

**SPECIAL MEETING**

**Wallingford Planning & Zoning Commission**

**Tuesday, March 24, 2015**

**Room 315 – Town Hall**

**MINUTES**

The Regular Meeting of the Wallingford Planning and Zoning Commission was held on Monday, March 24, 2015 at 7:00 P.M. in Room 315 of the Town Hall, 45 South Main Street, Wallingford, CT.

In attendance were Commissioners: Jim Seichter Chair; James Fitzsimmons; Jeffrey Kohan; J.P. Venoit, Secretary; Alternates Rocco Matarazzo and Armand Menard; Town Planner Kacie Costello; Recording Secretary Cynthia Kleist.

Chair Seichter called the Meeting to order at 7:04 p.m. The Pledge of Allegiance was given to the Flag.

**APPROVAL OF MINUTES** - January 12, 2014

**MR. FITZSIMMONS: MOTION TO APPROVE THE JANUARY 12, 2015 MEETING MINUTES AS PRESENTED.**

**MR. KOHAN: SECOND**

**VOTE: UNANIMOUS**

**OLD BUSINESS**

1. Site Plan Modification (additional suite at approved Bed & Breakfast)/The Wallingford Victorian Inn LLC/245 North Main Street - #203-15

Secretary Venoit read the following correspondence into the record: an interoffice memo from Vincent Mascia, Sr. Engineer, Water & Sewer Divisions, to Kacie Costello, Town Planner, dated January 28, 2013; memo from Kacie Costello, Town Planner, to The Wallingford Victorian Inn LLC, dated February 5, 2015.

Appearing in front of the Commission was Owner/Applicant Karl Kieslich, The Wallingford Victorian Inn, residence at 2 Autumn Leaves Road, Wallingford. Mr. Kieslich said he was correcting improper documentation. He said there have always been five suites. He said when he first looked at the property there were five suites and when he came to town, the Zoning Officer noticed the paperwork only indicated four suites. He said no changes are proposed and nothing is being added. Ms. Costello asked Mr. Kieslich if he had received and discussed comments from the Water & Sewer Division. Mr. Kieslich said he had received the comments but has not discussed them because he just received them a few days ago. He said he would be willing to agree to the conditions of approval as long as he has time to do everything requested. He said no bathrooms, showers toilets or sinks have been added and there is no problem currently with the water pressure, but understood the Water & Sewer Divisions wanted a larger pipe and a meter installed in a certain location. He said he will do this but hopefully not immediately.

Ms. Costello told Mr. Kieslich that what he has in place currently has not been approved by this Commission and what the Water & Sewer Divisions are saying is that The Wallingford Victorian Inn cannot be brought into compliance until it complies with Water & Sewer. Mr. Kieslich said what is currently at the Inn has been there for several years and nothing has changed. He said he understands Water & Sewer want a larger sized pipe, but noted if he remembered correctly, the pipe was at the bottom threshold of the size, not grossly underneath it. He said Water & Sewer would just feel more comfortable if the pipe size was increased. He said he will go through the added expense of bringing the pipe higher but hoped he would not have to do this immediately.

Ms. Costello said the time frame to do this is now and said she understood this was not by Mr. Kieslich's action, but stressed he is not in compliance with current zoning regulations, so these are conditions of approval. Mr. Kieslich said the pipe size coming to the house is what concerns Water & Sewer and asked why this wasn't in compliance with zoning. Ms. Costello explained the approval is conditional until the Water & Sewer conditions of approval are addressed. She said the approval is not valid until the Water & Sewer conditions of approval and other conditions the Planning & Zoning Commission may impose. She said Mr. Kieslich is not in compliance of what the Town has for a site plan. Mr. Kieslich said this is confusing because nothing has been changed for six or seven years and wondered if the site plan was outdated.

Ms. Costello said the site plan is not outdated or incorrect because what we have is supposed to be there. She noted that if things were moved around or changed things without approval from Planning & Zoning; this constitutes a violation of the zoning regulations whether it has been there for seven years or 20 years. She said the documents on file show four suites when there are actually five.

