

**PLANNING AND ZONING COMMISSION**  
**November 13, 2017 Meeting Minutes**

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

Commission Members Present: Alan Gannuscio, Vincent Zimnoch, Jim Szepanski, Alexa Brengi, and Cindy Cooper (Alternate)

Commission Members Absent: Luis Valdez, and Kayleigh Royston (Alternate)

Town Staff Present: Jennifer Rodriguez (Town Planner)

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**I. Call to Order**

Chairman Gannuscio called the meeting to order at 7:10 pm.

**II. Roll Call**

Commission roll call was taken. Chairman Gannuscio seated Cindy Cooper for Luis Valdez.

**III. Approval of Minutes from the August 21, 2017 Special Meeting, September 11, 2017 Regular Meeting, September 26, 2017 Special Meeting, October 10, 2017 Regular Meeting, and October 25, 2017 Special Meeting**

It was **MOVED** (Szepanski) and **SECONDED** (Brengi) and **PASSED** (Unanimous, 3-0; Gannuscio and Cooper Abstaining) that the Planning and Zoning Commission approves the minutes of the August 21, 2017 special meeting as published.

Mr. Szepanski noted a correction in the September 11, 2017 minutes: in Section IX.C.(i), Adaptive Reuse Regulations, in the motion, *for October 10, 2017* should be included in the motion at the end of the sentence.

It was **MOVED** (Gannuscio) and **SECONDED** (Zimnoch) and **PASSED** (Unanimous, 4-0; Brengi Abstaining) that the Planning and Zoning Commission approves the minutes of the September 11, 2017 regular meeting, *as amended*.

Mr. Szepanski noted a correction in the September 26, 2017 minutes: in Section III, in the first motion, *and Debbie Seymour (Recording Secretary)* should be added after *Jennifer Rodriguez (Town Planner)*.

It was **MOVED** (Gannuscio) and **SECONDED** (Zimnoch) and **PASSED** (Unanimous, 4-0; Brengi Abstaining) that the Planning and Zoning Commission approves the minutes of the September 26, 2017 special meeting, *as amended*.

Chairman Gannuscio stated that approval of the minutes of the October 10, 2017 regular meeting would be postponed to the December 11, 2017 meeting.

It was **MOVED** (Gannuscio) and **SECONDED** (Szepanski) and **PASSED** (Unanimous, 4-0; Cooper Abstaining) that the Planning and Zoning Commission approves the minutes of the October 25, 2017 special meeting as published.

IV. **Public Hearings** (none)

V. **Reviews** (none)

VI. **Action on Closed Public Hearing Items**

**A. Site Plan Review for 255 Main Street, Unit 7, for Kingdom Harvest Fellowship to Conduct Worship Services**

Chairman Gannuscio pointed out that the public hearing for 255 Main Street, Unit 7 is closed and a special use permit for this application was approved, but the site plan review is still open. He stated that one thing troubled him: Someone yelled over their shoulder on the way out of the last meeting that this board was acting in a discriminatory fashion. Chairman Gannuscio read for the record the following, which involved *for the same site* the approval of a site plan for the RISE Academy at 255 Main Street (taken from the minutes of the April 10, 2017 Planning and Zoning Commission meeting):

*...the following two conditions noted: ...the owner of the property will restripe the parking lot and repair the curbs and potholes and any cracks prior to a Certificate of Occupancy being granted; and...the sign requirement will be delegated to staff review.*

Chairman Gannuscio went on to say that this is a set of conditions previously approved for the same site, with no discrimination involved. Until there is an apology made for the claim that there was discrimination on the part of this board at the special meeting last week, there will be no continuation of this matter this evening. In fact, he would suggest it gets marked over to December unless there's an apology.

Alain Fournier, pastor of Kingdom Harvest Fellowship, responded that he did not know who made this statement. At this point an unidentified woman interrupted, "I did." Chairman Gannuscio asked if she was going to apologize. She responded, "No, I'm not, because that's my opinion. And my opinion doesn't affect them. It's not their opinion, it was my opinion. It had nothing to do with them." Chairman Gannuscio: "But you made the accusation that a public board in this town is discriminating against your fellowship. We included you on a special meeting agenda to try to wrap this up, and that's what we received in return for that, that we were discriminating." She replied, "Well, I apologize." Mr. Szepanski asked if we needed a name of the individual. Chairman Gannuscio responded that he thought that would help for purposes of the minutes. She answered, "My name is Maureen Good."

