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WETHERSFIELD PLANNING AND ZONING COMMISSION
PUBLIC HEARING
September 20, 2005

The Wethersfield Planning and Zoning Commission held a public hearing on Tuesday, September 20, 2005 at 7:00 p.m. in the Wethersfield Police Department Meeting Room 250 Silas Deane Highway, Wethersfield, Connecticut.

Members present:

Joseph Hammer, Chairman
Theresa Forsdick, Vice-Chairman
Philip Knecht, Clerk
Margaret Wagner
John Hallisey
Thomas Harley
Fred Petrelli
Anthony Homicki

Members absent:

Peter Leombruni
Dorcas McHugh
Robert Jurasin
David Edwards

Also present:

Peter Gillespie, Economic Development Manager/Town Planner

Commissioner Forsdick opened the meeting and introduced herself as the vice-chairman. She opened the meeting and said that the Chairman would be present later on in the evening and she would be assuming the chair until he arrived. The commission decided to skip the first application 1478-05-Z for now and instead begin with application 1481-05-Z.

APPLICATION NO. 1481-05-Z. Jola Kuzmicz seeking a Special Permit to conduct a business in a residential zone at 5 Timber Trail.

Jola Kuzmicz said that she has a part time catering business in her home. She doesn't have a sign in front of her house or on her van. She gets deliveries once or twice a month, maybe three times a month and it is not in the early morning. She said that she is quiet and doesn't bother anyone. She mainly does school or church functions like communions. She also does small parties, where she will prepare some of the food in her house and the rest at the rented hall.

Commissioner Hallisey asked Mr. Gillespie if there had been any complaints. Mr. Gillespie said that there had not. The business had been approved through the variance process by the ZBA in 1998 and renewed in 2001 for four years with two conditions:

- No signage on the house or the van
- No deliveries made during the early morning or late evening hours

Because of the new regulations, this application now gets sent to the PZC. Commissioner Knecht asked if the applicant ran a catering business and she said yes. Commissioner Petrelli asked if there were any delivery trucks coming to the site. Ms. Kuzmicz said that sometimes a truck will come to deliver meat at 11 am or 12 noon only once or twice, maybe three times a month.

Motion by Commissioner Petrelli to close the public hearing

Seconded by Commissioner Knecht

All members present voted in favor

(Aye: Forsdick, Knecht, Wagner, Hallisey, Harley, Homicki, Petrelli)

Hammer not present

APPLICATION NO. 1482-05-Z. Mary Rich seeking a Special Permit to allow a second living unit in a single family residential zone at 20 Highcrest Acres Road.

Mrs. Rich said that this is her third request for a permit. The first request was approved in 1997. Her husband was getting older and their older son came to the house and set up an auxiliary apartment in the house in order to help them out by taking care of the house. She said that there is no lock in between the units and it is a simple pass through door. Here are separate kitchen and bathroom facilities and she had divided the family room so that there was living space for both units. She said that it works for them. Her son takes care of the outside of the house and is her in-house handyman. She babysits her grandchildren. She doesn't know about any objections to her situation and she would like to get two or three more extensions of the variance in order to see her grandchildren finish school.

Commissioner Forsdick said that probably if the permit is approved there would be no time limit. This appeal is to a different commission with different rules. She then called for any members of the public against the application.

Attorney Mark Branzz stepped forward to speak on behalf of Lisa Ambrosio and Dr. Ricardo Ambrosio of 42 Highcrest Acres. He said that he would not be here if what Mrs. Rich is seeking was what she represented. Dr. and Mrs. Ambrosio are aware of the temporary five year variance and the renewal in 2000 and do not object if there is a stipulation that the approval be limited to the present family, herself and her husband and then dismantled to a single family. Just last week, Mrs. Rich represented to Dr. Ambrosio that she just wanted another renewal for five years and only today did Dr. Ambrosio say that Mrs. Rich wanted a permanent situation to pass on to other owners or buyers. This is not what the Ambrosios were told when they bought the house and they do not want a permanent two-family dwelling there. There is a declaration on file that restricts all four of the houses to single family dwelling only. This application is a violation of that declaration. His clients never objected before and if Mrs. Rich needs it then they are fine with it. However, they do not want a permanent two family without restrictions. Atty. Branzz distributed a copy of the declaration to the members of the commission. He then talked about the sections of the zoning regulations that require detailed plans, a copy of the deed, floor plans and a sworn notarized statement in order to have a complete application. He testified that none this material was submitted. He said that they are concerned about adequate off street parking there is no site plan showing parking and the applicant has no garage. He is not aware of a parking problem but Mrs. Rich's son has a stepdaughter that may be driving soon. There is no limitation on occupancy in the Wethersfield regulations which Atty. Branzz found unusual. He talked about the potential number of cars being 3-4. The special permit process as defined in the regulations section 8 talks about the application as it relates to the neighborhood. A permanent two-family would alter the character of the area and affect the property values. He relied on the limitations in the parking regulations. He finds that a two family residence is not suitable to the character of the neighborhood. Also, the declaration does not allow a two-family residence.

Finally, he said that Mrs. Rich lacks standing to file the application and in fact no property owner has the right to file an application for a two family because of the declaration. He said that the application is incomplete and doesn't meet the standards. He would support a special permit limited to five years with the opportunity to renew it if it is limited to one occupant in the accessory apartment and it is a blood relation of the principal. He understands that the commission cannot place a restriction that would limit it to just Mrs. Rich and he is not asking for that.

Commissioner Hallisey asked other than the owner who has the property rights. Attorney Branzz said that no one has the standing to seek a two family dwelling under the declaration. Mrs. Rich said that all of this had been approved by the town and that the declaration says that if the town approves a change then it is ok.

Commissioner Forsdick asked Mrs. Rich if she would accept the same conditions of the ZBA if they decided to allow

the unit for five years and only to a blood relative. Then she can come back. Commissioner Wagner asked if her husband lived in the apartment. Mrs. Rich said that the house was built in 1970 and the accessory apartment was built in 1997 with the purpose to help them out. Commissioner Wagner asked if her son was the only one in the apartment. Mrs. Rich said that it was her son, his wife and three grandchildren. Her son and his family are in the main house and she is in the accessory apartment. They have a circular driveway. Commissioner Wagner asked if she is the property owner but not living in the main house. Mrs. Rich said that her son has the main house because of the children and she only needs a few rooms.

Commissioner Petrelli asked if the request was denied would that pose a hardship on Mrs. Rich. She said that it would because she would lose her independence. She will come in every five years. As far as she knows she and her son followed all of the regulations. Dr. Ambrosio's statement that she was dishonest is not true. The former owner of his house did not inform him of the situation and if he had, maybe he wouldn't have bought the house. She said that she did nothing wrong. Atty. Branz said that there is no deception claim. Commissioner Harley asked if her unit qualifies as an accessory apartment without an outside door. Mr. Gillespie said that the regulations say that it cannot change the character of the home. It has to be accessible from the principle dwelling by an operable door or permanently closed breezeway. There is no specification about a mandatory outdoor entrance.

Mr. Gillespie said that if the commission chooses to approve the application, they are not approving a two-family, they are approving an accessory apartment to a single family dwelling and there is a distinction. Atty. Branz said that an outside door exists. Commissioner Petrelli asked if the permit would run with the land. Mr. Gillespie said that it would unless there is a time limit on the permit. Then in order to pass on to subsequent owners there still needs to be a blood relative, etc. Commissioner Petrelli said that if this easement runs with the land and if it is passed on, the new owner can use the apartment. He has no objection to the manner in which it is presently set up. Mrs. Rich says that her son doesn't want to rent out her apartment if she is gone.

Motion by Commissioner Wagner to close the public hearing

Seconded by Commissioner Harley

All members present voted in favor

(Aye: Forsdick, Knecht, Wagner, Hallisey, Harley, Homicki, Petrelli)

Hammer not present

APPLICATION NO. 1487-05-Z. Marilyn Kelley seeking a Special Permit to park a camper in a residential zone at 201 Dale Road.

Marilyn Kelley is asking to park the camper owned by her deceased husband in her driveway. She still has to go through the probate process and it is not yet in her name. Her son is helping her with this process. Mr. Robert Kelley submitted photos and letters from the neighbors indicating that they had no objection. He also submitted a petition with over 50% of the abutting neighbors not opposed to the application. Commissioner Hallisey asked Mr. Gillespie if this petition had a similar effect to the other one that they had recently received which required a 2/3 vote of the commission. Mr. Gillespie said that one was under a different statute and that this was not the same thing.

