

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

**REGULAR Meeting #1763 – July 23, 2019**

***MEETING MINUTES***

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

The Regular Meeting of the Planning and Zoning Commission was called to order in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT. at 6:34 P. M. by Chairman Ouellette.

**PRESENT:**    **Regular Members:**    Joe Ouellette (Chairman), Tim Moore, Dick Sullivan, and Jim Thurz.  
                  **Alternate Members:**    Anne Gobin, and Marti Zhigailo.

**ABSENT:**    **Regular Members:**    Michael Kowalski  
                  **Alternate Members:**    Frank Gowdy

Also present was Town Planner Ruben Flores-Marzan.

**GUESTS:**    Bob Butler, BCI, Inc., representing Apothecaries Hall Enterprises; Peter Daws, Miranda Hamidovic, Dick Pippin, Kathy Pippin, Barbara Smigiel, and Ronald Stamm.

**ESTABLISHMENT OF QUORUM:**

A quorum was established as four Regular Members and two Alternate Members were present at the Call to Order. Chairman Ouellette noted all Regular Members would sit in, and vote, on all Items of Business this evening. Following in accordance with the service rotation schedule Chairman Ouellette requested Alternate Member Zhigailo to join the Board regarding discussion and action on all Items of Business this evening as well.

**LEGAL NOTICE:**    None.

**ADDED AGENDA ITEMS:**            None.

**PUBLIC PARTICIPATION/A. Ron Stamm inquiring about Apothecaries Hall Enterprises, LLC (complaint & FOIA request received 7/8/2019):**

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

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Chairman Ouellette then acknowledged Ronald Stamm, who has requested to bring a complaint to the Commission's attention. Chairman Ouellette noted Mr. Stamm filed his complaint and a FOIA request to the Planning Office on July 8<sup>th</sup> regarding Apothecaries Hall Enterprises, LLC.

Mr. Stamm submitted documentation to the Commission to support his complaint.

Mr. Stamm advised the Commission Apothecaries Hall Enterprises, LLC currently has 17 phases within the gravel pit; 5 of the phases are closed and reclaimed, 2 phases are cleared but not closed, a couple of the phases are inactive, and 2 of the phases are for mulch. Mr. Stamm suggested he understood this to be a gravel operation; why is Mr. Charbonneau doing mulch? Mr. Stamm noted there is a concrete plant across the street on Apothecaries Hall Road, and Boutin will take blacktop; why is Mr. Charbonneau handling those materials if it's not zoned for it?

Mr. Stamm noted that under the Special Use Permit Mr. Charbonneau is only allowed to have 2 phases open at once, but he feels there are only 5 out of the 17 phases which have been closed and reclaimed. Mr. Stamm felt Mr. Charbonneau needs to catch up on closing phases. Mr. Stamm also felt Mr. Charbonneau needs to keep up with the zoning requirements to keep the dust level down. Mr. Stamm referenced photos 2 and 3 of the material he submitted to the Commission; he suggested Mr. Charbonneau isn't watering down the roads to keep the dust down. Mr. Stamm suggested it isn't healthy to live in the area.

Mr. Stamm then referenced "the next photo", noting it was taken on a windy day. He suggested you can see the dust flying off the pit. Mr. Stamm wasn't sure they were working that day but it's because the phases are open. Mr. Stamm felt they should have to shut down if the wind limit is 15 miles per hour.

Mr. Stamm reported they've put up a berm in front of phase 17 but it's just a mound of dirt. It's planted with weeds, which is unattractive for the people living on the street; it's a trash heap. Mr. Stamm referenced the berm in front of the Aldi property in South Windsor; he suggested it's planted with trees. Mr. Stamm suggested the new entrance for Apothecaries Hall Enterprises is planted with mulch, which looks nice. When the berm was 300 feet away it wasn't such a big deal but now that it's in our faces we want something attractive.

Mr. Stamm reported he only found one "no trespassing" sign, he referenced photo 7 showing a yellow sign. Mr. Stamm suggested you need to get to within 5 feet to read it. Mr. Stamm suggested they need to put up the "no trespassing" signs all around the property so people know they aren't allowed in the property.

