

HARWINTON ZONING COMMISSION MONDAY, JULY 25, 2022
TOWN HALL 7:00 P.M.

Present: Chairman Daniel Thurston, Cynthia Kasey, Deborah Kovall, Theodore Root, Alternate Member Michelle Whitford, Alternate Member Dave Foster, Land Use Coordinator Polly Redmond and Zoning Enforcement Officer Don Truskauskas

Absent: William Ponte

PUBLIC HEARING #1 - continued

1. OPEN HEARING – ESTABLISH QUORUM.

Chairman Daniel Thurston called the hearing to order at 7:00 p.m. All regular members present are seated with Alternate Member Dave Foster seated for William Ponte.

2. MATTHEW CASSINA – APPLICATION FOR SPECIAL PERMIT AND SITE PLAN APPROVAL TO CONSTRUCT A 40' X 125' CONTRACTOR'S STORAGE BUILDING, 495 BURLINGTON ROAD, LIGHT INDUSTRIAL (LI-A) ZONE.

This public hearing first opened on June 13, 2022 and immediately continued to tonight due to an error in the publication of the legal notice that was published once, not twice as required.

Mr. Cassina is present. Plans prepared by Robert Green Associates, titled Site Plan – Storage Facility, Lot E6-04-001, Burlington Road, January 15, 2021, Revised March 1, 2022 include Sheet 2 Property & Index Map, Sheet 3 General Notes, Sheet 4 Plan/Profile, Sheets 5-7 Layout, Sheets 8-10 Grading and Utilities, Sheets 11-13 Erosion and Sedimentation Control, Sheets 14 & 15 Miscellaneous Notes and Details.

Proof of Certified Mailings giving notice of this hearing to property owners within 200 feet of 495 Burlington Road are submitted by Mr. Cassina. Thirteen (13) notices were sent out with four (4) not picked up by the recipient. Two of the four not delivered were addressed to 494 Burlington Road, LLC and 515 Burlington Road, LLC and those property owners are present at tonight's meeting (Martin Peabody and Grant Peabody).

Legal notice of this public hearing was published in the Republican American on July 15, 2022 and July 22, 2022.

Mr. Cassina addresses the Commission explaining that the contractor's storage building will be for his own use and storage of equipment but in the future he may rent out space for other contractors. T. Root questions if electricity and water will be provided to the building with Mr. Cassina replying that there will be electricity but was told by Torrington Water Company to wait until the building is constructed before hooking up to water. T. Root questions if there is a septic design yet with Mr. Cassina replying, no. There is no requirement for Torrington Area Health approval at this time. T. Root questions the length of the driveway with Mr. Cassina stating it is 800-900 feet long before turning left towards the proposed building. The building cannot be seen from the street. The driveway is wide enough for two vehicles to pass each other and CTDOT has approved the driveway opening. Mr. Cassina notes that the land west of the driveway will not be used for anything at this time but perhaps farming in the future.

D. Kovall expresses concern with bays being rented out in the future stating that even though Mr. Cassina stated he would be particular about who he rented to, approving this as a Special Permit means that the use of the property runs with the land and not the property owner. Any future owner may not be as particular and the building and property could be used for something other than what Mr. Cassina is proposing. ZEO Truskauskas states that if the use changes with any new property owner, a Change of Use Notification would be required.

LUC Redmond reminds Commissioners to review Section 4.5 of the Zoning Regulations – Special Permit Uses in a Light Industrial zone and it is there where any conditions could be referred to and be placed on the permit. Commissioners discuss possible conditions and also refer to the requirements of Section 9.

Zoning Regulation 4.5.11 is reviewed where it states “All storage shall be confined to the rear of the building or such other location(s) approved by the Commission and as specified on the site plan.”

It is noted that the plan shows the proposed building 36 feet to the property line (35 foot setback required) and a retaining wall behind the building that is 25 feet from the property line leaves no room in back of the proposed building for storage of any material. Commissioners can approve an alternative location as noted in Section 4.5.11. LUC Redmond questions whether parking spaces are outlined on the plans with Commissioners agreeing that there is plenty of parking area for Mr. Cassina who will be the only person entering the property at this time. LUC Redmond questions whether the property abuts a residential zone, which it does in the back of the 27.12-acre Cassina property, and that the abutting residential property is quite a distance away from any activity taking place on his property. LUC Redmond points out that upon any approval of the Special Permit, the permit and the site plan must be filed in the land records in the office of the town clerk in order for the permit to become valid. The site plan must have an approval block that includes a space for the date of approval and the date of expiration of the site plan (5 years) and a space for the signature of the Zoning Chairman in accordance with Zoning Regulation 8.5.15.

