

PLANNING & ZONING COMMISSION
July 12, 2010 Meeting

Commission Members Present: Alan Gannuscio, Janet Ramsay, Vincent Zimnoch,
Marshall Brown and Alternate Jim Szepanski

Town Staff Present: Town Planning Coordinator and Assistant Zoning and Wetlands
Officer Jennifer Rodriguez, Town Engineer Dana Steele, and
Town Planning Consultant Michael O'Leary

Chairman Gannuscio called the meeting to order at 7:08 pm.

Commission roll call was taken.

Chairman Gannuscio seated Alternate Szepanski for Commissioner Scarfo for all of the evening's proceedings.

MINUTES:

Chairman Gannuscio referred to the June 14, 2010 meeting minutes and noted that he, Ms. Ramsay, Mr. Zimnoch and Mr. Szepanski were present at that meeting. He then asked the Commission members and staff for any comments or corrections. Mr. Szepanski referred to the second paragraph on page 2 and suggested that they include the proper language for Section 503. A discussion followed and it was agreed that the second paragraph should read as follows:

“A discussion regarding Section 503 of the Regulations took place and in conclusion it was agreed that the bracket following the word enterprise is removed from the introduction text of Section 503.”

Mr. Gannuscio moved to approve the June 14, 2010 meeting minutes, as amended. Mr. Szepanski seconded the motion. All were in favor. The vote was 5 – 0, the motion was approved.

PUBLIC HEARINGS:

- a. Continued Special Permit public hearing on the liquor permit application of Kristina Liberty for the property located at 590 Spring Street.**

The following individuals were present:

- Robert D'Agostino; and
- Kristina Liberty.

Chairman Gannuscio asked Mr. Brown to read the rules for conducting a public hearing. Mr. Brown then did so.

Chairman Gannuscio noted that at the previous meeting they had left off that there was some additional documentation that was going to be presented at the following meeting. He then stated that he had received some information by mail which showed the location of surrounding liquor permits and the distance to the day care center.

Chairman Gannuscio asked Town Planning Consultant O'Leary for his comments. Mr. O'Leary apologized for having not been able to attend the previous meeting and noted that for that meeting he had provided Mr. Gannuscio with a memorandum dated June 12, 2010. He then commented that permits for alcoholic beverages could be permitted by the Commission by Special Permit, but that there were certain separating distances that were required by the Regulations. Mr. O'Leary stated that the 200 foot separating distance from a number of institutional type uses was not waivable. He went on to say that the Commission was allowed to decrease, under certain circumstances, the 1,500 foot separating distance from other locations selling alcoholic beverages.

Mr. O'Leary referred to his memorandum dated July 10, 2010 and stated that the first thing that the Commission needed to consider was that they could only approve the permit in the case of a restaurant permit. He then noted that the Regulations went on to say "where the serving of alcoholic beverages is incidental to the principal use and only where hot meals are served by employees at tables". Mr. O'Leary stated that, if it did not meet that test, the Commission could not approve it. He went on to say that it also had to be a compatible use to what was going on on the site and surrounding neighbors.

Mr. O'Leary stated that the Regulations went on to say the following:

- a. shall not conflict with the general purpose of the Regulations as they relate to the area;
- b. shall not adversely affect the health, safety or morals of persons attending any nearby college, school, place of worship, hospital, library, park or playground or residing in any nearby residential zone; and
- c. shall not hinder the appropriate development and use of adjacent land and buildings or cause traffic hazards."

Mr. O'Leary stated that the applicant had submitted a map indicating that they were within 1,500 feet of Spring Hill Suites, the Blackboard Café, and PickleWorks. He then noted that they were also within 1,500 feet of the Holiday Inn. He went on to

say that the day care center located across the street from the site was 225 to 250 feet away (from property line to property line), which was beyond the required 200 feet.

