

**PLANNING & ZONING COMMISSION
WINDHAM, CT
MINUTES**

March 22, 2012

The Windham Planning & Zoning Commission held its meeting on March 22, 2012 in the Meeting Room, Town Hall. Chair Paula Stahl called the meeting to order at 7:02 P.M. Members present were Victor Rayhall, Jean Chaine, Juan Montalvo, Dawn Niles, Dan Lein, Paula Stahl and Claire Lary. Also present were Town Planner James Finger and ZEO Matthew Vertefeuille.

I) Approval of Minutes

- a) The minutes of January 12, 2012 were approved on a motion made by Jean Chaine and seconded by Dan Lein. Voting in favor of the motion were Jean Chaine, Dan Lein, Dawn Niles, Claire Lary and Paula Stahl. Victor Rayhall and Juan Montalvo abstained as they were not present at that meeting. The motion carried.
- b) The minutes of February 9, 2012 were approved on a motion made by Dawn Niles and seconded by Juan Montalvo. Voting in favor of the motion were Dawn Niles, Jean Chaine, Juan Montalvo, Dan Lein, Claire Lary and Paula Stahl. Victor Rayhall abstained as he was not present at the meeting.
- c) The minutes of February 23, 2012 were approved with one minor correction. The minutes should have noted that Dawn Niles was excused from the meeting. Juan Montalvo made a motion to approve the minute as amended and Jean Chaine seconded the motion. Voting in favor of the motion were Juan Montalvo, Jean Chaine, Victor Rayhall, Claire Lary, Dawn Niles and Paula Stahl. Dan Lein was excused. The motion carried.
- d) Action on the minutes of March 5, 2012 was postponed until the next meeting.
- e) Action on the minutes of March 8, 2012 was postponed until the next meeting.

II) New Business

- a) **Continuation of Public Hearing on the revised application of Nectallis G. Martinez, 280 Jackson Street, Willimantic, CT.** – Special Permit for a Restaurant with beer and wine liquor license.

Chair Paula Stahl explained that the original application was for a café license with a full liquor license. The applicant has revised his application and is requesting a restaurant with beer and wine license only, she said.

She referred to two prior public hearings held in January and February, and asked those P&Z members who were not present at the previous hearings if they had read the minutes and listened to tapes, and whether they felt apprised as to the transactions that happened at the previous hearings.

Dan Lein, Dawn Niles and Juan Montalvo said they read the minutes and listened to the tapes and felt comfortable going forward with the public hearing.

Chair Stahl re-opened the public hearing and asked for audience comments:

1) Thomas Feliciano, who works for the Dept. of Corrections, and lives in Bolton, CT., listed his affiliations with different organizations. He said he fully supports Mr. Martinez's application. He said he would love to come to Willimantic with his family to enjoy a good Spanish meal. He said he is very sympathetic to the neighbor's concerns, but this location has been used for gatherings in the past (such as an assembly hall). He said Mr. Martinez's restaurant would bring people to Willimantic from surrounding towns for a good Spanish meal. He encouraged the commission to look favorably on the application.

2) Marlene Czajka said at the last meeting she shared her concerns about noise and parking. The applicant was originally seeking a café license with a full liquor license, and now they have revised that to a restaurant license with beer and wine. It is not the fact that alcohol is being served. She said Mr. Feliciano said it would be nice for people from Norwich, and Bolton, and from all these other places to come to Willimantic to eat, and it probably would be. She said she is not against business. She said I believe there are 32 parking spaces in the parking lot, but there are two oil trucks parked there now which minimizes the parking. Where are the rest of the vehicles going to park, she asked. Secondly, if it is a restaurant, it is probably going to be open 7 days a week until what time at night. It was brought up at the last meeting that this is a business zone. We bought our house knowing that it was a business zoned area. There was an assembly hall there, but it was not active 24 hours a day, seven days a week. There were a lot of inconveniences when it was a union hall with overflow parking into the street, as well as a problem with noise. It also bothers me that the present owner was issued a Cease and Desist Order and was told that he couldn't conduct his operation, but he went ahead and did it anyway. I don't see how this board allowed it to continue. This went on for 4 months, and nothing was done about it. This is not a good location for a restaurant, she said. Where are they going to put everybody? Where is the traffic going to go? There are more kids on my street now (Carey Street) than there were when we moved here. I don't want to worry about the kids playing outside. I just see problem after problem with this use, she concluded.

