

WINDHAM PLANNING & ZONING COMMISSION
WINDHAM, CT
MINUTES

September 22, 2011

The Windham Planning & Zoning Commission held its meeting on September 22, 2011 in the Meeting Room, Town Hall. Chair Paula Stahl called the meeting to order at 7:06 P.M. Members in attendance were Jean Chaine, Victor Rayhall, Dawn Niles, Juan Montalvo, Dan Lein, Claire Lary and Paula Stahl. Also present were Town Planner James Finger and Code Enforcement Officer Matthew Vertefeuille.

Chair Stahl requested that New Business and Old Business listed on the agenda be reversed. Dan Lein made a motion to reverse New Business and Old Business as requested and Dawn Niles seconded the motion. The motion carried unanimously.

Chair Stahl said that under New Business the Commission would take up the request from the Access Agency.

1) Approval of Minutes

The minutes of August 25, 2011 were approved. Motion by Dan Lein and seconded by Juan Montalvo. The motion carried unanimously.

2) Public Hearings

a) DeSiato Sand & Gravel Corp., 64 Jordan Lane & 329R Beaver Hill Road, North Windham, CT – seeking a Special Permit for the continuation of an existing earth excavation operation involving property identified in the Windham Assessor's Office on Map 6-3, Block: 242, lot 108 comprising of 41.95+- acres, and property identified on Map 7-4, Block: 242, lot 7 comprising of 44.7+- acres. This site has been operated since 1999.

Joseph Boucher, L.S. with Towne Engineering, representing DeSiato Sand & Gravel Corp., said this is a renewal of an existing earth excavation which was originally granted approximately 10 years ago. He said the applicant was back before the Commission about 5 years ago for a public hearing, and has been before the Commission for his annual/semi-annual renewals. Mr. Boucher said he met on site with Code Enforcement Officer Matthew Vertefeuille in July as he performed an inspection of the site. He referred to photos of the site taken in August, and said that we are before the Commission to renew the Special Permit with the same conditions of approval that were attached to the earlier approval. He added that Mr. DeSiato is following the plan and the conditions of his approval. The top soil remains on the site. There are areas that are stabilized and grassed. The site is well maintained, concluded Boucher.

Mr. Vertefeuille said he inspected the site about 1 ½ year ago and then again in July. During the first inspection we asked Mr. DeSiato to finish up one area of the site and that area has been restored and brought back to grade. Mr. Vertefeuille said he found no other changes on the site, and judging by Mr. DeSiato's reports of how many trucks he has brought out of there, it doesn't

seem like he has taken much out in that period of time. He is definitely in compliance with his permit, added Vertefeuille.

Chair Stahl asked Mr. DeSiato if he was looking to expand or make any changes, or if he is looking to simply continue the existing operation. Mr. Boucher said we modified the permit in 2005 to add a little area on the back hill, but that is all.

Commissioner Jean Chaine questioned if the operation is for removal of aggregate only, or are they processing anything on site, or planning to process anything on site in the future. Mr. Boucher confirmed that it is for removal only.

There were no other comments from members or Town staff and the meeting was opened to public comment.