Mr. O'Leary commented that the Commission needed to decide what types of uses they felt were appropriate for alcoholic beverage permits and where, when and what types of uses they should waive the separating distances for. He then stated that that was a policy decision that the Commission needed to make.

Robert D'Agostino addressed the Commission and stated that it was a full service restaurant. He went on to say that they wanted to do the following:

- put a partition up;
- add pizza to the menu;
- open at 8:00 am for breakfast; and
- stay open until to 9:00 or 10:00 pm.

Mr. D'Agostino stated that the liquor permit would allow them to be more competitive. He pointed out that their operation was very conducive to a glass of wine or a beer. He went on to say that their closing hours would not be 2:00 am like most bars and that no alcohol would be served without the purchase of a meal.

Chairman Gannuscio noted that they were close on some of the distance calculations, specifically the day care center. He then asked how the 225 feet had been calculated. Ms. Rodriguez stated that the GIS showed 225 feet to the property line. Mr. Gannuscio then pointed out that there were conflicts with the 1,500 foot distance to the Blackboard Café and PickleWorks. He then commented that PickleWorks was probably the most similar use to the site in question. Mr. Gannuscio asked the applicant how they would distinguish their operation from PickleWorks. Mr. D'Agostino stated that they both had little counters inside as well as tables, although PickleWorks had more tables. He went on to say that the PickleWorks was not open very late and that they were not a bar, it was a restaurant that offered beer and wine with meals. Mr. Gannuscio commented that the PickleWorks was now closing at 1:00 or 1:30 pm; they were no longer serving dinner.

Mr. Zimnoch asked what the applicant's menu was like. Mr. D'Agostino submitted a copy of their menu to the Commission. After reviewing the menu, Mr. Zimnoch commented that the menu consisted of breakfast, specialty grinders, Italian grinders, pizza, and hotdogs and hamburgs. Mr. D'Agostino then submitted a photograph of the current divider inside the establishment as well as photographs of the outside of the building.

Mr. O'Leary asked how the restaurant operated since they had an outdoor order window and indoor seating. Mr. D'Agostino stated that it was similar to a Subway; orders were placed at the counter. Mr. O'Leary clarified that customers would order at the counter and their food would be delivered to their table either inside or outside. Mr. D'Agostino stated that that was correct.

Chairman Gannuscio asked if there would have to be a limitation of alcohol consumption only inside the building and not outside. Mr. O'Leary replied that that was very heavily regulated by the State. Mr. D'Agostino noted that they were not looking for anything outside.

Chairman Gannuscio asked the Commission members for any questions or comments. Mr. Szepanski commented that he was wondering if they had enough establishments that served beer and wine on Route 75 and did they need another one. He went on to say that the Liquor Commission did not allow the sale of beer or wine in gas stations, although they did not specifically mention car washes. The discussion continued briefly and Ms. Ramsay clarified that the restaurant in question was separate from the car wash. Mr. D'Agostino stated that that was correct; they were two separate businesses.

Ms. Liberty commented that if they were unable to acquire the liquor permit they would probably have to move their business in order to stay competitive with surrounding restaurants.

Mr. O'Leary asked if the Police Chief had commented on the application. Chairman Gannuscio replied that the Police Chief had commented verbally; there was no written report from the Chief. He went on to say that the Chief had had some concerns regarding the age of the car wash employees. Mr. D'Agostino stated that the car wash had six employees and that only one of those employees was under the age of 21.

Chairman Gannuscio commented that, if granted, it would be a special permit and that it would not run with the land. Mr. O'Leary stated that it would run with the land; it would be filed in the land records. He explained that the permit would be granted to the property, not the applicant. Ms. Liberty commented that they planned on staying at their location for a long time.

Chairman Gannuscio asked the applicant if they had any further comments. Mr. D'Agostino replied that they had no further comments.

Chairman Gannuscio asked for any public comments in favor of the application. There were none.

Chairman Gannuscio asked for any public comments in opposition to the application. There were none.

