

PLANNING AND ZONING COMMISSION

January 8, 2018 Meeting Minutes

These minutes are not official until approved at a subsequent meeting.

Commission Members Present: Alan Gannuscio, Vincent Zimnoch, Jim Szepanski, and Alexa Brengi

Commission Members Absent: Cindy Cooper (Alternate), and Kayleigh Royston (Alternate)

Town Staff Present: Jennifer Rodriguez (Town Planner), and Dana Steele (Town Engineer)

I. Call to Order

Chairman Gannuscio called the meeting to order at 7:05 pm.

II. Roll Call

Commission roll call was taken. Chairman Gannuscio noted that Luis Valdez has officially submitted his resignation and thanked him for his contribution to this commission.

III. Approval of Minutes from the December 11, 2017 Regular Meeting

It was **MOVED** (Gannuscio) and **SECONDED** (Szepanski) and **PASSED** (Unanimous, 3-0; Brengi Abstaining) that the Planning and Zoning Commission approves the minutes of the December 11, 2017 regular meeting as published.

IV. Public Hearings

The Recording Secretary read the legal notice that was published in the *Journal Inquirer* on December 28, 2017 and January 4, 2018.

Mr. Szepanski read the rules for conducting a public hearing.

A. **Special use permit with site plan review for Hillery Hot Rods, LLC at 465 Spring Street, Unit F (property owner Julie Sales)**

Thomas Hillery, 229 Sutton Drive, addressed the commission. He stated that he is a lifetime resident of Windsor Locks, was born and raised here, and he and his wife have raised three children here. He was very involved in youth sports and served 10 years as assistant scout leader. He is here tonight to request a special use permit and site plan approval to locate his business at 465 Spring Street. His business was previously located at 11 Northgate Drive and he was there for two and a half years. He posted the required public notice sign per regulations on December 18. His business is unique which he defines as a Classic Collective Car Restoration. He also carries a special insurance on his business which is a builder restorer policy, not a general repair. He has been in the business for over 40 years. He presently has a

DMV repairer's certificate from the state which is required due to the work he does. It all falls under General Repair—there is no special heading for restoration or collective cars. He is moving to obtain more room. 500 square feet more will give him room to work on two more cars. He can comfortably work on a total of six cars. Cars sit in his shop for a long time, anywhere from three months to three years, depending on the amount of funds his customers have. If work is stopped due to lack of customer funds, he will go from one project onto another. Other businesses that are in the building at 465 Spring Street are Red Rider Lawn Mowers, a masonry shop, a flooring and painting shop, and a mechanical shop. He does not do painting or body work so has no environmental impact.

Mr. Hillery showed pictures of his vehicles and explained what work was being done on them. He commented that he does not do any involved engine work and sends them out to be done. All of his cars are in the shop, not outside. His shop is not the typical automotive repair shop. Volume will be very small and customer traffic will be almost non-existent. Mr. Hillery said he found something that says that the law exempts people engaged in repairing tires, upholstery, glazing, general blacksmithing, welding, and machine work on parts from having a repairer's license. In addition, lubricating of motor vehicles does not require a repairer's license. He does not do oil changes, but if he has a car in and he's doing the engine, he will change the oil. It took him a year and a half to generate 55 gallons of oil, which goes into an environmental bin and is picked up by Connecticut Waste Oil.

Mr. Hillery stated that at the last meeting Attorney Landolina suggested that he come back to the commission and find a similar permitted use in the zone. He pointed out that in the Permitted Uses table of the zoning regulations, the fourth paragraph down, personal service shops are listed. He feels his is a personal service shop. The business dictionary defines personal service as intellectual or manual work performed by a service provider in serving a customer. He does restoration on a personal basis and is very selective in choosing customers. The availability of parts and the customer's ability to keep the cash flowing is what keeps the work going. There is no sign on the building, but he believes DMV will require a sign on the building. Mr. Hillery distributed to the commission a summary document and discussed why his business is not like the other repair shops in town. Chairman Gannuscio pointed out that one issue is that he does not see a definition for personal services in the definition section of the regulations. Ms. Rodriguez commented that the dictionary definition is probably the best we'll get.

