

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

**Regular Meeting #1836**

**October 11, 2022**

**6:30 p.m.**

**John Daly Jr. Meeting Room (Town Hall)**

**11 Rye Street, Broad Brook, CT. 06016**

**(In-person)**

**(Moved to Broad Brook Elementary School to accommodate in-person participants)**

**AND**

*via ZOOM Teleconference*

*Meeting ID: 714 897 1799*

**MEETING MINUTES**

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

**I. TIME AND PHYSICAL PLACE OF MEETING:**

Chairman Gobin initially called Regular Meeting #1836 of the East Windsor Planning and Zoning Commission dated October 11, 2022 to Order at 6:30 p.m. The Meeting is being held in-person in the John Daly, Jr. Meeting Room, Town Hall, 11 Rye Street, Broad Brook, CT. Due to the number of residents who came to the meeting to speak publicly Chairman Gobin recessed the meeting at Town Hall at 6:35 and reconvened the meeting at 6:40 p.m. at the Broad Brook Elementary School. The meeting is also available via telconference as well.

**PRESENT:**    **Regular Members:**    Anne Gobin (Chairman), Michael Kowalski (Vice Chairman), David Leason, Joseph Sauerhoefer, and Jim Thurz (Secretary).

**Alternate Members:** Frank Gowdy. There are presently two vacancies for Alternate members.

**ABSENT:**     No one; all Regular and Alternate Members present.

**GUESTS/SPEAKERS present in person:** Director of Planning and Development/Town Planner Calabrese hosted the meeting. Also present in person were: Jason Bowsza, First Selectman; Deputy First Selectman DeSousa; Selectman Baker, Board of Selectmen Liaison to the Planning and Zoning Commission; Selectman Muska, and Selectman Nordell; John Burnham; Attorney Carl Landolina, representing the East Windsor Historical Society;

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Attorney Marc Needelman, representing the neighbors opposing the application of the East Windsor Historical Society; Attorney Dwight Merriman, representing the Kement family/297 North Road Materials, LLC.

**GUESTS/SPEAKERS present remotely identified as they sign in:** Blake H; Concerned Citizen; Heidi; kmnh2; Planning and Zoning Commissioner David Leason (7:04 p.m.); Jefferies iphone; Kristen; Meaghan Masterson; Tierney McGrath; Obie; Planning Consultant D'Amato; Julie Wilson; Keith Yagaloff; Peg (Margaret) Hoffman, Recording Secretary.

**II. ESTABLISH QUORUM:**

Chairman Gobin noted a quorum had been established as four Regular Members, including herself, Commissioner Kowalski, Commissioner Sauerhoefer, and Commissioner Thurz, and Alternate Commissioner Gowdy were present in person at the inception of the meeting. Chairman Gobin noted Regular Member Leason would join the Commission remotely shortly, at which time he would replace Alternate Commissioner Gowdy's participation in the meeting.

Noting the number of residents who have joined the Commission in person Chairman Gobin called for a motion to RECESS the in-person meeting at Town Hall and RECONVENE it at the Broad Brook Elementary School, which can accommodate a larger audience.

**MOTION: To RECESS the East Windsor Planning and Zoning Commission Meeting at 6:30 p.m.**

**Kowalski moved/Thurz seconded/DISCUSSION:** None

**VOTE: In Favor: Gobin/Gowdy/Kowalski/Sauerhoefer/Thurz  
(No one opposed/No abstentions)**

Chairman Gobin RECONVENED Regular Meeting #1836 of the East Windsor Planning and Zoning Commission at the Broad Brook Elementary School at 6:40 p.m.

**III. ADDED AGENDA ITEMS:** None

**IV. LEGAL NOTICE:**

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**a. PZ-2022-20: 14 North Road, Special Use Permit for a Site Plan Modification. Applicant: Don's Auto Care Center/Don Walker:**

Chairman Gobin acknowledged the following Legal Notice:

The East Windsor Planning and Zoning Commission will hold the following Public Hearing on Tuesday, October 11<sup>th</sup>, 2022 at 6:30 p.m. Details how to attend will be published on the Commission's Agenda and will be made available on the Town's Website.

