGE AREA AS DISCUSSED AT THE MEETING.**

**MR. KOHAN: SECOND**

**VOTE: KOHAN-YES; FITZSIMMONS-YES; SEICHTER-YES**

**APPLICATION APPROVED.**

2. Zoning Map Amendment (R-18 to YLB)/Economic Development  
Commission/322,342,350,353,364,361,368,369,372,376,377,381,383,388,392,396,400,  
415,418,422 and 428 Church Street, Yalesville - #501-15

Mr. Kohan read the legal notice and noted all correspondence for the record: a map of the proposed YLB zone; a second map of the proposed YLB zone; a letter from Don Roe, Program

Planner, to adjacent property owners, dated February 23, 2015; interdepartmental referral, notice of proposed development dated March 9, 2015; interdepartmental referral, notice of proposed development dated March 9, 2015; letter from Joseph Mira, Chairman, Economic Development Commission, to property owners, dated April 29, 2015; letter from Kacie Costello, Town Planner, to Joseph Mira, dated May 6, 2015.

Appearing in front of the Commission was Joseph Mira, Chairman of the Economic Development Commission. Chair Seichter asked about the three maps and asked how they differ. He asked about the property addresses on the map which he said didn't all correspond to the legal notice; he said he didn't see #445 and #441. Mr. Mira said these two properties were eliminated and are not part of the meeting even though they were on the first application.

Ms. Costello noted that the Commission also received an interoffice memorandum from the Water & Sewer Divisions dated May 5, 2015 and a letter from Atty. Joan Molloy to Chairman Seichter dated May 8, 2015.

Mr. Mira said this application for a zone change is for an expansion of the Yalesville Limited Business (YLB) District which was created to revitalize sections of Yalesville. He said this area will be rezoned to allow for limited business use primarily office, while maintaining the residential character of the structures and properties in the business district. He said many of the larger homes in this district were constructed in the late 1800's to early 1900's and because Rt. 68 is a busy road, this change provides an opportunity for additional uses of these properties. Mr. Mira said there are 18 properties affected, two churches, two municipalities, the Yalesville School and the library, a parking lot and the VFW building. He spoke about parking which is limited to available spaces on the properties, so there should be no parking changes or impact in the area. He said there will be no retail, just businesses. He spoke about the #441 and #445 which were eliminated from the business district because of a shared driveway which would have created a hardship.

Chair Seichter spoke about the map and #445 and #441 being eliminated, but when he counted the number of properties, there were 18 after #445 and #441 were eliminated. He said when he counted what corresponds with the legal notice, there are 21 properties. Ms. Costello explained the three properties to the north of #350 Church Street, which are included in the CA zone, were accidentally listed in the legal notice and are not part of the proposal. She said these properties are #322 and #342. Chair Seichter asked about #428. Mr. Mira said that property is not part of the YLB listing and may have been a typographical error.

Mr. Mira provided answers of what is allowed in the YLB district and envisioned most of this being offices, multi-families, bed & breakfast and funeral homes which must be in the existing structure and must have site plan approval. He said by converting this to a YLB zone, the residences in the area do not have to do anything; they could sell the residence or a limited business. He said there property taxes will not increase or be affected if they don't sell.

He said any changes to any of the buildings, the regulations are clear that the residential characters of the structures in the district must be maintained. Ms. Costello clarified the permitted uses. She said the permitted uses, i.e., the office uses and multi-family, are only permitted within the existing structure and an addition of up to 50% of the existing floor area is permitted via site plan approval and an addition above 50% requires a special permit. She said this YLB doesn't allow for the construction of new multi-family homes, new condo or office buildings. She said the idea is to take advantage of the residential character and create a buffer between the busy portion of Rt. 68 and the surrounding residential area.

Mr. Fitzsimmons asked about the Yalesville School being included in the YLB. Ms. Costello said the idea was that someday if the school was not to be utilized as a school, this would direct the use but limit it to a reasonable use. Mr. Fitzsimmons said he was not in favor of keeping the Yalesville School in this expanded district and preferred #415 being removed from the expansion. He spoke about a letter the Commission received from Atty. Molloy which refers to a parcel of land which would result in the zone and the lot being split. Ms. Costello said this land is already split between YLB and R-18 and is located on Chapel Street. She said the rear portion of the lot is not proposed to be changed. She said #353 would become YLB, but the landlocked piece of land in the center, #116, would not become YLB and she believed the request was that this become YLB. She said this piece of land wasn't included because it starts to creep down into the residential areas.

Chair Seichter entertained public comment at this time – 7:58 p.m.

Michael Joy, 59 Fritz Place, asked about the addition on the veterinarian building on Rt. 68 which he deemed unsightly. Chair Seichter said if the proposed regulations had been in place that addition would not have been allowed. Ms. Costello said that veterinarian clinic is in the CA zone, and one of the stated requirements is that the residential character of the building be maintained.