Chairman Gannuscio stated for the record that he went to school with Mr. Hillery's brother Ryan, and Mr. Hillery's niece went to school with his daughter. However, he does not see any reason not to participate in this approval process.

At this time Chairman Gannuscio opened up the public hearing for comments from the public in support of this application. There were none. The floor was then opened up for comments in opposition. There were none.

Chairman Gannuscio asked for comments from staff. Ms. Rodriguez discussed her report dated December 11, 2017, with a revised date of January 5, 2018. She referred to the questions that Town Attorney Carl Landolina relayed to her last month to pass along to the commission for consideration: *(1) If not general repair, what is the proposed use more similar to? The end of Section 402 says that the commission can consider a use that is not listed to be permitted or based on what it's most similar to. (2) If the commission considers the use similar to another permitted use the commission can decide what process the commission feels most appropriate related to site plan review or special use permit* (Ms. Rodriguez: "that determination was made last month"). *(3) Can you condition a State DMV license to only permit classic car restoration limiting the number of vehicles worked on, limiting where the vehicles are stored, and how many on a property.* Ms. Rodriguez: "His opinion is yes. I would just recommend that if that's the direction that the commission takes those stipulations be made part of the condition of approval so that they can be enforced by our office if necessary." Ms. Rodriguez did not receive any comments from the Fire Marshall. Generally, for Planning and Zoning applications, the Fire Marshall comments are related to access to the site with apparatus and that site is not being proposed to be changed in any way, but the Fire Marshall would need to get involved in terms of the interior floor plan through a CO process. The Police Chief sent comments on January 8, 2018 saying there were no issues with this application. An email with questions for the applicant was received on January 8, 2018 from the WPCA. The applicant answered these questions, and Mr. Kuczarski replied with "Approved."

Mr. Steele asked the applicant how he deals with a spill as he's working on the vehicles. Mr. Hillery responded that he uses a product called Pig Mat which are absorbent 30 x 30 mats. Mr. Steele stated there are no site improvements being proposed so there is nothing for him to review, but the only concern from an environmental standpoint is that he wouldn't wash off the floors and let the water run off into the parking lot. The way Mr. Hillery is describing to handle this is appropriate.

Mr. Hillery explained that there is a sign out front now on the site with the name of everyone who rents there, and all he would do is put his name in one of those slots. There would be no need to build a new sign.

Mr. Szepanski commented that the applicant is pointing out that a retail store or retail service or personal service shop is the niche he falls under, and looking at that under Business-1, which he is in, that's just a site plan review, and not a special use permit. Mr. Szepanski went on to ask, "If the commission felt comfortable with putting his type of work under that, would that fall under special use permit or just site plan?" Chairman Gannuscio responded, "We can call for the additional requirement of the special use application, especially when we want to get particular information on the record because of what we're going to do or not do in terms of permitting or allowing the request, so I think I want to stay with that." Mr. Steele remarked that it's a question of whether it's similar to a personal service or is it exactly a personal

service. Ms. Rodriguez clarified that in the last two meetings, at one meeting it was suggested that the special use permit be included, and in another it was different, so what was submitted was \$310 (special use and state requirement/DEEP).

Chairman Gannuscio asked Mr. Hillery if he has a copy of the insurance policy that lists his business as a builder/restorer. Mr. Hillery replied that he did not bring it with him. Chairman Gannuscio asked him to submit a copy of that to Ms. Rodriguez so we have that as part of a folder. He went on to say that Mr. Hillery has done a very good and credible job of defining what he does and finding the niche in the regulations to allow this. The commission has not put limitations or qualifications on what personal services are. In addition, the insurance policy lists his business as a builder/restorer, and Chairman Gannuscio sees that as a personal type of activity or service. There is that personal quality to what Mr. Hillery does. He has defined the length of restoration period these vehicles are there—anywhere from three months to three years—he is offering the definition, and we have nothing printed in our regulations that says he is wrong. Chairman Gannuscio: “In my mind, you have given a similar or allowed use in a B-1 zone. It’s been presented as not something we put out there, but it’s something you came to us with and offered the details to back it up, so I see that it’s something should someone question it, it’s there in the record that it was developed as part of this hearing, which is as good a reason as any to maintain this as a special use permit. Again, you’ve stated you need the additional space because these cars sit there for that period of time as well. So, again, it’s information that’s been provided, and that information allows for justification of this classification.” Mr. Szepanski stated that he supported 100% what Chairman Gannuscio said. Mr. Zimnoch commented that the personal service shop is a good fit. There are only six cars, which does not make it any kind of a production line, and the fact that there is no painting, and no engine work, makes it more of a personal service. Chairman Gannuscio added that DMV has this limited set of classifications for licenses as well.

