

PLANNING AND ZONING COMMISSION
TOWN OF SOUTHTON

DECEMBER 3, 2019

MINUTES

The Planning & Zoning Commission of the Town of Southington held a public hearing & regular meeting on Tuesday, December 3, 2019 at the Municipal Center Assembly Room, 196 North Main Street, Southington, CT. Robert Hammersley, Chair, called the meeting to order at 7:00, p.m.

The following Commissioners were present:

Robert Salka, Peter Santago, Jeffrey Gworek, Susan Locks, James Macchio & Christina Volpe*

Alternates: Theresa Albanese & Joseph Coviello

Staff: Robert Phillips, Director of Planning & Community Development
James Grappone, Ass't Town Engineer

Absent: Caleb Cowles & Stuart Savelkoul, Alternates

(*Arrived at 7:10 o'clock, p.m.)

The Chair seated Joseph Coviello for Christina Volpe until her arrival.

A quorum was determined.

The Pledge of Allegiance to the American Flag was recited by everyone in attendance being led by (Inaudible) McGettrick, student in the audience.

A Moment of Silence was observed by everyone in attendance.

APPROVAL OF MINUTES

A. Regular meeting of November 18, 2019

Mr. Macchio made a motion to approve the Minutes as presented. Ms. Albanese seconded. Motion passed unanimously on a voice vote.

PUBLIC COMMENT – ITEMS NOT ON THE AGENDA

The Chair explained this is a new item on the Agenda. Once a quarter, at least, we want to open it up for public comment. The only stipulation is you can't comment on anything that is on the agenda. That opportunity comes up in the public hearing. We have all heard from members of the community that we don't have an opportunity to come and talk about things in a broad spectrum, be it open space or what we're doing about it and that type of thing.

No Speakers this evening.

PUBLIC HEARING

(The Minutes are prepared summary style. Please refer to the video on line to hear the full 1-hour discussion on this item.)

A. Mark Lovley, proposed zone boundary change from I-2 to R-12, property located at 136 Curtis Street, (parcel size 21+/-) 562, public hearing continued from November 19

Mr. Gworek recused himself from this item. The Chair seated Ms. Albanese as she was seated last time, as well. Mr. Gworek left the dais.

Sev Bovino, Planner, Kratzert, Jones & Associates, presented on behalf of the applicant. The request as indicated at the prior public hearing is to rezone 21 acres of I-2 land located at 136 Curtis Street. It is requested to be changed to R-12 which matches the existing zone to the west and the south.

We believe this is a reasonable and logical extension of the zone to a physical boundary like the rails to trails that exists today in place of the railroad of years ago. The rails to trails is enjoyed by many people.

The request is not, in my opinion, a spot zoning due to the number of acres we are requesting to be changed.

The current I-2 use is a problem. If developed further, which is likely, it would be more of a problem for the residential neighborhood.

Some of the uses for I-2 are: building materials, storage yard and buildings related to that use, storage of construction materials including pipe, storage and repair of construction equipment, storage of well drilling equipment and trucking terminals, and other uses. So, this is what I would call undesirable uses for this area.

There will be an increase in truck traffic to serve additional industrial development. Today's trucks are large and the local roadway is not designed for these trucks. They're 53-foot trailers. It is like fitting a square peg in a round hole, in my opinion.

If approved for residential development, it will eliminate the problems, provide additional open space and also an area dedicated as a park next to the rails to trails. A quarter acre landscaped with benches and bike racks, et cetera.

We encourage you to approve the request. There was an extensive presentation at the last meeting. From last meeting, I can answer some questions:

- The setback of homes from the gas easement is 30' to the easement and not the gas pipe. Usually the pipe is in the center of the easement.

- The traffic generated by residential development is 9.5 trips per day based on the IT Manual.

- If developed as an industrial subdivision it will provide narrow lots because we have to obey multiple setbacks. A 50' buffer area along the westerly boundary and a ROW for the road of 50' and then a 40' setback from the road. This generates very narrow lots which are long with a very inefficient road length. Financially, it would not be feasible. And, probably it would be best to use the

site as one or two users. Like the current user and an additional one so you don't have to spend the money to build the road. Today, road costs are about \$500+ a linear foot.

Based on that, I would encourage you to approve this request.

Mr. Bovino put on the screen a map of what the industrial subdivision would look like. Explained the roadway in the center, the west side with a 50' required buffer, and then the 40' setback. He pointed out the buildable envelope. You end up with a very narrow lot with a building 40' long or so. And, you have to provide parking. It is a very inefficient layout for an industrial subdivision.

This is impacted by a large CL&P easement and a gas easement, so out of the 21 acres, you have half that could be developed for industrial lots. Ten or twelve lot is not the case here. Most likely a developer would do two lots.

Discussion.

