

ZONING BOARD OF APPEALS
September 5, 2017 Meeting Minutes

Board Members Present: Shane O'Connor, Douglas Glazier, Ronald King and Alternates
Christopher Halpin, Mark Horan and Daniel Merrigan

Town Staff Present: Jennifer Rodriguez, Town Planner

The meeting was called to order at 7:01 pm

Board roll call was taken.

MINUTES:

Chairman O'Connor referred to the August 7, 2017 meeting minutes and asked for any corrections or changes. There were none. Mr. Glazier moved to approve the August 7, 2017 meeting minutes as published. Mr. King seconded the motion. All were in favor. The vote was 6 – 0, the motion was approved.

BILLS & CORRESPONDENCE:

None

OLD BUSINESS:

None

NEW BUSINESS:

a. DMV Applications

There were none.

b. Public Hearings

Chairman O'Connor stated that Alternate Christopher Halpin was seated for Board Member Howard Aspinwall and Alternate Mark Horan was seated for Board Member Daniel Flanagan for the public hearing that evening.

- 1. Public hearing on Application #FY17-18-03, Owner: Armata Realty, Applicant: Windsor Locks Public Schools for a use variance for the property located at 2 Industrial Road to lease space for an eighteen to twenty-one year old transition program where Section 402 does not permit educational use.**

The following individuals were present representing the applicant:

- Susan Bell, Superintendent of Windsor Locks Public Schools (WLPS);
- Joshua Robinson, Director of Special Services for WLPS; and
- Steven Mills, Director of Facilities for WLPS.

Ms. Bell addressed the Board and stated that the school system had been operating the RISE Academy (Realizing Individual Skills and Expertise) for the past three years for students who needed education beyond the twelfth grade. The purpose of the Academy is to provide independence and skill related expertise so that they can live more independently out in the community. She went on to say that their students may have developmental disabilities and have been in the Special Services support program throughout their time in the educational system. Ms. Bell stated that the RISE program would provide students with the needed support to gain skills related to ordinary living on their own as well as job skills. She then noted that they had had great success with the program.

Ms. Bell stated that the RISE Academy was growing and that they had been looking at the property at 2 Industrial Road to house the program. She went on to say that the property in question was burdened by the restrictions placed on it under the Industrial 1 zoning. She then noted that Armata Realty could not rent the property to Windsor Locks Public Schools with those restrictions in place. Ms. Bells commented that the program would not negatively impact the surrounding businesses.

Ms. Bell stated that the property in question was ideal for the RISE program. She then explained that it was more like a house built into a warehouse. She noted that there were conference rooms/office space that could double as bedrooms, there were bathrooms and a kitchen where the students could make their own lunches before going out into the community to work. She then pointed out that they had been looking for a property suitable for the RISE Academy for the past year and a half in order to accommodate the growing program. Ms. Bell noted that they would be taking students from other town as well as those from Windsor Locks. She concluded by stating that they had looked at 26 different properties to house the academy and that the negotiations on another property that they had been pursuing had fallen through at the last minute.

Chairman O'Connor asked Ms. Rodriguez for any comments. Ms. Rodriguez referred comments listed in her memorandum dated September 5, 2017 as follows:

- “1. The applicant, Windsor Locks Public Schools, has submitted a request for a use variance to be able to locate the RISE Academy, which provides transitional services for students aged 18 – 21, in an Industrial Zone that does not permit educational uses.
2. The applicant has submitted an application including form and supplemental information for your reference.
3. The applicant has claimed a hardship for your review.

4. Per CGS, see attached, the Board will need to consider whether a valid hardship, unique to the subject property, has been determined.
5. Per CGS, see attached, the Board will also need to consider whether or not the result of the requested variance is in harmony with the area in respect to public health, safety, property values and neighbor impact.
6. If the board finds that both requirements of #4 and #5 are met, and there is a motion made to approve the request, the Board shall enumerate the hardship(s) for the record as part of the motion.
7. Enclosed please find references to the Connecticut General Statutes related to decision making and procedural requirements of the Board of Appeals.

If a hardship has been determined and there is a motion to grant the variance request, below are conditions for the Board's consideration. Should the Board find these conditions appropriate they should be read as part of the motion:

1. The granting of this variance is for the specific use proposed in this application only, permitting an exception to the requirements of the zoning regulations Section 402 Use Table, in order to locate the Windsor Locks Public School RISE Academy, which provides transitional services for students aged 18 – 21.
2. The hardship upon which this decision is based is_____.
3. Changes to the proposed use may require a return to this Board.
4. Please see the Building and Land Use Office for additional permit requirements.”

Ms. Rodriguez then reminded the Board that the request before them that evening was on the use specifically. She went on to say that if approved it would then go before the Planning and Zoning Commission for site detail approval. She reiterated that it was not the duty of the Board to approve things like parking, etc.

Chairman O'Connor asked the Board members for any questions for Ms. Rodriguez. Mr. Halpin asked what they were looking to change the zoning to. Ms. Rodriguez replied that the zone would not change, but the uses allowed for that zone for this particular property would change. She explained that, if approved, the use would be approved under that zone for the property in question in perpetuity granting an exception for this particular use for this zone.

