

**TOWN OF EAST WINDSOR
PLANNING AND ZONING COMMISSION**

**Meeting #1614
June 26, 2012**

******Draft Document – Subject to Commission Review******

The Meeting was called to order in the East Windsor High School Cafeteria, 76 South Main Street, Street, Broad Brook, CT. at 7:02 P. M. by Chairman Ouellette.

ESTABLISHMENT OF QUORUM:

A quorum was established as five Regular Members (Devanney, Gowdy, Ouellette, Thurz, and Sullivan) and one Alternate Member (Zhigailo) were present. Chairman Ouellette noted all Regular Members would sit in, and vote, on all Items of Business this evening. Alternate Member Zhigailo would also join the Board regarding discussion on all Items of Business this evening as well.

Also present was Town Planner Whitten.

GUESTS: Alan Baker, Board of Selectmen Liaison to the Planning and Zoning Commission; Kathy Pippin, Board of Finance.

LEGAL NOTICE: None

ADDED AGENDA ITEMS: None

PUBLIC PARTICIPATION: No one requested to speak.

APPROVAL OF MINUTES/June 12, 2012:

MOTION: To APPROVE the Minutes of Regular Meeting #1613. dated June 12, 2012 as amended:

Page 8, **OLD BUSINESS: B & G Motors, LLC:** “Town Planner Whitten referenced two recent letters..... second bullet, Letter from ~~WPCA~~ NCHD (North Central Health District).....

Page 15, **NEW BUSINESS: New Cingular Wireless PCS, LLC:** MOTION TO APPROVE the Application of New Cingular Wireless, PCS and owner ~~Plantation Properties, LLC~~ Connecticut Water Company.....

Page 18, same Item of Business, Condition 19: Antenna height to be lowered to height of existing antennaes, and height to be ~~shone~~ shown on mylars.

Page 18, ADJOURNMENT: ~~Gowdy~~ Devanney moved/~~Thurz~~ Zhigailo seconded....

Devanney moved/Gowdy seconded/

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VOTE: **In Favor:** **Devanney/Ouellette/Sullivan**
 Opposed: **No one**
 Abstained: **Gowdy/Thurz**

RECEIPT OF APPLICATIONS:

1. Application of Cellco Partnership d/b/a Verizon Wireless for Modification of Approved Site Plan – to replace 12 existing wireless antennas with 12 new antennas on existing water tower located at 104 Prospect Hill Road, owned by CT Water Company. [R-3 Zone; Map 102, Block 17, Lot 38].

PERFORMANCE BONDS – ACTIONS; PERMIT EXTENSIONS; ROAD

ACCEPTANCE: Steve Dearborn, 68 Newberry Road – Request from Atty. Bridget C. Gallagher for a one-year extension of the approved Special Use Permit/Site Plan Approval for a volume reduction facility/contractors storage yard at 68 Newberry Road – approved on 9/13/2011, (M-1 Zone; Map 93, Block 19, Lot 6):

Chairman Ouellette read the description of this Item of Business.

Town Planner Whitten noted she had received a phone call from Attorney Gallagher today suggesting that this Application, and the following Application, be tabled/continued this evening. The Applicant, legal counsel for the Applicant, and Town Staff are meeting tomorrow to discuss the status of Mr. Dearborn’s operation at 68 Newberry Road.

(See action taken below)

PERFORMANCE BONDS – ACTIONS; PERMIT EXTENSIONS; ROAD

ACCEPTANCE: Steve Dearborn and Newberry Road Associates, 68 Newberry Road – Request from Atty. Bridget C. Gallagher for reconsideration of bonding requirements for the approved Special Use Permit/Site Plan Approval for a volume reduction facility/contractors storage yard at 68 Newberry Road. (M- Zone; Map 93, Block 19, Lot 6):

Chairman Ouellette read the description of this Item of Business. He noted the following action taken on both Applications.