3) Susan Humes said she realizes this area is zoned business and has been zoned business for many years. She referred to previous businesses at that location which have operated from 8:00 AM to 5:00 PM. Those hours are not bothersome. But, when someone is going to open at 11:00 AM, or 12:00 PM and be open until 1:00AM it is very bothersome for that area. She said she does not object to a restaurant, but this is not the place for it.

4) Mr. Benitz said when we go to pay taxes there is a sign that says "support local businesses". Do you agree with that sign or not, he asked. Chair Stahl said agreeing with a sign and stipulating a location are two different things. Our concern is the location, not the business, she added. Mr. Benitz referred to the comments made about parking spaces. He said the restaurants on Main Street are not required to provide parking. Chair Stahl responded that they are not required to provide parking in that district.

Commissioner Jean Chaine said we need to clarify this so that people don't have a false understanding. The restaurants on Main Street are not required to provide parking, he said. The city provides the parking for those restaurants in that district. This location is outside that district and does require parking. That is the significant difference.

5) Josh Fesick said 30 parking spaces seems to be more than sufficient for the size of the building. For the most part, restaurants do not cause a lot of noise. They don't have music blasting. This isn't a bar. It isn't a party spot. Having a wine and beer license is completely different than having a liquor license. The proposed restaurant is going to be a place where families go. If you want to create business in this town, this is the way to do it, said Fesick.

6) Rick Czajka said in this day and age people are going under, losing their houses and trying to keep their mortgages up. I know it is a battle for me to keep up my property. If you grant them this re-zoning, my property value automatically goes down and the surrounding property value automatically goes up. If it becomes a problem area, and I want to sell my house, who is going to want to buy it. I have nothing against somebody opening a business and wanting to make money, but why should it be taking money out of my pocket. Why should I take a hit on my property just so someone else can make money selling alcohol. It is just not the place for it, he said.

Chair Stahl clarified that this is not a re-zoning event. This area is currently zoned business to allow a restaurant and requires a Special Permit to add the liquor use.

Commissioner Jean Chaine said the Cease and Desist Order was issued initially, and the infractions that incurred afterwards in that case was a misunderstanding. It was clearly not understanding what the rules were, and we have seen examples of that tonight.

7) George Hernandez, 248 Lewiston Avenue, said he represents the Martinez's as the agent on the application. I am also advocating on behalf of the local businesses through the Spanish American Merchant's Association. He said he wanted to clarify some items so that the commission and the members in the audience have some clarity of issue. First of all, our conversation with the commission at the last meeting was to ask the commission to consider allowing us to amend our application, and I understand from legal counsel and the chair's concern that we should formally withdraw or take off the table the prior request we had made for a café with a full liquor license. Chair Stahl said we have gone beyond that point. We are continuing the hearing with the revised application, she said.

Mr. Hernandez read into the record the March 14, 2012 letter to the PZC from the applicants, Nectalis Martinez and Neftali Galarze, father and son owners of 280 Jackson Street, Willimantic, CT. regarding their Special Use Permit Application which amended the café requirement. We want to clarify to all concerned parties that the scope of operations that we are looking to develop at this site in accordance with Section 33, Business District B-3, sub section 33.2.9 that we propose for this subject property the following scope of operations. We propose to operate a restaurant where customers are served only when seated at tables or counters, and where at least three-quarters of the customer seats are located within the enclosed building. Such use may include food take-out service incidental to the primary permitted use, said Hernandez. Chair Stahl asked if the other quarter seats would be outdoors. Mr. Hernandez said it would be similar to the Main Street

Café, adding that the restaurant operation will be complimented with a fine selection of beer and wine.

The projected hours of operation will be typical of a full service restaurant (breakfast, lunch and dinner) 6AM to 12 midnight. This will be done gradually as we adjust to our local clientele's preferences, said Hernandez.

He said the type of clients & events that we look to cater to will be those seeking a family friendly environment to celebrate occasions such as wedding receptions and baptisms, sweet sixteen (Quinceaneras), Domino tournaments, sports leagues celebrations, and office luncheons celebrating retirements, promotions, etc.

In consideration to all our surrounding neighbors, whenever large groups are expected we will make arrangements for added security detail at the door, and throughout the parking area, including making sure that no driveways along Carey Street are blocked, and that all emergency respondents can easily access all residences along Carey Street, he said.

We project that as a result of this business expansion we will be hiring 2 to 3 local residents at first, and hopefully more as the restaurant establishes a good name and reputation.