Joena Russell, 19 Hanover Street, spoke about the letter she received in the mail, but said she was concerned about the school and the library being in the YLB and noted she abuts the VFW property. She said it is possible these two properties could change into something more businesslike than a community hall used sporadically. Ms. Costello said this is potentially true, they could become offices but most provide on-site parking for the square footage of the office. She said the idea is to encourage and allow reasonable maintenance of these properties so they have a reasonable future use. Ms. Costello said only the existing building could be utilized and converted into an office and an addition could be put onto the building only if adequate parking could be provided. Ms. Costello said regulations require the residential character of the building or the area be maintained. She said the building could not be torn down and construct a new building, but improvements could be made to the existing building and it could be turned into an office. Ms. Russell said she was concerned a large office building could be constructed there because there is a lot of property. Chair Seichter noted that any addition above 50% would require a special permit which is a higher threshold.

Ken Weiner, 108 Washington Street, said he was opposed to any change in the zone. He said this will open up Pandora's box and wondered why create a problem which doesn't truly exist in this area. He spoke about the possibility of people selling their homes and them being turned into office space. He said many times things are done without looking into the long term effects and noted this area is not far from the reservoir. He asked the Commission to look into the overall quality of life in the area. Mr. Weiner said he believed in progress, but this is regressive and asked people of Wallingford to attend these meetings to go against what the Economic Development Commission is saying.

Atty. Joan Molloy, Loughlin Fitzgerald, discussed her letter and attempted to clear up the confusion. She explained that 35 Chapel Street is assessor's map #116. She said the current YLB comes in 200 ft. from Chapel Street and this particular lot is already split. Atty. Molloy told the Commission now that there is an application to turn into those pieces which abut Church Street into the YLB, it makes sense to put #116 and noted #353 and #35 are owned by the same individual and if they ever tried to do anything with #353, they will now abut a residential zone. She said when a property abuts a separate zone, the setbacks now change. She said it would be better planning under these circumstances to expand the area of 35 Church Street which is in the YLB.

John Anderson Jr, 5 Pleasant Street, said he now had an outdated letter based on what he heard at tonight's meeting. He said his street is one block up from Hanover and talked about traffic which uses his street to avoid the light on Hanover. He said the residents have asked for a one-way street and this YLB will also increase this problem. He said the VFW is already a large building and expressed concern they could add up to 50% without a hearing. He said he is the fourth generation Wallingford, and the thought of pushing aside residential for limited commercial use seems pointless and counter to what Wallingford should be.

Jean Kobrin, 16 New Place Street, said there are four yards at the bottom of her street which is overrun with water after a hard rain and noted she has ponds in her yard. She said she was concerned that if asphalt is put down, there will be more water on her property. Ms. Kobrin spoke about how difficult it is to get out of her street and how difficult it is to cross in front of the library. She said people run through the red light and don't pay attention to the no turn on red sign.

Kevin McNally, 376 Church Street, also spoke for #372 and #368 Church Street. He said he believed this application will do a lot of good for Wallingford. He said this will give people a lot more opportunities with their properties and give a better incentive to keep them well maintained.

Cathi Sullivan, 441 Church Street, said her property was taken off the map but noted her biggest concern is the traffic on Rt. 68 which she says is a nightmare. She said if the VFW were ever to be turned into a business, she would never be able to get out of her parking lot. She said the side streets will also see increased traffic. Ms. Sullivan asked who would oversee the historic look. She cited Yalesville Veterinarian as an example. She said all of the homes in her

area are homes from the 1800's and are all kept up and doesn't see the need for businesses to come into this area in order to upkeep homes; the residents are already doing this. Ms. Sullivan said she is afraid this district will continue to move up the hill if this is approved. She said there are a lot of children who go to school in this area and who will monitor what type of businesses will go into this YLB; they are saying business, but what type is not being specified. She said there are many vacant buildings and houses in this area, which is a quaint area. She asked what the signage will do to the neighborhood.

Thomas Grasser, 112 Maplevue Road, said he was one of the property owners at #35-37 Chapel Street and the rear lot. He said the Commission should consider that Tompkins Avenue is a natural barrier and would make a reasonable boundary line for extending the zone.

Ron Sullivan, 441 Church Street, spoke about the traffic and the possibility of adding a funeral home to the area which will demolish traffic in this area. He said at 8 a.m. and 4 p.m., it takes at least 20 minutes to get to the Duchess Restaurant. He said he doesn't understand how this will work traffic wise. He spoke about cars passing the school bus and said adding businesses to this area will not be a better thing. He said changing this over doesn't make a lot of sense right now.

Steve Herlihy, 364 Church Street, said this is a beautiful area and asked about the enforcement. He cited the Main St. condo units and the other developments and said this is a density issue and wondered who will enforcement. He said there have to be safeguards.

Public Hearing ended at 8:25 p.m.