Commissioner Hallisey then asked if there had been any complaints. Mr. Gillespie said that initially there was a complaint which prompted the building official to take a look at this. However, the only objection that he received was an email with no name on it. He indicated that the file contains a petition with 25-30 signatures in support of the application. The regulations limit the size of a recreational vehicle to 18 feet in length and require it to be parked in the rear of the lot. This one is well over 18 feet and is parked on the side of the driveway.

Commissioner Petrelli informed the commission that the probate process takes time. Right now the camper is an asset of the estate and it will need to be turned over or sold. If it does pass to Mrs. Kelley then he wondered if they would keep it or sell it. Robert Kelley indicated that they would like to use it for a little while then sell it.

Mrs. Kelley said that her husband died on August 6 he went into the hospital for a heart operation and didn't come home. A man was at her door two weeks later asking her to move the camper. Robert Kelley said that they may have to sell the camper anyway, if not, they wanted to keep it for another year or so and they would be agreeable to a time frame.

Commissioner Forsdick asked if they would be agreeable to the time as the end of probate. She said that it is huge and doesn't look like it could be put in the rear yard. She can see letting it stay there until the end of probate but after that it is not a good thing. Commissioner Petrelli said that the probate process can take nine months to a year and sometimes longer to find the assets and file.

Robert Kelley said that the rear yard is fenced in for the dogs and he would have to remove a tree and bushes to get the camper around the house. Commissioner Wagner said that she lives on Clearfield Road and walks past this house with her dog. She always remembers the camper being parked there and doesn't find it offensive. She said that it is bad timing, but that Mrs. Kelley could have gotten this notice at any time over the last two years that she has had the camper. She said that she understands the concern about wanting to keep it but that it can't be allowed because it is too big. Robert Kelley said that he knows of three campers that were accepted last year. Commissioner Hallisey said that the commission did approve one in a side yard on a street off of Nott and that it was 28 feet long. He also said that he sees how this one cannot fit in the rear yard and that it really doesn't stick out that far in the driveway. When he was driving by the site, he noticed one on Jameswell that stuck out far. He asked if that one had been approved and Mr. Gillespie was not sure without checking the records. Commissioner Hallisey went on to say that this camper barely caught his eye, and he sees how there is no side yard or driveway to house it and it has to stay in the driveway.

Commissioner Forsdick asked if anyone wanted to speak in opposition. Seeing none, she asked if anyone wanted to speak in favor.

Florence Norkin, 119 Mapleside Drive, said that she and her husband were glad to sign the petition in favor of the application. Mrs. Kelley walks her dogs and used to use the RV to go to dog shows. She thinks that it is a wonderful way to enjoy retirement and she hopes that she will be able to continue to use it.

James Diamond, 192 Dale Road, said that he has lived there over 30 years and does not find the camper offensive. He thinks that it should be allowed.

Bruce Johnson, Griswold Road, is a former member of the ZBA and he used to have Mrs. Kelley at Emerson-Williams School. He asked the commission to look at the hardship, especially with Mr. Kelley passing on. He said that she would have parked it on the side but then it is hard to use. He added that it does provide the town with \$1000 in tax revenue. He said that he sees some of the commissioners thinking about a time limit, which Mrs. Kelley is not adverse to. He urged the commissioners to give them at least two years to get through probate and get some use out of it before they have to sell it. Mrs. Kelley is a great teacher to a lot of students and he just wanted to rise in support.

Motion by Commissioner Hallisey to close the public hearing

Seconded by Commissioner Wagner

All members present voted in favor

(Aye: Forsdick, Knecht, Wagner, Hallisey, Harley, Homicki, Petrelli)

Hammer not present

APPLICATION NO. 1488-05-Z. Sebastian Tata seeking a Special Permit to construct a shed larger than permitted in a residential zone at 130 Windmill Hill.

Sebastian Tata asked to build a shed with the dimensions 12' by 20' which is 40 s.f. over the allowable area. Commissioner Forsdick asked why he needed the extra space. Mr. Tata said that he needs more space to store his equipment like snowblower, lawn mower and lumber. He built a shed that was 12' x 16' but needs more room and

would like to construct one 12' x 20'. Chairman Hammer asked Mr. Tata to explain where it would be on the site.

Mr. Tata said that the two abutting neighbors did not object. It would be on the southeast corner of the property. Chairman Hammer asked if it would be visible from the street. Mr. Tata said that it wouldn't be very visible because he has over 1/3 acre of property.

Commissioner Forsdick said that the location on the property line and the bushes in the back of the property, it won't be seen from the street. Mr. Tata said that you may be able to see it driving down the street, but it will be set way back within the proper setback dimensions. Chairman Hammer called for any speakers on the matter.

Stafi Manusos, is an abutter to the property. He had submitted a signed letter saying that he had no objection, but also wanted to appear. Chairman Hammer asked him which side he abuts the property. He said to the west.

Commissioner Petrelli asked if he would place the shed close to the side yard but maintain the proper setback. Mr. Gillespie said that was what was presented with a five foot setback as required. Chairman Hammer asked if the other abutter had signed. Mr. Tata said that he had. Commissioner Hallisey asked if this would be fairly well screened to the ears with trees or bushes. Mr. Tata said that it would be heavily screened to the south and east.

Motion by Commissioner Wagner

Seconded by Commissioner Forsdick

All members present voted in favor

(Aye: Hammer, Forsdick, Knecht, Wagner, Hallisey, Harley, Homicki, Petrelli)

APPLICATION NO. 1489-05-Z. Jason Schnur, Steve Ballinger, Steve Foldvary seeking a Special Permit to construct a greenhouse and conduct sales of nursery products at 1943 Berlin Turnpike.

Steve Ballinger presented the application to renew the nursery permit that expired in 2003. He would also like permission to build a greenhouse. He referred the commissioners to the site plan and said that it would be on the existing Cedar Mountain Stone and Mulch site. Commissioner Forsdick asked if they were leasing the site. Mr. Ballinger said that they were. Commissioner Petrelli asked for confirmation on the location. He received it. Commissioner Forsdick asked Mr. Ballinger to explain the site plan, which he did. Chairman Hammer asked if there were any questions or speakers on the matter. Mr. Gillespie said that for the record there had been a letter sent by Ozlem Camli from the Rainbow Center in support of the application.

Mr. Gillespie said that he had also referred the application to the Newington planner who indicated that he had no objection. He also said that the zoning regulations do not specify a parking demand for this use. He conferred with the zoning office and the town engineer and they are satisfied with the number of spaces proposed. The ZBA has granted a temporary permit for the sale of Christmas Trees at this site.

Motion by Commissioner Forsdick

Seconded by Commissioner Petrelli

All members present voted in favor

(Aye: Hammer, Forsdick, Knecht, Wagner, Hallisey, Harley, Homicki, Petrelli)

APPLICATION NO. 1478-05-Z. John Tartaglia seeking a Special Permit to convert an existing building into twelve (12) apartment units located at 295 Ridge Road, Church/Granberry Homes.

John Tartaglia began saying that he had met with Mr. Turner who has since issued another memo and withdrawn his earlier comments. He leaves it to the commission to decide the plusses and minuses of the parking in the rear. Mr. Tartaglia said that he had not been aware of Mr. Fred Valente's comments and has since met with Fred. He said that

memo might have been misunderstood. He has asked him to interpret the Wethersfield code and he said that two instead of three handicapped entrances are needed to comply with the local code. He said that the two spaces in the rear complies, and he did not mean to say that he supported parking in the rear with none in the front. He is neutral on that point. There is another point which has been researched quite a bit. The question of parking in the front has been addressed by Peter Bugryn who has met with the state handicapped accessible office. The architect has to certify that the plans comply with all regulations. Regardless of how Mr. Valente has interpreted the local code, Mr. Bugryn is not able to give the certification unless they provide a handicapped ramp in the front and at least one handicapped accessible parking space in the front. The design review committee suggested that parking be minimized in the front, not eliminated. Mr. Tartaglia said that they feel that 2 handicapped spaces and 8 regular spaces in the front would be best even though it is more costly. In response to questions and comments, they have provided an alternative plan with parking in the rear and only one handicapped accessible parking space and ramp in the front. Without that ramp and space, the state handicapped office will not approve the plans. They have brought parking in the front and in the rear the added time and costs is causing a financial hardship and he asks the commission to approve the application tonight. He thinks that he has answered every question and concern from each agency in the town. He thinks that it is consistent with good planning and they are not seeking variances. The front entrance invites people to come to the front. He said that he drove up Ridge and Tollgate roads and almost all have their cars parked in front of their garage. Just about everyone parks a few cars in their driveway in the front of their house without screening. They are taking a building occupied by thirty people to make it twelve active adult apartments. They have hired a consultant to explain why Wethersfield needs active adult housing. They are here to make it a lovely project and are not opposed to a condition that it be an active adult condo association being built on the rear piece of the property so that everyone knows what is coming. He is not aware of any town agency who opposes this project. He has been told that it is a good idea. He is told that the one condition of not allowing space in the front is if the commission takes the position that they don't care what the state says they will not allow the handicapped space in the front of the site. This would remove liability from his company, but he is sure that the commission would not do this.