That being the case, Mr. Santago asked, that not being a good spot to develop in general, why should we do anything with it if we fix the current tenant and its basically open space? Our options are to give the zone change to R-12, leave it I-2 which is not optimal, or we get open space if it's not a good place to go? Mr. Bovino responded you won't get open space; you will get a different kind of development. The property would be utilized because once it is sold, they'll utilize it to the maximum instead of the way it is today. You would have a development like this (indicating) most likely with 98 sites for storage trailers.

Discussion.

Mr. Salka asked how many houses were being proposed if we convert to R-12. Mr. Bovino said the layout was 32 houses. When you convert industrial to residential, everybody talks about the taxes. If you took the six industrial buildings, the best-case scenario, have you done a cost analysis so we can get a financial idea of what we're perhaps giving up? The average homes is 1.5 children and the education costs is \$15,000 per child. Looking at the assessments on Captain Lewis Drive and Triano Drive, those buildings are around \$250,000 to \$270,000 in assessed value. With six buildings, you are talking a substantial assessment. What would be the trade off from a tax standpoint in converting this to R-12?

Mr. Bovino said these are assumptions. Said with six buildings is 450,000 in taxes. But 32 homes assessed at 5,000 to 6,000 a year in taxes, so \$150,000 income from that. Probably be a wash.

On this lot, they pay about 8,000 and if you increase it to two, you'll get about \$16,000 and not the amount you are thinking. Plus, the maintenance.

(Christina Volpe entered the meeting.)

(The Chair seated Ms. Volpe and thanked Mr. Coviello for his service. Mr. Phillips clarified he would still be seated for the rest of this hearing.)

Mark Lovley, President of Lovley Development, 710 Main Street, Suite 11, Plantsville. He went over some quick numbers. He noted if this zone is changed, he will do an over 55 development with detached homes. He went over the figures. He noted there will be no kids in the school system and no maintenance on roads. He noted it would be a net gain in taxes.

The industrial layout really doesn't make financial sense. Explained the costs. It would end up just being an expansion of this use.

Again, he reiterated his plan for over 55 detached single-family houses with no education costs and no road maintenance costs. No children under 18 years old. Open space is about 30 to 40 percent.
Discussion.

Mr. Macchio did point out that things can change. It is something we have to worry about.
Discussion.

Mr. Santago asked staff if the town has exhausted everything, we can on this site with regard to zoning enforcement and the like? They testified in regards to odor and noise abatement and lighting.

Mr. Phillips said in reviewing the past history, I did have conversations with the property owner on a number of occasions. Absentee owner. They're trying to have an income on the property. We've met with the Ass't Planner, the ZEO and the tenant that's there now several times on site in response to received complaints including removal of the vegetative buffer and to kind of see what they're really doing there. In one case they were bringing in reclaimed roadway materials with a contract with the state that was in place. Looking at the history of the site, it predates zoning. It's heavy industrial. It's been going on for quite a long time.

Looking at the permitted uses in that zone, knowing the history of the site and knowing that kind of heavy industrial storage material is something that's allowable. Not even special permit. It is a permitted use. We don't see any ability to say there is a material change in exactly what they are doing on site. A very difficult enforcement standing particularly in the sense of tools available to us.

We can give violations, notices of cease & desist, et cetera, but ultimately, we have to turn the file over to the town attorney who has to go through the court system and we have to have a good argument otherwise it's a waste of time and money.

I have not seen anything that's of a pretty substantial change. This site doesn't have a special permit because it predates that. It is what it is. There is probably a strong argument this predated some of the houses, if not all of them. We have to look at everybody the same with respect to the regulations especially with the history of the site. We can't arbitrarily enforce something we don't have a strong case for.

Discussion.

Mr. Salka pointed out this application is only to look at changing the zone from I-2 to R-12. That's all we are talking about here. If we approve this zone change, we can assume you would then come back with pretty much all the detail of what you are going to build there. So, we have a chance to look at it. Mr. Lovley agreed.

The Chair explained the process to the audience.

The Chair advised everything that was said at the last meeting is on the record. If there is anything new to add, we encourage you to come up and talk. You don't have to come and say what you said last time. We heard that last time. That's part of the record.

(Those speaking in favor of the application.)

The following persons spoke in favor of the application:

The cited concerns such as safety, quality of life, compatible zoning, density, move to R-12 an economic benefit to the town. Environmental concerns.

- (1) Mark Berardi, 160 Curtis Street - Presented a list of 90 people from the Curtis Street corridor in favor of the zoning change.
- (2) Richard Erardi, spoke on behalf of his wife, Sherri, as well, 38 Riverside Court
- (3) Mike Taylor, 175 Maplewood Road
- (4) Steve Kowal, 196 Curtis Street

Additional letters of support submitted to the town and on file as part of the record:

- Amanda Stern and Anthony Guererra, 143 Curtis Street
- Jennifer Montone, 25 Riverside Court
- Renee Resparto, (no address)
- Doreen Vasile, 213 Curtis Street
- Mark Berardi & Heather Carreiro, 160 Curtis Street
- Renee Resparto – 11 Riverside Court
- Jen Montone, 25 Riverside Court
- Christine Williamson, 83 Rustic Oak Drive
- Courtney Mailer, 58 Gannet Drive
- Aaron Michael Wood, 10 Riverside Court

- Carol Hadad, 176 Curtis Street
- Carrie Brunalli, 161 Long Lane
- Sherri Erardi, 38 Riverside Court
- Greg Williamson, 83 Rustic Oak Drive
- Richard Erardi, 38 Riverside Court
- Amanda Stern, 143 Curtis Street

That is in addition to what we had last time.