Chair Seichter asked Ms. Costello when #166 and #35 became split into two different zones. Ms. Costello said when the YLB portion of Chapel Street was created; the zoning line was done as a straight specific distance from Chapel Street, not drawn along property lines. She said the intention was to create the YLB along Chapel Street and Main Street.

Mr. Mara said if a business was going to open a business on Rt. 68, and more traffic was created, this wouldn't be cost effective. He said the EDC doesn't believe the YLB will create any more traffic than is currently there. He noted this is not a retail change, it is a professional change. He addressed the parking. He said a lot of comments will be resolved by the limited spaces these properties have for parking. He said the EDC will keep track of this and things that get out of hand will have to come through the EDC before it gets approved. Mr. Kohan asked what reference the EDC could use for this zone and what quantifiable benefit would be seen and how long would it take to see this benefit. Mr. Fitzsimmons noted the Commission approved the YLB back in 1991 and this is the first potential expansion. He said based upon the input and information, he would prefer this be referred back to the EDC rather than vote on this tonight. He said he is not in favor of moving the Yalesville School into this YLB and asked the EDC to redrawing the YLB without Yalesville School and revisit the split lot issue. Mr. Fitzsimmons said it would have been helpful to have had a map showing the current YLB. He

said he generally supports the idea, but enough issues have been raised where this cannot be acted on tonight. He suggested the Applicant withdrawn the request.

Chair Seichter said the appropriate thing would be to withdraw the application without prejudice. He said he was enthusiastic about the zone change, but after listening to the comments the public has made, it has had an impact on him and could not support this at this time. He said there needs to be additional work done on this application and encouraged the public to go to the EDC meetings.

Applicant formally withdrew the application without prejudice.

3. Zoning Text Amendment (illegal uses under any law prohibited)/Wallingford Planning & Zoning Commission/Section 1.3 - #901-15.

Secretary Venoit read the legal notice and noted all correspondence for the record: proposed zoning amendment "illegal use" dated May 6, 2015; memo from Janis Small, Corporation Counsel to James Seichter, Chairman, Planning and Zoning Commission and members of the Commission, dated Oct. 11, 2013.

Ms. Costello spoke about this amendment. She said when medical marijuana became legal in the State, the Commission had several discussions about the impact this might have on Wallingford and whether this would be a permitted use in Wallingford. She noted this is not legal on the Federal level and the Commission's position states that the current regulations don't permit uses which aren't legal under any law. She said the Commission created a moratorium to discuss this further, and the consensus since then has been to make this language more explicit which is proposed tonight. She said this language speaks to the fact that something not legal under Federal law, would not be legal under the Commission's current zoning regulations.

Mr. Fitzsimmons asked what would happen to the moratorium if this was passed. Ms. Costello said the moratorium would naturally expire. He also asked if the Commission voted in favor of this amendment, would it need an effective date. Ms. Costello said she would recommend the effective date be this Friday when the legal notice is published.

Chair Seichter said the P & Z has discussed this at several meetings and workshops. He said he understands the medical marijuana laws and appreciates the benefits and noted CT's laws are the strictest. He noted the sale of marijuana is against the controlled substance act of the United States and his issue is that this is not legal under CT law and Federal law. He said he supported the zoning regulation amendment because it is against the controlled substance act, not that he doesn't support medical marijuana.

Chair Seichter entertained public comments at this time. There were no public comments.

Mr. Fitzsimmons went on the record that he agreed with Chair Seichter and there is significant record of the P & Z addressing this topic. Ms. Costello said this has become an issue in State's in the same position as CT with the conflict with the two laws.

Chair Seichter entertained a motion to close the public hearing at 8:39 p.m.

**MR. FITZSIMMONS: MOTION TO CLOSE THE PUBLIC HEARING AT 8:39 P.M.**

**MR. KOHAN: SECOND**

**VOTE: UNANIMOUS**

Chair Seichter entertained a motion on the application.

**MR. FITZSIMMONS: BASED ON THE TOTALITY OF THE RECORD, MOTION TO APPROVE A ZONING TEXT AMENDMENT TO MODIFY SECTION 1.3 TO EXPLICITLY STATE THAT A USE OR ACTIVITY WHICH IS A VIOLATION OF ANY LAW AT ANY LEVEL IS NOT PERMITTED UNDER THE WALLINGFORD ZONING REGULATIONS, AS PROPOSED IN "PROPOSED ZONING REGULATION AMENDMENT – ILLEGAL USES", DATED MAY 6, 2015 BECAUSE:**

- 1. THIS AMENDMENT CLARIFIES THE INTENT OF THE WALLINGFORD PLANNING & ZONING REGULATIONS AND:**
- 2. THIS AMENDMENT IS SUBJECT TO THE FACT THAT IT SHOULD BE ENACTED AND EFFECTIVE FRIDAY, MAY 15, 2015**

**MR. KOHAN: SECOND**

**VOTE: KOHAN-YES; FITZSIMMONS-YES; VENOIT-YES; SEICHTER-YES**

**APPLICATION APPROVED**

4. Zoning Text Amendment (residential garage size)/Wallingford Planning & Zoning Commission/Sections 4.1.D.7,4.1F.3 and 6.2.A - #902-15.

