

**ZONING COMMISSION
MINUTES
REGULAR MEETING OF WEDNESDAY JULY 8, 2020**

CALL TO ORDER:

By: Chair Provenzano

Time: 7:04 P.M.

Place: City Hall and Web-Ex

ROLL CALL:

MEMBERS	NAME:	PRESENT	ABSENT
REGULAR MEMBERS:	Louise Provenzano (Chair)	X	
	Michael Massarelli (Vice Chair)	X	
	Richard Harlow	X	
	David White (Secretary)	X	
	Thomas Marra	X	
ALTERNATE MEMBERS	Marc Gagnon	X	
	Susan Tyler	X	
	Blake DellaBianca	X	
STAFF	Robert Flanagan, AICP, City Planner	X	
	Edward Spyros, Zoning Enforcement Officer	X	

ADMINISTRATIVE MATTERS:

1. Approval of Minutes – June 4, 2020 special minutes and June 10, 2020 regular minutes

Chair Provenzano designated regular Commissioners Massarelli, White, Harlow and Provenzano to vote on the June 4, 2020 special minutes. She also designated alternate Commissioner Tyler to vote on the June 4, 2020 special minutes.

MOTION: Move to approve the special minutes of the June 4, 2020, regular meeting.

By: Harlow

Seconded: Massarelli.

For: Massarelli, White, Harlow, Tyler and Provenzano.
Against: None.
Abstained: None.

Chair Provenzano designated regular Commissioners White, Harlow and Provenzano to vote on the June 10, 2020 regular minutes. She designated alternate Commissioners Gagnon and Tyler to vote on the June 10, 2020 regular minutes.

MOTION: Move to approve the minutes of the June 10, 2020, regular meeting, as amended.

Chair Provenzano noted a correction on the June 10, 2020 regular minutes on Page 2, Application #2373 that stated "She designated regular Commissioners Harlow, White, Gagnon and Provenzano to vote on Application #2373. Also, she designated alternate Commissioners Gagnon and Tyler, respectively, to vote in place of Commissioner Massarelli this evening because he recused himself from voting on Application #2373 and Commissioner Marra because he was having technical difficulties." This should be corrected to delete Gagnon as a regular Commissioner in the first sentence.

By: Harlow

Seconded: White.

For: White, Harlow, Gagnon, Tyler and Provenzano.
Against: None.
Abstained: None.

2. Zoning Enforcement Officer's Report

The Commission acknowledge receipt of the following item in their electronic packets: the Zoning Enforcement Officer's Report, for June 2020, dated July 1, 2020. Mr. Spyros explained there was a lot of property maintenance concerns compared to June of 2019.

Commissioner White expressed concern with the new Dollar General Store on Memorial Boulevard in that the windows have been blocked and that is not in compliance with the downtown Zoning Regulations. He went on to say that the property owner needs to be informed that they are part of the downtown area and that windows and doors are required to have clear or tinted glass for an unobstructed view into the building. Mr. Spyros stated he would follow-up with the property owner.

Regarding Jimmy's on the River, Terryville Rd, a complaint was received that the sign that was considered advertising for "Jimmies on the River." ZEO Spyros is working with the property owner to gain compliance with the Regulations.

RECEIPT OF NEW APPLICATIONS:

3. Application #2375 – Special Permit for parking at Lot 265 High Street; Assessor's Map 26, Lot 265; R-15/BT (Single-Family Residential/Downtown/Neighborhood Transition) zone; The Neubauer Building, LLC, applicant.
4. Application #2376 – Site Plan for parking at Lot 265 High Street; Assessor's Map 26, Lot 265; R-15/BT (Single-Family Residential/Downtown/Neighborhood Transition) zone; The Neubauer Building, LLC, applicant.
5. Application #2377 – Revision to an Approved Site Plan for fast food restaurant at 1264 Farmington Avenue; Assessor's Map 46, Lot 72A-2; BG (General Business) zone; Parget Singh, applicant.

Chair Provenzano designated regular Commissioners Massarelli, White, Harlow, Marra and Provenzano to vote on Applications #2375, #2376 and #2377.

