

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

REGULAR Meeting #1737 – April 24, 2018

MEETING MINUTES

*******Minutes are not official until approved at a subsequent meeting*******

The Meeting was called to order in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT. at 6:30 P. M. by Vice Chairman Sullivan.

PRESENT: **Regular Members:** Dick Sullivan (Vice Chairman), Tim Moore, and Jim Thurz.

Alternate Members: Frank Gowdy, and Marti Zhigailo.

ABSENT: **Regular Members:** Joe Ouellette, Mike Kowalski.

Alternate Members: Both Alternate members are present this evening.

Also present was Town Planner Whitten.

GUESTS: Richard P. Pippin, Jr., Inland Wetlands and Watercourse Agency; Kathy Pippin, Board of Finance....

ESTABLISHMENT OF QUORUM:

A quorum was established as two Regular Members and two Alternate Members were present at the Call to Order; Regular Member Moore arrived shortly. Vice Chairman Sullivan noted all Regular Members and both Alternate Members would sit in, and vote, on all Items of Business this evening.

Town Planner Whitten advised the audience the Public Hearing on the Application of Karl and Jayne Reichle for a 2-lot Resubdivision of property located at 33 Morris Road and a Special Use Permit (in accordance with Section 408) to allow one rear lot won't be heard this evening. She read an e-mail from J. R. Russo & Associates reporting they will be unable to represent their client this evening; they have requested a postponement of the Application until May 8th. She suggested that anyone who was present for this application this evening to return on May 8th.

LEGAL NOTICE:

The following Legal Notice, which appeared in the Journal Inquirer on Thursday, April 12, 2018, and Thursday, April 19, 2018, was read by Vice Chairman Sullivan:

1. Application of WSG, LLC for a Text Amendment of Section 814.3.n *Earth Excavation – Access Maintenance* to delete “one-mile radius” and add “one-half mile radius.”

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2. Application of Marilyn M. Migliore for a Special Use Permit (in accordance with Section 407 of the Zoning Regulations) to allow an Accessory Apartment at 294 Scantic Road. (A-1 zone; Map 13, Block 23, Lot 27)

3. Application of Karl & Jayne Reichle for a 2-lot Resubdivision of property located at 33 Morris Road and a Special Use Permit (in accordance with Section 408 of the Zoning Regulations) to allow one rear lot. (A-1 zone; Map 17, Block 66, Lot 17)

ADDED AGENDA ITEMS: None.

PUBLIC PARTICIPATION:

Vice Chairman Sullivan queried the audience for comments regarding items/issues not posted on the Agenda. No one requested to speak.

APPROVAL OF MINUTES/April 10, 2018:

MOTION: To APPROVE the Minutes of Regular Meeting #1736 dated April 10, 2018 as written.

Moore moved/Thurz seconded/DISCUSSION: None.

VOTE: In Favor: Unanimous (Gowdy/Moore/Sullivan/Thurz/Zhigailo)

RECEIPT OF APPLICATIONS: None.

PERFORMANCE BONDS – ACTIONS; PERMIT EXTENSIONS; ROAD ACCEPTANCE

No requests presented under this Item of Business this evening.

CONTINUED PUBLIC HEARINGS: None.

NEW PUBLIC HEARINGS – Application of WSG, LLC for a Text Amendment of Sec. 814.3.n *Earth Excavation – Access Maintenance* to delete “one-mile radius” and add “one-half mile radius.” (*Deadline to close Hearing May 29, 2018*):

Vice Chairman Sullivan read the description of this Application. Present to discuss the application was Adam Westhaver.

Mr. Westhaver reported he has purchased a property about a year ago. Town Planner Whitten advised Mr. Westhaver that the Commission is considering only the Text Amendment; they know nothing about the history of his purchase, or of the property Mr. Westhaver is referring to. Mr. Westhaver continued; he submitted an aerial of the property location, noting the location of an existing entrance to a gravel operation to the north. Mr. Westhaver reported they would be proposing to create another entrance one

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half mile from the existing entrance which would allow them to excavate gravel from property to the rear. Mr. Westhaver reported that property had been a gravel pit in the 60s, 70s, and 80s; he indicated the pit was active through 1986. Mr. Westhaver reported the former owner was (Mr.) Belzarus, who went into farming Christmas trees. Mr. Westhaver reported that should this Text Amendment be allowed he would apply for a gravel permit in the future.