MOTION: **To TABLE the Applications for PERFORMANCE BONDS – ACTIONS; PERMIT EXTENSIONS; ROAD ACCEPTANCE: Steve Dearborn, 68 Newberry Road** – Request from Atty. Bridget C. Gallagher for a one-year extension of the approved Special Use Permit/Site Plan Approval for a volume reduction facility/contractors storage yard at 68 Newberry Road – approved on 9/13/2011, (M-1 Zone; Map 93, Block 19, Lot 6), **AND, PERFORMANCE BONDS – ACTIONS; PERMIT EXTENSIONS; ROAD ACCEPTANCE: Steve**

Dearborn and Newberry Road Associates, 68 Newberry Road – Request from Atty. Bridget C. Gallagher for reconsideration of bonding requirements for the approved Special Use Permit/Site Plan Approval for a volume reduction facility/contractors storage yard at 68 Newberry Road. (M- Zone; Map 93, Block 19, Lot 6) until the Commission’s regularly scheduled Meeting on August 14, 2012, to be held at 7:00 p.m. in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT.

Devanney moved/Gowdy seconded/

**VOTE: In Favor: Unanimous
 Opposed: No one
 Abstained: No one**

CONTINUED PUBLIC HEARINGS: None

NEW HEARINGS: None

OLD BUSINESS: Armster Reclaimed Lumber Company – Modification of Approved Site Plan for 232 & 244/246 South Main Street, owned by All American Products Corp., for modification of Phase II wood storage area adding 6 wood storage sheds. (M-1, B-2 & A-2 Zones; Map 12, Block 5, Lots 84-1 & 87] (*deadline for decision 6/28/2012*):

Chairman Ouellette read the description of this Item of Business.

Appearing to discuss this Application was Jay Ussery, of J. R. Russo & Associates, LLC. The Applicant, Mr. Armster, joined Mr. Ussery later on in the presentation.

Mr. Ussery reported that the Applicant, and the landlord, made changes to the proposal this afternoon. Mr. Ussery had hurriedly made plan revisions to present to the Commission this evening. He is not anticipating approval this evening due to these revisions; Mr. Ussery plans to submit a request for extension of the application on behalf of the Applicant.

Mr. Ussery indicated that 2 or 3 meetings ago they had proposed a rendition showing a 5’ to 6’ landscape berm on the north side of Hotcakes restaurant; the berm would be planted with arborvitae. Mr. Armster would rather go with that proposal again; he is no longer proposing installing any buildings on this property. The berm would be moved 60+/- feet forward in front of the fence, which would provide more storage space. Mr. Ussery suggested the berm would also be more visually appealing, but will require maintenance to sustain its appearance. The fence would be continued to the rear of Hotcakes restaurant and up to the Baggott Farm operation. This continuation of the fence would prevent looking into the Armster property from the side. Asphalt would be removed to install the berm.

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Commissioner Gowdy questioned if the landlord, Mr. Balch, has provided written approval for the proposal? Town Planner Whitten confirmed that she received an e-mail from Mr. Balch indicating he is aware Mr. Armster is expanding onto “other properties”; Town Planner Whitten READ THE E-MAIL FOR THE RECORD.

Mr. Ussery noted all these changes were made via a phone call. He indicated Mr. Balch still needs to see the plan; perhaps he could sign on the proposed revised site plan as well.

Commissioner Sullivan questioned if Hotcakes has questioned if the berm will cut off their sightline? Mr. Ussery suggested Hotcakes is located somewhat on the curve; the berms will be setback so he didn't anticipate any problems. Mr. Ussery felt Hotcakes would still have its visibility.

Commissioner Zhigailo questioned the distance of the piles from Hotcakes? Mr. Ussery indicated the distance from the building is 50' on the south side and 60' on the north side. Commissioner Zhigailo cited the Applicant will be stacking wood on the back side of the restaurant building. She noted a woodpile on her personal property is visited by woodchucks and mice. She cited health concerns stocking wood near a food facility. Chairman Ouellette queried that even if it were a berm rather than a fence Commissioner Zhigailo's concern was the stocking of lumber close to the restaurant? Commissioner Zhigailo concurred.

Mr. Armster had joined Mr. Ussery for the presentation by this time. Mr. Armster suggested you have lumber yards near restaurants all the time. Commissioner Zhigailo clarified Mr. Armster would be storing used lumber – some of which is antique wood from the earlier part of the century – 50' or 60' from a food facility; she is concerned about outgassing of chemicals as well. Mr. Armster suggested they go out of their way to not buy material containing arsenic, etc. Commissioner Gowdy suggested seeking approval from the North Central Health District (NCHD) regarding the proximity of the proposed storage.