Per the above clarification our request to the members of the commission is that a Special Use Permit be approved as described to operate at 280 Jackson Street, Willimantic, CT a full service restaurant with a liquor permit limited to beer and wine. This clarification is a sample of the layout of the facility with no liquor bar included. Also included is an outline of the first draft of the parking layout for at least 34 parking spaces which we think is more than ample to meet the requirements of a restaurant type operation, said Hernandez.

Chair Stahl asked where the outdoor seating would be located as it just shows driveway and parking. Mr. Hernandez said as the business develops, a local architect will be hired and architectural drawings and plans to the Fire Marshall, the Town Planner, Zoning Officer and the Health Department will be submitted. Chair Stahl said her concern is that there are only 3 or 4 spaces shown, but if you add outdoor seating you will be losing some of those spaces. Stahl asked how many seats are planned for the inside. Mr. Hernandez said the Union Hall had seating for 150 people. We don't know if the Fire Marshall and Dept. of Health would allow that. We will have to go through that process like any other business needs to go through, said Hernandez.

ZEO Matt Vertefeuille said that until we get a final design it is hard to determine the parking that will be required. We don't know the exact square footage of the inside of the building, but based on what they have now they fit right in the middle of the parking requirements. The minimal is 30 spaces and the maximum is about 40 spaces.

Commissioner Jean Chaine said with 30 parking spaces available the maximum number of seats you would be able to have is 90. Chair Stahl said it is not simply measured by feet. The minimum is 6 spaces per thousand square feet, and the maximum is 19 spaces per thousand square feet. Mr. Hernandez said any business owner has to work through the whole process of layout and architectural drawings, and has to meet with the proper channels. We have learned our lesson the

hard way. We have made mistakes and we apologize to the commission, the town residents and the neighbors for any inconveniences caused in the past. We are now following all the rules, said Hernandez. We have met with the town planning officials; the zoning official, and with the Fire Marshall and we are in the process of hiring an architect. Whatever the layout is in square footage we will have to adjust our business plan accordingly.

ZEO Vertefeuille said what they are asking for tonight is whether the use of a restaurant would be appropriate there, and whether or not the use of alcohol will be appropriate.

Commissioner Dawn Niles said if this is a business zone why we are considering a restaurant. Chair Stahl said restaurants fall under a Special Permit in the B-3 zone. Commissioner Niles advised the applicants to make sure that they list all the possible uses, but it appears that you won't be able to do the outside seating because of the parking. Commissioner Juan Montalvo said they want to cover all the bases, although it may happen, or it may not. Mr. Hernandez said we wanted to have the full scope of the operation so that we can make changes according to the architectural drawings, according to the actual parking etc. ZEO Matt Vertefeuille said if they get the approval here, they would then need to hire an architect and work out a design. They would have to work with the Health Dept. and would have to pull all the proper health permits. He said he could approve the site plan. The site plan should include all of the details that were discussed. It might also include some deviation in the parking. It might include the outdoor seating. The location for dumpsters, landscaping would also be required on the site plan.

Chair Stahl said initially there was come confusion over the regulations, and I have to admit that our regulations can be incredibly confusing. One of the things I want to make sure tonight is that you understand what is required so that we don't have another misunderstanding, said Stahl. We may put conditions on the approval, and the conditions could be the hours. We may want to limit the top side of the hours. What we are trying to do is meet your needs, as well as the needs of the neighbors.

Mr. Hernandez said we have tried to address most of the concerns that were brought up in terms of security and access for emergency vehicles. We added something extra and that was to make sure the guard that we have on site will look up onto Carey Street to make sure that no driveways are blocked. Our plan is to have security detail that will be conscious of all those concerns and needs of the residents. Chair Stahl said some of the other things will be balancing the needs between what you need and what the community needs to see if we can make it work. We may limit the hours. We may limit the seats based on parking. We could say the number of seats could be no more than three times the parking spots.

Mr. Hernandez said we respectfully request that you allow the applicants a full scope of operation. We are amenable to work with the town officials, as needed, to make sure we are flexible and sensitive to everyone. If the commission can allow the full scope of operations we would certainly go above and beyond working with the town planning officials and anyone else who needs to be involved in the mix.

Chair Stahl said the other issues pertain to noise and many of the comments that we have heard from people are based on the entertainment. Mr. Hernandez said there are town ordinances in

effect that call for a specific decibel etc. We would certainly comply with those ordinances. I have talked with Mr. Martinez and we have talked about setting in place things that will keep the noise at a reasonable level so not to disturb any of the neighbors. There are ways to do that with techniques such as buffers etc. Also, the sound of any equipment can be regulated, and we will do that to make sure that we are respectful of all the neighbors, he said.

