

PLANNING AND ZONING COMMISSION
TOWN OF SOUTHTON

MAY 15, 2018

The Planning & Zoning Commission of the Town of Southington held a regular meeting on Tuesday, May 15, 2018 at the John Weichsel Municipal Center Assembly Room, 196 North Main Street, Southington, CT. Michael DelSanto, Chair, called the meeting to order at 7:01 pm.

The following Commissioners were in attendance:

Jennifer Clock Paul Chaplinsky
Dagmara Scalise Robert Hammersley
Michael DelSanto, Chair

Alternates: Joe Coviello, Ross Hart & Peter Santago

Ex-Officio: Robert Phillips, Director of Planning & Community Development
James Grappone, Assistant Town Engineer
Carolyn Futtner, Town Attorney

Absent: James Morelli & Susan Locks, Commissioners
Ted Cabata, Alternate Commissioner

The Chair seated Ross Hart for Susan Locks & Joe Coviello for James Morelli. A quorum was determined.

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

MICHAEL DELSANTO, Chair, presiding:

4. Approval of Minutes

A. Regular meeting of May 1, 2018

Mr. Chaplinsky made a motion to approve as presented. Ms. Clock seconded. Motion passed on a majority voice vote with Mr. Hammersley abstaining.

5. Business Meeting

A. About Wellness, LLC, special permit application for a medical marijuana dispensary, 30 Knotter Drive, Unit 1, owned by Napoli Associates, LLC, in a B zone (SPU #596), tabled from May 1

Mr. Phillips advised the public hearing is closed. I have nothing else to report. The Chair added this was part of our public hearings and the matter was tabled at the last meeting. What is the commission's pleasure?

Ms. Scalise made a motion to approve the application. Mr. Hart seconded.

Discussion:

Mr. Chaplinsky said from his standpoint he had a couple of outstanding reservations with respect to a predetermination bias from the real estate agent and the fact we were presented with real estate data with respect to property values that were completely residential based and there is no residential in this area. I find they haven't met the burden of proof of showing us this is not going to have, according to our special permit regulations, a detrimental effect. I still would have liked to have seen something that would tell me that commercial, industrial data that would suggest that businesses around and adjacent to it are not going to be adversely affected.

I think some of the residential data, even the testimony was that the data was inconclusive. We saw trends of declines in property values in the data provided in the packet and it was written off as inconclusive as the population size wasn't so great. If we are going to write off some data as inconclusive because population size is low, why wouldn't we also hold the same standard on the fact they didn't provide commercial property values where this is in a commercial area.

I'm still going to be voting no on this one.

Ms. Clock wanted this on record because we had questions about taking articles into consideration as far as newspaper articles. And, my understanding is that that us doing our own research is not acceptable and should not have a basis for our decision?

Attorney Futtner responded you shouldn't be doing your own research as it pertains to this application. That doesn't mean you can't read the newspaper. But your reading of the news or trying to apply a news article to this decision is where you draw the line. So, that is not what you should be doing.

Ms. Clock wanted that on record because she wanted to clarify that this is a very hard decision for all of us and regardless of the way we do or do not vote doesn't mean we support drugs or don't support drugs or are sending a message. I think that people need to take our position into consideration which is we are a body that decided with not a lot of input to create regulations to accept a business in our community which we laid out the regulations with all of the concerns that were discussed and everybody was in support of those regulations. And, I think that this business person went above and beyond clearly what I've ever seen in my time on this board to meet those regulations and for that reason I am supporting the approval.

Attorney Futtner interjected. To Commissioner Clock's point, I think it is very important what she just said that the commission's role here is not discretionary. It is administrative. So, your job here is to interpret and apply the regulations as written and it is not to insert your own person opinions on marijuana or drugs or whatever the case may be as it pertains to the application. I think that point is well taken. The regulations are there and the only job of the commission is to interpret whether those guidelines have been met.

Ms. Scalise added in contribution to what Paul brought up about the evidence, I do believe that we have held this applicant to a higher standard than we have to any other applicant at least in my short tenure. The idea that the applicant has the burden of proof to show that there is no negative impact on commercial property isn't beyond an arduous task because I don't even know how you would possibly tease out any of the concerns or considerations for other businesses. The market is a dynamic thing. To say that this particular business is going to impact other businesses in a particular way and then to demand that the applicant has to say it is going to be a positive impact or a null impact. If we are going to do that, we have to do that for everybody. I feel like we have put this particular application under greater scrutiny than we have for other applicants. I want to be sure we are fair.