Doug Ellis, Buck & Buck Engineering referred to a letter dated September 20, 2005 which responds to Mike Turner's comments. He said that the detailed lighting plan and the alternative parking plan are to be submitted and discussed tonight.

Erick Kuegler, Kuegler & Associates submitted the lighting plan for the commission to review. They are looking to put the light fixtures on a 14 foot high pole. The lighting level design requirements are listed and are based upon the Dark Sky Initiative. He designed it to be a medium risk which is recommended for multi-family dwellings. The regulations of the Dark Sky Initiative are for larger apartment complexes. In the analysis there are no cutoff shields at the property line which could be added. The actual footcandles are shown on the plan. They are below 0.9 footcandles or less at the property lines. There are two lights on one of the property lines where full cutoff shields could be used. He continued to guide the commissioners through the packet of information that he had handed out including the TR-30 six sided fixture, which he described in detail. He said that he has placed all of the lights on the outside of the property with the intent to push the light inside toward the driveway. The peak foot-candle is over at the driveway and is 2.5 foot candles. The Dark Sky Initiative is looking at an average of 2.4 for safety. The applicant wanted to keep the light levels low to be consistent with the neighborhood. He doesn't know if there are any objections as this is the first the commission has seen the plan.

Commissioner Wagner asked about the foot candles along the back path and said that they seem low for the pedestrians. Mr. Kuegler said that he meets the low requirements and that the low level is 0.2 which is very low. What is not shown are the few lights at the entry ways. Commissioner Wagner asked if the owner would use the gazebo during the light. Mr. Tartaglia said that he is not certain the at the gazebo would be used at all after dusk, however once it is turned over to the condo owners, they can decide if it would be used at night. Mr. Kuegler said that he would do whatever necessary to accommodate the needs.

Jeff Gebrain, CR3 landscape architects, said for the record that the layout plan was modified from what was originally presented to remove the parking from the setback line twenty feet. He said that 80% of the lighting is along the driveway. They gave the parking in the rear some serious thought and he presented the alternative plan. The driveway in the front would remain the same with one handicapped parking space. There would be 5% ramp down to Ridge Road for the bus route and sidewalk. According to Mike Turner's memo they added the sidewalks across the driveway.

They came to the conclusion that they could put parking in the rear and he described the plan. He said that there is ample green space. He said that the lighting fixtures are at a low pedestrian scale. The wall would be gone in the front and the plantings would be there. This would be option 1A with parking in the back.

Commissioner Harley said that he can see the covered parking but asked where the other parking would be. Mr. Gebrain showed him option L1A. Mr. Gillespie said that this plan should be in each packet. Commissioner Hallisey asked if the parking space could be changed so that it is parallel because he likes how the driveway has been situated all of these years. Mr. Gebrain said that the space could be parallel. Mr. Kuegler said that he could shift two lights over to accommodate that. Chairman Hammer asked if he thinks that the one parking space in front complies with the state regulations. Mr. Gebrain said that it would. Chairman Hammer asked if the parking in the rear would have pluses or minuses with the drainage situation in the rear. Mr. Ellis said that it would be collected then discharged slowly into the Ridge Road system as it could accept it. Chairman Hammer asked if 100% would go to Ridge Road. Mr. Ellis said that the other portion of the front currently drains to Ridge Road, which wouldn't change. Chairman Hammer asked if there was any further technical presentation or commission members that would like to ask questions. Chairman Hammer asked if there was an issue extending the sidewalk. Mr. Gebrain said that he wanted a path for the owners to get to Ridge Road and the other was to have sidewalks go across the driveway.

Chairman Hammer opened the hearing to the public. Mr. Gillespie said that he had some suggested conditions but all of the issues have been discussed and agreed upon, mostly with these stipulations.

Phil Civitello, 26 Tollgate Road, had a question about what is now being presented. He has not seen an alternate plan or had a chance to review it. He has been to the planning office on Thursday asking for alternate plans. He would like the opportunity to review the plan. Some of his issues have been parking in the front, the retaining wall, drainage, sidewalks, landscaping and alternate plans. He believed in the pre-hearing the commission had asked for alternate drawings. He asked the commission not to render a decision. He said that the entire town does not have 5% grade sidewalks. He said that he had a concern about any parking in front of the building and asked that the door be moved from the front. He said that the responsibility of the commission to approve something that fits the town. He asked if they are doing what is right for the community. He said that when he drives by the building he sees a hideous orange fence. He is not opposed to developing the site, he asked to approve the best thing for the site. He said that it is a beautiful building and site and changing it should be considered carefully. He is concerned about drainage and will rely on Mike Turner's comments. He asked them to consider all options. He said that he has not had the opportunity to review the documents. Chairman Hammer asked if he had a preference about parking in the front or rear.

Mr. Civitello said that he would like to see no parking in the front. The developer is asking to be grandfathered into an existing condition and he would like to see that existing condition upheld. He added that when driving around, there are no apartment buildings with parking in the front.

Commissioner Petrelli said that Mr. Civitello made a good point about the aesthetics. However he wanted to say that he believes that there is a law under ADA which requires new construction to have handicapped parking spaces. He said that all of the sidewalks in Wethersfield that do not meet the 5% grade requirement predate the ADA. He is not aware of anyone not being required to change the existing sidewalks.

Chairman Hammer asked to see the rendering of the street view. Mr. Gebrain said that without the wall, it would look pretty much the same as now.

Chairman Hammer asked if they will fill in landscaping more than shown on that plan. Mr. Gebrain said that they will show more plantings anyway. Commissioner Wagner asked where the handicapped accessible parking space would go. Mr. Gebrain said that it is proposed to be tucked behind some trees. Commissioner Wagner said that Mr. Turner recommended that it be parallel and tucked behind the trees. Mr. Gillespie said that Mr. Turner recommended that it be between the driveway and the building. Chairman Hammer said that it would become almost invisible in that location.

Phil Civitello, 26 Tollgate Road, said that if parking is required, maybe the commission could consider a five hour time limit instead of allowing overnight parking there.

Peter Bugryn said that he doesn't know if there is a distinction between time limits on regular spaces or handicapped

spaces.

Mr. Gillespie suggested the following conditions:

1. That the approval reflects the revised parking plan, known as Sheet L1A dated September 20, 2005 by CR3 Landscape Architects.
2. That the final plans are revised to reflect sidewalks, not crosswalks at the north and south driveway entrances. These shall be constructed to Town subdivision standards.
3. The final lighting plan is subject to review and approval of the Planning Staff.
4. The applicant shall provide to the Staff a written declaration of covenants and restrictions running with the land restricting occupancy of the age-restricted units to ages 55 and above prior to the issuance of Certificate of Occupancy.
5. The handicapped accessible parking space presently located on the alternate plan is relocated per the recommendation of the Town Engineer to between the building and driveway. The space shall be hidden and there shall be no time restriction for parking there.
6. A revised drainage plan for the parking lot in the rear shall be submitted to the Town Engineer for review and approval.

Mr. Tartaglia said that they would be amenable to a condition that the age-restriction requirement be tied to the certificate of occupancy because the lawyers cannot draft the condo documents very quickly. They do not want to be held up from getting a building permit.

Chairman Hammer suggested that they submit the documentation regarding the age-restriction of these condominium to the town attorney for review and approval.

Commissioner Forsdick made a motion to close the public hearing.

Commissioner Petrelli seconded the motion.

All members present voted in favor

(Aye: Hammer, Forsdick, Knecht, Wagner, Hallisey, Harley, Homicki, Petrelli)

**WETHERSFIELD PLANNING AND ZONING COMMISSION
PUBLIC MEETING
September 20, 2005**

The Wethersfield Planning and Zoning Commission held a public meeting immediately following the public hearing on Tuesday, September 20, 2005 at 7:00 p.m. in the Wethersfield Police Department Meeting Room 250 Silas Deane Highway, Wethersfield, Connecticut.

