

PLANNING AND ZONING COMMISSION
TOWN OF SOUTHTON

AUGUST 21, 2018

The Planning & Zoning Commission of the Town of Southington held a regular meeting on Tuesday, August 21, 2018 at the John Weichsel Municipal Center Assembly Room, 196 North Main Street, Southington, CT. Michael DeSanto, Chair, called the meeting to order at 7:01 pm.

The following Commissioners were in attendance:

Paul Chaplinsky	Jennifer Clock
James Morelli	Susan Locks
Robert Hammersley	Dagmara Scalise
Michael DeSanto, Chair	

Alternates: Peter Santago & Ted Cabata

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

Absent: Joe Coviello

(Note: Resignation received from Alternate Ross Hart due to his employment.)

A quorum was determined.

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

MICHAEL DELSANTO, Chair, presiding:

APPROVAL OF MINUTES

1. Regular meeting of July 17, 2018

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

The Chair announced that Letter C on tonight's Agenda is not going to be heard. The applicant actually withdrew their application.

PUBLIC HEARINGS

Mr. Phillips read the legal notice into the record.

A. Southington Water Department, Special Permit Application to construct a new 65-ft water storage tank and a 120-ft tall communications tower, including demolition of existing water storage tanks, new communications buildings and site work, property located at 435 and 471 (rear) Mill Street, in zones R-20/ 25 and R-12 (SPU #605), continued from July 17th

William Casarella, Southington Water Department Superintendent presented. He noted they were before the PZC about a month ago and there were concerns you had which we looked into.

I did speak with the neighbors in the area and visited their property regarding the tree issue. There are 20 homes abutting the property and 70% of those I spoke to had no problem with us removing trees and putting up arborvitaes. They were more or less concerned with cleaning up the site instead of it being as messy as it is. That was their main response. Neighbors were excellent.

I couldn't get to five homes. Two were rented out and they're not there. We left two voice mails, a door hanger to the ones we couldn't get ahold of. I went out of my way to address the issue.

Good communications with the neighbors and I'm glad I did it. I see where they stand. The northeast part, the lady wants more trees down as she has no sun in her yard. Most really didn't care in the immediate area where the old tanks are. In the other area, there wasn't many trees in front of that property where our ROW is. Explained it is pretty wooded there in some parts.

Discussion.

We're going to try to not take as many trees as proposed on the print. The trees that will have to come down are if they are near the piping, drainage or anything that will overhang the tanks has to come down. And, the staging area.

The one strip that sets way back, I told the neighbors I have no problem if they want to go in and X out trees they want taken out. We'll leave a good buffer in there. It doesn't make any difference to the me or the board, I don't think.

We will take only the trees we have to take out. Explained they are not going to clear cut it and put lawn in as stated earlier. We'll have as many trees as we can up.

Ms. Scalise asked about maintenance. Mr. Casarella said they are definitely going to maintain it. A lot of brush in between the trees on the property that is not being used right now. It'll be cleaned up. Explained.

Mr. Casarella added as to the color of the tank, we'll get something subdued and that will blend in. Earth tones. Dark colors are not recommended.

Discussion.

Mr. Chaplinsky brought up the sidewalk. Mr. Casarella said it is not our property. The town owns the property and they own our property inside the fenced area. So, it was a school access walk. We've talked to the BOE and the Town Manager, the engineers and I all agree it will stay open. I didn't get a response from the town as to how they'll keep up with it. We are not planning on altering it. We'll put a new fence up there. It will still be an unobstructed walkway from Hightower to Mill Street.

(Those speaking in favor of the application)

Richard Magnoli, 49 Ridgewood Road. I will speak in favor of this project. It's going to help a very large portion of the population in the town. I believe the applicant did a good job of touching every base. They've reached out the neighbors and we have an understanding of what they're doing. I am in favor. They are very understanding and sensitive to what is going on.

I think their schedule works well. It's well thought out. I am in favor of this.

(Those speaking against the application)

None this evening.

The Chair, hearing no further comments, closed this public hearing item.

B. Prosperity Park Condo Association, Special Permit Application for re-approval of buffer modification on the south side of the complex, 30 Prosperity Court (SPU #435.5)

Sev Bovino, Planner with Kratzert, Jones & Associates, represented the applicant. He oriented the Commission with the map on the screen.