Mr. Chaplinsky responded that when the Town Attorney said this is administrative, I am not sure that I agree. Administrative means that town staff can interpret our regulations. For example, a site plan is administrative. This is not administrative. This is in the commission's opinion, under special permit, whether we feel evidence provided to us has a detrimental effect. We can have an opinion as to whether what we heard is in fact what we believe. We have the ability to say we don't believe it.

Attorney Futtner agreed adding as long as it is based on the regulations. That's what I meant by administrative.

Mr. Chaplinsky said special permits are unique situations.

He further agreed with Ms. Scalise in that this is our second application on medical marijuana. I do believe there is a burden of proof. We don't have history of these types of applications in our town. It's new to us. It's a controversial issue. There is not a lot of data out there about business effects. I think we should have a higher standard of burden of proof because our job is to protect the town residents and our job is to protect the businesses around this particular application.

I want to go on the record and say that when we talk about applying things, we have to look at data. We had a real estate agent who came in here and said to us, that she hopes --- she was hoping when she ran the data that the data would come out positive because she really believed and liked this application. That's a professional.

When you say, Jen, that the data was better than everything we've ever seen, I would disagree. I never heard a professional person, a real estate agent, come to this board and say, I hoped that the data was going to work out okay. That's what I have a problem with.

I feel like the applicant brought somebody who had a very significant bias to this application. Based on that and the fact that we hear a lot about medical marijuana, I was looking for something a little bit more, especially on property values, and I don't think we got it. I don't think the data was very conclusive. It didn't represent the area. It had no commercial value. No commercial data was presented. And, it was biased.

I want to go on the record and say that I disagree with the testimony here. I don't think it was as good as it could've been.

Ms. Clock responded: I understand your point to her comment that she was hoping it would come out good. But then the applicant, to your request, withdrew that realtor and had a professional from Milone & MacBroom come and present additional data to our request. Mr. Chaplinsky pointed

out she was not a real estate professional. Ms. Clock said they were experts and we are supposed to go by experts. Mr. Chaplinsky concluded not an expert in the subject matter.

Mr. Hammersley agreed with Ms. Scalise that we have to be consistent. If we're not, then we're picking winners and losers based on arbitrary factors which is not something we're supposed to do per our regulations. That's why we have the regulations.

To the conversation about the real estate agent, to me it doesn't matter whether that person is bias or not. I suspect everybody who speaks to us has a bias. What matter is do we carry that bias prior to us hearing all the information. Ultimately, at the end of the day, we're the ones who have the decision to make.

For us to be bias is significant. For somebody who is expressing an opinion on an application in front of us to be bias, I think to say that they shouldn't be biased is a little bit unrealistic.

I thought at the last meeting there were a lot of good points made. To what Attorney Futtner just said, I don't think anyone out there should interpret this vote be a vote about whether we approve or don't approve or agree or don't agreed with the state law which allows for medical marijuana use. That's not what this is about. This is about an application. Years ago, this commission adopted regulations to deal with a dispensary as well as a growing facility in town should one decide to do it. (It was a unanimous vote.) I think to have adopted that regulation and then to expect no one to come here or when they come here to be surprised by it, I think is unrealistic, as well.

He discussed the one pharmaceutical place that distributes all the pharmaceuticals to the Department of Corrections facilities.

The last application in front of us, I did have a problem with because it did about a residential neighborhood. This one does not. If you are going to put a dispensary in this town, that is probably one of the best locations in town to put it. There are no residents in that area. A couple of businesses. It's kind of setback so I don't know if you will see it from the road.

One thing I do concerned about is I believe the state is on the verge of legalizing recreational use of marijuana, which I don't think is a smart decision. I'm concerned that when that happens that this dispensary or any like it has the power of becoming a dispensary for recreational marijuana products. I, however, believe I can't consider that. That's speculative and not fact.