Chair Stahl said the other thing that she wants to make sure is that the applicants realize that if the commission does grant the restaurant with beer and wine, the approval may come with conditions, and those conditions must be met. At no time can there be hard liquor served there. It is just for beer and wine. I just don't want to go down this road again with another misunderstanding or another problem, she said.

Mr. Hernandez said the biggest key to the puzzle is the architectural drawings and the available square footage to do a restaurant operation. We need to determine what is allowed and how it will be configured, and what is not allowed. We had a conversation with the Fire Marshall specifically about the partitions. We have to be respectful of the Health Safety Code. We have to be respectful of our neighbors. It would not make sense to go through this and not have the support of our neighbors. He said blight on a property can certainly lower property values, but what the Martinez's have done since they moved in there was to spruce up the property, to show curb appeal, to show TLC to the property as well as respect to every neighbor and we hope the commission will take that into consideration when they make their decision.

ZEO Vertefeuille said there were some questions about parking. He said he did a rough calculation and the restaurant would be approximately 3,000 square feet which would leave between 18 and 57 parking spaces. With 34 parking spaces, he is about in the middle, said Vertefeuille.

Audience comments continued:

8) Bernie D'Auteuil, 158 Walnut Street, Willimantic, CT. said this will be in a residential area. It is going to be rented for parties. You have oil trucks parked there, and that raises safety issues. Right across the street from Town Hall you have a fire lane that is fairly marked, but it is not being enforced. I hope this place has a fire lane, because you are talking about constricted parking. I have seen officers of this town, elected officials, when they come to a meeting they park their vehicles in the fire lane. Jackson Street is a busy street. People have property issues, and I understand that. It is constricted parking. The building in question has issues. I don't know what is going to happen there with the garages in the back, etc. It is up to you experts to figure this all out and see what is fair. There are a lot of things on the table and if you are going to make a quick vote tonight with all your knowledge then go for it. They do have a right to have a place, but there are a lot of issues to consider.

9) Kevin Hoxie said there is an issue with our Police Dept. As you know we have had issues with the Lucky Frog. How many times has Matt Vertefeuille had to go down there? How many times have the police gone down there. You could hear the music across the river. They made a promise that they were going to take care of, and it probably took a year or better before it was taken care of and then they ended up closing. There are problems on Jackson Street. You have a lot of

residential people. There are haze mat vehicles in the yard. We don't know their hours of operation. I live in the hill section, the college section, and even car doors slamming, opening and shutting, people beeping their horns is a problem. Nobody is going to sit there and say that this is not going to happen because it will. In my neighborhood it happens on a daily basis, every single night until late spring or early summer because then everyone is gone. The hours for this business have to be looked over. Jackson Street is an expressway. People fly up and down there. In the afternoon you have school buses dropping kids off, picking them up. If you vote on this, just be careful what you are voting on, he cautioned.

10) Ted Swol, 16 Carey Street. My wife and I have been there for over 45 years. I am kind of jaded because I have seen what has happened in the past. The Union used to rent it out and one time they just about had to call in the National Guard to quell it. As far as the parking goes, that is my big issue. He said he has serious medical problems and he might need the services of an ambulance. Mr. Cote up the street is in his nineties and he gets taken out every three months or so. Right now the parking is the big issue. You can go there right now and I can guarantee you will find six cars, 3 on each side of the street bottle-necking it. When you add this restaurant there is going to be overflow. He asked if it was possible to limit the parking on one side of the street only. Chair Stahl said it could not be done by this commission, but we could certainly request Public Works to do that.

11) Ralph Auriantal said I am all in favor of businesses and we need that type of entertainment, but I am concerned about weddings, baptisms. I come from a culture that when we party, we party hard. They have come in with a nice plan and have said that they are going to have security, but there are always issues. We all have good intentions, but you cannot guarantee me today that you will have the security so tight, because you do not have control of people's emotions. You don't know what people think. I am all for new businesses, but please think about this. Think about the children. Think about property values. The last thing I want to see is an innocent party go through a tragedy. It is a great idea, but I think they need to find another place to do it. I don't think this is the place to do it.

12) Kathy Dubay said her concerns deal with parking, noise, property values. She said I am all for a new business in town, and I hope that the commission takes the neighbors into consideration.

