

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

REGULAR Meeting #1771 – December 10, 2019

Minutes Heading: MEETING MINUTES

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

Regular Meeting #1771 of the Planning and Zoning Commission held on December 10, 2019 was called to order in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT. at 6:31 P. M. by Chairman Ouellette.

PRESENT: Regular Members: Joe Ouellette (Chairman), Michael Kowalski, Tim Moore, Dick Sullivan, and Jim Thurz.

Alternate Members: Anne Gobin, and Marti Zhigailo.

ABSENT: Regular Members: All Regular Members were present.

Alternate Members: Frank Gowdy

Also present was Town Planner Ruben Flores-Marzan.

GUESTS: WSG, LLC: Adam Westhaver, owner; Apothecaries Hall Road Enterprises, LLC and the East Windsor Sportsman Club, Inc.: Jay Ussery, J. R. Russo & Associates, LLC, representing Apothecaries Hall Road Enterprises, LLC.; Bob Butler, pit operator; Kevin Charbonneau, owner; Ronald Stamm; 54 Windsorville Road: Ioan Turcin; Marius Cotori; 10 South Main Street: Attorney, George G. Mowad, II, representing Manny Salinas, owner of Torcco; Manny Salinas, and Bob Urso.

ESTABLISHMENT OF QUORUM:

A quorum was established as five 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.

LEGAL NOTICE:

The following Legal Notice, which appeared in the Journal Inquirer on Thursday, November 28, 2019, and Thursday, December 5, 2019 was read by Chairman Ouellette:

- **PZ-2019-10** Application from Apothecaries Hall Enterprises, LLC and The East Windsor Sportsman Club, Inc., for Renewal of Special Permit for earth removal at

**TOWN OF EAST WINDSOR
PLANNING AND ZONING COMMISSION
Regular Meeting #1771 – December 10, 2019
MEETING MINUTES**

2

Apothecaries Hall Road, Map/Block/Lot: 057-49-003, 057-65-001 and 048-65-007, Zone Districts: M-1, R-3, A-1.

ADDED AGENDA ITEMS: None.

PUBLIC PARTICIPATION:

Prior to opening discussion to the Public Chairman Ouellette offered the following:

- If audience members are present to speak on one of the Public Hearings please sign in to the sheet provided at the table.
- If anyone is present to hear the continuing discussion of the Warehouse Point Stormwater Plan and the potential zoning changes that discussion will be postponed to a future meeting. Terri Hahn, of LADA, the consultant for the project, is ill this evening.
- In presentation and discussion of the applications and Public Hearings the Commission needs to follow Robert's Rules of Order which is designated in the Commission's bylaws. Chairman Ouellette felt discussions at the previous meetings got out of order; he requested people to identify themselves when speaking and to speak in an orderly fashion.

Chairman Ouellette queried the audience for comments regarding items/issues not posted on the Agenda

Andy Hoffman, 6 Acorn Drive: Mr. Hoffman requested a status of the continuing attempts to contact Jason Ziegler and his intentions with regard to completion of the Meadow Farms Active Adult Community road and drainage swale.

Chairman Ouellette requested Town Planner Flores-Marzan to advise Mr. Hoffman of his progress.

Town Planner Flores-Marzan indicated they have reached out to Mr. Ziegler 3 times and have not received a response. Town Planner Flores-Marzan plans to speak to First Selectman Bowsza as to how to proceed with this issue.

Mr. Hoffman reiterated Mr. Ziegler has been difficult to deal with for some time, both with the Town and the Commission. Mr. Ziegler's inaction goes back to (previous Town Planner) Laurie Whitten trying to get a response regarding the outstanding work and the bonds. The Meadow Farms community has tried over the years to work with Mr. Ziegler; he has a history of not responding. Mr. Hoffman questioned the Town's plan going forward.

**TOWN OF EAST WINDSOR
PLANNING AND ZONING COMMISSION
Regular Meeting #1771 – December 10, 2019
MEETING MINUTES**

3

Chairman Ouellette requested Town Planner Flores-Marzan to repeat his earlier comments.

Mr. Hoffman questioned what will the Town do? Chairman Ouellette suggested the Commission will follow protocol. He suggested Meadow Farms will appear on the Commission's agenda once a month; if the item isn't on the agenda the community members can come to a meeting to talk during Public Participation. Chairman Ouellette advised staff he would like to see Meadow Farms appear once a month on the agenda under **OLD BUSINESS** as a pending issue.

APPROVAL OF MINUTES/November 26, 2019:

MOTION: To ACCEPT the Minutes of Regular Meeting #1770 dated November 26, 2019, with the following adjustment:

Page 10; NEW PUBLIC HEARINGS/A. WSG, LLC, correction of the vote reflected on lines 432 and 433 to read:

VOTE: In Favor: **Unanimous (Ouellette/Kowalski/Sullivan/Thurz)**

Opposed: Moore

Abstained: No one

Moore moved/Thurz seconded/DISCUSSION: None.