The application is **PZ-2022-23**, the applicant is **Don's Auto Care Center/Don Walker, 14 North Road**, requesting a Special Use Permit for Commercial Construction of a car port canopy with solar panels. Map 112, Block 17, Lot 2A; Zone: M-1.

A full copy of the application is available on the Planning and Zoning Commission webpage of the Town website. All interested persons may attend and provide verbal or written comments regarding this application.

**The Legal Notice ran in the Journal Inquirer on September 22, 2022 and September 26, 2022.**

**V. PUBLIC PARTICIPATION (FOR ITEMS NOT LISTED ON THE AGENDA):**

Chairman Gobin queried the in-person audience for comments regarding items/issues not posted on the Agenda. No one requested to speak. She then offered the same opportunity to the remote participants; no one requested to be acknowledged.

**VI. APPROVAL OF MINUTES:**

**a. September 28, 2022 – Regular Meeting of PZC:**

Chairman Gobin noted the availability of the Commission's September 28<sup>th</sup>, 2022 Meeting Minutes, she asked if the Commissioners had any comments or revisions they would like to propose. Hearing no request for revisions, Chairman Gobin called for a motion of approval.

**MOTION: To APPROVE the Regular Meeting Minutes for September 27, 2022 as presented.**

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**Kowalski moved/Thurz seconded/DISCUSSION:** None.

**VOTE:**           **In Favor:**       **Gobin/Kowalski/Sauerhoefer/Thurz**  
                      **Opposed:**       **No one**  
                      **Abstained:**   **Gowdy**

**VII. RECEIPT OF APPLICATIONS:**

Chairman Gobin noted there were no new applications to be received this evening.

**VIII. PERFORMANCE BONDS – ACTIONS; PERMIT EXTENSIONS; ROAD ACCEPTANCE**

No requests presented under this Item of Business this evening.

**IX. CONTINUED PUBLIC HEARINGS:**

**a. PZ-2022-19: 297 North Road Special Use Permit Renewal for Soil Management Facility. Applicant: North Road Materials LLC:**

Chairman Gobin noted the Commission has opened the Public Hearing on this application, and discussion has been continued a number of times, the Public Hearing was continued at the last meeting until October 25th. She noted the site is a closed landfill, the applicant is seeking to apply clean fill on portions of the site, they have also presented they have a grandfathered construction yard on the site. Town Staff needs to review more material from the applicant to make a compliance determination for the Commission to be able to close the Public Hearing on October 25<sup>th</sup>.

Chairman Gobin reported the history of the site is that fill was added outside the approved fill area, and there are compliance issues that need to be resolved. The Commission will only grant the permit when the conditions of Section 8.14 have been complied with regarding excavation and fill on the site.

Chairman Gobin explained she'll let the applicant present their information, the Commission will then ask questions, and the public can then comment.

Chairman Gobin asked the applicant's representative to identify himself.

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Attorney Dwight Merriman reported he's a Land Use Planner and lawyer with an office at 80 Emerald Lane in Simsbury, CT. Attorney Merriman reported he was retained this past weekend, and has spent time trying to familiarize himself with the application. He reported it's a complicated issue, with a lot going on. There are things that weren't done, and things that weren't done right, and things that need to be corrected to meet the needs of the Town Staff.

Attorney Merriman noted that initially the applicant sought a 5 year extension, the last extension given was for 3 years. After conferring with the applicant Attorney Merriman indicated they are proposing a 2 year extension for the following reason. The current permit expired on August 14th, which was the end of the 3 year extension. No one wants to contract with the applicant because they don't feel the applicant will be able to operate. Without those contracts there's no cash flow and the applicant won't be able to do the things they need to do in the public's interest. Attorney Merriman suggested the larger, more lucrative contracts span more than a year. If the Commission denies the applicant, or denies them without prejudice, they'll be out of business and without that cash flow they won't be able to do anything.

Attorney Merriman reported he had a discussion with Planning Director Calabrese and the Zoning Enforcement Officer regarding continuing the Hearing until October 25<sup>th</sup>, but he felt it would be difficult to get the information requested by that time. Attorney Merriman suggested they really need a short-term extension.