1) Pauline Kramer, 7 LaBarre Drive, North Windham spoke against renewing the gravel permit. She said we fought very hard to prevent this gravel operation, and we lost. She said this operation has been ongoing for eleven years, while it was supposed to be finished in 3-5 years. Mr. DeSiato has purchased more property in the back of his property, and is looking to purchase another 40+ acres on Beaver Hill Road. Is that going to be another 11 year project, she asked. I am assuming that is going to connect to this operation. She said it would be beneficial for the Commission to take a site walk so that the members could familiarize themselves with the area in question. This has been a nightmare. In addition, every school bus that goes to the North Windham School comes down La Barre Drive. We have to put up with the sand and fumes that go with that. This is a dangerous situation especially with the bus traffic in the area, she said. 2) Cynthia Clairmont, 76 Jordan Lane, North Windham, voiced her opposition to the gravel permit renewal. She said it is true that Mr. DeSiato has followed through on most of what he said he was going to do. During the last year and a half it has been slow, but I think that is due to the economy. Prior to that it was quite busy and there were many tri axel trucks running back and forth along our property and spewing a lot of diesel fumes. When you look at the land prior to its use as a gravel pit, and you look at it now, it is really a shame. When you look down from the Home Depot property you see the pit. We have a lot of deer and wildlife that come onto our property, and it is hard to picture what is going to happen to all of them. She said in the beginning we weren't dealt with quite properly. We understood what was going to happen when he brought this operation in. We were opposed to it then, and we are opposed to it now. Mr. DeSiato tried to address our concerns by saying there was going to be a 5-lot subdivision as an end use of the gravel operation so we backed off a little bit. During deliberations in March 2000, various commissioners expressed doubts that the 5-lot subdivision would ever be built; that it was somehow speculative. At that time, the public also expressed concerns about the concentration of truck traffic along the Clairmont's property line, and there was also a concern about the phasing and about excessive clearing. And, here we are again, she added. 3) Ronald Kramer, 7 LaBarre Drive, North Windham said there is a 48-acre parcel attached to the existing excavation. He said as far as he is concerned that should be a new application. It doesn't belong with the original one. The original plan was for 25 acres or something of that nature. He suggested that the Commission review the original plans and conduct a site inspection of the property. When I look at these photographs it really is a sad thing. He said congress has designated our region as a Natural Heritage Corridor known as the Last Green Valley because of

the remaining undeveloped region in the coastal area between Boston and Washington, D.C. The area in question is no longer a beautiful working forest. There is nothing, but a gaping hole in the side of the hill, and we are quickly running out of acreage that can be called natural. I would strongly stress that you look at the original plan, take a site walk and see what is going on. He said this new 44- acre piece is predominately ledge, and I don't know what you can do with it unless you quarry it, and I don't think we want to see that, he concluded.

Chair Stahl asked Mr. Boucher to explain the scope of the project.

Joseph Boucher said Phase 1 was the original phase located on the south-easterly corner of the property. He said there were some pre-conditioned approvals that were part of the original approval. He said the haul road was built and trees were planted.

Code Enforcement Officer Matt Vertefeuille said there were 5 pages of conditions that were issued by the court. He said there were 20 different items that Mr. DeSiato was required to do as part of the pre-gravel permit, and it included things like creating buffers, planting trees, putting in a haul road. He complied with all the conditions before he started the excavation, said Vertefeuille.

Mr. Kramer said if you look at the original plan, Phase 1 was to be completed in 3 years and the entire section was to be loamed and seeded and hay applied. It still hasn't seen a bit of loam, nor a grass seed either. He encouraged the Commission to look at the original proposal, go over it, and take a site walk and invite all the neighbors. We would be more than happy to go with you, he added.

Mr. Boucher said before Mr. DeSiato was involved with the site, there was an operation to haul gravel out of the site by its previous owner. He hauled right down LaBarre Drive onto Route 203, which was nightmare for the landowners. Mr. DeSiato purchased another piece of property which allowed him to have a little cut through road so his trucks could cross Jordan Lane. They cross 250 feet of his land, and exited out onto Route 203. Mr. Boucher said the cross-over road was built, the culvert was put in, the access road was put in, and some White Pine trees were planted along the Clairmont side of the access road. Pavement on the road had a dust free surface. All those things were done before Phase 1 was undertaken, said Boucher. He said Phase 1 has not yet been completed. It is still being mined in the southerly portion of the pit. Some of the easterly side has been loamed and seeded and stabilized. Mr. Boucher said there is a large depression that collects all the storm water off the site, and all the runoff. Nothing leaves the site at all, said Boucher.

Chair Stahl asked if the other phases are being worked at this point. Mr. Boucher said there is some activity in Phase 2, and identified the excavation site on the map. The upper hillside has been loamed, seeded and graded, and again it is self-contained, said Boucher. He said all 5 phases are part of the original operation, but Phase 3 and Phase 4 are not being worked at this time.

Code Enforcement Officer Matt Vertefeuille said there were conditions placed on the operation. After the pre-conditions were met, he started Phase 1. The conditions placed were limitation on

hours of operation (he could only operate from 8AM to 4PM, Monday through Friday). No operating on New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving day and the day after Thanksgiving and Christmas Day. He has to maintain a vegetative buffer. Truck traffic shall be limited to 56 round trips per day from November through February with 10 round trips for any given hour, with an average of no more than 7 round trips per hour. During the months of March through June, and September and October, there shall be a maximum of 40 round trips per day Monday through Friday, and a maximum of 8 trips per any given hour and five round trips per hour. In July and August he is not allowed to operate at all. As you can see there are a lot of limitations on when he can operate, said Vertefeuille. He submits his truck counts, and his truck counts are significantly lower than what he is allowed.