13) James Leonard, the adjoining property owner, said as far as noise goes, the most bothersome noise is the high speed traffic going by on Jackson Street. I have no concerns about a restaurant and I would consider it an honor to have a restaurant there. My wife would also. She did not come tonight because she is at a conference in Puerto Rico. I won't go into any possible negatives. You could have an airplane flying over from the local airport and it could crash into my house. Things happen, but the probability is so small I am not concerned about it. I don't consider it a problem and I hope that the restaurant opens.

14) Johanna Auriantal, 21 Carey Street. The parking has been talked about. That street is very bottle-necked as it is right now. She said she has over a decade working at Eastern in housing and I have been called many nights and weekends and seen the effects of alcohol. Not only am I in opposition to this special permit for a restaurant, but I am extremely in opposition to any kind of liquor being served there. Recently there was a party on my street. The noise was not from loud

music, it was not from people yelling and screaming, it was from folks walking down the street and slamming car doors and parking all over the place. We are definitely against this. On one hand we are told that this is a reputable business owner, and that he is experienced. We have been assured of that, but on the other hand we are told that he made some mistakes. What hasn't sat well with me for the past month is even though it was a misunderstanding, to have been breaking a law to begin with, being caught by the Fire Marshall and others, to be given a Cease and Desist Order and not adhering to it doesn't sit well. The rules and regulations have not been followed. I do support the business, but do not support it in this location.

15) Eddie Torres, brother-in-law to the applicant spoke in favor of the Special Permit. He said he has an issue with the lack of respect that fellow Latinos' are being showed. We have been referred to as "those people".

Chair Stahl there has been no lack of respect by commission members.

Mr. Torres said this has become some kind of a racial situation. We have a gentleman that has made comments about Puerto Rico becoming statehood. That has nothing to do with the establishment that the applicants are trying to put together. This is a business that they are trying to open for the whole population, the entire community. Chair Stahl said our concern is not Mr. Martinez, it is the location. Mr. Torres said if you allow them to open this establishment, but then place strict stipulation maybe to the point where they cannot be successful with the business. I don't see other establishments being given strict stipulations. They originally made mistakes, but they are hopefully going to fix those mistakes so that we can move forward. The issue of race needs to be stopped. I think the board has failed to restrict that portion of the hearing. Chair Stahl said we would place stipulations on any restaurant having next door to neighbors, and we have done that, no matter what the culture.

Commissioner Jean Chaine said he is uncomfortable that the commission is being put on the defensive. This should not be taking place. Let's stick to the issue, said Chaine.

ZEO Matt Vertefeuille said we are going to need to conduct this meeting in a professional manner with respect. I will ask the chairman to stop the meeting if this continues.

13) Thomas Felicano said this will be a family restaurant. I don't see the issues with parking. Eastern students have lived on Oak and Summit Streets for 12 years. I don't see what is the big issue, he said.

14) Steve Cote said he lives at the adjacent property. My deck is 15 feet from their parking lot so whatever happens there I will be looking down over the whole thing. He said any noise will affect me. I will have a crowd of people standing up and looking at me so my privacy will be gone. I have nothing against a Spanish Restaurant. I love Spanish food. A couple of things bother me. I have a 2-family house and my tenants park on the street during the non-winter months. During the winter I make room for them to get off the street for the plows. They are already parking in the street and they are not even open yet. It is not affecting me yet, but I can see that it will affect all of us. If I lose parking, I am going to lose cash. The other thing is property values. I have put a lot of money into my house, and because of the economy it's gone. I don't want to see a bar there

with loud music and noise. I have a problem with the late hours. I don't want to go out on my deck and see people two o'clock in the morning. Our privacy will be gone. If there is going to be outside seating there won't be enough parking. The front of the building on Jackson Street has a nice grassy area. It would be perfect for a deck to sell ice cream. It could be take-out. I would love to see a great Spanish take-out. If they put a deck out front it would be away from me and Mr. Miner. We would have our privacy. It would be on the far end of the building. Perhaps we need to block off the entrance to Carey Street. The main entrance should be from Jackson Street with no parking on Carey Street. I'm pro-business. I would like to see a nice Spanish take-out restaurant there with no alcohol and no late hours, he concluded.