Mr. Fitzsimmons asked about Mr. Mascia's Jan. 28, 2015 letter just being received by Mr. Kieslich. He said there have been other Applicants who didn't have time to reach out to Water

&Sewer before appearing before P & Z and said he was confused. Ms. Costello said the Water & Sewer Division sends these letters out to the Applicant the same time it is sent to her. She said she didn't know if the letters were resent because they knew the meeting was upcoming. Mr. Kieslich said he didn't read anything which indicated these conditions would have to be done immediately or to contact and verify with the Department. Chair Seichter said as far as being done immediately, this would be a condition of approval in order to have a valid approval. Chair Seichter suggested moving this application to the April meeting to give Mr. Kieslich a chance to meet with the Water & Sewer Divisions. He agreed to a continuation.

Chair Seichter entertained a motion at this time.

**MR. FITZSIMMONS: MOTION TO TABLE THIS APPLICATION TO THE APRIL 13, 2015 MEETING.**

**MR. KOHAN: SECOND**

**VOTE: UNANIMOUS**

**REQUESTS FOR ACTION**

2. Special Permit Extension/Sonic of CT/1033 North Colony Road - #412-09

Ms. Costello explained there are two other buildings approved on this site, and Sonic of CT is continuing to explore these options but hasn't gotten to this point. She said they are requesting a one-year extension of their approval. Ms. Costello said the Applicant can get up to five extensions, but can be given more at one time, but typically, the P & Z approve extensions one at a time. She said this would bring the Applicant Feb. 8, 2016.

Chair Seichter appointed Rocco Matarazzo, Alternate, as a Commission member.

Chair Seichter entertained a motion at this time.

**MR. FITZSIMMONS: MOTION TO GRANT THE SPECIAL PERMIT EXTENSION TO SONIC OF CT AS REQUESTED IN THE APPLICANT'S LETTER DATED FEBRUARY 23, 2015 TO EXPIRE FEBRUARY 8, 2016 AS REQUESTED**

**MR. KOHAN: SECOND**

**VOTE: UNANIMOUS**

3. Special Permit Extension/Old North Colony Properties, LLC/12 Old Colony Road - #404-09

Ms. Costello said this is an extension request for 12 Old Colony Road. She said they have an approval for storage of materials/stockpiling and are requesting a one-year extension as well.

Chair Seichter entertained a motion at this time.

**MR. FITZSIMMONS: MOTION TO GRANT THE SPECIAL PERMIT EXTENSION FOR 12 OLD NORTH COLONY PROPERTIES, LLC AS OUTLINED IN A LETTER DATED FEB 12. 2015**

**MR. KOHAN: SECOND**

**VOTE: UNANIMOUS**

**BOND RELEASES AND REDUCTIONS**

4. Special Permit/Chick-fil-A/1098 North Colony Road - #417-13
5. Special Permit/Sonic/1033 North Colony Road - #412-09

Ms. Costello said Chick-fil—A 1098 North Colony Road is ready to be released but Sonic, 1033 North Colony Road, is not.

Chair Seichter entertained a motion at this time

**MR. FITZSIMMONS: MOTION TO RELEASE THE SEDIMENTATION AND EROSION CONTROL BOND FOR CHICK-FIL-A AS RECOMMENDED BY THE TOWN PLANNER**

**MR. KOHAN: SECOND**

**VOTE: UNANIMOUS**

**ELECTION OF OFFICERS**

6. Election of Officers – Tabled

**REPORTS OF OFFICERS AND STAFF**

7. Annual Report

Ms. Costello said the Annual Report is a review of what her office has seen over the past year and a comparison of previous years. She said in 2014, there was a big surge in applications towards the end of the year. Chair Seichter said Item #7, "Track & Field Replacement at Lyman Hall" took place in 2014 and also Item 11F. He said the first sentence on Item 11A should have the exclamation points removed.

Chair Seichter entertained a motion at this time

**MR. FITZSIMMONS: MOTION TO ACCEPT THE 2014 ANNUAL REPORT AS PREPARED BY THE TOWN PLANNER WITH MODIFICATIONS.**

**MR. KOHAN: SECOND**

**VOTE: UNANIMOUS**

8. Plan of Conservation and Development update

Ms. Costello provided an update. She presented two handouts and said she and Corporation Counsel Janis Small have been finalizing the contract with the Consultant, which was finalized on Tuesday, March 24, 2015. She said she has spoken with the Consultant and based on this discussion, included two items in the Commissioner's packets for review based. She said now that the Consultant is on-board, they would like to schedule a kick-off meeting with the Commission and other interested parties, to lay out a firm time-line to go over the basics. Ms. Costello suggested the Commission discuss who would be on the steering committee at tonight's meeting. She said in speaking with the Consultant, this steering committee was narrowed down. Ms. Costello said the Consultant recommended that the steering committee not be too large, but she said there would be focus groups for each component of the Plan of Development and for each focus group; she would invite whatever organizations or people applicable. She provided a list to the Commissioners.