Ms. Rodriguez pointed out that if this use is considered as similar to something like personal service, the commission should expect to get applications for Main Street because in the Permitted Uses table, personal service is permitted in the Main Street Overlay Zone. That doesn’t mean they have to be approved—those uses are still by special use permit only, so the commission could still say that’s not appropriate for Main Street. She noted that the commission may need to be ready to defend that and this may need to be strengthened over the next year.

It was **MOVED** (Gannuscio) and **SECONDED** (Szepanski) and **PASSED** (Unanimous, 4-0) that the Planning and Zoning Commission closes the public hearing on the special use permit and site plan review for Hillery Hot Rods, LLC at 465 Spring Street, Unit F.

It was **MOVED** (Gannuscio) and **SECONDED** (Brenge) and **PASSED** (Unanimous, 4-0) that the Planning and Zoning Commission approves a special use permit for Hillery Hot Rods, LLC at 465 Spring Street, Unit F as a B-1 use, personal services categorization, and this is limited to this particular unit on this site as a builder/restorer of classic,

antique, or specialty vehicles, not to be a general repairer situation outside of this builder/restorer categorization, and limited to the six cars on the site with the condition that all vehicles being worked on shall be stored in the building at all times, with no storage outside the building. In addition, the sign will go to staff for review only if it goes beyond the slot of the sign visible from Spring Street.

B. Opt out of State initiated Temporary Health Care Structure Act per Section 1.3(j) of Public Act No. 17-155, “An Act Concerning Temporary Health Care Structures”

The Recording Secretary read the legal notice that was published in the *Journal Inquirer* on December 28, 2017 and January 4, 2018.

Chairman Gannuscio read Section 1.3(j) of Public Act 17-155. He remarked that at one of the December Board of Selectmen’s meetings, it was put up for discussion and all three selectmen were there. He asked Ms. Rodriguez to read First Selectman Kervick’s letter to him dated January 2, 2018 which recommended that the Town of Windsor Locks opt out of this legislation. Chairman Gannuscio explained that the legislative body has voted to opt out and tonight we are having a hearing on this. Our main concern is that once again the state is forcing the town to do something that may not be in the best interest of our town to do. We have a large number of smaller lots in town that would probably be difficult to sustain this type of structure without it becoming somewhat unsightly at some point. Even though it’s not to be permanent and it’s to have a sewer and water hookup, he thinks this would lead to some issues. Ms. Rodriguez commented that the structure is to have a 500 square foot maximum. Many towns have already or plan to have accessory dwelling unit/structure permissible language. In some of the surveying that she has done, the structures that are permitted in these sorts of regulations may be 800 or 900 square feet, something that would allow more space for a smaller house versus a trailer or mobile home.

Chairman Gannuscio stated that he believes there are some additional language items that almost make a hardship for the town. For example, our Building Official normally has 30 days to process permits, but this legislation provides an expedited permit process of 15 days, making the ability to meet this deadline questionable at best. When you think of what’s on the books for our town and our Building Official in the next couple of years, that’s a tall order to comply with. Another item is this housing is permitted only when medically necessary as determined by a licensed physician. So the question is, how can a municipality reasonably determine when it is no longer medically necessary without being intrusive, particularly in light of HIPPA requirements.