Commissioner Jean Chaine asked if all the trucks are Mr. DeSiato's trucks. Mr. Boucher said these are all Phil's trucks and they are all his employees.

Commissioner Dawn Niles asked how many times this operation has been renewed in the past. Mr. Boucher said it has been 10 years now. He said we come back to the town every year. In 2005, we came back for a public hearing, and at that time there were no issues raised by anyone. In 2005 when we came back for the renewal we asked to expand the pit up into the back hillside to allow better grading, and this is the part of the property that the neighbors are raising objections with. The amount of excavation that this commission approved is what Mr. DeSiato is adhering to.

Commissioner Dawn Niles said what is being asked of us this evening is whether or not we are going to allow him to continue what he has been doing for the last 10 years. There was a mention of another 40+ acres. Chair Stahl said Mr. Kramer was referring to another 44+ acre parcel. Mr. Boucher said it is part of the approved plan, but it is on the other tract. He pointed it out on the plan. Chair Stahl said there is another 42 acres that is untouched and is not part of this plan. She said approximately 2 acres of that piece is right up against this property and was approved as part of this operation in 2005. The other 42 acres of that 44-acre parcel has not been approved for any activity, she said.

Phil DeSiato clarified that the new piece of property that he has purchased is mostly ledge and he is not going to touch it. He said he was approved to dig on the east side, and that is what he plans to do. He said he is not touching anything more towards Beaver Hill and Beacon Road because it is all ledge. I am not in the ledge business. He said he is not going to go through what he did years ago. He told the neighbors, all you have to do is call me and ask and I'll tell you what I am doing, he said. He said there are different phases with the operation. I haven't finished the phases because I have left all the woods there for the neighbors so that they can't even see into my property, said DeSiato. I have my main haul road, which was built at great expense, so I don't have to go through anyone's neighborhood. The only one who can see my trucks is Mrs. Clairmont, and I planted trees for her. I am trying to do what I am supposed to do, he said.

Chair Stahl asked Mr. DeSiato what sort of a time limit he can foresee. Mr. DeSiato said the way the economy is it will take quite a few years. I am trying to do it right. He said he will finish different sections as he goes along. I just need time, he said.

Commissioner Vic Rayhall said he was on the Zoning Commission when Mr. DeSiato came in with his original plan. We never saw a problem even though there were residents that spoke up. Everything was taken care of as Matt Vertefeuille has stated. We have never seen a problem from day one. I sat on the original board that saw everything that went on. We did go out there and took a look at the property and everyone on the board was satisfied with Mr. DeSiato's operation.

Cynthia Clairmont said we thought residential was going to be the end use of this gravel operation because a gravel operation doesn't typically go into a residential neighborhood. She said this has been progressing completely opposite to what we were led to believe. We thought things were going to be different, she said.

Pauline Kramer referred to new language added to Section 75.1 for Earth Excavation. She said all new applications for commercial earth excavation operations in any residential district shall during a period of 12 months of the effective date of the adoption of this regulation be prohibited uses etc. It also says permits in hand at this time are excluded from the above. If this new piece off of Beaver Hill Road is connected with the old piece, is that considered a permit in hand, she asked. Chair Stahl said no.

Commissioner Juan Montalvo said he had spoken with Planner James Finger and asked him if there had ever been any complaints about Mr. DeSiato, and he said there have not been any complaints. Coding Enforcement Officer Matt Vertefeuille said he is the one who has been fielding complaints on things like gravel pits for the last three years, and I have not gotten one complaint about DeSiato in those three years.

Cynthia Clairmont said in the last year we have heard a lot of crushing noises like rocks being crushed. Is that something that you need a permit for, she asked. Matt Vertefeuille said he talked with Mr. DeSiato during his inspection about large boulders down in the bottom of the pit. Mr. DeSiato asked if there would be a problem if he put those boulders into a truck and moved them out of there. Mr. Vertefeuille said no. Mr. DeSiato said if anyone complains about it he would stop.