The property in question is an active adult community. The original project was approved with a proposed access to the land to the south which was owned by the Sabatella family at the time (indicated).

Then in 2012, with SPU 435.4, the SPU was granted approval to relocate this access (indicating) more parallel to the property line to avoid the driveway being closed to Unit 1 and 3 (indicating). As a result, there was a reduction of the required buffer along the southerly property line from 20' to 15'.

We are asking tonight for you to regrant this approval and we have provided the area map, names of all owners within 500', property notification was done. We believe the staff is all set with this application and if you have any questions, I'll be glad to answer them.

(Those speaking in favor of the application)

Joe LaPorte, 30 Prosperity Court, Unit 1. At the time this was approved previously, it was a salutation acceptable to everyone and they worked close to have a good solution. I'm in Unit 1, it takes the traffic away from my unit. It's on a slope and it would require additional work on the developer's part and I would insist on a guardrail of some type. I would like to see the revision reapproved.

(Those speaking against this application)

None.

Hearing no further comments, the Chair closed this public hearing item.

C. Application of Kratzert, Jones & Associates for a Zoning Regulation amendment proposing to establish an Elderly Housing Opportunity District (EHOD) (ZA #594)

Item withdrawn by the applicant.

D. Barbara Turcotte, Special Permit Application to construct a garage in excess of 3 spaces, property located at 184 Blue Hills Drive, in an R-40 zone (SPU#607)

Ms. Scalise recused herself from this item and left the dais. The Chair seated Mr. Cabata for this application in her stead.

Barbara Turcotte, 1130 West Street. I purchased the property at 184 Blue Hills Drive. Before I put a deposit on the property, I went to zoning and I asked if I could have a second garage because I own four cars and two of them are classic cars I've owned for 40 years. They're registered, insured and the taxes have to be paid.

They said the garage I could put up is 552 sf. I would like to do is add to that garage just 120 sf to put my lawn tractor in. It's going to be a two-car garage and not the three as stated in the application.

In the packet I put a notarized letter that there will be no driveway put in. And no commercial business on the property.

I checked with the close neighbors and they seemed fine with it. If the garage is okayed, from the street you will only see 20 of the garages. The rest will be behind the house.

(Those speaking in favor of the application)

No one.

(Those speaking against the application)

1. Quinnel Furst, 9 Panorama Drive. I have a couple of questions. The zoning, does it allow three garage or more? How does that work. The application says in excess of three and now she's saying two. Do you count the garages already on the property and then what you add has to be three or less? Can you add three more if you have two and have five?

The Chair advised it is a square footage situation. Mr. Phillips said it has to be the total garage space including proposed and existing. The total garage space allowed is 1,092 sf and anything below that amount is just a zoning permit.

Discussion.

The Speaker said his problem is this is going to be a large building in the back. The lots aren't that big. In the whole neighborhood there are no detached garages that sizes in the back. All garages are attached to the houses. I think a garage this size would degrade the neighborhood, aesthetically.

They mentioned no driveway now, but in two years, if it changes hands, I assume you have a garage you don't have to come to the board to put a driveway in. Mr. Phillips confirmed you do not need a zoning permit for a driveway. The Speaker stated two or three years down the road they could

decide to put a driveway in. Mr. Phillips did state that would need an encroachment permit by the engineering department but it wouldn't have to go to the public.

The Speaker said the neighborhood, the size of the lots and the size of the garage are his problem. It doesn't seem to fit in with any other house in the area.

And, it is a permanent structure, not temporary. It will be there as long as the house and neighborhood are there. That's another issue I have with it.

Mr. Chaplinsky confirmed the location of his property is across the street down one house. Discussion. Corner of Blue Hills, Panorama and Shlayer Farms Road.

2. Tom Murphy, 59 Ferncliffe Drive. I am speaking against just because of the kind of precedent this would set in the neighborhood. It would make it difficult in the future to say no to others who want to add a larger facility to help accommodate their private businesses.

It will degrade potentially to the property, I agree, if others encroach. We have precedent in the neighborhood with small businesses trying to come into the neighborhood. Explained a day care application. That is my concern over that.

It could be future activities not by this applicant but others who would cite this and say they wanted to be treated equally and get a special permit.