Ms. Costello said these meetings will all be open to the public. She recommended the Steering Committee include three members of the Planning & Zoning Commission; two members of the Town Council; one member each of EDC, Youth & Social Services, the Board of Education, Conservation Commission; the Land Trust; WCI, The Spanish Community of Wallingford, and three community stakeholders. She said she has three people who have specifically reached out to her and expressed interest in being on this Steering Committee. Ms. Costello said she will reach out to the media to do an article and post information on the Town website.

Mr. Kohan suggested Inland Wetlands be represented and have one representative from the Conservation Commission and the Land Trust. Ms. Costello said both the Conservation Commission and the Land Trust, because their focus is natural resources, building space and agriculture, have been recommended to be a part of the focus group. She said they may have less interest in some of the other categories and was trying to select the agencies which would have the broadest interest. She said the Inland Wetlands Commission would be another group to add to the Focus Group. She said she struggled to cut down the size of the proposed Steering Committee and said the Consultant recommended 10 and she is up to 14.

Mr. Fitzsimmons said he liked Mr. Kohan's idea because the Land Trust is separate from the Conservation Commission and said he believed the Conservation Commission was appointed by the Town and the Land Trust isn't. He said he would like this to be split instead of sharing. Ms. Costello said for the Focus Groups, she listed the organizations the Consultant and she talked about including. She emphasized this is all public and encouraged the public to participate. She said she left spaces blank so the Commission could add groups to the list. Ms. Costello said she

included a variety of organizations. The Commission agreed to hold the kick-off meeting on April 20.

Ms. Costello said she included a draft of the letter to OPM which she is proposing requesting a waiver because of not being able to meet the deadline. She said this is a new statute. She noted there is Legislation being proposed to extend the deadline to July 1. She said if the waiver isn't granted, Wallingford could be ineligible for certain discretionary funding, i.e. town wide grants. She requested the P & Z get comments or concerns to her by Monday. Ms. Costello said she spoke to OPM regarding this issue and said they seemed receptive to the waiver idea. She clarified the Town could be ineligible for discretionary funding until the Plan of Development was submitted.

9. Administrative Approvals

- a. Change of Use/Behan/236 North Colony Street - #303-15

Ms. Costello said this involved a restaurant-type use. – “Noted as Approved”.

- b. Site Plan/BYK USA/121 Dudley Avenue - #206-15

Ms. Costello said this was for a parking-storage expansion – “Noted as Approved”.

- c. Change of Use/Bellard/600 North Colony Road - #304-15

Ms. Costello said this was a restaurant use – “Noted as Approved”.

- d. Change of Use/Sheehy/65 South Colony Street - #305-15

Ms. Costello said this was for a personal training use. – “Noted as Approved”.

10. ZBA Decisions of February 17, 2015

Ms. Costello said there was a variance application for a new house built too close to the property line in error which was denied. She said the ZBA denied an application request to split a property that involved four or five different variances. She said the parking variance for DeNatale was approved for conversion to restaurant/tavern.

11. ZBA Decisions for March 16, 2015

Ms. Costello said at the March meeting, there were no applications on the agenda except for the Oakdale appeal of the cease and desist order which was postponed. She said there was an Executive session to discuss two of their court cases and said Wallingford Center Plaza is being withdrawn. She said the ZBA had a workshop discussion with Atty. Mark Branse where recent court cases and statutes were reviewed.

12. Zoning Enforcement Log

Ms. Costello said there is no enforcement log because of a data base update but noted the ZEO has been putting in a lot of work to enforce the signage ordinance. She said just about everyone has been brought into compliance except for one. She said some people have come into the office for temporary sign registration. The Commission expressed appreciation of the ZEO's efforts.