Commissioner Thurz suggested the one mile radius was put in place to keep the gravel operations separate, and to keep the trucks from going down the same roads. Mr. Westhaver didn't think that would happen; he suggested they are proposing to install an entrance at the railroad tracks as well as the current access.

Commissioner Gowdy clarified that the Commission is concerned about the effect of the Text Amendment on the whole town rather than this particular site. The location of the site shouldn't influence the granting of the Text Amendment; the specific site is immaterial to the Text Amendment.

Mr. Westhaver reported Herb Holden operates to the north, as well as Charbonneau; both entrances are within one mile of each other; Mr. Westhaver reported he has no problem with either operator. Mr. Westhaver reiterated this property was a gravel pit; just because it's lapsed shouldn't prevent re-establishing the use. Mr. Westhaver reported that in discussing options with Town Planner Whitten she felt the best option was the Text Amendment. Mr. Westhaver understands there were multiple pits in the past. This operation is more of an industrial operation away from homes; the only home affected is the residence on his property on Wapping Road. Mr. Westhaver just wants the same opportunities as the other operators.

Commissioner Gowdy suggested perhaps considering the grandfathering of the operation was a better option, as the Text Amendment affects the whole town. Town Planner Whitten reviewed the location of this property, and its proximity to the railroad and the Holden, Charbonneau, and Mitchell pits. Town Planner Whitten questioned grandfathering the use as it was deliberately abandoned and changed to tree farming. Discussion continued regarding the history behind the one mile radius restriction. It was noted the pits are located primarily in the Windsorville area; multiple pits were in operation at the same time; residents were concerned about truck continual traffic. Mr. Westhaver felt the truck traffic would go through Windsorville rather than going through the center of town. He indicated he would like to strip the top soil, stockpile it, and return it to the property after excavation of the gravel to return the use to farmland; at the end of the day it won't be solar panels.

Mr. Westhaver questioned if we should table this and consider grandfathering?

Vice Chairman Sullivan noted this is a Public Hearing; he queried the audience for comments.

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Tom Delnecki, State Representative for South Windsor: Mr. Delnecki advised the Commission the actions they take today are changing the law; their actions may have unintended consequences; we could have pits popping up all over. He cited residents on Graham Road who have been impacted by truck traffic. Mr. Delnecki suggested he sees East Windsor as the next South Windsor because of the great quality of life here; he recalls when South Windsor was like East Windsor and sometimes he would like to turn the clock back. He suggested the Commission will need to consider the sites and the roads that will be affected by the truck traffic. Mr. Delnecki suggested the Commission needs to look at why the regulation was put in place. Mr. Delnecki submitted testimony/comments regarding this proposal.

Mike Rinaldi: Mr. Rinaldi reported he was previously associated with Mr. Belzarus and is familiar with the property. He was thinking about purchasing it himself before Mr. Westhaver purchased it. Mr. Rinaldi reported there is another phase of excavation as there is sand on the property.

Attorney Alan Kermer, representing Herb Holden, Jr., and Sr.: Attorney Kermer advised the Commission that the Hodlens are not opposing this proposal. Attorney Kermer suggested the Commission may want to consider asking for a traffic study; he recalls discussions in the 80s of the separating distances. Attorney Kermer questioned if there are presently less pits than there were previously? He suggested East Windsor is blessed with a natural resource from which it has benefited; it provides many jobs for many people. The downside is the traffic, but the Commission can regulate the hours of operation and the routes by which the material is delivered. Commissioner Gowdy suggested that right now there might be a demand for the product but in 5 years that may change. A traffic study would tell the Commission what the conditions are now. If the Commission makes a Text Change it will affect everybody. Attorney Kermer cited the traffic study usually addresses the potential growth of the community. Attorney Kermer felt the grandfathering doesn't work because the use was abandoned.