Chairman Gannuscio asked Mr. O'Leary if he had any further comments. Mr. O'Leary stated that he had no further comments. He then noted that the Commission could close the public hearing that evening and that they would then have 65 days in which to make their decision.

Chairman Gannuscio asked Mr. Steele and Ms. Rodriguez if they had any comments. They had none.

Chairman Gannuscio moved to close the public hearing on the special permit application of Kristina Liberty for a liquor permit for the property located at 590 Spring Street. Ms. Ramsay seconded the motion. All were in favor. The vote was 5 – 0, the motion was approved.

Chairman Gannuscio noted that the Commission could decide to vote on the application that evening or do it at a later date. All of the Commission members agreed that they were ready to vote on the application that evening.

Chairman Gannuscio asked the Commission members for their final comments. Ms. Ramsay noted that PickleWorks just sold beer and wine and that they closed early each day and that the Blackboard Café was a bar not a restaurant. She went on to say that the site in question was beyond the required separating distance from the day care center. She then pointed out that it was a secondary use and that they would only be serving the alcoholic beverages inside, not outside. Ms. Ramsay commented that they needed to be competitive with the surrounding restaurants. In closing she stated that the restaurant and car wash were two separate businesses and that she saw no problem in granting the liquor permit.

Mr. Szepanski stated that he did not see a lot of uniqueness in their establishment and that there were already a lot of businesses selling alcoholic beverages on Route 75. He then questioned whether they really needed another one. Mr. Szepanski noted that the applicant could close up their business at any time and another establishment could open up that would then have the right to obtain a liquor license.

Mr. Brown stated that he did not see any conflict between the Regulations and what was being proposed.

Mr. Zimnoch stated that he had had very similar questions as Mr. Szepanski; did they really need another beer license in that particular location. He went on to say that he did understand the applicant's plight, but that the reality was that the liquor license would stay at the location.

Chairman Gannuscio stated that Ms. Rodriguez had provided him with copies of the Certificate of Occupancy (CO) for the building. He then noted the various CO's as follows:

- a CO for the car wash;
- an intermediate CO for the sale of ice cream, hot dogs and beverages only; and
- a final CO for occupancy as a restaurant.

He went on to say that after receiving the information regarding the various distances he had done some additional research and discovered that the front of the day care center was only used for drop-off and pick-up of the children. He then noted that the bulk of the activities all took place behind the day care building. Mr. Gannuscio reiterated that they did exceed the minimum required separating distance from the day care center. He pointed out that they did exceed the minimum separating distance of 1,500 feet from Spring Hill Suites. Mr. Gannuscio stated that the Holiday Inn Express did possess a liquor permit, whether they were using it or not. He then reiterated that there were two other establishments (Blackboard Café and PickleWorks) that were both less than the minimum required separating distance at only 425 feet away. Mr. Gannuscio commented that, in making their determination, the Commissioners needed to decide whether they had heard circumstances that would allow a waiver of the 1,500 foot requirement.

Chairman Gannuscio stated that he was of the opinion that he would like to see a new business come into Windsor Locks and flourish, particularly in the area in question. He then pointed out that if things did not work out for the applicant the Town would be left with a site with a liquor permit and that who knew what they would see move in. Mr. Gannuscio commented that some caution flags had gone up for him with regard to an adult entertainment business and the possibility that one might move into the location in question should the applicant's business not work out.

Chairman Gannuscio asked the Commission members if they wanted to vote on the application that evening. All of the Commission members agreed that they were ready to vote.

Chairman Gannuscio asked for a motion regarding the special permit application of Kristina Liberty. Ms. Ramsay moved to approve the special permit application of Kristina Liberty for a liquor permit for beer and wine for the property located at 590 Spring Street. She went on to say that despite any

future concerns she was voting on the application currently before the Commission, not on what might happen down the line. Mr. Brown seconded the motion. The vote was 3 – 2 (Mr. Zimnoch and Mr. Szepanski were opposed). The motion was approved.