The Chair interjected there would be a stipulation that they are not operating a business there. That's part of our regulation. No living space in it. Can't have an in-law apartment or kitchen, et cetera. Discussion.

The speaker understood the regulation and noted the difficulty in enforcing it.

And, subsequent owners, things could be lost through the track of time. That's a concern. I think the three-car regulation we have now is adequate as it preserves the residential aspect of the neighborhood.

Mr. Chaplinsky confirmed his address was 59 Ferncliff. Intersection of Ferncliff and Shlayer. Up against the mountain. The street behind this lot, across the street is his property. In the wintertime he could see the back of this property.

(Rebuttal)

Barbara Turcotte answered the concerns. She is not going to be running a business and she had a notarized letter from her lawyer saying there will be no driveway. It is going to be very nicely made. It'll match the house. Sided. I don't see where it wouldn't improve the value of the property.

The Chair asked if she would be comfortable with a stipulation saying no new driveway. She answered she already has it in the letter notarized by her lawyer.

Mr. Phillips stated there is existing garage listed at 540 square feet. Proposed is 672 square feet for a total of 1,212 square feet on site which is 120 square feet over the allowable space per the regulation. If she reduced it by 120 square feet, she can get a building permit and a zoning permit.

Mr. Furst stated he believed her 100 percent when she said she is not putting in a driveway. It's in two or three years if the property changes hands. All they have to get is an approval from the building people and they can put it in. The issue is not her. It is what happens if she sells in a year or two or transfers title. That's the issue.

Hearing no further comments, the Chair closed this public hearing item.

BUSINESS MEETING

A. Southington Water Department, Special Permit Application to construct a new 65-ft water storage tank and a 120-ft tall communications tower, including demolition of existing water storage tanks, new communications buildings and site work, property located at 435 and 471 (rear) Mill Street, in zones R-20/25 and R-12 (SPU #605), continued from July 17th

The SPU portion is ready for action. Mr. Hammersley made a motion to approve the application. Ms. Clock seconded.

Mr. Hammersley thanked the water department. They did a great job since we initially received this and heard concerns by neighbors. Compliments to Bill Casarella and everything he's done to reach out to the community to resolve them or at least address the concern. I'm optimistic that moving forward you'll adhere to the intent here in terms of clearing and camouflaging the facility with all considerations in place concerning the make up of the tank. As a resident and board member, I thank you for that.

Mr. Morelli seconded that comment.

Mr. Chaplinsky appreciated the legwork and working with the residents that was done. Always a positive thing when we do that. Most of the time when people get together face to face things tend to work themselves out. We are committed to not being judge and jury for disputes between neighbors. It always good with town issues we go the extra mile toward insuring everybody is onboard. Thank you.

The Chair echoed those sentiments. We encourage folks to talk to their neighbors to be sure they fully understand. Lots of things get lost in translation. I appreciate people coming out and confirming that discussions were had. Looks like we are putting the right foot forward on this application.

Motion passed 7 to 0 on a roll call vote.

B. Southington Water Department, site plan application to construct a new 65-ft water storage tank and a 120-ft tall communications tower, including demolition of existing water storage tanks, new communications buildings and site work, property located at 435 and 471 (rear) Mill Street, in zones R-20/25 and R-12 (SPR 1760), continued from July 17th

Mr. Phillips advised the first order of action is the separate vote for the waiver of the tower height.

Mr. Grappone stated that the water department has an emergency operation plan in place in the event there is a catastrophic failure to the tank but I don't believe that would happen. The new tanks are concrete. I'm not in favor of a color or of painting the concrete to be honest. Concrete is earth tone as it is. You put a paint surface on concrete, you are going to have to maintain it over time and will just be a headache. It's up to the board and the water department if they want to peruse that but I am not in favor of that.

As far as safety in place, I believe they have. They submit for water quality testing to the DEEP. I think all safeguards are in place.

The tower is going to be inspected by the building department, a special inspector. It is my opinion they will hire Tighe & Bond, the design engineer to oversee the construction, so there'll be testing procedures with that and everything should be in order concluded Mr. Grappone.

A separate motion is necessary for the tower fall radius height waiver needs to have a two thirds majority vote clarified Mr. Phillips.

