

Town of Willington
Planning and Zoning Commission
Meeting Minutes

October 4, 2022 – 7:30 PM

This hybrid meeting was held at Willington Town Hall (40 Old Farms Rd) and via Zoom

A. Call to Order

W. Parsell called the meeting to order at 7:30

Members Present:

Walter Parsell
Bob Shabot
Andy Marco
Rebecca Sinosky
Joe Hall
John Tehan
Doug Roberts (Virtual)

Also Present:

Mike D’Amato – Zoning Agent
Chris Roberts – Assistant Land Use Agent

B. Roll Call/ Seating of Alternates

C. Applications for Receipt

D. Public Hearing

1. PZ-22-11: Special Permit Application for Expansion of Home Occupation to add propane delivery at 163 Ruby Rd. Applicant/Owner: David Lytwyn.

W. Parsell asked if staff had visited the site. M. D’Amato explained that they had visited the site and had a discussion addressing the visibility of the home occupation as seen from the road and how screening could be improved.

David Lytwyn provided the commission with documents which included his responses to questions and concerns raised by the public. He addressed these concerns with the commission. D. Lytwyn noted that maybe the towns home occupation regulations could be updated. D. Lytwyn went on to present data he had compiled pertaining to propane.

R. Sinosky asked D. Lytwyn where the other two trucks would be put when not in use. D. Lytwyn responded that they would be located on his property that was not visible.

T. Bissonnette asked for clarification that in the realm of DEEP, if the lot which was 13 acres total, had 1.84 acres for the business and the residence, and the other 11 or so acres were for the forest land. D.

Lytwyn answered that what T. Bissonnette was referring to a tax designation of forest land with the assessor's office. T. Bissonnette stated that his question wasn't answered and through his research on DEEP's policies that land classified as forestry was not allowed to be altered, built, or used for storage. D. Lytwyn stated he could drive his equipment on the land.

Nick Tella stated that he didn't think D. Lytwyn's property was an eyesore and said it was good to have small businesses expand.

Jean Poirier stated he was D. Lytwyn's neighbor and that he felt the same.

Maureen Lowe-Choa-Lee asked when a home occupation was required to change their home occupation over to a commercial business. M. D'Amato stated there was no clear line drawn in the regulations. He said home occupations were a diverse category of uses and was really a context decision made by the commission. M. Lowe-Choa-Lee stated that didn't answer her question and clarified the question.

R. Tulis stated that he thinks Maureen's question was more of a rhetorical question. He spoke to his experience when the regulations were written in the 90s. He said that it's the commission's job to answer this question. He stated that when D. Lytwyn got his home occupation there were conditions that he has had trouble complying with and he needs to pay more attention. Ralph Tulis stated that an A-2 survey should be provided to show the exact line so it's clear where the home occupation exists. He reiterated and stated that screening is essential.

D. Lytwyn stated that he discussed the potential for a fence and gates to screen the property with M. D'Amato and C. Roberts. He said he was willing to do so.

R. Tulis spoke to the impacts of putting up fences and gates.

T. Bissonnette presented more concerns to the commission. M. Lowe-Choa-Lee provided copies of his comments to the commission. A. Marco clarified that T. Bissonnette said that "Lytwyn Construction" was advertised on the internet. T. Bissonnette said that when he types it in on google it shows up. A. Marco disagreed that that was an advertisement and said that if he googled his name it would come up but that doesn't necessarily mean he is advertising himself. T. Bissonnette said that that was part of his confusion. He said he was confused as to why Dave Lytwyn had four active businesses registered with the State of Connecticut. A. Marco said that advertised and registered are two different things. T. Bissonnette said he would consider that an advertisement. T. Bissonnette continued with his comments to the Commission.

N. Tella pointed out other similar businesses in town and said we should hold all businesses to similar standards.

M. Lowe-Choa-Lee stated that whether these businesses are registered home occupations makes a difference.

Nicolas Lytwyn pointed out that D. Lytwyn previously spoke to the existence of multiple LLCs.

A. Marco pointed out the difference between home occupation by certificate of zoning compliance and by special permit and the regulations related to number of employees allowed. He pointed out T. Bissonnette's concern with the different addresses on the tax records and noted the permit in front of

the commission states the address as 163 Ruby Road which is D. Lytwyn's residence. He stated what the tax record said was not germane to the application. T. Bissonnette and the commission discussed this further.

W. Parsell pointed out the main concern of T. Bissonnette's is the visibility.

D. Lytwyn discussed screening.

T. Bissonnette clarified that in 2012 D. Lytwyn applied for home occupation via certificate of zoning approval. He added that now he is applying for a home occupation via a special permit. A. Marco thanked T. Bissonnette for his clarification.

