

Wallingford Planning & Zoning Commission
Monday, February 14, 2022
7:00pm
Robert F. Parisi Council Chambers – Town Hall
45 South Main Street
MINUTES

Chairman Seichter called the meeting to order at approximately 7:00 p.m.

Pledge of Allegiance was recited by all.

Roll Call: Present: JP Venoit, Vice-Chair; James Fitzsimmons, Regular Member; Steven Allinson, Regular Member; Jeff Kohan, Regular Member; Jaime Hine, Alternate; David Parent, Alternate; Kevin Pagini, Town Planner.

Absent: James Seichter, Chairman; Armand Menard, Alternate

Vice-Chair Venoit announced that the Special Meeting for the Data Centers text amendment is scheduled for April 7th at 7pm.

Consideration of Minutes – January 10, 2022

Commissioner Kohan: Motion to approve the minutes of the January 10, 2022 meeting of the Planning and Zoning Commission as presented.

Commissioner Fitzsimmons: Second

Vote: Unanimous to approve with one abstention.

PUBLIC HEARING

1. Proposed Text Amendment (Sec. 6.35 – “Moratorium on Warehousing and/or Manufacturing in the Watershed Protection Overlay District”)/PZC #901-22

Commissioner Allinson read the legal notice. #902-22 – Zoning Regulation Text Amendment to add new Section 6.35 to enact a “Moratorium on Warehousing/Manufacturing uses within the Watershed Protection Overlay District”. Mr. Pagini noted that correspondence that was read into the record at the last meeting included the notices sent to the City Clerk of Meriden and the Regional Planning Agency, the South Central Regional Council of Governments, dated January 18, 2022. Mr. Allinson clarified that there is no new correspondence.

Vice-Chair Venoit noted that Commissioner Hine will vote on this application.

Commissioner Hine asked for the theory behind the May 31, 2022 date. Mr. Pagini replied that it is so there is enough time for the Commission to act and noted that it can be revoked if the regulation is passed. Mr. Pagini added that the Commission can also vote to extend the moratorium. Commissioner Hine asked if the amendment was completed before that date. Mr. Pagini replied that if the regulations

were adopted, the moratorium can be revoked at the same meeting. Commissioner Hine stated that there is more flexibility if there is no date.

Commissioner Fitzsimmons referred to page 217 of the regulation book which has the Medical Marijuana moratorium and used a specific date. He stated that he supports this because it ensures we take the time to come up with revised regulations regarding warehouse manufacturing uses in the watershed protection overlay district. He stated that he will not be in favor of extending it because it is not fair to landowners or the town. He stated that we have been talking about this for too long and we don't want to lose opportunities. He supports it this evening because it allows the town staff time to present something to the commission.

PUBLIC COMMENT

Adelheid Koepfer, 35 Whiffle Tree Road stated that she supports the moratorium. She stated concern about protecting the water supply. She thanked the Water and Sewer Division for doing an outstanding job maintaining facilities and equipment. She noted that equipment can be replaced but not the water once it's contaminated. She asked for the status of the proposed zoning change. Mr. Pagini replied that the regulations have been sent to the Commission and there will be a public hearing in March. Ms. Koepfer encouraged the approval of the moratorium and moving the zoning amendment forward. Ms. Koepfer asked what caused the hold-up with the proposed change. Mr. Pagini replied that it is partly due to data centers being included in the original draft and that went to public hearings separately. There is a special meeting scheduled for Data Centers.

Bob De Maio, 14 Marie Lane, noted that there public hearings on this almost two years ago when the text amendments were first presented. It was put on hold in January when we were told it would take three months for Town Staff to look at it. He thanked Mr. Pagini for working with Allison Kapushinski to put together a quality document. He stated that he understands that the data centers are a big deal and were part of the delay. Mr. De Maio stated that the town and watershed are vulnerable. He likes the moratorium in place until the changes are made. He stated that the changes to the IX and I-5 are more impactful to the town than the data centers. He asked that this not go on much longer.

Hank Baum, Economic Development Commission, stated that the Commission is in favor of the moratorium but shares Commissioner Fitzsimmons concerns to not extend it.

Thomas Ringrose, 675 Williams Road, noted that 99% of the interest is in warehouses. He asked the Commission to look into the banks and financing for the Data Centers. He stated that he used to reconstruct wetlands with soil scientists and gave Foxwoods as an example. He stated that we might be missing the ball and might need to look at it from a soil scientist's point of view.

