

Present: Chairman Don Truskauskas, David Mathes, Anne Marie Buonocore, Alternate Member Daniel Thurston, Alternate Member Lynne Steincamp and Land Use Coordinator Polly Redmond

Also Present: Town Atty. Michael D. Rybak

Absent: Joseph Marzullo, Todd Ouellette and Alternate Member Michelle Rewenko

PLEDGE OF ALLEGIANCE

1. OPEN MEETING – ESTABLISH QUORUM.

Chairman Truskauskas called the meeting to order at 7:00 p.m. All regular members present are seated with Alternate Daniel Thurston seated for Todd Ouellette and Alternate Lynne Steincamp seated for Joseph Marzullo.

2. APPROVE MINUTES OF PREVIOUS MEETING: 7/13/15

D. Mathes **motioned** to approve the minutes of the previous meeting, seconded by A. Buonocore. Motion passed unanimously.

3. PUBLIC COMMENT. None.

4. NATHAN KOSAK – APPLICATION FOR 34' X 50' GARAGE, 258 WHETSTONE ROAD. REQUEST FOR WAIVER OF ENGINEERED PLAN.

Greg McGinn, McGinn Builders, is present along with property owner Nathan Kosak. A written request for waiver of an engineered plan is on file. A sketch is provided showing the location of the proposed garage on the 17 acre parcel. IWWC approval has been received. TAHD approval is outstanding. The garage will have electricity but no water. D. Mathes **motioned** to grant the request for a waiver of an engineered plan, seconded by D. Thurston. D. Mathes **motioned** to approve the application contingent upon receiving TAHD approval, seconded by A. Buonocore. Both motions passed unanimously.

5. DISCUSSION/POSSIBLE DECISION - COMMISSION-INITIATED PROPOSED ZONING REGULATION AMENDMENTS ADDING DEFINITIONS OF MEDICAL MARIJUANA DISPENSARY FACILITY AND MEDICAL MARIJUANA PRODUCTION FACILITY AND TO PROHIBIT THE USE OF MEDICAL MARIJUANA DISPENSARIES AND MEDICAL MARIJUANA PRODUCTION FACILITIES IN ANY ZONE. (PUBLIC HEARING CLOSED 6/8/15.)

Atty. Michael D. Rybak is present and distributes additional items for the record. He asks that the Commission not act tonight until a full Commission is in attendance. The first item distributed is a copy from the Department of Consumer Protection website pertaining to Dispensary Facility Questions & Answers for Applications (new FAQ material) and is marked as **Exhibit A5**. One of the questions concerns separating distances from churches, schools, etc. and whether a dispensary facility could be located within 1000 feet of these types of establishments. Atty. Rybak explains that separating distances are up to each town but perhaps can't be more than 1000 feet. The second item distributed is the Town of Shelton Planning & Zoning Commission minutes dated 6/10/2014 adopting Shelton's prohibition following its original moratorium (**Exhibit A6**). The third item distributed is a Second Circuit Court decision (**Exhibit A7**) pertaining to exercising prosecutorial discretion. A conclusion of the case United States of America v. Eric Canori is that a U.S. Attorney's decision to exercise prosecutorial discretion by not prosecuting uses of marijuana consistent with state law, in the circumstances presented in this case, does not conflict with the principles of federalism, preemption, or the supremacy of federal law.

The fourth item distributed is **Exhibit A8**, the Zoning Commission's proposed Regulation, with Atty. Rybak's addition of Findings and Reasons for the decision on the proposed amendment. All items remain on file in the Land Use office. Commissioner D. Thurston thanks Atty. Rybak for a job well done. Commissioner

L. Steincamp questions what would happen if the federal government changes the law by allowing recreational marijuana and the Commission's decision was based on the fact that marijuana is still federally illegal. She asks, "How will it affect this Commission's decision?" Atty. Rybak states that there is still the fact that there is limited land where a facility could operate in a retail/industrial zone and that the Zoning Regulations are still permissive and clearly states that "Any use which is not specifically permitted in a zone is prohibited in the entire Town."

The Zoning meeting scheduled for August 10, 2015 will be cancelled. Discussion and possible decision will be placed on the August 24, 2015 Zoning agenda.

6. COMPLAINTS/ENFORCEMENT ACTIONS. None.

7. ANY OTHER BUSINESS.

LUC Redmond informs the Commission of a question that was presented to her from someone interested in purchasing property at 41 Meadowview Drive. The interested party wishes to be able to bring a type of lawn trailer onto the property, storing it in an existing barn there, and use it to transport an irrigation trencher, leaving in the morning and returning in the evening. It would be a seasonal use approximately six months out of the year. A photo of the equipment has been received and distributed to each Commissioner. The interested buyer explained that at times, the equipment may stay at a job site for periods of time and not always return to the residence. L. Steincamp states that it sounds like it would be a business being run out of the home. D. Mathes states that it is not a commercial trailer and has no business name on the equipment. Chairman Truskauskas states that there are many contractors in town that have these types of trailers on their property. A. Buonocore refers to Zoning Regulation 6.9 *Trailers and Construction Trailers and Mobile Homes*. On consulting with Atty. Rybak, who is still present, he explains that the Regulation read by A. Buonocore was adopted because, in the past, there were trailers in town that were being lived in. This Regulation refers to those types of trailers and construction trailers that are used on a job site. He believes there is no Zoning Regulation pertaining to these types of trailers shown in the photo. He states that just storing a trailer on the property is permissible as long as the property owners are not operating a business out of their home and just the bringing home of a trailer doesn't constitute a business. A. Buonocore questions whether allowing this, is the Commission opening themselves up to allowing other types of vehicles to be parked in residential zones? D. Thurston states that if vehicles meet the restrictions of Zoning Regulation 6.20 *Overnight Parking of Commercial Vehicles in a Residential District*, then those vehicles would be illegally parked. D. Mathes **motioned** that bringing this type of lawn-trailer and the irrigation trencher onto the property in a residential zone does not constitute a business but that Zoning Regulation 6.20 must be complied with. This decision shall not be interpreted to allow the property owner the right to operate a business out of the home. D. Thurston seconded the motion and it passed 4-1 with A. Buonocore opposed.

8. CORRESPONDENCE. None.

9. INVOICES. None.

10. ADJOURN.

D. Thurston **motioned** to adjourn the meeting at 7:45 p.m., seconded by A. Buonocore. Motion passed unanimously.

Respectfully submitted,

Polly Redmond, Land Use Coordinator

RECEIVED FOR RECORD AT HARWINTON CT
ON 7-28-2015 AT 12:15 PM
ATTEST NANCY E. ELDRIDGE TOWN CLERK