Mr. Chaplinsky made a motion to approve that with the town's recommendation. Mr. Hammersley seconded. Motion passed 7 to 0 on a roll call vote.

As to the site plan, Mr. Chaplinsky made a motion to approve --- I will leave the color discussion up to the staff and the water department to decide what's most appropriate for the area and the appropriate maintenance. Mr. Morelli seconded. Motion passed 7 to 0 on a roll call vote.

The Chair acknowledged Rudy Cabata in the audience who once served on this board. Thanks for coming out. We have his offspring with us, Ted, who does a good job but not as good as Rudy.

(Chuckles)

C. Prosperity Park Condo Association, Special Permit Application for re-approval of buffer modification on the south side of the complex, 30 Prosperity Court (SPU #435.5)

Ready for action. Mr. Chaplinsky made a motion to approve. Ms. Locks seconded. Motion passed 7 to 0 on a roll call vote.

D. Prosperity Park Condo Association, site plan application for re-approval of buffer modification on the south side of the complex, 30 Prosperity Court (SPR 1497.3)

Mr. Phillips noted this is ready for action just noting the fire department has requested a 15' wide driveway but that can be accommodated at the time of the development per the zoning and building permit.

Mr. Bovino said the fire department requested the driveway be 15' and the 20' easement be totally clear of trees and cut to a certain height to allow the truck to go through. You can make that a stipulation as we have no objections to that.

Mr. Chaplinsky made a motion to approve with the previous discussion on stipulations. Ms. Locks seconded. Motion passed 7 to 0 on a roll call vote.

E. Application of Kratzert, Jones & Associates for a Zoning Regulation amendment proposing to establish an Elderly Housing Opportunity District (EHOD) (ZA #594)

Withdrawn.

F. Barbara Turcotte, Special Permit Application to construct a garage in excess of 3 spaces, property located at 184 Blue Hills Drive, in an R-40 zone (SPU#607)

Ms. Scalise recused herself and left the dais. Mr. Cabata was seated.

Ready for action. Mr. Chaplinsky advised he has been a big proponent of the garage spaces. We are only talking 120 sf additional. A very small amount. It's a one-acre minimum zone. I drove out there today and it is a beautiful lot surrounded by trees and I have confidence it will look really nice and match. I don't even have a problem with the driveway for access and I'd rather see a driveway than somebody driving on the grass with cars. I won't make that stipulation unless the commission feels it is appropriate. Respecting the folks who came out, no abutters came out. Those who did are down the road or a house or two behind. It doesn't look like it will as intrusive as described.

We made a commitment to allow people to use their properties more than we were allowing in the past. This was one of the things we thought was a really nice benefit to people. To me, it is a passive use. I'm in favor of this. We want to see more people putting nice things on their property and using them for not an intense use.

Ms. Locks seconded.

Ms. Clock commented she took the testimony into consideration and I support what is being proposed because the testimony, it seems the issues were not with the size but they were with the actual structure. This is coming before us to allow the size. I see no problem with that.

The Chair echoed Mr. Chaplinsky's comments. We have homes and mortgages and we need to make more of what our property is. We put this regulation in place a couple of years ago because we saw a lot more of this and instead of going to the ZBA for a variance, we thought this would be the better venue to hear from the public and folks who come up and improve their properties and continue residing where they are and doing more with the property. I'm in favor of it.

Motion passed 7 to 0 on a roll call vote.

Ms. Scalise was reseated.

G. 231 Realty, LLC, site plan application for 2 additions totaling 4,720 sq. Ft. 231 Captain Lewis Drive, in an I-1 zone (SPR #1761)

Stephen Giudice, Harry Cole & Son, 876 South Main Street, Plantsville, represented the applicant. The occupant is Sav-Mor Heating and Air Conditioning.

We came before you a few years back for an addition to the rear of this building. This business has been growing and growing and they desire to stay here on Captain Lewis Drive. At the time of that addition we did not need any additional parking.

He has increasingly grown so he is proposing an addition for office space and additional warehouse space and additional parking along the front. The storm drainage will be modified in the front. We're adding a storm drain (indicating) and adding a fenced dumpster pad in the back along with a retaining wall and landscaping.

It is a very clean and well-maintained site. Very good operation and we believe the applicant will continue to operate in that manner. We're happy to see him growing.