Hearing no further public comment, Acting Chair Venoit called for a Motion to close the public hearing.

Commissioner Kohan: Motion to close the Public Hearing for proposed text amendment section 6.35, Moratorium on Warehousing and/or Manufacturing in the Watershed Protection Overlay District.

Commissioner Fitzsimmons: Second

Vote: Hine – yes; Kohan – yes; Fitzsimmons – yes; Allinson – yes; Vice-Chairman Venoit – yes.

Commissioner Kohan: Motion to approve the Moratorium on Warehousing and/or Manufacturing Uses in the Watershed Protection Overlay District. Zoning Text Amendment to add section 6.35 to the Wallingford Zoning Regulations to enact a moratorium on warehousing and/or manufacturing uses in the Watershed Protection Overlay District as proposed in language entitled ‘Moratorium on Warehousing and/or Manufacturing Uses in the Watershed Protection Overlay District’ dated January 18, 2022, to allow the commission and staff to review and revise the proposed regulation changes that were workshopped in October 2021.

Commissioner Fitzsimmons: Second

Vote: Hine – yes; Kohan – yes; Fitzsimmons – yes; Allinson – yes; Vice-Chairman Venoit – yes.
The application is approved.

OLD BUSINESS

2. Site Plan (self-storage facility)/South Colony 1074, LLC/1074 South Colony Road #220-21

Commissioner Allinson noted the correspondence for the record. Inter-Departmental Referral from the Fire Marshal dated October 15, 2021; Inter-Departmental Referral from the Environmental Planner dated October 13, 2021; correspondence from Kevin Pagini, Town Planner to South Colony 1074, LLC dated October 20, 2021; correspondence from Atty. Jim Loughlin to Planning and Zoning Commission dated November 3, 2021; Interoffice Memorandum from Erik Krueger, Senior Engineer, Water and Sewer Divisions to Kevin Pagini, Town Planner, dated November 3, 2021; Memorandum from Erin O’Hare, Environmental Planner to Kevin Pagini, Town Planner, dated January 24, 2022; revised site plan received February 9, 2022, and the original application and site plan dated September 28, 2021.

Atty. Jim Loughlin, Loughlin Law, 221 North Main Street, and Christopher Juliano, land surveyor and professional engineer, Juliano Associates, 405 Main Street, Yalesville, presented for the applicant, Cube Smart. Atty. Loughlin explained that they will renovate the Zandri’s building and add a new three-story, 90,000 sq. ft. state-of-the-art storage facility with 721 units located behind the other buildings. They are withdrawing from the regulated wetlands area, decreasing impervious surface by 17,000 sq. ft., and improving the discharge into Wharton Brook. He stated that they received approval with conditions from Inland Wetlands and explained the variance they received from the Zoning Board of Appeals. The updated plan has the requested lighting, traffic flow, and signage plans. He stated that the proposed conditions are customary.

Mr. Juliano reviewed the existing conditions and the Alta Survey that was conducted. The existing Zandri's building will have a new façade with the Cube Smart corporate look. The driveways will remain the same. They will demolish some of the smaller warehouse buildings and build a three-story building with a 30,000 sq. ft. footprint. He noted there will be no building access or lighting on the North Side and that there will be no bathrooms in the new building. Parking will be reduced from 230 to 161 spaces. He indicated where parking will be removed and the new grassy area. He explained how stormwater will be discharged.

Commissioner Kohan asked about signage on the new building. Mr. Juliano replied that the building will have the corporate name, Cube Smart on the Rt.5 side as well as on the parking lot side.

Commissioner Fitzsimmons asked if Cube Smart would use all the storage buildings. Mr. Juliano replied that Cube Smart will manage and run the entire facility. He added that Jim Zandri still runs a catering company out of the main building but in the next three years it will all transition to self-storage. Commissioner Fitzsimmons asked about RV, boat, and trailer storage spaces. Mr. Juliano pointed out the 10 spaces behind the car dealership. Commissioner Fitzsimmons asked about fencing and dumpsters. Mr. Juliano replied that there are none proposed. This will not be a gated facility.

Commissioner Hine noted that there is more parking proposed than is required. Mr. Juliano replied that they have reduced the number of parking spaces on the site and technically, they could reduce it more. Since they are not sure of any future needs and it's not easy to find places that wouldn't affect the site, they decided not to remove any more.

Mr. Pagini stated that all the comments were addressed.

Hearing no public comment, Acting Chair Venoit called for a Motion.