### **WORKSHOP DISCUSSIONS**

#### 13. Medical Marijuana

Ms. Costello said the State passed legislation allowing for medical marijuana uses within the State. She said there is a lengthy permitting process with the State with one of the requirements being that they be in requirement with local zoning. She said Wallingford enacted a moratorium so this issue could be discussed further and noted the moratorium was extended. She said the P & Z prior to invoking the moratorium discussed the fact that Wallingford's regulations don't allow a violation of the law at any level including the Federal level and per the Town's zoning regulations, this type of use would not be allowed. She said this hasn't changed and provided the Commission with handouts. She noted out in Colorado, there are Sheriff Departments suing the State for requiring them to violate Federal law.

Ms. Costello also provided a list of various towns and their positions. She said many of them have a moratoria and also provided a list of approved dispensary's and producers. She said the question before the P & Z at this point the current determination is that medical marijuana isn't permitted under the current zoning regulations. Ms. Costello asked the Commission if this is what they want to continue or permit medical marijuana in the zoning regulations.

Chair Seichter said he was aware of the law and understands the benefits but the Legislation in Connecticut is much tighter than many States. He said he still has issues because it is against the Federal Substance Control Act. He said we have Federal Law and our zoning regulations should only approve things that are approved both by the State and Federal Government.

Mr. Fitzsimmons said he supported the moratorium but it is still illegal in the United States and appreciates the research Ms. Costello did and noted the majority of Towns in CT still have a moratorium and for us to change this, and support removing the moratorium and go with the current regulations. Ms. Costello asked the Commission if they were comfortable with the current regulations or do they want explicit language of exclusion of any use that violates or not in compliance with other laws. She said there is language which states this.

Ms. Costello said Atty. Small was comfortable with the fact that our zoning regulations don't allow medical marijuana but noted it would be better if this was stated outright. She recommended she and Atty. Small take the section we have and tighten it up. Chair Seichter suggested Ms. Costello speak to Atty. Small about this.

Ms. Costello said if the matter were to become legal at the Federal level, we would have to address this at that time and possibly explore another moratorium at that time.

#### 14. Large Residential Garages

Ms. Costello said this issue was raised by the ZBA and noted there have been a lot of applications over the years for special exceptions for oversized garages. She noted that oversized garages don't require a variance from the ZBA, someone doesn't have to demonstrate a hardship, they require a special exception which has a much lighter burden of proof, i.e., keeping with the character of the neighborhood. Ms. Costello said currently the maximum is 936 sq. ft. with no path in terms of how much larger one could request for a special exception. Ms. Costello said she researched what other towns do which is similar to Wallingford which is to allow a certain amount and then allow the larger amount by special permit.

Ms. Costello said special permits and special exceptions function similarly, special exceptions go to the ZBA and special permits involve heavy commercial use where a lot of conditions can be imposed. She said the P & Z can consider large residential garages to be put into the special permit which she felt is appropriate as a special exception. Ms. Costello said the ZBA is doing a good job in terms of balancing what is appropriate and what is not appropriate. She said the ZBA frequently sees a special exception for a large garage and then an associated variance for the height and frequently approve the special exception but deny the variance. Ms. Costello said she believed this was appropriate because of the lack of a hardship.

Ms. Costello said there have been applications where the proposed garage is three times the size of the house which in her belief, ceases to become an accessory use. She said her recommendation after doing research, is to keep the 936 sq. ft. She said typically a garage bay will be 12 ft. by 20 ft. at the smallest. She said this is 240 sq. ft. right there and if one looks at three of those it is 720 sq. ft. which gives some storage space. She said it isn't big enough to have a fourth bay. She noted that the Regulations state there can only be three bays with the extra space being used for storage. Ms. Costello said this is appropriate and seems consistent with what other towns have done. She said she is also recommending that the Town limit this 936 sq. ft. or 50% of the livable floor area of the house, whichever is greater, up to a cap of 1,800 sq. ft. because there have been situations where there have been larger houses on a larger piece of property where a larger garage would potentially be more appropriate. She said a special exception could be required for more than the 1,800 sq. ft. Ms. Costello said keeping it at 50% of the livable floor area keeps this garage as an accessory use. She noted the regulations limit people to three cars.