We did receive staff comments and we provided responses. I did get an email from Mr. Grappone indicating he was interested in us adding a hooded basin here (indicating). We are in agreement with that request.

Happy to answer questions.

This is ready for action with two stipulations: subject to engineering response to comments dated 8/20/218 and subject to the proper accessible space markings for the second handicapped space.

Mr. Chaplinsky made a motion to approve with town staff's stipulations. Ms. Locks seconded. Motion passed 7 to 0 on a roll call vote.

The Chair recused himself having Mr. Chaplinsky act as Chair. He seated Mr. Santago for himself.

PAUL CHAPLINSKY, Acting Chair:

H. Town of Southington, Site plan application to install a 25' flagpole next to the 9/11 Memorial, property located on the linear trail adjacent to 83 Weet Main Street, in an I-2 zone (SPR #1762)

Mr. Phillips explained the application is for a 25' flag pole to be installed in between the two existing monuments that are devoted to the 9-11 disaster. It's located over by Zingarella's, on the multi-use trail. It is before you because of the fall down distance. If the height exceeds the linear distance any property line, it requires two thirds vote for approval. In this case, technically it is within the ROW for the property line to Zingarella's and I'm aware that Zingarella's is aware of the proposal and doesn't take exception to it. It's also within 25', I believe of the multi-use trail which technically is the state, but I believe it's leased to the town for a certain long period of time. Otherwise, it would be a non-issue and not before you and probably not even require a zoning permit.

Acting Chair Chaplinsky asked for engineering comments as to their perspective on engineering safety. Mr. Grappone said this pole is a uniform pole, not collapsible. Just the concern would be whether or not the height falls off of the DOT's ROW and there might be a safety concern with pedestrian use in the area. Just not sure what the fall zone would be on it and whether or not it would be contained on the property. Mr. Phillips added it is a monopole, so it would be 25'.

Acting Chair Chaplinsky asked where the put the fall zone. It sounds like it will be close to the building, Zingarella's. Mr. Phillips advised it looks like it would fall outside of the structure of Zingarella's. And, then potentially across the multi-use trail. I don't necessarily think it would reach the roadway. It might just be to the property line.

Acting Chair asked if staff had a real concern with this. Mr. Grappone said the streetlight poles are usually less than that but on state roads they might be pretty close to 20'. It would be a similar situation.

Mr. Hammersley asked why a 25' pole was chosen. Is there a reason for is it just standard size? Mr. Phillips responded it is a standard type size for a type of memorial such as this with up lighting. But I'm not an expert on that.

Ms. Scalise asked what barriers there are, if any, for a vehicle accident and is there anything preventing a car from running into that whole corner? It's pretty open.

Discussion.

Mr. Phillips added typical flag pole heights guidelines for flag etiquette, for small home flags, 4 X 6-foot nature, it would be a 20 to 25-foot pole. Similar to what you find at someone's house.

Discussion.

Discussion on why people use non-collapsible as opposed to collapsible poles. Ms. Clock suggested we might want to look into possibly discussing in main areas requiring a collapsible pole so we are protecting ourselves.

Discussion of what is on that corner: benches, memorial stones, bike racks, et cetera.

Mr. Morelli asked about how this is bolted to the base. Mr. Grappone said it showed 2'6" down. This would be a town installation. Town supervised.

Mr. Morelli made a motion to approve. Ms. Locks seconded. Motion passed 7 to 0 on a roll call vote.

MICHAEL DELSANTO, resuming the Chair:

I. Kinsmen Brewing Co., site plan application for parking lot improvements, 409 Canal Street, in an I-1 zone (SPR #1763)

Andrew Quirk, professional engineer and principal with Kratzert, Jones & Associates, represented the applicant.

Before you are a site plan modification application to use part of an existing building for a banquet facility associated with Kinsmen Crewing Co.

The site is a 7.5-acre parcel of the former Clarke Bolt Company located at 409 Canal Street. It's bordered by Burritt Street to the north, linear trail to the east, Milldale Depot to the south and Canal Street. There's also a .7-acre parking area to the southwest.

The proposal is to convert 6,910 sf of the building adjacent to the Kinsmen Brewing Co., to a 200-seat banquet facility for private parties and functions.

