

**PLANNING & ZONING COMMISSION  
WINDHAM, CT**

**MINUTES  
(Amended)**

**May 27, 2010**

The Planning & Zoning Commission held its meeting on May 27, 2010 in the Meeting Room, Town Hall. Chair Paula Stahl called the meeting to order at 7:00 P.M. Members present were Victor Rayhall, Jean Chaine, Dawn Niles, Dan Lein, Juan Montalvo, Claire Lary and Paula Stahl. Also present were Town Planner James Finger and Code Enforcement Officer Matthew Vertefeuille.

**I)** The minutes of April 22, 2010 were approved. Motion by Victor Rayhall and seconded by Dawn Niles. The motion carried unanimously.

**II)** The minutes of May 13, 2010 were amended page 5, para 1line 7, Paula Haney said **on-site** improvements would come out of the \$2 million. The vote was postponed until the June meeting so all members could have an opportunity to review them.

**III) New Business**

**a) Public Hearing – Iglesia De Dios Pentecostal, Inc. Ebenezer** – Application to establish a Church at 134 Ives Street, Willimantic, CT on the former Polish Club site.

Planner Finger’s staff report dated May 20, 2010 explained that the property had been used as a bar and nightclub for the past six to eight years. The owner let the liquor license expire, and had been operating the nightclub without a permit. During that time a number of Police calls were made to the property; and the nightclub was shut down. After that happened the zoning officer revoked their zoning certificate. The owners then applied for a Special Exception seeking a waiver on the separating distances from the neighboring Church and hoped to re-establish the liquor license, but the Zoning Board of Appeals denied the application.

The Pentecostal Church, which is currently located on Chapman Street, is interested in purchasing the property with the intention of moving their Church to that location. The building was originally designed as a “use of assembly” for the Polish Club, and the Church use is classified as the same use. Planner Finger said the Church does not plan to make any changes to the building other than to clean it up, so there isn’t any substantial change to the use - just a change in activity. The most significant change is that the level of activity will be much less than what occurred when it was the Polish Club, or when the nightclub occupied the building, and more than likely there will be fewer Police calls to the property, said Finger.

Chair Paula Stahl then opened the public hearing.

Attorney John McGrath, representing the Church, said the plan is to convert the former Pulaski Club at 134 Ives Street to a Church. He said the property was formerly used as a social club. There are no exterior renovations proposed, he said. The Church plans to have services and events on Thursdays, Fridays, Saturdays and Sundays and plans to expand its services to include a community outreach program such as a food pantry.

Attorney McGrath said there is ample parking on site and there are no changes proposed to the existing parking. They will also have youth services, as well as children services, he said. The Church does not plan to rent out the hall for events, he added. Once the Church is established at the new location, they plan to sell the exiting Church property on Chapman Street. Transforming the Pulaski Club to the Church will definitely be a plus for the neighborhood, he added.

Commissioner Dan Lein asked if once the Chapman Street property is sold will the property go back on the town tax rolls. Attorney McGrath said if the property is sold and the use does not remain a Church the property will then go back on the tax rolls.

The meeting was opened for audience comments. 1) A member of the audience who resides at 36 Pulaski court spoke in favor of the application. 2) Members of the Church were present in the audience to their show support of the request.

Commissioner Jean Chaine said it appears that there are no objections to the proposed change.

The public hearing will be continued at the next regular P&Z meeting on June 24, 2010.

**2) Town of Windham – Environmental Magnet School, 141 & 145 Tuckie Road Windham Center-** application for limited Site Plan Approval for clearing and grubbing for the proposed use.

The Commission received a letter from Town Manager Neal Beets withdrawing the application for grading and grubbing on the Magnet School site. He said the application to the PZC was premature and the town has since discovered that it doesn't need land use approval to break ground on the Magnet School. He said the town is close to closing on the 20-acre parcel, which will allow the school consultants to break ground on the parcel and meet the June 30, 2010 deadline. Soon after the closing the town can then begin securing the site; removing debris and tree stumps. At this point they intend to begin clearing the site. The consultants are still in the process of finalizing a site plan which is expected to be submitted to the town in late summer or early fall.

Code Enforcement Officer Matt Vertefeulle said the attorneys are also negotiating on the necessary easements. He said they plan to take down some trees, remove the stumps

and do some exploratory digging to identify areas on the property that have ledge. Vertefeuille said he will be checking to see that they do not exceed what they are supposed to do. The town expects to submit a completed site plan by fall, he added.

Application **withdrawn**.

**3) Anthony & Samantha Riccio, 128 Windham Street, Willimantic** – application for a Special Permit for the leasing of rooms in an owner-occupied single family home. This application was also **withdrawn**.

**4) No Freeze Shelter, 1110 Main Street** - request for the continuation of zoning approval to operate the shelter at the existing site.