Commissioner Kohan: Motion to approve application #220-21 Site Plan /1074 South Colony Road /South Colony 1074, LLC. Site plan request to add an approximately 30,000 sq. ft. self-storage building at an existing self-storage business on plans entitled "Proposed Cube Smart Climate Control Self Storage Building" dated 9/28/2021 and revised to 2/9/2022, subject to the following conditions of approval:

- 1. Comments in Interoffice Memorandum from Erik Krueger, Senior Engineer, Water, and Sewer Division to the Planning and Zoning Department dated 11/3/2021;**
- 2. Comments from Kevin Pagini, Town Planner dated 10/20/2021;**
- 3. Comments in Interoffice Memorandum from Erin O'Hare, Environmental Planner to the Planning and Zoning Department dated 10/18/2021 and memorandum dated 1/24/2022;**
- 4. Comments from the Fire Marshal's office dated 10/14/2021; and**
- 5. An erosion and sediment control bond in the amount of \$6,000.00.**

Commissioner Fitzsimmons: Second

Vote: Hine – yes; Kohan – yes; Fitzsimmons – yes; Allinson – yes; Vice-Chairman Venoit – yes.
The application is approved.

NEW BUSINESS

3. Site Plan (outside storage)/B. Febbriello-Iron Horse Equip./71 South Turnpike Road #201-22

Commissioner Allinson noted the correspondence for the record. Inter-Departmental Referral from the Fire Marshal dated January 13, 2022; Notice of Violation from Amy Torre, Zoning Enforcement Officer to Iron Horse Equipment dated June 22, 2021; correspondence from Kevin Pagini, Town Planner to Benjamin Febbriello, Iron Horse Equipment dated January 25, 2022; Memo from Alison Kapushinski, Town Engineer to Kevin Pagini, Town Planner, received January 28, 2022; and site plan dated December 17, 2021.

Christopher Juliano, licensed surveyor and professional engineer, Juliano Associates, 405 Main Street, Yalesville, presented for the applicant, Iron Horse Equipment. Iron Horse sells lawn maintenance equipment, lawnmowers, and snowblowers which is an allowed use. He noted that the applicant has received a Cease and Desist Order for the outside storage without applying for permission. Iron Horse is one of 5 tenants in the building and is located on the eastern side. He explained the proposal to rectify the problem. The proposal is to create a 6,000 sq. ft. outside storage area on the west of the building up to the side yard setback. To do this they will cut into the hill and put up a wall and use a fence and vegetation to screen it. There will be access on the north and south sides. There is also a parking plan for 78 spaces on the south and north sides. Mr. Juliano pointed out the new curbing on the south side of the property and a planted buffer. On the north, they will leave the large painted island to delineate the properties and allow for snow removal.

Commissioner Fitzsimmons noted that the site is currently in violation and has been for a year. Mr. Pagini clarified it has been since June. Commissioner Fitzsimmons noted that this is a CB40 zone that does not allow outside storage and quoted from section 4.6.B7. He added that they aren't using it for outside storage as much as outside retail/display area. Mr. Julianoreferred to section 4.6 Commercial CB districts. Section C5 says outside storage as per section 6.12 talks about storage in the side yard. He stated that he understands that all materials outside would go in the storage area. He also understands that all sales have to be done within the buildings. Commissioner Fitzsimmons stated that he doesn't consider a car dealer retail lot as storage. This applicant isn't storing the materials, it's retail space. These uses don't belong on that corner. He thanked them for trying to resolve the current problem, but nothing has changed since they received the violation. Mr. Juliano agreed that they are storing retail products outside and they have done nothing to resolve the issue. Commissioner Fitzsimmons stated that he is not against business but it just doesn't belong there. The storage aspect of the plan is a problem even with the revisions. He noted that other businesses have to store their products inside. Mr. Juliano noted that 4.6.B2 states wholesale trade carried out either within the building or "an enclosure of suitable height to screen operations from the street and any nearby residential districts". He stated that they could conduct sales from the 6,000 sq. ft. storage area as well. That is a compromise that satisfies the regulations. Commissioner Fitzsimmons noted his concern with storage vs. sales.

Commissioner Parent noted that they will not be allowed to have people in the storage area selling equipment. The storage area can't be used as a sales area. Mr. Juliano noted that section 4.6.B2 says 'wholesale trade within an enclosure area'. He interprets that to mean that they can sell out of that enclosed area. He agreed that having customers in there isn't the best situation but believes it is not prohibited.