The present north parking area which consists of gravel and pavement will be paved and landscaped according to current zoning regulations. Storm water basin was built in this area here (indicating) in 2011 and that'll be utilized to achieve ZIRO for the 100-year storm event. That parking area will drain by sheet flow to a proposed grass swale to the storm water basin. The present basin is to be mowed and cleaned of the present overgrowth.

The southwest parking area (indicating) is to be restriped for overflow parking along with a proposed landscape berm along Canal Street.

Lighting, signage and the striped crosswalk are proposed for access across Canal Street accessing the south end of the building as well as a walkway they have along the easterly portion of the building to the other portions of the building and north building entrances.

Banquet hours are anticipated to coincide with the present brewery hours of Monday, Wednesday and Thursday, three to eleven. Friday and Saturday, twelve to midnight and Sunday, twelve to ten.

Fire Department has reviewed and accepted the fire truck ladder access. I believe we've addressed all town staff engineering and planning comments. Comment response letters are part of the package.

Happy to answer any questions.

Downcast lights, full cut off fixtures, LED are proposed.

Commissioners commented that it is great to see a business expanding and doing well. Also, from a POCD standpoint, they are repurposing a very old building into a great, great business. Thank you.

Mr. Chaplinsky made a motion to approve. Mr. Hammersley seconded. Motion passed 7 to 0 on a roll call vote.

J. Request for 2nd 90-day extension to file mylar, King's Ridge Subdivision, (S #1319)

Ready for action. Mr. Chaplinsky made a motion to approve which Mr. Hammersley seconded. Motion passed unanimously on a voice vote.

K. Reduction of \$54,000 subdivision bond to maintenance bond amount of \$20,000, East Gate Meadows/Steeple Chase (S#1298)

Ready for action. Mr. Chaplinsky so moved the motion for approval. Mr. Hammersley seconded. Motion passed unanimously on a voice vote.

L. Release of \$19,450 public improvement bond, Dollar General, 1724 M& W Rd (SPR #1743)

Ready for action. So, moved by Mr. Chaplinsky. Ms. Clock seconded. Motion passed unanimously on a voice vote.

M. Informal discussion: Mission BBQ

Attorney Louis Martocchio, 191 Main Street, Southington, CT, attorney and agent for Mission BBQ. I'm here today seeking guidance. I've had numerous meeting, telephone conference and emails with staff and there appears to be at the very least ambiguity as far as our regs and what is required by way of a vehicle.

He briefly described the mission plan for Mission Bar BBQ as he felt it was germane to this conversation. They're a company that started out of Maryland by two veterans and their primary purpose of focused on giving back. They are a for profit business and operate in such a manner. They've adopted what is tantamount to a tithing mentality. The entire theme inside is military-based and they give significant amounts of money each year to not only the community --- our police and fire departments have been recipients --- excess of \$2 million to military branches.

It is germane is that what we are here today to talk about is what is titled a BAM vehicle. That is a military vehicle that is --- in this case was used in active military operation. Several years ago, when the company was started, they purchased from an agency of the US government a BAM vehicle, put an American Flag on it, and God Bless America below it --- I have several photos I'll pass around. It does in fact say: Mission BBQ on it. Every single expansion, including Connecticut and one of which is open here in Southington, they buy the identical vehicle or as close to it as they can and they retrofit it to include a smoker and catering capability on it.

One of their guiding principles and is mandatory in their company policy is it has to be a vehicle that was used in service by a branch of the military. They pay an exorbitant amount of money for the vehicles and retrofit them entirely adding further to it and place them in every single one of their stores. That is really what has brought this all to a head.

It is vitally important to them ---not for the advertising. It is vitally important to them as it goes with their underlying theme. Every store they have as an identical truck and equipment and it is parked in an identical spot. Explained the lease has three quarters of a page dedicated directly to this BAM vehicle. It is so important that when negotiations began three years ago, it was such a critical piece to their game plan that this vehicle be incorporated and have an assigned spot in the parking lot. That's how important this is to my client. If it wasn't we wouldn't be here today.

In the past, the vehicle was parked parallel with Queen Street. Through speaking with Rob & Dave, they had an issue with that because it was taking up four parking spots and it was at the time a large --- now it is an “accepting applications” sign on the vehicle. That is no longer the case.

