

PLANNING & ZONING COMMISSION
October 14, 2014 Meeting Minutes

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

Commission Members Present: Vincent Zimnoch, Jim Szepanski, Curtis Ruckey, and Mike Forschino (Alternate)

Commission Members Absent: Alan Gannuscio, Alexa Brengi, and Pat Sayers (Alternate)

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

I. Call to Order

Chairman Zimnoch called the meeting to order at 7:03 pm.

II. Roll Call

Commission roll call was taken. Mr. Forschino was seated by Chairman Zimnoch.

III. Approval of Minutes from the September 8, 2014 Regular Meeting

Approval of minutes was postponed until Mr. Gannuscio and Ms. Brengi could be present.

IV. Public Hearings

A. Public hearing on an Amendment to Section 218, Unregistered Vehicles

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

The legal notice was published in the *Journal Inquirer* on October 2, 2014 and October 9, 2014.

Ms. Rodriguez addressed the commission. She explained that for several years town residents publicly have talked about blight and zoning being an issue, and so after years of looking at the zoning regulations and having a new blight ordinance, it's become apparent that there is a conflict between the two, and the conflict is troublesome when it comes to enforcement. There is a slight text amendment that is being proposed. Section 218 states: "In all residential zones the parking of one boat or one unregistered vehicle will be permitted in a rear yard. Under no circumstances shall any boat or unregistered vehicle be occupied for living quarters." What she has recommended is that the phrases "or one unregistered vehicle" in the first sentence and "or unregistered vehicle" in the second sentence be removed, so that it reads, "In all residential zones the parking of one boat will be permitted in a rear yard. Under no circumstances shall any boat be occupied for living quarters." She mentioned something to consider was that if someone had a car that wasn't running and they wanted to work on it and leave it in the driveway for a while, that would not be permitted now with this amendment.

Chairman Zimnoch summarized: as proposed, the zoning regulation will be changed to match the blight ordinance, and only one boat will be permitted and no unregistered vehicles.

Mr. Forschino felt there are a lot of people who like to work on their vehicles, and he did not see anything wrong with keeping one unregistered vehicle as long as it is kept covered up so it's not an eyesore. Mr. Ruckey agreed and asked if the blight ordinance was only for unsightly situations. Ms. Rodriguez stated if there is an unregistered vehicle and that is the only complaint, then that is followed up on under blight. It doesn't have to be part of an overall situation. Mr. Ruckey asked, "How did we let the blight law step over what we have for zoning?" Ms. Rodriguez replied that they follow their own paths and are approved by different boards and commissions and the public. Mr. Szepanski said there is some discretion—if someone has an unregistered vehicle that they're working on and it's there for maybe six or eight months, he thinks maybe no action will be taken. Mr. Ruckey said there is nothing saying when an appropriate timeline is, and he questioned how the town allowed it to happen without considering what was already on the books. Chairman Zimnoch said the town allowed it to happen because that happens in a town meeting. Mr. Ruckey replied, "So as a board we have to respond to that and change the regulations?" Chairman Zimnoch commented, "I think we have to be aware of what the overall rules are, and I'm thinking in terms of different jurisdictions, and sometimes you have conflicting laws and you have to bring them into harmony, otherwise you have a problem, and Jen has a problem." Typically these are not situations where someone just parked an unregistered car for a day or a week, it's a situation that has become a problem to such a point that action needs to be taken, and she is called out to take action, and she can't. Mr. Ruckey asked if this change would apply to a property that was zoned both residential and business. Ms. Rodriguez said yes it would.

Mr. Forschino asked what the definition of blight was, as he did not feel the vehicle itself is blight. Ms. Rodriguez explained that the opinion of folks in town who met multiple times to talk about the ordinance felt the way it was worded was what they wanted and voted on it. Mr. Forschino said he was worried that the people who like to work on their vehicles would not be allowed to do this anymore. Mr. Ruckey said the two ordinances do need to jive, but he isn't sure of the wording. Chairman Zimnoch said he thinks the reason unregistered vehicles get pulled into the blight ordinance is because unregistered vehicles tend to become blight, but on the flip side, if you have an unregistered vehicle that you're working on and you keep it covered up and it doesn't become blight, you probably won't get a complaint.