VOTE: In Favor: Unanimous (Ouellette/Kowalski/Moore/Sullivan/Thurz)

RECEIPT OF APPLICATIONS:

Chairman Ouellette noted there are no new Applications to be received this evening.

PERFORMANCE BONDS – ACTIONS; PERMIT EXTENSIONS; ROAD ACCEPTANCE

No requests presented under this Item of Business this evening.

CONTINUED PUBLIC HEARINGS/A. WSG, LLC – Special Use Permit Renewal (PZ-2019-19) for earth excavation at 140 Wapping Road (017-65-008-034, A-1/M-1 Zone)(65 days January 16, 2020 deadline to make decision):

Adam Westhaver, owner of WSG, LLC was present in the audience.

Chairman Ouellette noted the Commission has closed the Public Hearing but did not vote on the request for permit renewal. Chairman Ouellette raised a point of order, noting the Commission appears to not have a meeting scheduled for December 24, 2019. If a vote isn't made this evening then the Commission would need to consider a vote for the first meeting in January, 2020; the Commission would need to request an extension of Mr. Westhaver.

**TOWN OF EAST WINDSOR
PLANNING AND ZONING COMMISSION
Regular Meeting #1771 – December 10, 2019
MEETING MINUTES**

Chairman Ouellette requested an update from Town Planner Flores-Marzan.

Town Planner Flores-Marzan indicated he has visited the site and didn't find anything out of order or unruly. Based on comments made during the Public Hearing Town Planner Flores-Marzan would recommend the applicant provide additional information:

- an activity report which would identify the number of trucks using the site, and include information specific to the vehicles
- a georeferenced color aerial photo to identify site conditions prior to the application being heard would also be helpful, as the Site Plan is just a black and white document.

Chairman Ouellette queried the Commission regarding the requested length of the permit; he felt personally that 3 years in this case was too long. He would prefer a 1 year permit so the Commission can begin to understand the work at the site.

Commissioner Kowalski noted Mr. Westhaver hasn't actually started his operation yet and hasn't created a history of compliance, or not.

Commissioner Sullivan cited Section 814.4(g) of the Zoning Regulations gives the Commission the option to indicate a 1 year permit.

Chairman Ouellette suggested in some cases, depending on the operation, the renewals are elementary; longer renewals may be appropriate.

Chairman Ouellette suggested it would have been nice if the Commission hadn't closed the Public Hearing as the Commission no longer has the option to get the applicant's buy-in to additional conditions. He felt the recommendations made by Town Planner Flores-Marzan wouldn't be costly.

Commissioner Gobin felt the activity report should include the number of trucks using the site, the license number, the name of the firm and some identifier for the truck. Chairman Ouellette questioned the value of the model number of the truck, or the license number; he felt the Commission was concerned with the number of trucks using the site daily. He questioned the submission of the activity report to the Town for file documentation; should it be monthly or quarterly? Commissioners Kowalski, Thurz, and Gobin felt quarterly; Commissioner Gobin suggested if the truck count is down submission could be annually. Commissioner Kowalski questioned if the report is to be submitted electronically or paper; Town Planner Flores-Marzan suggested electronically. Commissioner Kowalski suggested the reports will also assist to corroborate complaints.

Commissioner Sullivan felt the point of origin of the trucks coming in should also be included in the activity report; Commissioner Gobin questioned the point if the truck was empty. Commissioner Moore suggested if the trucks are coming in to use the scale and

**TOWN OF EAST WINDSOR
PLANNING AND ZONING COMMISSION
Regular Meeting #1771 – December 10, 2019
MEETING MINUTES**

5

they dump their material as was discussed last meeting then the point of origin maybe of interest to the Town. Commissioner Gobin suggested in that case you would want to know what was on the truck.

Commissioner Gobin questioned if the activity report should reflect the number of trucks coming in to use the scale. Chairman Ouellette noted the applicant is limited to a number of trucks per day; those trucks coming in to use the scale will be included in that number. Commissioner Gobin questioned how would we know if they were bringing something hazardous; Chairman Ouellette suggested that wasn't going to happen. Commissioner Zhigailo felt the count was important, noting the Commission has heard the comments regarding the truck usage, the safety issues, the road use, the dust. Noting that the Commission is losing the faith of the residents, for which she was sorry, Commissioner Zhigailo suggested the Town can go on the site and count the number of truck ourselves.

Discussion continued regarding the specifics of the report; see Additional Condition #44 for final language.