Mr. O’Leary stated that the Commission needed to state its reasons for voting in favor of the special permit. Chairman Gannuscio stated that they did have other liquor permits in the area and that the Holiday Inn Express had originally troubled him, but that their permit had supposedly gone unused. In addition, he noted that the Holiday Inn Express did not serve any food. He went on to say that he saw enough differences between the applicant’s establishment and the PickleWorks. He explained that he saw it almost like splitting a permit between them since the PickleWorks shut down at 1:00 or 1:30 pm each day and the establishment in question’s business would pick up around 11:00 am and continue into the evening. Mr. Gannuscio stated that he did not see any conflict between the two businesses. He went on to say that he had also seen enough additional evidence that evening showing him the attempt to separate the restaurant operation from the car wash operation in terms of the interior divider. Mr. Gannuscio reiterated that the day care center was close, but was actually just beyond the required separating distance. In addition, he had seen that other than the drop-off and pick-up all other activities were taking place behind the day care building. He then pointed out that the day care center had coexisted, sharing a parking lot, with PickleWorks and the Blackboard Café without any problems. Chairman Gannuscio stated that those items had overcome any doubts that he had had and also had allowed him to waive the required 1,500 feet and vote in favor of the liquor permit.

Mr. Brown pointed out that they were voting specifically on the special permit before the Commission that evening and not on anything that might happen in the future.

b. Public hearing on the zone change application of Ayotte Brothers Enterprises for the property located at 288 North Street, including Assessor’s Lot #19-2-77.

Chairman Gannuscio noted that the rules for conducting a public hearing had been read earlier in the evening and that they remained in affect.

Steve Ayotte of 288 North Street (Ayotte Brothers Construction) addressed the Commission and stated that they were proposing to change the land to Industrial 2. He went on to say that he had not realized that it had been changed to Residential; when they had originally purchased the property it had been zoned Industrial 3. Mr. Ayotte stated that they were parking their overflow of equipment on the site and also stock piling some of the materials that they used everyday.

Mr. Ayotte stated that they leased the property from Robert Nowak, a farmer. He explained that there was a 1,500 gallon dry well on the site that had been there since they first built the place. He went on to say that they had not changed the topography of the land and had done any additional paving. Mr. Ayotte stated that they had taken down some trees and had not put gravel down to park on. He then noted that the land was still pervious and that the water was able to penetrate through it. Mr. Ayotte commented that there was a neighbor that had complained that they had caused extra water to go onto his property. He then reiterated that that had not been the case, the runoff was contained on their property. He pointed out that with the heavy, heavy rains the previous year they had never had any problems with the water backing up.

Chairman Gannuscio noted that in his memorandum Mr. O'Leary had raised some critical questions regarding the application. He then asked Mr. O'Leary to go through those questions. Mr. O'Leary stated that the maps had shown that the property in question was Mr. Ayotte's property as well as pieces of two other properties that were going to be part of the zone change. He went on to say that the maps also indicated that there were three different owners as well, although the application identified only one property and the legal notice identified two properties. Mr. O'Leary commented that if indeed the application was for three parcels, the notice had not shown the proper parcels and therefore they could not go forward with the application. Mr. Ayotte explained that the piece of property on the west side of the building was owned by Robert Nowak and the piece in the back of the building was owned by Robert Nowak and his wife, Lori Beneski. Mr. O'Leary noted that the plan showed that that piece was owned by Chapman Chase, LLC. Mr. Ayotte stated that they had sold that property to Robert Nowak and Lori Beneski about two years prior.

Chairman Gannuscio asked the Recording Secretary to read the legal notice that had been published. The Recording Secretary then read the legal notice that had been published in the Journal Inquirer on June 30 and July 8, 2010.

Chairman Gannuscio asked if the property that was formerly owned by Chapman Chase had been merged with Lot #19-2-77. Mr. O'Leary replied that if Lot #19-2-77 was in Robert Nowak's name and the other piece was in Robert Nowak and Lori Beneski's names then it could not have been merged.

