

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

**REGULAR Meeting #1846
Tuesday, March 14, 2023**

***THIS MEETING IS BEING HELD IN-PERSON
In the John Daly, Jr. Meeting Room,
Town Hall, 11 Rye Street, Broad Brook, CT 06016***

AND

***VIA REMOTE ACCESS
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 Kowalski called Regular Meeting #1846 of the March 14, 2023 East Windsor Planning and Zoning Commission 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., and via telconference as well

PRESENT: **Regular Members:** Anne Gobin, Michael Kowalski (Chairman), David Leason, and Jim Thurz (Vice Chairman). (There is presently one vacancy for a Regular Member)

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: Zoning Enforcement Officer

Danielle Boudreau hosted the meeting. Also present in person were: Planning Consultant Michael D'Amato, Selectman Alan Baker, Board of Selectman Liaison to the Planning and Zoning, Selectman Muska, Selectman Nordell, and Deputy First Selectman DeSousa.

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GUESTS/SPEAKERS present remotely identified as they sign in:

Heidi Alexander, Peg (Margaret) Hoffman, Recording Secretary.

II. ESTABLISHMENT OF QUORUM:

Chairman Kowalski noted a quorum was established as four Regular Members and one Alternate Member were present at the Call to Order. Chairman Kowalski requested Alternate Member Gowdy to join the Board regarding discussion and action on all Items of Business this evening as well.

III. ADDED AGENDA ITEMS:

Chairman Kowalski noted a new application will be acknowledged under **RECEIPT OF APPLICATIONS.**

IV. LEGAL NOTICE:

Chairman Kowalski noted there is no Legal Notice to be acknowledged this evening.

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

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

VI. APPROVAL OF MINUTES:

A. February 28, 2023 – Regular Meeting of PZC:

Chairman Kowalski noted the Meeting Minutes of the Commission's February 28, 2023 for Regular Meeting #1845 are available for approval; he questioned if the Commission had any revisions or alterations?

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Commissioner Gobin noted that Commissioner Gowdy had been shown as being present in line 30, and absent in line 36. She offered the following motion of approval:

**MOTION: To APPROVE the Minutes of Regular Meeting #1845 held on Tuesday, February 28, 2023, with the following amendment:
Line 30, remove Frank Gowdy as being present.**

Gobin moved/Thurz seconded/DISCUSSION: None.

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

VII. RECEIPT OF APPLICATIONS:

Chairman Kowalski noted the following applications to be received this evening and heard at the Commission's next meeting:

PZ-2023-4 28 Abbe Road, for installation of sports field lighting. The applicant is BSC Group.

PZ-2023-6 for 102 Winkler Road and Newberry Road. Site Plan Modification for a gravel storage yard. The applicant is BT Properties, LLC.

PZ-2023-7 124 Newberry Road, Site Plan Application to replace asphalt sections with millings. The applicant is Scott Cota. ZEO Boudreau clarified that the site work would replace asphalt paving with millings.

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

Chairman Kowalski noted receipt of a request from West River Farms for a bond reduction. He referenced a letter in the Commissioner's packets from J. R. Russo and Associates, LLC to Planning Director Calabrese requesting the bond reduction. Chairman Kowalski noted the Town Engineer hasn't responded to the request, he suggested the request should remain an Agenda item until the Town Engineer has an opportunity to review the request.

IX. CONTINUED PUBLIC HEARINGS:

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A. PZ-2023-2 118 Prospect Hill Rd -Special Use Permit for a Site Plan Review for a proposed Truck Terminal. Applicant: Crane Properties, LLC. (Requested 30 Day Extension):

Chairman Kowalski noted the next item of business is a Continued Public Hearing for 118 Prospect Hill Road, for a Special Use Permit for a Site Plan Review for a proposed Truck Terminal.

Chairman Kowalski noted the applicant has requested a 30 day extension and that the Public Hearing be extended until the Commission's next meeting on March 28th. He requested a motion extending the Public Hearing.

MOTION: To CONTINUE the Public Hearing on Application PZ-2023-2 for 118 Prospect Hill Road for a Special Use Permit for a Site Plan Review for a proposed truck terminal. Applicant: Crane Properties, LLC. , Public Hearing continued until the Commission's next meeting on 3/28/2023 as requested by the Applicant.