(Those speaking against the application.)

(1) Val Guarino, 1432 East Street wanted to speak at the last meeting against for many of the reasons Mr. Perillo stated at the last meeting. After doing researching, he wondered why there was no means of resolution to these activities. In looking at the zoning regulations, the things the residents complained about were prohibited in an industrial zone and the ZEO has the authority to correct the violations.

We were told that nothing could be done about the use at the last meeting. But the regulations specify performance standards that must be met. I.e.: no offensive odors, obnoxious, toxic or corrosive fumes or gas shall be emitted into the air. Noise abatement: no noise which is objectionable due to

volume, intermittence, beat, frequency for shrillness shall be transmitted beyond the property from which it originates. That sounds easy to enforce.

In enforcement administration section of the regulation, the ZEO has the authority to enforce the regulations and correct the conditions the residents have been complaining about. That seems pretty clear.

Explained.

You don't have to approve this change. Once the change is made, there is no going back.

I think it was stated the commission wants to continue to promote economic development and this change does not do that. The building of 32 new homes will still increase the burden on town services, especially elderly housing for police, fire and ambulance. There is no guarantee these new homeowners will be any better neighbors than what you have now.

It disturbs me approximately seven acres of trees will be cut down for the proposed development and the 30% open space can't be built on anyway due to the easement on the north end of the property. The gift of open space is not really a gift.

The current use is approximately four acres leaving approximately sixteen acres of "open space" and any change would require zoning approval.

I urge you to deny the zone change and direct the ZEO to investigate the complaints and enforce the regulations.

(2) Joan Hurley, 123 Curtis Street gave a history of the use of the area.

(Rebuttal)

Mark Lovley added a couple of comments. A reason for the problems is the land predates zoning. It's tough to take and jurisdiction (sic). That is a problem.

If I don't buy the property, the current tenant will and you'll have what you see there.
Explained.

Tax were discussed as to what is there now and what is proposed. The proposal makes economic sense. No kids in the school system. You're giving something that seniors want in town and there's a need for.

I got involved in this for the quality of life of the residents.

Mr. Santiago asked if the entire property has to be bought. Mr. Lovley said there is a possibility that up by the power lines in the back, some of that could be left I-2. You could get there by Lazy Lane. The split can be done where the portion by the neighbors becomes R-12 and we keep the other I-2.

Discussion.

Mr. Santiago said someone not being a good neighbor is driving a zone change from I-2 to R-12 for 22.5 acres. That's a bad precedent to set. If an alternate way can come about for this to be resolved, I am not sure we've exhausted everything. I agree with Mr. Guarino with regard to enforcement. I would like to leave this hearing open and see if we can't continue to look at all possibilities here.

Mr. Phillips advised state statute requires a hearing be open for 35 days. There is a 65-day extension request that can be granted by the commission for any portion of the process. In this case, the next meeting is January 7th. You'd have to have an extension to keep the hearing open.

Mr. Lovley agreed to that so we can look at different options.

Discussion.

Mr. Salka made a motion to extend the hearing date for this application for 65 days. Mr. Santago seconded. Motion passed 7 to 0 on a roll call vote.

The public hearing remains open until January 7, 2020.

(The Minutes are prepared summary style. Please refer to the video on line to hear the full 2-hour discussion on this item.)

B. Lori Holm, Special Permit Application for multiple buildings on one lot and a modification of previous special permit approval, property located at 223 Meriden Waterbury Turnpike, in an R-80 zone (parcel size app. 2.51 acres) SPU #546.1, public hearing continued from November 19

The Chair reseated Jeff Gworek and thanked Theresa Albanese for her service.

Anything that was said at the last meeting is part of the record.

Stephen Giudice, Harry Cole & Son, 876 South Main Street, Plantsville presented on behalf of the applicant. He handed out pictures Ms. Holm had prepared of the site. The structure in question.

This is a special permit application at 223 Meriden Waterbury Turnpike and the property is known as Assessor's Map 15 and Parcel 53. It's a 2.47-acre parcel and it's zoned R-80. This property was previously approved for a special permit on March 17, 2015. That permit was for private schooling for arts/theater and such.

Our application is a two-part application. We are proposing to modify the existing special permit. As part of the original special permit Ms. Holm prepared a schedule of activities with the approximate number of activities/timeframes/frequency per year, et cetera which she did submit. We're proposing to modify that and we submitted the modification to the schedule.

And, we are proposing to allow multiple buildings on one parcel. This is what originally started this process. The schedule is something we decided to add on after meeting with staff.