I'm going to vote for this. I wish that I didn't. I take comfort in knowing there are 70 applications for 10 spots with the Department of Consumer Protection right now. Geographically, I'm hopeful they don't pick Southington as an ideal spot. We have one in Bristol, Waterbury, Meriden. And, the eastern part of the state is vacant of those facilities. I hope it doesn't get approved.

I don't think we have any option but to vote for this. They meet the regulations. They've gone above and beyond and provided us with material. A very professional job. For all of those reasons I'll be voting in favor of approving this.

Mr. Coviello said Mr. Hammersley said it really well. For me, I tend to take the emotional aspects out of it and look at the application in front of us. I'd agreed the presentation done was very strong. I also agree if you are going to have it, that's a great spot to have it. Right off the highway, set back, no residents. Where else would you want to put it in town? To me, those are key factors.

I see where Paul is going on the data and impacts and to me it is a bit of a stretch. We could sit here a long time waiting for that data. We have to look at the facts in front of us. Being a taxpayer in the State of Connecticut we have a lot more to worry about to negatively impact our property values than this business.

I'm going to be voting for it because of that.

Mr. Hart added that everything he believes has already been said.

The Chair did say once again the commissioners elegantly all my salient points. I do want to piggyback on what Jen said. STEPS, Youth Services, two wonderful organizations in town. I'm hoping they are not going to hold this vote against us. We all care very much about the youth in town. We all have children --- most of us. And, it's our job as Mom and Dad to sit down with our kids every single day and tell them don't do drugs. Every time it comes up we try to instill that in our children.

We've gotten lots of emails, lots of communications from these organizations even over the last couple of days. We get it. Drugs are bad. We understand it. But to put it on us: make the right decision, look out for our kids. We are looking out for our kids.

First and foremost, up here in this position, we have a job to do. We took an oath. Follow our regulations. All due respect to Paul, he has his opinion. We all have them with regards to the property values.

I learned a wealth of education on medical marijuana facilities over the last few months. The half a dozen people that came up that suffered, are suffering, if something like this gives them a little bit of relief, I don't think that is such a bad thing.

Motion passed 6 to 1 with Mr. Chaplinsky opposed.

B. About Wellness, LLC, site plan application for medical marijuana dispensary, 30 Knotter Drive, Unit 1, owned by Napoli Associates, LLC, in a B zone (SPR#1749) tabled from May 1

No further staff comments. Mr. Hart made a motion to approve which Ms. Scalise seconded. Motion passed 7 to 0 on a roll call vote.

C. Volpe & Sons Mobil, Inc., site plan application for a 4,480-sf building to house tow trucks in lower level and office space on main level, property located at 796 South Main Street, property of GMV Realty, LLC, in a CB zone (SPR #1754).

Sev Bovino, Planner with Kratzert, Jones & Associates, represented the applicant. The subject property is located at 796 South Main Street, north of Volpe's Garage. It is served by public water and sewer in a CB zone.

The proposal is to remove the existing structure and replace it with a new, 2,200 sf footprint. The proposed structure will take advantage of the grade drop from the front to the back. The elevation drops quite a few feet. We'll create a walkout basement structure. From the front you'll see a

residential structure and the back will have the garage doors. Trucks will go down using the existing driveway and park inside the structure. Employee parking was noted.

The roof drainage was discussed.

The pavement drainage was discussed.

The curb cut will be closed (indicating). We'll be using the same curb cut Volpe's Garage is using to go to the back.

We are situating this structure right where the other one is.

Mr. Hammersley asked about signage. Mr. Bovino said signage is a separate application and we'll have to meet the regulations. Whatever is required, we'll obey. We don't have a detail on the signage now.

Traffic circulation entering and exiting the site was discussed.

Access from Volpe's Garage was discussed.

The pump station owned by the town was noted. There is an easement to enter that area.

Parking areas were noted. Mr. Chaplinsky asked if there were a willingness to create an accessway there, as well. Mr. Bovino said we are proposing a security fence. This kind of operation needs to have a security fence. We cannot allow people to travel through property. There is a gate here already and we'll keep that adding security fencing all around.

Mr. Phillips advised this application has to have wetlands / conservation approval. It's still with that board so you cannot approve this. We are still waiting for responses to the engineering comments. I recommend a table.