Chairman Gannuscio stated that we have established that this was a condition that was earlier established when it came to this exact same space. He received an email from Dana Steele saying he did not receive any contact from either the applicant or the owner regarding some kind of resolution of the parking lot problem. Rick Sarandrea, 900 Main Street, Watertown, spoke up to say that he is one of the owners and is here now. He said he doesn't like to be badgered when he wasn't here and then explained why he was not at the previous meeting. He added that they've owned this property for 25 years and there hasn't been one slip and fall or one accident, and on occasion the police department uses the parking lot for spot checks. He continued: "If you want to go through repairing cracks in the parking lot, then all the way up here you should repair all the roads in Connecticut. We're in New England. First off, it's not your problem or my problem. Whoever approved that property for that building at the time, from what I hear, it was built on a swamp. Five years ago I spent \$17,000 to do both driveways over. The following year they're all ripped up because there's a problem under the ground. There's a river there. Chris Kervick told me, everybody told me. I try to do the best I can over there with that property. I've been there 25 years, I pay my taxes." He asked to approach the board to show them pictures of striping. He said he does it every year in the spring. Mr. Szepanski pointed out that he is showing them a couple of handicapped spots and asked where the rest of the parking lot pictures were.

Mr. Sarandrea identified himself for the record at Mr. Szepanski's request. Mr. Sarandrea said he doesn't understand. It's 1,000 square feet. These people have been going through this for seven months. It's 33,000 square feet and we've owned it 25 years and have never had a slip and fall or an accident. As far as where the curbing is missing, they took the curb out and they regraded it because they're piling snow in there for how bad the winters have been. He's been working with Steve Wawruck and Chris Kervick and is on the steering committee to restore the railroad station. Mr. Sarandrea: "Right now, you expect me to rip up the whole parking lot, spend a couple hundred thousand dollars to put in a thousand square foot tenant? We're trying to put in a medical building. We're trying to redevelop that whole area. You know that's being done, so why are you holding these people hostage when there's people in that plaza every day and we've never had a slip and fall and we've never had an accident. Never." Ms. Brengi informed Mr. Sarandrea that she rolled her ankle hard in his parking lot. He said he never heard of it, she never reported it. Ms. Brengi: "Report it to who?" Mr. Sarandrea: "To the owners." Ms. Brengi: "There's no insurance involved. You fall, you roll your ankle, you whatever. I got up and I left. But how many other people have done that?" Mr. Sarandrea: "I don't know. I've never gotten a complaint." Ms. Brengi: "You've got to make it safe, to make it look better." Mr. Sarandrea: "We do. We fix the potholes. The place looks great. We keep the lawns cut, there's no papers in the parking lot, there's all new LED lights in the parking lot, there's all new lights under the overhang, I don't know what more you want us to do. If there's potholes we fix them. I hope you go after all properties like this because I can take a ride around the properties and show you stuff that's worse than our property. I'm just wondering why on a 1,000 square foot person that's coming in why it's taken seven months to get them in there....And by

the way, you're so concerned about the parking lot...when are you gonna do something...we never reported it. The storm sewer in front of the property floods out the restaurant for years. We never complained. It's pitched the wrong way. Floods out the parking lot and washes out the entrance that we have to fix all the time. Do you hear me coming to the town? I just bear with it, just like you said. We're all human. We do what we can do. There's not a million dollars being made over there....These are nice people, helping kids in trouble. If you have a heart, they've already been approved, I would just let it go. And we'll take care of fixing the potholes in the parking lot."