Last meeting, I discussed the proposed modifications to the existing permit. The changes to the existing permit include changing:

Individual group music lessons from 1 to 5 participants to 1 to 15 participants and varying times and frequencies.

Changing the coffee house recitals, concerts and performances from 30 participants to 75 participants at varying times.

Changing the Annual Day of Arts to indoors.

Changing the theater productions from 30 to 50 participants to 30 to 80 participants.

Changing special events from 30 to 50 participants to 30 to 80 participants.

Changing the timeframe to varies in frequency to year-round. And, moving that indoors.

The changes were based on experiences over the past four years of operation. The original schedule was just a best guesstimate as to how the business would operate. This was an attempt to bring the schedule up to make it more real as to how the operation actually works.

Discussion.

The second part of the application is for multiple buildings on one parcel. She originally applied for a carport which has evolved into an art barn. He went briefly through the history of the site and the art barn to give the commission a better understanding of this.

In 2015 she made an application under Section 3-01.2F. B for a special permit for private schools in a residential. Neighbors voiced their concerns mostly that this property would change to a business zone and the business uses at the intersection moving in this direction. Most were reassured it would stay residential and be used that way. We've never proposed changing the zone and that kept most of the speakers happy.

She then prepared her tentative schedule for the commission. Eventually, the special permit was approved.

She has worked to make the property warm, welcoming and safe for all who come to visit. She has been respectful the neighbors and works hard to ensure the guests do not have a negative impact on property owners around her.

She has also worked to improve her property and consulted town staff each step of the way. She's applied for permits for roof replacement, dormers, bathrooms, conversion of existing space to commercial uses and exterior lighting including pole lights that were in question. And, permits for the carport/art barn. (All permits are on file and I will submit them if necessary.) And, CO's as well.

She relies on others around her to follow the proper steps and pull permits when needed and that is the reason we are here tonight.

The carport/art barn has evolved. Originally it was a basketball court at this location (indicating). And, she started to use this as a place to teach art in the summer months. As it got hotter, she decided to put up a tent for the classes to have the kids under a shaded area. That worked for a while. She felt a permanent structure would be a better solution. A carport would give her a place to park her car in the winter and teach classes in the summer.

When town staff was approached with this request, she hired an architect and filled out the appropriate zoning permits and got started on construction. Plans for the carport always had some

sheeting on the walls (indicating the original plans approved by the town). You can see the open areas in the center and sheeting on the sides. The ends were open.

During construction, the building department and the contractor felt the structure needed more cross supports and they were added along the way with some sheeting added to the ends of the building, as well. This started the transformation of the barn. She did get a CO for the barn when construction was complete.

As the carport was completed, she started using the space. She continually tried to improve the space, however. She added a cupola, some windows and eventually some doors, overhead door at one end, a door at this end and sliding doors at this end (indicating).

She pulled permits for electrical and dealt with the building and fire departments. When the doors came into effect, the building and fire department said to go back to the zoning and talk to them about this and see where this falls in the zoning scenario.

She met with staff and this was originally permitted as an accessory structure. But it is starting to look more and more like a primary use. The difference is with two primary uses on site, two primary buildings, that kicks us into the special permit for multiple buildings on one site.

She was told she needed to apply for the special permit and to do that she needed a survey. She contacted me. We did a field survey on the entire site (indicating). We identified a few encroachments on this property line (indicating). We located everything we could locate and we filled out the applications for the special permit. We met with staff and we made the decision to submit the special permit with both modifications to the schedule and for multiple buildings on one site because it had evolved into more a primary use than an accessory use.

All along she has done what she has been told to do. We've tried to follow the rules as they come.

Mr. Giudice showed and explained pictures: entrance to the property, parking area with gravel behind the building, northerly view of the art barn with the overhead door, north side, and you can see the cupola. These were taken as part of our survey. The property is landscaped nicely and very well maintained.

He showed a picture of the area behind the barn to the back of the property, walking trails through the site for the patrons. The parking lot light that we talked about. Light poles. He indicated those which were over the property line and lights on trees over the property line.

The electrician yesterday was moving the poles over and back on to the correct property. You can see the survey stake (indicating). We are working to resolve these issues as we move forward.

The art barn is still kind of an accessory use and it is still under the threshold that puts us into special permit but there was a question. What is accessory or was it primary? That's the reason we're here. We are here because there was a question. Not cut and dry.

She was not trying to circumvent this. She's been working all along with staff and trying to do the right thing. We're trying to make our application correct and make the site comply with zoning and

this commission have an understanding of what's happened on site and where she has been and where she is now for this special permit application.

The Chair asked for questions from the commission for Mr. Giudice.

Mr. Santago asked Mr. Giudice to explain to him why it is not you built and the building and now you want the permit? Mr. Giudice explained the building permit was pulled, we built the structure and got the CO for the structure. That's what happened. Mr. Santago said it looks like the permit was for an open building. And, that building is not open any more. Mr. Giudice said it is not open any more, that's correct. Do the uses change because the building is open or closed?