Attorney Merriman indicated that without the cash flow the applicant can't do what should have been done earlier – the bins should have been constructed, the retention/detention facility and the stormwater treatment system was not constructed. Attorney Merriman cited they've been working with Jay Ussery, who has prepared a (Site) Plan which reflects that some areas of grading slightly exceeded your approval. Attorney Merriman reported they'll be hiring a Licensed Environmental Professional (LEP) certified by the DEEP to oversee their testing of the deposited material.

Attorney Merriman referenced the 4 points cited in Planning Director Calabrese's Staff memo.

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- 1) ***A significant amount of fill was deposited outside the approved fill area.*** Attorney Merriman suggested they may find it's a better option to leave the fill in the areas identified if it's determined there is no environmental impact and the material is clean fill. Attorney Merriman reiterated the LEP will assist with that determination. Should it be determined to leave the material on site the applicant would return to the Commission with a Site Plan Modification proposal.
2. ***No protocol was in place to ensure that only clean fill as defined by the Regulations of Connecticut State Agencies Section 22a-209-1 would be accepted for land filling.*** Attorney Merriman reported Planning Director Calabrese is correct. He noted during his review of the records he found bills of lading from Fuss & O'Neill going back over a year. Every load associated with each bill of lading must be tested and rejected if the material doesn't comply. Attorney Merriman reported that starting today that process will be followed, and every day they will post the bills of lading on the Town's website for access to Staff and Town personnel. Attorney Merriman reported they plan to develop a comprehensive management plan, but would be unable to complete that by October 25<sup>th</sup>.
3. ***Dredge material accepted at the site exceeded the residential cleanup criteria for a certain pesticide, according to the chemical profile for the dredge material provided by the site operator, T & D Recycling, LLC. Regulations of Connecticut State Agencies Section 22a-133k-1 through 22a-133-3.*** Attorney Merriman reported a half hour ago he was given a report dated October 10<sup>th</sup> that reanalyzed the dredged material that was brought in from New Haven which was found to be compliant. Attorney Merriman didn't think any of the dredged material was used in the regraded area.
4. ***There were no holding bins in place to facilitate the staging and characterization of materials received.*** Attorney Merriman reiterated the need for the extension for the applicant to be able to build the holding bins, and can't build the bins without acquiring the contracts to provide the cash flow needed.

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Attorney Merriman noted the applicant provides a service that no one else does. They accepted material from the October 2010 storm. They are part of our efforts for our sustainable environment by taking excess materials that would be capped in a landfill and combine the materials with other materials and sell it to people who can use it. If you don't have this site people developing in the area will have to go elsewhere, at a greater cost. Attorney Merriman suggested this operation is a public service which is important to keep operating. Attorney Merriman reported they will make monthly reports to the Commission and Staff to keep everyone updated, he urged the Commission to approve a 2 year extension to continue operating.

Chairman Gobin noted Regular Member Leason has joined the Commission remotely. Commissioner Leason will replace Alternate Member Gowdy in votes made by the Commission.

Jay Ussery, of J. R. Russo & Associates, joined the discussion, referencing an As-Built Plan he submitted a month ago. Mr. Ussery noted he has added Phase lines, identified as Sections 1 to 4, to the As-Built Plan. Mr. Ussery suggested he has modified Phase 1 (Section 1) and extended the line to the northeast to include the slope of the fill area described by Attorney Merriman. Originally that Phase line followed behind the existing drainage basin, it's now been extended to include the area of the slope. The intention is to test that material hoping it will come back as clean fill. Mr. Ussery concurred with Attorney Merriman's suggestion that it would probably cause more damage to remove the material.

Chairman Gobin noted the Commission has continued this application until October 25<sup>th</sup>. She questioned if the Commissioners, including Commissioner Leason, had any questions? Hearing no questions from the Commissioners, Chairman Gobin opened discussion to the in-person public.

**Deputy First Selectman Marie DeSousa, 10 Rice Road:** Deputy First Selectman DeSousa reported that at the previous meeting she had asked about the truck traffic on Rice Road on Saturday morning. She has since found those trucks are going to Stoughton Road.