Secretary Venoit read the legal notice and noted all correspondence for the record: proposed zoning regulation amendment for residential garages dated May 6, 2015; garage sizes for different Towns (no date); memo from Michael Glidden, Chairman ZBA, to Kacie Costello, Town Planner, dated December 1, 2014; list of the oversize garage special exception applications (no date).

Ms. Costello told the Commission in recent years the ZBA has seen an increase in their special exception requests for garage size. She said the current P & Z zoning regulations allow for 936 sq. ft. of garage space (three bays & storage) on any residential property. She said to go above that, a special exception can be applied for to the ZBA (Zoning Board of Appeals). Ms. Costello said the ZBA had raised this issue that it may be appropriate to revisit what is allowed. She said she came up with a proposal and there was discussion regarding at what point is a garage no

longer an accessory structure. She said by relating this to some degree to the square footage of the house itself, we are allowing the garages to be larger but still remain accessory in nature. Ms. Costello said the current proposal is that an applicant would still be allowed the 936 sq. ft. and in addition, the applicant would be allowed a garage size of up to 50% of the livable floor area of their home up to 1,800 sq. ft. She noted that if the 50% would put the applicant under 936 sq. ft., they still have the 936 sq. ft. no one loses out in the proposed zoning amendment. She said if it allows more than that, they would be allowed whatever the 50% is, up to 1,800 sq. ft. Ms. Costello said the proposed regulation would still also allow the potential for a special exception application to go bigger than what someone is allowed, but the idea is to make the regulation more consistent with what the Commission feels is appropriate so people don't have to go through the special exception process. Ms. Costello said the garage height will not be modified. She said people can have more garage space, but not a taller garage.

Chair Seichter entertained public comments at this time. There were no public comments.

Chair Seichter explained for the benefit of the public that this issue is something the Commission has had much discussion and conversation. He noted there was also input from ZBA when the regulations were drawn up and at this time, indicated his support for the amendment as it stands.

Chair Seichter entertained a motion to close the public hearing at 8:46 p.m.

**MR. FITZSIMMONS: MOTION TO CLOSE THE PUBLIC HEARING AT 8:46 P.M.**

**MR. KOHAN: SECOND**

**VOTE: KOHAN-YES; FITZSIMMONS-YES; VENOIT-YES; SEICHTER-YES.**

Chair Seichter entertained a motion on the application.

**MR. FITZSIMMONS: MOTION THAT BASED ON THE TOTALITY OF THE RECORD AND PRIOR CONVERSATIONS AT WORKSHOPS, MOVE TO COMMISSION APPROVE A ZONING TEXT AMENDMENT TO MODIFY SECTION 4.1.D.7, 4.1.F.3 AND 6.2.A TO ALLOW MAXIMUM RESIDENTIAL GARAGE SIZE WHICH IS PERMITTED BY RIGHT, TO BE UP TO 1,800 SQ. FT. PROVIDED THE GROSS FLOOR AREA OF THE GARAGE DOES NOT EXCEED 50% OF THE LIVABLE FLOOR AREA OF THE HOUSE AS PROPOSED IN PROPOSED ZONING REGULATION AMENDMENT RESIDENTIAL GARAGES DATED 5/6/15.**

**REASON: THIS AMENDMENT CLARIFIES THE INTENT OF THE TOWN OF WALLINGFORD PLANNING & ZONING REGULATIONS;**

**THIS AMENDMENT WILL BE EFFECTIVE 5/15/15.**

**MR. KOHAN-SECOND**

**VOTE: KOHAN-YES; FITZSIMMONS-YES; VENOIT-YES; SEICHTER-YES.**

**APPLICATION APPROVED.**

**NEW BUSINESS**

5. Site Plan (Accessory Apartment)/Croteau/110 West Ridgeland Road - #212-15.

Secretary Venoit noted all correspondence for the record: memo from Kacie Costello, Town Planner, to Scott Croteau, dated May 5, 2015; memo from the Dept. of Engineering, to the Planning & Zoning Commission, dated April 15, 2015; memo from Erik Krueger, Sr. Engineer, Water & Sewer Divisions, to Kacie Costello, Town Planner, dated May 6, 2015; memo from Erin O'Hare, Environmental Planner, to Kacie Costello, Town Planner, dated May 8, 2015.

Appearing in front of the Commission was Scott Croteau, Applicant who said he seeks to construct an accessory apartment for his mother-in-law. He said this apartment will be 25 x 26 and one-bedroom, kitchen, walk-in-closet, living room, bathroom and a small laundry room.

Chair Seichter asked about the access to the accessory apartment. Mr. Croteau said he didn't want two doors in the front of the home, so he will construct a door on the side.