Mr. Chaplinsky made a motion to table. Ms. Clock seconded. Motion passed unanimously on a voice vote.

D. 2156 West Street, LLC, site plan application for a 22,943-sf retail/office building, property located at 2156 West Street in a B zone (SPR #1755)

Sev Bovino, Planner with Kratzert, Jones & Associates representing the applicant advised the subject property is located on the west side of West Street. (Oriented on the screen.)

The property is zoned B. Served by public water and sewer. It is 7.1 acres with 481' of road frontage. Minimum lot area allowed in this zone is 20,000 sf. And, 100' of frontage. The building setback in this zone allowed is 40' from the street line. We have a minimum of 55 at this corner and 85' in this area (indicating).

The lot coverage is 7.4% and allowed is 25% in this zone. This is for a building with mixed uses for a total of 22,943 sf. Some retail, some medical and a restaurant on the end with a drive thru.

The parking is located in the front and rear of the building.

There is a town sewer pump station in the back of the property (indicating). They have an access easement thru this property with a paved driveway coming out to West Street.

The property is also impacted by a 150' wide high-tension power easement. This dark area here (indicating) is 150' and that is basically a no-touch area. Other than the small area for parking we were able to get at this location. Parking is limited under the power line.

The detention area that the town build as part of their system when they built the pump station and created an impervious area, which we will be enlarging and tying into the same drainage system.

We propose to close the existing curb cut here (indicating) if the town allows it. Otherwise, we can leave it. It's for the town use. We felt we can allow the town to come out to the light and if they don't like that, we can leave the curb cut that's existing right now.

There will be one curb cut for 481' of frontage on this property.

There are large poles for the powerline (indicating). The grade rises probably 20' from here to here and you cannot grade in this area to create any usable space. It's not allowed. We touched as much as we could. The only area for parking is in this are (indicating) and the back.

The property is probably a 60/4 in terms of ratio for parking.

We propose concrete sidewalks for the entire frontage. Landscape berm is proposed along the frontage of the property per regulation. All islands across the site are landscaped and we propose to add more landscaping based on staff comments.

All the appropriate erosion control notes, construction sequence and construction detail are part of the plans submitted.

We received staff comments and we're working on those for the next meeting.

Any questions, I'll be glad to answer them.

The entrance at the signalization was discussed.

Discussion of the proposed restaurant with a drive thru. Traffic circulation and stacking was discussed.

We were asked to look at the possibility of connecting this property (indicating) with our property via a driveway so they could come thru and go to the light. We'll investigate that possibility.

Total number of parking spaces required is 109 and we have 114.

The proposed berm with landscaping along the street would make the cars less visible from West Street. That's the intent.

Discussion.

Ms. Scalise went over the traffic circulation pattern again. What consideration is made for people who want to go into the drive thru and they have to navigate within the people who are parking to go to the retail store or the medical office building if all those cars are traversing through the parking lot? How do we prevent backing traffic up on West Street for those trying to get into the drive thru?

Mr. Bovino explained the use of signage.

Discussion.

Stacking is for 25 or more cars.

Deliveries were discussed.

Mr. Chaplinsky made a motion to table. Mr. Hammersley seconded. Motion passed unanimously on a voice vote.

E. Robert Vojtila, site plan application for the construction of a 3,000 sf one story building to be used to store automobiles, property located at 30 Industrial Drive owned by Fibre Optic Plus, LLC in an I-1 zone (SPR #1756)

Mr. Chaplinsky recused himself from this application and left the dais.

The Chair seated Mr. Santago for Mr. Chaplinsky on this application.

Michael Ott, Licensed Professional Engineer and Land Surveyor with Summer Hill Civil Engineers in Madison, CT.

This is a site plan application for a 3,000-sf pre-engineered metal building at 30 Industrial Drive. It's Lot of the industrial subdivision.

The owner wishes to construct a building to store automobiles, specifically, race cars. It's a rather simple, pretty straight forward use. He simply wants to store race cars there. There is no requirement of the owner for an outdoor trash receptacle or for any outdoor storage or outdoor lighting other than building mounted lighting required by the building code and for security.

There are no outside mechanical units. Straight forward, pre-engineered building.