15) Karen Rodriguez, 148 Windham Road, Willimantic, said two years ago we had a Sweet Sixteen party for my daughter, and we had to go to the Nathan Hale Hotel in Storrs to hold the affair. That was the only spot in this area that serves Hispanic cuisine. She said we need this type of a facility in town. I see this as growth. I see it as opportunity. I see it as families gathering. I see it as neighbors meeting one another. I think this neighborhood instead of pushing it away, should embrace it and somehow develop a neighborhood watch. We need to work together to make it happen and not work against each other.

Nectalis Martinez, owner of 280 Jackson Street, said the people have spoken. I will go with whatever your decision is with the satisfaction that America is a free country.

16) Kurt Miner said he is not totally opposed to a restaurant being there. My only concern is what we have seen over the past year hasn't been anything like what we have been discussing here. That is not to say that it can't happen, and I hope that this committee does agree to a restaurant. I think I can live with that. We do need to be able to communicate with each other. I think the best thing that can happen is to have respect for everyone. I can go along with this, but I will hold these people to their word. I don't think we should be anti-friendly to business or other neighbors, but it has to be a two-way street.

17) ZEO Matt Vertefeuille read an e-mail which referred to concerns regarding noise from entertainment at the site in this residential neighborhood. A restaurant license does not change this concern. If speed limits on Jackson Street and the town noise ordinance were enforced consistently, I would probably welcome a neighborhood restaurant, but until such time I respectfully ask the commission to turn down the current application.

Commissioner Dawn Niles reported that Jerry Iazzetta, a member on the Town Council, was concerned about the violation of the Cease and Desist Order.

Commissioner Jean Chaine asked if the applicant would be amenable to having a discussion prior to the board's making its decision regarding the potential impact of the conditions that would be of concern in order to address the residential concerns about policing, operation of hours, outside activities. I would like to open them up as a potential condition so that the enforcement agency has something to fall back on in the event those conditions are not met. Chair Stahl we would have to do that during the public hearing. Commissioner Chaine said if that is the case we could keep the public hearing open, and have those discussions so that they are out in the open if we are going to put limitations on approving the application.

Chair Stahl asked about the hours of operation. Mr. Hernandez said if we have a Sweet Sixteen Birthday, or wedding, or anniversary, on weekends, it could go to mid-night, at the very least. But during the weekdays, the hours could be curtailed. He said in order to address a neighbor's concern about medical emergency respondents, there would be two security guards; one located at the door and one covering the perimeter of the parking area (stationed of Carey and Jackson Street) to assist with a emergency situation.

Mr. Hernandez said a full scope of operation is a very reasonable thing. The reality is that we will not be open until mid-night on a Tuesday, Wednesday or even on Thursday nights. We will adjust to our local clientele's needs. We will be flexible. Chair Stahl said we need to balance your needs with what we are hearing from people and the neighbors especially during the week when people need to get up in the morning to go to work. Mr. Hernandez said if you put a reasonable constraint during the week we will certainly be agreeable to that. Chair Stahl said the neighbors would be more comfortable hearing that there is a cut-off. Mr. Hernandez agreed to the commission setting some guidelines for the weekdays that are reasonable and we will more than happy to go with that.

Commission Dawn Niles clarified that if they are open until mid-night the kitchen has to be open with full service until mid-night.

Commissioner Dan Lein referred to parking. He said if 3 people showed up per car we would not fit the number that I think might show up there, therefore there would have to be overflow onto Carey Street. Mr. Hernandez said Carey Street is not the only overflow street. Chair Stahl asked if a sign could be put up asking that there be no parking on Carey Street. Mr. Hernandez said that would not be a problem. Commissioner Dan Lein said one of the best suggestions was parking on one side of the street. He said he would ask that the applicants work towards that. He asked if that was something the applicants would be amenable to. Mr. Hernandez said they would certainly work with the neighbors on that. I will be more comfortable if I know they are going to work towards that overflow parking. You have indicated for the success of this business it must overflow its current parking. Mr. Hernandez asked the commission to be assured that they will work with the neighbors on all of the items.

ZEO Matt Vertefeuille said when this board sat down very recently and worked on the parking regulations this board designed the parking regulations to assure overflow because they wanted to limit the amount of parking.

Commissioner Lein said when people bought their homes adjacent to this building they must have known that was part of the deal.

Commissioner Victor Rayhall said people bought their homes knowing this was commercial property.

Commissioner Jean Chaine said, yes it is a commercial area, but it was all but abandoned as a high level commercial establishment. People have enjoyed the non-activity for some time and they want to preserve that. That is the dilemma that we are in; trying to balance it out.

