

PLANNING & ZONING COMMISSION
Public Hearing & Regular Meeting
September 18, 2012

The Planning & Zoning Commission held a public hearing & regular meeting on Tuesday, September 18, 2012. Chairman Michael DelSanto, called the meeting to order at 7:00 o'clock, p.m.

The following Commissioners were present, viz:

Steve Kalkowski Kevin Conroy
James Macchio Paul Champagne
 Michael DelSanto, Chair

Alternates: Jennifer Clock
 Randall Gage
 Susan Locks

Ex-officio members present were as follows, viz:

Mary Savage-Dunham, Town Planner
James A. Grappone, Assistant Town Engineer
Mark J. Sciota, Deputy Town Manager/Town Attorney

Absent: James Sinclair, Commissioner
 Paul Chaplinsky, Commissioner
 Ryan Rogers, Alternate

The Chair seated Susan Locks for James Sinclair and Randall Gage for Paul Chaplinsky. A quorum was determined.

The Pledge of Allegiance to the American Flag was recited by everyone in attendance.

The Minutes are being prepared summary style and the video and audio tapes are available for further detail.

MICHAEL DELSANTO, Chairman, presiding:

Approval of Minutes

Regular meeting of September 4, 2012

Mr. Kalkowski made a motion to approve. Mr. Gage seconded.

Mr. Macchio noted the following correction: He was listed as absent when he was indeed present at the meeting.

Motion passed unanimously on a voice vote

Public Hearings

Ms. Savage Dunham read the legal notice into the record.

A. Donald B. Mitchell, home occupation application to operate a law office from existing single family dwelling, 62 Deerbrooke Circle (HO #64)

Attorney Donald B. Mitchell explained he would like to operate a law office out of his house. There will be nobody visiting my house. I conduct business elsewhere. It is operated out of a bedroom that is in my house. There will be no modification to my homes.

The Chair asked why are you asking for your business to be conducted in your home. Attorney Mitchell said he does conduct business in his home however he does not see clients there. No cars, no deliveries.

(Those speaking in favor of this application)

No response.

(Those speaking against this application)

No response.

The Town Planner explained a few exhibits passed around:

(1) Submitted by the applicant today to my office. It is two letters. The first one is from a Terry Faverer (read into the record). The second is a letter from Ron Elshtein. Both are on file in the Town Planner's Office.

(2) Covenants and restrictions of the subdivision submitted by the applicant. These are subdivision covenants and they talk about what can be done on the property. That's doesn't supersede zoning.

(3) Email from a Mr. Donatti. (Read into the record) Email on file in the Town Planner's office.

The Chair closed this public hearing item.

B. Proposed zoning regulation amendment, Sections 2-04D, 2-12L, 1-16P, 4-01.2F, 4-03.2E, 5-001.2J, 5-02.21 and 11-23 (Medical Marijuana) ZA #565.

The Town Planner turned the floor over to Mr. Kalkowski to talk about this and then she had information to put on the record when he is done.

Steve Kalkowski explained the proposed regulations before the commission by were drafted by the continuous improvement subcommittee with a significant amount of help and guidance from the town planner and town attorney.

The regulations are based on the current version of Public Act 12.55 of the State. I want to call out specifically that these statutes do not allow the town or any municipality to prevent the production or to prevent the dispensary of medical marijuana in the Town of Southington or any town within the State of Connecticut.

The state will be defining additional details on these statutes and they have targeted a date of January 1, 2013 for completion. Therefore, the zoning text proposal before us may need to go through a minor revision based on what changes come before the end of the year.

We determined and we feel that these regulations are truly foundational for medical marijuana for the town and we do not feel that the state changes will cause any material changes to the regulations before us.

A good portion of these regulations are directly related to the state statutes.

These regulations are a culmination of hard work of the subcommittee, town planner and town attorney. We did take feedback from Senator Markley in that.

We were able to regulate a couple of different areas: where a dispensary or producer can go, what zones and we are able to regulate the distance separations from additional dispensaries or producers within our town and we're able to regulate the separation distances from the sensitive areas where residences and children would go within our town. A lot of separation distances came from the Adult Oriented Business Regulations as we wanted to follow that for medical marijuana, as well.

I do want to call out some specific regulations in the proposal around the specific zoning areas that we're focusing on for production and for dispensing. We feel very comfortable with isolating the production to only industrial zones. It will not be allowed within a business or residential zone.