Mr. Steele asked if this is for a person with medical needs to live in, or is this for their caregiver to live in while they live in the house. Ms. Rodriguez responded that the caregiver has to live in the main house and the person needing the unpaid care. Chairman Gannuscio read another comment from the list of comments that came from Connecticut Planning Officials. *This only allows for unpaid care versus*

permitting visiting nurses, rehabilitation specialists, etc., that would otherwise be allowed in your own home or the person's own home. Only a caregiver as defined by the statutes may provide care. Must own and reside on the same lot as the accessory temporary healthcare structure. They are not trained medical professionals unless that happens to be their vocation. The question is, how will the town monitor this? We cannot verify that care is unpaid for nor can we reasonably determine residency based on a doctor's note. This could result in FOI and HIPPA controversies, complaints, and possible legal action.

Ms. Rodriguez distributed to the commission a summary list of who replied to her inquiry about whether towns are opting in or out and their reasons. Mr. Steele asked if there were any consequences to opting out. Chairman Gannuscio replied no, other than make sure that you have something in your regulations. Ms. Rodriguez said she put in her summary that Windsor Locks is a little above the state's average in terms of age and there are some assumptions made based on recent census data that the majority of residents in Windsor Locks will be between 60 and 75 by 2025. But that's not necessarily a reason to opt in. If everyone is thinking of opting out as the best option it would be good to consider some sort of accommodation in the regulations in the future. Chairman Gannuscio read a brief explanation from the Joint Favorable Report of the Planning and Development Committee of the State Legislature of why this bill was designed.

Mr. Szepanski asked if it was possible to opt back in after opting out. Chairman Gannuscio replied, "I suppose they would have to allow that if someone finds some fault in the way you've done it or your lack of regulations within a reasonable period of time." Mr. Steele commented that it sounds like some of the towns are questioning whether it will actually be implemented because of some of the restrictions of the bonding requirement. Maybe it's well intentioned but it's not crafted in a way that it will actually be used. If someone puts up a temporary structure and they don't have the money to take it down once they're done, it's not going to come down, it will sit there. The bond would ensure that there's money to do that, but that's such a burden that it's probably easier to find another solution than to go that route.

Ms. Rodriguez mentioned that she brought some samples of accessory dwelling unit regulations that are in place. She stated that she can develop a packet for next month with more examples. Chairman Gannuscio asked that this be put on the agenda for discussion next month: Potential Accessory Dwelling Regulations.

At this time Chairman Gannuscio opened up the public hearing for comments from the public in favor of our support of opting out of this requirement. There were none. The floor was then opened up for comments in opposition. There were none.

Chairman Gannuscio asked if commission members had comments. Mr. Zimnoch stated that this was well intended legislation that was just poorly crafted.

It was **MOVED** (Gannuscio) and **SECONDED** (Szepanski) and **PASSED** (Unanimous, 4-0) that the Planning and Zoning Commission closes the public hearing regarding Opting out of the State initiated Temporary Health Care Structure Act per Section 1.3(j) of Public Act No. 17-155, “An Act Concerning Temporary Health Care Structures.”

It was **MOVED** (Gannuscio) and **SECONDED** (Zimnoch) and **PASSED** (Unanimous, 4-0) that the Planning and Zoning Commission’s succeeding chairperson reports back to the Board of Selectmen that this commission, after holding the necessary public hearing, supports the recommendation to opt out and will go forward with revisions of the zoning regulations to allow for a more comprehensive plan for accessory healthcare structures/dwellings.

V. **Reviews** (none)

VI. **Action on Closed Public Hearing Items** (none)

VII. **Old Business**

A. **Discussion with Commission and Staff**

Ms. Rodriguez asked the commission to add the following item to Informal Discussions: Public Act No. 17-39, An Act Clarifying the Continuation of Non-Conforming Uses, Buildings, or Structures.

B. **Action Items** (none)

VIII. **New Business**

A. **Public Input** (none)

B. **Receive New Applications**

Ms. Rodriguez stated a new application came into her office. It is listed as 2 Industrial Road, but after looking at the Assessor’s records, they realized the town has two portions of one property listed as 2 and 6, and the application is related to the portion that is considered 6. Going forward she would like to make sure it’s the East Wing known as 6 Industrial Road. She pointed out that tonight the commission has receipt of the application as well as the informal discussion.