Discussion.

Mr. Morelli said you could use it now when you couldn't before. Mr. Giudice said it is not heated. My point is that you can still use an open-air structure. Mr. Morelli said it is not an open-air structure. Mr. Giudice stated if it was open, we wouldn't be here tonight. The use would be acceptable.

Mr. Santago said Mr. Giudice said they were here because of doors. I didn't understand that. Mr. Giudice said the applicant worked with the building and fire department. They made modifications to the structure and electrical permits, as well. She applied for permits and she's gotten Cos. When she put the doors in those spaces is when the fire department said let me talk to the building department and the building department said let me talk to zoning. That's what triggered this meeting.

The doors on the building is the trigger to say now that's two buildings on one lot asked Mr. Santago. Mr. Giudice said that is kind of how we got here.

Extensive discussion.

Mr. Santago asked: by having the doors, has the use changed? Mr. Giudice responded: I don't personally think the use changes.

Discussion.

Mr. Phillips interjected: the facts are this. They originally submitted for a carport as an accessory use. Our special permit for garage spaces/carports has been determined to be a 14 by 26 space, times three because it's three spaces. That worked out to be 1,092 sf of floor area. When they came in for that accessory structure as a carport, it happens to be 1,092 sf, they had already enclosed the attached garage to accommodate the school and there was a detached garage which I believe was torn down to make this work. Otherwise, it would have been a special permit. That's what happened.

Flash forward to now: because of the enclosure of the building it becomes for building code and fire code purpose a public assembly. We looked at that and considered it is no longer a carport in the sense you are not driving vehicles in there and it had become a public assembly use. We decided it fit as a multiple principle building on one lot because of the size of it and the use of it. That's our determination.

At the end of the day, you are the authority on the interpretation of the regulations.

There is electricity in the building, no plumbing, no heat. There is no sheetrock. It is on a concrete slab and it's framed. Mr. Gworek asked if that was a finished living space or is that an assembly room? Mr. Phillips said they are looking at it as assembly with ingress/egress. Mr. Gworek said you can't live there. There is no central air. Mr. Giudice said there has never been an intent to live

in it. Mr. Gworek asked is it now still an accessory structure or is it an assembly room? If it has none of those features, it's more like a giant shed to me than an assembly room.

Discussion.

Mr. Giudice stated as to the use, the intended use really was to park cars and have classes and that is still the intended use whether it is closed or open. It's not heated and she is not proposing to use it during the winter months. We think from a use perspective it is still the same whether considered a primary building or an accessory building. It still has the same uses.

Ms. Volpe asked as to occupancy, how many are inside it at any given time? The applicant explained it would vary. For summer camp/art there would be 30 kids. High school age counsellor and my teachers. On graduation, family come for an hour and it would be closer to 80.

Ms. Volpe asked if you were to open the sliding doors (indicating) could you pull a car in there? Mr. Giudice said on the end you could. The overhead door.

Ms. Albanese stated she felt this is more of a business than a school. Explained.

Ms. Albanese wherein is the trigger in zoning for it being classified as a business use and a business zone. That's what I am having difficulty understanding. Mr. Phillips responded explaining the initial proposal to change the zone to business. There was opposition to that change. Then the applicant talked about the uses that were allowed in the zoning regulations and made the case this would be considered a private school. That application came in. It was up to the commission to decide whether it was a compatible use and the special permit could be approved and the zone change would be withdrawn and that is what happened. If they found it was not compatible, they would not approve the special permit and they would still have to decide on the zone change. That's the history back to March of 2015.

Ms. Albanese asked about the bathroom facilities on a daily basis as there is no plumbing in this building. The applicant explained the first floor for the main building has two bathrooms.

Explained.

Ms. Albanese asked Mr. Giudice about storm water management when the new building went up. Mr. Giudice explained it didn't change much. Sedimentation control is standard.

Explained.

Mr. Salka said he is really concerned --- understanding you have a special exception and you are in an R-80 zone; you are running a business out of this zone. Mr. Giudice responded that was the proposal from day one. We never proposed to change to a business zone --- we withdraw that application. Mr. Salka answered he understood that. My only point is it is an R-80 zone and you have permission from the previous administration to do what she's doing and she's following all the permits, et cetera. Where do we draw the line on it not being an R-80 zone any longer with what's going on.

Mr. Giudice said you permit business uses in a residential zone. You permit private schools which is a business use. This is permitted under the regulations under residential zones.

Mr. Salka where do you draw the line?

Discussion.

Mr. Salka was concerned as it was an R-80 zone with neighbors next door with all that is going on. What does this do to property values? I'm struggling out as an approval by the PZC, one size, and it is getting progressively bigger. Where do you stop? The applicant replied she heard everything said. Secondly, there are businesses across the street from me and businesses next door. I've worked hard for five years and I must be doing something right. People want to come there and learn something. It doesn't seem fair to me that because I've worked hard and done things right and yes, I have grown, that I would be denied an addition. I am completely out of money and manpower. I can't do anything more beyond what I am asking you to approve tonight. There should be reward on my part for what I have brought to the community for the fact I didn't go under and I haven't grown physically. I've grown and managed well.