For dispensaries, it will be limited to licensed pharmacists and licensed pharmacies within the business zones.

As far as separation distances we are proposing a 1,000 ft separate distance between producers. Chances are the state who will totally govern the licensing of producers would not allow two producers in the same municipality.

As far as other separation distances, we feel that we wanted at least a 750 ft separation between a producer and any sensitive areas,

i.e.: church, schools public or private, parks, recreation areas as well as residentially zoned areas.

As far as the dispensary, we want to hold to a business zone with a 750 ft separation distance between the dispensary and any of our sensitive areas, as well.

The regulations, I feel are very sound, well thought out, well prepared.

Mr. Kalkowski requested the public channel their comments to the zoning text directly and not around whether we can or cannot allow production and dispensary. That's been determined that we are not allow to prohibit dispensation and production within the municipality.

(Those speaking in favor of the application)

Joseph Rogus, Jr. 174 Saddle Brook Path, Southington, CT. As a youth in the community and a current and past member of STEPS, I understand the state mandates and I want to support the efforts of this commission for being very considerate and thoughtful on the distances between producers and vendors and sensitive areas.

Thank you.

Susan Saucier, 481 Flanders Street, Director of Southington Youth Services and vice president of the STEPS Advisory Board.

My question is specifically about the rights of towns to not have a dispensary or a growing facility in their town. The legal opinion on that is that they can't? Attorney Sciota responded the statute is very clear. The state is going to pick six. Producers.

Ms. Saucier asked about pre-emptive language in the legislation saying that towns can't opt out of having dispensaries or growing facilities. Attorney Sciota responded it is specifically left up to the state.

Discussion.

She commended the PZC for being proactive on the medical marijuana legislation. Obviously, I am representing a constituency that would prefer not to have any of this in our community. We worked hard through STEPS and Youth Services to prevent the legislation and to raise healthy and successful youth in our community. We feel this that this is not something that keeps with that spirit. Nevertheless, this certainly shows your commitment to our community by having the foresight to adopt these regulations.

The one thing that stands out to us is the fact that your regulations say that the marijuana can only be distributed through not only registered pharmacist but pharmacies. We support that.

(Those speaking against this application)

No response.

Mr. Kalkowski advised the State of Colorado regulations were reviewed which allows an opt out capability. I can definitely understand Ms. Saucier's viewpoint on this, but I assure you due diligence was done by our town attorney and the state. We asked your question specifically and that's the guidance we got.

The Chair closed this public hearing item at this time.

Business Meeting

A. Donald B. Mitchell, home occupation application to operate a law office from existing single family dwelling, 62 Deerbrooke Circle (HO #64)

Ms. Savage Dunham advised this is ready for action.

Mr. Kalkowski made a motion to approve which was seconded by Mr. Macchio.

Discussion of there being no clients at the home.

Attorney Sciota explained we have in the past have people come in for home occupations where they did not see any clients.

Mr. Conroy said he was concerned about granting a permit for a home occupation when there was no need for it.

This was the result of a complaint advised the town planner. It was because the applicant had a sign on his front lawn. The sign is not permitted and we sent a violation. If approval is granted for a home occupation, he can have a sign no greater than 2 sf as long as it's 20' from the property line and lower than 10 ft in height (a lamp post with a little shingle).

Discussion.

Motion passed 7 to 0 on a roll call vote.

B. Proposed zoning regulation amendment, Sections 2-04D, 2-12L, 1-16P, 4-01.2F, 4-03.2E, 5-001.2J, 5-02.21 and 11-23 (Medical Marijuana) ZA #565.

The Town Planner advised this is ready for action. It has been referred out and responses from the regional agencies are in the file. If approved, it would be effective fifteen days from the date of publication.

Mr. Kalkowski made a motion to approve this zoning amendment. Mr. Champagne seconded.

The Chair commented we are on the forefront of doing this and I commend the efforts of our town attorney and town planner and the continuous improvement subcommittee. Really appreciate it.

Motion passed 7 to 0 on a roll call vote.

C. Lake Compounce site plan application for proposed campground facility, Mt. Vernon Road (Map 189 Parcel 04 and Map 190, Parcel 06) SPR #1623.

Andrew Quirk, Principal and Professional Engineer with Kratzert, Jones & Associates. Since our last meeting, we have met with town staff on several occasions. I believe we have addressed all the comments. Just a couple of points of clarification:

- As to the intertown agreement, the campground is proposed to be served by Bristol for water and sewer. We're working on modifying the present intertown agreement that already exists between Bristol, Southington & Lake Compounce. Bristol and Southington water have both conceptually approved that service.