Members present:

Joseph Hammer, Chairman
Theresa Forsdick, Vice-Chairman
Philip Knecht, Clerk
Margaret Wagner
John Hallisey
Thomas Harley
Fred Petrelli
Anthony Homicki

Members absent:

Peter Leombruni
Dorcas McHugh

Robert Jurasin
David Edwards

Also present:

Peter Gillespie, Economic Development Manager/Town Planner

Roll Call

Anthony Homicki
John Hallisey
Theresa Forsdick
Philip Knecht
Joseph Hammer
Fred Petrelli
Margaret Wagner
Thomas Harley

APPLICATION NO. 1478-05-Z. John Tartaglia seeking a Special Permit to convert an existing building into twelve (12) apartment units located at 295 Ridge Road, Church/Granberry Homes.

Chairman Hammer opened the discussion by establishing who was comfortable voting on this matter. Commissioner Harley, Commissioner Hallisey, Commissioner Knecht and Chairman Hammer said that they were comfortable voting on the matter. Commissioner Forsdick said that she would vote on the matter. Commissioner Petrelli said that he had familiarized himself with all of the material and would be able to vote. Commissioner Wagner said that she had been at all of the hearings and would vote. Commissioner Homicki said that he had looked over the minutes and would reserve judgment for tonight.

Chairman Hammer announced that there would be seven commissioners voting tonight and five votes were needed to approve that application. The focus of the application is only on the front of the property and its conversion to twelve units. He reminded the applicant that they need to come in for a zone change with a site plan for the rear of the lot. Mr. Gillespie reminded the commission and public that they also needed approval from Inland Wetlands and that there were several layers of approval. Chairman Hammer said that they were committed to active adult housing in the rear of the lot.

Commissioner Forsdick introduced a motion for purposes of discussion to accept and convey the special permit based on plan L1A, the new plan, with the conditions suggested by Mr. Gillespie as follows:

1. That the approval reflects the revised parking plan, known as Sheet L1A dated September 20, 2005 by CR3 Landscape Architects.
2. That the final plans are revised to reflect sidewalks, not crosswalks at the north and south driveway entrances. These shall be constructed to Town subdivision standards.
3. The final lighting plan is subject to review and approval of the Planning Staff.
4. The applicant shall provide to the Staff a written declaration of covenants and restrictions running with the land restricting occupancy of the age-restricted units to ages 55 and above prior to the issuance of Certificate of Occupancy.
5. The handicapped accessible parking space presently located on the alternate plan is relocated per the recommendation of the Town Engineer to between the building and driveway. The space shall be hidden and there shall be no time restriction for parking there.
6. A revised drainage plan for the parking lot in the rear shall be submitted to the Town Engineer for review and approval.

Chairman Hammer asked if they should specify that this submittal covers the land use restriction that runs in perpetuity with the land. The restrictions of the age of the owners shall be consistent with the regulations and satisfactory to the Town Attorney prior to the issuance of a Certificate of Occupancy.

Commissioner Knecht said that even if the ADA is met, the federal restrictions must be met as well. Chairman

Hammer said that they also deal with that for the State building code. Commissioner Hallisey commented that he would like to see the front of the property returned to its previous condition possibly with the addition of plantings. Chairman Hammer asked if the handicapped accessible space is in the front where Mr. Turner recommended, would they still want to beef up the landscaping in the front of the property. Mr. Gillespie said that if you compare Sheet L1 with Sheet L1A, there may be a few additional plantings on L1 that should be incorporated into L1A. Chairman Hammer mentioned that the landscape architect said that he didn't have the time to put those in and maybe it should be added as a condition. He added that they may want the lighting shielded on the side of the property as mentioned.

Commissioner Forsdick added the following conditions to her motion:

7. Landscaping in the front of the property should match that on Sheet L1 subject to review and approval of the Planning Staff.
8. Lighting shields shall be added to those fixtures on the property line.

Commissioner Harley asked if the board wants a commitment letter that they plan to do Phase II. Chairman Hammer indicated that it may be alright to rely on the representations made by the applicant and that any type of multifamily housing would need some kind of zone change.

Commissioner Knecht seconded the motion.

All those voting, voted in favor of the motion, with one abstention. (7-0-1)

Aye: Hammer, Forsdick, Knecht, Harley, Hallisey, Wagner, Petrelli

Nay: None

Abst: Homicki

APPLICATION NO. 1474-05-Z. Premier Building & Development, Inc. seeking a Change of Zone from AA Open Space Development District to Special Residential Development Zone at the easterly side of Back Lane also at the end of Old Reservoir Road, known as Tax Assessor's Map 43 Block 11 & Map 42 Block 16.

Chairman Hammer asked for a motion to add this as an agenda item.

Commissioner Hallisey made a motion to add this application to the agenda. Commissioner Forsdick seconded the motion.

All those voting, voted in favor of the motion. (8-0-0)

Aye: Hammer, Forsdick, Knecht, Harley, Hallisey, Wagner, Petrelli, Homicki

Nay: None

Abst: None

Chairman Hammer then asked who had familiarized themselves with the information on this application and would be voting tonight.

Commissioner Harley said that he had missed the last public hearing but had familiarized himself with the materials and felt comfortable voting tonight. Commissioner Hallisey said that he had missed one hearing but he had also been present at the pre-application meeting for the proposal and was familiar with the information so he felt comfortable voting. Commissioner Knecht said that he felt comfortable voting tonight. Chairman Hammer said that Mr. Gillespie had distributed all of the reports as well as both hardcopy and electronic copies of the minutes. In addition, he had been at all of the hearings. He would be voting on this application. Commissioner Forsdick said the same. Commissioner Petrelli said that he had missed the last hearing but he had familiarized himself with all of the materials and would be voting tonight. Commissioner Wagner said that she had been at all of the hearings and would be voting

tonight. Commissioner Homicki would not be voting as this was his first meeting.

Chairman Hammer then suggested a motion on the information regarding the petition opposing the special permit. He cited Connecticut General Statutes Section 8-3(b) which states that "If a protest against a proposed change is filed at or before a hearing with the zoning commission, signed by the owners of twenty percent or more of the area of the lots included in such proposed change or of the lots within five hundred feet in all directions of the property included in the proposed change, such change shall not be adopted except by a vote of two-thirds of all the members of the commission." Mr. Gillespie had given each commissioner a memo dated September 14, 2005 which said that he had gone through all of the town records, consulted with the town attorney and even sought a legal opinion. He concluded that the petition did not meet or exceed the 20% rule specified in the statute. Chairman Hammer added that the issue of whether both property owners need to sign is moot because there are not enough even signatures even when not considering that issue.

Mr. Gillespie said that he did consult with the town attorney to be sure on how to calculate based on information and analysis. He determined that nine property owners met the test of full signatures and in some cases there was only one owner. He also included those that didn't meet the test. He said that assuming the best case scenario the petition still didn't meet the 20% test. He informed the commission and public that the total area of the lots within 500 feet is 60.73 acres. Twenty percent of this area is 12.143 acres. He said that to calculate in terms of the nine valid properties, he came up with an area of 2.83 acres. Even when considering the other 13 partial property owners, he only had 6.09 acres.

Chairman Hammer suggested that a formal motion stating that the petition submitted under General Statutes 8-3(b) is ineffective and doesn't change the need for five votes.

Commissioner Petrelli made the motion and Commissioner Forsdick seconded the motion.

All those voting, voted in favor of the motion (7-0-1).

Aye: Hammer, Forsdick, Knecht, Harley, Hallisey, Wagner, Petrelli,

Nay: None

Abst: Homicki

Chairman Hammer said that there were a lot of good points made and that no one seemed to disagree that there was a need for this type of housing. The issue seems to be where it should be located. Also, not too many people disagree that this parcel shouldn't be developed at all, the argument seemed to be what would be the best development for this parcel. The choice is the conventional single family home subdivision and which they wouldn't have a lot of control over what the houses looked like, how expensive they would be as long as basic requirements like drainage, lot size, setbacks would be. The applicant showed them a plan by Mr. LaCava with 23 homes on the property. There may even be a range of 27 properties. Here the applicant is proposing not to exceed 39 units. They also have said that they don't know if they could feasibly design that many on this 16 acre parcel. The Plan of Development talks about the need for different types of senior housing and creating new housing opportunities for the older population in town. They were shown land use maps for the future that designate this property as single family housing cluster development for the future. They have determined that this is appropriate for the site. They do not have a tremendous amount of land left in town where new housing opportunities can be created. He was impressed that they have covered the traffic issues. The expert from CJM said that single family home compared to age-restricted would generate 2.5-4 times more traffic depending on time of day. That makes sense to him logically because there may be no one in the work force that travel during peak times as other people would. If they accept the expert's numbers, 23 homes would generate more than the proposed 39.