Mr. Menard suggested if a person has three acres, maybe they could put up a bigger garage and include this into the sizing of the garage. Ms. Costello said she suggested that past the 1,800 sq. ft., a special exception could be applied for. Mr. Fitzsimmons said this is a big improvement but was concerned about when the garage is larger than the residence. He asked about the Town of Glastonbury regulations which state if the house is under 4,500 sq. ft. they



are only allowed three bays and four bays if the house is over 4,500 sq. ft. He asked if this was permitted and would everything else be a special exception. Ms. Costello explained that if the house is under 4,500, three bays are permitted by right, and the fourth bay could be obtained by special exception; if the house was over 4,500 sq. ft. a person could have four bays with no opportunities for more. She said they could apply for a variance but couldn't see what a hardship could be for a large garage.

She noted that anything outside these parameters would potentially be allowed under a special exception. Mr. Fitzsimmons said the ZBA has done a great job with this but his issue with the ZBA applications has been the notification; only the abutter has to be notified, especially if someone puts in a large garage the people two houses down wouldn't know about it. Ms. Costello said she tends to agree and suggested possibly having the ZBA require a posting of a sign for their applications because their applications, especially variances, are requesting an action which is not allowed. She agreed a neighbor two doors down could be impacted by this.

As far as the broader notification is concerned, Ms. Costello said this could be done by an amendment to the zoning regulations. She said the ZBA should be approached so this could be explored. Ms. Costello said there were no separate provisions for barns. She said if a person has a farm on five acres or more which is used for agricultural purposes; the person is largely exempt from zoning for farming related structures. Ms. Costello said that over the past two years, she has received inquiries from people wishing to construct barn type garages or post and beam barns. She said she doesn't know if P & Z wants to take this up at this point and said she hesitates in allowing the higher structure at this point in time because of how the second floor space would be used and the garage could become enormous. She said the P & Z could consider a slight increase in height by special exception. She said farms aren't impacted at all this is for people who have single family homes. Ms. Costello said she will return to the P&Z with draft language to address the large residential garages, medical marijuana for the April meeting.

#### 15. Fee Structure

Ms. Costello said this was in regard to what the Town charges for applications. She said she looked at other Towns comparable to Wallingford's population or demographics and noticed Wallingford for the most part was not of whack and were consistent with the amount of development in the Town. She said two things she noticed was that the Planning Department only charged 25 cents a page for copies and other Town departments generally charge 50 cents a page and noted a large of money is spent on paper. She said consideration should be given to raise ZBA variance application fees which she believed were too low. Ms. Costello said the fee is \$280 for one variance and \$100 for each additional variance. She said \$500 is comparable to what other Towns charge.

Chair Seichter said the copying should increase from 25 cents to 50 cents and requested Ms. Costello obtain information on the variances and get back to the Commission with her findings.

Mr. Fitzsimmons spoke about the signs and review of the fees. Ms. Costello will bring more information on pricing and suggested language for the April meeting. She noted one Town charged additional monies if a person were applying to address additional zoning violations. She said if we are talking about basing fees on staff time, this could be considered.

16. Scheduling of Workshops for April/May  
a. Farm Wineries

Ms. Costello said there has been a proposal from Paradise Hills to modify the existing zoning regulations. She said she generated a lengthy response to this and will have Atty. Small review this. She said Paradise Wineries has suggested scheduling a workshop to discuss this item.

b. Watershed Regulations

Ms. Costello spoke about permitted uses in the I-5 and I-X zones which have properties in the watershed and said one of the concerns regarding considering additional uses in this zone was raised by Water & Sewer which can't support any zoning regulation changes which intensify the impact. She said work has been done for years on updating the watershed regulations to strengthen them to consider potential additional uses in the I-5 zone. She said there was a meeting with Bristol-Myers Squibb approximately one-year ago to talk about this issue. She said she was asked by Mr. Mascia to discuss this at a workshop.

Chair Seichter suggested discussing the farm winery at the May P & Z meeting and also the watershed regulations. The Commission agreed to put the farm winery on the P & Z April meeting agenda. Brenda Ruggiero of Paradise Hills Winery said she appreciated this item being discussed.

**ADJOURNMENT**

**MR. FITZSIMMONS MADE A MOTION TO ADJOURN THE MEETING AT 8:33 P.M. MR. KOHAN SECONDED THE MOTION WHICH PASSED UNANIMOUSLY.**

Respectfully submitted,

Cynthia A. Kleist

Recording Secretary