Deputy First Selectman DeSousa cited a concern regarding this application because at one of the meetings a discussion on the bins came

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up and Mr. Kement said that application was never followed up on, and the bins weren't required, and the Attorney is saying tonight that the bins should have been in place. Deputy First Selectman DeSousa indicated she, personally, couldn't care less; her big concern is the stuff coming from New Haven Harbor. She has a major issue with that if it will contaminate the Scantic River, especially with all the efforts the American Heritage River Commission has put into their trail system. And, knowingly, and intentionally going over and above what's been approved, and now they're asking for mercy. Deputy First Selectman DeSousa indicated she wasn't looking to put them out of business but if we give them the mercy that she believes they deserve then she felt we need to stay on top of it to make sure it doesn't get out of control. Deputy First Selectman DeSousa suggested there are too many establishments in town that aren't following the rules/regulations. She reiterated her concern for the Scantic River. Deputy First Selectman DeSousa just wants to make sure if we give them the mercy they're asking for that they follow the rules and regulations.

**Selectman Alan Baker, 340 Rye Street:** Selectman Baker questioned if they were still working through the corrective order? It seemed like a lot of the stuff Attorney Merriman talked about would have to be addressed through the corrective order and not by a new permit process. Chairman Gobin clarified there were two issues on the table, the enforcement action and the current application.

Chairman Gobin called for additional in-person comments; no one else present in person requested to speak. She then offered the same opportunity to the remote participants; no one requested to be recognized.

Chairman Gobin queried the Commission if they were agreeable to continuing the Public Hearing until the Commission's October 25<sup>th</sup> Meeting.

**MOTION:** To CONTINUE the Public Hearing on application PZ-2022-19, for a Special Use Permit renewal for a Soil Management Facility, located at 297 North Road, the Kement Family Limited Partnership, Public Hearing continued until the Commission's next regularly scheduled meeting to be held on October 25, 2022.

**Kowalski moved/Thurz seconded/DISCUSSION:** None



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**VOTE: In Favor: Gobin/Kowalski/Leason/  
Sauerhoefer/Thurz  
(No one opposed/No abstentions)**

**b. PZ-2022-22: 115 Scantic Road. Special Use Permit for Event  
Hosting. Applicant: East Windsor Historical Society Inc:**

Chairman Gobin read the description of application PZ-2022-22, the East Windsor Historical Society's request for a Special Use Permit for event hosting.

Chairman Gobin welcomed the numerous members of the public who have joined the Commission at the in-person meeting. She noted the meeting is being held in person, as well as remotely via ZOOM. Chairman Gobin noted the following documentation received related to this application:

- Legal Notice, published in the Journal Inquirer on October 2<sup>nd</sup> and October 8<sup>th</sup>, 2022.
- Application #PZ-2022-22 requesting a Special Use Permit for event hosting under Section 305.7 of the East Windsor Zoning Regulations. The applicant is the East Windsor Historical Society, Inc., at 115 Scantic Road and Cemetery Road
- A 12-page set of plans prepared by J. R. Russo & Associates received in the East Windsor Planning Department on August 22<sup>nd</sup>, 2022
- Drainage Report dated August 10<sup>th</sup> 2022 prepared by J. R. Russo
- An Affidavit regarding posting of the Public Hearing sign
- Memo to the Town Planner from Art Enderle of the Water Pollution Control Authority (WPCA) dated August 23<sup>rd</sup>, 2022 advising approval of a sewer connection for the blue barn at the WPCA's April 27<sup>th</sup> meeting
- Email dated September 1<sup>st</sup> from Jay Ussery to the Town Planner requesting that the Public Hearing be continued until today, October 11<sup>th</sup>
- Certified Mail Receipts from J. R. Russo dated September 1<sup>st</sup>
- Memo to the Commission dated September 1<sup>st</sup> from Michael D'Amato, Consulting Planner with Staff comments and noting the deadline to make a decision is 65 days from the close of the Public Hearing
- 2 postcards received during the Public Comment period
- See two additional documents acknowledged later in the meeting

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Chairman Gobin explained the Public Hearing process to the public, noting the applicant will present the application in detail, the Commission can ask questions during the presentation. The Commission will then take comments from the Attorney representing the neighbors.

Chairman Gobin advised the audience that the Commission bylaws specify that Commission meetings don't run past 10:30 p.m. She requested the public limit their comments to 3 minutes to enable everyone an opportunity to speak. Chairman Gobin noted that once the Public Hearing is closed no additional information will be taken from the applicant or the public. Chairman Gobin suggested she does not anticipate closing the Public Hearing this evening.