Commissioner Jean Chaine said the residents should not have to call and complain about something that is not supposed to be there. We should be enforcing it. He said I asked in the beginning of the meeting whether that was gravel removal with a pay-loader and trucks only. Crushing and processing is where the real problem comes into being. Matt Vertefeuille said there was no crushing or processing going on there.

Commissioner Chaine referred to truck noise. He asked Mr. DeSiato if his trucks use automatic Jake-brakes, or do they physically have to apply the Jake-brakes. Mr. Vertefeuille said the Jake-brakes are actually not allowed as part of the court order for this pit. That was part of the conditions, said Vertefeuille. Commissioner Chaine said the fact that this contractor agreed to that says a lot about the contractor's desire to want to be resident friendly. It is quite admirable that he agreed to all the conditions, said Chaine. The difficulty is that the town is on a bed of material that is valuable, and how do you strike a balance between that material being excavated around residential homes, and the property owner wanting to do what he wants to do with his

property. This is no different from an individual homeowner wanting to do what he wants to do with his property, said Chaine. There has to be a balance, a compromise. Short of the gravel operation coming to a complete halt, which is not going to happen, it seems to me that our job is to try to find that balance. I can foresee a problem when Phase 2 gets active because it is going to be much closer to residents and that is going to reopen a whole host of problems that these residents have complained about; dust and noise. He said before different phases of a gravel operation begin they should be given permission to start, said Chaine. And, that will trigger our being able to examine whether, or not, there were complaints that weren't dealt with, or were there any infractions based on the conditions that they agreed to before you let them expand the site. That seems to be reasonable for the contractor and it is fair to the residents, he said.

Chair Stahl said phases 3, 4, and 5 are very close to residential properties. Is there a buffer, she asked. Mr. Boucher said there is a 100-150 foot tree buffer from the edge of the road (Jordan Lane). Commissioner Chaine said the 100 or 150 foot buffer may be fine for line of sight protection, but it doesn't do anything as far as noise is concerned. Even though they are within the buffer, noise is going to be a problem, and in some cases dust might be a problem because of the wind blowing. Mr. Boucher said the difference is that the land rises quickly off of Jordan Lane. Commissioner Chaine said the fences along the side of the hill are similar to fences you see along interstate highways in order to reduce the noise that occurs from the highway. What typically happens to that sound on the highway is that it bounces off that fence and creates an updraft (it comes up and goes right over the fence). The fact that there is a depression will reduce some of the sound, but a lot of it will go right up over the hill and over into the resident's earshot. Although it is better than nothing at all, it still becomes a problem as far as noise and dust is concerned, he said.

Planner Finger said he was involved with writing all those conditions many years ago mainly because the residents on LaBarre were outraged at what had happened by the previous owner who took advantage of a loop hole in our regulations before they were rewritten. The previous owner had a landscaping permit and they were hauling constantly through the neighborhood; and unfortunately we didn't have a regulatory tool to say he couldn't do it. Mr. DeSiato was one who had been hauling from that pit, and he thought it was an approved pit. When he bought the property he learned otherwise. He discovered that he had to go through a special permit process, but before he did that I think we revised our regulations. When Mr. DeSiato came in with his legitimate gravel operation the neighbors were opposed to it. They didn't want it there. They felt they had suffered enough. There was quite a lot of gravel proposed for excavation, and the residents were not happy with the proposal. The Zoning Commission approved the excavation with several conditions. Mr. DeSiato filed suit appealing the conditions, as he felt they were onerous. So it went to court. In any case we reached a stipulated agreement on revising the conditions of approval so that Mr. DeSiato could operate. Then he withdrew his subdivision plan, so there is no subdivision plan on the table. It was withdrawn before the Planning Commission did anything with it, said Finger. With respect to the residential development, the neighbors had suggested that as a substitute for the gravel operation, but when he came in with the residential subdivision it demonstrated that it would still involve a great deal of excavation because of the steep slopes and our limits on the maximum slopes permitted for roads; and they weren't happy with either proposal.