Chairman Gannuscio reiterated that these are conditions that weren't pulled out of the air for this application. Back in April these same conditions were put out there and approved. Mr. Sarandrea argued that those people never occupied the space and aren't there and this is a new application. Chairman Gannuscio stated that the same conditions exist now that existed in April. Mr. Sarandrea responded that the potholes are fixed, the parking lot is striped, the parking lot is swept, the grass is swept, the lights are on. He doesn't understand why we're going through all this. Mr. Szepanski asked Mr. Sarandrea if he just said he fixed the potholes. Mr. Sarandrea responded, "We fix them, yea, when I see them." Mr. Szepanski: "You fixed them? I was there Sunday morning." Mr. Sarandrea: "No, I haven't fixed them yet 'cause it's been raining pretty hard. They got washed out but as soon as they're dry I'll have my guy over there to fix them. We fix them every time. That's all we can do. That property is really wet underneath. I saw cut the entrances, spent like \$17,000 a side, and the following year...frost just eats that parking lot up. If you look at the upper parking lot that's in front of the stores, not a problem at all." Mr. Szepanski: "So what you're saying, you're going to have a perpetual problem with that parking lot." Mr. Sarandrea: "Probably. We've been there 25 years and that's what we've been doing. Every year we patch it, every winter, every spring. And the biggest problem we have is down by Gus's. The storm sewer is going the wrong way and it washes out that driveway. Go look tonight you can see that it's all fixed in front."

A discussion took place regarding the location of the potholes and the definition of a pothole. Also discussed was the shape of the plaza, the roads in Windsor Locks, whether Mr. Szepanski has the right to be on his property taking pictures, and who the applicant is for this application.

Ms. Cooper stated that this parking lot has always been a problem. She goes there almost every Friday and has to be very careful walking because there are holes and divots and bumps. She agrees it's probably an underlying issue. She said that he has spent a lot of money trying to keep it up, and if you look at what he has spent in the last 25 years, maybe he is throwing money away because he has to keep repairing. Mr. Sarandrea: "Like I said before, we're trying to work on something. We're trying to get a two-story medical building to come in. The end building would be a restaurant, and once those buildings are up, we'll knock that building down. But it's not done yet. Right now we're just trying to maintain. I can't help it if that parking

lot keeps breaking. My contractor is constantly over there trying to fix those potholes. If we see them and they're not wet, we do something. And when we can't fill them, we put stone in there and compact the stone. I don't know what more to say. I can't see holding these people hostage. I'm trying to work with the town. I apologize if I got upset. I'm just trying to help people out."

Chairman Gannuscio pointed out that Dana Steele, Town Engineer, couldn't make it to the meeting tonight, and his suggestion was that he is available to view the site and identify what is most in need of repair at this point. Mr. Steele remains willing to identify which spots in his opinion have the most bearing on public safety with a possibility of 75 to 80 people at peak membership using this site. The public hearing is closed on this, so his motion would be that the site plan for 255 Main Street, Unit 7, Kingdom Harvest Fellowship, be approved with the condition that parking lot repairs be made with some kind of an agreement after review of the site by the Town Engineer and either the owner or representative of the owner so that the least chance of any injury on this property presents itself.

Chairman Gannuscio asked Ms. Rodriguez for her thoughts. She replied that as specific as he can be now would be helpful to her because she will be the one issuing the Certificate of Occupancy. She thought it might be good to read some sections from their off street parking design regulations so that everyone can understand these are things that are required by regulation and it's up to the commission whether it wants to waive them in the first place. She went on to read Section 701 of the regulations. Ms. Rodriguez stated, "The intention here is that this is a responsibility of your commission to look at this and you do have the opportunity to waive it if it's an existing use or you can require that the design of the parking lot, including striping, the number of spaces, the landscaping that is required...you can ask for that to be proportionally brought up. So I think, could the commission say, 'Well, we have a new use here. The capacity could build to what the applicant asked for, which is maybe 20, or it could be up to 100.' I think it's fair that you've gone through this assessment, that you've looked to see that the parking lot will be maintained. You're not asking for additional striping or changing in the parking layout. You haven't asked for new landscaping, but you have asked that the parking lot be safe and that the potholes be fixed. I thought that that might help those of you that are attending or your commission to really understand that sometimes the discussion can become visceral, or gut-led, but it truly is led by your regulations. I would love any clarifying language regarding the types of changes you're looking for Dana to observe and request....So if you could be specific to the type of improvement of the parking lot, that would be very helpful to me so that it's a little more clear cut at the time of request for a Certificate of Occupancy."

Chairman Gannuscio stated that he is not looking for any additional landscaping either on the street or within the parking lot itself. It's been a long existing site with trees that have been tried. However, we're opening the town up to be included as a defendant if someone were to be injured in this parking lot. Mr. Steele has said that

as the Town Engineer, it's not really his purview, but he's more than willing to take a quick review to see if something needs to be addressed. Ms. Rodriguez said that she was sure that she and Mr. Steele could go out tomorrow morning.