Chairman Gobin advised the public if they have questions after tonight's discussion they should contact the Planning Office at 860-623-6030.

Chairman Gobin invited the applicant to come forward to present the application.

Carl Landolina, introduced himself as a partner in the law firm of Fahey and Landolina, of 47 Spring Street, Windsor Locks, CT. Attorney Landolina reported he will be assisting Jay Ussery, of J. R. Russo & Associates, LLC representing the East Windsor Historical Society.

Attorney Landolina reported this is a Site Plan application brought to the Commission under Section 305 of the Zoning Regulations adopted in 2011. Specifically, under Section 305.7.b.5 you're allowed to permit, by Special Use Permit, as an accessory use to farming event hosting such as banquets and rental facilities. Attorney Landolina suggested there's no special criteria applicable to these uses under Section 305, applicable criteria are cited in Section 701 as general criteria for all Special Permits. He noted the applicant has hired Scott Hesketh, an engineering firm located in East Granby, to prepare a traffic impact study.

Attorney Landolina turned the presentation over to Jay Ussery to discuss the Site Plan.

Mr. Ussery introduced himself as a member of the firm of J. R. Russo & Associates, he's present representing the applicant, the East Windsor Historical Society, Inc. Referencing the Site Plan Mr. Ussery noted the

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intersection of Scantic Road with the Congregational Church on the corner, Cemetery Road to the east, and Phelps Road. He noted the building under discussion is the blue barn, with access to the east on Cemetery Road.

Mr. Ussery noted they would be creating some additional impervious coverage with driveways and parking, and a stormwater treatment system which will discharge into an existing drainage system located on the previous Tyler property. Mr. Ussery noted the drainage report was reviewed by Town Engineer Norton, who responded with 4 minor comments which they have no problem addressing.

Mr. Ussery noted the memo introduced into the record from the WPCA regarding approval of provision of sanitary sewer to the blue barn.

Mr. Ussery suggested parking requirements for event/assembly use are 1 space for every 3 seats. He noted the architect has advised him the building could accommodate 250 seats maximum, which would require 82 parking spaces. Mr. Ussery indicated they are proposing 88 parking spaces, which include handicapped spaces. They will also be providing emergency access, which will be gated, with keys provided to appropriate personnel.

Mr. Ussery noted the submission of a full lighting plan, which includes lighting for the parking areas, the driveways, and on the building only during events held in the evening.

Mr. Ussery noted they have provided a landscaping plan which includes street trees around the patio area and a 50 foot landscape berm of arborvitae backing up to the residences for screening. Mr. Ussery noted that while some of the properties are occupied as residential they're actually zoned business. He suggested that at one time all the villages included business properties. Mr. Ussery recalled that one of the properties occupied as residential was once occupied by the Work and Play Daycare which relocated to Phelps Road.

Regarding potential uses, Mr. Ussery noted the East Windsor Historical Society has discussed a farmers' market, weddings, showers, 4-H, Future Farmers of America, Rotary, Lions Club, blood drives, youth sports. Mr. Ussery suggested the applicant's intent is to give the Commission a

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comfort level of operation by coming to a common resolution. He noted the Historical Society is a non-profit organization, they don't have the ability to make a lot of money.

Mr. Ussery noted he was asked by his wife how late the meeting would be tonight, and he suggested it would be a long meeting. His wife had mentioned she had been in East Windsor last week and saw the signs in opposition, she questioned if he would want that in their back yard? Mr. Ussery indicated he thought about it on his way to the meeting, and felt he could manage some of the events, maybe not every day, but maybe a certain number of events, so he felt there could be common ground for everyone.

Chairman Gobin noted additional documentation which hadn't been included in the Commissioner's packets which she would like to add to the record. They include:

- A memo from Town Engineer Norton dated August 30, 2022 which includes 4 comments.
- An email from Westford Lirot (NCDHD) which includes 3 comments.

Attorney Landolina, representing the East Windsor Historical Society, requested to offer additional information. He referenced standard criteria under (Zoning Regulations) Section 701.1, which reads "That the proposed use is in general accordance of relevant provisions of the Plan of Conservation and Development (POCD)." Noting the POCD was adopted in 2016, Attorney Landolina cited page 20 lists under primary strategies preservation of community assets - cultural, historical and agricultural. Attorney Landolina suggested the POCD is a guiding tool for the Commission, and felt there is language in that document which supports accessory uses for farming. He noted diversity of uses for farmers is critical today to survival of farms, when the people can no longer farm the properties become subdivisions.