- I submit a letter from the Bristol Department of Public Works for approval of the sewer connection.

- The applicant agrees to the stipulation to have that agreement filed prior to any permits.

- In response to query about the cabins, he passed around cabins at other facilities which show the type of quality and cabins that would be erected. These are all pre-constructed offsite.

I'll be happy to answer questions.

The Town Planner said with the exception of a stipulation that the finalized intermunicipal agreement be reviewed and filed prior to the issuance of any permits, all outstanding items have been addressed at this time.

Mr. Kalkowski made a motion to approve with the aforementioned stipulation by the town planner. Mr. Macchio seconded.

Stipulation:

(1) That the finalized intermunicipal agreement be reviewed and filed prior to the issuance of any permits.

Motion passed 7 to 0 on a roll call vote.

D. Liberty Bank, site plan application to construct a 2100 sf bank building and remote drive up teller and ATM canopy, 30 and 60 North Main Street SPR #1623.

(Mr. Gage recused himself and left the bench. Ms. Clock was seated in his stead for this item.)

Joe Wren, professional engineer, representing the applicant, Liberty Bank.

The town planner passed around responses to comments which came in this afternoon.

The town planner distributed new maps for the application.

(Pause, pause)

(Pause, pause)

Mr. Wren presented. The plans were revised with regard to staff comments receive late last week.

We attended the parking authority meeting on September 12th and received a waiver of 19 spaces. We were asking for 14, but they thought with the location of the handicapped space and potential access to the rear of the property and for other purposes, they felt it would be good to offer a few more. We have a total of 19.

The main changes to the plans are:

- The location of the drive up canopy structure. Entrances and exit off of High Street and North Main Street were discussed. We pulled the drive up canopy back to the south a bit to create enough room where the two lanes exiting can merge into one lane so there is only one lane from the drive up canopy exiting on to High Street for a total of two lanes existing on to High Street. We feel this is a welcome improvement.

Discussion.

- The central landscaped area got larger. Explanation.

- The location of the proposed handicapped space was discussed.

- In front of all the angled spaces, we have a paved at grade level area to increase the site imperviousness. Explanation.

We have similar changes to the utility and grading plans. Details have been added.

Written responses to staff comments have been provided to staff and the planning and zoning commission members.

There is a lot line revision going on with this plan. It is the western property line between the subject property where the ATM canopy is and the Cushing property. That lot line was adjusted between four and five feet. Additional property added to this site and taken away from the Cushing site. Still in compliance with the zoning regulations.

The Town Planner explained the main item outstanding from her perspective is Comment #22. Staff suggests to the applicant that now is the time with this entire parcel in play for the applicant to place a cross easement to facilitate a future interconnection to North Center Place.

Discussion.

Extensive discussion on this comment and access management.

The parking authority did grant excess waivers in the event they did do a cross connection and they lost a couple of spaces.

Responses to comments note that property owner is not in favor of any future access or cross connection. Ms. Nancy Serafino explained she could not see how it would work with the easement in the future so she is not in favor of the easement at this time for this application.

Discussion.

The Town Planner again felt that is something that should be strongly considered looking to the future. Possible connection points were pointed out.

Discussion.

Discussion of the parking authority's waivers. Attorney Sciota advised the motion was: for a 14 parking space waiver with additional five spaces if you comply with ADA compliance and a future easement for Center Place. Are you okay with the 14 spaces?

Discussion.

Access management was discussed.

Mr. Grappone brought up staff Comment 3. We were excited to see the applicant show new pavers around the area, however there is existing concrete walk along the intersection of High/North Main Street and we would hope to have continuity and continuation of the brick pavers in that area.

Discussion.

Going back to the easement, Mr. Kalkowski liked the idea of thinking ahead. He agreed that there is currently no direct access between the two parcels and it would require agreement with one or another abutting property owner. I'm struggling with that. I like the idea of the easement but I also want more info on how we can pull that off. The Y is a good partner to us. They're progressive and

good town citizens. I'm optimistic we'd be able to get that but I am not sure we should hold this up waiting on that.

Mr. Champagne asked how that would affect the parking authority's letter to us if we disregard that five spots. Attorney Sciota explained if you do not wish to have the easement, it goes back to the parking authority and they would then ask for 15 instead of 14 waivers.

