

PLANNING & ZONING COMMISSION
February 25, 2013 Special Meeting Minutes

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

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

Commission Members Absent: Anthony Scarfo and Paul Harrington

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

I. Call to Order

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

II. Roll Call

Commission roll call was taken. Ms. Brengi was seated for Mr. Scarfo by Chairman Zimnoch.

III. Approval of Minutes from the February 7, 2013 Special Meeting and the February 11, 2013 Regular Meeting

It was **MOVED** (Gannuscio) and **SECONDED** (Szepanski) and **PASSED** (Unanimous, 5-0) that the Planning & Zoning Commission approve the February 7, 2013 minutes.

It was **MOVED** (Gannuscio) and **SECONDED** (Szepanski) and **PASSED** (Unanimous, 5-0) that the Planning & Zoning Commission approve the February 11, 2013 minutes.

Mr. Szepanski referred to Section 1103A (Special Use Permits), paragraph three, of the zoning regulations, which states, "The applicant shall post a sign, available from the Building Official, giving notice of the application, in a conspicuous place on the property for which a special use permit approval is sought, visible from a public street. Said sign shall be posted ten (10) days before the date of the public hearing, shall remain in place until the hearing, and it shall be removed not later than three days after the public hearing." Mr. Szepanski stated that he visited all three sites. He did not see any sign at 3 Industrial Road or at King Spring Road. At 477 Spring Street, the sign was posted on the rear building about 300 feet from the road on a service entrance door not visible from the street. At St. Robert's Church he found a sign on the front door to the right of the church, and stated that he was not sure if that would meet the requirement of being visible from a public street. He asked, "How can we continue with a public hearing if that requirement has certainly not been met in two cases and may be questionable for St. Robert's Church?" Mr. Steele consulted a site map and stated it was approximately 140 feet from the street to the front door of St. Robert's Church. Mr. Gannuscio pointed out that Section 1102 of the regulations is available online and in the printed regulations, but suggested that the commission open the public hearings to see what the applicants had to say regarding this issue.

IV. Public Hearings

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

The Recording Secretary read the legal notice that was published in the *Journal Inquirer* on February 13, 2013 and February 20, 2013.

A. Public hearing on the site plan modification and special use permit application for St. Robert Bellarmine Church for the property located at 50-52 South Elm Street

Joseph Flynn, attorney for the applicant, and Dave Palmer, surveyor for the project, addressed the commission. Attorney Flynn stated that he put the sign up on the door of the church and that it is visible from the street. There was a discussion about what “visible” means. Attorney Flynn stated that an applicant is required to meet the standards in the regulations as they are explicitly stated, and he feels the applicant has complied with the language as published and promulgated in the zoning ordinance.

Mr. Szepanski asked the chairman how the commission was going to continue. Chairman Zimnoch replied that the public hearing was going to continue and if necessary it would be kept open.

Attorney Flynn explained that the application is for the construction of an 11,000 square foot meeting hall addition to the rear of St. Robert’s Church building, a parking expansion to service this additional building space, and a revised drainage plan. He gave a brief summary of prior approvals. In February 2009 the Planning & Zoning Commission approved a site plan review for 70 additional parking spaces on the south side of the church adjacent to the rectory, which included the construction of a retention basin next to the new parking areas. In the fall of 2012, they received permission for an erosion and sedimentation control plan to start the excavation of some of the soil to ease the impact of the site work so church services could be continued. Attorney Flynn wanted the record to reflect that their application was submitted on December 26, 2012 with plans that were dated October 15, was then filed with the Building Department, and then filed in the Town Clerk’s office on February 12, 2013. Tonight the commission received updated plans with the latest revision date of February 25, 2013 in response to the February 22, 2013 emails of the Town Planner and Town Engineer. Some of the administrative matters that were brought up by Ms. Rodriguez and Mr. Steele are incorporated into these revised plans and some of the matters are post-approval issues, but some of the matters the commission will probably want to discuss are the two waivers that they are requesting—one a partial waiver and one a full waiver. Attorney Flynn reiterated that the plans dated February 25, 2013 that were distributed at tonight’s meeting were in response to the February 22, 2013 emails they received from the Town Planner and the Town Engineer.

Dana Steele, Town Engineer, discussed his report of February 22, 2013 for 50-52 South Elm Street.

Jen Rodriguez, Town Planner, discussed her report of February 22, 2013 for 50-52 South Elm Street.

Attorney Flynn stated for the record that they feel the 260 parking spaces they provide are adequate because there would not be a simultaneous use of the hall and the church. He stated, "This is a condition of our uses."

Mr. Gannuscio commented that when there are combined uses on applications such as a special use permit and site plan, the commission should keep in mind that these are two separate applications.