Discussion.

Mr. Giudice pointed out the main residence where most of the operation is and the barn in question and the parking area on the overhead map. He noted the residential neighbor to the right and the business zones surrounding. She is right on the edge of the business zone. Her use is a good transition from a business zone to a residential use. I understand there are concerns. If you feel increasing the schedule, she proposed is the issue or if you feel that having this structure enclosed is the issue, they are kind of two separate issues. I would be curious to see how you feel about them separately.

The Chair asked how the open-air building became what it is today. Mr. Giudice said at some point the builder felt there were issues with the structure itself from a design perspective and they needed more cross bracing and some sheeting to make the structure more rigid. More sheeting was added to the structure than originally proposed. She continued to modify the structure. The last thing added was the sliding door and the overhead door (indicating). The Chair added she did not have approval to put the side walls there. So, what is the benefit of having the side walls up there compared to not having them up there?

Mr. Giudice said it is easier control from a student perspective and a wildlife perspective and an aesthetic perspective.

Discussion.

The applicant stated when this structure went up, she was asked to take down the original 1908 barn. It didn't occur to me when I did that, I suddenly had no storage area for rakes, et cetera. And, when the building had the ends open, the building leaned. The building department added more on the triangle parts to keep it from leaning. That left the opening of a garage door.

Discussion.

The Chair asked how does the newer structure enhance your ability to do the programs you want to do compared to what you were approved for. Ms. Holm responded that one thing she is faced with is zero storage. Putting doors on made it possible for me to lock it. She explained the windows are panes of glass, only. I had an overhead door put in that would make it possible for me to lock it.

Explained.

The Chair finally asked what happens if we don't give you approval for this? What happens to the building, what happens to your operations and the property? Ms. Holm explained why she won't

be able to do camps any more. This has provided a cool place in the summer to do painting. And, it can be locked.

Mr. Santago noted this was built and now it needs approval. Mr. Giudice pointed out she did apply for permits to build the structure and it was always intended to be a multi-use structure for classes and to park her car.

Discussion.

The Chair asked if it was possible to bifurcate the two pieces of this application? Can they be taken up separately? Mr. Phillips said it is one application, two sections of the regulations. One being multiple buildings on one lot and then the modification of the special permit approval. You have the ability to modify any request. You can modify the proposal.

Discussion.

Mr. Giudice stated that whether it is an open or closed building, she doesn't believe the schedule will change from what she is proposing.

Discussion.

Ms. Holm said this is everything she needs. She can't handle any more. It would be sad if I went backwards. Nothing that I am asking for is some kind of bigger plan that I have. It is to ask to be allowed to do what is where I've arrived. This is what people want and this helps me be able to do that.

Mr. Gworek said the overhead door accommodates a car, it has no insulation and can still be used as a garage, accessory structure, carport, minus supports. There are no other garages on the property. At what point does this become a primary use when she can still use the building as an accessory structure? That's for us to decide. Maybe we shouldn't have to approve this because it can still be used as an accessory structure. No heating, plumbing or insulation.

Ms. Volpe asked when the camp is in session is this building be used as well as the primary building? It sounds like a place for the car to be parked and things stored, but I am also hearing it is a camp space. If this is approved, will your residential property no longer be used for that? Ms. Holm explained a typical day of camp using both structures.

Mr. Santago said he is struggling as it sets a precedent, he is uncomfortable with. It's a big shed is Jeff's point. That resonated with me. The building being built before it was approved resonates with me, too. Mr. Giudice again explained how this application got to this point. The intent was not to circumvent this board.

Discussion.

Mr. Phillips read into the record the accessory use or building requirements in the definition section which is 2-01. a. (On file in the Planner's office) It doesn't really fit and that is why staff working with the applicant made a determination.

Mr. Giudice disagreed. Staff approved this as an art barn/pavilion and a carport. We felt the square footage was appropriate at the time the permit was granted. The question is, when sides and doors are put on what was permitted, does the use change? Does the use change and we look at this differently because it has sides and doors? It has already been permitted. The use has been permitted for the structure.

Mr. Gworek said the square footage can be considered a three-car garage. My thing is at what point when they hold camps or classes --- if it is 50% of the time, does that make it primary use? Or 51% of the time? At what point does it leave being an accessory three car garage structure to being a primary use building?

Mr. Phillips explained when we look at these things, we know the applicant thinks about what they're doing on their property, what their use for it is. We have to anticipate what is it going to be used for likely moving forward if the property changes hands. We're always looking at that. If you sell the property tomorrow, what is it likely to be used as? If it rises above the threshold for the special permit, we would say you need a special permit and go to the PZC for that.

Discussion.