Mr. Zimnoch commented that he thinks what they are looking for is a safe parking area with 80 spots in order for this application to go forward. Eighty spots to be free of potholes, with visible striping. Chairman Gannuscio added that this could be a condition for the issuance of a Certificate of Occupancy. Mr. Zimnoch said if the applicant could not satisfy Ms. Rodriguez and Mr. Steele, then the applicant would have to come back and no CO could be issued.

At this point, Mr. Sarandrea interrupted to say that the applicant was withdrawing their application. "There's only 80 people twice a week. They're withdrawing their application. So I guess Windsor Locks Commons is closed. Everything." Chairman Gannuscio: "Okay. So withdraw the special use application as well." Mr. Sarandrea: "There you go. Thank you, you did a great job. 1,000 square feet, just think of that in your mind. Out of 33,000 square feet. You did a great job." Ms. Rodriguez: "So I don't know if it makes a difference, but I'm just asking them to clarify and summarize as part of the motion...it doesn't sound to me like what you're suggesting is very different from what was just talked about five or 10 minutes ago." Chairman Gannuscio: "At this point my proposed motion is withdrawn because the application, as stated on the record, has been withdrawn." Mr. Sarandrea: "Why not make you happy?" Unidentified woman: "But he's not the applicant. The applicant didn't say that." Mr. Sarandrea: "My parking lot is not the worst parking lot in the town." Ms. Brengi: "To fight fixing potholes? It's insane." Mr. Sarandrea: "I fix the potholes." Ms. Brengi: "He wants to make a motion to approve, all you have to do is make the parking lot satisfactory for Jen and Dana, and it's done."

Mr. Szepanski pointed out that Mr. Sarandrea's signature is on the application and is on the record as saying he is withdrawing his signature from the application, so this application is not good any more. We have a situation where half the party says no. Ms. Rodriguez suggested taking a five minute break so the applicant and the owner can discuss if they want to go forward with the withdrawal.

**CHAIRMAN GANNUSCIO CALLED A FIVE-MINUTE BREAK AT 7:45 PM.**

Chairman Gannuscio asked what consensus was reached. Mr. Sarandrea replied that they want to continue on, and they came up with an idea. From here on in, every time he fixes a pothole or stripes the parking lot or does anything, he will submit a bill and pictures to Ms. Rodriguez to show what has been done. He commented that one of the big problems is the drain backs up whenever you have a heavy rainstorm and washes out the parking lot on the side where Gus's Pizza is. Mr. Zimnoch stated that as part of the approval process for the site plan, what Mr. Sarandrea needs to agree to is to have the parking lot fixed based on the assessment of the Town Engineer who is

not going to be acting as Town Engineer in that capacity, but he is going to be the commission's eyes. We need that parking lot to be safe. Mr. Sarandrea said he feels the parking lot is safe right now. He asked that they be sure Mr. Steele meets with him.

Chairman Gannuscio asked if there is a motion to be made. Mr. Szepanski: "Let me understand a little bit. Apparently we are looking at a perpetual problem. If the gentleman goes out there and agrees with Dana that he's going to fix x amount of potholes and they're fixed before the asphalt plant closes, then we're going to get the winter weather...all those potholes are just going to resurface again. What happens during that unsafe period? Let's say it's March. When are those potholes going to be fixed, or are we going to live with a health/safety issue? It seems like a perpetual problem, and I'm not sure we're getting a solution or if there is a solution. Is the gentleman going to agree as the March rains come and it freezes that a cold patch will be brought in? Is that going to be part of the agreement?" Mr. Sarandrea: "I've done that. I've got bills to prove it. You're asking for an awful lot on a property that's almost 30 years old. They're not coming here for a new site plan approval. We're not building a new building. That building's been there. I don't understand you. 1,000 square feet." Chairman Gannuscio: "All right, enough debate. What motion is there?" Mr. Szepanski asked if his concern will be addressed. "What do we do in February and March when we get more potholes? We're just going to turn our backs on that? If we're really concerned about health and safety, we really don't have a solution. This is a bandaid approach. Maybe it's okay. Maybe that's all we can get tonight." Mr. Zimnoch replied, "Beyond that, I think it's an enforcement issue. If somebody gets hurt and it gets reported then it's an enforcement issue." Mr. Szepanski: "Is the town of Windsor Locks going to have some liability if someone gets hurt?" Chairman Gannuscio asked again for a motion.