At this time Chairman Zimnoch opened up the public hearing for comments from the public in favor of this amendment. There were none. The floor was then opened up for comments in opposition. There were none.

Chairman Zimnoch asked for final comments from commission members. Mr. Szepanski said he doesn't have a problem with the amendment and that he knows the intent. Mr. Ruckey said this is what the town voted for. Mr. Forschino commented that he agrees with it, that we need to change it one way or the other--change the zoning law or the blight law. Chairman Zimnoch said that Ms. Rodriguez's job is difficult enough as an enforcement officer, and if you have conflicting regulations, it becomes impossible.

It was **MOVED** (Ruckey) and **SECONDED** (Zimnoch) and **PASSED** (Unanimous, 4-0) that the Planning and Zoning Commission close the public hearing on the amendment to Section 218, Unregistered Vehicles.

It was **MOVED** (Szepanski) and **SECONDED** (Zimnoch) and **PASSED** (Unanimous, 4-0) that the Planning and Zoning Commission amend under Chapter II, General Requirements, Section 218, the paragraph to read as follows: "In all residential zones the parking of one boat will be permitted in a rear yard. Under no circumstances shall any boat be occupied for living quarters."

V. **Reviews** (none)

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

VII. **Old Business**

A. **Discussion with Commission and Staff**

i. **Zoning regulations**

a. **Section 1102 (Distribution of Materials), and Section 1201 (Fee Schedule)**

Ms. Rodriguez stated there have been no changes in Section 1102 based on conversations in past meetings with the commission. At the September meeting some commission members expressed interest in increasing the fees to cover the procedural changes. She provided some examples to consider for Section 1201. The average application would cost two to four dollars to mail. There are seven commission members. The commission might consider increasing the minimum fees by \$30 or charging a postage fee per application, for example. Or, to save money, rather than mailing the applications out, she can leave the applications for staff in the mailboxes at Town Hall and notify staff when there is an application. This has been past practice and was done with other boards and commissions. Another idea might be to find some kind of postage budget that's already at Town Hall that might be able to absorb those fees. This is the only piece in this change in distribution of materials process that hasn't been addressed yet. Mr. Steele pointed out that the postage could be different for each application, that a single sheet of paper would not cost as much as a roll of plans several sheets thick. Mr. Szepanski commented

that you would go crazy chasing individual applications. Ms. Rodriguez said most towns build it into their minimum fee. Chairman Zimnoch commented that this is probably the only way to do it. Mr. Szepanski suggested doing it on a trial basis for six months. Chairman Zimnoch suggested that they hold off and discuss this at the next meeting when all members could be present.

ii. Subdivision regulations (none)

iii. Oakridge Drive, road acceptance

Mr. Steele said Scott Lappen, Public Works Director, indicated that the paving and sidewalks were done, but they need confirmation from CL&P on whether the lighting has been done.

iv. Frances Lane, road acceptance

Mr. Steele stated Frances Lane was accepted last September.

B. Action Items (none)

VIII. New Business

A. Public Input (none)

B. Receive New Applications

i. Requested staff approval for site plan review, 6 Choice Road, for freight terminal

Attorney Thomas Fahey, 487 Spring Street, representing the applicant, Carite of Connecticut and John Barberino; Guy Hesketh, Chief Engineer from F.A. Hesketh and Associates; and Peter Labouliere from Highland Rail Services, addressed the commission. Attorney Fahey asked if the commission would accept the application and delegate final approval to staff. He pointed out that there are not a lot of outstanding compliance issues.

Attorney Fahey described the location of this property. He stated that this is an odd shaped property that goes in the north section and makes a reverse L. This property was leftover from the development of the surrounding properties and was on the tax delinquent list for 12 or 13 years. Mr. Barberino purchased the property and was granted variances from the Zoning Board of Appeals. They would now like to finalize the site plan. The only building on it is going to be a 30 x 100 building.