Attorney Landolina acknowledged Attorney Needelman and his representation of some of the neighbors. Attorney Landolina suggested another threshold issue is Attorney Needelman will say this isn't a farm. Attorney Landolina suggested there are farming activities occurring on this property, and to the north is a horse farm, he felt the farming classification applies.

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Marc Needelman joined the discussion, noting he's an attorney with an office in Bloomfield, and has practiced in municipal zoning law for 30 plus years. Attorney Needelman indicated he has been hired to represent the Boisverts who are one of three properties abutting the Historical Society property, and he's also representing several other neighbors who also abut the applicant's property.

Attorney Needelman wanted to be clear that he and his clients aren't here to hang the Historical Society, they do good things in town, but the neighbors can address the proposed plan and where the Historical Society is proposing it and share why the neighbors feel it's not appropriate for this area.

Attorney Needelman indicated his first contention relates to a jurisdictional issue. Citing Section 900.2 of the Zoning Regulations Attorney Needelman contends the Commission lacks the authority to hear this application. He read for the record the language that says "each application for a Special Permit shall, unless waived by the Commission, be accompanied by a Site Plan application" which is defined in the regulations as mandatory rather than discretionary under Section 201.1 (of the Zoning Regulations). When reviewing the Planning file for this meeting Attorney Needelman noted he was provided with a 12 page document which might be considered to be a Site Plan application but he felt there was no supporting documentation in the file.

Attorney Needelman suggested another jurisdictional issue is C.G.S. 8-3c(a) which states "if an application for a Special Permit involves regulated activities (which fall under the jurisdiction of the Inland Wetlands Commission) the applicant must submit an application to the Inland Wetlands Agency on, or prior, to the date the (Planning and Zoning) Special Permit application is filed. Attorney Needelman indicated Town Planner Calabrese has confirmed that no such application has been filed as of Thursday.

Attorney Needelman noted that plans submitted indicate in the notes section that there are wetlands on the property, although he questioned if the wetlands were in the proximity of the activity proposed. Attorney Needelman indicated he discussed with Planning Director Calabrese the creation of a retention/detention basin which will flow into another basin which will ultimately flow into the Scantic River. Planning Director Calabrese concurred that that activity was within the 150 foot upland

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review area, which would require the submission of an application, review by the Wetlands Commission, and a report. Attorney Needelman suggested if the report was pending that would be ok, but without the submission of a Wetlands application he feels the Planning and Zoning Commission lacks the authority to move forward on the Special Permit application.

Attorney Needelman asked the Planning and Zoning Commission how they wanted to proceed? Attorney Needelman suggested his opinion is that failure to comply with the regulatory requirements would be an issue subject to an immediate appeal. Should the Commission decide to continue Attorney Needelman indicated he had a lengthy presentation to make.

Chairman Gobin acknowledged the Commission is holding a Public Hearing. Attorney Needelman's comments are one person's comments, she felt the Commission owes it to the rest of the people present to hear their comments. Commissioner Thurz requested Staff offer their opinion.

Planning Director Calabrese reported the Wetlands application was filed with the Planning Office this morning. The official map shows no activity in that area, although there is a small farm pond next door for which Mr. Ussery has delineated the 150 foot area. The detention basin is within that upland review area.

Commissioner Thurz noted that for all the time he's served on the Planning and Zoning Commission he understands the Wetlands Commission goes first. Planning Director Calabrese suggested a decision can't be made until the Wetlands Commission has rendered their decision.

Attorney Needelman reiterated his opinion that under C.G.S. 8-3c(a) it says the application must be submitted before, or at the same time, as the Special Permit application. He reiterated his opinion that he felt the Commission lacked the authority to conduct the Public Hearing under the current conditions. Attorney Needelman suggested the Commission's options were to deny the application, or deny without prejudice, and start the proceedings again.