Commissioner Dawn Niles said we have had lots of applications from Mr. DeSiato and this is the first time that anyone has actually come and complained. I don't know if I have actually heard of any complaints; I have heard that he complied with everything.

Planner Finger said in 2007 he sought to amend the stipulated agreement and then the neighbors objected to that, but we didn't have any contact or any calls. In 2005, Mr. DeSiato came in with the amended application to include the back piece, and he had revised his phasing plan to move the project farther back away from the neighbors on LaBarre Drive. We were in favor of that because we felt it would be further removed from the people who would find it annoying and a nuisance.

Commissioner Dan Lein asked the neighbors, what is it that you are seeking. Ronald Kramer said, where do we draw the line. You start off with 34 acres, then you add another 44 acres, and as Mrs. Clairmont said he has approached another neighbor to buy another huge piece which at this time they have refused to do. Does it just keep going and going, he asked. Mr. Kramer said this is a residential section. We seem to change the zoning rules whenever we feel like it. When Mr. DeSiato wanted to go on Commerce Drive to take gravel out of there, (which was zoned residential), they changed it to commercial and he went in and took out his gravel. He went on to give other examples where the zoning was changed. He said it seems as though if you have deep pockets you are fine. If not, you are in trouble, he added.

Planner Finger said the property Mr. DeSiato owns on Commerce Drive was zoned Industrial. Bill Rood, who sat on the original Zoning Commission, insisted that if he was going to have anything to do with zoning, his property would have to be zoned Industrial. That is how it came about. Zoning was first adopted in Windham in June, 1972 and Bill Rood was on the board. It may have existed in the neighborhood as Residential, but there was no zoning in Windham until 1972. It was established as Industrial right off the bat. Mr. DeSiato came in for a gravel operation on the other side of the street, but his end use was an Industrial Subdivision, which is now fully developed.

Cynthia Clairmont said it is here, and we can't stop it from being here; but our concern is the extension of it in any way. We would like to see North Windham kept as a nice community. We would like to see the end use to be residential and homes built. That is what we are looking for, she concluded.

Mr. Boucher said the proposal before the Commission is for the original 5 phases and the 2 1/2 acres that was approved as a modification in 2005. As I understand, when the gravel operation is done, Mr. DeSiato may decide to subdivide it, so the soils will be left suitable for septic systems. That possibility still exists, said Boucher. The land will not be left ruined with no potential after-use, said Boucher.

Chair Stahl asked when they might be getting into Phase 3 and 5. Mr. DeSiato said it probably would be a little while yet. There is still a lot of material to be taken out. It could be years, he said.

Commissioner Dan Lein clarified that this public hearing is only for the existing site and the additional property approved in 2005, and nothing else. Commissioner Dawn Niles said Planner Finger had referred to something else being in here. Planner Finger responded that the question was asked whether the extra 44 acres was part of the application. He reported that it is part of the application. It was approved in 2005, but not for excavation; simply to add the additional acreage in the back so that they could move the operation farther away.

Planner Finger asked if the commission wanted to do a site walk. Commissioners voted instead of doing a scheduled site walk, they would like to do individual site walks. Chair Stahl said since we are not going to have an official site walk, we can close the public hearing. The public hearing is closed.

Commissioner Jean Chaine said one of the issues I would raise when it comes time to take action on the application; I would like to add a stipulation that Phase 3 and Phase 4 are not to be automatically started. And, that we need some review in order to satisfy ourselves, but we are not going to reopen the resident's complaints, said Chaine.

The Commission deferred taking action on the application until the next meeting (October 27, 2011).

Action deferred until the next meeting on October 27, 2011.

b) Generations Family Health Clinic, 40 Mansfield Avenue, Willimantic, Ct. – Special Permit application in accordance with Section 72.8c for an electronic message sign.

Melissa Bonsall, Chief Operating Officer, at Generations Family Health clinic, said they are requesting a Special Permit in order to install an electronic message sign. She said she would like to address questions raised by Planner Finger and ZEO Matt Vertefeuille regarding the type of message, the content, the size, readability, brightness, etc. She referred to a drawing of the proposed sign. The sign will display special services provided by Generations that will benefit the whole community, she said. Such messages might include flu shot clinics, school physicals, and public health service announcements regarding our services and events that might occur at the Health Center. She said the intent is that the message sign, which will be programmable, will display one message a day. It isn't a continuously moving message. The sizes of the lettering can vary, she said. She presented a rendering of the proposed sign. She said our intent is not to have several messages throughout the day that are constantly moving. Our intent is to have one message for the day. A discussion ensued.