B. Shabot stated that a way out of this could be that D. Lytwyn reduces the amount of land designated as forest land on his assessment. D. Lytwyn discussed this with the commission.

W. Parsell again noted that the biggest issue he sees is that the home occupation is visible from the road.

T. Bissonnette agreed and expanded on this and agreed with B. Shabot that D. Lytwyn should put the vehicles further back on the property.

Nicolas Lytwyn pointed out that D. Lytwyn already explained which vehicles would be part of the application.

T. Bissonnette stated all he is stating is what he can see.

W. Parsell asked if there was anything new to be added and again noted that the main concern was screening.

W. Parsell Motioned to close the public hearing.

M. D'Amato noted that the Fire Marshall had no comments or concerns.

Joe Hall seconded the motion to close the public hearing. **All in Favor. Motion Passed.**

2. PZ-22-13: Text Amendment Application pertaining to modifications to the Strategic Development Zone (Section 12.15). Applicant: James Marshall Postponed from 09/13/22. Close hearing by 11/08/22

J. Marshall introduced himself as the applicant and explained his background. He explained that he submitted a complaint about the inappropriate discussion of his application by the EDC at their last meeting, as well as M. D'Amato being present at the meeting as the commission's consultant and the lack of advice provided.

J. Marshall explained the intent of his proposed text amendment noting that the existing regulation had been tested in PZ-22-10 and its weaknesses had been exposed. He noted scale being one of the many issues addressed in the text amendment. He began to explain the contents of the text amendment. J. Marshall noted that a draft of the SDZ regulations were sent to CRCOG for review and then they were updated to include the proactive approach after the review. He asked if the draft could be made available.

He explained that one of his main arguments was that the regulation should favor the residents of the town rather than developers. J. Marshall noted that he was striking the proactive process. He noted the CRCOG review of his application and responded to their comments. He cited surrounding towns and noted that none of them had regulations like the SDZ. He went through the proposed amendments and explained his second amendment was to incorporate definitions of warehouse and subcategories in section 5 Use Categories. He said the commission should differentiate between storage use, distribution and logistics use. He asked the PZC to consider proposing a text amendment for a moratorium of warehouses.

B. Shabot stated that he would rather have the amendment show the changes separately from the text. W. Parsell said that defining warehouse and subcategories made sense to him. W. Parsell noted that there were a lot of strikeouts in this text amendment and asked why not just get rid of the whole regulation in that case. Doug Roberts agreed and stated that he thought the SDZ regulations were flawed, and this was exposed during PZ-22-10. A. Marco questioned what was flawed with that process. D. Roberts said because the developers didn't have to provide more info and were basically asking for approval for the zone change and then they would provide more information later. A. Marco asked if the commission needed more information and stated that he didn't need more information. B. Shabot said that this was a large application, and, in this case, he would like to see an environmental review. W. Parsell stated that only a thirty percent design was required which didn't show much detail. B. Shabot noted that one good thing about the SDZ is that it gives the commission an opportunity to see the proposal up front along with the zone change request, allowing the commission two opportunities to decide on an application. J. Marshall said this is true but stated that it would put the town at risk for being sued. He said that if the commission approves that a project is appropriate up front and then denies it in the second stage after requiring extensive studies and due diligence, that makes it harder to fight. He stated that's why he focused on the proactive application and that they should get the due diligence up front and make a fair hearing. B. Shabot pointed out that then the commission only gets one chance at a higher level of development, making it more prone to legal action. He said if they can create the regulation in a way that still gives the commission two opportunities, that it would be beneficial. J. Marshall suggested getting seventy percent design up front and then final approval. B. Shabot noted that J. Marshall brought up good points but reiterated that two opportunities for review was better. R. Sinosky said she thought that there would be two opportunities for the commission to review traditionally, one when they apply for a zone change and one when they apply for a special permit. B. Shabot asked what happens when the zone is already changed, adding that all they need is the special permit if there is no SDZ regulation.

B. Shabot asked M. D'Amato if that was correct.

M. D'Amato cited past zone changes and explained the difference between a traditional zone change, the traditional process through the SDZ regulations and the proactive process through the SDZ regulations. A. Marco asked where the regulations for the traditional zone change is. M. D'Amato said that there is language in the regulations.

The commission and the applicant further discussed these ideas.

J. Marshall stated that this is still a special request for a use that falls outside the traditional zones and in his opinion that it shouldn't be a free for all.

A. Marco stated that he thinks of the landowners in town and pointed out that there are multiple large tracts of land and stated that there is another side to this. This was further discussed.