Chairman O'Connor asked the Board members for any questions. Mr. Halpin asked if any residents would be living at the Academy. Ms. Bell replied that no one would be living there. Mr. Halpin clarified that students would just be there during the day and would not be living at the facility. Ms. Bell stated that that was correct. Mr. Robinson pointed out that the bedrooms that Ms. Bell had referred to earlier were actually mock bedrooms which would be used for on-site training purposes only, such as learning to make a bed, etc.

Mr. Glazier asked if students would provide their own transportation or would it be a school bus system. Ms. Bell replied that Windsor Locks Public Schools was required to provide transportation. Mr. Glazier then asked, if someone could drive, that they

could indeed drive themselves to the Academy. Ms. Bell stated that that was correct. Mr. Glazier clarified that the academy would be staffed with specialized teachers. Mr. Robinson replied that they had two full-time certified special education teachers and four job coaches.

Mr. Horan asked if the instruction taking place at the academy would happen inside the building. Ms. Bell replied that that was correct; there would be no training taking place outside.

Mr. Robinson noted that there would also be a front office at the facility.

Mr. Halpin referred to restraint of students, if necessary, and asked if they were prepared for that in the area where the facility would be located. Mr. Robinson stated that their staff were specially trained and then noted that they had never had to restrain any student in their program. Ms. Bell then pointed out that the property in question was pretty far from Route 75, set back on a dead end road.

Chairman O'Connor commented that he had driven by the property in question and that it was very unique.

Mr. Glazier asked about the property's capacity for future growth and if they anticipated running out of room eventually. Mr. Robinson replied that they did not anticipate outgrowing the property in question. Ms. Bell noted that the largest number of students that they would have would be 20 to 24. She went on to say that not all of their students needed to attend the academy for the full three years of the program. Some would age out at 21 years old and others would progress quicker and could move beyond the academy earlier than 21 years old.

Chairman O'Connor asked for any public comments in favor of the application. There were none.

Chairman O'Connor asked for any public comments in opposition to the application.

Ken Christian, a neighbor of the property in question, addressed the Board and asked if the RISE Academy was a private program or if it was funded by the Town or State. Mr. Robinson replied that the RISE Academy was part of the Windsor Locks Public Schools. Mr. Christian commented that he had never heard of the program before and then asked why Windsor Locks was hosting the Academy and taking students from other towns. Mr. Robinson replied that prior to the RISE Academy Windsor Locks Public Schools used to outpace the students to other schools at the cost of the Windsor Locks Public Schools. He went on to say that the school system decided it would be best to keep the students in town rather than sending them out to other towns. He then noted that by Federal law they were required to educate these students until the age of 21. Mr. Christian referred to the bedrooms and asked if they

were going to house the students at the program. Mr. Robinson replied that they would not be housing any students at the facility. He went on to say that the bedrooms would be used to provide instruction on living skills. He noted that some of their students needed help with living skills such as doing laundry, making a bed, how to be independent, etc. Mr. Christian asked where the academy had previously been located. Ms. Bell replied that they were currently located at the rectory home at St. Robert's Church. Mr. Christian clarified that it was a nonprofit organization. Ms. Bell reiterated that it was part of the Windsor Locks Public Schools. Mr. Christian then asked if students could attend beyond the age of 21. Ms. Bell replied that that was not correct; once students reached the age of 21 they were exited from the program. Mr. Christian stated that he would be neutral on the application.

Alan Gannuscio of 136 Spring Street addressed the Board and commented that he had never seen a hearing as mis-focused as the evening's hearing had been. He went on to say that the focus should have been on what the hardship was, not the RISE program itself. He noted that he had not heard what the hardship was that evening. Mr. Gannuscio then commented that just because someone could not properly market their property to rent it or sell it did not necessarily lead to a hardship being granted and a change in the use. He went on to say that the Board was about to turn the Windsor Locks Zoning Regulations upside down and on its head. He then commented that the Board should certainly ask for a lot more than what had been presented on what the hardship was. Mr. Gannuscio stated that focusing on what was going to be going on inside the building was something for the Planning and Zoning Commission to focus on, not the Zoning Board of Appeals. He then reiterated that the Board's focus should be on the property and what the hardship was that would lead to turning the regulations inside out in this instance.

Chairman O'Connor asked for any further public input either for or against the application.

Pat King of 464 North Street addressed the Board and stated that the Rise Academy was a great place for students and that it had been very successful for our school system. She went on to say that it would continue to be great for not only Windsor Locks, but also the surrounding area as well.

Mr. Glazier summarized that the concept was to bring special needs students back into the Windsor Locks school system rather than placing them out of town. He went on to say that the more outsourcing there was the more expensive it would be and that the RISE Academy would provide an economic savings. Ms. Bell stated that it already had been and would continue to be a source of economic savings.

Chairman O'Connor asked the Board for any further questions. Mr. Horan commented that the property in question was zoned Industrial and that people did not

live in Industrial Zoned properties. He then pointed out that no one would be living at the RISE Academy.