Gobin moved/Leason seconded/DISCUSSION: None

**VOTE: In Favor: Gobin/Gowdy/Kowalski/Leason/Thura
(No one opposed/No abstentions)**

X. NEW PUBLIC HEARINGS: None

XI. OLD BUSINESS: None

XII. NEW BUSINESS: None

XIII. OTHER BUSINESS:

A. ZEO Report:

ZEO Boudreau advised the Commission she's been conducting an auto sweep of the dealers and repair shops. She personally visited the businesses and found 16 businesses to be in compliance with their Site Plans, no cars parked in the rights-of-ways, and no illegal signage; those dealers were sent a thank you letter. She found 28 businesses to be non-compliant, about three quarters of those businesses have contacted the Planning Office and are working with her on Site Plan modifications.

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ZEO Boudreau suggested she'll probably handle the smaller Site Plan modifications that have gotten rid of parking vehicles on the lawn as an Agent Decision. For the businesses that haven't responded she'll send out Violation Letters and can initiate fines.

ZEO Boudreau noted a couple of the properties will require engineered Site Plan modifications. She indicated that a lot of the Site Plans she's working with were approved in the 1980s and 1990s. Those licenses carry over to the successive use. She's working on developing a system to notify the next dealer coming in for a change of occupancy of what's been approved for the site.

ZEO Boudreau reported there are some businesses that haven't contacted her; she'll start monetary citations on the 16th. Commissioner Gobin questioned the fine process. ZEO Boudreau indicated a business has 30 days to come into compliance and pay \$150.00. If they still fail to respond they'll get another citation notice, which gives them another 30 days to have an appeal by an appeals officer, if they still don't respond the fine is \$150.00 per day, and legal action could be initiated.

Commissioner Thurz questioned the status of "Full Throttle", which has a significant amount of cars parked on the lawn. ZEO Boudreau noted she's spoken with both the owner and the tenant, and advised them they would have to come before the Commission.

Discussion followed regarding the color coding on the ZEO Report. ZEO Boudreau indicated the color coding represented a status of the complaint.

Chairman Kowalski questioned the status of the Blight Ordinance. Selectman Baker joined the discussion from the audience, noting the Board continues to work on revisions to the proposed Blight Ordinance.

XIV. CORRESPONDENCE: None

XV. BUSINESS MEETING

A. UConn Clear Training, Commission Debriefing:

Chairman Kowalski noted the Commission had actually participated in 3 training sessions. He opened discussion to the Commission prior to offering his comments.

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Commissioner Gobin felt the CLEAR Training was good, the delivery in segments was easier to digest than a whole day presentation. Commissioner Gobin noted she watched the Affordable Housing presentation again today.

Chairman Kowalski opened discussion on the following issues:

➤ **C.G.S. 8.30.g – Town’s required percentage of affordable housing units:**

- Chairman Kowalski suggested one of the presenters talked about the 8.30.g, which seems compulsory regarding affordable housing. He questioned if the Town meets the 10% requirement that the 8.30.g doesn’t apply; Planning Consultant D’Amato replied affirmatively. Commissioner Gobin suggested the Town had to comply with 8.30.j; Planning Consultant D’Amato suggested 8.30.j relates to an affordable housing plan.

➤ **Restrictions on minimum housing size:**

Chairman Kowalski referenced comments made that the Commission can’t limit minimum housing sizes? Planning Consultant D’Amato indicated the Commission had already removed that requirement from the regulations, because that’s basically telling someone if they have to build a house of 1,000 square feet they also have to have a budget which allows them to support that size home. Planning Consultant D’Amato noted the Commission adjusted the Tiny House Regulations and the Accessory Dwelling Regulations to eliminate the minimum house size. Planning Consultant D’Amato suggested you can cap the size but not set a minimum dwelling size.