Mr. Stamm reported the motorcycles are still a big problem on weekends and nights. You can see the plumes of dust from the people riding them. Mr. Stamm reported when

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he spoke to the Police Department he was told that when the Police stop someone they give them a letter that they're allowed on the property. Mr. Stamm requested that Mr. Charbonneau write a letter to the Police Department clearly stating that no trespassing is allowed on the property. Mr. Stamm felt that since he filed the claim on July 8<sup>th</sup> he believes "he" got word because he's beefed up the area where the bikers are getting in. Mr. Stamm felt Mr. Charbonneau needs to make more effective efforts.

Mr. Stamm reported they are still having problems with trucks coming out of the new entrance and making right hand turns onto Apothecaries Hall Road. Mr. Stamm recalled that Mr. Charbonneau was asked to get a bigger sign. The truck drivers are still making the right-hand turns. Mr. Stamm referenced photo 9, which shows the Aldi's location in South Windsor; he noted there's a concrete curb which forces people not to make a right turn.

Mr. Stamm returned to the berm along phase 17, he indicated Mr. Charbonneau isn't mowing the berm; it's all weeds. Mr. Stamm directed the Commissioners to photo 12. Mr. Stamm noted the neighbors have well-tended lawns; he suggested the area isn't a high-priced area of town but people do take pride in their properties. Mr. Stamm suggested Mr. Charbonneau needs to do that as well. Mr. Charbonneau needs to make the berm more attractive.

Mr. Stamm felt the dust is causing health issues. It's discoloring his siding. It costs him \$2,000 to have someone come in and scrub the siding. Mr. Stamm also has solar panels which get covered in dust; he's constantly cleaning his gutters; this all costs him money.

Mr. Stamm felt Mr. Charbonneau needs to reclaim the pit. He understands with a gravel pit you'll get some dust. Mr. Stamm felt Mr. Charbonneau is only doing the minimum required rather than what the Commission has permitted; the Commission needs to shut him down and hit him in the pocketbook.

Chairman Ouellette questioned if the Planning Department was aware of the information Mr. Stamm presented to the Commission; Town Planner Flores-Marzan replied negatively, noting they had only received the written complaint. Chairman Ouellette clarified that the Commission is a regulatory agency which doesn't do enforcement of the permits. Chairman Ouellette requested Town Planner Flores-Marzan to handle Mr. Stamm's complaint through zoning enforcement avenues.

Town Planner Flores-Marzan advised the Commission that he and Judi Mosso, Administrative Assistant, had visited the site last week but couldn't get in. They noticed that at the front entrance near the gates is where the bikers are getting in from the road.

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With regard to the berm, Town Planner Flores-Marzan agreed it's weeds but it is vegetated. He indicated they did not see any dust that day. Town Planner Flores-Marzan suggested the property owners need to come in to the Planning Office to discuss what they can do on the ground in relation to the permit.

**Bob Butler** requested to speak. Mr. Butler advised the Commission he works for one of the groups that operates in the pit. Mr. Butler advised the Commission that Kevin Charbonneau, owner of the pit, was unable to attend the meeting this evening due to a death in the family. With him tonight is Peter Daws.

Mr. Butler suggested there's a lot to be said in response to the complaints. Mr. Butler believed on the day this was filed Ron Stamm met with Kevin Charbonneau at the gate of the entrance to the pit. Mr. Butler believed that Mr. Charbonneau gave Mr. Stamm his card and asked to be notified of problems, which he felt was the neighborly thing to do. On the day of the complaint Mr. Charbonneau called for a water truck, which was the third time that day that the area was watered down.

Regarding the "no trespassing" signs they have cameras posted as well. Prior to the July 8<sup>th</sup> meeting with Mr. Charbonneau they had plugged the holes where the dirt bike riders get in. Mr. Butler noted that doesn't mean the bikers won't continue to try to return to the pit. Mr. Butler advised the Commission Mr. Charbonneau has asked the Police Department to patrol in the area and ticket people who shouldn't be in the pit. Mr. Butler suggested the Police have recently been parked in the new entrance across from the fertilizer plant. Mr. Butler cited Mr. Charbonneau is also concerned about liability, and damage to the equipment. They often find the machinery hot-wired. He noted Mr. Charbonneau had \$80,000 in damage to equipment a year ago.