Discussion continued regarding the abandonment of the gravel operation by previous owners. Mr. Westhaver suggested if the Commission didn't want to do a Text Amendment then it would be putting the Holdens and others in jeopardy. Mr. Westhaver suggested he just wants to have the opportunity to have the same business as everyone else; he questioned if the Commission could designate a location for this use? Mr. Westhaver felt the one mile number was just arbitrary; it doesn't allow the full use of their land. Commissioner Thurz reiterated again that the Commission can't consider this request as being site specific; the Text Amendment affects the whole Town.

Mr. Westhaver suggested he understood, but he questioned how to get to where he needs to be? Commissioner Moore questioned the abandonment; he cited Christmas trees grow on a 7 year cycle, perhaps Mr. Belzarus planted the trees until the need for the gravel came back? Mr. Westhaver reported he had REMA research the pit; it was a working pit in the 60s, 70s, 80s, and may have operated into the 90s. Vice

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Chairman Sullivan questioned the location of the solar farm; Town Planner referenced the locations of pits being excavated by the Holdens (across the railroad tracks behind NORCAP), NORCAP (which is closed for the most part), and Charbonneau (on Apothecary Hall Road). Commissioner Moore felt the area being excavated by the Holdens is nearing the end of its run; Herb Holden, Jr. clarified that the area still had material to excavate.

Vice Chairman Sullivan questioned if Mr. Westhaver could use one of the existing entrances which would eliminate the need to go out onto Windsorville Road? Vice Chairman Sullivan felt that the Text Amendment wasn't the way to go with this request.

Richard P. Pippin, Jr., 37 Woolam Road: Mr. Pippin recalled when Bill Thornton was operating out of the Charbonneau Pit – then operated as Manchester Sand and Gravel – they were operating 8 trucks per day. Mr. Pippin felt the one mile radius came about to prevent other operations from opening.

Mr. Pippin also felt there are only so many dump trucks; half the time you can't get a truck when you need it; you must wait.

Mr. Pippin also suggested the current entrance is on a curve; it's a bad spot. It would be better to work a deal with the Holdens to consider changing the entrance.

Town Planner Whitten suggested the Commission consider continuing the conversation to give her and Mr. Westhaver time to discuss options again. Commissioner Gowdy indicted he sympathized with Mr. Westhaver but he questioned the proposal for a Text change? Commissioner Thurz reiterated that the Text Amendment affects the whole town.

Discussion continued; Mr. Westhaver would like to use the existing entrance; he will be hiring people. Commissioner Zhigailo understood it's Mr. Westhaver's property and this restricts your use of the property through no fault of your own. She cited the existing pit there. Commission Gowdy clarified that all of this discussion has nothing to do with the proposal before the Commission. Commissioner Moore questioned that even with the Text Amendment wouldn't Mr. Westhaver have to apply for a Special Use Permit? Town Planner Whitten felt that any previous permit would have expired by now; she felt a Special Use Permit would have to be acquired.

Richard P. Pippin, Jr., 37 Woolam Road: suggested that geographically this proposal would only be affecting from Rye Street east. He suggested Mr. Holden already has most of that activity; he felt there wouldn't be that much more traffic.

??????????, of Red Technology: questioned if there was any other way to do this; he questioned the use of variances? Town Planner Whitten clarified that requesting a

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variance through the Zoning Board of Appeals would require a hardship related to the proposal; Mr. Westhaver purchased the property knowing the one-mile radius was in the regulations. She also noted the Commission can no longer waive regulation requirements.

Attorney Kermer suggested maybe the Commission could consider an over-lay zone and cluster these uses if the gravel is located within only a certain part of town? Discussion continued regarding gravel excavation permits in general, and the overall effect on the town. Commissioner Gowdy cited the horrific condition of local roads; he questioned the effect of adding additional 10 wheel vehicles to the existing truck traffic. Attorney Kermer reiterated his suggestion for the Commission to request a traffic study.