Mr. Armster felt it was like being in the woods; snakes take care of the mice, he has seen a bobcat within the vicinity. Commissioner Zhigailo suggested if the restaurant puts out their garbage and the rodents smell it

Chairman Ouellette queried if the NCHD approval could be a condition of approval? Town Planner Whitten indicated she will confer with the NCHD. She also suggested the Fire Marshal may also have concerns with that much material being stored next to the restaurant which often has a high occupancy rate.

Commissioner Thurz felt the proposal placed too much material too close to the restaurant, as well as too close to the street; the place is becoming a mess. He indicated he would like to see the storage pushed back to behind the fence. Chairman Ouellette suggested perhaps photos of the site would enable Commissioners to visualize the proposal, and the proposed location of the berm. Mr. Ussery suggested he can put safety

cones in the location of the berm. Commissioner Zhigailo questioned how far back from the edge of the road will the berm be located? Mr. Ussery indicated 100' on the north end on the north side and then down to 80'; next to the building (restaurant) the distance is 110' to 120' as you go south. Mr. Ussery suggested it would be 80' to 85' to the center of the berm, and 120' or 140' from the curb line.

In response to the comment he was making a mess of the site Mr. Armster reported the reason it's a mess is there isn't enough space. The (his) goal is to try to increase the space to store material. Commissioner Gowdy suggested the reason the site is a mess is because Mr. Armster continues to bring in material daily; he can't conform if he brings in more material, and he just keeps paying the fine. Mr. Armster suggested that initially "they" didn't know how much work there was; "they" brought in more wood than "they" should have at this point. He doesn't want to expand indefinitely. Mr. Armster indicated he didn't have enough space initially; the amount of space he has now isn't enough, but to say he won't comply..... he understood why someone may feel that way but it wouldn't be the case. Commissioner Gowdy questioned if Mr. Armster could guarantee that nothing new will be brought in from tonight until the application is approved? Mr. Armster replied he couldn't; he would be running himself out of business. Mr. Armster reiterated he needs the space; he can't sacrifice the business.

With regard to the fine, Mr. Armster reported he isn't paying anything.

Mr. Armster reiterated it really comes down to the space. He didn't want a mess, or a fire hazard; he isn't working with hazardous wood. There is nothing he can do with the condition of the wood; there will always be nails and stuff in the wood. Mr. Armster suggested that at every point he didn't know what his requirements were for the business. It's taken years of a learning curve to know what he needs for the business. Commissioner Gowdy indicated there was no question that everyone on the Board wanted Mr. Armster to do well, but you still have to be in compliance; it's not a little bit out of compliance, it's way out. Commissioner Devaney suggested the way to get into compliance is to not take in more wood.

Discussion followed regarding various options to gain compliance. Mr. Armster suggested maybe it could be a situation where he didn't bring in more than he sent out. Commissioner Thurz felt that wouldn't work; Mr. Armster would want to take what was available. Commissioner Thurz indicated he has taken complaints from people about the business, especially so close to the restaurant. Mr. Armster suggested he liked the shorter piles; that would be easier to cover. He is also working on finding another location to store additional materials if he needs it.

Chairman Ouellette questioned if phasing of the project could be required as a condition of compliance? Town Planner Whitten indicated that had been her recommendation: 1) phasing – he can't move into Phase II until Phase I is completely in compliance, and 2) bonding. However, Town Planner Whitten noted Mr. Armster is already storing material in Phase II, even while this application is pending.

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Discussion followed regarding the history of the site – Mr. Armster’s initial business arrival on site without benefit of a permit, approval of a site plan, continued expansion by moving the material forward closer to the road without benefit of site plan modification, the continued lack of compliance, notice of violations, continued non-compliance, submission of this Application in response to the Notice of Violation. Mr. Armster felt he had been told he would be ok to go to Phase II when he put the fence in. Town Planner Whitten questioned if the fence was currently installed on site? Mr. Armster replied no. Mr. Armster felt he had been told by (Zoning Enforcement Officer Newton) to come in with a plan and then work on compliance. Mr. Armster also noted he had spoken with the Fire Marshal who had cited concerns with “elements on site” – sawdust. In response he has taken out 15 loads of sawdust. Town Planner Whitten agreed that was a good thing, but Mr. Armster needed to bring the whole site into compliance.

Chairman Ouellette noted the Commission needed to make a decision tonight, or seek an extension from the Applicant.