Mr. Hesketh stated the site is shaped like a boomerang. They are proposing as part of this project to deed a portion of the parcel for the extension of Choice Road that will go to the town. The general components are to construct a 30 x 100 foot building, a gravel driveway that comes into a railroad crossing that will allow vehicles to cross the tracks and then have an area that will be used for a vehicle to turn around and exit the site. The total area is 2.59 acres in an Industrial-3 zone. They are proposing to dedicate about a tenth of an acre to the town which will be deeded in fee for the extension of Choice Road. There is an existing rail spur near the entrance that will be taken out, and they will add another railroad spur that will allow rail cars to come in and be unloaded. The use itself is a permitted use as a freight terminal in the Industrial-3 zone. Some variances were granted September 2, 2014. These included a variance for the minimum lot size. In this zone it's a 5 acre minimum, and they got a variance for a 2.49 acre lot which allows the dedication from the 2.59 tenth of an acre so they would be in compliance with the minimum requirement for zoning with the variance. Minimum frontage requirement is 400 feet. Because of this bizarrely shaped parcel they have 88.75 feet of frontage and were granted a variance for that. Because of the constraints of the long, skinny lot, they requested a variance from the normal 25 foot side yard setback to a 5 foot side yard. They comply with the front yard setback, rear yard setback, coverage, building height, etc. The parking analysis shows three parking spaces for the three employees. There is plenty of room to make an accessible space, and they intend to comply with all the ADA requirements. Electric and telephone is on the south side of Choice Road and water is on the north side. They will take those utilities and provide service to their site. Connecticut Water Company, Hartford electric company, and communication telephone companies are in concurrence with them about extending services to their facility. They have talked with WPCA and North Central Connecticut Health Department and are working on permitting a septic field. They anticipate having a maximum of three pole fixtures and some wall packs on the building that will provide light on the side and the front. They will submit a complete photometric analysis for that. There will be a steel pre-fab building nearly identical to the one on North Street. They will provide details for staff to review. The roof runoff will be discharged into some underground storm water concrete galley systems. The site will be graded toward the railroad grade. They have designed the gravel driveway so that the water will shed to the east and be picked up into the low lying area, the long linear swale that is along the edge of the railroad, and infiltrate into the ground. They don't anticipate there will be any issues with storm water runoff coming off of the site. They will submit a detailed drainage report to demonstrate that there will be no increase in runoff. They do require some rights to access this property but are working with the owner of the adjacent property and anticipate within a week or so they will have those agreements. They are working with a railroad consultant to acquire a temporary crossing to do some tree clearing. For the permanent crossing they have to come up with some designs, submit them to the railroad company, and have their engineers review them. However, they can't start that process until they get approval from this commission. They will share all design details and correspondence with staff and the commission.

Attorney Fahey pointed out that he had a lengthy conversation with one of the managers of the Winchester facility regarding all of the issues mentioned by Mr. Hesketh such as temporary access, easement, and tree clearing, and they have an agreement drafted which hopefully by the end of the week will be in place to enable them to get on site and start doing the work. A lot of these things that need final approval like the lighting are already in Mr. Steele's conditions of approval, all of which they have agreed to.

Mr. Labouliere stated that his company has worked on this exact portion of railroad twice, rather extensive projects in the last five years, for Ahlstrom, so they would work very closely with them to make certain that their operations are not impacted in any way. He discussed the process for removing part of the existing dormant track and installing a new track turnout. They would work very closely with the engineer in constructing this so there is no impact on neighboring industries. As it is presented, there are no significant issues with drainage, site lines, clearance, or elevation. In response to some questions, he said the track is presently used three days a week, and no additional traffic or noise will be generated. Instead, additional cars will be added.

Mr. Szepanski asked, "What is the purpose of utilization of this property?" Attorney Fahey responded that eventually Mr. Barberino would be able to get some cars from the West Coast, and he could also freight his supplies related to his business (auto related things), which would save him a lot of money buying in bulk. Mr. Szepanski asked about storing, servicing, and washing cars. Attorney Fahey said there may be some cars stored overnight there. Mr. Barberino responded that he does not need a DMV license to service cars and he would not be washing cars on site.