The vehicle now, if approval, will be parked in a regular parking spot and parked in such a manner as to --- I don’t want to say advertising because it does say Mission BBQ, but it does to keep the common theme.

I asked Rob or Dave or both that I be allowed to present at least an informal discussion looking for guidance. I recognize the importance to them and the money they’ve spent and will spend on this vehicle to insure it stays uniform with all the others.

But it kind of brought us to a fundamental issue. That’s kind of where I am and what I think is ultimately an issue that at some point this board has to address. Formerly, I wrote regulations, statutes and drafted regulations on behalf of other municipalities and I’ve been involved in numerous reg revisions for Southington, either as a town attorney, as a town council member, Chairman of the Wetlands Commission, I am going to tell you unequivocally in my legal and professional opinion our regulation is absolutely unequivocally unenforceable.

He referred to the definition of a mobile billboard. That is so broad that it makes it essentially unenforceable across the board.

In my opinion, the more fundamental issue we are facing today is a mobile billboard, a mobile vehicle with lettering on it --- Verizon sign across the street or Verona Pizza across the street. Or Crazy Kakes across from my office. This isn’t about well they can do it, why can’t I. At the end of the day, I don’t know that enforcement of that even falls within the purview of the PZC. I respect the regulations, but I don’t know that a mobile vehicle that’s registered and insured and operational on our state and local highways and roads falls within the purview of the PZC. I do not want to contest that with you, I just think that before the issue is addressed, you need to address that fundamental question: Does it fall within that umbrella? If you conclude it does, the second question becomes well what can be done to make it enforceable.

At the risk of sounding self-serving, I would be more than happy to, should the PZC desire, to help form a committee to draft a regulation consistent with the other regs, such as our sign regs, that are listed in 12-3, whatever, that would list a minimum or maximum square footage or something of that fault so that the regulation itself could be enforced and it would fall through with the objective of the town.

Explained he did not want to see this town become a mobile billboard sign more than it is.

When you have a regulation that says anything with lettering that has a business name falls within our mobile billboard definition and therefore it is prohibited is a nightmare to staff. It can’t be enforced. Secondly, should it be challenged, I will go on the record saying it will never ever stand. You can’t have such a broad interpretation because it would rule out 40%, probably, of the vehicles in this town.

What I’m asking for in pointing out the two fundamental issues that you have to address is guidance as it relates specifically to my client’s vehicle.

When before the ZBA for our liquor permit, my client voluntarily agreed that we would remove that vehicle from the front of the building and park it in a different designated parking spot until I could get an informal opinion from you folks. My client is not looking to make waves or have a problem. But they are adamant they want that vehicle there.

Can you give me some sort of guidance? I printed a slew of pictures for you to see. (Handed in)

I want to be clear that I've given you seven or eight photos of various signs.

The Chair interrupted saying this information is not lost on any of the commission. Signs is a moving target. We've had subcommittees and done it all.

There is a whole plethora of signs noted Attorney Martocchio. The Chair stated, as he has before, our ZEO isn't out there with binoculars. It's all complaint driven.

Discussion.

Attorney Martocchio continued stating parking a vehicle across four parking spots with a banner on it probably violates the regs but parking a vehicle in a designated spot, with no signs on it?

This vehicle is registered, insured and used several times for their offsite catering. Explained.

I need to give my client sound or sage advice as to what direction in which he needs to go. Does it meet the definition of a mobile billboard? Yes. But virtually every car that has a letter on it does.

The Chair gave his opinion saying that he didn't think parking that vehicle in a parking space in front is going to create any problems. It comes down to complaints we receive. Restaurants dropping dimes on other restaurants. Explained they think they are losing customers because of this particular truck.

Mr. Chaplinsky felt the whole regulation needs to be looked at. He doesn't like the language. It's well overdue. Staff has wrangled with what is the definition of what is a and what is not a mobile billboard for a long time. I also do question the enforcement. What teeth do we really have?

Right now, we need to take a step back and we need to look at the regulation and decide whether we want to put it in place and if we do, put a smarter regulation in that is more defined. I like the subcommittee suggestion. Great idea.

