

PLANNING & ZONING COMMISSION
WINDHAM, CT
MINUTES

February 25, 2010

The Windham Planning & Zoning Commission held its meeting on February 25, 2010 in the Meeting Room, Town Hall. Mayor Ernest Eldridge called the meeting to order at 7:00 P.M. Members present were Paula Stahl, Juan Montalvo, Claire Lary, Curtis Ehler, Dawn Niles, Jean Chaine and Victor Rayhall.

I) Election of Officers

Chairman – Claire Lary nominated **Paula Stahl** for chairman and Dawn Niles seconded the nomination.

Commissioner Jean Chaine said the combined board will have the task of trying to meld the existing Zoning Regulations and the existing zones to reflect what is spelled out in the Plan of Conservation & Development. The kind of skill we need in order to complete that task in a way that will be acceptable to the community will require a chairman who has unique skills. The individual that brings those skills to the commission is Paula Stahl. It would be unfortunate if we had a tie vote, as was the case at the previous meeting. It would be to the benefit of the commission as a whole if we were able to rally around one candidate, and I feel that the candidate that has been put forth is the best candidate.

Chairman - Curtis Ehler nominated **Vic Rayhall** for chairman. He said Vic has had experience in land use issues in our community, as well as having experience with other boards, commissions and organizations in town, which are vital to our growth. I feel his experience, even temperedness; ability to cooperate with town employees is what we will need to ensure growth in a positive forward direction for this community. Juan Montalvo seconded the nomination.

Voting in favor of Paula Stahl as chairman were Claire Lary, Dawn Niles, Jean Chaine and Paula Stahl. Vic Rayhall said it would not make sense to take another vote as there would be only three votes remaining. Paula Stahl was elected chairman.

Nomination for Vice-Chairman – Jean Chaine nominated **Vic Rayhall** for vice-chairman and Claire Lary seconded the nomination. The vote was unanimous to elect Vic Rayhall as Vice-Chairman.

Mayor Eldridge turned the meeting over to newly elected Chair Paula Stahl.

2) New Business

a) Autotote, 600 Main Street – preliminary presentation on a proposed new Off Track Betting Facility with an application for a Special Permit in the M-3 Industrial District.

Planner Finger's staff report stated that this request was first presented to the Zoning Commission in September 2009. After reviewing the regulations we found that we did not

have anything covering this type of use, he said. It was determined that the application should be treated as a Special Use. Planner Finger referred to Section 43 (Special Uses) stating that it appears that this application addresses many of the concerns that would normally arise with a Special Permit use. He added that the Zoning Commission approved the establishment of a restaurant (Thirsty Frog) with live entertainment at this property last summer.

Attorney William Sweeney, representing Autotote Enterprises Inc. said the proposed facility would be an 1800 square-foot off-track betting facility inside the building that currently houses the Thirsty Frog Restaurant at 600 Main Street. He said Autotote is the sole authorized operator of OTB's in Conn. There are no other OTB operators that can operate by law in the State of Conn. He said the wagers that you can place are limited to harness racing, thoroughbred racing, greyhound racing and jai alai events. No other type of wagering is allowed in these facilities.

He said we operate all of our branches under the "Winners" brand name, and our proposal would be to establish a "Winners" in Willimantic called Willimantic Winners. He said it will be a stand alone facility within the building. We think that the Thirsty Frog and the quality of that operation will be a real benefit for us, and it promises to be a successful branch location. The concept of smaller branches co-located with entertainment or dining facilities is the new model that Autotote is trying to achieve. Rather than having a stand-alone OTB we are trying to locate them in smaller venues, and interfacing with partnerships in an effort to create a more robust entertainment destination. He said we are trying to create an environment to add to the entertainment type goal. We think that having Willimantic Winners located directly adjacent to the Thirsty Frog will create a draw, a niche in the Downtown, to bring people into the Downtown.

Willimantic Winners will be located in the center of the building between the restaurant and the check cashing facility. It will span two floors, and will be connected with a common stairwell. He referred to the drawing and identified the layout of the first floor of the OTB. This involves adding a new dedicated access-way between the check cashing facility and the restaurant. It will open up into an area of approximately 600 sq. feet of patron space. From there you can see a stairway leading to a common stairway in the building going up to second floor lounge area. There will be a common hallway that leads from the Thirsty Frog to the stairway between the levels. Although the operations will be run separately, we will have a partnership with the Thirsty Frog to provide waitress service to the OTB areas. In essence the Thirsty Frog would cater to our facility.

We initially anticipate employing 2 full-time employees and up to 4 part-time employees at the facility. Our proposed hours of operation are 11:30 A.M. to 6:00 P.M. Sunday through Tuesday, 11:30 A.M. to 11:00 P.M. Wednesday and Thursday, and 11:30 A.M. to midnight on Friday and Saturday. He said patrons to the OTB area will be restricted to age 21 years and older. On big race days, like the Kentucky Derby and the Preakness, we may attract larger groups as they are special event days, and those special days may create a draw to bring people into the Downtown making it a real community event.