Mr. Steele discussed his report dated October 11, 2014. He pointed out to the commission that his report is worded in the typical format so that if the commission wanted to review and approve this application tonight they could refer to his report for generating conditions. However, Mr. Steele will work under the assumption that the commission is considering granting administrative approval, so his comments on his report will be slightly different. He would like to ask the commission a few questions so that in his review of the revised plans that will come in he understands what the commission's expectations are and how the commission interprets the regulations with regard to a few issues in the report. Mr. Steele pointed out that the parking area is only three spaces, so perhaps the commission would consider that "low volume," and at some point it really doesn't have much of an impact whether it's paved or gravel, so he is comfortable with that. Mr. Steele commented that the plan should show the existing vegetation limits and what will be removed. He said he did not include sidewalks in his report because there are no sidewalks on Choice Road and he does not see any opportunity to put sidewalks in on Choice Road.

Ms. Rodriguez discussed her report dated October 10, 2014.

Chairman Zimnoch asked commission members for comments regarding this application. Mr. Szepanski said he is comfortable with the gravel parking lot. Both Mr. Szepanski and Chairman Zimnoch would like to see as much vegetation as possible kept on the site. Chairman Zimnoch commented that the commission has a good track record with this applicant.

It was **MOVED** (Zimnoch) and **SECONDED** (Szepanski) and **PASSED** (Unanimous, 4-0) that the Planning and Zoning Commission approve this site plan review for 6 Choice Road for freight terminal and refer to staff for administrative approval.

C. Informal Discussions

i. 330 North Street, home occupation

The homeowner was not present to discuss this.

ii. McNamara Landscaping, 45 Fairview Street, home occupation

Derrick McNamara, 45 Fairview Street, owner of McNamara Landscaping, addressed the commission. He stated that he received an anonymous complaint about his business. He explained that he has been in business for about three years and keeps his equipment at 45 Fairview Street, which is his mother's residence. He does not store any materials there and keeps his equipment in the garage. His truck has his name on the side and he advertises this address on Facebook and on his website.

Ms. Rodriguez explained that she needs direction from the commission. Over the past years she has received many requests for home occupations for landscaping businesses. Some are more visible than others, as some have a truck for their home occupations. One commercial vehicle is permitted on a property. It becomes an issue usually when there is something visible. Like Mr. McNamara, a number of people have come in wanting to have a home office. They have very little equipment and don't do a lot of starting up or maintenance, and then others have more. Mr. McNamara is looking for some guidance on whether this kind of use, because it's not listed, should be considered something that would be similar to another use that is listed for a home occupation.

Ms. Rodriguez stated on page 11 of the regulations there is a definition of home occupations and gives a number of criteria that a home occupation would need to be met. She read the definition into the record:

HOME OCCUPATIONS AND PROFESSIONAL OFFICES: *The offices of a physician, surgeon and dentist provided no patient is hospitalized or housed overnight; the office of an architect, lawyer, registered surveyor or engineer, accountant, artist, musician, or teacher located in the same dwelling occupied by*

such person as his residence and any home occupation such as dressmaking, millinery, or similar service occupation which is customarily or may properly be carried on for compensation entirely within a dwelling by the occupant thereof which (a) is clearly secondary to the use of the dwelling for dwelling purposes, (b) does not change the residential character of the dwelling in any visible manner, (c) does not create objectionable noise, odor, vibrations, or unsightly conditions noticeable off the premises, (d) does not create interference with radio and television reception in the vicinity, and (e) does not create a health or safety hazard. The conducting of a clinic, hospital, barber shop, beauty parlor, tea room, antique shop, or similar use shall not be deemed to be a home occupation.

Mr. Forschino felt Mr. McNamara was just storing his equipment there, so this is not a home occupation. Mr. Szepanski and Mr. Ruckey felt his business is not occurring within the dwelling and is therefore not a home occupation. Chairman Zimnoch felt that when you buy a house in a residential neighborhood, you're entitled to and have paid money for that location, and the value of the house is based on that. A discussion took place regarding whether this is a home occupation or not. Ms. Rodriguez pointed out that many people running a business out of their home come in for a permit, and that is why Mr. McNamara is here before the commission tonight.