C. **Informal Discussions**

i. **2 Industrial Road—Museum Attraction under the Adaptive Reuse Regulation 408**

Ms. Rodriguez clarified that this application is not being reviewed now so a lot of details should not be presented tonight. The applicant needs to provide just

enough detail to the commission to determine if she has guided the applicant to apply correctly. Like many things, there are some general uses listed in the Permitted Uses table, but not everything specifically. This is one application that could potentially fall into a couple of different uses, both of which require a special use permit. She suggested to the applicant that he discuss his use.

Brian Kleinman, 11 Sunrise Terrace, East Granby, addressed the commission. He is the owner and operator of Riverside Reptiles Educational Center and has been in business 15 years. He specializes in live animals, specifically reptiles and amphibians, and hands-on programs. He is looking to expand and open a public facility where people can come and see the animals in naturalistic zoo-like settings at 2-6 Industrial Road. He will be using about 15,000 square feet of this building to display reptiles and amphibians. He will still be doing educational outreach programs and will be hiring about five or six full time staff.

Chairman Gannuscio commented that this is education through demonstration. Mr. Kleinman replied that technically it is not a zoo. The people can come and look at the animals and also have the opportunity to touch and interact with them. They will be open to schools, there will be classrooms there, and they will give tours and educate the public. There will be about 100 different species on display and part of the presentation will have an opportunity to touch the animals. This will be a public facility and they will still have the outreach part of the company. Right now he just works out of his home, doing outreach programs. The animals are in his basement. Upon setting up this facility, he will be able to take in a lot of rescue animals.

Chairman Gannuscio commented that doing this as Ms. Rodriguez suggested, as a special use, following the same procedure as RISE Academy, makes sense. Mr. Kleinman pointed out the last page of his application which has a general floor plan for a visual of what he envisions his facility to be. Chairman Gannuscio asked if there would be changes to the inside of the building. Mr. Kleinman responded that the owner is going to put up some dividing walls to separate him from other parts of the building, and he will be building animal enclosures within the building, although they will not be part of the building structurally. Chairman Gannuscio asked if February 12 would be enough time for his architect to come up with a set of plans and distribute to staff two weeks before the meeting. Mr. Kleinman responded that he would like to try for February, but he is waiting for his loan to go through before he hires an architect. Mr. Steele commented that he does not think Mr. Kleinman needs to hire an architect since the plan he submitted will be okay for staff and commission use.

It was **MOVED** (Gannuscio) and **SECONDED** (Zimnoch) and **PASSED** (Unanimous, 4-0) that the Planning and Zoning Commission schedules a public hearing for February 12, 2018 for a special use permit and site plan review for Riverside Reptiles LLC at 6 Industrial Road, East Wing.

Ms. Rodriguez reminded the applicant that he needs to get the public hearing sign from her office and that it needs to be posted ten days before the hearing.

* **FFL for Marketing Purposes**

Ms. Rodriguez read the questions forwarded to her by Town Attorney Carl Landolina related to the firearms license/home occupation in marketing. She then read the definition of Home Occupations and Professional Offices found in the zoning regulations. Steve McGough asked if there was something in the definition about artists. He believes that photography is a form of art. Chairman Gannuscio asked, "What's the way to proceed here?" Ms. Rodriguez replied that she wasn't sure. There is no process for acquiring an FFL license. If it were just an artist you would just go through whatever is required for a home occupation. What the attorney is asking the commission to do is to make that determination on whether or not the nature of the use is changed once you get a FFL license.