It was **MOVED** (Zimnoch) and **SECONDED** (Cooper) and **PASSED** (Unanimous, 4-0; Szepanski Abstaining) that the Planning and Zoning Commission approves the site plan for Kingdom Harvest Fellowship to conduct worship services at 255 Main Street, Unit 7, with the condition that potholes identified by staff as problematic are fixed prior to a Certificate of Occupancy or the work bonded and striping identified by staff as not visible is fixed prior to a Certificate of Occupancy or the work bonded.

## **VII. Old Business**

**A. Discussion with Commission and Staff** (none)

**B. Action Items** (none)

## **VIII. New Business**

**A. Public Input** (none)

## **B. Receive New Applications**

### **i. Special Use Permit with Site Plan Review for 1 Corporate Drive for AdventurEscape**

It was **MOVED** (Gannuscio) and **SECONDED** (Brenge) and **PASSED** (Unanimous, 5-0) that the Planning and Zoning Commission schedules the special use permit with site plan review for AdventurEscape at 1 Corporate Drive for a public hearing on December 11, 2017.

Ms. Rodriguez distributed to commission members a packet with two applications.

### **\* Special Use Permit with Site Plan Review for Collins Package Store at 552 Halfway House Road**

Ms. Rodriguez read a cover letter from Attorney Paul Smith dated November 9, 2017 stating that his office is representing Collins Package Store and its application to expand its retail package store business. She stated this would have to be scheduled for a public hearing because it is an amendment to their liquor application. Chairman Gannuscio asked about the list of surrounding liquor permit holders. Ms. Rodriguez replied that they've been working on it, and she will make sure it is included in the application.

It was **MOVED** (Gannuscio) and **SECONDED** (Zimnoch) and **PASSED** (Unanimous, 5-0) that the Planning and Zoning Commission schedules the special use permit with site plan review for Collins Package Store (applicant being Nirmay Patel) at 552 Halfway House Road for a public hearing on December 11, 2017.

## **C. Informal Discussions**

### **iii. Spring Street Auto Uses—Tom Hillery**

Tom Hillery, 229 Sutton Drive, addressed the commission. He stated that he restores cars. It's more of a long-term restoration process, and he can have the cars for two weeks or two years. 465 Spring Street is at the Red Rider building, and Julie Sales owns the building. He was on Northgate Road but recently moved his stuff to 465 Spring, but he didn't know it was zoned B-1. Chairman Gannuscio commented that that is the main sticking point here, the use in this property as it's zoned. Ms. Rodriguez stated that there are a lot of properties that are already legal non-conforming so they can continue, and if they have an auto use now and a new user wants to come in, they can do that. Over time, at some point, the town changed the permitted uses that are on Spring Street to no longer permit general repair. The commission made an interpretation of the regulation a few years ago that minor servicing (oil changes, changing out wiper blades) would be permitted as well as limited repair, but that was the cutoff for what types of uses are more industrial in nature and which would be in a regular commercial zone.

Mr. Hillery explained what type of work he does. He said they are long term projects, and he has from four to six cars at one time. Chairman Gannuscio noted that there is no box checked on the application and asked what type of review this should be. Ms. Rodriguez replied that if he needs a general repair license, they are not permitted in the B-1 zone, so she can't go to the table and look at what kind of process this use would need. It's not listed as a permitted use. Something to also consider is when this commission approved the construction of this particular building, there was a condition that only uses permitted in the B-1 zone would be in the building, so whatever is decided tonight would have implications for other uses that go into that building. Chairman Gannuscio asked if this is something that would be best to go the ZBA first. Ms. Rodriguez replied that it has to go to the ZBA anyway for the DMV location, but the request would be a use variance first. That use will run with the land, so no matter who comes to apply, a new user down the road with a General Repair license would also be able to go in. Ms. Rodriguez clarified with Mr. Hillery that that would be the kind of license he would need. He replied that unfortunately there is no special license for automotive restoration, and it does fall with the state DMV under General Repair. Ms. Rodriguez read the description of this particular type of use that is not permitted in a Business 1 or Business 2 zone; it is permitted by special use permit in Industrial 1 and Industrial 2 zones. It was mentioned that the applicant behind The Kuttery has a Limited Repair license. Ms. Rodriguez said the commission made a line drawn between Limited Repair being something that's in harmony with the business zone and General Repair being more industrial in nature. Chairman Gannuscio commented that he sees this use as far more limited in scope and much less likely to be an eyesore, as compared to what's going on behind The Kuttery. Ms. Rodriguez reminded everyone that these approvals run with the land, not the person. She commented that this is a discussion to have in the future—does the community want Spring Street to not have automotive, which is the direction the regulations are taking it, or has the community come to depend on that part of Spring Street being an automotive use.