➤ **Procedures for how to hold a public meeting:**

Regarding the training session on how to hold a public meeting Chairman Kowalski suggested one of the things brought up was if someone requested to speak at a public meeting, even though it’s not a public hearing, you have to allow them to speak? Planning Consultant D’Amato cited the Commission has their public participation opportunity. Chairman Kowalski suggested during that training the presenter made it sound like if someone was discussing a Site Plan modification and someone else had something they felt was pertinent to the discussion, and

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wanted to put a comment on the record, the Commission had to allow them to speak. Planning Consultant D'Amato suggested people see something on the agenda and people send in comments, that becomes part of the record for the application but it's not something the Commission uses to make a decision. Chairman Kowalski reiterated the presenter made it sound like the Commission had to allow the person/public in the audience to speak. The presenter suggested that if it was a public hearing, and someone requested to speak, that the Commission must then allow cross-examination of the person speaking. Chairman Kowalski recalled the person who spoke during the (Scantic) Event hearing presented himself as an expert witness, and if someone wanted to question that person's comments or cross-examine him the Commission had to allow that. Planning Consultant D'Amato felt the key to that situation was if the person speaking was an expert giving testimony. Planning Consultant D'Amato indicated he's never been in a situation when a member of the audience represented themselves as a expert. He agreed the Commission would have to treat an expert for the applicant, such as a traffic engineer, differently than a third party person presenting their opinion.

➤ **Commissioners site visits/quorum/notice of meeting:**

Chairman Kowalski also noted this presenter said if the Commission wanted to make a site visit it had to be noticed. Further discussion found it was after a public hearing was opened. Prior to that, when the Commission gets their packets, they can go out and visit the site. Once the public hearing is opened, if the Commission wants to make a site visit it should be noticed. Planning Consultant D'Amato suggested if three of the Commissioners wanted to visit the site it could be considered a quorum. Commissioner Thurz recalled that in the past if they visited the gravel pit sites the Commissioners would go in pairs so it wouldn't be a meeting. Chairman Kowalski reiterated that if the public hearing has been opened a site visit of a majority of the Commissioners would be considered a meeting. Planning Consultant D'Amato cited that if the Commission visits a site and it becomes a public meeting then you have to allow the public to attend, and the applicant might not want the public on his property. Commissioner Thurz cited that sometimes the applicant gives the Commission permission to make a site visit. Planning Consultant D'Amato cited if the Commission attends, and it's a quorum, then you have to notice it as a meeting. Chairman Kowalski suggested the presenter he was referring to said it doesn't need to be a quorum because people use that to avoid noticing the visit as a meeting. Planning

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Consultant D'Amato cited he doesn't know the presenter Chairman Kowalski was referring to but he's been given advise by a land use attorney that if Staff wanted to visit the site at different times that would be ok. Planning Consultant D'Amato considered if the information acquired during the site visit would be used during the decision making process for the application, and it's a public hearing, then the public should have an opportunity to comment on that information. He cited the concern for allowing the public, who may have mobility issues, access to the meeting. Chairman Kowalski suggested the Commission will have to seek guidance if such a situation comes up.

➤ **Process after closure of Public Hearing:**

Chairman Kowalski cited another note he took away from the training seminar was that once the public hearing has been closed there can't be any changes or modifications to the terms and conditions. Planning Consultant D'Amato cited conditions and modifications are different things, typically you see a modification on a site plan for a subdivision, and you see a condition on a special permit. You can't approve a conditional site plan, it either meets the regulations or it doesn't. Chairman Kowalski referenced his notes as "no additional terms or conditions can be added after a hearing is closed." The comment had been made during the CLEAR Training seminar. Planning Consultant D'Amato indicated he'll try to get clarification regarding the comments made.

➤ **Period of subdivision approval:**

Chairman Kowalski referenced the training held this weekend, noting that a subdivision approval was good for only 5 years even if construction doesn't begin. Planning Consultant D'Amato concurred, noting it's similar to a Site Plan. Chairman Kowalski noted the Bass property hadn't begun construction yet, how would that property be affected by this qualification. Planning Consultant D'Amato clarified that the 5 years is for public improvements, such as roads and water lines. If no public improvements have been initiated then after 5 years if everything has been executed properly the lots have been created and they're there. If the developer puts in the public improvements they can sell the first lot 25 years later. The developer can seek an extension on putting in the public improvements.