He said based on survey data from other small branch locations Autotote expects that 10-15 patrons will frequent the facility at any given hour on weekdays. On weekends that number will increase to 20-25 customers per hour.

Parking on the site is currently provided by a large parking lot adjacent to the building. We feel that the existing parking lot is sufficient to serve the additional use because our needs are a little different for the restaurant and check cashing use. A sign for the OTB will be designed in accordance with the Regulations and a separate permit for its installation will be obtained from the Zoning Enforcement Officer. With the exception of the signage, no external building or site modifications are proposed in connection with this proposal.

Mr. Sweeney said due to state regulations Autotote needs approval from the town's legislative body (Town Council) in order to get a permit for the off-track betting venue. It also needs approval from the Planning & Zoning Commission. Public hearings will be required for both, he added. The Planning & Zoning's actions are separate from the Town Council because we will be considering an application for a Special Permit. We need approvals from both bodies in order to be able to go to the State of Conn. seeking permission to open the OTB. If the Town Council votes negatively then we would withdraw our application before the PZC, he said.

Mr. Sweeney said the benefit of allowing the OTB is that the proposed facility would generate approximately \$64,000 in handle revenue, and this revenue would be paid directly to the town. The better the business does the more revenue would go to the town, he added.

Chair Paula Stahl said our goal is to determine if the proposal meets our Regulations while the Town Council determines if gambling is appropriate for the town.

Curtis Ehler made a motion to set a public hearing on March 25, 2010 and Vic Rayhall seconded the motion. The motion carried unanimously.

A general discussion ensued. Jean Chaine asked if there would be potential for liquor to exit the premises. The restaurant has the bar license, and the waiters and waitresses will provide service to the patron of the OTB upstairs. Will that be considered two separate operations, asked Chaine. Will you be running into a problem because liquor is going from one location to another? Does that become two issues that the Liquor Commission needs to act on? Mr. Sweeney said the OTB area will require a different kind of liquor permit. It is called a Special Sporting Facility Permit and it is issued by the State of Conn. You cannot take drinks between premises though. That is why we have to have access control between those areas. There will be two different liquor permits for the premises. He said if you are an on-premises liquor sales facility, and you allow liquor to leave the facility, you are going to lose your license real quick, added Sweeney.

Code Enforcement Officer Matt Vertefeuille said there are plans for an outdoor patio which will also extend the liquor permit. They will need a different liquor permit for that as well, he added. Any restrictions such as fencing etc. falls under zoning, said Vertefeuille. The State Liquor Commission allows the local authority to dictate what type of barrier it needs between the parking lot and the sale of alcohol.

Commissioner Dawn Niles said she has some concerns about parking. The parking lot is pretty full Thursdays – Saturday nights, and we will be adding business number three. She asked the applicant to address parking at the public hearing. Paula Stahl also had concerns with parking.

Dawn Niles questioned the need for a walkway between the municipal lot and the restaurant. Mr. Sweeney said the commission's comments would be taken under consideration, and he agreed to provide more information at the public hearing.

3) Misc.

Dawn Niles referred to tonight's agenda. She said the agenda does not include an area for public comment. If someone has an issue on something they feel should come before the P&Z, there is no area on the agenda to allow comments from the public. Planner Finger suggested submitting this in writing and it could be taken up under correspondence. Dawn Niles said this should also be included on our web page. Planner Finger agreed to post this on the web page.

4) Other Business

a) Overview of Current Regulations

Planner Finger's staff report explained that when the previous Planning and Zoning Commissions met together in December there was a general review of current Planning and Zoning Regulations. Now we have new members so I left it on the agenda just in case you want to touch on that again, he said. At the last meeting, we had a snowstorm and some of the members couldn't make the meeting so we put it off to a later date. I don't know if there is anything in particular that you want to discuss; perhaps we could talk about special permit procedures and site plan procedures, which are two separate functions. A special permit requires a public hearing. A site plan doesn't require a public hearing, but the detail is much more rigorous.

Finger said he listed tonight's application on the agenda as a preliminary presentation primarily because there isn't a regulation for that use. A formal application was filed, and the Commission took the proper action to schedule it for a hearing. The former Zoning Commission didn't have any application before them; they simply considered it as a request for Certificate of Zoning Compliance in order to determine if they needed to come before the board at all. It was determined that they needed to come before the board, and since we didn't have a category for them we felt the best fit was the special use, said Finger. With respect to the liquor permit, when the Zoning Commission approved this premises for a restaurant last year it was for the entire premises. We identified a certain floor area for the restaurant, but we didn't restrict the liquor permit to just that area. The liquor permit is for the entire premises; it is not limited to the floor area of the restaurant. He said the restaurant has been very popular and they have generated a lot of traffic. Maybe our parking regulations are too onerous and maybe they need to be modified.