Chairman Gannuscio commented that this can't be a special use because it's not a permitted business use, and he doesn't see a clear cut direction. Mr. Zimnoch replied that the problem lies in the fact that this requires a General Repair license. Chairman Gannuscio wondered about adding a text change to say "hobby" or "vehicle restoration" but realized it is dependent upon the DMV license, since our categories are based on the DMV license. Ms. Rodriguez added that you can be specific about any type of use you want to, but she would like to get the Town Attorney's opinion on whether you can condition those uses and if it would be upheld if one user left and another user came in who wanted to apply for that same DMV license. She added, "But I would think you can make your regulations as specific as you want to be in terms of the type of service." Chairman Gannuscio suggested talking to the Town Attorney to try to come up with an answer about this. Given his experience with surrounding towns, maybe he would have a solution. Chairman Gannuscio commented that he would hate to see this postponed to January. Mr. Szepanski suggested getting it set up for a

public hearing for December 11 while we wait to hear from Attorney Landolina. There was a discussion about what the fee would be and about checking the “Other” category on the application. Ms. Rodriguez responded that “Other” would be for a zoning permit that staff administered, a driveway permit, a CO request, a multi-family site plan, a sign application, or a variance established by the ZBA. There are no other permit fees for this type of use. In another zone it would be a special use permit. And then you always conduct your site plan review unless you waive it. Chairman Gannuscio suggested getting some type of feedback from the Town Attorney without \$600 coming out of the applicant’s pocket for an application. See if there is a solution or a suggestion from the Town Attorney. Ms. Rodriguez pointed out that you have to schedule it for something, either a review or a special use permit for the legal notice. The commission always has the option to waive a site plan and then maybe it’s the special use permit cost and the DEEP fee. There is also a paragraph in Section 401 that reads:

The Commission may determine that a use not expressly prohibited is a similar use in a given district and that it will otherwise be in harmony with permitted uses in the zone; and that granting permission for such use will be subject to the same procedures as the comparable similar use; and provided further that the Commission may make the granting of such permission subject to such conditions as it may determine to be necessary for the protection of the health, safety and general welfare of the public.

Ms. Rodriguez stated that if you are looking to possibly determine that this is different enough than just the general garage, you would want to reference this paragraph in Section 401. You would potentially want it to be a special use permit so you could condition it. You do have a recent site plan that’s been approved so you could possibly waive that.

Chairman Gannuscio stated that this does not sound like an intensification of anything that’s going on right now on the site, so that leaves the DEEP and the special permit application as fees. He said he could see the potential for what Ms. Rodriguez just read as being a pathway. Chairman Gannuscio asked Mr. Hillery if wants to submit this as a special use permit application. He replied, “I would think so.” Ms. Rodriguez asked the applicant if she has his permission to check the “Special Use Permit with Site Plan Review” box on the original application. Mr. Hillery replied affirmatively. Chairman Gannuscio asked if there is a more specific address to use at 465 Spring Street for legal purposes. Mr. Hillery answered, “Unit F.” Ms. Rodriguez clarified with Chairman Gannuscio that he would like her to talk to the Town Attorney about a possible text amendment and/or a different sort of zone. Chairman Gannuscio suggested scheduling the public hearing and if the Town Attorney says there is no way this can be done under the regulations as they exist, the fee can be refunded to the applicant.