Attorney Landolina requested an opportunity to address the jurisdictional issue. He cited the 2005 case of Carr vs Planning and Zoning Commission

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in the Connecticut Supreme Court that says the failure to file a Wetlands application prior to the date of filing a Zoning application does not deprive this Commission of jurisdiction of hearing this application but may be a basis for turning it down. Attorney Landolina would advise his client that he doesn't feel this is a jurisdictional issue, he indicated they're willing to let the public speak while they submit their application in its normal course. Attorney Landolina suggested Attorney Needelman should make his presentation to the Commission. Attorney Landolina suggested another option is the Commission could get the opinion of the Town Attorney.

Chairman Gobin questioned if it was acceptable to the Commission to continue with the application and take public comments?

Commissioner Gowdy, noting he's an Alternate Member, suggested the Commission should take the advice of the applicant's attorney.

Commissioner Thurz agreed with Commissioner Gowdy.

Commissioner Sauerhoefer acknowledged the attorney's suggestion but felt the outcome was questionable, and it could be a waste of everyone's time.

Chairman Gobin suggested she heard both attorneys say they were amenable to letting the public speak. Attorney Needelman clarified that he'd said he regretted the fact that the jurisdictional issue would prevent public comment because he felt everyone wanted to hear the public, but he remained steadfast in his opinion that the Commission lacks the authority to continue the Public Hearing. Attorney Needelman concurred with Attorney Landolina that the Commission had the right to seek the opinion of the Town Attorney.

Chairman Gobin queried the Commission regarding referring the issue to the Town Attorney. Planning Director Calabrese suggested it's either a withdrawal and reapply or a denial and reapply, the Commission has to create the record again.

Requesting to speak again Attorney Landolina advised the Commission that the applicant had advised him to withdraw this application and reapply again.

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**MOTION: To ACCEPT THE WITHDRAWAL of the application of the East Windsor Historical Society for a Special Use Permit for Event Hosting.**

**Kowalski moved/Thurz seconded/DISCUSSION: None**

**VOTE: In Favor: Gobin/Kowalski/Leason/  
Sauerhoefer/Thurz  
(No one opposed/No abstentions)**

Chairman Gobin indicated the application has been withdrawn. Chairman Gobin also requested a short recess.

**MOTION: To take a 10 minute recess.**

**Kowalski moved/Thurz seconded/DISCUSSION: None**

**VOTE: In Favor: Gobin/Kowalski/Leason/  
Sauerhoefer/Thurz  
(No one opposed/No abstentions)**

Chairman Gobin noted the meeting has been RECESSED at 8:07 p.m.

Chairman Gobin RECONVENED the Regular Meeting of the East Windsor Planning and Zoning Commission at 8:14 p.m.

**X. NEW PUBLIC HEARINGS:**

**a. PZ-2022-20: 14 North Road/ Special Use Permit for a Site Plan Modification. Applicant: Don's Auto Care Center/Don Walker:**

Chairman Gobin read the description of this Public Hearing.

Joining the Commission in person to present the application was Jay Ussery, of J. R. Russo & Associates. Also present were Don Walker, the applicant.

Mr. Ussery indicated this is an application to provide EV charging stations, a canopy with solar panels on it, and vacuums associated with the car wash at Don's Auto Care Center. Referencing a preliminary Site Plan Mr. Ussery noted the canopy will cover 4 parking spaces located in the left front of the parcel which will provide space for 2 vacuums and 2 super chargers. Mr. Walker has indicated that the super chargers provide a



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decent charge within 20 to 30 minutes, so a person might want to vacuum their vehicle while it's being charged.

Mr. Ussery noted that under the new regulations recently enacted by the Commission an applicant can vary the setback by 50%. The front yard is 35 feet which could be reduced to just under 20 feet, while the side yard, which is currently 20, feet could be reduced to 10 feet.

Mr. Ussery noted they are not proposing any change to the amount of impervious coverage.

Mr. Ussery suggested Town Engineer Norton has provided a memo citing 4 recommendations. Notices were sent to the abutters, and signs were posted regarding the Public Hearing.

Mr. Ussery noted they are waiting for a detailed drawing of the canopy from the structural designer. He suggested the Commission can postpone their decision until the next meeting if they choose.

Chairman Gobin opened discussion to the Commission.

Commissioner Thurz questioned if a lighting plan had been submitted? Mr. Walker suggested there would be lighting under the canopy as well as lighting near the vacuums and EV chargers.