Discussion turned to the aerial photo; Chairman Ouellette felt it was a cost of doing business. Commissioner Kowalski questioned if the photo would be submitted at the beginning of the permit or the end as the applicant comes in for renewal? He noted that in this case the operation hasn't begun, so if the photo is submitted a year from now at renewal the aerial would be retrospective. Commissioner Kowalski felt an aerial should be submitted at the beginning of the permit, and at the end with the renewal application. Chairman Ouellette questioned Town Planner Flores-Marzan if he would like one now; Town Planner Flores-Marzan replied affirmatively.

Discussion followed regarding the date the photo should be taken. The consensus of the Commission was in the Fall when the leaves have fallen so the conditions will be easily visible. Commissioner Kowalski suggested between October 1st and November 1st; see Additional Condition #43 for timing of aerial submission.

Reviewing the conditions, Commissioner Sullivan noted the need to correct the time reference in Condition #25.

Commissioner Moore questioned if the Commission has to approve the construction of a future railroad spur. Chairman Ouellette cited the State DOT owns the railroad but they chose not to attend the original Public Hearing for this applicant. Commissioner Moore noted reference to "materials transfer yard" on the site plan, he questioned what that implied? Chairman Ouellette clarified the permit renewal request is for a Special Use Permit for excavation only.

Hearing no other comments, or requests for further discussion, Chairman Ouellette called for a motion.

**TOWN OF EAST WINDSOR
PLANNING AND ZONING COMMISSION
Regular Meeting #1771 – December 10, 2019
MEETING MINUTES**

6

MOTION TO APPROVE the Application of owner WSG, LLC requesting a *one (1) -year renewal through November 13, 2020* of the Special Use Permit to allow earth excavation activities at a commercial sand and gravel operation located at 140 Wapping Road in an A-1 and M-1 Zone. – Map 17, Block 65, Lot 008-34.

This approval is granted subject to conformance with the referenced plans (as may be modified by the Conditions) provided by the applicant and the following conditions:

Referenced Plans:

Cover Sheet: Site Plan, 140 Wapping Road, East Windsor, CT prepared for WSG, LLC 100 Pearl Street, 17th Floor, Hartford CT, 06103. Prepared by Anchor Engineering Services, Inc. 41 Sequin Drive, Glastonbury, CT 06033. P: 860-633-8770, F: 860-633-5971 www.anchorengr.com

- 1/7- Existing Conditions Plan (Scale 1" = 100')
- 2/7- Overall Site Plan (Scale 1" = 100')
- 3/7- Detailed Site Plan – Phase 1A (Scale 1" = 40')
- 4/7- Detailed Site Plan – Phase 1B (Scale 1" = 40')
- 5/7- Detailed Site Plan – Phase 2 & 3 (Scale 1" = 40')
- 6/7- Detailed Site Plan – Phase 4 (Scale 1" = 40')
- 7/7- Construction Details (Scale 1" = 40')

Conditions which must be met prior to signing of mylars:

1. The name and phone number of an individual for 24 hour emergency contact for erosion control problems must be noted on the plans. Any changes in the individual responsible for emergency contact must be reported immediately to the Planning and Zoning Department.
2. The conditions of this approval shall be binding upon the applicant, land owners, and their successors and assigns. A copy of this approval motion shall be filed in the land records prior to the signing of the final mylars.
3. All final plans submitted for signature shall require the seal and live signature of the appropriate professional(s) responsible for preparation of the plans.

Conditions which must be met prior to the issuance of any permits:

4. A performance bond, with surety acceptable to the Town Attorney shall be provided by the applicant prior to the signing of the mylars.
5. The applicant has filed a bond with the Commission in an amount acceptable to the Town Engineer and the Commission and form acceptable to the Town Attorney

**TOWN OF EAST WINDSOR
PLANNING AND ZONING COMMISSION
Regular Meeting #1771 – December 10, 2019
MEETING MINUTES**

7

guaranteeing completion of those items specified by the Commission and the Town Zoning regulations.

6. One set of final plans, with any required revisions incorporated on the sheets shall be submitted for signature of the Commission. The signed plans shall be filed in the Planning and Zoning Office by the applicant prior to issuance of any permits

7. The applicant shall be required to provide the Zoning Enforcement Official with as-built drawings six months after the issuance of the permit to demonstrate compliance with the approved grading plan. Any deviation from the approved plan shall be violation and cause for revocation of the permit.

8. Each phase must be completed and stabilized prior to the commencement of a subsequent phase.

9. Bonding shall be required for each phase.

10. No phase may begin until the previous phase has been *substantially* completed.

11. Prior to the start of any new phase, the applicant shall submit evidence of conformance to the approved plans for the previous phases including a certified as-built survey showing finished grades.