Planner Finger's staff report explained that this is a request for zoning approval to allow the No Freeze Shelter to continue to operate the shelter at the existing site. He said at the present time we have no provisions in our regulations for the establishment of an emergency shelter. The former Zoning Commission approved the use for this particular site because it was urgently needed, and there were few complaints about this location compared to other locations, he added.

Planner Finger received a letter from Rev. John Burton, who serves on the Board of Directors for the No Freeze Hospitality Project, regarding the request for continuation of their zoning approval to operate the No Freeze shelter at 1110 Main Street, Willimantic. He said they have been offered a new lease by their landlord, which they are unable to sign without assurance that zoning approval will be granted. He said they have the opportunity to negotiate a new two-year lease, with the option for three, one-year extensions, with the owner of the building. A continued lease at the current site offers us the opportunity to build on investments already made rather than the uncertainty of finding a new location and starting over next fall.

Tom McNally, representing the No Freeze Shelter said they plan to run the facility from November 1, 2010 through April 2011. He said although we have no staff at the present time there are plans to have 6 case managers. He said we are in negotiations with Generations and The Access Agency to bring their people on site at night. McNally said the Shelter typically accommodates between 25 and 28 guests each night.

Commissioner Dan Lein asked when the shelter will have a permanent home. Mr. McNally said we are currently working on that, and hopefully in two years we will have a permanent location.

Commissioner Vic Rayhall said it appears that nothing will change with how the shelter has operated in the past, and that it will continue to operate in the same manner.

Chair Stahl referred to a letter from Police Chief Lisa Maurzo-Bolduc and Acting Fire Chief Marc Scrivner. The Police Chief said while the "No Freeze" provides a place for homeless persons to sleep; it should also strive to address the individual's problems that

may have caused the homeless condition in the first place. She said she strongly recommends that there be additional involvement with other intervention programs currently in place, specifically those agencies dealing with substance abuse and mental health.

Acting Fire Chief Marc Scrivner said the Fire Dept. has responded on 36 occasions to the No Freeze Shelter. Most of these calls have been requests for ambulance services, many of which would have likely been generated whether the patients were in the shelter or not. From our perspective, the patients are more easily accessed when they are in a central place, such as the shelter, said Scrivner. He said in order to reduce the demand for ambulance services; we might look into coordinating some preventative services for the homeless people who stay at the No Freeze. There may be more agencies, such as Generations, who would be willing to bring some basic care to the shelter.

Commissioner Dan Lein asked if this activity requires annual approval. Chair Stahl said the commission re-examines the shelter's zoning approval every two years.

Commissioner Jean Chaine suggested organizing activities for the clients to do during the day.

Dan Lein made a motion to extend zoning approval to operate the shelter at the existing site for another two years. At the end of the two years they will have to return to the PZC for re-approval. Vic Rayhall seconded the motion. The motion carried unanimously.

**5) Ouimette Builders – Victory Lane** – request for waiver of subdivision requirements on issuing final Certificates of Occupancy for new homes.

Daniel Ouimette submitted a letter requesting that a permanent Certificate of Occupancy be granted for the new homes as of the time that the asphalt binder is applied to the road surface. He said at the time that the Victory Lane subdivision was approved; the regulations stated that only a Temporary Certificate of Occupancy would be granted until the road was approved and accepted by the Town of Windham. In the past this was not so much a problem because lenders didn't put much thought into the term "Temporary Certificate of Occupancy". In today's changing economy, however, it is difficult to find lending institutions that feel comfortable enough to accept a Temporary Certificate of Occupancy. He said at this time Victory Lane is a private road and he accepts all responsibility for maintaining the road and providing safe access to each home built until such time the Town of Windham approves and accepts the road.

Planner Finger's report explained that the applicant is requesting a waiver of the old subdivision requirements on issuing Final Certificates of Occupancy for new homes on this street. Under the old subdivision regulations, Section 5.4, it was stated that no Certificate of Occupancy would be issued until the street and all appurtenant facilities are deemed complete by the PZC. In addition, until the street is accepted by the town, all purchase and sales agreements for the lots in the subdivision should clearly state that the

lot is not eligible for town services until the roadways and appurtenant facilities are accepted as public facilities at a town meeting. Also in lieu of the acceptance of the street by the town, the developer may record a condominium declaration on the land records. This will outline the responsibilities for the provision of these services to be that of the developer or the condominium association, he added.

Planner Finger said the current subdivision regulations don't have this particular restriction, but according to State Law an approved development cannot be made to conform to the new regulation, but is in fact subject to the regulations that were in place at the time the plan was approved.

Planner Finger said the commission could consider a modification of the regulations as he believes it would be less restrictive. Mr. Ouimette has indicated that he will make it clear to all purchasers of homes in his development that until the road is accepted by the town, it is a private road, and he will take responsibility for all of the services that the town would normally provide. He added if the commission is favorably inclined it could simply approve the requested waiver with any conditions the owner may offer.