Chairman Gannuscio stated that photography is a sub-set or sub-use of the marketing consulting business that Mr. McGough has, so if you're classifying it and our definition spells out "artist," then photography is a type of art. Our regulations do specifically say artist. We don't break it down. There must be photographers in town that do this without having a special use permit. Mr. Zimnoch commented that the bigger issue is that the FFL license changes the nature of the beast. We're talking about firearms. He went on to say that in the past we've had public hearings so that neighbors can weigh in. Mr. McGough responded that in the definition of professional office/home occupation, it specifically says, "does not create a health or safety hazard." It doesn't actually create one that doesn't already exist is how he interprets it. Mr. Zimnoch responded that it could be argued that it does because you are bringing in guns. Mr. McGough replied: "But it already exists. You can still send guns directly to someone's house."

Chairman Gannuscio stated he wanted to allow the opportunity to develop a narrative on Mr. McGough's part because of something he found in a court case (Watson v Glastonbury ZBA) in the last week or so. He read the following: *For uses which meet the definition that are not spelled out in zoning ordinances customary home occupations are limited to professional uses which were traditionally or historically carried on in residences such as offices of a physician, dentist, attorney, surveyor, or activity such as dress making, seamstress, music teacher, etc. There is sometimes a fine line between this type of activity and a service or similar business out of a residence that is different which is generally prohibited.* Chairman Gannuscio commented that this is what he would like to see the focus be.

Mr. Zimnoch said he is glad Chairman Gannuscio read that because he believes the home occupations that were allowed to be in residential areas were the ones that would benefit the residents: the doctor, the dentist, the dressmaker. How is

this going to benefit the surrounding neighbors? Mr. McGough replied that this is not really a business—he's not open for business and people are not coming to his home to do any business. Mr. Zimnoch: "But you're making a living." Mr. McGough: "True." Chairman Gannuscio suggested holding off on this analysis and said, "Let's do this within the confines of a public hearing and why we would push for a public hearing." Mr. McGough: "I'm not worried about that. I'm just trying to avoid the extra cost and the time. I'm already three or four months into the process. If you guys say that I need a special use permit and a public hearing, I'm fine with that. My proposal was that I didn't, but I will have to consider that as I said before if I want to go that much public. I might do it, but then keep in mind that the FFL, the special use is going to go with the land, and then it opens me up. I'm not going to be running a business in there, but I have to pay the bills. I know my neighbors aren't going to have an issue with it." Chairman Gannuscio: "This is something that goes on the record, it shows that there was a public hearing held, Jen can say, 'Well the board held a hearing and listened to what was said.' And I think that this is the way to proceed."

Chairman Gannuscio asked Ms. Brengi for her thoughts. He explained that they're not voting yes or no, they're just wondering if the thought is to hold a special use permit hearing on this. Ms. Brengi responded that she can see where Mr. McGough is coming from and why he doesn't want to have a public hearing, but she thinks the commission has to for crossing the t's and dotting the i's, and this is appropriate. Mr. Szepanski clarified: "One thing I want to say—because you're suggesting a special use permit, I don't want the gentleman to leave thinking because he goes that route that he will get approved. It's up to the commission to make that determination. And because we issued one before doesn't mean we didn't make a mistake. I don't want to give any false hopes." Chairman Gannuscio stated he wants to be consistent in the process. Mr. McGough asked what the next step would be. Ms. Rodriguez asked if the commission is waiving the site plan review. Chairman Gannuscio replied, "I think so." Ms. Rodriguez clarified that it would be a special use permit application with the site plan review waived. She explained that he could either get the application online or come into her office. The fee would be \$250 plus the \$60 DEEP fee and it would be scheduled for the March meeting.

D. Action Items

i. Election of Officers

Chairman Gannuscio relayed to commission members some comments that have been made about the way he has seated members in the past. Objections have been raised about not seating an alternate of the party of the person that is not present. Bill Hamel, the Town Clerk, has said there is nothing in the charter requiring this to be done. Chairman Gannuscio said he does not want to keep postponing the Election of Officers, but he does not want there to be any objections saying the full complement of Republican regular members or a

Republican alternate that could have been seated for the election was not seated. With Mr. Valdez being gone, they are down to four members tonight and no alternates seated, so he would like to move this forward to next month with the hope that there will be an alternate available or a replacement for Mr. Valdez. Chairman Gannuscio asked commission members for their opinions. Ms. Brengi said it didn't make sense to her to wait since nobody would be coming onto the board between now and February that they're going to know well enough and know where they stand and then consciously vote for. Mr. Zimnoch and Mr. Szepanski agreed that it made sense to postpone the election of officers until more members are appointed. The commission has postponed electing officers in the past until February. Chairman Gannuscio decided Election of Officers would be postponed to February 12.