It was **MOVED** (Gannuscio) and **SECONDED** (Szepanski) and **PASSED** (Unanimous, 5-0) that the Planning and Zoning Commission schedules a public hearing for a special use permit solely, waiving the site plan review for this particular site, 465 Spring Street, Unit F, for the business known as Hillery Hot Rods, LLC on December 11, 2017, with the potential return of any fee should the Town Attorney's review suggest the impossibility of this avenue.

Ms. Rodriguez added that the ZBA process, though redundant, is still required by the DMV. It's a state law that for towns of populations of under 20,000 people that the ZBA reviews the location. The applicant has already applied, and the application has been sent out to the ZBA members, so the decision tonight doesn't take that requirement away.

## ii. FFL for Marketing Purposes

Chairman Gannuscio asked if there has been any word from the Town Attorney. There has not been. He pointed out that no formal application had been made and then summarized for Mr. Zimnoch, who was absent at the October meeting when this was discussed. There is a potential FFL application but there are no sales involved, just photographing items that are sent for marketing purposes. Mr. McGough added that for firearms manufacturers and gunsmiths to send him guns he needs to have an FFL. The ATF does not have marketing specific FFLs, so he has to get a regular FFL. The ATF told him to check with Planning and Zoning because part of the process is going to the Police Chief. The question on the table is, does he need a special use permit for this which would require a public hearing and putting up a sign in front of his house. If this is the case, he has to make a decision if he wants to continue, as putting a street sign in front of his house with an FFL application is a little bit of a security concern for him. Mr. Zimnoch clarified that this would be a home occupation. Mr. Szepanski pointed out that if he gets his FFL and is taking pictures of triggers and guns today, next week he could decide to sell guns out of his home because he has that license. This is one of our concerns: do we want a home occupation that could turn into selling guns and the special use goes with the property. Mr. McGough replied that there is already precedence in town for doing that, so it's been done recently. He commented that Ms. Rodriguez was going to check with the Town Attorney to see if a stipulation could be put on the language, and he was hoping to have an answer tonight. Chairman Gannuscio asked if this had gotten floated by Attorney Landolina, and Ms. Rodriguez replied that she had not talked to him yet. He asked the applicant how this would affect him if it had to wait another month. Mr. McGough asked if another month was necessary or if they could just ask the attorney next week if a special use permit will be needed. Ms. Rodriguez replied that either way it wouldn't be taken up until January. Chairman Gannuscio said he understands that he would like an answer in some shape or form, but unfortunately they don't have an answer for him this evening. Ms. Rodriguez said she has to call him tomorrow and will let Mr. McGough know what the Town Attorney says. Mr. Zimnoch stated that if the Town Attorney doesn't think a

special use is needed, he feels they have to have a public hearing anyway since the neighbors need to know if someone has guns. Mr. McGough feels that is absurd. Ms. Rodriguez pointed out that the commission can review every home occupation. Mr. McGough replied that it's such a minor thing, talking about one or two guns a month coming in and out of his house, but he'll wait to hear from Ms. Rodriguez and make a decision as to what he wants to do.

#### **D. 2018 Calendar of Meetings**

It was **MOVED** (Gannuscio) and **SECONDED** (Zimnoch) and **PASSED** (Unanimous, 5-0) that the Planning and Zoning Commission adopts the list of 2018 calendar dates with the town seal on it as the calendar of meeting dates for 2018 for the Planning and Zoning Commission.

#### **(C. Informal Discussions)**

##### **i. Temporary Health Structures—CT Legislature**

Chairman Gannuscio read what the Town Attorney sent him about this topic the end of last month. "Earlier this year the Connecticut General Assembly adopted Public Act 17-155. This legislation requires municipalities to allow the installation of temporary structures on residential lots to house mentally or physically impaired persons or being cared for by a person occupying the principal structure on the premises. These structures are known as temporary health care structures. The legislation requires the property owner to obtain a permit from a municipality which said permit must be approved or denied within 15 days of receipt of an application. There is a requirement that the applicant provide written notice to abutting property owners. In addition, the municipality may require a bond of up to \$50,000 to ensure removal of the structure once the impaired person vacates the structure. Finally, the act allows municipalities to opt out after a public hearing by the Planning and Zoning Commission in a vote to do so by the commission, followed by a vote of the Board of Selectmen."