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➤ **Navigable water restrictions related to Connecticut River:**

Chairman Kowalski noted a comment was made that the navigable waters of Long Island Sound fall under certain restrictions, he questioned if the Connecticut River falls under the navigable waters as well. Planning Consultant D'Amato believed the Connecticut River falls under the same category. Chairman Kowalski questioned if properties on North and South Water Street would fall under those restrictions? Commissioners Thurz and Gobin recalled previous discussions of building the properties up a story to accommodate potential flooding. Planning Consultant D'Amato suggested parts of the Connecticut River are considered tidal through some parts of town.

➤ **Effect of non-conforming structures:**

Chairman Kowalski referenced another note, which suggested if something is non-conforming without enforcement after 3 years it becomes an as-of-right? ZEO Boudreau clarified that applied to a building or a structure. Chairman Kowalski cited his concern had been if a property hadn't been addressed for a blight issue that abandoned cars would be allowed. Planning Consultant D'Amato clarified the issue addressed set back or height violations, and isn't specific to uses.

➤ **Public participation in online/remote meetings:**

Chairman Kowalski cited a reference to people participating in online meetings, as was done during COVID, that the Town had to provide the public access to the meetings. Planning Consultant D'Amato suggested if the meetings were solely remote, if a member of the public requested some means of participating, the Town could be required to provide that individual with a laptop. Chairman Kowalski requested clarification that with the hybrid meetings that requirement no longer applies. Planning Consultant D'Amato suggested we have to be able to accommodate members of the public with in-person accommodations for a virtual meeting, and we have to provide accommodations to a Commission member if we have only an in-person meeting and they want to participate remotely.

Commissioner Gobin recalled a member of the in-person audience had indicated they couldn't hear, does the Commission have to provide an interpreter for them? Planning Consultant D'Amato cited ZOOM has

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captions, which aren't great, but he's done meetings that way so people with hearing issues can see the captions. He referenced the information on the Commission's agendas regarding contacting Town Hall if someone has concerns. If someone requested accessibility for access for a wheelchair which the Commission might be unable to accommodate, then the meeting should be postponed.

Chairman Kowalski queried the Commissioners for additional comments, no one had any additional issues to discuss.

B. Temporary Events Regulations:

ZEO Boudreau reported she's working on a streamlined Temporary Event Permit application. She's contacted every department in Town associated with the permits for input. She also noted currently the permit lists only auctions and carnivals, and sale of Christmas trees, she'd like to expand the potential uses, and increase the number to 4 or 6 a year. ZEO Boudreau suggested the current Zoning Regulations are very brief, she'd like the Commission to start a discussion regarding revisions.

Chairman Kowalski recalled the Commission had considered a Farmers' Market, which could be several weeks. Commissioner Gowdy recalled a Farmers' Market had been held at the Trolley Museum in the past, Commissioner Gobin suggested there hadn't been that many vendors. ZEO Boudreau suggested she was thinking about fund-raising events for small organizations. Commissioner Gobin questioned how to manage a Town event, like the Veterans Road Race. ZEO Boudreau suggested they would need to go through the Park and Recreation Department. ZEO Boudreau suggested events selling alcohol would have to come before the Commission. ZEO Boudreau noted she contacted the Police Department regarding "street events", such as parades, road races, and protests, and has incorporated their comments in the draft Temporary Event application.

Planning Consultant D'Amato suggested that in Newington they looked at if a permit needed Staff versus Commission approval, the size or duration of the event, and if the organizer intended to serve alcohol. He cited a Farmers Market or a Car Show would be more frequent, while if someone wanted to have a wine tasting every Friday night that might be different. If it was run by a local brewery they would be familiar with the requirements for sale of alcohol. Chairman Kowalski suggested if an event is open to the public you have no control of the size of the event,

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unless tickets are sold ahead of time. Planning Consultant D'Amato suggested they considered events that would cover 50% of a property, or no more than a total of 1 acre should go to the Commission for approval.

Discussion briefly touched on tag sales. ZEO Boudreau and Planning Consultant D'Amato suggested tag sales should be a separate discussion.

XVI. EXECUTIVE SESSION: None

XVII. ADJOURNMENT:

MOTION: To ADJOURN this Meeting at 7:13 p.m.

Gowdy moved/Leason seconded/DISCUSSION: None

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

Respectfully submitted,

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