Chairman D. Thurston opens the floor to public comment at this time.

Martin Peabody addresses the Commission stating that he has been working with Mr. Cassina on drainage issues which have been resolved and includes an Agreement filed in the land records at the request of the Harwinton Wetlands Commission. All Wetlands Commission conditions of approval have been met.

3. CONTINUE OR CLOSE PUBLIC HEARING.

With no further comments from the public or Commissioners T. Root **motioned** to close the public hearing at 7:40 p.m., seconded by C. Kasey. Motion passed unanimously.

PUBLIC HEARING #2 - continued

1. OPEN HEARING – ESTABLISH QUORUM.

Chairman Daniel Thurston called the hearing to order at 7:40 p.m. All regular members present are seated with Alternate Member Dave Foster seated for William Ponte.

2. ZONING COMMISSION INITIATED PROPOSAL TO AMEND THE ZONING REGULATIONS DATED 12-3-2021 TO CONSIDER EITHER PROHIBITING OR ALLOWING CANNABIS ESTABLISHMENT USES IN TOWN PER PUBLIC ACT 21-1.

This public hearing first opened on June 13, 2022 and immediately continued to July 11, 2022 due to an error in the publication of the legal notice that was published once, not twice as required. At the July 11, 2022 meeting a motion was made to continue the hearing to tonight.

Commissioners discuss the lack of a report from the Planning Commission after their Commission met on July 13, 2022 pointing out that State Statute 8-3a(b) allows the Planning Commission to report that the proposed Zoning amendment either does or does not comply with the Plan of Conservation and Development. July 13, 2022 Planning meeting minutes reflect that Commissioners discussed tax incentives and reimbursement for public safety services in relation to opening of a cannabis establishment but did not mention the Plan of Conservation and Development at all. State Statute 8-3a(b) also states that “failure of the Planning Commission to report *prior to or at the hearing* shall be taken as approval of such proposals.” D. Kovall points out that one Planning Commissioner stated his opinion that he was for cannabis establishments and one Commissioner stated he was against it. Zoning Commissioners reject the Planning Commission’s request for the Zoning Commission to provide a draft giving indication on whether they wish to prohibit or permit cannabis establishments as in doing so would be a pre-determined decision while the public hearing is still open.

For reviewing purposes only, Chairman D. Thurston distributed to Commissioners a hard copy of an article LUC Redmond emailed out to Zoning Commissioners and Planning Commissioners that was published in CT Insider titled "Which Connecticut cities and towns have banned recreational cannabis businesses?" Earlier today D. Kovall requested LUC Redmond to forward her email to Zoning Commissioners, for review purposes only, an article from the CT Examiner titled "Venture of Former State Senator, Husband of Stamford Mayor, on Track to Win Marijuana Equity License."

Commissioners discuss the applications and licensing of those who wish to open cannabis establishments and notes where once there was a limit on the number of establishments that would be permitted in a town, there is no longer any limit.

3. CONTINUE OR CLOSE PUBLIC HEARING.

With no public comment and no further discussion by Commissioners, D. Kovall **motioned** to close the public hearing at 8:00 p.m., seconded by T. Root. Motion passed unanimously.

REGULAR MEETING

1. OPEN MEETING -- ESTABLISH QUORUM.

Chairman D. Thurston called the meeting to order at 8:00 p.m. All regular members present are seated with Alternate Member Dave Foster seated for William Ponte.

2. APPROVE MINUTES OF PREVIOUS MEETING: 7/11/2022

T. Root **motioned** to approve the minutes of the previous meeting, seconded by D. Foster. Motion passed unanimously with C. Kasey abstaining from vote due to her absence at the previous meeting.

3. PUBLIC COMMENT. None.

4. DISCUSSION/POSSIBLE DECISION -- MATTHEW CASSINA -- APPLICATION FOR SPECIAL PERMIT AND SITE PLAN APPROVAL TO CONSTRUCT A 40' X 125' CONTRACTOR'S STORAGE BUILDING, 495 BURLINGTON ROAD, LIGHT INDUSTRIAL (LI-A) ZONE.

Commissioners believe that the application is in keeping with Zoning Regulation 4.5.1 and will not adversely impact the health, safety and welfare of the neighborhood.