12. Re-approval must be requested at expiration, at such time an as-built will be required.

13. Plans shall adhere to the standards outlined in **Section 814.3** of the Town's Zoning Regulations.

Conditions which must be met prior to certificates of compliance:

14. All public health and safety components of the project must be satisfactorily completed prior to occupancy. In cases where all public health and safety components have not been completed, the Zoning Enforcement Official may issue a certificate of Zoning Compliance provided a suitable bond is retained for any remaining site work.

15. Final grading and seeding shall be in place or a bond for the unfinished work submitted.

General Conditions:

16. A zoning permit shall be obtained prior to the start of any work or new phase. No zoning permit shall be issued until a cash or passbook bond for site restoration, erosion and sedimentation control has been submitted. Such bond shall be good for

**TOWN OF EAST WINDSOR
PLANNING AND ZONING COMMISSION
Regular Meeting #1771 – December 10, 2019
MEETING MINUTES**

the life of the permit/project. Any funds that may be withdrawn by the Town for such maintenance shall be replaced within 5 days or this permit shall be rendered null and void.

17. Excavation shall not ever exceed the approved finished grade elevations. Subsoil must remain native.

18. As each area or phase is graded to final contours, the ground shall be covered with a minimum of 6 inches of topsoil or loam to render it usable for growing agricultural products. All areas will require a minimum of 6 inches of topsoil in accordance with the regulations.

19. The final grading shall conform to the proposed final grading as indicated on the referenced plans. Final slopes shall not be steeper than 33%, or one foot rise to three feet of run.

20. In the event that the operation ceases before all phases are completed, the remaining land should be graded to best meet the remaining natural grade.

21. No trees, brush or stumps shall be buried on site.

22. An oversized gravel anti-tracking pad leading to the driveway shall be installed and maintained to further minimize dust nuisance.

23. There shall be a gate across the driveway of the property that shall be maintained in good condition and kept closed and locked during all times when the site is not open for operation. "Private Property – "No Trespassing" sign shall be maintained at the entrance of the operation along Wapping Road.

24. The total number of loaded, or partially loaded outgoing trucks from the site shall not exceed an average of ninety trucks (90) per day.

25. The earth excavation site shall not be operated before 7:30 a.m. and shall not be opened or operated later than 5:00 p.m. on weekdays, Monday through Friday.

26. The "Best Management Practices" outlined by the Hartford County Natural Resource Conservation Service shall be adhered to.

27. The applicant shall adhere to all conditions of their Inland Wetlands Permit.

28. A minimum of 8 feet from the finished grade to depth of water table shall be maintained.

**TOWN OF EAST WINDSOR
PLANNING AND ZONING COMMISSION
Regular Meeting #1771 – December 10, 2019
MEETING MINUTES**

9

29. At no time shall excavation exceeded the approved finished grade. Subsoil must remain native and undisturbed. Reports of actual grade shall be submitted once grade reaches 18 feet above the water table. Reports shall be submitted at every 2 foot intervals, or quarterly, whichever occurs first.

30. Accessibility for emergency vehicles and equipment should be supplied, preferably as a secondary means of ingress.

31. There shall be no bulky waste or debris disposal allowed on site. The operator of the earth excavation operation shall provide adequate security measures to prevent unauthorized waste disposal. Any unauthorized disposal shall be cleaned up and disposed of off-site.

32. The project shall be carried out in phases in accordance with the plans, no more than 7 acres per phase.

33. All trucks and equipment shall be parked off-street.

34. Vertical and Horizontal control points must be set up around the perimeter in order to ensure that the site is graded in accordance with the approved plan.

35. Upon completion of the excavation, the land shall be cleared of all debris and a minimum of six (6) inches of topsoil shall be spread over any disturbed areas.

36. Additional drainage and erosion control measures are to be installed as directed by town staff if field conditions necessitate it.

37. Any modifications to the proposed drainage for the site plan is subject to the approval of the town engineer.

38. This project shall be executed and maintained in accordance with the approved plans and conditions. Minor modifications to the approved plans which result in lesser impacts may be allowed subject to staff review and approval.

39. In accordance with Chapter 900.3h of the Zoning Regulations, any approval of the site plan application shall commence site work within one year from the date of approval.

40. A zoning permit shall be obtained prior to the commencement of any site work.

41. By acceptance of this permit and conditions, the applicant and owner 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.

**TOWN OF EAST WINDSOR
PLANNING AND ZONING COMMISSION
Regular Meeting #1771 – December 10, 2019
MEETING MINUTES**

42. If the tracking of mud/dirt onto the road during and after rain events becomes a reoccurring issue, the Zoning Enforcement Official shall take action in accordance with their authority outlined in the Connecticut General Statutes and within the Town’s Zoning Regulations.