Chair Seichter entertained public comments at this time. There were no public comments.

Chair Seichter entertained a motion on the application at this time.

**MR. FITZSIMMONS: MOTION THE COMMISSION APPROVE A SITE PLAN FOR A 650 SQ. FT. ACCESSORY APARTMENT AT 110 WEST RIDGELAND ROAD, SUBJECT TO:**

**1. INSPECTION BY THE TOWN OF WALLINGFORD ZEO.**

**MR. KOHAN – SECOND**

**VOTE: FITZSIMMONS-YES; KOHAN-YES; VENOIT-YES; SEICHTER-YES**

**APPLICATION APPROVED.**

Chair Seichter took the agenda in the following order:

**WORKSHOP DISCUSSION**

14. Farm Wineries

Ms. Costello explained discussion has come up in recent years over the permitted uses of a farm winery, specifically related to food service, the hosting of events, music and some related items. She said there have been concerns and there have been issues where some of the farm wineries wish to engage in practices which are not currently allowed under the current zoning regulations which are geared towards an agricultural farm winery use. She said one of the

winery representatives has proposed language to modify the regulations to add these additional uses. She said she provided her response and sample regulations from other Towns.

Appearing in front of the Commission was Atty. Daniel Marra and Al Ruggiero of Paradise Hills Winery who is proposing the zoning text amendment. He distributed a revision of the proposed regulation to the Commission and noted Ms. Costello had not yet seen this, but this stemmed from a conversation they had the other day.

Atty. Marra said this is technical and arises from the difference between the zoning regulations and the Liquor Control Commission. He said Paradise Hills wants to produce "grappa" and "eau de vie", which are alcoholic beverages in addition to wine as a permitted product. Atty. Marra said his client wants to also include bulk products and retail sale products. He spoke about tasting rooms and product sales by glass or bottle, product tasting and farm tours which are proposed changes, but noted incidental service, sales of other non-alcoholic beverages, and pre-packed food for on-site consumption would be included in the proposed changes.

Atty. Marra said there is a proposed bill in the CT Legislature which would amend the wine manufacturer permit which would require the sale of water and non-alcoholic beverages. He stressed that Paradise Hills is not looking to be a restaurant or café just provide incidental food. He said many customers bring in their own food and want food. He spoke about being allowed to sell souvenirs. Atty. Marra addressed the hosting and permitting of special events. He said he met with Ms. Costello where this was discussed and noted they are popular with customers. He said his client has proposed two types of events: private or by invitation events, i.e., corporate luncheons and customer appreciation dinners. He said these events would be catered and the food would not be produced by the winery. He said his client wanted permission to host up to 10 events per year which might include music with a 10 p.m. curfew. Atty. Marra spoke about the winery allowing others to host fundraisers. He said his client has not proposed a number limitation but on the capacity of the site.

Atty. Marra said his client has proposed live outdoor amplified incidental live or recorded outdoor music with a 10 p.m. curfew Mondays through Saturdays and 10 p.m. on Sunday but starting later. He said incidental is a key word; they are not looking to have bands or concerts, but someone playing a guitar or piano but incidental to the selling of wine. He said the limitations on this would be the Wallingford noise ordinance. He said his client has not changed their parking requirements and noted all site plan requirements are in place. He said his client would restrict the hours to sell wine between 11 a.m. and 9 p.m. or whatever is more restrictive under State law. He spoke about mobile food vendors which are permitted under their zone for 20 days. He said his client is looking to double this. He said this hasn't been discussed with Ms. Costello.

Ms. Costello said when the Commission considers any modification to the zoning regulations; they must consider what is appropriate for current and future use in a particular zoning area, taking into account the plan of development and the character of the area. Ms. Costello said this is an RU zone which permits farm wineries and said from her prospective, the intent for the

allowance of farm wineries was to be consistent with agricultural provisions and from her perspective is still the intent of farm wineries. She said she believes there can be recognition of the fact that farm wineries serve more intense of a use than a standard farmer/ agricultural use, the way the Commission has allowed for farm stands and farm stores under certain conditions. She said there are other components that come along with these farm uses. She said it is important to consider the impact on the surrounding area, i.e., traffic, other users in the area, etc. She touched on some of her concerns, in terms of retail sales, sales of pre-packed food and said it could be appropriate on a limited basis as ancillary uses. She stressed it was important to create specific boundaries for what and what isn't permitted, such as limiting the square footage for retail space, and have further discussions with the health department regarding pre-packed food, if the Commission would be inclined to consider this.

Ms. Costello spoke about the events, separate and associated music, she said she appreciated the Applicant considered some of her comments regarding the food items. She said if the Commission is inclined to consider any of these uses, it be appropriated by special permit. She said the Commission should consider the specific proposal and location on a case-by-case basis because these uses impact the neighbors and there should be a clear discussion on this. Ms. Costello said in terms of hosting events, she said she suggested four events per year, not 10 which she felt was excessive. She said she and Atty. Marra discussed the type of events and suggested both public and private events be on a limited basis to limit traffic and noise intrusion.