Ben Berger, Counsel for WSG: Attorney Berger suggested the Text Amendment only creates the opportunity to put in a permit and the Commission has the ability/opportunity to evaluate an application. Attorney Berger suggested it doesn't really open it up around town; it's only opening up the opportunity. Commissioner Gowdy suggested that once the Commission sets the precedent it's difficult to deny subsequent requests.

Town Planner Whitten recommended that the Commission keep the Public Hearing open, which will give her and the Applicant the opportunity to discuss this proposal more.

Vice Chairman Sullivan polled the Commissioners for their initial opinions. Commissioner Moore indicated he didn't see the reason for changing the radius. He also noted the railroad abuts almost any pit from here to Enfield; he also suggested he didn't know what will become of the pits in 50 years. Mr. Westhaver suggested they were also looking at the option of using the railroad; they were considering bringing in a spur and using the rail line to move product south. Regarding the end use of the property, Mr. Westhaver suggested they were look to keep the land in an agricultural use by returning the top soil to the parcel, or using the land for open space. Commissioners Gowdy, Thurz, and Zhigailo all agreed to keep the Public Hearing open.

MOTION: To CONTINUE the Public Hearing on the Applciation of WSG, LLC for a Text Amendment of Sec. 814.3.n *Earth Excavation – Access Maintenance* to delete “one-mile radius” and add “one-half mile radius until the Commission’s next regularly scheduled meeting on May 8th, 2018 at 6:30 p.m. at 11 Rye Street, Broad Brook, CT.

Moore moved/Thurz seconded/DISCUSSION: None.

VOTE: In Favor: Unanimous (Gowdy/Moore/Sullivan/Thurz/Zhigailo)

NEW PUBLIC HEARINGS: .Application of Marilyn M. Migliore for a Special Use

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Permit (in accordance with Section 407) to allow an Accessory Apartment at 294 Scantic Road. (A-1 Zone; Map 13, Block 23, Lot 27) (*Deadline to close June 14, 2018*)

Vice Chairman Sullivan read the description of this Public Hearing. Appearing to discuss the application was Marilyn Migliori.

Mrs. Migliori reported she's lived in town her whole life; she inherited her grandparents property at 294 Scantic Road, which is a 2+/- acre parcel containing a Victorian style farmhouse, barn and garage. Mrs. Migliori hired an architect to design an accessory apartment for herself; she'll be able to access the primary home through pocket doors. The apartment will be in conformance with the style of the existing house; the apartment and home will have common electrical and heating systems. The primary home has a new roof, siding, gutters, shutters, and doors. The North Central Health District has approved the use of the existing septic system; there are two shallow wells on the property but she'll be digging a deeper well also. Mrs. Migliori reported she and her son will live in the farmhouse. Town Planner Whitten noted Mrs. Migliori must sign an affidavit that she will be living in the accessory apartment.

Vice Chairman Sullivan noted this application is a Public Hearing; he queried the public for comments.

Richard P. Pippin, Jr., 37 Woolam Road: Mr. Pippin felt the house was a two-family dwelling when Bill Miller lived there. Mrs. Migliori reported her grandparents lived in the home since the 20s; she's Bill Miller's daughter; the home was always a one family dwelling.

Hearing no further requests for public comment Vice Chairman Sullivan queried the Commission for action on this application.

MOTION To CLOSE the Public Hearing AND APPROVE the Application of owner Marilyn M. Migliore for a Special Use Permit to allow an accessory apartment in accordance with Section 407 of the Zoning regulations at 294 Scantic Road, in the A-1 Zone [Map 13, Block 23, Lot 27] This approval is granted subject to conformance with the referenced plans as approved by the Commission and the following conditions:

Referenced Plans:

A1 Proposed Addition for Marilyn Migliore, 294 Scantic Road, East Windsor CT 06088 , prepared by K.O. Home Design, LLC Ellington CT 06029 Cell – 860 930 7075, Keith@KOHOMEDESIGN.com, dated 4/15/18 scale 1" = 11.0'
A2 First Floor Plan

CONDITIONS:

Conditions that must be met prior to the issuance of any permits

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1. North Central District Health Department shall review and approve the plans for any proposed septic system design and well location to insure adequate capacity for the additional occupancy.