Commissioner Sullivan suggested Mr. Armster may need to make a self-imposed moratorium to not take in more material. If Mr. Armster continues to take in more material the site will just become more disorganized.

Discussion c-o-n-t-i-n-u-e-d. Mr. Armster continued to espouse his contention that the non-compliance was the result of not having enough space to store the material he continues to receive. The Commission continued to explain the need to seek compliance prior to further expansion. The Commission reiterated their concerns voiced earlier. Mr. Armster reiterated the non-compliance is due to the lack of enough space. And so it continued.

Chairman Ouellette noted receipt of a request for a 30 day application extension submitted by Mr. Ussery on behalf of Mr. Armster. Chairman Ouellette noted the Commission’s next meeting is July 10th; Mr. Ussery indicated he would prefer being scheduled for July 24th.

MOTION: To CONTINUE the Application of Armster Reclaimed Lumber Company for Modification of Approved Site Plan for 232 & 244/246 South Main Street, owned by All American Products Corp., for modification of Phase II wood storage area adding 6 wood storage sheds. (M-1, B-2 & A-2 Zones; Map 12, Block 5, Lots 84-1 & 87) until the Commission’s regularly scheduled Meeting on July 24, 2012, to be held at 7:00 p.m. in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT.

Devanney moved/Thurz seconded/

DISCUSSION: None

VOTE: In Favor: Devanney/Ouellette/Sullivan/Thurz

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**Opposed: Gowdy
Abstained: No one**

OLD BUSINESS: B & G Motors, LLC: Site Plan Approval for property at 250 South Main Street, owned by James Balch. [B-2 Zone; Map 12, Block 5, Lot 89] (*Deadline for decision 6/28/2012*):

Chairman Ouellette read the description of this Item of Business.

Town Planner Whitten noted receipt of letter dated 6/22/2012 from Mr. Ussery on behalf of the Applicant. Mr. Ussery has requested the Application be withdrawn. Town Planner Whitten noted they do not presently have proper methods for waste disposal.

MOTION: To WITHDRAW the Application of B & G Motors, LLC for Site Plan Approval for property at 250 South Main Street, owned by James Balch. [B-2 Zone; Map 12, Block 5, Lot 89]

Devanney moved/Gowdy seconded/

DISCUSSION: None

**VOTE: In Favor: Devanney/Gowdy/Ouellette/Sullivan/Thurz
Opposed: No one
Abstained: No one**

NEW BUSINESS: None.

OTHER BUSINESS: None.

BUSINESS MEETING/ (1) Discussion: State Plan of Conservation & Development:

Town Planner Whitten noted the material provided for the Commission relates to the State's plan for the way East Windsor should be developing. Compliance with the State plan affects grant funding, as well as other issues. The State plan does not currently reflect the Commission's recent approval of the B-3 Business Corridor Zone for Route 140, and final approval for the Sewer Service Area was never received. Town Planner Whitten requested the Commission review this material for the next meeting and relate it to East Windsor's Plan of Conservation and Development. Chairman Ouellette requested availability of the Smartboard for discussion of this plan.

BUSINESS MEETING/(2) Correspondence: None.

BUSINESS MEETING/(3) Staff Reports: None.

BUSINESS MEETING/(4) Signing of Mylars/Plans, Motions:

Motions:

1. **Mary L. Pepin and Marie T. Morris** - 1-lot resubdivision of property located at 50 Barber Hill Road.
2. **New Cingular Wireless PCS, LLC** – Site Plan approval to install additional telecommunications antennas and equipment on existing water tower located at 50 Plantation Road, owned by Plantation Properties, LLC.
3. **New Cingular Wireless PCS, LLC** – Site Plan approval to install additional telecommunications antennas and equipment on existing water tower located 104 Prospect Hill Road, owned by Connecticut Water Company.
4. **New Cingular Wireless PCS, LLC** – Site Plan approval to install additional telecommunications antennas and equipment on existing water tower located at 41 Depot Street, owned by Connecticut Water Company.
5. **Norton’s Crossing, Hayfield Lane** – Gaetan Letourneau

ADJOURNMENT:

MOTION: To ADJOURN this Meeting at 7:56 p.m.

Gowdy moved/Devanney seconded/VOTE: In Favor: Unanimous

Respectfully submitted,

Peg Hoffman, Recording Secretary, East Windsor Planning and Zoning Commission
(2837)