Very limited parking per the planning department's comments.

It won't generate a lot of traffic. Sit quiet except for some weekends when a bunch of guys get together to work on their cars inside the building.

We received planning department comments on May 8th and we received comments from engineering today. We have addressed all planning department comments. We have not addressed the engineering department comments, obviously.

We'll present, answer questions and get your comments tonight.

Mr. Santago clarified: You said it is used for storage and then you said it's used when guys go work on their cars. Is it a garage? Can you clarify?

Mr. Ott said wrong words. Just storage. When I said work on cars, I mean, go drive them. Take care of them. It is definitely not an automobile maintenance or repair use. Simply storage.

The owner owns race cars and he needs a place to store them Mr. Ott explained in response to a comment by Ms. Clock.

It has large overhead doors on the two ends that don't face the street so that the way the site is designed, a pick-up truck towing the race car can come in one driveway and drive in the building and drive out if they have to and come out the second driveway. A loop driveway.

Discussion.

Tom Carlone, Avon, CT., registered architect in Connecticut. He currently houses his race car on River Street. A top fuel dragster. One car. The car is stored and then they prepare it for a race. Car goes straight down the track for a quarter of a mile at 240 mph. They balance and do things. They don't work on cars. It's not a repair shop or retail shop. No buying or selling of cars. It is one car.

Discussion

Mr. Hammersley made a motion to table which Ms. Clock seconded. Motion passed unanimously on a voice vote.

The Chair reseated Mr. Chaplinsky who resumed his seat at the dais.

F. Midland Retail, site plan modification to allow a 40-foot-high flagpole and associated up lighting, properties located at 775, 785, 801, 811 Queen Street, 2,4,6 Upson Drive, 357 Chaffee Lan, owned by John A. Senese, East Queen LLC, FCP, LLC, Twinco Corp, West Queen Developers, LLC, in a B zone (SPR #1716.4)

John Schmidts, a civil engineer with BL Companies, Meriden, CT., representing the applicant presented.

Tonight, we are here to seek a modification to our site plan application to allow a flagpole on the property along Queen Street. (Indicated on the screen the location.)

Mr. Phillips reminded everyone there is a regulation that requires the commission to approve by a supermajority vote any flagpole that has a fall radius that would land outside of the property line. In this case, I think they're proposing 40' and it is less than 40' to the property line. Staff can't handle this like you would normally think for such a minor modification because your regulations call for the specific process.

Mr. Schmidts explained the flagpole is 11' to the closest property line. (Indicated)

The Chair clarified it is a 40' pole. So, if it falls, 29' will be in the road. Mr. Schmidts explained depending on which way it falls. To Queen Street, if it fell to the west, we've got a little bit more room. But the closest property line is to the neighbor to the south. We are about 20' to the Queen Street property line and 11' to the closest neighbor.

Mr. Chaplinsky asked Mr. Grappone, as the town engineer, do you have any guidance as to how these things are built to insure they are safe and do you have any idea how often a flag pole falls over? Mr. Grappone said they are structurally designed footing and foundation because it would have to withstand the wind loading. As far as the fall of the structure, I've seen it that they collapse upon themselves to stay within the property line. This is unique in what I've seen.

Also, I think the state would have a concern with it being so close to the highway.
Discussion.

Mr. Santago noted usually when there are big poles, there really big flags or else why would you put up a big pole. Is the plan to put an oversized flag? They make a lot of noise flapping in the breeze. They cast a shadow. What kind of flag are you putting up? Mr. Schmidts said he couldn't answer as to size. It is an American Flag.

Discussion.

Mr. Santago also noted this is about the fourth time this applicant has come for a modification.
Discussion.

Ms. Scalise asked why this specific location? It is a big property. People want to put up flags and that's great but it seems like there are a lot of other options without incurring risk to other properties and to the road and the people traveling the road. Mr. Schmidts responded as to the location. The idea is that the flag be proposed along the frontage of the property, in particular, the proposed AAA. The only other option is at this location where there is a pylon sign and that's a conflict.

Ms. Scalise suggested a building mounted flag pole. It would be safer than risking the neighbors.

The Chair said we have to take the application on what is presented.