Additional Conditions:

43. A geo-referenced aerial color image of the project site to be created in ArcGIS and submitted by November 1st annually, the photo will have been submitted within the previous 30 days. The photo is to be submitted to the Town annually so staff can visually track year-to-year environmental/land use changes at the property.

44. An electronic activity report that documents the number of trucks entering and exiting the property, the date, and the time of day, to be submitted to the Town quarterly.

Moore moved/Sullivan seconded/DISCUSSION: Nothing additional to meeting discussion.

VOTE: In Favor: Unanimous (Ouellette/Kowalski/Moore/Sullivan/Thurz)

NEW PUBLIC HEARINGS – A. Apothecaries Hall Enterprises, LLC and The East Windsor Sportsman Club, Inc. – Special Permit Renewal (PZ-2019-10) for Earth Removal at Apothecaries Hall Road (MBL: 057-49-003, 057-65-001 and 048-65-007, Zone Districts: M-1, R-3, A-1) (65 days: January 30, 2020 deadline to make decision)

Jay Ussery, J. R. Russo & Associates, LLC, representing Apothecaries Hall Road Enterprises, LLC joined the Commission. Kevin Charbonneau, owner, and Bob Butler, pit operator, were available in the audience.

Mr. Ussery noted this application is a request for renewal of a Special Use Permit to operate an excavation facility at Apothecaries Hall Road and Windsorville Road.

Mr. Ussery submitted for the record an affidavit related to the posting of the sign advertising the Public Hearing, and a certificate of mailing list.

Mr. Ussery indicated that when they appeared before the Commission a year ago a couple of things were required to be completed. The issue of most concern was the area to the south of the power line, which is the area identified in green on the Compilation Plan submitted with the application. Mr. Ussery submitted photos for the record (taken this afternoon prior to this meeting)

**TOWN OF EAST WINDSOR
PLANNING AND ZONING COMMISSION
Regular Meeting #1771 – December 10, 2019
MEETING MINUTES**

which indicated the area has been graded, loamed, and seeded. The area of reclamation is a little over 49 acres. The area to the north has changed slightly, as the stockpiles of materials have been moved around. Phase 17, which was approved 2 years ago, is approximately 2 acres.

Mr. Ussery indicated the entrance to Apothecaries Hall Road has been completed, the gate has been installed, and the berm surrounding that phase was installed last Summer. A small area adjacent to the exit at Apothecaries Hall Road has been graded and seeded as well; that area contains approximately 1 acre.

Chairman Ouellette queried the Commission for questions; no one had any comments.

Mr. Ussery noted Town Engineer Norton's memo dated December 6, 2019 which recommends the permit not be renewed until conditions of the permit are complied with. Town Engineer Norton cites conditions of mud and dirt tracking onto Town roads.

Mr. Ussery indicated he and Mr. Charbonneau have spoken with Town Engineer Norton numerous times over the past year. The paved section of the pit access driveway is 800 to 900 feet in length but there is still material that follows the trucks out onto the road. Mr. Charbonneau has purchased a sweeper and sweeps the area as needed. Mr. Charbonneau has been responsive when he gets calls from Town Engineer Norton or Town Planner Flores-Marzan or Mr. Ussery himself. Mr. Ussery noted Town Engineer Norton has spoken of a wheel washer but it will be frozen in the Winter and when the snow melts you'll have problems. Keeping every piece of mud off the road isn't realistic.

Commissioner Thurz questioned if they were using the metal grate system? Mr. Charbonneau indicated the ground was frozen right after that, nothing was going out onto the road because the ground is frozen. Mr. Butler indicated the pit was closed, the trucks don't run in the snow and ice; he indicated the truck shown in Town Engineer Norton's photo was coming in rather than going out. The photos the Commission is viewing are inside the pit. He also cited the color distortion of the photos, which he felt distorted the conditions inside the pit. Mr. Butler noted the pits are closed during the Winter weather, the business sites are closed as well; it's hazardous to run large trucks in bad weather.

Mr. Butler indicated he was offended by Town Engineer Norton's memo; he's been operating the pit for 10 years; thousands of trucks have come in and out of the pit in that time. Mr. Butler felt they have a pretty good record managing

**TOWN OF EAST WINDSOR
PLANNING AND ZONING COMMISSION
Regular Meeting #1771 – December 10, 2019
MEETING MINUTES**

all those trucks. The truck mentioned in Town Engineer Norton's memo left the pit ok but had mechanical failure. They had loaders and ground crews on site removing the material within 15 minutes of the incident. Mr. Butler suggested this would be as if someone complained about one of Town Engineer Norton's drivers operating their equipment. Accidents happen; there was no mention in Town Engineer Norton's memo of how it was handled. The Charbonneau pit is in the best condition it's ever been; they've installed all the measures they were requested to add. There is no transfer of materials onto the roads; the trucks might pick up clumps of mud from the metal grates or the washer. The sweeper is used daily. The system that you guys designed in conjunction with Mr. Ussery was put in and is working. There may be residue where the trucks are coming in and out but nothing excessive.