Commissioner Dawn Niles had a concern with wording and scrolling messages. She said this is a busy intersection and people will try to read the message. Ms. Bonsall said the intent is to program it at the beginning of the day, and it will remain static throughout the day. Commissioner Dan Lein asked if the sign will be lit. Ms. Bonsall the top portion around the message cabinet will be lit. The bottom half is a solid base, but the top half will be lit. Dan Lein questioned whether adjoining neighbors would be bothered by the illumination. Ms. Bonsall said neighbors were notified that this was being proposed, and to date we have not been

contacted by anyone with an issue about it being illuminated, but we certainly could consider a different path if it were a concern.

Chair Stahl asked about the timing for the illumination. She said she is concerned with so much white on the background of that sign that it is going to be blinding. Is there a way to make the lettering bigger, or change it so that the background is green and the letters are white, she asked? Ms. Bonsall said that is our official logo, but maybe we could consider making it (lettering) bigger so there is not so much white.

Chair Stahl referred to another sign in town which includes a large amount of white background. She said we received a complaint during one of our public hearings about the Tractor Supply Store because their message was on 24 hours a day. Your sign has a very large area of white illumination, she said. She asked how long the programmable text would be on. Ms. Bonsall said the intent was to leave it on 24 hours a day, but we are certainly open to suggestions, she said. Ms. Bonsall said we could consider having it on during operating hours.

Commissioner Claire Lary asked if it would be possible to dim the sign especially later at night. She also suggested increasing the green border, and making the lettering as big as possible. Ms. Bonsall agreed to resubmit the design of the sign incorporating the Commission's recommendations.

A question arose as to the size of the sign meeting the town's requirements, but ZEO Matt Vertefeuille said they are within the requirements.

Commissioner Dawn Niles asked about the hours of operation. Ms. Bonsall said we are open Monday through Thursday until 7:00 P.M. and on Fridays until 5:30 P.M.

The public hearing is continued until the next meeting.

3) Old Business

a) (Six) 6 Liquor & wine, 361 Boston Post Road, North Windham, CT – application for a Special Permit to establish a package store in an M-1 Commercial/Manufacturing District.

Commission Dawn Niles recused herself from the panel citing a conflict of interest.

Planner Finger's Staff report explained the commission closed the hearing for public comment last month. During the hearing, several concerns were raised about the suitability of the site. However, the primary question is whether the "AAA Driving School" is considered a "school" under our regulations. On checking with the director for the school, he explained that they do have evening classes for all driver education programs, although this is not posted for walk in patrons. He added that 16 & 17 year old teens must go through a longer educational program, and that the State requires them to be separated from adults 18 and over. The population makes up approximately 54% of the students.

Chair Stahl reported that the public hearing was closed last month, and asked Commission members who were not present at the previous meetings if they had listened to the tapes. Vic Rayhall was not able to do so and will not be voting on the application. Juan Montalvo listened to the previous tapes, as did Jean Chaine.

Chair Stahl said she conferred with Town Attorney Rich Cody as to the definition of a school. She said she sent him the section of the regulations (Section 73.2.10) that specifies the definition of a school and asked him to provide his interpretation. What he said is that it seems clear that by placing a definition within this section that defines a school, that the legislating regulation is concerned with the separation of a school use and an alcohol use. It seems that the average age for a driver's education student is of secondary school age; therefore it seems clear that a driver's education school is a school by this definition.

ZEO Matt Vertefeuille said what we discovered was that more than 50% of the students that go to the school are under the age of eighteen years. He said the board has the discretion to determine the meaning of the words within the regulations. You have the discretion to determine whether or not that definition of school is as the Town Attorney has stated.

A discussion ensued.

Commissioner Juan Montalvo said previously the Driving School was next to the Elm Package Store and across from the court which has minors going in there. It was next to a restaurant frequented by families, and there were no issues then.