Commissioner Allinson noted that 4.6.B2 says wholesale trade. He asked how is purchasing a lawnmower wholesale. Mr. Juliano stated that he doesn't know if the regulations differ between wholesale and retail.

Commissioner Hine asked for clarification of the purpose of this discussion. There is already a determination that they are in violation of the regulations. Mr. Juliano replied that they are in violation because first, they do not have permission to store products outside, and second they are storing equipment in the parking area. He stated that there is no hardship so they can't go to ZBA for a variance. The only option is to create a storage area to get it out of the parking area and front yard setback. He suggested that approval of the proposal would resolve the violations and the issue of retail sales could be dealt with separately. He asked the Commission to approve the storage area as that will get the inventory out of the parking area and resolve the violation. Commissioner Hine stated that this violation says 'unpermitted display and sales of merchandise equipment outside'. He agreed that the proposal cures the site plan type issues, but not the outdoor sales issue.

Mr. Pagini asked if they are discontinuing sales outside. If they want to continue with outdoor sales it would be a special permit use for automobile, truck, farm, motorcycle, and related equipment. He was told it was outside storage and all retail was indoors.

Commissioner Hine asked how this will be policed once approved.

Commissioner Fitzsimmons asked if the Commission can ask the applicant to explain the issues. We don't know that this is the right cure. He suggested continuing the application and asking the applicant to figure out what they can do. Mr. Juliano stated that he understands the issue is with the outside display and sales. He stated that he didn't think they need a special permit because this business doesn't fit in that regulation because they are not an automobile dealership, truck, farm equipment, or motorcycles. He agreed that he can go back to the applicant regarding the special permit for outside sales. He suggested moving this application along to get the storage approved. He suggested a condition that there not be outdoor displays and outdoor sales. This would bring the site into compliance.

Commissioner Parent asked how this would be enforced. Eventually, the space meant for storage only becomes a sales area. He recommended a permit that allows outside display and sales. He didn't agree that they are separate issues and didn't think it should be approved as is.

Mr. Pagini noted that all the allowed uses for site plan approval are indoors. Anything outside needs a special permit.

Commissioner Kohan stated that he is in favor of not moving forward until the applicant is advised of the concerns. He noted that the draft motion does address the issue and he would reword condition number 4 to say 'no items remain outdoors on display for sale at any time.' For the second part, 'all merchandise/items must be screened and stored in the indicated outside storage area and no sales will be allowed from that outside storage area.' Commissioner Hine asked if fines are being collected. Mr. Pagini replied that fines are being levied through a lien.

Commissioner Allinson stated that he is in favor of business and is happy that they want to remedy the issue. Regarding the regulations, he pointed out that 4.6.D10 under the special permit is missing a serial comma. It should read "motorcycle comma and related equipment dealerships" in other words equipment dealerships that are similar and deal with equipment. He would be comfortable with the application under that section. But under a site plan, he can't approve.

Mr. Juliano asked if the applicant came back under a special permit, would they be allowed to designate an outdoor area for display and sales. Mr. Pagini replied yes, under a special permit. Mr. Julianostated he will change it slightly and designate an outdoor display and sales area during the day and moved inside when the business is closed. He asked if the Commission is okay with outdoor display and sales on this property. He suggested approving this plan to deal with the violation and deal with the special permit separately for the outdoor sales. He is willing to go back to the applicant but wants clear instructions.

Commissioner Hine suggested tabling the application to allow the Commission to discuss the interpretation of the regulations before asking them to come back with a special permit.

Commissioner Fitzsimmons agreed and stated that he can't act as it is. He suggested the applicant discuss with staff the best way to proceed.

Vice-Chair Venoit supported continuing the application and suggested the applicant work with staff. He noted that there will be a significant buffer for the storage area due to the hill. He noted that there are currently abandoned cars on the property. He asked if anyone can help with that.

Vice-Chair Venoit called for a Motion.

Commissioner Kohan: Motion to continue application #201-22 Site Plan (outside storage)/B. Febbriello-Iron Horse Equip./71 South Turnpike Road to the March meeting.

Commissioner Fitzsimmons: Second

Vote: Unanimous

The application is continued.