Mr. Charbonneau reported he runs the sweeper at least 3 times a week; there isn't anything in the hopper when he's done. Mr. Charbonneau reported they took a video and visited Town Engineer Norton to talk about the situation; Town Engineer Norton didn't want to see the video. Mr. Charbonneau suggested he's a taxpayer, too; he works hard; he's proud of what he does. Mr. Charbonneau feels this isn't right.

Mr. Butler indicated Town Engineer Norton has never called them; then we talk in this meeting about being collaborative; that doesn't happen. He suggested there's more sand on the road from the Town sanding for a storm event than there is on the road from the pit. It's not attainable; they feel a standard is being applied unfairly. They feel they are being singled out by Town Engineer Norton's complaint.

Mr. Ussery acknowledged the predicament that Town Engineer Norton's memo has created for the Commission, and Town Planner Flores-Marzan isn't familiar with the situation; he suggested getting Town Engineer Norton, Town Planner Flores-Marzan, Mr. Butler, and Mr. Charbonneau together to discuss a resolution. Chairman Ouellette indicated he couldn't see the Commission moving forward with a motion with the staff memo in front of them. He suggested everyone needs to come to a common ground; if that doesn't happen the Commission will have to develop a Plan C.

Mr. Butler suggested the photos were taken in the heart of the operation; there will be sand and gravel within the site. He didn't see any photos of the road.

Commissioner Gobin referenced the "no trespassing" signs. She reported she drove down there and could see snowmobile tracks that came from the railroad tracks, and it looked like they went into the pit. The gate was there; she didn't see any "no trespassing" signs. If you walked the tracks you find a clearly marked sign which is from another operation mentioned. Mr. Butler reported

**TOWN OF EAST WINDSOR
PLANNING AND ZONING COMMISSION
Regular Meeting #1771 – December 10, 2019
MEETING MINUTES**

they spent 2 to 3 weeks this Summer plugging the access points with trees and stumps to keep people from entering; it works for a while. Mr. Butler feels that every operation has the same problem; the Police have sat at the entrance; we've asked people to stop coming in; no one has permission to use the site. Chairman Ouellette requested Mr. Ussery to make sure all the signs on the approved plans are in place.

Commissioner Kowalski questioned Mr. Ussery if there were other ways to handle this that haven't been done yet? Mr. Ussery suggested the wheel washer would do it, but this is a paved entrance for a long distance. Mr. Ussery felt the meeting of the principals is the best solution.

Mr. Butler reiterated we sweep the road to get the material out of the crevices, we have a water wagon we use, those are the right solutions. The wheel washer won't work in the Winter, and, by adding water you'll be adding more material and will have more problems when the area dries out. Mr. Butler noted this is a complaint from the head of the Department of Public Works, who is supposed to work with them; he questioned why that isn't happening? When he received the call from Town Planner Flores-Marzan he couldn't find any material on the road.

Commissioner Sullivan questioned Mr. Butler how he was able to keep the road clean today, with the frost coming out of the ground; there was nothing on the road today. Mr. Butler reported it is being done; today is a really good example. We used the sweeper, the grit in the driveway was squeegeed into the pit; often the sand from the (Town) road gets into the road, it isn't the sand from the pit.

Chairman Ouellette opened discussion to the public.

Ronald Stamm, 53 Apothecaries Hall Road: Mr. Stamm gave Mr. Charbonneau a copy of the photos he gave the Town at the July 23, 2019 (PZC) meeting, which was a response to his FOI complaint. (Mr. Stamm submitted a duplicate set of the 7/23/2019 photos for file documentation tonight). Mr. Stamm indicated that on July 23, 2019 five phases had been closed and reclaimed; he questioned how many phases have been reclaimed since the July 23rd meeting? Mr. Ussery indicated that this year they reclaimed part of Phase 4 and Phase 1. Mr. Stamm reiterated there were 5 phases closed on July 23rd; he feels nothing has been closed over there. He suggested there are 5 phases open for storage of various materials, but this is a gravel pit. Mr. Stamm reported he submitted this to the Board; he feels nothing has been done, he hasn't heard anything back as a response to his FOI request. Mr. Stamm

**TOWN OF EAST WINDSOR
PLANNING AND ZONING COMMISSION
Regular Meeting #1771 – December 10, 2019
MEETING MINUTES**

suggested everyone is talking about the dust on the road, his concern is the dust coming across the road onto his property; the dust contains silica.

Mr. Stamm suggested they still have dust issues; they built a berm which isn't "maintained", it has weeds; someone piled dirt behind the berm higher than the berm so he gets inundated with dust. Mr. Stamm referenced his photos submitted July 23, 2019.