Mr. Giudice asked if she came in for an application to build a garage, would we be here right now? I don't think we would. The regulation for multi buildings on one site is not geared for this type of application.

Discussion.

The Chair noted three quarters of the year it is operated as a school/camp. That building is utilized for that purpose. And, then for the other time it is used to store gardening materials, a car. What is the primary use of that building? Based on the schedule, it looks like the primary use of that building is as a school or a learning center and not as a shed.

Discussion.

Ms. Volpe brought up occupancy. Can we determine that? Mr. Phillips said your decision has to be based on what they're proposing. We would never be able to enforce that.

Discussion.

Mr. Grappone offered building didn't feel the pole barn was adequate enough for the building code. That's my guess. So, he felt it needed to be structurally sound by making it more rigid which makes it enclosed. I don't know if we can go backwards which would require revoking the CO for the structure. Mr. Giudice said there is a CO. Mr. Phillips said it is on the original carport and not the enclosure building. Mr. Giudice added the doors are the main issue. The sheeting is more than what was proposed or approved.

Discussion of the schedule and last time it was agreed the hours would go to 9:00 pm and not 10:00 pm. Mr. Giudice confirmed the applicant is proposed 9:00 pm.

(Those speaking in favor of the application)

(As the Minutes are prepared summary style, please review the video on line to hear the full presentation by the speakers.)

The following speakers spoke in favor of the application. Many spoke in favor of the applicant as it relates to the community theater standpoint and it being an asset to the town, the value of the structure in question and the operation.

- (1) Peter Bard, 78 Pond View Drive
- (2) Susan Alback, 245 Pratt Street – read a prepared statement
- (3) Peter Picone, 157 Meriden Waterbury Road
- (4) Renee Andruzak, 150 Burritt Street

(Those speaking against the application)

(1) Christopher and Christine Ward, 209 Meriden Waterbury Road. The both spoke about the structure being built and then asking for the permission to do so. They noted encroachments on their property for lighting, et cetera. They were worried about their property value going down because this operation is next door.

Mr. Salka asked them to list verbally what the issues are besides the trench and the lights hanging from the trees. That would help us to understand and give the applicant a chance to respond to that.

Mr. Ward responded: These are the issues: When this application was approved five years ago it was a little school, coy ponds, violins, a little art here and there. That's what was purported. What that has morphed into now is a dinner theater with double and triple the amount of traffic that was originally purported. It went from a nice cutesy little art school and we finger-paint and we do little walks in the woods. The woods now have been leveled to a parking lot to make room for more cars for the theater operation that's going on now. So, as was stated earlier, it has become less of a school and more of a commercial enterprise. It is a commercial enterprise.

Ms. Ward added it has grown too big to run out of her house, and maybe to be moved to a commercial setting.

Mr. Ward said it is that it started out small, it is the traffic, it's the cars and the parking, trash that blows into my yard either by her landscapers or the people that utilize her property. Thirty cars exploded to 80 or 100 cars, evidently when you get in to your, if there's garbage or Kleenex it's going to fall out of the car. When I first moved in it was a residence next to a residence. This board allowed this commercial enterprise, so I'm not the guy who bought the house next to the airport. I bought a residence in a residential neighborhood. That was thrust on me.

Please, when you make your decision, put yourself in my shoes. This is what I have to deal with now.

The Chair asked him about the restriction on the hours of operations and was that being adhered to. Mr. Ward said when it comes to a head, here we are.

(Rebuttal)

Responses to the questions:

Is there electricity to the building to utilize space heaters or air conditioner units to heat or cool this building. Mr. Giudice said no. It's not insulated and there is no sheetrock. The glass panes are not

windows. Expensive. There are no plans to do that. Permits would have to be pulled if she is going to do that.

Are you working on moving the lights? Mr. Giudice said an A-2 survey was required and during that survey we noticed two light poles. And, we assume, but we didn't see, the conduit between the poles was over the property line and a small portion of the processed stone in the parking lot and some sections of fencing were over the property line. We informed Mr. Ward of that. The electrician was out there yesterday moving the poles and the conduit and is still a section of fencing to be moved and some gravel. She's working on addressing those issues. And, when that is fixed, the property will be restored to an undisturbed condition.

As to the traffic and the roof. Part of the application is to expand the hours for certain things and certain times during the day and certain days. Could you talk about the potential growth in traffic and that property? Mr. Giudice said the applicant was pretty specific when submitting the original scheduled 5 years ago. It outlined the uses that she thought she would have and the times she would have. I think 9:00 pm was the latest time she proposed. I don't think the operation is going to change due to the schedule, but this is more in line with what is happening right now and the idea was to bring this up to snuff. This is really where she is at. It wasn't an attempt to increase what is happening on site, it was an attempt to correct the estimates. She has always tried to maintain the time restrictions approved in 2015. And, we testified that 9:00 is fine and we don't need to modify that.

Discussion.

I don't think the art barn changes the uses or the traffic or the amount of participation. It just gives a more comfortable space for her. This street is noisy and there's pollution and stuff that goes on and I don't see this affecting that neighborhood.