M. D'Amato asked to clarify some points. He stated that the document that went to CRCOG was the same document that went to hearing and that the PZC talked about on the February 19th meeting. J. Marshall asked if that could be posted. M. D'Amato said it was online. J. Marshall disagreed stating that it wasn't according to meeting minutes. M. D'Amato said that it was the document in the February 19th meeting folder. J. Marshall clarified and said that that document that was submitted to CRCOG was approved on the 19th, but changes were made afterwards. M. D'Amato explained that the document was submitted before the public hearing and that doesn't prevent the commission from editing it afterwards. J. Marshall stated that his point in bringing it up was that the proactive process wasn't part of the original regulation, and he questions whether it was created to favor a specific developer. M. D'Amato stated that he was happy to forward it to J. Marshall and the SDZ was originally envisioned by the Economic Development Commission. He explained the intent of the SDZ. M. D'Amato and J. Marshall discussed this further.

D. Roberts said that the commission should incorporate max limits into the SDZ. He explained it would give the regulations a basis for applications the town wants to see. The commission discussed further.

D. Roberts asked the commission where they should go now, should they impose a moratorium, or should they go forward w J. Marshall's application.

J. Marshall asked why they couldn't do both.

W. Parsell asked what moratorium would do at this point.

M. D'Amato said it would prevent a new application under the SDZ regulations.

M. D'Amato said that the commission could limit the aggregate size of buildings. He said that they could add definitions for warehouses. A discussion ensued related to capping building sizes.

Ellie Lowell asked a question about section 12.15.10 of the SDZ regulations.

N. Tella asked if they could do 70% plans for large developments and lesser requirements for smaller developments. He asked what the point of the SDZ regulations were. He made comments regarding putting a hold on applications for large development.

R. Tulis stated he was in support of a moratorium. He stated that there is more discussion needed to take place. He stated it would be stupid to wrestle with another application under SDZ when we don't know what we want. He talked about concerns with the SDZ regulation.

Kathy Demers stated she had submitted a letter today. She stated concerns with the ability of the PZC to vet an application at a 30 % design level. She agreed that the term Warehouse should be further defined and delineated into subcategories. She agreed with adding maximum size restrictions. She spoke to the letter submitted by CRCOG.

R. Sinosky left at 10:36 PM.

Marissa Pelletier stated she agreed with the applicant, K. Demers, and R. Tulis' Comments. She stated she supports a moratorium.

W. Parsell asked the commission what the thoughts on a moratorium was. J. Tehan said it would be warranted. W. Parsell said that he believed there was a merit to the SDZ regulations, but it needed tweaking. J. Tehan agreed. W. Parsell asked what the process for a moratorium was. M. D'Amato explained the process and said it would be a text amendment. He said he could draft language for a moratorium for the next meeting.

W. Parsell motioned to continue PZ-22-13. J. Tehan Seconded **All in favor. Motion Passed.**

E. New Business

None

F. Unfinished Business

1. PZ-22-11: Special Permit Application for Expansion of Home Occupation to add propane delivery at 163 Ruby Rd. Applicant/Owner: David Lytwyn.

W. Parsell felt they should review conditions.

M. D'Amato discussed the application and explained potential conditions. The commission asked M. D'Amato to prepare a formal motion and they would review it next meeting.

2. PZ-22-13: Text Amendment Application pertaining to modifications to the Strategic Development Zone (Section 12.15). Applicant: James Marshall

PH Continued to 10/18/22.

3. PZ-22-14: Text Amendment Application, pertaining to the prohibition of Cannabis Establishments (Section 13). Applicant: Willington Planning &

Continued to 10/18/22.

4. Affordable Housing Plan- Review of Draft

M. D'Amato explained again where the commission stood with the affordable housing draft.

G. Approval of Minutes

1. September 20, 2022

J. Tehan Motioned to approve the minutes. W. Parsell seconded.

B. Shabot noted an error in the minutes.

*Page three, 24 lines down "*watercourse*" was meant to be "*water source*". *

All in favor as modified. Motion Passed.

H. Public Participation (for items not on the agenda):

J. Marshall asked whether the moratorium would include warehouses or just SDZ applications.

W. Parsell said it was just on SDZ applications.

N. Tella updated the board on his FOIA request.

I. Correspondence

None

J. Staff Report/Discussion**1. 331 River Rd**

M. D'Amato updated the commission on enforcement action taken at 331 River Road.

2. Zoning Regs Update

M. D'Amato explained there were a lot of areas of the regs that needed updating and wanted to put it on the commissions radar. A discussion ensued regarding zoning regulation revisions.

K. Adjournment

W. Parsell Adjourned the meeting at 11:02 pm.

Respectfully Submitted,

Christopher Roberts, Assistant Land Use Agent