Chair Stahl said the distinction that I see is that literally the door is 15 feet away. Commissioner Claire Lary said the regulation states that a package store cannot locate next to a school, and not the other way around. The Driving School does classify as a school under the town's regulations, said Stahl. A school is defined as a public or private entity providing education to secondary and younger school children and is not intended to include post secondary education the Town's regulations state.

Commissioner Dan Lein said if it is a school, it is a school. Chair Stahl said the packet that was sent out included a schematic of the building that includes classroom space.

Planner Finger said originally we didn't think it was a school because when we rewrote the regulation we tried to exclude business schools, and didn't recognize the driving school. We had a number of citizens that spoke during the public hearing to appeal to the commission to recognize it as a school. So as we looked at it, and got clarification and details regarding the driving school, we said that it does seem to be a school.

Commissioner Jean Chaine referred to his letter that was read into the record at the last meeting. He said he was a little disappointed that it didn't generate any discussion at that particular meeting, but then I thought that maybe because the author of the letter was not present so I wanted to take this opportunity to see what Commission member's feelings are on the issue that he was raising about the proportion of underage in relation to the adult population in our community.

Commissioner Dan Lein said he didn't think it had any merit whatsoever. The number of establishments set by the State is based upon the population, not based on the population of a certain age group. When the population hits a certain number, it automatically triggers something else, said Lein. He asked Commission Chaine if his research showed that the State was indicating that the 21 year age was the number upon which they were going to offer the ability to have package stores. Commissioner Chaine said that Statute (Section 30-14) went into place in 1986. The closest census figures they had at that time was 1980. At that particular time, the proportion across the State of under age in relation to the total population was 26%. We are now 30 years later, and the proportion based on the 2010 census is 27%. Windham, in 1986, was also 26%. Windham now in 2010 is at 34%. In 1980, the population at Eastern was 2100 enrollment of under graduates, said Chaine. Today there are 5200. So, if you take the spirit and intent of that regulation written in 1986; that one package store per 2500 population assumes that the percentage of underage would be at 26%. We are way beyond that, he said. I think it is within our purview that the welfare of the residents (which is part of our precepts) kicks in when we start discussing the issue of how many package stores do we want to have in our community in relation to the underage population. Just because the State says it will issue a permit, doesn't mean that you have to accept the permit. We have a responsibility to the residents to consider their welfare. Welfare needs to be taken into consideration. It is our judgment call, as I believe the Town Attorney has indicated as far as the school is concerned. I would argue that we need to take that into account. With the student population that is here for 8 months out of the 12 months, our underage population in relation to the adult population is at 40%. That is an astounding number to me. I am taking the position that 75% of the undergraduate enrollment at Eastern is underage. I think we are presently over loaded with package stores, he said. The issue that I raised about substance abuse, I think, is a valid one. That is a chronic problem across the country and also for us based on the number of support agencies the Town of Windham has.

Commissioner Chaine said there are two issues that should be before us. One is the welfare of the community with underage population, and two, whether the school is an issue, but I think that has been resolved. For the future though, I think we need to address whether we want to try to bring package stores under control because this is going to come before us again, and I think we should be ready as far as this issue is concerned, he said.

Zoning Enforcement Officer Matt Vertefeuille said he thought this fell within the purview for the Commission to get a clarification through our Town Attorney on whether or not this board should act in that way. He suggested that Commission Chaine write that question down and he can pass it on to Attorney Cody. Commissioner Dan Lein said he would like the State to respond. ZEO Vertefeuille said he will talk to the Director of Liquor Control.

Commissioner Juan Montalvo said the key word is school, and we have to protect that word school no matter what.

Planner Finger said I suspect the motion is going to a decision that you have wrestled with based on the evidence presented at the hearing from many residents, and certainly from the applicant, and trying to give fair and equal treatment, trying to be judicious in your decision, but the regulations prohibit the location of the package store next to the school.

Commissioner Jean Chaine made a motion stating that in view of the fact that we have spent some time agonizing over this particular issue that it is clear from the Town Attorney's opinion that the application is proposed to operate within the distance required of a school, therefore I move to deny the application. Juan Montalvo seconded the motion.