At this time Chairman Zimnoch opened up the public hearing for comments from the public in favor of this application. Reverend Robert O'Grady, 42 Spring Street; Mal Hamilton, 41 South Elm Street; Dennis Gagnolati, 25 Roberts Street; Edward Bloom, 4 Rachel Road; Gary Merrigan, 100 Michelle Drive; and Daryl LeFebvre, 410 South Elm Street, all spoke in favor of this application. At this time the floor was opened up for comments in opposition. There were no comments in opposition of this application.

Mr. Gannuscio suggested that the public hearing remain open so that the applicant could have a chance to respond to any issues raised by commission members.

Regarding the issue of whether the public notice was sufficient or not, Mr. Gannuscio made note of the fact that multiple neighbors were present this evening, and they were aware of the application. He also stated that any ambiguity in the regulations needs to be construed in favor of the applicant.

There was a discussion about the two waivers that the applicant is requesting (item one in Mr. Steele's letter, the datum for the topographic survey; and item six, parking lot landscaping).

Attorney Flynn stated, "As the commission cites, it is also a special use permit application, so under Section 1103-4 A through C, the commission has to find that we've met those standards. Our position is that the use is unchanged, and the increased operations is not a constant because it is church related and sporadic and does not alter in any significant manner the existing harmony in that area. The nature of the addition does not discourage any appropriate development to the high school or to the residential uses around us. The parking design facilitates the use of the church and the hall and we've had approvals from the police chief and the fire marshal. We are stating on the record that we feel we have complied with the regulations and respectfully request that the matter not remain open in terms of the notice issue and that the commission approve the matter with the conditions that the Town Engineer and Town Planner have articulated."

It was **MOVED** (Gannuscio) and **SECONDED** (Szepanski) and **PASSED** (Unanimous, 5-0) that the Planning & Zoning Commission close the public hearing as to the special use and the site plan application for St. Robert Bellarmine Church for the property located at 50-52 South Elm Street.

Mr. Gannuscio commented on the nature of this application. It's already been stated that the use of the new hall will not occur at the same time as the use of the church for mass, so we are not going to see intensification at the site. This use fits in with the surroundings and will not have any detrimental effect on the school or residences. The structures and the landscaping are not going to discourage any kind of use and offer an opportunity to clean up the site. We're looking at continuing a harmonious use with what's already there, so we're within the criteria of what is acceptable for the approval of a special use in this situation.

It was **MOVED** (Gannuscio) and **SECONDED** (Szepanski) and **PASSED** (Unanimous, 5-0) that the Planning & Zoning Commission approve the special use permit for St. Robert Bellarmine Church for the property located at 50-52 South Elm Street, allowing the special use of the new fellowship hall to the existing property and facility.

It was **MOVED** (Gannuscio) and **SECONDED** (Zimnoch) and **PASSED** (Unanimous, 5-0) that the Planning & Zoning Commission close the public hearing on the site plan modification for St. Robert Bellarmine Church for the property located at 50-52 South Elm Street.

There was a brief discussion among commission members about the waivers that the applicant is requesting.

It was **MOVED** (Gannuscio) and **SECONDED** (Zimnoch) and **PASSED** (Unanimous, 5-0) that the Planning & Zoning Commission approve the site plan application for St. Robert Bellarmine Church for the property located at 50-52 South Elm Street subject to the following items in the Town Engineer's report: (Item 1) Correct the data block coverage to show percentage instead of feet; (Item 3) File easements and cross easements on the plans prior to a Certificate of Occupancy; (Item 7) Show the handicapped striping so that it complies with the state requirement; (Item 8) Show the details for the ramps including the hand rail ramp; (Item 10) Update the wording of the construction and post-construction maintenance narratives subject to the review of the Town Engineer; (Item 11) Provide an estimate for the site erosion control and restoration costs and an E&S bond in an amount acceptable to the Town Engineer and in a form acceptable to the Town Attorney; (Item 12) The design engineer shall confirm on-site soil conditions are consistent with the design assumptions prior to installation of the storm drainage system; (Item 13) Prior to issuance of a Certificate of Occupancy, the applicant shall provide an as-built survey of the completed site improvements per section 705.F.10; and (Item 14) The detail of the light pole base and other portions of the base of the light poles shall be added to the site plans.