Mr. Butler reported Mr. Charbonneau takes measures to have a clean, healthy, protected site.

With regard to the berm Mr. Butler indicated he understands it's to be a temporary berm which was to be vegetated; it's not meant to be maintained as a lawn. It's a temporary berm growing next to a corn field, which will be harvested shortly and be an open field. Mr. Butler suggested Mr. Charbonneau takes pride in the new entrance as the neighbors do with their properties. The faster they can get the material out of the pit the faster it will be closed.

Mr. Butler reported the "no right turn" sign is the size required for the speed of the trucks moving through the area. They have recently put in a larger "left turn only" sign. They are asking the Police to ticket people making the incorrect turn.

Mr. Butler questioned Mr. Stamm if he calls the Police Department when people are trespassing? Mr. Stamm replied affirmatively, noting the Police tell him they can't ticket

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the people. Mr. Butler asked Mr. Stamm if he has called Mr. Charbonneau when there's a problem? Mr. Stamm replied what can he do? Mr. Stamm questioned what do they do with the photos from the cameras Mr. Butler mentioned? Mr. Butler indicated they monitor the photos and keep notes on the bikers that repeatedly come in. They've also found that many of the bikers come in through the Botticello pit and come up the tracks. Mr. Stamm reported he's been told by two Police Officers that people have produced letters they have permission to use the pit; he suggested Mr. Charbonneau should send a certified letter to the Police Department. Mr. Butler agreed to advise Mr. Charbonneau of Mr. Stamm's suggestion. Mr. Butler indicated the only people he knows of who have permission to use the area are people who were given permission to hunt deer.

Mr. Stamm gave Mr. Butler a copy of the photos submitted to the Commission.

Mr. Stamm indicated that when he stopped over to talk to Mr. Charbonneau it should have been a "no brainer" to have the water trucks come through. Mr. Stamm suggested Mr. Charbonneau needs to keep the weeds down on the road side of the berm; Mr. Stamm suggested keeping the weeds on the inside will help keep the dust down. Mr. Stamm felt the berm has been planted but it's been allowed to grow wild. Mr. Stamm questioned what's the difference from a berm in East Windsor and South Windsor? Mr. Butler suggested the berm at the Aldi property in South Windsor is a permanent landscaping berm. Mr. Stamm noted the farmer keeps the area mowed next to his field, the Town mows along the road. Mr. Butler indicated he'd tell Mr. Charbonneau Mr. Stamm would like the face of the berm facing Mr. Stamm's house mowed. Mr. Stamm suggested just weed-wacked every couple of weeks.

Mr. Butler indicated Mr. Charbonneau feels he's being harassed. Mr. Butler cited various agencies that have come through, including CT DEEP for complaints of "fugitive dust". Mr. Butler reported that to date they have had no violations. Mr. Butler suggested Mr. Stamm pick up a phone and call Mr. Charbonneau when something is bothering him. Mr. Butler reported it's posted all around the property with "no trespassing" signs. They've plugged holes where bikers and ATV users were getting in around the fence and at the entrance. Mr. Butler invited the Commission to stop in while they're working in the pit; there are many things being done to address the complaints. He noted Len Norton of the Department of Public Works stopped in to discuss what could be done to "demud" the tires. Mr. Butler reported Mr. Charbonneau wants to be a good neighbor and do what they've been doing for 25 years. Mr. Stamm felt Mr. Charbonneau needs to close phases and follow the terms of the Special Use Permit; if Mr. Charbonneau is doing what he's allowed to then Mr. Stamm acknowledged he doesn't have a leg to stand on.