4. Site Plan (auto parts store)/Bohler Engineering for O'Reilly Auto Parts/320 South Colony Street #202-22.

Commissioner Allinson noted the correspondence for the record. Inter-Departmental Referral from the Fire Marshal received January 13, 2022; correspondence from Kevin Pagini, Town Planner to O' Reilly Automotive Stores, Inc., dated January 25, 2022; Memorandum from Alison Kapushinski, Town Engineer to Kevin Pagini, Town Planner received January 28, 2022; Interoffice Memorandum from Erik Krueger, Senior Engineer, Water and Sewer Divisions to Kevin Pagini, Town Planner dated February 7, 2022; Inter-Departmental Referral from the Fire Marshal, dated February 9, 2022; correspondence from Chas Evans, Bohler to Erik Krueger, Water and Sewer Division received February 11, 2022; correspondence from Chas Evans, Bohler to Kevin Pagini, Town Planner, received February 11, 2022; and correspondence from Chas Evans, Bohler to Alison Kapushinski, Town Engineer, received February 11, 2022.

Chas Evans, licensed PE, Bohler Engineering, 65 LaSalle Road, West Hartford presented for the applicant, O'Reilly Auto Parts. He explained the proposal for the site that now has a two-story house and woods. It is zoned CA12. The new building will be 7,225 sq. ft. and the impervious coverage will be increased by slightly less than 19,999 sq. ft. They will create 35 parking spaces even though they only need 29. They will install a 6 ft. residential landscape buffer along the rear and side with a dual-line of arborvitae along the residential side. The runoff will be through an underground stormwater detention system under the parking lot. The plans were updated to add a snow storage area and a 6 ft. vinyl fence for headlight and noise barriers.

Commissioner Hine asked if they will have deliveries by tractor-trailers and if so where. Mr. Evans pointed out the 15 x 30 ft. delivery area and the dealer door for their wholesale sales. He added that they use large box trucks for deliveries.

Mr. Pagini stated that all his concerns were addressed.

Hearing no public comment, Acting Chair Venoit called for a Motion

Commissioner Kohan: Motion to approve application #202-22 Site Plan (auto parts store)/Bohler Engineering for O'Reilly Auto Parts/320 South Colony Street. Site plan request to demolish an existing single-family dwelling and construct a 7,225 sq. ft. retail store building and a parking lot with 35 parking spaces on plans entitled "O'Reilly Auto Parts" dated 1/5/2022 subject to the following conditions of approval:

- 1. Comments in Interoffice Memorandum from Erik Krueger, Senior Engineer, Water, and Sewer Division to Planning and Zoning Department dated 2/7/2022;**
- 2. Comments from Alison Kapushinski, Town Engineer, dated 1/28/2022;**
- 3. Comments from the Fire Marshal's office dated 1/12/2022;**
- 4. Comments from Kevin Pagini, Town Planner dated 1/25/2022; and**
- 5. An erosion and sediment control bond in the amount of \$15,000.00.**

Commissioner Fitzsimmons: Second

Vote: Hine – yes; Kohan – yes; Fitzsimmons – yes; Allinson – yes; Vice-Chairman Venoit – yes.
The application is approved.

BOND RELEASES AND REDUCTIONS

5. Site Plan/Tractor Supply/801 North Colony Road #203-18

Mr. Pagini noted that this is not ready to be released.

REPORTS OF OFFICERS AND STAFF

6. Annual Report

Mr. Pagini stated that it would be distributed tomorrow.

7. Administrative Approvals – Noted as approved

- a. Change of Use/Sedaris/1255 South Broad Street #301-22

8. ZBA Decision for January 19, 2022 – no comment

9. ZBA Notice for February 22, 2022

Commissioner Fitzsimmons asked for clarification of the non-conforming use on the variance request #22-010 on Northfield Road. Mr. Pagini replied that he would check. Regarding variance request 22-003, he asked if the ZBA would consider approving a 0 ft. front yard setback.

Commissioner Allinson asked if traffic and need for parking are being considered for the Special Exception application (#22-008) for the Day Care in a residential district.

10. Zoning Enforcement Report

Mr. Pagini explained that the current report reflects the current violations with legal referrals in a separate attachment. He reported that the resolved and closed violations have been removed. He stated that this is the first draft of a report provided by Amy Torre, Zoning Enforcement Officer.

Vice-Chair Venoit asked where new violations will appear on the report. He asked that Ms. Torre attend the next meeting to review the report.

Commissioner Kohan: Motion to Adjourn at 8:50pm

Commissioner Fitzsimmons: Second

Vote: Unanimous

Respectfully Submitted
Cheryl-Ann Tubby
Recording Secretary