Conditions that must be met prior to certificates of compliance

2. All public health, safety and building code compliance components of the project must be satisfactorily completed prior to occupancy. When all public health, safety and building code compliance components have been completed, the Zoning Official may issue a Certificate of Zoning Compliance.
3. A notarized affidavit in a form acceptable to the PZC, signed by the owner of one of the one family dwelling affirming the intent that either the principal or accessory dwelling unit is to be occupied by the owner of the premises shall be required. Affidavit shall be filed on the land records. The ZEO may request renewed notarized affidavit at 1 year intervals.

General Conditions

4. A certificate of zoning compliance shall be filed on the land records and will be automatically expire with change of ownership. New owners must apply for a new zoning permit, otherwise the use will be considered abandoned.
5. No additional Mailbox is allowed.
6. No additional entrances may be allowed on any wall plane facing any street.
7. Zoning Permit shall be obtained prior to the commencement of any work.
8. A Building Permit shall be obtained prior to the commencement of any work.
9. This project shall be constructed and maintained in accordance with the referenced plan. Minor modifications to the approved plans that result in lesser impacts may be allowed subject to staff review and approval.
10. By acceptance of this approval and conditions, the applicant, owner and/or their successors and assigns acknowledge the right of Town staff to periodically enter upon the subject property for the purpose of determining compliance with the terms of this approval.
11. The applicant hereby acknowledges concurrence with the provision of §407 of the East Windsor zoning regulations in total and in doing so recognizes the authority of the Zoning Enforcement Officer to order removal and conversion of the accessory apartment as allowed by §407

Moore moved/Thurz seconded/DISCUSSION: None.

VOTE: In Favor: Unanimous (Gowdy/Moore/Sullivan/Thurz/Zhigailo)

Town Planner Whitten advised Mrs. Migliori to visit the Planning Office to file a Zoning Permit for the construction of the apartment.

NEW PUBLIC HEARINGS: Application of Karl & Jayne Reichle for a 2-lot Resubdivision of property located at 33 Morris Road and a Special Use Permit (in accordance with Section 408) to allow one rear lot. (A-1 Zone; Map 17, Block 66, Lot 17) (*Deadline to close June 14, 2018*)

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Town Planner Whitten noted the Reichle Application has been postponed until the Commission's May 8th Meeting; no discussion will be heard tonight.

NEW BUSINESS: None.

OLD BUSINESS: None.

OTHER BUSINESS: None

CORRESPONDENCE: None.

BUSINESS MEETING/(1) TOD Smart Growth Grant for Warehouse Point:

No discussion this evening.

BUSINESS MEETING/(2) Zoning Compliance Issues:

No discussion this evening.

BUSINESS MEETING/(3) Discussion on Aquifer Protection Regulations:

No discussion this evening

BUSINESS MEETING/(4) General Discussion of Planning Issues – Signage and Digital Signs:

Town Planner Whitten provided the Commission with a memo outlining specifics regarding size, height, setback distances, and definitions for free-standing signage associated with Municipal Buildings. Applicable municipal buildings were identified; purpose was defined as being provision of public information; commercial, not for profit, and political advertising and promotion is prohibited. Specifics of the electronic messaging center was discussed.

Town Planner Whitten will prepare draft regulations for the Commission's review at the May 8th Meeting.

BUSINESS MEETING/(7) Signing of Mylars/Plans, Motions:

Mylars: None.

Motions:

Hamlet Homes, represented by Mark O'Neill – Modification of Approved Subdivision (Harvest View Estates) to eliminate sidewalks for fee in lieu of, and modify infrastructure and

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grading associated with the water quality basin for property located at the northeast corner of East and Middle Roads. (R-3 zone; Map 50, Block 82, Lot 002) .

ADJOURNMENT:

MOTION: To ADJOURN this Meeting at 7:45 p.m.

Moore moved/Thurz seconded/DISCUSSION: None.

VOTE: In Favor: Unanimous (Gowdy/Moore/Sullivan/Thurz/Zhigailo)

Respectfully submitted,

Peg Hoffman, Recording Secretary, East Windsor Planning and Zoning Commission