Ms. Costello said there needs to be a clear representation on what type of traffic there will be and how this will be provided for and the amount of traffic. She said she doesn't object to a limited number of events, beyond that, she has concerns. She said she supports unamplified music, because the amplified music opens up problems and potential issues for the neighbors. She said some of this can be dealt with from the noise ordinance. Ms. Costello said there is a huge variation on what is permitted on farm winery's throughout the State. She said she couldn't support everything proposed by the Applicant.

Chair Seichter entertained public comment at this time.

Rachel Czerniewski, 6 Windswept Hill Road, said she was not in support of the proposed changes of the regulations. She said she moved to this area because it was a residential area. She said she is a supporter of farming and agriculture, but the proposed uses, border on restaurant, rental of property for events and said she didn't see any controls for this in the write-up. She said she would participate in any changes which come through the Town.

Kaitlyn Makepeace, 50 George Washington Trail, said she will be moving up to 150 George Washington Trail and noted that both properties about Paradise Hills Winery and said she can hear the events there and said it was inappropriate to expand and commercialize the use of what is supposed to be a small family winery.

Colleen Makepeace, 50 George Washington Trail and 147 George Washington Trail, said she has heard the noise sometimes for 12 hours a day which she believes is excessive. She distributed photos to the Commission. She said she would appreciate the area be kept rural and not expanding the use.

Regina Duran, 9 Windswept Hill Road, said she directly abuts Paradise Hills and is not supportive of what is being proposed. She said she has many ongoing issues and noted she has been in front of the Commission before and has spoken previously to Ms. Costello. She brought a sample of bottles and litter which she said she faces on a daily basis. She noted she has picked up cheese and crackers, wine bottles smashed on the side of the road, vomit, and non-stop traffic especially on the weekends. She said she feels she has no privacy and noted there used to be a line of trees on the side which provided some privacy and cut back on the noise which was cut down. She said the farm equipment is constantly being used and kicking up dust. She said she would like privacy to be provided. She said the winery plans on planting grapes to the stone wall up to her property near her well. She said on many occasions, the parking is not adequate and noted the past weekend, there were over 100 cars parked in the field. Ms. Duran said her kids can't walk or ride bikes because of the traffic. She said she attempted to sell her home because Paradise Hills she believes has been disrespectful to the residents and the Town Hall. She noted the winery was established after the residential neighborhood.

She asked the Commission to consider what this will cost the residents in the area. She said the Town deemed it unsafe for her children to walk to the bus because of the traffic. She said she believes Paradise Hills has violated the regulations and they continue to operate.

Chair Seichter said there are fines for zoning violations for fines, but for anything else there are no fines, just enforcement action through the court. Ms. Costello said if a violation case went to court, the Town has the option of seeking an injunction and seeking fines at that time. She said Paradise Hills has been under a cease & desist. Ms. Costello said when any enforcement action is under way, the goal is to bring compliance and reach a resolution. She said the purpose of the meeting is to discuss a proposed zoning amendment, not a zoning violation.

Chair Seichter asked if there were ongoing zoning violations at the property. Ms. Costello said she has received continuing complaints of some ongoing violations. Chair Seichter asked the applicant if it were fair to say they weren't respecting the Town's current zoning regulations. Atty. Marra said he didn't believe his client wasn't respecting the current zoning regulations. He noted his client has been dealing with the Town and substantial changes were made and noted he wasn't aware of any continuing neighbor complaints. He said he would be interested to find what the substance of these complaints was. He said as far as he knows, his client is in compliance.

Ed Makepeace, 50 George Washington Trail, spoke about Ms. Costello's March 30 letter and the fact that residents have the right to certain expectations of what can be constructed in their neighborhoods. He said when he thinks of farms, he thinks of low intensity. He distributed photos of 283 cars at Gouveia Farms which he said roughly translates into approximately 700

persons. He noted the sewage system there was approved for eight people for a 1,400 sq. ft. building. He said this is a different example of the lack of respect these vineyards seem to be having for the local residents. He noted that Mr. Gouveia started a store in Town which was the way to go. He said people have put a great deal of personal investment into their properties and to have two businesses trying to expand when they don't listen to the Town, is inappropriate. He said there is nothing consistent with the zoning regulations they are proposing. He also spoke about the music and complimented Ms. Costello for attempting to work with the Applicant. He said 10 musical events during the year would be ridiculous and four events would be inappropriate. He said this is a quiet residential neighborhood and there is nothing incidental to farming in running a commercial operation. He asked who would police the music or further expansion and asked the Commission deny the proposed zoning amendment.