The other consideration is the financial impact on town services. If you figure two schoolchildren per house with 25 houses, 50 kids and average school cost is \$10,000 per year per student. This would be \$500,000 a year which would cut into the tax revenue and possibly wipe it out. From that tax perspective, active adult is more favorable. Property values, he appreciates the neighbor's concerns. The neighbor's did not submit an appraiser's report and the developer

submitted two reports which said that there would be no impact. If someone wants to put up 23 small cookie-cutter houses, the planning and zoning commission can't say that they need to put up \$500,000 houses. Ultimately the market would control that. However, with a proposed active-adult community, the commission would have more control than with single-family residential. He thinks that it is an opportunity but needs to be done with sensitivity to the area. If they are inclined to say go ahead to the applicant, how about changing the proposed 39 units, he recommended not to exceed 34-35 units. He doesn't know what the outside maximum would be. He also wanted to say that it not exceed two stories in height to address concerns about someone proposing a high rise at the site. The commission would expect heights shown on the concept plan. There would be emergency vehicle access only onto Back Lane. He thinks it is an opportunity and we don't have a lot left. He thinks that the alternative for the neighbors could result in something worse if there is a minimum of control and it is not done well.

Commissioner Forsdick said that she agrees with Chairman Hammer's eloquent statements. She has sat through all of the meetings and read through all of the minutes. In her mind, the town needs this kind of housing, but good housing. Thirty-five good quality cluster housing that bring in \$350,000. If that property was going to bring in \$500,000 homes, it would have been built already. She doesn't see the market for that type of housing. Eight years ago, she decided to downsize and it took almost six months. She described the process that she went through to buy her own house and how people have told her that they wanted that house, she has witnessed such a demand for this type of housing.

Commissioner Knecht said that it is obviously an extremely important need for this type of housing. He was at a meeting with a few other developers. The land that we need to take care of the needs that are coming is disappearing. A developer in California built a community of \$350,000 houses and they have gone up \$50,000 in value because of the demand for this type of housing.

Commissioner Petrelli said that when they look at a development they look for the highest and best use. He thinks that this proposal is that highest and best use for the property.

Commissioner Hallisey said that he recognizes that there is a need for this type of development in town because this is the third plan that the commission has seen with the other two being the Bellsite development which was turned down by Inland Wetlands and the development on Ridge Road. One of the questions posed early on in the process was Why here? He has thought about it and a number of things keep coming up. There is no busline here or shopping, and both of those are near the Folly Brook development. There are no town facilities and in fact they are as far away from the town facilities as possible in town. Finally there are no park facilities except for the basketball court nearby. Therefore he still has that question why here and he is not sure that this is the appropriate location.

Commissioner Harley expressed his concern about how the concept plan will follow the zone change. The criteria for the site plan review include that of the required open space, 50% of that cannot be wetlands. All of the open space is wetland, and unless they buy off on this at the site plan review the developer is not going to get 39 units. He said that commissioner Wagner asked what the break even number was and if twenty units isn't going to work for these guys then they are going to walk away after the zone change and then it will be left done. Therefore unless there is a workable concept plan why bother with the zone change. Chairman Hammer asked if the number of units troubles him. Commissioner Harley replied that he sees that they are not going to get 39 units on that site and still meet the criteria of 25% of the site as open space and 50% of that required open space as non-wetland area. Chairman Hammer said that the regulations are set up the way they are because it would be difficult for the developer to put all of their resources into an application that may not pass. Commissioner Harley said that he doesn't think that the commission is strong enough to say that this concept plan will not fly and don't think that we are buying off on 39 units. Chairman Hammer agreed and said that his thought was to tell the developer right away that they will cut off 4 or 5 units now and say that is a maximum number that cannot be exceeded but that the site plan also must comply with the regulations including the open space requirements to make it clear that when they come to work the specifics that is what it will be. He wants to make sure not to leave the town open because that is the meaning of the regulations. The concept shows the configuration and that is it. He added that the design team will have to come and show the details of what will be proposed. He has to think that they have a reasonable belief that they can make it work under the regulations.

Commissioner Knecht asked if they can approve the zone change and the developer can find that they might not be able to make the development work. Chairman Hammer said that they are not guaranteeing that a certain number of

units will work and that even if they can comply with the unit count not to exceed a certain number, they still will have to comply with the regulations.

Commissioner Harley asked what would happen if it didn't work with this developer. Chairman Hammer said that if a new developer came in to pick up where this one left off he would have to come in at the site plan stage and show he complies with the regulations. The number of units he gets to comply and stay within the cap. He doesn't think that it opens them up to a developer saying they will propose a ten story building because it was not on the conceptual site plan and they would have to comply with everything and stay within the maximum cap. They would be picking up where this developer left off. Commissioner Forsdick said that any new developer would still have to comply with single family, two story cluster development. Chairman Hammer said that is the case.

Commissioner Wagner said that she has spent a lot of time looking at the site including riding her bike to the site. She said that the public access to the reservoir is dangerous and she would like to refer that to council. When she got to the edge of the reservoir it is gorgeous. It is a beautiful asset that the town has and most of the town residents might never have seen this. It seems that the access is limited by the development that has occurred around it. With the proposal in front of them to zone for active adult housing, she thinks that \$350,000 is just the starting point for these homes even though they are small. The location will drive the cost up. She said that it would be great to leave it open for everyone to enjoy, but that is not on the agenda. At least this development would allow the people in this development to enjoy the pond. She spent a lot of time looking at it and throughout the neighborhood. She saw the high quality homes and manicured lawns. The properties that would be put in would match the well manicured lawns. She went through the Glen Oaks community and through the Back Lane gate. She noticed that some of the properties on Westmont about the Glen Oaks condos. She thinks that this is a good site for single family active adult housing. She thinks that the best thing to do is to refer back to the regulations which limit the amount of housing based upon other criteria. She doesn't think that a cap should be set, but rather would like to rely on the regulations to decide the number of units.

Commissioner Knecht asked how many acres of the property are wetlands. Mr. Gillespie replied that the proposal states 4.2 acres. The site area is 15.8 acres. The proposed number of units is 39 and this equates to 3.05 units per acre. Commissioner Knecht agrees that the unit count should be determined from the regulations.

Commissioner Wagner said that she has had a conversation about the drainage issues on this site. She is not sure if that is why Mr. LaCava pulled out of developing this site. She is also not sure what the break even number of units is. Even though in all of the hearings, she has asked and not gotten an answer. Commissioner Forsdick said that she has a feeling that the reason that they have not gotten an answer is because the developer probably doesn't know the answer. There is a tremendous expense associated with the drainage and until they figure out exactly what they need to do according to the regulations, they probably don't know. If she had to guess, she would say 25-30 but she doesn't know. She only knows what she reads and what she hears.

Mr. Gillespie wanted to make sure that everyone understands that the statute recommends that if it is approved, that you should state for the record what the reasons are for the decision. The regulations recommend looking at the following:

- Consistency with the Wethersfield Plan of Conservation and Development
- Whether the property is suitable for the intended use
- Conformance with the purpose of the regulations
- That the proposal doesn't have an adverse effect on the public health, safety, welfare or property values.
- Consideration of the benefit to the town
- Consideration of the need for the particular use
- Consideration of the supply of land available in the present and proposed zone in town.

Mr. Gillespie said that those are the kinds of things that should go into the decision. They are found on p. 106 and 32 in the regulations as well as in the statutes.

Chairman Hammer framed a motion as follows. The need to comply with the regulations will set the ceiling for the number of units, so he therefore no longer will recommend a maximum number of units. He saw agreement among the commissioners.

He made a motion to approve the application of Premier Building and Development to change the zone of the subject property to SRD with reliance on the schematic concept plan presented to the commission.

- He includes a condition that they are not endorsing any specific number of units at the site.

The applicant has requested 39 units, however the commission is not approving 39 units and at the site plan stage the applicant will be required to show compliance with all of the regulations including the required percentage of land set aside as non wetland open space. The commission does not expect high rise building but rather construction similar to that shown on the concept plan. Back Lane is to be used for access for emergency vehicles only, the details of which will be left to Town Staff. Mr. Gillespie said that the details were testified to in the record and mentioned in the schematic plan. All of those details will be worked out. Commissioner Knecht asked if Chairman Hammer intended to recommend approval according to the conditions mentioned by Mr. Gillespie.