Back and forth discussion continued. Mr. Butler suggested if there are legitimate complaints – for instance, they have "no trespassing" signs all around the property; Mr. Stamm said he only saw one the size of an 8 1/2 by 11 piece of paper, he saw nothing on the railroad tracks and nothing on the opposite side of Apothecaries Hall Road. Mr. Butler offered to give Mr. Stamm a copy of the signs they've posted.

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Mr. Butler questioned if Mr. Stamm is saying Mr. Charbonneau can't pursue processing the wood? Mr. Stamm felt they couldn't do anything but farm. Discussion continued regarding governance of farming activities.

Chairman Ouellette questioned Town Planner Flores-Marzan if he had anything to add? Town Planner Flores-Marzan indicated he wanted to meet with Mr. Charbonneau to review the conditions of the permit in relation to the activities allowed for his business. Chairman Ouellette questioned Mr. Butler if he could make that meeting happen; Mr. Butler replied affirmatively.

**APPROVAL OF MINUTES/July 9, 2019:**

**MOTION: To APPROVE the Minutes of Regular Meeting #1762 dated July 9, 2019 as submitted.**

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

**VOTE: In Favor: Unanimous (Ouellette/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: None.**

**NEW BUSINESS/A. Informal discussion with Barbara Smigiel of 1850 William H. Thompson house, museum concept:**

Barbara Smigiel joined the Commission, in 1850 period costume. Ms. Smigiel was present to discuss the Melrose Historic District, and the William H. Thompson farmstead. Ms. Smigiel noted that hanging on the wall behind the Commission is a piece of the original Charter Oak; displayed on the beam are photos of 6 of the properties which compose the Melrose Historic District.

Ms. Smigiel advised the Commission there are 260 plus properties located in East Windsor which have been historically certified by the State.

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Ms. Smigiel noted the William H. Thompson Farmstead is part of the Melrose Historic District. The Farmstead contains 35 acres of land, a pond, a 1917 Craftsman bungalow, and the 1817 Greek Revival dwelling.

Ms. Smigiel reported that William H. Thompson was a significant figure in East Windsor's history. William H. Thompson was a farmer, a tax collector, a selectman, a legislator, a conscriptor during the Civil War, and was a founding elder and rector of the Congregational Church in Broad Brook. William H. Thompson helped to rebuild the fire damaged church twice in his lifetime.

Ms. Smigiel reported the William H. Thompson Farmstead was the first farmstead home to be placed on the National Register in East Windsor. Ms. Smigiel noted she hired a National Register historian to research the farmstead; she provided the Commission with a copy of the National Register form acknowledging the farmstead's acceptance. Ms. Smigiel noted she's been working on this museum concept for 19 years.

Ms. Smigiel reported her personal achievements and work experiences as they relate to her concept of the museum. Among other accomplishments she noted she has completed docent training with the Windsor Historical Society and she has been working with Historic New England, an historic preservation organization based in Boston, Massachusetts, which assists with the preservation of historic sites.

Ms. Smigiel advised the Commission she has held small events at the Farmstead already. During East Windsor's 250<sup>th</sup> Anniversary Ms. Smigiel hosted an event at the Farmstead on May 12, 2018, which was the anniversary of the day East Windsor was incorporated as a town. She has also hosted teas, and will host an event in November at which State Representatives Chris Davis and Carol Hall and 3 selectmen will discuss civic/civil leadership.

Ms. Smigiel gave the Commission a brief history of the arrival of the Thompson family, noting that in 1720 Margaret Thompson arrived from Ireland as a widow with 9 children. They settled in Melrose, eventually a member of the family set up a cider mill. Ms. Smigiel indicated she was told by a member of the Thompson family that they have the oldest cider press in New England. Ms. Smigiel suggested many of the people currently living in Melrose are descendants of the Margaret Thompson family.