Peter Czerniewski, 6 Windswept Hill Road said he has seen the events and there are a lot of cars, speeding, revving their engines and people drinking to excess. He said the music is very loud and noted his neighborhood is quiet, six months. He said the winery isn't friendly to the neighbors; they don't listen and do what they want. He said the shape of the property has a lot to do with noise transmission. He said the sound has to be monitored at the source and noted the weekends at their homes are gone, he said the neighbors don't matter anymore, they don't exist. He asked the Commission to take into consideration what the neighbors want.

Joseph Gouveia, 1339 Whirlwind Hill Road said he is the owner of Gouveia Vineyards disagreed with many of the public comments. He said if the fundraisers are stopped, the people who he does the fundraisers for will lose out and cited a recent fundraiser in which \$4,000 was raised. He said over \$200,000 has been brought in. He said he is not open seven days a week from October to May so he can have fundraisers. Mr. Gouveia addressed the car issues, and said there are a lot, but if this stops, he might as well close his doors and asked how he can control how many cars come in. He cited Lyman Orchards, and noted if there were a parking limit imposed on them, they would have been out of business.

Mr. Gouveia addressed the other farms in Town and said the people who used to farm, many are not in business. He said he believes he is a good neighbor and noted a home which overlooks his vineyard which was recently sold for \$1 million. He said he used to open to 9 p.m. on Fridays, but now closes at 8 p.m. He said he said many wineries on the CT Wine Trail open to 11 p.m. He said it is important to have food, so people can have something in their stomachs and noted if the Town allows food trucks, they should be allowed to have food. He said he believes he does a lot for the community and noted they have 35 people employed. He addressed the bathroom issue and said the Town approved this two times. He spoke about Mother's Day and said this is his busiest day. He said he has two bathrooms on the main floor and a bathroom on the second floor and two trailers with bathrooms, five bathrooms. He said the Town won't allow him to put in additional bathrooms and wouldn't allow him to sell American cheese made in Connecticut. He said other winery's do weddings and have music, and he doesn't. He asked the Commission not to put a stop on the cars but during January, February and March, he wonders how he will pay his bills, business drops off.

Vivian Jones, 8 Windswept Hill Road, said showed the Commission the list of violations. She said she opposes the changes to the Town Regulations or definitions with respect to a farm winery. She said the business has been operating beyond the scope since opening and the owners have made their own rules without consequences and made them bolder which has had a huge impact on the residential cul-de-sac. She said the current regulations do not need to be rephrased. She said she applauds their vision, but this is not suitable for a residential neighborhood and said possibly a commercial building in a commercial zone would suit them. She said she was against the changes in the hours and the music which is amplified. She also spoke about the traffic and the impact on children in the neighborhood. She said on May 9, there were 376 vehicles at Paradise Hills which she said was captured on camera and on May 10 there were 381 vehicles. She asked for more specifics regarding pre-packed food and spoke about the problems with impaired drivers and noted that grappa is an alcoholic beverage.

Rich Ruggiero, 15 Windswept Hill Road, owner of Paradise Hills Vineyards said he sometimes has personal guests that leave the winery at 10 p.m., they are not always customers. He said most of what people have said is unsubstantiated and asked if there were a lot of police reports. He addressed the music situation and said sound studies have been done and the results of the study said this doesn't impact the neighborhood. He said there was more traffic on Sundays when there wasn't music and stressed that no one told us we couldn't have music and when told we couldn't have music, we stopped the music. He said we are in compliance with what Ms. Costello said we shouldn't be doing.

Ms. Costello said there seems to be an effort to come into compliance with some of the zoning violations, but there are still issues with the site plan and the noise. Mr. Ruggiero said he will work with the Town regarding the site plan. Mr. Kohan said there were a lot of issues still to be worked out. He said he has never been to the vineyard, but to the street and said this comes down to property values for the residents; if they can't sell their homes, this is a problem and needs to be addressed. He asked if there were any other entrances to Paradise Hills.

Mr. Fitzsimmons said he appreciated the comments from the Applicant and the public. He said he also agreed there is a lot of work to be done and said some of the associated activities which seem to be a problem, are associated with farm wineries and when the regulations were put into place, he believed there would be events, not just an agricultural operation. He said he was in favor of continuing the conversation to hone in on the issues. He said he has been at both wineries for fund raising events. Mr. Fitzsimmons said he is appreciative of the neighbor's comments; we are talking about a regulation change which would affect the wineries. He said a church is able to have a carnival and most of them are in residential districts, so we need to discuss this further in a workshop format and must stay focused on the regulations not the violations which are a staff function. Mr. Venoit said he would like the minutes of both approvals of both wineries. He wondered if they are compliant to what was originally stated in the regulations. He said one is causing the other to happen, and we are here because of the original misinterpretation of our regulations and said he believed there are a lot of challenges to what is being proposed.