IX. Communications and Bills

Chairman Gannuscio confirmed with Ms. Rodriguez that she needs more public hearing signs. He said there is money in the print regulations account. Mr. Szepanski asked about getting a new binder for the zoning regulations. Chairman Gannuscio stated their print and bind regulations line item is funded for \$500 for this year. He asked Ms. Rodriguez if she still has to send a copy to the State library or DEEP or OPM. She replied that they do have to send it to OPM and CRCOG but she wasn't sure about the State library. Chairman Gannuscio asked if she had a more concrete price from Yankee Sign because if it's an expenditure over \$100 they have to vote on it. Ms. Rodriguez confirmed that 25 two-sided signs with stakes (\$13.25 each) would be \$331.25.

It was **MOVED** (Gannuscio) and **SECONDED** (Zimnoch) and **PASSED** (Unanimous, 4-0) that the Planning and Zoning Commission authorizes the expenditure of up to \$340 for the replenishment of public notice signs.

OTHER

Ms. Rodriguez commented that there was a potential for a possible tenant for 229 Old County Road. She still doesn't know who that potential tenant is, but they were considering coming tonight or sending the listing agent. They have questions about whether or not they can possibly access off of Old County Road and through the leaf dump, so she recommended that they talk to Chris Kervick and Phil Sissick in terms of the town impact and general community. She also told them they need to have an informal discussion with this commission. She told them she would pull the original subdivision approvals and that likely the reason for the access off of Old County Circle was to direct traffic that way. She was upfront with that assumption but she would like to formalize this by going through the old application and approval with them and then have them come to this commission. Chairman Gannuscio said to let them go to the board of selectmen and the EIDC. Ms. Rodriguez confirmed that they did contact Mark Pellegrini and the EIDC.

Public Act No. 17-39, An Act Clarifying the Continuation of Non-Conforming Uses, Buildings, or Structures

Ms. Rodriguez stated she would like to go over Non Conforming Uses. There was a change to the legislation in 2017. The language basically says that abandonment or intent to abandon a nonconforming use or structure is very hard to prove. This solidifies what case law has been telling us in the past few years. But we have in our regulations under the nonconforming section, Chapter 8, that if someone demos a house, for example, and it's nonconforming in its location or in other ways, they can rebuild it if it was destroyed by fire or an act of God, and it would have to be rebuilt within six months. She believes that the new language no longer allows us to say it has to be rebuilt within six months and that unless the owner of the property puts something in writing to us that they are abandoning the use that's non-conforming or the structure that's non-conforming and it's their intent to no longer have that right that we have to let them rebuild it even if it's years gone by. So they would have to either build something different and then they couldn't go back to what was originally there or they would have to put something in writing. Chairman Gannuscio noted that there may be a Supreme Court case (Mangiafico vs. Farmington) that offers some guidance on this that gets decided in the next few months. Ms. Rodriguez read the quote from the Public Act and commented that in our current regulations there is a provision that such reconstruction or rebuilding is commenced within six months of such damage and that the nonconformity is continued. She is questioning whether they need to remove that language. Chairman Gannuscio agreed that that language has to be removed so there is not a conflict with the statute. Ms. Rodriguez said she didn't want to ask the Town Attorney without the direction of the commission, but she can ask him whether he agrees with that and then propose an amendment.

Chairman Gannuscio asked about Pickleworks.

Mr. Szepanski asked who owned the vacant lot across from NAPA and how to contact them.

X. Adjournment

It was **MOVED** (Gannuscio) and **SECONDED** (Zimnoch) and **PASSED** (Unanimous, 4-0) that the Planning and Zoning Commission adjourns the January 8, 2018 meeting at 9:14 pm.

Respectfully submitted,

*Debbie Seymour
Recording Secretary*