B. Public hearing on the special use permit application for ALLNICC for the property located at 3 Industrial Road

Attorney Paul Smith addressed the commission. He stated that he posted a sign in January and acknowledged that it may now be missing. He has had this circumstance before and suggested two ways the commission could deal with it. The posting of a sign is not a jurisdictional issue for the commission to hear the application. Under the law there are certain jurisdictional things the commission must do in order to have a public hearing. The publication in the newspaper is the most important thing. The law also requires if it is within 500 feet of an abutting municipality you have to send them notice. Those are jurisdictional requirements. Attorney Smith stated he understands the importance in wanting to follow the regulation with regard to signage. In the past, he has dealt with this issue in two ways. The commission can hear this part of the public hearing now (their evidence with regard to the application and so forth) and then request that the applicant re-publish or re-post a sign for the next meeting at least 10 days out (for the March 11, 2013 meeting) and therefore hold it open so that anyone who has a comment or an issue could come to the meeting and be fully heard. Some abutters are here tonight. The other thing commissions have done is because it's not a jurisdictional issue and if they feel all the parties of interest will want to be heard then they can just proceed. Attorney Smith stated, "It's not a jurisdictional requirement for a public hearing but I do respect it as a regulatory requirement and therefore there are ways to deal with it which don't knock this off track but keep it going. I'll leave it up to you and at the end of my presentation tonight you can decide how you want to proceed from here."

Attorney Smith made his presentation to the commission. This 1.9 acre property is owned by a company called ALLNICC, LLC, and the principals are Mike and Molly Russo, who operate Russo Lawn and Landscape. The proposal is to use it as a contractor's storage yard. The type of material which will be stored on site will be generally mulch and sticks and debris. It is not a permanent storage site. There are no buildings proposed on this site. There is no intent to have any night use to the site and therefore they are not proposing any lighting. The landscaping will be on the residential side of the property. This application has already been approved by the Wetlands Commission.

Mr. Gannuscio noted that this is listed on the agenda only as a special use permit application. Attorney Smith replied that you do not need to get a site plan approval if you have a special use permit because the special use permit encompasses a site plan as defined in the zoning regulations and its requirements.

Dana Steele, Town Engineer, discussed his report of February 22, 2013 for 3 Industrial Road. Revised plans of February 11, 2013 were reviewed electronically by Mr. Steele, and a hard copy of these revised plans were handed out at tonight's meeting. He noted that the applicant is requesting a waiver of the sidewalk requirement.

A brief discussion followed regarding the waiver of the sidewalk requirement.

Jen Rodriguez, Town Planner, discussed her report of February 22, 2013 for 3 Industrial Road.

At this time Chairman Zimnoch opened up the public hearing for comments from the public in favor of this application. There were no comments in favor of this application. At this time the floor was opened up for comments in opposition. William Rush, 73 Lang Road in Windsor, spoke on behalf of the Rush family at 381 Turnpike Road. He addressed many questions to Attorney Smith and the commission. Mrs. Rush (William's mother), 381 Turnpike Road, also addressed questions to Mr. Russo, Attorney Smith, and the commission.

Attorney Smith, Mr. Russo, Mr. Steele, and Ms. Rodriguez addressed the questions of Mr. Rush and Mrs. Rush.

It was **MOVED** (Gannuscio) and **SECONDED** (Zimnoch) and **PASSED** (Unanimous, 5-0) that the Planning & Zoning Commission close the public hearing on the special use permit and the site plan application for ALLNICC, LLC for the property located at 3 Industrial Road.

Chairman Zimnoch stated that the proposed use for this location is in harmony with the industrial nature of this particular road and is a permitted use. Additionally, the applicant has taken steps to provide a buffer to the residential property next door.

It was **MOVED** (Zimnoch) and **SECONDED** (Szepanski) and **PASSED** (Unanimous, 5-0) that the Planning & Zoning Commission approve the special use permit for ALLNICC, LLC for a contractor's yard for the property located at 3 Industrial Road.

It was **MOVED** (Gannuscio) and **SECONDED** (Zimnoch) and **PASSED** (Unanimous, 5-0) that the Planning & Zoning Commission waive the sidewalk requirement on King Spring Road and Industrial Road for the property located at 3 Industrial Road as there is no reason at this time to require those sidewalks.

It was **MOVED** (Zimnoch) and **SECONDED** (Szepanski) and **PASSED** (Unanimous, 5-0) that the Planning & Zoning Commission approve the site plan application for ALLNICC, LLC for the property located at 3 Industrial Road, with the conditions listed in the Town Engineer's letter of February 22, 2013: (Item 2) The applicant shall submit mylars of sheets two and four and three complete paper sets incorporating all conditions of approval prior to start of construction; (Item 3) Prior to start of construction, the applicant's engineer shall provide an estimate for site erosion control and restoration costs and an E&S bond shall be provided in an amount acceptable to the Town Engineer and in a form acceptable to the Town Attorney; (Item 4) Prior to issuance of a certificate of occupancy, the applicant shall provide an as-built survey of the completed site improvements per section 705.F.10.