Mr. Fitzsimmons noted there are 9 pages of zoning violations on tonight's agenda, and if we wanted to get into this, we would have to shut down all of these violators. He said he believed the people speaking tonight were here to try to fix the issue. He said zoning violations are a problem, but the wineries are listed once and some of these violators are listed several times over the years.

Chair Seichter said some of the proposals make sense, i.e. snacks, cheese and crackers, pre-packaged food, but noted this is a farm winery, not an event venue. He said he was opposed to any type of amplified music. He said while there is a noise ordinance, the enforceability becomes a real challenge, so the only way to enforce this is to not allow it. Chair Seichter said there is additional work to be done on this and would have to give some thought to the mobile food vendors and noted the Commission needs additional time to digest what is being proposed.

Atty. Marra thanked the Commission for taking the time for considering this and for all the comments. He said a lot was learned tonight and noted the Applicant had some responses to the public comments. He said further revisions to the proposed regulation and an explanation to those proposed revisions would be the way to go. Chair Seichter urged the Applicant to return with these proposed revisions.

### **BOND RELEASES & REDUCTIONS**

#### 6. Special Permit/Sonic/1033 North Colony Road

Ms. Costello said this is not ready because the bond is for the entire project and only the Sonic has been constructed so this will be taken off the agenda for the time being.

### **ELECTION OF OFFICERS**

#### 7. Ms. Costello said a full board is needed.

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

#### 8. Hookah Lounges

Ms. Costello briefly discussed this. She said there have been questions raised as to whether these lounges are permitted and under what circumstances. She said she researched how this could be approached that falls into a use category of what can or can't be allowed. She said the controlling factor with hookah lounges is that they function similar to a café, and would be required to comply with similar parking requirements. Chair Seichter said the Commission would look over Ms. Costello's report and discuss this at a future date.

#### 9. Administrative Approvals

- a. Site Plan/Brentwood Condo Assoc./Brentwood Drive – #229-14 - "Noted as Approved".

- b. Site Plan/George Harte Infiniti/1076 South Colony Road - #204-15 – “Noted as Approved”.
- c. Site Plan/T.O.W./ Parks & Recreation/River Road & Quinnipiac Street - #205-15 – “Noted as Approved”.
- d. Site Plan/JMM Properties/1241-1267 South Broad Street - #208-15 – Noted as Approved.
- e. Site Plan/Choate Rosemary Hall/Rosemary Lane - #210-15 – “Noted as Approved”.
- f. Site Plan/Town Fair Tire/994 North Colony Road - #211-15 – “Noted as Approved”.
- g. Change of Use/JMM Properties.1241-1267 South Broad Street - #301-15 – “Noted as Approved”.
- h. Change of Use/Rocha/841 East Center Street - #302-15 – “Noted as Approved”.
- i. Change of Use/Wallingford Dialysis Care/720 North Main St. Ext. - #306-15 – “Noted as Approved”.
- j. Change of Use/Brown/950 Yale Avenue, Units 26 & 27 - #309-15 – “Noted as Approved”.

10. ZBA Decisions of April 20, 2015

Ms. Costello said the ZBA approved the Special Exception for Solar City for the solar panels at the Meriden Markham Airport and the variance from the Engineering Dept. for the Pat Wall Field parking.

11. ZBA Legal Notice for May 18, 2015

Ms. Costello said there is also going to be a ZBA Special Meeting on Wednesday, May 27, to discuss the Oakdale appeal of the Cease & Desist order.

**WORKSHOP DISCUSSIONS**

13. Fee Structure

Ms. Costello said this has been discussed for a long period of time in workshops and noted the Commission requested additional information on sign permits. She said she discussed this in her comments for this month. She noted that some towns charge an additional fee when a public hearing notice is run more than once and is continued because of the Applicant’s actions and proposed an additional \$100 fee. She said the fees should be increased for an Applicant coming back for an application because of a zoning violation. She suggested this fee be increased 50% in this case. Mr. Fitzsimmons asked if \$100 was enough to cover the legal notice fees. Ms. Costello said this figure is correct.

14. Farm Wineries – discussed above.

15. Upcoming Workshop(s)/Discussions

- a. POCD

Ms. Costello said the sub-committee groups have been formalized and focus group meetings have been scheduled over the next month.

b. Watershed Regulations

Ms. Costello said this was regulated water uses in relation to regulated uses specific to the watershed in order to potentially allow other certain uses specifically in the I-5 and the I-X zone. She suggested the Commission conduct a separate workshop to discuss wineries and the watershed. She will send the Commission dates.

Ms. Costello said the zoning enforcement log is being updated. She said everything from this year is up-to-date.

Mr. Fitzsimmons said the ZEO did a good job with the signs but said he was approached by the non-profit groups regarding their signs. He suggested a workshop to discuss this. Ms. Costello said there is a provision under the "exempt signage" that exempts signs for events for non-profit organizations but the issue is that they have to be on private property.

**ADJOURNMENT**

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

Respectfully submitted,

Cynthia A. Kleist

Recording Secretary