Chairman Hammer finds that

- The property is consistent with the Wethersfield Plan for Conservation and Development as it is suitable for active adult use.
- The type of housing the proposal is consistent with the purposes of the zoning regulations, map and comprehensive plan for the town.
- There would be no adverse effect to the public health, safety and welfare or the property values.
- It would be a benefit to the town including satisfying a need for this type of housing recommended in the Plan. There is added benefit to the town as it is not as much of a burden on the resources, for example, the traffic impact is less than an as of right single family development. In addition, the commission has a great deal more control over what the site plan would look like. When looking at the supply of land available in this and other zones, it is appropriate and this parcel is earmarked for cluster development on the map of future development.

To be crystal clear, the commission is not approving 39 units, but rather a concept of active adult use that would be in full compliance with the regulations and that would dictate the number of units. He asked for a second on the motion. Commissioner Petrelli seconded the motion.

The members voted as follows (5-2-1):

Aye: Hammer, Forsdick, Knecht, Petrelli, Wagner

Nay: Hallisey, Harley

Abst: Homicki

Kathy Meskiewicz commented that she was disappointed by a comment made by Chairman Hammer that schoolchildren would be a burden to the town. She said that only four out of the ten homes on Westmont send their children to public school, the rest pay their taxes and send their children to private school.

Elio Lagana also commented that the tax issue is incremental.

Chairman Hammer reminded the public that this was not a public comment session and if they wanted the opportunity to comment, that they could wait until the end. He in no way wanted to indicate that schoolchildren are unwelcome in town.

APPLICATION NO. 1481-05-Z. Jola Kuzmicz seeking a Special Permit to conduct a business in a residential zone at 5 Timber Trail.

Chairman Hammer announced that he was not participating as he was not present for the hearing.

Commissioner Petrelli made a motion to grant the application with the restrictions from the Zoning Board of Appeals

still in effect.

Commissioner Hallisey said that he would like to see unlimited time on this approval. Commissioner Forsdick said that the restrictions were no signs or advertising on the van, and no deliveries in the early morning or late evening. Commissioner Hallisey said that no time restriction so she doesn't have to come back before the commission. Commissioner Forsdick agreed that it should be granted indefinitely. Commissioner Petrelli said ok to this as part of his motion.

Commissioner Hallisey seconded the motion.

All those voting, voted in favor of the motion with one abstention. (7-0-1)

Aye: Homicki, Forsdick, Knecht, Harley, Hallisey, Wagner, Petrelli

Nay: None

Abst: Hammer

APPLICATION NO. 1482-05-Z. Mary Rich seeking a Special Permit to allow a second living unit in a single family residential zone at 20 Highcrest Acres Road.

Commissioner Petrelli disclosed that he has both a social and professional relationship with Dr. Ambrosio, therefore he wishes to recuse himself if the Commission needs him to. Chairman Hammer informed Commissioner Petrelli that was his call and that if he did recuse himself, he should not participate in the discussion or the vote. Commissioner Petrelli said that he would recuse himself. Chairman Hammer said that he also would not vote on this application as he was not present for the public hearing.

Commissioner Harley accepts the five year term of this application and made a motion to approve as such.

Commissioner Homicki seconded the motion.

Commissioner Forsdick asked if in five years Mrs. Rich joins her husband this permit stays with the land. Mr. Gillespie said that it would run with the land and continue as approved. Commissioner Knecht said that it would have to be a member of the family occupying the unit. Commissioner Wagner said that the regulations don't say members of the family have to occupy the unit, the regulations say for an accessory apartment, not a two family dwelling, the owner is supposed to occupy the principal or the accessory. They need to state that this is an accessory apartment and not a two family house. She said that it may even add value to the house. Commissioner Harley reminded the members that it would not transfer with the property unless it was sold within the five years. Commissioner Wagner said that she doesn't think that the application is in compliance because there is no sworn notarized statement. Mr. Gillespie said that it can be a condition of approval that a letter be submitted for the file. Typically there is an annual swearing in.

Commissioner Harley accepted this condition to his motion. Commissioner Homicki seconded the amendment to the motion.

All those voting, voted in favor of the motion, with two abstentions. (6-0-2)

Aye: Homicki, Forsdick, Knecht, Harley, Hallisey, Wagner

Nay: None

Abst: Hammer, Petrelli

APPLICATION NO. 1487-05-Z. Marilyn Kelley seeking a Special Permit to park a camper in a residential zone at 201 Dale Road.

Chairman Hammer indicated that he was present at this hearing and would participate. The thing that struck him about

this application was the unanimous support of the neighbors, he also asked if the applicant would want a two year provision.

Commissioner Petrelli explained a little bit about the probate process and that there is a waiting period for creditors to have notice and file claims. He realizes that it is a large camper and thinks that it is most impressive that there was no opposition except one email with no name on it. Given the circumstances, he believes that the applicant makes a good case for the special permit. Any time restriction he would leave to the other commissioners. He said that the camper has been there a few years and all of the surrounding neighbors have no opposition. The pictures show that this is an expensive vehicle that is well maintained, it is not an eyesore and only sticks out a few feet.

Commissioner Hallisey said that he is in favor of the proposal and when he drove around the area he saw an even more offensive camper on Jameswell in the driveway, not in the side yard. He recalled that a few months ago, the commission approved a camper without a time limit and there should be no time limit for this application.

Commissioner Forsdick disagreed, and said that there should be a two year time limit. She understands that they need to keep it until they are settled but she believes in absolutes and the need to go by the rules. She thinks that the regulations are there for a reason and they do not allow this.

Commissioner Hallisey asked why bother having a special permit process if they don't allow exceptions like this request. Chairman Hammer asked if this would run with the land or be specific to this camper. Mr. Gillespie said that he could argue that it would be specific to the terms and conditions submitted. Commissioner Homicki said that the May 19 minutes referred to a camper at a property at 119 Onlook and other various locations. He thinks that setting a timeline is reasonable and that it follows the request.

Chairman Hammer agrees with Commissioner Hallisey and added that the special permit process is in place to allow certain situations legally. He said that each application has to be looked at on its own merits and that it is frustrating to approve one and deny another but if the consensus is to put a timeline on this application then she can seek more time.

Commissioner Harley said that it should only be one year. Commissioner Petrelli reminded him that the probate process could be a year or less, but it might be longer than one year. Commissioner Harley said that he still thought that one year is enough to decide what to do with the property and how to keep it. Commissioner Knecht said that it should be two years. Commissioner Hallisey said that it should be two years with the opportunity to renew it.

Commissioner Forsdick made a motion to approve the application for a period of two years with the opportunity to renew. Commissioner Knecht seconded the motion.

All those voting, voted in favor of the motion. (8-0-0)

Aye: Hammer, Forsdick, Knecht, Harley, Hallisey, Wagner, Petrelli, Homicki

Nay: None

Abst: None

Commissioner Hallisey asked if the applicant would have to pay another \$200 or could the fee be waived. Mr. Gillespie said that the record will reflect that they will waive the \$200 application fee if she comes back to the commission.

Commissioner Forsdick made a second motion to waive the application fee for Mrs. Kelley. Commissioner Hallisey seconded the motion.

All those voting, voted in favor of the motion. (8-0-0)

Aye: Hammer, Forsdick, Knecht, Harley, Hallisey, Wagner, Petrelli, Homicki

Nay: None

Abst: None

APPLICATION NO. 1488-05-Z. Sebastian Tata seeking a Special Permit to construct a shed larger than permitted in a residential zone at 130 Windmill Hill.

Commissioner Petrelli recalled a similar situation of a large shed that was recently approved by the commission. He said that this application had no opposition, the next door neighbor was present and in favor of the application and there were detailed drawings. He made a motion to approve the special permit 1488-05-Z for a shed that exceeds the permitted area by 40 s.f.

Commissioner Forsdick seconded the motion.

All those voting, voted in favor of the motion. (8-0-0)

Aye: Homicki, Forsdick, Knecht, Harley, Hallisey, Wagner, Hammer, Petrelli

Nay: None

Abst: None

APPLICATION NO. 1489-05-Z. Jason Schnur, Steve Ballinger, Steve Foldvary seeking a Special Permit to construct a greenhouse and conduct sales of nursery products at 1943 Berlin Turnpike.

Commissioner Forsdick made a motion to grant the special permit to construct a greenhouse and conduct sales of nursery products for the reason that when she first came onto the Planning and Zoning Commission they were just starting out and they have done a beautiful job at that site. She commended the applicant for keeping the site as nice as they do.

Commissioner Petrelli seconded the motion.

Commissioner Hallisey agreed that anything done on the Berlin Turnpike this nice will help the town.

All those voting, voted in favor of the motion. (8-0-0)

Aye: Homicki, Forsdick, Knecht, Harley, Hallisey, Wagner, Hammer, Petrelli

Nay: None

Abst: None

APPLICATION 1491-05-Z. Nextel Communications seeking Site Plan Review to install cellular antennas on an existing tower with associated equipment on the ground located at 23 Kelleher Court (Firehouse #3).