Commissioner Claire Lary asked about outside seating and noise from the entertainment.

Mr. Hernandez said they will have to comply with the sound ordinances. We will make ourselves clearly aware of all that. Mr. Hernandez said he and Mr. Galarza spoke specifically to that from a technical standpoint and what can be done to control the volume inside and in the walls to mitigate noise traveling etc. ZEO Vertefeuille said he would be willing to work with the applicants.

Mike Cutlip, a member in the audience, suggested having a “last call for drinks” about one hour before closing.

Dawn Niles made a motion to close the public hearing and Victor Rayhall seconded the motion. The motion carried unanimously.

After some discussion, Victor Rayhall made a motion to grant Mr. Martinez and Mr. Galarza a Special Permit for a restaurant at 280 Jackson Street, Willimantic, CT and. Juan Montalvo seconded the motion.

Discussion on the motion: Jean Chaine referred to the conditions tentatively agreed to in the discussions during the public hearing. He said these conditions should be part of this motion.

Chair Stahl reviewed conditions discussed during the public hearing: hours of operation: close at mid-night excluding Thursday, and either a 10PM close or limiting amplified entertainment Sunday through Thursday. Jean Chaine said by agreeing to the current motion - you are not restricting the weekday hours. Voting in favor of the motion were Vic Rayhall, Juan Montalvo and Dawn Niles. Voting against the motion were Claire Lary, Dan Lein and Paula Stahl. The motion failed.

Dan Lein made a motion to grant the Special Permit with a restriction limiting the hours to 10PM on Monday through Wednesday and Dawn Niles seconded the motion. The motion carried unanimously.

Victor Rayhall made a motion to grant a Special Permit to Mr. Martinez and Mr. Galarza to serve beer and wine only and Juan Montalvo seconded the motion. The motion carried unanimously.

Victor Rayhall and Dawn Niles were excused

b) Zoning Revisions

Public Hearing - Complete revision of Section 73 Alcoholic Beverages

Chair Stahl said the commission has been reviewing all our regulations to make them more business friendly. One of the things concerning the commission is a restaurant in a commercial area where a restaurant is permitted, but would still have to come before the commission for a public hearing just to be able to sell alcohol next door to another establishment that is selling alcohol. The commission felt that was something extra that we didn't need to have, said Stahl. (Clarifies current definition of school).

Section 73.1.1 The sale of alcoholic beverages, to be consumed on or off the premises shall not be located within 500 feet of any public or private school, licensed children's daycare center, property owned by a religious institution used for worship services, hospital, convalescent home, or public playground.

She said there are two exceptions: there is no separation requirement for restaurants serving alcohol. In addition within the B-1 District with the exception of package stores and bars, there are no separation requirements for the sale of alcohol. (Eliminates current separation for restaurants serving alcohol.)

Section 73.1.2 Package Store Increasing the separation from the current 500' to the separation requirement that was in place prior to 2002 which was 1500'. (Re-establishes separation requirements in place prior to 2002.)

Section 73.1.3 The sale of alcoholic beverages at a bar or tavern for consumption of alcoholic beverages on the premises shall not be located within 500' of another bar or tavern. This attempts to not have an area of town that has a concentration of bars.

Section 73.2 The sale of alcoholic beverages to be consumed on or off the premises shall not be permitted in any residential zone. (Provides exception for clubs and fraternal organizations.)

Section 73.3 Outlining a permit process in the new regulations. (New regulation). The new regulations are much easier to gain approval for permitted uses. If it is a permitted use in that particular zone, in most cases the zoning agent can sign off on it. It does not need to have a public hearing. In areas where it is a special use such as in the B-3 Zone it would still require a public hearing.

Section 73.3.6 Any other use not listed above in the permit process requires a Special Permit approved by the commission.

Section 73.4 Measurements (Same as existing).

Section 73.5 (Same as existing)

Section 73.6 and Section 73.7 New sections on Enforcement and not continuing an establishment.

Chair Stahl noted for the record letters received from the 2 Councils of Governments. Both the Southeast Conn. Council of Government and WINCOG both felt the revisions had no implication on other municipalities.

ZEO Matt Vertefeuille suggested keeping the public hearing open. He said there were people who wanted to come tonight and there were definitely people in the audience who left because it was getting too late.

The public hearing will be continued on April 26, 2012.