Chairman Gannuscio stated that the application had not been properly noticed. Mr. Ayotte asked what the Commission needed him to do. Mr. O'Leary replied that Mr. Ayotte would have to withdraw the application and that then they could talk about how best to move forward procedurally; the current application could not be corrected

from where they were. He went on to say that they would need a correct application, correct maps, an application signed by the proper property owners, and that then it could be properly noticed.

Chairman Gannuscio noted that both applications (the zone change application and the site plan application) would need to be withdrawn. Chairman Gannuscio asked Mr. Ayotte what he paid in fees for the two applications. Mr. Ayotte replied that he had paid \$570 for the two applications. Mr. Gannuscio commented that if Mr. Ayotte decided to withdraw the two applications he would offer up a motion to the Commission that the fees that Mr. Ayotte had previously paid be applied to the new applications.

Chairman Gannuscio asked Mr. Ayotte if he wanted to withdraw his zone change application without prejudice, which would mean that he could resubmit it in the future. Mr. Ayotte replied that he would like to withdraw the zone change application.

Chairman Gannuscio moved to allow the zone change application of Ayotte Brothers Enterprises for the property located at 288 North Street, including Assessor's Lot #19-2-77 to be withdrawn without prejudice and also any fees paid in association with that application be waived for the application that comes in as a replacement for this application. Mr. Szepanski seconded the motion. All were in favor. The vote was 5 – 0, the motion was approved.

Mr. Ayotte asked what the Commission now needed from him for his new application. Chairman Gannuscio told Mr. Ayotte to speak with staff (Mr. O'Leary, Mr. Steele and Ms. Rodriguez) to see what needed to be put on the plans as an update. Mr. O'Leary noted that the site plan would need some additional information, but that before they got to that Mr. Ayotte should return to the Commission with just a zone change application since they only needed a preliminary site plan for the zone change. He then suggested that they could then see how the zone change went before spending any additional funds on another site plan. Mr. Steele agreed with Mr. O'Leary suggested approach.

Chairman Gannuscio told Mr. Ayotte that he could have some discussion with staff to see what they needed for the zone change. Mr. Ayotte asked staff to email a list of what they needed to him.

- c. **Public hearing on the site plan review application of Wilson M. Alford, Jr., P.E. & L.S. for the property located at 288 North Street as well as Assessor's Lot #19-2-77.**

Chairman Gannuscio asked Mr. Ayotte if he was seeking to withdraw without prejudice the site plan review application. Mr. Ayotte replied that he was.

Chairman Gannuscio moved to accept the withdrawal, without prejudice, of the site plan review application of Wilson M. Alford, Jr., P.E. & L.S. for the property located at 288 North Street as well as Assessor's Lot #19-2-77 and that any fees paid in conjunction with the application be credited for any new application for the site. Mr. Zimnoch seconded the motion. All were in favor. The vote was 5 – 0, the motion was approved.

NEW BUSINESS:

b. Receive New Applications

i. Site plan modification application of Dairy Cream International, Inc. for the property located at 359 Ella T. Grasso Turnpike.

Attorney Paul Smith addressed the Commission and stated that the Dairy Cream had been there for forty years and that they wanted to put a small expansion onto the existing building. He explained that they were planning on a 12' x 20' addition onto to the north side of the building (the left side as you drove into the parking lot). Attorney Smith stated that they wanted to add another service window in order to alleviate the long lines. He then noted that the basic function would stay the same.

Attorney Smith pointed out that the site was located in an Industrial zone and that they had already obtained a variance from the Zoning Board of Appeals for the expansion. He went on to say that they were not going to be adding any additional parking. Attorney Smith commented that they were also going to update the façade of the building.