Tom Flynn, zoning manager for Nextel Southern New England with a place of business at 100 Corporate Place in Rocky Hill. Nextel is proposing to locate on an existing tower. There are two carriers there now and he has just been given a copy of Mike Turner's report. Nextel has entered into a lease agreement with the town and it was approved by the town council. The application has also been approved by the siting council. As part of their lease agreement they need to apply for site plan approval for a facility to be built at 23 Kelleher Court. According to Mr. Flynn, clearly the intent is to put carriers on the facility.

Mr. Turner requested that the shelter, now located at three feet away from the property line be moved back to twelve feet from the line. Mr. Flynn does not object to this, but he would like to minimize the impact on the parking. Mr. Flynn indicated that they would be happy to comply. He then discussed the other items in the memo. They would be happy to have condition to match the façade. They do not plan to build a generator at this time and will come back if

they do need one. As part of the building permit process, they will provide the town with a structural report. They will consider using the low profile antennas. They will use qualified riggers and follow the site rules. That is part of their lease agreement.

The request regarding spare conduits for power and telephone is not a problem, nor is the grounding system. Staging is fine. He has reservations about the request regarding the fence. The fence belongs to the town and they are proposing to add to the fence. He doesn't want to commit to something he doesn't have control over. Chairman Hammer asked if he would do it with consent from the town. Mr. Flynn said that was fine, but he can't take something down if he doesn't own or have legal rights to it. They think that they are following what the town had intended at the site to begin with.

Commissioner Knecht asked if this installation would improve the town communications. Mr. Flynn said that it would not unless they use Nextel telephones. They will be adding to coverage and capacity of Nextel customers.

Chairman Hammer asked who signs off on the work asked about the fence. Mr. Gillespie said that Mike Turner would be responsible for that.

Commissioner Wagner asked to see the whole site plan including the houses and the fire station. She said that they are now infringing on the fire house which has been a hot topic in town, she referred to the memo from Mr. Turner explaining the history of the fire house, tower and loss of spaces. Mr. Gillespie said that prior to this, there was a great deal of consternation from residents about expansion at the tower. This entire row was planned as the expansion area and the fire chief was aware of this. The only time it had been used was during special events. Now when this occurs, the firemen can double stack the parking. Mr. Turner wanted everyone to know that this plan with the parking lot was within the plan for the tower. Mr. Hallisey said that his understanding was that this was all anticipated subject to approval from the commission. Mr. Flynn agreed that this was anticipated and hopes that their plan is in compliance and asked to have the site plan granted subject to the conditions in Mr. Turner's memo.

Commissioner Hallisey made the motion to approve special permit application 1491-05-Z for the site plan and in accordance with Mr. Turner's September 16 memo which lists 10 points.

From Mr. Turner's memo:

1. The shelter must be relocated to provide minimum twelve foot setback from the property line to meet the zoning setback.
2. The shelter façade shall be brick to match the existing firehouse.
3. If the generator is not proposed to be built at this time, the applicant shall return to Planning & Zoning Commission for a site plan modification when this occurs.
4. The applicant must provide a structural analysis of the tower and foundation to confirm ability to support their antenna and cabling.
5. The applicant should consider the use of low profile mounts as require of AT&T, Sprint and Verizon.
6. All work on the tower must be done by qualified riggers and inc accordance with the terms and conditions of the site manager's rules and regulations for this site. A copy has been provided to the applicant.
7. Nextel to provide spare conduits for power and telephone from meter panel board to northeast corner fence compound for future tenant so parking area does not have to be excavated again. Pavement patches per Town Engineers requirements.
8. Grounding system shall be bonded to tower halo ground system.
9. Staging during construction must be coordinated so as not to interfere with Fire Department activities, parking and circulation. A mandatory preconstruction meeting between Nextel construction crew, Town Engineer and Fire Department will be required.
10. The existing chain link fence between Verizon and Sprint shelters and proposed fence posts and fabric shall match existing, including provision of plastic privacy slats. Gate padlock shall be same combination as existing, north of town shelter.

Commissioner Forsdick seconded the motion.

All those voting, voted in favor of the motion. (8-0-0)

Aye: Homicki, Forsdick, Knecht, Harley, Hallisey, Wagner, Hammer, Petrelli

Nay: None

Abst: None

REGULATION OF ATHLETIC FIELD LIGHTING

Mr. Gillespie said that in the prior packet, a revised version of the draft amendments as they affect outdoor lighting in regulations section 6.7. The amendments include definitions, other minor amendments to address questions made at the last meeting. He said that he wanted the commissioners viewing the draft one more time before they decided how to proceed.

Chairman Hammer asked for a discussion by the commissioners. He asked if the special uses section requires a special use permit for outdoor athletic field lighting. Mr. Gillespie said that a special use permit requires a public hearing, notice in the newspaper and notice to neighbors within 300 feet. Chairman Hammer said that this type of permit would require them to consider impact on adjoining properties and give them a broader ability to impose conditions on an application. Mr. Gillespie said that it would provide the commission with more discretion and controls that they might not have if it wasn't a special permit. Chairman Hammer said the purpose of tonight is to talk about whether or not to advance to the next stage. Commissioner Forsdick said that she thought Mr. Gillespie did a good job. Mr. Gillespie said that early November would be the earliest they could have a hearing on the matter. Chairman Hammer asked Mr. Gillespie to consider the level of public interest on a matter before scheduling seven public hearings on that night. He asked Mr. Gillespie to try to find a night where this would be the focus and have other substantial applications wait for a meeting after that. Commissioner Hallisey said that it would probably be held over several public hearings. Chairman Hammer asked also if the meeting could be held at the middle school auditorium. The commissioners discussed that it would be impractical to hold the hearing prior to the election. They asked Mr. Gillespie to schedule the hearing after the election probably on November 15, 2005. Chairman Hammer added that there is a lot more space at the middle school auditorium and if they are anticipating more people at a hearing, it may be wise to hold it there.

Commissioner Forsdick asked if a motion was needed. Mr. Gillespie said that it is normally done administratively. Commissioner Wagner said that the agenda incorrectly says athletic field lighting when it should read outdoor lighting. Mr. Gillespie said that he would correct that.

REGULATION OF REAR LOTS

Mr. Gillespie said that regulation of rear or flag lots was not addressed in the new regulations. Denise Bradley has done a lot of research in this area and attempted to try to characterize whether there is consistency that may be useful. There were a few subdivision lots that could be construed as rear lots. The buildable square requirements pretty much leaves rear lots out. This is the first attempt to provide the commission with something to consider in Wethersfield.

Chairman Hammer said that he appreciates the work and would like some more time to review the materials and address this at the next meeting. The other commissioners agreed.

MINUTES

- [Minutes of the August 16, 2005 Meeting](#)

Commissioner Wagner made a motion to approve the minutes.

Commissioner Forsdick seconded the motion.

Five of the members present were eligible to vote and voted in favor:

Aye: Hammer, Forsdick, Petrelli, Wagner, Harley

Nay: None

Abst: Knecht, Hallisey, Homicki,

- [Minutes of the September 6, 2005 Meeting](#)

Commissioner Forsdick made a motion to approve the minutes.

Commissioner Hallisey seconded the motion.

The following information to be added to those minutes:

Commissioner Knecht made the motion to adjourn,

Commissioner McHugh seconded the motion.

Five of the members present were eligible to vote and voted in favor:

Aye: Hammer, Forsdick, Knecht, Wagner, Hallisey

Nay: None

Abst: Harley, Petrelli, Homicki

STAFF REPORTS

Wolcott Hill Road Office Building

Mr. Gillespie said that the Wolcott Hill Road office building was undergoing completion and the original plan called for a driveway to the garage. There were conditions imposed. Upon inspection, an additional area behind the garage surrounding the residential property was paved. They are looking for a certificate of occupancy and if they would like to address the situation, now is the time. They have also put spotlights in which are different than the original plan. Mr. Gillespie has put them on notice that they are changes of certain significance which staff can not approve. He is looking for guidance from the commission.

Commissioner Forsdick asked if the lighting could be changed easily. Mr. Gillespie said that there would be a significant expense to change the lighting and pavement. Commissioner Forsdick said that they knew about the approved plan however.

Hartford Drive-In Site

Mr. Gillespie said that the next agenda will contain a referral from the town of Newington for a development of 74 condo units at the Hartford Drive In site with a driveway onto Back Lane. Commissioner Forsdick asked for a map on that site. Mr. Gillespie said that he has one full set but he will figure out how to distribute the information.