Ms. Rodriguez read Section 221 of the regulations that goes beyond the definition of a home occupation and said every application is a little different:

221 Home Occupations and Professional Offices. *Traditional professional offices and home occupations which are clearly accessory to the primary use of a building as a single-family dwelling are permitted in all single-family residential districts. The following standards shall apply: (Note: This section was added on 12-5-1993)*

- A. Traditional professional office proposals shall require submission of a site plan for approval by the Commission.*
- B. Traditional professionals may have two non-resident employees.*
- C. Office use or home occupation is restricted to the resident thereof.*
- D. Adequate off-street parking shall be provided on the premises.*
- E. The Commission may, in its discretion, waive the requirement for a site plan or it may require a public hearing as a special use if it is determined that a proposed use might have an effect on abutters.*

Chairman Zimnoch felt that running any kind of business in a residential zone should require putting the neighbors on notice and getting their input through a public hearing. Another lengthy discussion took place regarding whether this is a home occupation or not and whether getting a post office box for his business would be a solution.

Ms. Rodriguez commented that this occupation is not written in the regulations as being permitted or prohibited, so the commission can have discretion. She added that they are trying to work with old and antiquated regulations, and this request has come up more and more over the past years. Chairman Zimnoch said the commission is trying to decide if Mr. McNamara's business meets the criteria of a home occupation. Mr. Ruckey asked if it doesn't meet the criteria for a home occupation, can he get a permit. Chairman Zimnoch replied that he cannot because he doesn't meet the criteria. Mr. Ruckey asked if the commission is telling him that he cannot run his business out of his house. Chairman Zimnoch said that is what it comes down to, unless the commission says it is a home occupation. Mr. Ruckey argued, "So a home occupation by virtue of this would require a permit. So he doesn't need a permit, he can continue to do what he's doing because it doesn't meet the requirement of a home occupation." Mr. Szepanski added, "Because he's not conducting business within that dwelling." Mr. Ruckey said, "He doesn't need our approval. He doesn't need our permission to continue doing what he's doing. We can't say yes or no—it doesn't meet the criteria." Chairman Zimnoch replied, "Therefore it's not allowed." Mr. Ruckey argued, "We're not making that determination, that decision. It doesn't meet this criteria. No permit is required, go forth and prosper." Ms. Rodriguez said, "No, that's not..." Mr. Ruckey asked, "Are we here to make a decision for him saying you can or cannot do your business the way you're doing it right now?"

Mr. Steele pointed out that Ms. Rodriguez is trying to establish and better define at what point something needs a permit or doesn't need a permit. He added, "If you park a commercial vehicle in a driveway, that does not need a permit. So that's established. What about if he's paying bills, if he has an address, now does that need a permit? That's what they're looking to determine. Maybe the answer's yes, maybe no. What about the storage of commercially owned equipment on the property? Does that now put it in the category where it needs a permit? Whether you grant a permit or not is really a separate issue. Now is it in the category of where it needs a permit?" Mr. Ruckey interjected, "But if we go that route then we need to go forward and change this regulation." Mr. Steele continued, "In the interim you have to interpret your regulation and give some direction to potential applicants. It sounds like the commission is not all on the same page as to what that tipping point is, but that's why I was trying to identify some of those specific things. The storage of commercial equipment, is that going too far? The advertising of the address, is that going too far? Customers coming to the property?"

Ms. Rodriguez said, "So it's not really that if you decide it's not a permitted home occupation that he just doesn't need a permit, it's either an illegal home occupation or he comes to the commission to make it a legal home occupation." Chairman Zimnoch commented, "That's what we're trying to decide. It has to qualify as a home occupation before he can come before us and get approval. If it doesn't qualify then we can't approve it. If he qualifies and comes before us, it