As far as Mission BBQ, my only comment, my vote would be we've got to let it go for now. Not a lot we can do. The subcommittee should make a recommendation to the commission on how to proceed forward. Wipe the regulation out, adopt a new regulation or adopt it somehow. We should take a step back and do that. We have to be careful to be sure there are no sightline issues with the spot chosen to put the vehicle.

Discussion.

Attorney Martocchio indicated we could work with staff. This company is very, very careful and don't want to ruffle feathers which is why they moved the vehicle to begin with.

Discussion.

Mr. Phillips advised as staff we always try to stay consistent for the reason the Chair mentioned. It's a competitive environment out there. The first response is always what about the other people. That's our goal to try to consistent especially with temporary signs and things of that nature.

Having said that, the actual language says: as of the effective date of this regulation any new portable trailer mounted signs or any similar mobile billboards not including political signs --- that's under the prohibited sign list. We know what a portable trailer mounted sign is. Any similar mobile billboards was probably written for the same reason that that kind of a billboard you see on a flatbed truck. Just a sign on the flat part of the truck.

Discussion.

From a staff standpoint, you moving forward as of this evening, personally from my point of view, that was intended for two instances and not necessarily for vans that have "Business A" or "Business B". You go up and down Queen Street, look left and right, and maybe because they don't have rear parking to place their vehicle or it is convenient because there is exposure but they're not taking up a space the public might use.

We as staff have no problems with this at all. It's just a matter of being consistent. If they had parked their vehicle in a single space, it would be no different than anybody else. The problem with this one is they were taking up three or four spaces. Looking for a CO, we could not professionally approve something like that knowing full well that was pushing the envelope.

We don't care what space it is, as long as it would park like a normal vehicle would park.
Discussion.

Mr. Phillips referred to a Supreme Court Case: Reed vs Gilbert. It gives guidance to how we should be having our signs regulations written from a discriminatory standpoint and ours needs work. We should look at all of that stuff.

Ms. Scalise queried why we did not hear about this BAM vehicle when the application first came up. Why is it a surprise to us that it is parked in the lot. Attorney Martocchio provided the back story for the commission.

Discussion.

Discussion of a subcommittee for the purposes of looking at the signage regulations. He volunteered to serve on the committee.

A consensus of the commission members was they were okay with moving forward with one space. We don't care what space is used as long as it is parked like a normal vehicle.

ADMINISTRATIVE ITEMS

- Administrative Review Authorization: Site plan application of EnterSolar to install solar panels on roof at BJ's Warehouse, 75 Spring Street, in a B zone (SPR #1764)

Mr. Phillips advised this is for a solar array on the roof. They came in wanting a ground mounted array but now they want it roof mounted. I decided to put it on for an administrative review.

After discussion, the commission had no issue with the solar array on the roof.

ITEMS TO SCHEDULE FOR PUBLIC HEARING

A. Stuart and Amanda Adendorff, special permit application for reapproval/transfer of previously approved parent/grandparent apartment to new owners, 381 North Star Drive, in an R-40 zone (SPU #608), September 4

B. Amanda and Nicholas Recchini, special permit application to construct parent/grandparent apartment in conjunction with the construction of a new home, property owned by AA Denorfia Building and Development, 38 Teakwood Drive, in an R-20/25 zone (SPU #609), September 18th

C. AHCO, LLC, special permit application for two buildings on one parcel, 72 Industrial Drive, in an I-1 zone (SPU #610), September 18th

RECEIPT OF NEW APPLICATIONS

The commissioners were provided with a list of new applications.

COMMISSIONER COMMENTS

- Mr. Hammersley will be Chair of the subcommittee. Others will be appointed.

- Mr. Chaplinsky said he and Ms. Clock were talking offline about the previous discussions regarding open space subdivisions. There was draft language in the past and staff was going to prepare some background information to compare our existing regulations to previous proposals and see if we can revisit that to find out if we want to further our existing regulations or the ones proposed. More to come on that. Be prepared that when staff sends information, we'd like you to spend some time looking it over so when we come in we can talk about it and have an intelligent conversation. Mr. Phillips will try for the 4th of September meeting.

- Mr. Hammersley brought up the primary election results. He stated that he was happy Dagmara will be here for another year or so, at least. I thought it'd be a good time to bring that up for her and wish her all the luck.

Everyone agreed she did a great job! Only a 35-vote difference.

ADJOURNMENT

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

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