The Farmstead has been actively farming since its establishment; the farm produces 10 acres of tobacco annually. The Farmstead is located near the Melrose Cemetery, which is the location of the graves of several Revolutionary soldiers. Ms. Smigiel reported she is committed to establishing this museum to give something back to the Town. She cited the potential for visits by the public, and school children on bus trips. Ms. Smigiel indicated she wants to start with the Farmstead but once it's established as a non-profit she has plans to incorporate the outbuildings and barns and the Craftsman bungalow. She

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noted one of the reasons Historic New England was interested in the property was because it combines the two properties. Ms. Smigiel feels that Historic New England will shepherd the property and have a continuing role in historically maintaining the property after her passing. Development rights to the property will be sold to prevent development to anything other than farming. Ms. Smigiel provided the Commission with a site plan of the location of the properties, which straddle the west end of Kreyssig Road as it intersects with Melrose Road.

Ms. Smigiel suggested the museum would be open afternoons by appointment, and for special events. The number of people participating in events would be controlled by the number of tickets sold. The museum will have a religious and farming theme. Ms. Smigiel advised the Commission she plans to retire soon and the museum would be her retirement project. She noted her familiarity with the groups she's mentioned and she plans to use them to develop the museum. Ms. Smigiel indicated she knows this concept would require that she submit a Special Use Permit but she wanted to get the Commission's input before going forward with her plan.

Ms. Smigiel recalled her past work assisting to develop an inventory of old barns located in East Windsor. She cited the PZC's role to preserve properties. Ms. Smigiel suggest East Windsor has tremendous historical assets which need to be preserved.

Chairman Ouellette queried the Commissioners for questions.

Commissioner Thurz suggested hopefully Ms. Smigiel will be wildly successful with this venture, he questioned where visitors will park? Ms. Smigiel noted there are 4 acres around the house and 10 acres of tillable field associated with the property. School children would be bussed to the museum; she noted an area in front of the barns that could accommodate vehicle parking. Commissioner Thurz suggested she may need to add gravel to the area. Ms. Smigiel reported that the day of the 250<sup>th</sup> Anniversary event she had approximately 100 visitors; most of those people parked on the grass between both properties.

Commissioner Thurz questioned if it's Ms. Smigiel's intent to be like the (East Windsor) Historical Society property? Ms. Smigiel clarified that the Historical Society has accumulated a conglomerate of buildings from various locations in East Windsor that have been relocated to the Historical Society's property. This museum will reflect the Victorian Period in Melrose between the period from 1850 to 1936; the dwellings have been retained at their original location. This site would be a good compliment to the Historical Society but it's not her intention to replicate that experience.

Commissioner Thurz questioned if this site would tie into the Melrose School House? Ms. Smigiel noted that the Town owns the Melrose School House and will continue to own it as long as it's used for educational purposes; if that use ceases the property reverts



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back to the Thompson family. Ms. Smigiel suggested cooperative events could be held within the Historic District; she'd also like to do forums at the Broad Brook Congregational Church where William H. Thompson was a rector; it's part of our heritage.

Ms. Smigiel suggested that people may feel this proposed use would be disruptive to the neighborhood, but she noted it didn't even appear that people were aware of the Anniversary event or the tea. Ms. Smigiel advised the Commission she is doing this for her mother, and her aunt, and for William H. Thompson. They were just ordinary people and Ms. Smigiel felt that children need to know that ordinary people can make a difference.

Chairman Ouellette queried the Commissioners, and Town Planner Flores-Marzan for questions? Town Planner Flores-Marzan suggested the critical issue would be the traffic but he noted Ms. Smigiel mentioned controlling the attendance through issuance of tickets.

Commissioner Sullivan noted the entrance to the homes is off Route 140, he questioned if that would be a consideration? Chairman Ouellette suggested the State would have to look at the proposal but he didn't feel that would be an issue. Ms. Smigiel suggested when you have an historic district you can designate the area as a scenic road, which would require reducing the speed limit.

Chairman Ouellette thanked Ms. Smigiel for her presentation and encouraged her to pursue her dream. Ms. Smigiel will continue to work with Town Planner Flores-Marzan regarding furthering the museum concept.