Other Zoning Revisions

- 1) **Update on Incentive House Zone Grant** – Jana Butts not able to attend meeting. She is working on incorporating writing the regulations based on our work session. In order to get this approved in time for this grant cycle, we will have to have a public hearing by May.
- 2) **Revision to Business Zone** – Working on this. Section 61 & 62 for the approval process. This has been given to the Town Planner for his comments.
- 3) **Lighting and Sign Regulations** – Working on graphics for signs.

C) Correspondence

- 1) Michael and Susan Cutlip request for review of apartment conversion of 93-95 Bellevue Street from a 2-family dwelling to a 3-family dwelling.

Mr. Cutlip gave a history and description of the property. He said the house has four levels. When the house was purchased the ground floor had been an apartment. It had a kitchen and a bathroom, but it had been completely re-arranged and not utilized as an apartment because at some time, perhaps in the 1950's, it had been converted into two garages. The flooring on 85% of that ground level was hardwood flooring even under where they were storing cars. We did nothing with this level, he said. He said they lived on the second and third floors because it had 9 nine rooms and a couple of baths and we rented out the first floor which is a 5-6 room apartment. We discovered that 85% of the ground level started to fail. The wood rotted out. The other 15% was concrete. In the last month we completely replaced all of the flooring. What we ended up with was one level that we are not utilizing properly. We would like to continue with the renovations and restore the property to its original use which we believe was an apartment on the ground floor. We would continue with the same footprint as the original apartment. The problem is that the regulations stipulate that the owner of record shall have his primary residence in one of the units. There are many immediate family members who could profit from living in the apartment should we be allowed to do it. He said he is asking for advice as to what we can do about getting permission to renovate and restore that as an apartment.

Chair Stahl said our regulations clearly say that this must be your primary residence and it is not. She said it has been abandoned as an apartment for so long it is not considered an apartment. She advised Mr. Cutlip that he could go to the Zoning Board of Appeals, but added he may not be successful there because the only hardship they can consider legally by Conn. State Statutes is the shape of the lot the hardship. Is it configured in such a way you can't use the lot, which is not the case. The only consideration is that needs to be your primary residence she advised. She said we have no choice, we must follow these regulations.

- 2) Windham Mills (TWB Properties) follow up on request for zoning revisions.

Karl Neilson, speaking on behalf of Windham Mills came before the commission stating that the site which is zoned commercial/industrial is at 20% capacity. He said despite investing in site

work etc we have been unable to attract the tenant base we had originally hoped to attract. He said after years of trying to make this happen we are now looking at other possibilities. He referred to a multi-use including perhaps student housing. He said we are possibly looking at dormitory use instead of straight residential. This is something we could look into, he said. What that would allow us to do if the change was successful; it would allow us to get our feet on the ground. We are looking at roughly 50,000 square feet in the two end buildings (building 4 & 5) that is where the dormitory use would be limited to. Typically these units would be 1-bedroom units. This is basically what we would like the commission to consider.

Commissioner Jean Chaine said I would not want to pursue the ability to be able to go forward with this type of a plan unless we are able to overcome the hurdle that currently exists. He said he is sympathetic about this and not totally against this, but he has a soft spot for returning it to what does the community want before we start pushing the project. Chair Stahl said this is a larger decision beyond this commission because of the investment the town has made. She said she would appreciate if they could explore the other uses that are still business type uses such as conference centers etc. Mr. Nielson said they are exploring those other uses, but this is something that was just plucked out of the sky.

Chair Stahl said in terms of the mechanics of it she would not recommend making a change to the M-3 Zone to add dormitories. There is a possibility of using the Incentive Housing Zone if you could define the use of each one of the areas as dormitory only. I would not want to jeopardize this application by adding anything at this point because we have a lot of work to do between now and June 30, 2012. We can add to that once this zone is adopted.

She said we are not thinking along the lines of residential. Some of the community is and some is not. The community and the state invested money strictly for the commercial side of it.

Commissioner Dan Lein suggested they could go before Town Council. They need a larger audience.

Mr. Nielsen said I need to know just what you want to see. I just don't know what to do. Do we just wait for the Incentive Housing to go into place and submit an application? I don't want to sit on it, he said.

Chair Stahl said after the tour when we were down in the back and James pointed out the building which isn't a building anymore, (it is right along the river) that the town has an easement on it for the potential of a future farmer's market. She said it is not an appropriate place for a farmer's market anymore and she would like to remove the easement so they can do whatever they want.

As there was no further business, the meeting was adjourned at 10:00 P.M.

Respectfully submitted,

Lillian Murray, Clerk