Commissioner Kowalski requested clarification that the parking spaces would provide space for 2 vacuums and 2 chargers? Mr. Walker replied affirmatively. Commissioner Kowalski questioned if the vacuums would be unavailable if the chargers were being used? Mr. Walker suggested the vacuums would be located on either end of the chargers and would be available at all times.

Chairman Gobin questioned the distance of the sight line from the driveway? Mr. Ussery indicated 15 to 18 feet from the edge of the pavement.

Commissioner Sauerhoefer report he gets a lot of complaints from the glow from the Noble gas station. He questioned if the lighting from the

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canopy would impact the apartments if they're built? Mr. Walker didn't think the lighting would be that strong, he also noted the lighting around the vacuums and chargers isn't significant. Commissioner Kowalski suggested installing screening. Discussion continued regarding the configuration of the apartment site and the location of a detention basin in relation to Don's location.

Commissioner Sauerhoefer questioned the color of the canopy. Mr. Walker suggested something subtle, like green.

Commissioner Kowalski questioned if there would be any additional signage advertising the charging stations. Mr. Walker felt perhaps a smaller sign, but he felt people will be looking for charging locations themselves. Chairman Gobin suggested if the chargers were partially funded by the utility program they may put a sign on the highway advertising the location of the chargers at this exit. She also suggested DOT may put a sign at the driveway noting the charger location as Route 140 is a State road.

Hearing no further comments from the Commission Chairman Gobin asked if anyone present in the in-person audience would like to speak?

**Mr. Burnham, 178 Scantic Road:** indicated he was good with this proposal.

**(First Selectman) Jason Bowsza, 121 East Road:** First Selectman Bowsza suggested this is a great proposal, he suggested everyone wants to see charging locations off of both exits in East Windsor be successful. He noted he and his wife recently had dinner at a plaza in South Windsor that had six charging stations as well as an Olive Garden, and a burger restaurant as well as several other businesses. Given the proximity of Don's to Sofia's Plaza he felt this might also be an economic incentive. Chairman Gobin cited the coffee shop in Sofia's may benefit as well.

**(Selectman) Charlie Nordell, 7 Grandview Terrace:** Selectman Nordell questioned if the charging stations and vacuums would be available 24/7? Commissioner Sauerhoefer questioned if noise might be an issue? Mr. Walker felt the likelihood that people will use them late at night would be minimal. He also noted the units being proposed used less decibels than the standard vacuums. Commissioner Thurz suggested the screening would help reduce the noise as well.

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**(Deputy First Selectman) Marie DeSousa, 10 Rice Road:** Deputy First Selectman DeSousa felt this is an excellent proposal, kudos to Don.

Hearing no further requests from the in-person audience Chairman Gobin offered an opportunity to speak to the remote participants, no one requested to be acknowledged.

Chairman Gobin noted file documentation included comments from Town Engineer Norton regarding adequate sedimentation and erosion controls.

Hearing no further requests from the Commissioners and the public to comment Chairman Gobin called for a motion to continue the Public Hearing.

**MOTION: To CONTINUE the Public Hearing on application PZ-2022-20, for 14 North Road for a Special Use Permit for Site Plan modification for Don's Auto Care Center/Don Walker until the Commission's October 25, 2022 Meeting.**

**Kowalski moved/Thurz seconded/DISCUSSION:** None  
**VOTE: In Favor: Gobin/Kowalski/Leason/  
Sauerhoefer/Thurz  
(No one opposed/No abstentions)**

**XI. OLD BUSINESS:** None

**XII. NEW BUSINESS:** None

**XIII. OTHER BUSINESS:**

**XIV. CORRESPONDENCE:** None

**XV. BUSINESS MEETING**

**a. Election of Officers:**

The consensus of the Commission was to defer **ELECTION OF OFFICERS** until the next meeting.

**XVI. EXECUTIVE SESSION:** None

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**XVII. ADJOURNMENT:**

**MOTION: To ADJOURN this Meeting at 8:36 p.m.**

**Sauerhoefer moved/Kowalski seconded/DISCUSSION: None.**

**VOTE: In Favor: Gobin/Kowalski/Leason/Sauerhoefer/Thurz  
(No one opposed/No Abstentions)**

Respectfully submitted,

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