A letter received from Art Kortapapas, Four Corners Real Estate, referred to recent bank changes. He said the properties in this subdivision are bonded and the regulations regarding Temporary Certificate of Occupancy make it harder and virtually impossible in some cases to close the property for the buyer. He said Mr. Ouimette builds homes to standard building codes and regulations, and he should officially be issued a Permanent Certificate of Occupancy.

A discussion ensued:

Chair Stahl said the commission could modify the regulations that they are working under and replace them with a section from the new subdivision regulations. Under the current subdivision regulations the issuing of the CO falls under the purview of the building inspector, but the sale of lots is regulated by Section 10.2.5 and states "No lots can be sold until a street....has at least the binder course complete". She asked the ZEO, Matt Vertefeulle, if it would be appropriate to permit Ouimette Builders to comply with Section 10.2.5 of the new regulations. He said that it would be.

Commission Dan Lein said Mr. Ouimette has agreed to provide all the services (such as plowing etc) until the road becomes a town road.

Claire Lary asked if the bond that is in place is sufficient to cover adding asphalt, sidewalks, plowing, and the Town Engineer's inspections. The commission felt it would be sufficient.

The commission received a letter from Barbara Corsu of Liberty Bank – Savings Institute supporting Mr. Ouimette's request for the waiver.

After some discussion, Jean Chaine made a motion to waive the requirements for a CO in place at the time of Ouimette Builders subdivision approval with Section 10.2.5 of the current subdivision regulations. Vic Rayhall seconded the motion. The vote carried unanimously.

**6) Hain Materials Corp, 127, 249A and 249R Windham Center Road - Continuation of existing earth excavation permitted under Section 75.2.2**

Planner Finger's staff report explained that the site consists of 212.2 acres, of which approximately half are actively used in the operations, but only 14 acres are under excavation. The site has been home base for Hain Materials since 1963. The majority of the active operations occur in the M-2 Manufacturing Zone, with a small portion located in the R-3 Residential zone, but not near any homes. Due to the variability in quality of earthen materials, they need to keep several areas open to provide the appropriate product to satisfy their customer's needs.

Joe Boucher, L.S. with Towne Engineering, said the renewal of 2 excavation permits have been submitted under the terms of Section 75.2.2 of the zoning regulations. He said the area close to the RR tracks needs to be recovered. He said the site is well contained and the operation is well managed. He said these pits predate zoning and we are asking for an extension of our earth excavation permit, said Boucher.

Paul Bonner, a representative from Hain Materials Corp. spoke to the gravel operation. He said the operation is close to his office and he cannot see the operation, can't hear the operation nor has he witnessed any dust associated with the operation.

After a brief discussion Vic Rayhall made a motion to renew the earth excavation permit for another five years and Jean Chaine seconded the motion. The motion carried unanimously.

**7) Hain Materials Corp, 298 Windham Center Road – continuation of an existing earth excavation permitted under Section 75.2.2.**

Planner Finger's staff report explained that this is a progress plan for the continuation of an existing excavation just down the street from their main plant. The lot comprises of 44 acres, but only about 6 acres of the site is used for earthen materials. He said the property is well hidden from any public view. The site has a long access road going down to the pit, and is located in between the Shetucket River and the Railroad track.

Joe. Boucher, Towne Engineering, said this is a pre-existing excavation operation and added that the site is fully contained. There are two sedimentation basins on site to accommodate any storm water, he said.

In a memo dated May 27, 2010 Town Engineer Joe Boucher said he has reviewed the plans prepared by Towne Engineering for the two locations and he has no engineering issues with the plans.

Dan Lein made a motion to extend the excavation permits for another 5 years and Dawn Niles seconded the motion. The motion carried unanimously.

## **8) Routine Business**

### **a) Correspondence**

1) Letter from Joel Meyers, President of Meyburd Associates Real Estate Corp. appealing to the PZC to allow him to convert a barn on 53R Spring Street to a 4-bedroom house. The barn is equipped with electricity, running water, and a bathroom. One floor is in good condition, but the other floor needs work. The property has three buildings (19-25 Chestnut Street, 27-29 Chestnut Street and the barn on 53R Spring Street. Changing the barn into a 4-bedroom house (which will be rented) will help him fill the gap of his loss of rents since a recent fire destroyed his building at 19-25 Chestnut Street and 14 tenants lost their home.

Planner Finger said he will meet with Mr. Meyers to see what he can do in the context of the regulations.

2) Notification from WINCOG that the Town of Chaplin is working on a new Plan of Conservation and Development.

3) Notification from WINCOG regarding zoning changes in Chaplin pertaining to dogs.

4) The Town of Mansfield is considering some high density development in the area from the Industrial Park to Pleasant Valley Road. They want to present a high density residential development.

As there was no further business, the meeting was adjourned at 8:50 P.M. Motion by Vic Rayhall and seconded by Jean Chaine. The motion carried unanimously.

Respectfully submitted,

Lillian Murray, Clerk