Planner Finger said UConn did a study in the past, and they recommended far fewer parking spaces than what we require in the regulations. Across the street, you have the B-1 District which has an exemption for parking and that continues right up to Town Hall. It is an odd situation of regulations and districts and classification of uses. You have a lot of latitude to determine the appropriateness of the use. If you feel that it should have a different classification and a larger parking provision, it is your prerogative to assert that under the special permit rules. On the site plan there is not much discretion; it is just reviewing the site plan details, landscaping etc. Maybe we need to examine the parking regulations, said Finger.

Curtis Ehler said during the presentation this evening Mr. Sweeney talked about whether it is our job to determine if the proposed use is consistent with the Downtown. The special permit process requires us to look at whether the use is consistent with the spirit of the zone. Planner Finger said this particular property was approved for an entertainment facility and restaurant. It probably fits in that category. Mr. Ehler asked are we supposed to consider the abutting zone. Planner Finger said I think you need to because they are not separated; they are abutting. The Town Plan of Development & Conservation talks about expanding the B-1 District up to Windham Mills. This property would be incorporated in the Downtown area. The question of parking is then moot because the downtown area does not require parking. Curtis Ehler said the special permit process talks about the spirit and intent of the district. Mr. Finger said this area is classified as Industrial M-3, but by no means is this an industrial area, but I do not have the ability to make that judgment.

Planner Finger gave a history of the zoning regulations that were adopted in November 1943 when they actually had industry. That area was heavily used for industry with a huge rail-yard that was actively used.

The public hearing is scheduled for March 25, 2010.

b) Chair Stahl referred to Policies and Procedures for processing applications. Planner Finger suggested that commission members study them and highlight areas that they want to discuss. He clarified that the office of secretary as listed in the by-laws is an elected office. The clerk is not that elected office. Staff cannot be elected officers.

5) Routine Business

a) Approval of Minutes

Action on the minutes of January 28, 2010 was deferred until the next meeting.

b) Correspondence

1) February 23, 2010 Revised Initial Study Report from Albany Engineering for the Scotland Hydroelectric Project (FERC Project Bo. 12968).

2) Code Enforcement Officer Matt Vertefeuille said he received an e-mail from Windham Hospital just as a FYI. They are going to have an excavator on the premises and they will do some digging to identify ledge on the site so that when they come back to the commission with their plan they will have the first building correctly positioned on the plan.

3) Misc.

a) Claire Lary asked for a P&Z member to volunteer to serve as an alternate representative to WINCOG. The group meets on the first Wednesday of each month at 7:30 P.M. They review applications for zone changes, subdivisions that occur near town boundaries, do some transportation planning. This discussion will be continued at the next meeting.

b) Chair Paula Stahl asked commission members to identify some of the goals they wish to achieve over the next year or two in order to move forward.

A general discussion ensued. Some of the commission's comments and suggestions are as follows:

Jean Chaine suggested looking at the Zoning Regulations and the zones to make sure they reflect the Plan of Conservation and Development because that will have a long range impact on many things that will be coming before us. Claire Lary said one of the reasons the commissions were merged together was to make things easier for applicants. She suggested having a flow sheet with the applications to make it easier for both the commission and the applicants. Curtis Ehler suggested looking at our existing roadways and how we can manage development while protecting our resources. Code Enforcement Officer Matt Vertefeuille said the commission needs to be more business friendly and needs to look at areas throughout the town to attract new businesses. Juan Montalvo said we need to look at what we can do to make the Downtown move forward. Dawn Niles agreed that we need to make the commission more business friendly. We need to do all we can to attract businesses to town. We also need to make sure the zoning regulations and the zones are compatible with the Town Plan. Paula Stahl said she has talked with the Town Manager and to Mayor Eldridge about how we can become more economic development friendly, more business friendly. The Town Manager said virtually every application that comes before the commission ends up being a special permit because the zoning regulations aren't really keeping up with what is happening in town. We have a tremendous opportunity to be ready when the economic downturn turns. It is going to turn back and our regulations have to be ready to welcome new businesses when it does. She added that she has talked to the mayor, as well as the town manager, about finding some funding in order to help us rewrite the regulations. She said she plans to meet with the Economic Development Commission to talk about developing future plans. Curtis Ehler said one of the purposes of the Economic Development Commission is to interact with the commission and act as a representative for businesses that come before the commission. Dawn Niles said one of the things that we had envisioned was being able to communicate back and forth with this commission, and to find what it is in our zoning regulations hindering us from bringing economic development to the Downtown. Paula Stahl said the North Windham area is a key area for business development, but we need to make that area pedestrian friendly. We need to create a master plan for North Windham in order to attract new businesses and increase the density, while keeping in mind that it needs to be the kind of development that will benefit the town.

Jean Chaine said a certain amount of money was to be included in the budget for a new town parking garage. He said the Planning Commission had recommended a different site for the proposed structure. Matt Vertefeuille said we looked at three sites and everyone agreed that the Walnut Street site was the most viable. Paula Stahl asked how will the town fund this. Dawn Niles said the town would probably have to go back to the government to seek funding.

As there was no other business, the meeting was adjourned at 8:45 P.M. Motion by Jean Chaine and seconded by Vic Rayhall. So voted.

Respectfully submitted,

Lillian Murray, Clerk