Discussed personality differences with the neighbors.

Mr. Giudice said things that were encroachments were done accidental and not intentional.

Mr. Salka asked where are the productions held? They're not going to be held in this shed? They're held in the main building? Mr. Giudice said they are held in the main building, however, the proposed schedule in the summer did have a proposal to do the coffee house recitals and concert performances in the theater or in the art barn. If you feel these uses don't fit with the art barn, then they'd be in the Black Box theater. They are all happening now inside the theater. And, they were part of the original permit. The request is to allow us to do it in the theater or the art barn depending on the time of year.

Discussion of the amount involved in the theater production going from 30 to 50 to 30 to 80. Average. Does that mean it could be above 80? Mr. Giudice said average wasn't the best word, maybe maximum.

Discussion.

Ms. Locks spoke about the issue that the Wards felt it was like an airport. Is there anyway that a certain time at night the lights could be shut off? Mr. Giudice showed pictures of the lights on the property. They are on a timer to go off at 10:00 pm (both string lights and pole lights).

Discussion.

Ms. Albanese asked about future improvements proposed for the property. The applicant said there are no more improvements proposed. There is no more money.

Discussion.

Ms. Volpe asked about the outdoor trash cans. Where are they? Mr. Giudice pointed to them on the overhead screen picture. She suggested trying to do something about this in the future with regards to the parking lot and people coming by.

Discussion.

The Chair closed the public hearing.

BUSINESS MEETING

A. Mark Lovley, proposed zone boundary change from I-2 to R-12, property located at 136 Curtis Street, (parcel size 21+/-) 562, public hearing continued from November 19

The Chair seated Ms. Albanese for Mr. Gworek for this vote.

Mr. Santago made a motion to table. Mr. Macchio seconded. Motion passed unanimously on a voice vote.

The Chair reseated Mr. Gworek.

B. Lori Holm, Special Permit Application for multiple buildings on one lot and a modification of previous special permit approval, property located at 223 Meriden Waterbury Turnpike, in an R-80 zone (parcel size app. 2.51 acres) SPU #546.1, public hearing continued from November 19

Mr. Salka made a motion to approve the application with the stipulation that the hours are limited to 9:00 pm. Mr. Phillips asked if that were seven days a week and Mr. Salka said yes. Ms. Locks seconded. Motion passed 6 to 1 with Mr. Macchio opposed.

C. Release of \$25,000 E & S bond, Executive Boulevard South (SPR #1686.1)

Ready for action. Ms. Locks made a motion to approve. Mr. Santago seconded. Motion passed unanimously on a voice vote.

D. ***Release of \$48,000 Public Improvement bond, NorthStar Centers, LLC, Executive Boulevard South (SPR #1686.1)

Ready for action. Motion to approve by Mr. Salka. Second by Mr. Macchio. Motion passed unanimously on a voice vote.

ADMINISTRATIVE ITEMS

The Chair advised he will be establishing two standing committees.

(1) Regulation Review. To look at our regulations on an ongoing basis to see what changes need to be made. Commissioner Santago is going to Chair. He will be talking to potential members and developing the membership on that committee. He will work with staff on that, as well.

(2) Review of the POCD. They will look at the POCD on an ongoing basis to make it more of a breathing and living document as opposed to one we receive and refer to occasionally. Commissioner Gworek is going to Chair that committee. He will be establishing the membership on that.

I do suggest to the Chairs that they keep the membership at a manageable level. And, schedule meetings and work with staff on that.

ITEMS TO SCHEDULE FOR PUBLIC HEARING

A. Hunter Build, LLC, proposed zone text amendment for a new Section 3-10 "Village Residential Zone District (VRZD)" ZA #603, January 7, 2020

B. Hunter Build, LLC, proposed zoning boundary change from R-12 to Village Residential Zone District *VRDZ), property at 136 Liberty Street owned by Giammatteo, Inc., parcel size approximately 1.9 acres (ZC #563), January 7, 2020

Mr. Phillips advised these are public hearings in association with the 8-30g on 136 Liberty Street. There is also a site plan application associated with that. That was received on the last agenda. This will all be scheduled for January 7th. The site plan does not require a public hearing. But, all three items will be discussed under one public hearing to make it easier on the applicant and the commission. It will be clearer.

RECEIPT OF NEW APPLICLATIONS

Mr. Phillips had nothing new to report on.

Mr. Santago reminded everyone of the sensitivity of the 80-30g applications and what is relevant to talk about. I would ask to have the town attorney present to keep us on track. Mr. Phillips agreed in that the risk level increases with this type of application. The Chair will reach out to the Chair of the Council to reiterate the importance of having the Town Attorney present for that application.

The Chair wished everyone Happy Holidays!

ADJOURNMENT

Motion to adjourn by Mr. Salka with a second by Mr. Santago. Motion passed unanimously on a voice vote.

(Whereupon, the meeting was adjourned at 10:10 o'clock, p.m.)