Mr. Macchio agreed with Mr. Kalkowski's comments. Easement would probably be the best solution at this point but the owner is not in favor so we need to move on for this application right now. They need to go back to the parking authority to show the proper waivers and then move on.

Ms. Clock agreed with Jim Maccio.

Ms. Locks agreed with the others.

The Chair agreed with the others. The land owner is not in favor of it. It's her land. We shouldn't go forward with the easement if the land owner doesn't want it.

Mr. Wren noted the one parking space is not critical to this design. We can eliminate that.

Discussion.

Stacking on the site was discussed.

The Town Planner recommended a stipulation that the lot line revision be finalized and the pavers are to be continued along High Street with the Renaissance theme.

Mr. Kalkowski asked Mr. Wren to explain his thinking around the High Street entrance and access to the ATM. Traffic patterns?

Discussion.

Mr. Macchio had a concern with being on Main Street going north and turning left into the facility. There is another entrance that is further towards the center. Traffic queuing up is a concern. And, you have a car that is turning right into a walking destination.

Discussion.

Mr. Kalkowski made a motion to approve with the stipulations as follows:

- The pavers be continued along the High Street frontage with the Renaissance theme; and
- the lot line revision to be finalized.

Ms. Locks seconded. Motion passed 7 to 0 on a roll call vote.

(Mr. Gage re-entered the meeting and was reseated.)

**E. 8-24 Referral - 49 DePaolo Drive, landfill lease agreement
(MR #492.1)**

Attorney Sciota explained this is a referral from the planning and zoning commission for a request. The applicant is looking to lease a portion of the former DePaolo landfill. You saw as part of their presentation a schematic on what they plan on doing in the future. This piece goes along with that but it is part of the 8-24 process.

Attorney William Tracy, Bristol, CT presented on behalf of the applicant. This is another phase of the concept plan we talked to you about at our last meeting.

This proposal is before the Town Council to lease a portion of the existing landfill for storage of mulch and composting. The landfill has limited uses. The composting and the storage of mulch in connection with the whole recycling facility that ultimately would be proposed here are surface uses and can be done without any interference with the underlying landfill. We think it's a very appropriate reuse of that site.

Discussion.

The Guerrette property uses were discussed.

Before you tonight is an 8-24 for recommendation to the Council which would allow us to move forward and negotiate with staff and go back to the Council with specific terms of the lease which would then be approved by the Council.

If we get that far, we would then be back before you for a site plan with much more specific information about location, et cetera. We are talking about doing the wind rows of composting very similar to what the town is now doing on the Guerrette parcel.

Woodchips on the site, as well as composting will be done on the site.

Discussion.

This has to be reviewed by the DEEP for their permitting process.

Mr. Champagne made a motion to send back a favorable 8-24 recommendation to the Town Council. Mr. Kalkowski seconded. Motion passed 7 to 0 on a roll call vote.

F. Dennis Repoli, request for one year extension of special permit approval for multiple buildings on one lot, Parcel 70, Queen Street (Map 133, Parcel 70) (SPU #492.1)

Staff supports this. Mr. Kalkowski so moved the motion which Mr. Macchio seconded. Motion passed unanimously on a voice vote.

G. Discussion: Moratorium on A-frame signs

Arthur Secondo, President of the Chamber of Commerce addressed the commission. The town and the chamber have been strong partners for the past nine years. We have showcased Southington as the place to do business.

We a problem that could be rectified. I realize you established a subcommittee to evaluate the situation of A-frame signs, which I estimate at a number close to 100. Just on Queen Street, Meriden Waterbury Road and downtown.

According to your regulations, these signs are not allowed, yet they are vital to many of the businesses to put them outside. Business owners believe signs are not a detraction but a necessity. The banners, A-frame or sandwich board signs are legitimate forms of advertising and promotion. Yet many of our business owners are receiving citations to remove these signs based on complaints.

This is not fair. Recently on Center Street a business on lower Center Street received a citation to remove the sign. That same day, as he is removing the sign, in an area 50 yards left and right, there were five other signs on the sidewalk and they remain there today.

The committee is on top of this. I've talked to Mary and Mark. They're well aware of the chamber's stance. We need a moratorium. If the regulations you have make all these signs illegal, it is going to be very difficult to enforce the fact that the signs have to be removed. You would need an army of ZEOs.