Mr. Glazier asked what the hours of the academy would be. Mr. Robinson replied that the hours were 7:45 am to 2:15 pm.

Ms. Bell stated that they were before the Board that evening to establish the hardship primarily of the Windsor Locks Public Schools in operating the RISE program and the fact that the property in question presented them with a great opportunity, but a hardship because it was not zoned for use as a school. She then reiterated that they had been unable to find a space suitable to house the program. She went on say that one of the requirements of the program (not in law, but by other principles of special education) was that students age 18 to 21 have to spend time with their nondisabled peers. Ms. Bell commented that it would be wonderful to house the program at one of the Windsor Locks public schools, but that they could not because they would not be able to provide the time with their nondisabled peers. She went on to say that the students attending RISE were essentially adults and the students in the Windsor Locks public schools were children, therefore not peers.

Mr. Halpin clarified that if they were to bring in students from other towns, the town would get paid by those other towns to educate their students instead of Windsor Locks having to pay other towns. Ms. Bell stated that that was correct.

Ms. Rodriguez stated that the hardship that needed to be established must be specific to the property in question. She went on to say that the hardship must be unique to the property, something that other properties may not be experiencing; it really should not be personal in nature. She then reiterated that it must be something specific to the property in question that makes it difficult to house something that falls under the Industrial uses.

Chairman O'Connor asked for any final public input.

Mr. Gannuscio addressed the Board and noted that he had been on the Planning and Zoning Commission for 20+ years. He then reiterated that the focus should be on the property and the hardship of the property; not the hardship faced by the Board of Education in finding a place to put their program. Mr. Gannuscio stated that the only consideration should be the hardship that the property had. He then asked who was seated for the public hearing. The Recording Secretary replied that the following members were seated for the hearing: Shane O'Connor, Ron King, Doug Glazier, Chris Halpin and Mark Horan. Mr. Gannuscio then pointed out that Pat King was the Chairman of the Board of Education and that Ron King, her husband, was sitting on the Board for the hearing on the application being presented on behalf of the Board of Education.

Mr. Glazier asked Mr. Gannuscio for more clarification on what his intent of hardship was. He then went on to say that the Windsor Locks Public Schools was having a very difficult time finding a suitable location. Mr. Gannuscio stated that that was totally irrelevant; the hardship to the property should be the sole consideration (not the applicant). He went on to say that it should be the hardship of the property owner to find a use. The discussion continued briefly.

Mr. Gannuscio asked if anyone had asked the Town Attorney for an opinion prior to the hearing that evening. No one had done so.

Mr. Halpin noted that the Board was just determining use of the property that evening. Mr. Merrigan commented that, if approved by the Board, it would go forward with the property whether the RISE program was housed at the property or not. Ms. Bell stated that they were looking to stay at the location in question at least 10 to 15 years. Mr. Halpin commented that he was not worried about the Windsor Locks Public Schools' RISE program, but rather the next person/program to be located at the property.

Chairman O'Connor asked for any further public input. There was none.

Mr. King stated that he had previously spoken to Chairman O'Connor regarding recusing himself from the hearing that evening. He went on to say that after discussing it, the concern was dismissed because he had no possibility of personal gain from voting one way or another on the issue. Mr. King then stated if someone felt that he should recuse himself, then he would do so. Chairman O'Connor stated that it was Mr. King's right to recuse himself from the hearing if so chose to. He then noted that any of the Board members had the right to recuse themselves.

Chairman O'Connor closed the public hearing on Application #FY17-18-03.

Chairman O'Connor asked the Board members for a motion regarding Application #FY17-18-03. Mr. Glazier moved to approve Application #FY17-18-03, Owner: Armata Realty, Applicant: Windsor Locks Public Schools for an exception for the use of the property located at 2 Industrial Road to lease space for the 18-21 year old educational transition program named RISE whereby Section 402 does not permit educational use. The granting of this variance is for the specific use proposed in this application only, permitting an exception to the requirements of the Zoning Regulations Section 402 Use Table, in order to locate the Windsor Locks Public Schools RISE Academy, which provides transitional services for students aged 18 to 21. The hardship upon which this decision is based is: 1) exceptional difficulty finding a suitable location for the RISE educational program which required looking at 26 locations including some out of town. It would also be suitable for the economics of the owner of the building in as much as that he now has the ability to lease the property to the Windsor

Locks School System. 2) 2 Industrial Road is an ideal site as its location is on a private dead-end road having very low traffic with two other buildings consisting of light industry. This educational site is in harmony within the area with due consideration for conserving the public health, safety, convenience, welfare and property values solely with respect to the parcel at 2 Industrial Road. Changes to this site plan may require a return to the Board. Please see the Building and Land Use Office for additional permit requirements. Mr. Horan seconded the motion. Chairman O'Connor asked for any further discussion, there was none. All were in favor. The vote was 5 – 0, the motion was approved.

Mr. Glazier moved to adjourn the meeting. Mr. King seconded the motion. All were in favor. The vote was 6 – 0, the meeting was adjourned at 7:44 pm

Respectfully submitted,

Diane Ferrari
Recording Secretary

THIS IS A DRAFT

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