still might not get approval....Right now we have to decide, make an interpretation based on our current regulations and give this gentleman direction whether he applies or doesn't apply if he doesn't meet the home occupation criteria." Mr. Steele said, "Is that what you're saying, that it doesn't meet...because that use is not listed?" Chairman Zimnoch replied, "Yes." Mr. Steele asked, "And it's not similar to one of the uses that is listed? And what makes it a business out of his house is the address and the storing of commercial equipment? And if you eliminate the address issue, he is still storing the equipment, so does that still present a problem, without the address problem?" Chairman Zimnoch stated, "I think so, based on our current regulation and what we have done so far, I would think that he needs to not use the address for the business, and the equipment needs to be stored somewhere else. His commercial vehicle is allowed to be stored on the premises. I think that's what our current regulation dictates. I have been on this commission 15 plus years, and we have not approved a home occupation for a landscaping business. That's the record. If you do approve one, the door's wide open." Mr. Ruckey said, "It's not similar to any uses that are listed." Chairman Zimnoch added, "None of the approved or listed uses allow the storage of or bringing of commercial equipment onto the property."

Mr. Ruckey commented, "If he requires a permit to do this business and the criteria set forth are that the materials he needs to conduct his business are stored in a manner where they are not outside on the property to be blight or to be unsightly to his neighbors, then we should grant him the opportunity to do it." Mr. Szepanski interjected, "By silence." Mr. Ruckey agreed. Ms. Rodriguez commented, "I don't get to just be silent." Mr. Steele said, "I think what Jen is saying is that if he's conducting a business on the property then it needs a permit. If he's not conducting a business, then he doesn't need a permit. If it's just parking a vehicle, then he doesn't need a permit. But if he's operating a business, with or without the address, then it needs a permit. Whether you grant one or not is a separate issue, and that would require an application which he doesn't have yet." Ms. Rodriguez added, "And because the type of use is not listed, that process needs to be determined." Mr. Ruckey said for the record, "I think we should allow this individual to pursue a permit to conduct his business. I would consider it a similar use." Ms. Rodriguez said, "Because of the possibility of meeting those criteria by this individual?" Mr. Ruckey replied, "Yes, because other people with similar businesses will be searching to do the same thing, and this is a way to get this on record." Mr. Steele pointed out that the permit process does allow you the opportunity when the first one comes in to set the bar and say this is what you can and cannot do. Ms. Rodriguez read Section 221e again: "The Commission may, in its discretion, waive the requirement for a site plan or it may require a public hearing as a special use." She added, "We do have regulations on special use permits that allow you to attach conditions and give you more discretion as to how the property is set up and laid out." Mr. Steele

commented, "But the position that it's not a similar use is also a valid position, and there's some split on the commission on that, so all you can do is give that information to the potential applicant and let him decide if he wants to apply or not."

Chairman Zimnoch asked Mr. Szepanski if he finds this similar or not similar. He responded that he didn't really know, that he could go either way. "If we're going to require him to come in and get a permit then we have to be ready to go out and go around town and get everybody else to come to the party and get their permits. Mr. Steele asked, "So you don't even consider it to be operating a business." Mr. Szepanski replied, "No, I don't. He's just storing his equipment." Mr. Ruckey said, "So when Jen gets another complaint about him running his business out of his house, her answer is he's not running a business out of his house." Mr. Szepanski added, "He's not running a business, he's storing equipment, he's discrete, he's loading up and going somewhere." Ms. Rodriguez said, "And where is the line drawn? What if two houses down, the same exact business but the landscaper is a little more messy, do I get to say that the messier one is a home occupation and the not messy one isn't? Either way, it requires a permit." Mr. Forschino said, "My opinion would be, allow him to get a permit only because we're saying by parking commercial vehicles in his garage, it's now a business, so we should allow him to be able to get a permit. As far as I'm concerned, let him just run his business. I don't think he's doing anything wrong, but you have to go with the rules." Mr. Szepanski pointed out, "If we don't do something, we're going to make Jen's job very difficult. Let him get a permit, go through the process, and if we get time we'll tweak the home occupation regulations." Chairman Zimnoch stated, "My concern is this: once you label this a home occupation, because that's what it has to be right now, and we take up this application and go through the process and approve it, landscaping is now a home occupation. It automatically now qualifies because we've interpreted that to be a similar use to what's currently in our regulations so...now we're basically allowing anyone who wants to have a landscaping business to run it out of his house." Mr. Ruckey said, "With certain guidelines. If it's in a residential area, it has to meet certain requirements." Chairman Zimnoch replied, "Obviously, but at the same time, we are not opening up a residential area to landscaping businesses. What else is next? And how does Jen and how do we control what happens in that instance?" Mr. Steele said, "Under the definition, one of the criteria for you to determine if it's a permissible home occupation is that it does not change the residential character of the dwelling, it does not create any objectionable noise, odor, vibration, or unsightly conditions noticeable of the premises, etc., so there are a number of criteria for determining, and if it doesn't meet those criteria, then you deny it and you don't give the permit." Chairman Zimnoch pointed out that the whole neighborhood on that street could have a landscaping business, which could change the residential character. Mr. Steele responded, "Then that would be a reason to deny it." Mr. Szepanski agreed that you could have these businesses all over the place, three in a row on one street, which could deteriorate the neighborhood. He added that maybe businesses like this should be in a