I ask you have a moratorium so that people on lower Center Street who are going to get cited --- Firestone on Queen Street - give a guy a chance to compete and have his sign until you and the committee and the chamber can come up with a solution.

We are proud to say we have a relationship with our town government that few chambers have. We have a lot of good people and we want to do good for all the business people in town.

I've been hearing this for years. It's just not fair. That's it.

Mr. Kalkowski thanked Mr. Secondo for coming and speaking on behalf of the chamber of commerce on the importance of advertising for businesses in town.

I'd like to commend Mr. Cocuzza for joining our subcommittee and taking the time to walk us through this document.

We express our appreciation for you taking the time to document this and we're looking forward to working with the chamber and business owners as we continue to take input on our continuous improvement committee specifically regarding temporary signs. You've been heard. We'll take this seriously. We will continue to collaborate with the chamber and the business owners in town.

We need to put smart and intelligent regulations in place which will protect the safety of our town but not drain the ability for businesses to conduct business and continue to have you grow the chamber to number one. We're behind you.

Mr. Secondo expressed again the need for a moratorium.

Mr. Kalkowski noted this would be discussed in this Monday's meeting.

Discussion of timing for the moratorium.

Until January 1, 2013 or until the regulation is passed, whichever is sooner. It is limited to one A-frame sign per business

Mr. Champagne made a motion to accept the proposal as presented with one A-frame sign per business with enforcement suspended to January 1, 2013 or sooner if regulations permit. Mr. Macchio seconded. Motion passed 7 to 0 on a roll call vote.

Items to Schedule for Public Hearing

S. Carpenter Construction Company, Earth Excavation, Filling and Grading Application to fill 22,450 yards of material, 65 Triano Drive (Lot #6) EE #139, October 2nd.

The Chair advised this could be scheduled. The Town Planner also noted the daycare for West Street in front of the Ridgeview Condos reapplication for SPU. You already have a zone change on Prospect Street.

Administrative Reports

The Town Planner distributed material which she had copied for the commission regarding sign regulations from other towns. (Manchester, West Haven)

She distributed a rough draft of a table contrasting some regulations for signs in a few different communities.

Manchester regulations were explained about the temporary signage by Ms. Savage Dunham. Keep in mind you may have three and story buildings with six businesses in there on a 40 foot stretch. How do you handle that?

I did ask the ZEO to write up some points to go along with that:

- Southington has 3.7 miles of roadway in the CB zone, 80 businesses.
- Many buildings in the CB zone are multi-tenant. You have to taking about that with the frontage.
- The CB zone has an average sidewalk width of 8 feet. Handicapped accessible, the minimum has to be 4 feet. Outdoor dining and light poles have to be taken into consideration.
- Clearance not obstructing the right of way.
- A-frame signs are the most useful for pedestrian oriented.

The Town Planner suggested overlay districts or where they might be located may be discussed by the committee. (West Street, downtown Plantsville)

I give you all the information a food for thought.

She passed around a letter from Mr. Sinclair he wanted in the record that he was in agreement on the moratorium.

West Street Subcommittee

In Mr. Chaplinsky's absence, we will reserve discussion.

The Town Planner passed around a proposed modification to the business overlay zone. This would involve a zoning map change, too. It is a first step, a very rough draft, a work in progress.
Discussion.

An access management regulation was briefly noted.

Ms.Savage Dunham noted something handed to her earlier tonight. I haven't read it yet, but it is with regard to 865 West Queen Street.

Receipt of New Applications

- 2003 West Street, MC Realty Development, LLC, SPU for child day care services for more than 13 clients. Along with the corresponding site plan, SPR 1578.1. Adaptation of an application denied back in 2010.
- Administrative site plan modification for Snow White Outdoor Equipment. Slight increase in the building envelope. SPR 1542.2. 154 Town Line Road.
- Lake Compounce has applied for administrative site plan approval to change their two wave pools into one. They are ready to put in a restroom and submit design plans for a pump station.
- Carpenter Construction, 65 Triano Drive, Lot #6. Application for an earth application approval to haul in 22,450 cy of material and fill that property. He will be asking for a waiver to do work within 100' of the property line. That's a public hearing on your next meeting.

Adjournment

Mr. Kalkowski made a motion to adjourn which was seconded by Mr. Champagne. Motion passed unanimously on a voice vote.

(Whereupon, the meeting was adjourned at 8:48 o'clock, p.m.)