**OLD BUSINESS/A. Meadow Farms update:**

Town Planner Flores-Marzan referenced Town Engineer Norton's memo dated July 15, 2019. Town Engineer Norton has noted the total bond being retained by the Town is \$176,000. He has received a current estimate from Galasso for a cost of \$161,380 for road completion. The remaining bond balance is \$14,620. Town Engineer Norton cited in his memo that those funds would be utilized to address erosion, grading and drainage issues at Meadow Farms. Town Engineer Norton anticipates that because of the time lapse it will be likely that the Town will have to contribute to finalize the project.

Commissioner Sullivan questioned if the original developer has walked away from this issue? Town Planner Flores-Marzan indicated he is not responding to correspondence.

**OTHER BUSINESS/A. Administrative correction for 122 South Main Street  
Special Permit:**

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Town Planner Flores-Marzan advised the Commission that they had approved this Special Use Permit previously. The applicant had requested to be able to continue the residential use of the property; the Commission agreed and included additional condition #12 – “residential use of structure is grandfathered” - in the approval motion. When the approval motion was prepared for recording with the Town Clerk the additional motion regarding the continuance of the residential use was not included.

The property owner is requesting a refund from the WPCA (Water Pollution Control Authority) for sewer taxes on the property. Without the confirmation of the Commission’s approval for the continuance of the residential use the WPCA is unable to accommodate the property owner.

Town Planner Flores-Marzan conferred with Attorney Diane Whitney regarding resolution of this error; Attorney Whitney has recommended that the Planning Department correct the administrative error. Approval of this application occurred in 2017; the appeal period for this application would have been within 15 days of the original 2017 approval. Attorney Whitney has suggested the Commission be advised of this situation; should they agree then Planning Staff can make the correction.

Chairman Ouellette indicated he had no problem with this correction. Commissioner Sullivan agreed that the applicant has the right to request the residential use in this situation. The remainder of the Commissioners concurred.

No formal motion, the consensus of the Commission was for the Planning Office to make corrections to the original motion to reflect the continued residential use and inform the parties involved in this request.

**BUSINESS MEETING/A. General Zoning Issues:**

Chairman Ouellette noted the Commission heard from Mr. Stamm earlier this evening; he noted he understood Mr. Stamm had requested to be placed on the Agenda to discuss a zoning complaint. Chairman Ouellette acknowledged that anyone can speak during public participation but back and forth dialogue shouldn’t occur. Chairman Ouellette suggested he felt the citizen wanted to have dialogue and the Commission isn’t prepared to participate. Chairman Ouellette referenced Section 4.8 of the Commission bylaws regarding public participation. Chairman Ouellette noted there’s a complaint form for the resident to fill out, the complaint is then dealt with by the Planning Office.

Town Planner Flores-Marzan questioned how the Commission would like to be informed; he questioned if the Commission would prefer a report of violations?

Discussion followed regarding the Commission’s preference for staff to handle complaints as zoning violations. Commissioner Gobin indicated she didn’t feel it’s appropriate for the Commission to get involved in the discussions. She suggested staff

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should provide a report of what's happened and the action plan for resolution. Commissioner Gobin would like to see an overview rather than the level of discussion that occurred this evening. Commissioner Thurz concurred, noting staff handles complaints via site visits, and advises the Commission of their progress. Commissioner Sullivan suggested the Commission has no ability to act on issues other than applications. Chairman Ouellette agreed, citing the Commission has no say in the zoning enforcement process.

Discussion followed regarding the interaction and collaboration of the Building Department and the Planning Office on enforcement actions.

Discussion continued regarding the short-staffing of the Planning Office with the continued vacancy of the Assistant Town Planner position. Town Planner Flores-Marzan noted the position has finally been advertised; the submission period has not closed yet. The office continues to be under staffed by that full-time position.

**BUSINESS MEETING/B. Signing of Mylars/Plans, Motions:**

**Mylars/Plans:**           None.

**Motions:**

- A New England Auto & Truck for Site Plan approval for auto sales and repair at 8 South Main Street.

**ADJOURNMENT:**

**MOTION:**    **To ADJOURN this Meeting at 8:15 p.m.**

**Moore moved/Thurz seconded/VOTE: In Favor: Unanimous**

Respectfully submitted,

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