Mr. Hammersley asked about the up lighting. Is it ground or pole mounted? Mr. Schmidts answered it is ground mounted. It is directed upwards toward the top of the flag pole. Wattage was not available but could be found out. Mr. Hammersley asked how many ground mounted lights are proposed and it was answered: three.

Discussion.

Mr. Hart asked if there were state regulations in terms of a flag pole near a state route? Mr. Schmidts was not aware of any.

Discussion on lighting of the flag pole and if it would be disturbing to the neighbors.

Mr. Phillips advised the town tries to promote LEDs on lights that we have. Mr. Schmidts did not have an answer for that.

Ms. Clock made a motion to deny the application-based on the fact that it is a safety issue or risk. Mr. Hammersley seconded.

Mr. Hammersley also suggested it has the potential to have detrimental effects on the property values for the homes residing behind it while recognizing there is a fair amount of lighting in that roadway. I believe that three lights as proposed is a little bit of an overkill for one single pole. I agree with the statement that the potential for this to fall in any direction represents a safety hazard not just to the immediate property abutter but also along the roadway which is the most traversed roadway in town. If it is 20' from the line and it's a 40' pole, you are blocking two lanes of traffic on Queen Street on any given day, not to mention the possibility of hitting a car in the process of it falling. For those reasons, I'll support the motion to deny.

Mr. Grappone said he didn't believe the state would require this to be permitted only because it is not the right of way. If they found out about it, I think they would say the town should have looked

more clearer as far as the fall zone.

Discussion.

Motion to deny passes 7 to 0 on a roll call vote.

G. Beacon Electric, request for release of \$5,750 E & S bond, 306 Clark Street (SPR #1709)

This is ready for action. Mr. Hammersley made a motion to approve. Mr. Chaplinsky seconded. Motion passed unanimously on a voice vote.

6. Administrative Items

Mr. Phillips brought up the thought that maybe the commission may want to revisit the regulations on medical marijuana. This would be a time to get a feel for doing that. Do you want to look at the regulation again? The Chair didn't feel we had an issue with our medical marijuana regulation. But I do want to ask the Town Attorney to look into beginning a moratorium on any recreational marijuana facilities until we can get a regulation in place. It has been determined this year there is not going to be a vote at the state, but you never know when it can spark up again. Southington was on the forefront for medical marijuana in 2012 and I want to be on the forefront again for recreational marijuana.

Mr. Phillips explained a moratorium is a zoning regulation amendment that you pass that has a specific reason and timeframe attached to it. You allow yourself time to look at rapidly changing state laws or similar. I would suggest we look at next time there is a vote at the state.

Discussion.

Discussion on permissive regulations and what that means.

Discussion on Farmington's action on prohibited uses in town (medical and recreational marijuana).

The Chair stated he wants to get in front of it and Mr. Santago will probably head it up.

Mr. Hammersley brought up the signage on West Street after a meeting he had with our economic development coordinator. Specifically, Popeye's. My point was there is no consistency on Queen Street and I would like to see that not happen along West Street.

Discussion.

I'd like to look at West Street before we get too far down the line there. The applications are coming in about once a month for development on West Street. We should talk about the signage along that corridor and the Meriden Waterbury Turnpike corridor.

The Chair said we have pretty strict signage regulations. West Street is even more strict.
Discussion.

Mr. Phillips went over the regulations on signage now. It is difficult to navigate, but I think we are doing it fairly well, he noted. I don't think West Street will turn out like Queen Street. Staff is diligent with their review process to be sure everything is conforming to the way the commission has approved signage. I don't think we could change anything.

Mr. Chaplinsky would be open to looking at the regulations per Mr. Hammersley's point. Always new ideas come out.

Discussion.

7. Items to Schedule for Public Hearing

None.

8. Receipt of New Applications

- Midland Retail which was denied this evening.
- 966 South Main Street to construct five additional parking spaces behind the property. That's potentially an administrative item.
- Abundant Life Pentecostal Church, special permit application to convert retail to a church at 1187 Queen Street and 242 River Street. This just came in.

9. Adjournment

Mr. Chaplinsky made a motion to adjourn. Ms. Clock seconded. Motion passed unanimously on a voice vote.

(Whereupon, the meeting was adjourned at 8:15 o'clock, p.m.)