Mr. Ussery noted the berm is vegetated, except for a small area across from Mr. Stamm's home; the berm is about 10 feet in height. There is a small area at the end which is bare of vegetation; Mr. Ussery indicated he didn't know how that happened. If Mr. Stamm is looking for a mowed berm that wasn't the intent of the Commission, or the plan.

Chairman Ouellette questioned the multiple phases being open? Mr. Ussery indicated that's on the plan. Mr. Stamm suggested the plan for the pit only allows him to have 2 phases open at once; he far exceeds that. In the area across from his house the dirt is above the berm; he asked Mr. Charbonneau to work on that, the guys came out and now it's fresh dirt. Mr. Butler felt the mound Mr. Stamm is speaking of is top soil; he'll look at it and speak to Mr. Stamm about the height. Mr. Stamm felt the mounds can't be above the berm or it won't be any good. It looks like a trash heap; offer it to the farmer who farms next door; he would rather see that. Mr. Stamm suggested his house is meticulously groomed. Mr. Butler suggested maybe they could have the farmer plant corn there; Mr. Stamm agreed.

Mr. Stamm requested an official report from his complaint. Chairman Ouellette suggested the minutes of the Public Hearing reflect the Commission's response. Mr. Stamm felt he should have had an official response.

Commissioner Moore clarified that some of the stockpiled material was approved by DEEP. Chairman Ouellette suggested it's part of the detailed permit.

Mr. Butler reported silica monitoring is done frequently; they were found to be compliant.

Chairman Ouellette cited the Commission is in an awkward position; nothing they do will make everyone happy. There's upset staff, upset residents, upset owners and operators.

**TOWN OF EAST WINDSOR
PLANNING AND ZONING COMMISSION
Regular Meeting #1771 – December 10, 2019
MEETING MINUTES**

Alan Baker, 340 Rye Street: Mr. Baker suggested it sounds like the applicant has done some due diligence; he felt it would be helpful if they have information which could be submitted to the Town. Chairman Ouellette noted the Commission is considering additional conditions.

Commissioner Gobin referenced submission of the georeferenced photo, noting the Commission had felt once a year was adequate for the prior applicant. Because of the complaints for this site she suggested maybe the Commission should request a flyover ; it would build a better compliance record. Discussion turned to the frequency of the flyover. Chairman Ouellette suggested it's a waste of time during periods of snow; he suggested perhaps twice a year when the leaves have fallen.

Chairman Ouellette noted the Commission's next meeting would be January 14, 2020; he requested a motion to continue the Public Hearing.

MOTION: To CONTINUE the Public Hearing for Apothecaries Hall Enterprises, LLC and The East Windsor Sportsman Club, Inc. for a Special Permit Renewal (PZ-2019-10) for Earth Removal at Apothecaries Hall Road, Map 057, Block 49, Lot 003; Map 057, Block 65, Lot 001; and Map 048, Block 65, Lot 007, Zone Districts M-1, R-3, and A-1 until the Commission's next regularly scheduled meeting to be held on January 14, 2020, at 6:30 p.m. in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT.

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

VOTE: In Favor: Unanimous (Ouellette/Kowalski/Moore/Sullivan/Thurz)

MOTION: To TAKE A FIVE MINUTE BREAK.

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

VOTE: In Favor: Unanimous (Ouellette/Kowalski/Moore/Sullivan/Thurz)

The Commission RECESSED at 8:05 p.m. and RECONVENED at 8:11 p.m.

NEW BUSINESS/A. Informal discussion concerning requirements to build accessory apartment at 54 Windsorville Road (Section 407 of East Windsor Zoning Regulations) to include Mr. Ioan Turcin:

Town Planner Flores-Marzan noted the owner of 54 Windsorville Road, Ioan Turcin, is present.

**TOWN OF EAST WINDSOR
PLANNING AND ZONING COMMISSION
Regular Meeting #1771 – December 10, 2019
MEETING MINUTES**

Town Planner Flores-Marzan provided the Commission with an aerial of the property, and an excerpt of Chapter IV – Residential Districts – of the Zoning Regulations.

Town Planner Flores-Marzan advised the Commission Mr. Turcin would like to add an apartment to 54 Windsorville Road to enable his brother and family to reside with him. He could do that under a Special Use Permit, but the issue is his brother has a wife and 2 kids; Chapter IV prohibits that under footnote “f” described on page 36: *“Occupants shall be family or extended family members, related by blood, marriage or adoption with no more than 2 occupants. One employee of owner may be substituted for the above.”*

Town Planner Flores-Marzan felt the regulation was a mistake, as he noted a Supreme Court case, Belle Terre v. Boraas – 416 U.S. 1, 94 S. Ct. 1536 (1974), which defines “family” to include no more than two unrelated persons.