business area. Chairman Zimnoch stated, "That's why I think the home occupation was very tailored to an occupation that fits neatly inside a residential area." Mr. Steele asked, "Because they don't have trucks, is that one of the differences? It's not as industrial, these other uses." Mr. Szepanski said, "I see your point." He asked the chairman what he would like to do this evening. Chairman Zimnoch responded that according to the regulations, it's not a home occupation, and the equipment has to be stored elsewhere. Mr. Szepanski agreed, saying, "I share your opinion, you opened it up and got me thinking a little bit further." Chairman Zimnoch concluded, "Unless you have other ideas, I just don't see it as qualifying for a home occupation. Consequently, I don't think we can ask the gentleman to file an application and waste his money and time on this. We haven't approved one yet, and it doesn't sound like it will get approved now, so that's the only direction I can give you."

iii. 73 Old County Road, Massage Therapy Office

Jenny translated for the owner of this business and explained that her business would be for reflexology and foot and body massage. She has completed her course for massage therapy and her license will be approved within a month or two. Ms. Rodriguez stated that in the packet are at least one if not two massage therapy licenses of employees that the applicant has talked about hiring. Chairman Zimnoch asked about the floor plan and questioned the number of rooms. Jenny replied that she is going to hire two employees first, but the number of employees hired depends on the business. Ms. Rodriguez said this business is where Landry's Communications used to be and is still in that same category of retail personal service, but it changes from retail to personal service. She stated that because this use is not specific, she is looking for a determination from the commission on whether it would be considered a change from retail to a personal service shop, which would require a site plan review. This is a Business-1 property.

Chairman Zimnoch commented that the commission needs to find out exactly what is being proposed, and he would like to hear more about it. He clarified that this would qualify as a use in that zone. Ms. Rodriguez responded yes, she would consider it similar to a personal service shop. She will direct the applicant to apply. Mr. Steele said this is a change in use, the building and parking lot are already there, so are they going to need to submit a site plan? He asked what the commission wants to see with an application. He pointed out, "If there was a major problem with the parking, that might be an issue, but we've often looked at the GIS in some of these situations, and if nothing jumps out, then we don't require a site plan, just an application and a floor plan with a description of the use." He indicated to the applicant that what they would be looking for is a floor plan drawn to scale with more details, a parking tabulation based on the regulations in the parking section, how many parking spaces they are going to need, and a statement regarding how many spaces the whole facility has.

iv. 60 Main Street, Massage Therapy Office

The applicant was not present. Ms. Rodriguez said the informal use form was very similar, but they are on Main Street in the MSOZ, which requires a special use permit. She said that this is also from retail to personal service, and asked if it would make sense to give them the same direction, except it's a change of use and it's a special use permit. Chairman Zimnoch replied yes.

v. Other

Ms. Rodriguez stated she forwarded to the commission some correspondence about an applicant who wanted to have an application for home sale of firearms but it was left off the agenda because of suppressed information. She invited the applicant to address the commission.

The applicant stated he would like to suppress his home address. Customers will not be coming to his home. The only way to get an FFL through the ATF is to use a home address. They require him to approach the board and ask for permission to get his license. No weapons or ammunition will be delivered to his house. They will be picked up by him at all the hubs. Most of his sales will be done online and for co-workers and local law enforcement officers.