Chairman Gannuscio moved to schedule a site plan modification review for Dairy Cream International, Inc. for the property located at 359 Ella T. Grasso Turnpike for August 9, 2010. Mr. Szepanski seconded the motion. All were in favor. The vote was 5 – 0, the motion was approved.

ii. Site plan modification application of JSL Asphalt, LLC for the property located at 75 King Spring Road, Parcel D.

Attorney Paul Smith addressed the Commission and stated that they were looking to purchase the adjacent property from the owners, Neal and Faith Quagliaroli.

He went on to say that they were not going to expand the asphalt plant; they were not allowed to do so by the State. He explained that they wanted to expand in order to allow more ease of use for storage of the materials and also to make it safer in terms of truck access. Attorney Smith reiterated that the expansion would give them a larger area to locate their gravel and material stock piles.

Attorney Smith commented that it was a fairly heavy use, but that it was located in a very heavy industrial area. He went on to say that they would be submitting a traffic report. Attorney Smith then stated that they would have no objection if the Commission wanted to schedule a public hearing on the application.

Chairman Gannuscio asked what the site's proximity to Suffield was. Attorney Smith replied that it bordered Suffield.

Attorney Smith pointed out that in all the years that he had represented Sales and JSL there had only been one complaint made against them. He went on to say that they had not proposed a lot of landscaping, but that they were willing to look at that if necessary. He then noted that the owner of the site also owned the adjacent property.

Chairman Gannuscio moved to schedule a public hearing on the site plan modification application of JSL Asphalt, LLC for the property located at 75 King Spring Road and the adjoining property at 71 King Spring Road for August 9, 2010. Ms. Ramsay seconded the motion. All were in favor. The vote was 5 – 0, the motion was approved.

Mr. Steele pointed out that he had not seen a discussion regarding the drainage, but that he would need some narrative evaluating downstream impacts. Attorney Smith stated that he would have their engineer get the information to Mr. Steele.

REVIEWS:

There were none.

ACTION ON CLOSED PUBLIC HEARING ITEMS:

There were none.

OLD BUSINESS:

a. Discussion with Commission and Staff

Mr. O'Leary stated that he had one item to distribute to the Commission members regarding Main Street. He went on to say that it would make sense to take the time to review the information and discuss it at a later meeting. Mr. O'Leary then distributed his memorandum dated June 12, 2010 and suggested that a workshop session might be helpful.

Chairman O'Leary asked Mr. Steele and Ms. Rodriguez if they had anything for discussion. Ms. Rodriguez stated that she had attended the pre-bid meeting regarding the bus shelters, but that no potential bidders had come to the meeting. She went on to say that the next step was for CRCOG and Connecticut Transit to reach out to the people who had picked up the bid packages. Ms. Rodriguez stated that she would continue to keep the Commission updated on the progress of the bus shelters.

NEW BUSINESS:

a. Public Input

Chairman Gannuscio stated that at a gathering that he had attended the day before the issue had come up regarding the auto glass on Spring Street and how there were three vans parking there overnight along with the glass storage rack out by the street. He commented that they had declined Ms. Rodriguez's request to come in and discuss whether it was a permissible home occupation. Ms. Rodriguez stated that an enforcement letter had gone out and that it had been past the ten day period. She went on to say that the next step was to contact Attorney Scott Chadwick to start taking action.

Chairman Gannuscio commented that he liked Ms. Rodriguez's approach regarding temporary signs. He explained that she was going to send out letters stating that more than likely there would be signage activity and that if anyone had any questions they could call the Building Office. Ms. Rodriguez stated that the first 50 letters had gone out and more were going to out the following week.

COMMUNICATIONS AND BILLS:

There were none.

Chairman Gannuscio moved to adjourn the meeting. Ms. Ramsay seconded the motion. All were in favor. The vote was 5 – 0, the meeting was adjourned at 8:55 pm.

Respectfully submitted,

Diane Ferrari
Recording Secretary

THIS IS A DRAFT

Please check the following month's meeting minutes for official approval of these minutes and any amendments or corrections that were made.