C. Public hearing on the special use permit and motor vehicle license location approval application for used car sales for the property located at 477 Spring Street

David Palmer, Professional Land Surveyor, 264 Hazard Avenue, Enfield, and the applicant, George Wihbey, 20 Smithfield Court, Springfield, Massachusetts, addressed the commission. Mr. Wihbey stated that the sign was posted and reminded the commission of what Attorney Smith said regarding the sign postings. Mr. Palmer also pointed out this is a landlocked parcel, accessed by a right of way over someone else's property, and the sign was still visible on the building itself. They are here tonight seeking a special use permit and motor vehicle license location approval for used car sales for the property at 477 Spring Street. Plans were previously submitted, and after receiving comments from the Town Planner and the Town Engineer, these plans were revised and then submitted again today. Mr. Palmer gave a brief history of the site. It is a rear lot with an existing building and accessory building. There is a paved area in front of the building and a gravel area around the rear of the building. The gravel area in the rear of the building encroaches on town property. In discussions with town staff they are proposing to remove the processed stone, loam and seed the area, and provide spruce trees every 10 feet along the property line. They are proposing delineating and allocating parking spaces for each unit of the existing building and the accessory building and providing 12 storage spaces for used car sales. Mr. Palmer addressed the concerns listed in the Town Engineer's letter dated February 21, 2013.

Mr. Wihbey addressed the commission. He stated he would like to park six to nine cars for retail at this property. The "very minimal" business will be open from 9:00 to 3:30, 99% of the business will be wholesale, and there will be very little traffic in and out.

The commission had questions for Mr. Wihbey which he answered.

Dana Steele, Town Engineer, discussed his report of February 21, 2013 for 477 Spring Street.

Jen Rodriguez, Town Planner, discussed her report of February 21, 2013 for 477 Spring Street.

At this time Chairman Zimnoch opened up the public hearing for comments from the public in favor of this application. There were no comments in favor of this application. At this time the floor was opened up for comments in opposition. There were no comments in opposition.

It was **MOVED** (Gannuscio) and **SECONDED** (Zimnoch) and **PASSED** (Unanimous, 5-0) that the Planning & Zoning Commission close the public hearing on the special use permit and the site plan review for the property located at 477 Spring Street.

Commission members had many more questions.

It was **MOVED** (Gannuscio) and **SECONDED** (Zimnoch) and **PASSED** (Unanimous, 5-0) that the Planning & Zoning Commission carry forward the decision on this application for 477 Spring Street special use permit application/site plan review to the March 11, 2013 meeting.

D. Public hearing on the termination of the liquor moratorium

At this time Chairman Zimnoch opened up the public hearing for comments from the public in favor of terminating the liquor moratorium. Neal Kwort, 86 Sunny Ridge Drive, East Hartford, spoke in favor of lifting the liquor moratorium. At this time the floor was opened up for comments in opposition. There were no comments in opposition.

It was **MOVED** (Gannuscio) and **SECONDED** (Zimnoch) and **PASSED** (Unanimous, 5-0) that the Planning & Zoning Commission close the public hearing on the termination of the moratorium on the issuance of new liquor permits.

It was **MOVED** (Gannuscio) and **SECONDED** (Szepanski) and **PASSED** (Unanimous, 5-0) that the Planning & Zoning Commission remove the moratorium on the issuance of new liquor permits, as we have these new liquor regulations in effect, effective March 1, 2013.

V. Reviews (none)

VI. Action on Closed Public Hearing Items (none)

VII. Old Business

A. Discussion with Commission and Staff regarding:

- i. T&M and North Group, LLC request for acceptance of roads**
- ii. Zoning regulations**
- iii. Subdivision regulations**
- iv. Main Street zoning**

It was **MOVED** (Gannuscio) and **SECONDED** (Zimnoch) and **PASSED** (Unanimous, 5-0) that the Planning & Zoning Commission continue Item VII (A) to the March 11, 2013 meeting.

VIII. New Business

A. Public Input (none)

B. Receive New Applications

i. Site plan modification to modify parking areas and truck docks and change building interior for the property located at 317 Ella Grasso Turnpike

Attorney Paul Smith, 27 South Main Street, addressed the commission and requested that this application be scheduled at the commission's March 11, 2013 meeting. He stated that he submitted plans last week but has given staff revised plans tonight that show some revised lighting. It is a site plan modification, not a new site.

It was **MOVED** (Zimnoch) and **SECONDED** (Szepanski) and **PASSED** (Unanimous, 5-0) that the Planning & Zoning Commission schedule a site plan modification review for the property located at 317 Ella Grasso Turnpike for the March 11, 2013 meeting.

C. Informal Discussions (none)

IX. Communications and Bills (none)

X. Adjournment

It was **MOVED** (Gannuscio) and **SECONDED** (Zimnoch) and **PASSED** (Unanimous, 5-0) that the Planning & Zoning Commission adjourn the February 25, 2013 special meeting at 11:30 pm.

Respectfully submitted,

*Debbie Seymour
Recording Secretary*