T. Root **motioned** to approve the application of Matthew Cassina with the following conditions:

- 1) That the applicant follows the requirements of Section 4 of the Harwinton Zoning Regulations.
- 2) That the applicant follows the requirements of Section 9 of the Harwinton Zoning Regulations.
- 3) That the applicant shall not cut down trees along the rear property line that abuts a residential zone and in accordance with Zoning Regulation 12.1 shall maintain a 50-foot buffer in depth along that abutting residential property line. This area shall not be used for storage of materials or parking of cars and trucks.
- 4) Any signage shall require a Zoning permit and Zoning Regulation 11.2 and 11.3 will be adhered to.
- 5) Notification shall be made to the Land Use office of any bays being rented out by the applicant and the nature of the business that will take place by those renters.
- 6) That an approval block be added to the plans to be filed in the land records in the office of the town clerk in accordance with Zoning Regulation 8.5.15. The approval block will include a space for the date of approval and the date of expiration of the site plan (5 years) and a space for the signature of the Zoning Chairman.
- 7) That the Special Permit be filed in the land records in the office of the town clerk in accordance with Zoning Regulation 9.1.

Zoning Commissioners approve of an alternate location for any outside storage in accordance with Zoning Regulation 4.5.11

5. DISCUSSION/POSSIBLE DECISION - ZONING COMMISSION INITIATED PROPOSAL TO AMEND THE ZONING REGULATIONS DATED 12-3-2021 TO CONSIDER EITHER PROHIBITING OR ALLOWING CANNABIS ESTABLISHMENT USES IN TOWN PER PUBLIC ACT 21-1.

D. Kovall states that there is limited commercial space and parking in town where cannabis establishments could be opened. There are plenty of other places in nearby towns for people to acquire cannabis and she has heard how other towns that have cannabis establishments are very busy with customer activity. Due to the structure of Harwinton and the infrastructure of the town, she believes in prohibiting cannabis establishments. She also believes that the town should restrict the use of where cannabis can be used. She states that she has read a lot of articles on the impact cannabis establishments have on towns and believes the state has opened a can of worms by allowing these establishments.

C. Kasey agrees and states that it would be hypocritical to allow recreational cannabis establishments when the town has restricted medical marijuana dispensaries and production facilities.

T. Root states that people can have cannabis delivered to them so there is no need to have an establishment in town. He also worries about the infrastructure of the town and the hardship it may put on the town's resident trooper.

M. Whitford states that her concerns are on police and security along with traffic and hours of operation of cannabis establishments.

Commissioners ask that LUC Redmond write up a regulation, including definitions for Section 2.3 of the Zoning Regulations for Cannabis/Marijuana as defined in Section 21a-240 of the Connecticut General Statute and also include the definition for Retail Recreational Cannabis/Marijuana Establishment. Section 4 of the Zoning Regulations, Permitted Uses and Special Permit Uses for Each Zone, should also include wording for the Prohibition of Cannabis/Marijuana and Retail Recreation Cannabis/Marijuana Establishments.

Commissioners request that Town Counsel Michael D. Rybak review the draft regulation and attend the next Zoning Commission meeting on August 8, 2022 to discuss and be present when the Commission makes a decision. This item, *Discussion/Possible Decision – Zoning Commission initiated proposal to amend the Zoning Regulations dated 12-3-2021 to consider either prohibiting or allowing cannabis establishment uses in town per Public Act 21-1*, will be placed on the next agenda

6. COMPLAINTS/ENFORCEMENT ACTIONS.

ZEO Don Truskauskas informs the Commission that he visited 93 Rocky Road East for a pool inspection. Silt fence is in place and the pool has been installed.

The Lake Harwinton Association had a complaint/inquiry as to the lack of lawn at 231 Catlin Road. The property owner was contacted who said that grass seed will be put down in the fall when grass will grow better.

Concerning the complaint against the Sunoco Gas Station, 207 Birge Park Road, regarding signs and banners on the property, ZEO Truskauskas reports that the banners have been relocated to the back of the property but the sandwich board signs, etc. are still out by the road. He visited the site two times asking them to be removed with no compliance made. He will draft a letter stating that the signs must be removed and deliver it directly.

7. ANY OTHER BUSINESS. None.

8. INVOICES. None.

9. ADJOURN.

T. Root **motioned** to adjourn the meeting at 8:40 p.m., seconded by D. Kovall. Motion passed unanimously.

Respectfully submitted,
Polly Redmond, Land Use Coordinator