Discussion followed regarding the options available to the Commission to determine the validity of the existing regulation. Commissioner Kowalski felt if the owner just needed to expand the living space he could accomplish that via an addition rather than a separate apartment. The Commission questioned Mr. Ioan if he would consider an addition. Mr. Ioan reported when he purchased the property it already has an apartment; he would like to do an addition to that apartment to provide more living space.

Discussion continued regarding the specifics of an accessory apartment, including separate entrance, separate kitchen, vs. additional living space within the home. Chairman Ouellette noted the communication from Mike Caronna, of the North Central Health District Department; NCHD must determine the adequacy of the existing septic system in relation to the apartment proposal. Commissioner Kowalski felt if the regulation was intended to minimize the size of the apartments it would have limited the number of bedrooms. Commissioner Thurz felt the intent was to not rent the accessory apartments to non-family members as a revenue source. Chairman Ouellette noted another option would be a text amendment, which is a lengthy process, including referral to CRCOG, even if the Commission sponsors it.

The Commission requested Town Planner Flores-Marzan to consult with the Town Attorney regarding the current wording of the Regulation, and the process moving forward.

NEW BUSINESS/B. Discussion concerning interpretation of Zoning Regulations regarding 10 South Main Street to include Mr. Manny Salinas of Torrco:

**TOWN OF EAST WINDSOR
PLANNING AND ZONING COMMISSION
Regular Meeting #1771 – December 10, 2019
MEETING MINUTES**

Manny Salinas, owner of Torcco, Attorney George G. Mowad, II, representing Mr. Salinas, and Mr. Bob Urso were present to discuss this agenda item.

Attorney Mowad reported Mr. Salinas is considering purchasing 10 South Main Street, the previous location of the Lomac business. Mr. Salinas sells plumbing supplies; his clients are homeowners or individuals, or contractors who will install the equipment for the homeowner. During discussion with the Planning Office the issue of wholesale was raised; Attorney Mowad suggested the regulations don't address wholesale products.

Attorney Mowad reiterated Mr. Salinas' business is not wholesale sales. They don't feel they need a variance for use of this property; they would be acquiring a Zoning Permit and Building Permits.

Chairman Ouellette questioned if the new space would provide additional space to expand to a wholesale use; is there any intent to expand the business in that regard? Attorney Mowad concurred the new location would provide additional space, but Mr. Salinas has no intention of expanding into the wholesale market.

Mr. Salinas gave a brief description of his current operation. He suggested his business is really the same as the previous owner, Lomac; it's just different materials. Mr. Salinas reported he doesn't sell to other businesses in massive quantities.

Discussion followed briefly regarding the zone for Mr. Salinas' current location vs. this new location, and what, if any, ramifications the change of zone presented. Attorney Mowad reiterated Mr. Salinas' market is the homeowner/individual, or a contractor to install the equipment. The issue of the potential for wholesale was raised during preliminary staff discussions; Town Planner Flores-Marzan felt the Commission should weigh in.

No motion made. The Commission didn't see Mr. Salinas' business as a wholesale business as Attorney Mowad and Mr. Salinas have described the business as sales to the homeowner or a contractor who would assist the homeowner with the installation of the products. The consensus of the Commission was that Mr. Salinas' proposal could be handled via a Zoning Permit for a Change of Use.

Commissioner Thurz thanked Mr. Salinas for staying in East Windsor; the Commission concurred.

OLD BUSINESS/A. Site Visits:

**TOWN OF EAST WINDSOR
PLANNING AND ZONING COMMISSION
Regular Meeting #1771 – December 10, 2019
MEETING MINUTES**

18

Town Planner Flores-Marzan reported there are 9 open cases, 44% of which required the services of a Marshal to deliver the Notice of Violation because the property owner wouldn't pick up the paperwork. At present they have 1 unverified complaint, 4 are seeking compliance.

Commissioner Sullivan suggested a site visit to 88 and 90 Windsorville Road; both properties have junk and vehicles strewn all over the yards.

Commissioner Thurz noted the cars are being parked along the grass again on many of the used vehicle businesses along Route 5.

OLD BUSINESS/B. Continued discussion regarding Warehouse Point Planning Study to include Terri Hahn of LADA P.C. Land Planners:

Postponed due to illness of consultant.

OTHER BUSINESS: None.

BUSINESS MEETING/(1) General Zoning Issues: None.

BUSINESS MEETING/(2) Signing of Mylars/Plans, Motions: None.

ADJOURNMENT:

MOTION: To ADJOURN this Meeting at 8:40 p.m.

Sullivan moved/Moore seconded/VOTE: In Favor: Unanimous

Respectfully submitted,

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