Chairman Zimnoch stated that the applicant is applying for a home occupation, and his proposed business has to qualify as a home occupation, and part of the requirement is that the commission and the public get a chance to determine that it is safe and harmonious for the neighborhood. He doesn't see how the commission can get around the fact that the applicant's situation doesn't allow him to disclose his home address.

Kevin Brace, who represents the applicant at work, stated he was part of the group who put together the exemptions for correction officers under state law. They got the law drafted and it was passed unanimously by the house and the senate. The spirit of the law definitely pertains to his situation, but he realizes that the commission has a job to do also. What he would like to do is not state his address on the record but to provide it to the board as a sealed document which they can open, and if someone requests his address they could deny it under FOI Section 1-217. He asked if that would be a way around it. Chairman Zimnoch responded that it won't be because any home occupation has to go to a public hearing. The residents of this town have a right to know that someone is trying to open up a gun sale business. Mr. Brace responded that town ordinance doesn't usurp Connecticut State law. Chairman Zimnoch stated, "His rights cannot usurp the rights of a resident. He chose to be a corrections officer. He is protected with certain rights. Those rights do not extend to force us and the residents of this town to grant him automatic approval, bypassing our regulations."

Ms. Rodriguez said she is familiar with this law, and when she called around to other towns and police departments to ask how they might handle it, both their staff as zoning officers and the staff as officers themselves suspended their names, not their addresses. Chairman Zimnoch replied that he has gotten some legal reading on this, and if the applicant wants to proceed, this is the process. The applicant said he wants to protect the residents of the town by not divulging his address. Mr. Ruckey commented that there is a way to get around this by opening up an office. It doesn't have to be a home office, it could be a storefront. Chairman Zimnoch said, "If you want to open up a business, go right ahead, you don't have to have anything to do with us. If you want to come and get a permit via this commission, these are the rules. We are here to protect the citizens of this town, and if you are going to have a gun sales home occupation, your neighbors have to have a chance to come in here and say yea or nay, and we have to follow that process." Mr. Brace asked if the commission could uncouple the applicant's name from his address, and still have the public hearing with the address. Ms. Rodriguez said that is how she's heard it was handled in other towns. Mr. Steele asked if it is critical to have a name and commented that at a public hearing everyone who speaks has to give their name and address as part of the minutes, and one way around that is to send an attorney or representative to the meeting who will do all the talking so the applicant doesn't have to speak at all. Mr. Szepanski pointed out that the applicant will have to display a sign in his front yard that there will be a public hearing. Chairman Zimnoch asked under what name the application will be filed. Ms. Rodriguez said, "Do you mean who will be the listed applicant? I'm not sure. Initials, maybe?" Mr. Brace said if he does the application and then the planning office takes it and puts a note on it, "Do not disclose name and address together," then he's covered. He just doesn't want his address disclosed. Mr. Ruckey added, "He doesn't want that name associated with that address." Chairman Zimnoch summarized, "The address will have to be disclosed, you'll have to have a sign in your yard stating that there will be a hearing for this purpose, and there will be a notice in the paper. There's no way around this." There was a discussion about the notice being in the *Journal Inquirer* and making sure his name is not linked with his address. Ms. Rodriguez said she will check with the contacts that she's made about similar processes and double check with the town attorney to make sure that procedurally it's sound. Chairman Zimnoch said the bottom line is that there has to be a public hearing and asked if the applicant is comfortable with that. The applicant responded that he is very comfortable with the fact that just the address will be used.

D. Action Items

i. Appointment of a CRCOG's Regional Planning Commission member

Chairman Zimnoch asked if anyone was interested. No one responded that they were, and he said maybe Ms. Brengi or Mr. Gannuscio would be.

IX. Communications and Bills

Chairman Zimnoch said the bill from Ms. Rodriguez was submitted on the first of the month. She said she will follow up on it.

X. Adjournment

It was **MOVED** (Zimnoch) and **SECONDED** (Szepanski) and **PASSED** (Unanimous, 4-0) that the Planning and Zoning Commission adjourn the October 14, 2014 meeting at 10:02 pm.

Respectfully submitted,

*Debbie Seymour
Recording Secretary*