Commissioner Dan Lein said that is not a school. I do not accept that place as being a school. If the reverse of this can be true, than it shouldn't be allowed to exist near one. I think it is a double standard. And, I am not convinced of the numbers of Commissioner Chaine. The term school doesn't fit. Primary and secondary are the two words that we are wrestling with. It is not primary, and it is not secondary. It is an ancillary, he said. It is not primary and it is not secondary. It just happens to be a school. Chair Stahl said that according to our Town Attorney it is the age of people. Commissioner Lein said I want it to be clear that I am not satisfied with the arguments for it being in existence, or allowing the permit. Voting in favor of denying the application were Jean Chaine, Juan Montalvo, Claire Lary and Paula Stahl. Voting in opposition was Dan Lein. Vic Rayhall abstained. Chair Stahl said those who voted in favor of the motion agreed the weight was more on the denial. The motion carried.

4) New Business

a) Peter DeBiasi, President/CEO of the Access Agency, said he was before the Commission last spring regarding adding some affordable senior housing at 1315 Main Street, Willimantic, CT. He said they are progressing with that idea and will be submitting their application for a predevelopment loan in the next couple of weeks.

He said the State just came out with a request for proposals for supportive housing. He said there is \$30 million in funds available. There was a bidder's conference last Wednesday, and this is the first opportunity for me to come before you, he said. Between now and then we figured what the RFP (request for proposal) was for, and what the possibilities were. We also got the drawings on the potential senior housing, and we got the idea of having a senior center on the first floor where Generations is. That part of the building is large enough for two stories. We came up with the idea that perhaps what would work well would be to move the senior center to 1315 Main Street while we look at the potential for senior housing, and then use the building that presently houses the senior center on Crescent Street as a multi family (10) affordable housing units.

After meeting with various town officials was in order to do that... that site is not zoned for that particular use right now. The only way to get it done would be something like the Incentive Housing Zone which happens to include that piece of property as an overlay, or an actual zone change. The timing issue for us is critical. Last week was the bidder's conference and the grant is due November 28, 2011. That is only 2 months away. The question is whether, or not, this Commission would be willing to work with us to make the changes necessary (incentive housing zone or a zone change) for that piece of property so that we could apply for the grant. In speaking with James we know that there are some issues. I am bringing this to you to see whether the idea sounds reasonable, and whether there might be some willingness to make the changes necessary in order for us to apply for that grant in November. In order for us to apply for that grant we need to have site control and it needs to be zoned for the use we are proposing.

That all has to be in place, plus we have to have 40% of our architectural drawings completed, he said. We are looking at other sites outside of town, but again we felt the three projects; the senior housing, the senior center and then using that site for multi-family housing would make sense.

Chair Stahl said looking at it is one thing, but making it happen between now and November 28, 2011 is not something that can physically happen in that short amount of time period just because of writing the regulations, having them published, having a public hearing. She said the Commission might be able to look at it in the next few months. Mr. DeBiasi said the grant would not be available then, but if the total grant is not dispersed in November we may be back.

5) Zoning Regulations

a) Update on Incentive Housing grant project with Jana Butts of the Windham Regional Council of Governments.

Jana Butts said the draft regulations are ready for the Commission's review and the application to OPM is essentially complete.

She reviewed the 6 different zones and described their proposed use. Zone 1 includes 4 properties in the Historic Downtown (the Nathan Hale Hotel, the Hooker Hotel, the YMCA building and the Chapman Block). Zone 2 includes the Murray Building. Zone 3 includes Willimantic Lumber & Coal, the parking lot, and the old movie theater. Zone 4 includes the Uncle Ken's building. Zone 5 includes the McSweeney Building and Zone 6 includes the 1315 Main Street, Access Agency.

Ms. Butts agreed to attend the next working meeting to be held on October 13, 2011.

Chair Stahl said working meetings will be held on October 13, 2011, November 10, 2011 and December 8, 2011. The regular meetings in November and December will be held on the third Thursday of the month.

6) Correspondence

a) Notification from the Mansfield Planning & Zoning Commission regarding a Special Permit application to allow a wedding venue at 552 Bassets Bridge Road.

b) Note from Jesse Collins, formerly of WILI News, who is moving away to take advantage of a new employment opportunity. He thanked Town Staff for their help over the years and wished everyone good health and good luck in the future.

The meeting was adjourned at 9:25 P.M.

Respectfully submitted,

Lillian Murray, Clerk