Chairman Gannuscio asked about the opting out option: "Opt out of what?" Ms. Rodriguez responded, "If a community didn't want people to be able to apply, they would have to go to an Opt Out process." Chairman Gannuscio pointed something out: "It says, 'by a person occupying the principal structure,' so it could be a tenant who brings someone in versus an owner." Ms. Rodriguez read an example of Ridgefield's Opt Out legal notice. She noted that a number of communities said you might not get a lot of people taking advantage of this when you have to provide the utilities, put up the bond, and then remove the structure when that person is no longer there. Chairman Gannuscio mentioned the 15 days they have to act on an application and said there would be no time for a public hearing. Ms. Rodriguez said you couldn't require a special use permit, and if they meet the zoning regulations or meet what's required by the state statute, you would pretty much have to approve it. Mr. Zimnoch asked if they are still

obligated by the setbacks. Ms. Rodriguez responded that she wasn't sure. She stated that Plainville did a good pro's and con's list, which she printed out. A brief discussion took place regarding the types of questions that communities are asking.

Chairman Gannuscio questioned this sentence: "This legislation requires municipalities to allow the installation of temporary structures *on residential lots* to house mentally or physically impaired persons or being cared for by a person occupying the principal structure on the premises." He wondered if Pfaffenbichler's Place apartments on Old County Road would be considered residential. Ms. Rodriguez answered that it depends on whether you're going by the building code definition or a planning and zoning definition. If it's a multi-family property, that would be considered commercial if you're a real estate professional or a building code professional. If it's a planning and zoning definition, then that would need to be clarified. Chairman Gannuscio remarked that at the very least some definitions would have to be added to our regulations. He suggested leaning on our Town Attorney's experience. Ms. Rodriguez asked, "The question is, do you take their language or do you go through your own work and write up something that works for your community?" Chairman Gannuscio said to keep this as an agenda item. Ms. Rodriguez added, "Probably for the next few months." She will keep taking in feedback from other communities and keep an eye on what everybody's doing and get our Town Attorney's opinion. Ms. Cooper asked if we have to notify anyone if we opt out. Ms. Rodriguez responded, "Yes, you have to put it in the paper, have a public hearing, and take feedback from the community."

## E. Action Items

### i. Election of Officers

Chairman Gannuscio stated that he does not mean to delay or procrastinate, but Mr. Valdez is not here tonight, and if he has interest in being an officer, he wouldn't want to foreclose that opportunity for him, so if no one objects, he would like to postpone this to December.

It was **MOVED** (Gannuscio) and **SECONDED** (Szepanski) and **PASSED** (Unanimous, 5-0) that the Planning and Zoning Commission postpones Election of Officers to the December 11, 2017 meeting.

## OTHER

Ms. Rodriguez stated that the DOT puts out a call for study ideas. It's not necessarily a grant, but a study nomination. We've talked a lot about the types of uses that might happen on the Thrall property, and the B-3 site at UTAS. One of the things that would be in the POCD is to look at that Route 20 corridor and proactively looking at a development strategy for those parcels and the transportation that links those parcels along Route 20. The idea is to look at

transportation, look at safety, and look at possible improvements that are going to allow the connection between Route 20 and these properties. Developers at each of these properties are saying that because of the potential traffic volume that would be associated with developing them, they would need to do some sort of re-routing or change to make sure that they can handle the volume. It's been years of feedback on this series of parcels. We have opportunity there to also do some sort of bike path, and a feasibility study is a good way to look at that sort of thing. We just threw the idea out there and CROCOG ended up nominating it to the DOT as a recommendation for a study for a municipality. They called this morning to say that they were going to make that recommendation to the transportation committee. However, she's not sure how that process moves forward or whether the DOT will even take interest in it.

Chairman Gannuscio asked Ms. Rodriguez if sees any way that the Simon Group gets resurrected. She responded that she didn't know but she will call them in a bit.

**IX. Communications and Bills** (none)

**X. Adjournment**

It was **MOVED** (Gannuscio) and **SECONDED** (Zimnoch) and **PASSED** (Unanimous, 5-0) that the Planning and Zoning Commission adjourns the November 13, 2017 meeting at 9:26 pm.

*Respectfully submitted,*

*Debbie Seymour*  
*Recording Secretary*