Mr. Gillespie said that it was the same developer and proposal who had held a pre-application meeting and that the project was now making its way through the process.

Commissioner Wagner asked if Mr. Gillespie needed backing on the changes to the Wolcott Hill application. Commissioner Wagner believes that they should adhere to the site plan that was approved, so she backs Mr. Gillespie. The other commissioners agreed.

Welcome Commissioner Homicki

Commissioner Knecht welcomed Mr. Homicki as the new commissioner and former assessor for the town of Newington. All of the commissioners welcomed him.

Other Properties

Chairman Hammer asked about any other sites, particularly FunZone. Mr. Gillespie said that there has been some interest, particularly a retailer that may renovate façade. He was hesitant to interfere with a proposed deal.

PUBLIC COMMENTS ON GENERAL MATTERS OF PLANNING AND ZONING.

- David Schlapfer - He was taken aback by the comment made by Chairman Hammer that children are a burden on the resources of the town. He was unsure why he would make such a statement. Chairman Hammer responded that he was responding to the testimony made by the applicant that there was more of a financial benefit to the town from active adult housing than single family development because there was less services required including demand on the school system. As part of the neighbor presentation, there was a very extensive book prepared by one man which made the point that in his view the tax revenue would be the same. Chairman Hammer was speaking to that issue and in his view the applicant proved his point that the financial demand on the services would be less. He welcomes schoolchildren and was trying to make a fine point that wasn't even central to his decision. He was simply trying to address something that was presented.
- Matt Daly, 6 Palomina Way, asked what the purpose of planning and zoning would be. Mr. Gillespie said that there are two distinct functions, planning and zoning. The planning function is to regulate subdivisions and the zoning function is to handle the special permits that come to them. The commission cannot do anything except as regulated by the statutes. Mr. Daly asked if the commissioners consider the Grand List. Mr. Gillespie said that they would to the extent that it affects the health, safety and welfare of the community. Mr. Daly said that he doesn't see how the Grand List should factor so heavily on changing the zoning for that piece of land. He feels that the development should be consistent with that laid out in 2001. He understands the need for elderly housing, however he doesn't think that the commission dealt with the location or whether it was suitable for the neighborhood. The average assessments show a difference of 40% in the value of the housing. He felt that they were entitled to a response to their concerns. No one mentioned that the proposed housing would be 45% smaller than the surrounding homes in the neighborhood. He said that there was very little discussion except for those points read into the record by Mr. Gillespie. He didn't see where this site was recommended for cluster housing. Mr. Daly said that it specifically mentions the I-291 corridor for elderly housing. Chairman Hammer said that he was specifically referring to a map in the Plan for Conservation and Development. Mr. Daly said that he would look at the map. He also said that he pays \$10,000 a year in property taxes and was hoping to have more of a say during this process. He heard the commission say that there is no need for more half million dollar subdivisions. He finds that subjective and actually has seen a need for this type of housing. He heard the commissioners talk about this type of housing being necessary and relating personal experience which he found subjective. Commissioner Forsdick said that all of the aspects of the subject were considered including meetings that went to 1:30 in the morning and pages of minutes and all of the paperwork and plans as well as everything said by the public and the applicant to carefully make this decision. She said that even if it didn't come across this way, they did consider everything carefully. He is a securities analyst and deals with objective decisions. He would appreciate more objective comments rather than subjective issues. Chairman Hammer appreciates what everyone has said and said that it was a difficult and complicated decision.

Commissioner Petrelli said that he has worked with the Board of Education. The budget for education in Wethersfield is very high in order to meet all of the needs. We want our children to learn and be nurtured. He wants to put his mind at ease that no one on this commission equated or interpreted the comments as being negative toward children. Mr. Schlapfer said that when a comment like that is made it is very worrisome as a new member of the community that he is against having such a good budget for the school system. Now since he

has apologized, he doesn't think that is the case at all. Commissioner Petrelli then discussed the busing situation and the greenhouse effect. Chairman Hammer asked if they could continue with other public comment.

- Ken Bradley, has lived in town for 35 years. He agreed with Mr. Daly's comments but what he heard was a lot of strong arguments for the development. He wonders if the land has to be developed or can it be left open space. A lot of the arguments were very weak. If there was residential housing going in that area with no control. That developer wouldn't be able to afford to put low end housing in there, he would have to put in high end beautiful housing that met the regulations. By allowing this development, they are taking a beautiful area away and will actually have less control. What stops the next guy to try to squeeze six units per acre with a more crowded development now that the zone is changed. He said it seems backward to change the zoning before knowing what can go in there. He said that it is a bad precedent for all of the other land in town. Other landowners will request a zone change and how will the commissioners say no. The only support for the zone change was the landowner, the buyer and the attorney. The room was full of people against the development and their voice wasn't heard. He doesn't understand how they are representing the public in this process. He doesn't feel that they are doing the job they were elected to do. He said that this matter was kept quiet because people affected on neighboring streets were not aware of the change. Attorney Harvey said that Wethersfield needs this type of development but that this may not be the ideal place for it. Mr. Bradley said that the arguments made for this development were very weak, why would the commission be convinced that this is the right thing to do. He thinks that a bad precedent has been set.
- Mary Rich asked about the status of her application. The commission told her that she had been approved for five years and that it wasn't permanent because there were stipulations on her application.
- Diana Lopez-Villegas, was disappointed with the level of discussion on this matter. She referred to the comments made about access to the reservoir and that at least the people in the new development would be able to access. Ms. Lopez-Villegas said that she was disappointed that the commission is not thinking of a plan for everyone to be able to access this site. She is aware that there are a lot of elderly in town. The presentation was very weak and a lot of people including her didn't get notice. She found out that a lot of people didn't know that this was happening. Many of her neighbors were on vacation. Now she is informing them what has happened and she is informing them of what went on. She said that it seemed that the decision was already made. She said that the commission makes plans that they seem to find appropriate. She said that she has moved here after a school went in near Jordan Lane without any notice. She didn't know how this was going to affect her property. Then the tower concerned her, particularly, she said because the commissioners commented that it was already there. Perhaps the wetlands won't allow more units. The commissioners said that they can't allow them to spend all of this money. She said that she and her neighbors have invested a lot of money and more people would follow especially since Hartford is booming. She has been at this home for a year and stayed in Wethersfield because she thought that she could have a voice in a small town.

Commissioner Forsdick said that she was trying to make a point that the need was strong for senior housing. She made her decision on everything said and read in the minutes as well as everything presented to her. She said that they have to decide every application on its merits. She said that they make decisions on each individual application and they are never made lightly and they look into all of it. Commissioner Forsdick said that she can't help that the decision was not liked. She said that the decision was not made lightly and that the decision considered all of the information and materials. Chairman Hammer said that they are required to uphold and apply the regulations. There could be 1,000 people that say don't do it, but under their standards, plan of development that encourages this type of development and dealing with a finite piece of land. He listened and considered it, but five of them felt that it should be approved. He respects that she disagrees. Chairman Hammer said that the only expert evidence that this would devalue the property came from the applicant's appraiser which said that it wouldn't devalue. Ms. Lopez-Villegas said that her recollection was that the data was inconclusive. Chairman hammer said that they did the best that they could and that people disagree. Ms. Lopes-Villegas said that she thought that people were very disappointed with the process.

- Matt Daly spoke again about the statement made that they met on this until 1:30 in the morning. The commissioners responded that the last meeting went that long. He said that the logic was flawed. He asked that they share the analysis with the taxpayers. He asked the commissioners to share their thought process. He doesn't know how to proceed with this because there is no formal board of appeals. He said that they shouldn't have to

pay for an appraiser.

- Ms. Lopez-Villegas said that the whole level of comment on the board surprises her. She referred to the comment about the children taking the bus. It is no longer safe for the kids to take the bus and those kind of comments are out of place. She expects more from the commission.

CORRESPONDENCE

- A letter from William Bellock to Peter Gillespie dated September 12, 2005 withdrawing Applications 1470-05-Z and 1471-05-Z (Folly Brook Commons).
- A letter from Don Moisa, Inland Wetlands Agent to Rogin Nassau dated August 30, 2005 regarding an application submitted to the Town of Rocky Hill for a proposed Motorcross pedal bike track and rider education training facility on C Lane in the Rocky Hill Meadows.

OTHER BUSINESS

None

ADJOURNMENT

Commissioner Forsdick made a motion to adjourn.

Commissioner Petrelli seconded the motion.

All those present voted in favor of the motion to adjourn.

Meeting was adjourned at 11:30 p.m.