MOTION: Move to schedule Applications #2375 and #2376 for a public hearing for the August 12, 2020, regular meeting of the Commission.

By: Massarelli

Seconded: White.

For: Massarelli, White, Harlow, Marra and Provenzano.
Against: None.
Abstained: None.

The Applications #2375 and #2376 were scheduled for public hearing.

MOTION: Move that Application #2377 be moved to New Business on tonight's meeting agenda so the application can be reviewed by the Commission later this evening.

By: Massarelli

Seconded: Harlow.

For: Massarelli, White, Harlow, Marra and Provenzano.
Against: None.
Abstained: None.

The Application #2377 was moved to New Business.

the public hearing; roll call for the Commission to ask their questions and then the public audience to ask their questions.

PUBLIC HEARINGS:

6. Application #2373 – Special Permit for an accessory dwelling unit at 88 Buff Road; Assessor's Map 2, Lot 10-3; R-15 (Single-Family Residential) zone; Edythe Sirica, applicant. Commissioner Massarelli, recused himself from voting on Application #2373, to avoid a conflict of interest. The Commission acknowledged receipt of the following items in their electronic packets: an e-mail dated July 7, 2020, from Edythe Sirica, regarding the request to withdraw Application #2373.

Chair Provenzano designated regular Commissioners White, Harlow and Provenzano to vote on Application #2373. She also designated alternate Commissioners Gagnon and Tyler, respectively, to vote on Application #2373 in place of Commissioners Massarelli because he recused himself to avoid a conflict of interest and Commissioner Marra because he had technical difficulties at the June 3, 2020 regular meeting.

Mr. Flanagan explained he spoke with the applicant this week and that the applicant requested a withdrawal because of design concerns.

MOTION: Move that the withdrawal of Application #2373 - Special Permit for an accessory dwelling unit at 88 Buff Road; Assessor's Map 2, Lot 10-3; R-15 (Single-Family Residential) zone; Edythe Sirica, applicant, be accepted.

By: White

Seconded: Harlow.

For: White, Harlow, Gagnon, Tyler and Provenzano.

Against: None.

Abstained: None.

The application is withdrawn at the request of the applicant.

7. Application #2372 – Proposed amendments to the Zoning Regulations: to add drive-up facilities, including those which are part of a use otherwise permitted by right, with a minimum area of 3 acres, but excluding car and truck washes as a Special Permit use in the Downtown Business (BD) zones (Section V1.C.3.c.); Attorney James Ziogas, applicant.

Chair Provenzano designated regular Commissioners Massarelli, White, Harlow, Marra and Provenzano to vote on Application #2372.

The Commission acknowledged receipt of the following items in their electronic packets: a copy of the Planning Commission minutes of May 27, 2020; a letter dated May 14, 2020, from Attorney James Ziogas, regarding the request; a referral memorandum dated May 28, 2020, from the Zoning Commission to Therese Pac, Town and City Clerk; a referral memorandum dated May 28, 2020, from the Zoning Commission to the Planning Commission; a letter dated June 25, 2020, from the Planning Commission to the Zoning Commission, regarding a positive referral; a page entitled "*Application #13-1 (2013)*"; a copy of the Zoning Commission minutes dated Regular Meeting of November 14, 2012; a copy of the Zoning Commission agenda from the Regular Meeting of December 12, 2012; a copy of the Zoning Commission minutes dated December 12, 2012; a referral memorandum dated December 13, 2012, from the Zoning Commission to the Planning Commission, regarding an 18 month moratorium in the BD-1 and BD-2 zones; a special Planning Commission agenda, dated December 27, 2012; a copy of the special minutes of the Planning Commission dated December 27, 2012; a referral letter dated January 3, 2013, from the Planning Commission to the Zoning Commission, regarding the establishment of an 18 month moratorium; a copy of the Zoning Commission minutes of 2013; a special Meeting Agenda of the Zoning Commission dated January 30, 2013; a copy of the draft amendment for the January 30, 2013 meeting; a copy of the minutes of the Bristol Zoning Commission, Special Meeting of January 30, 2013 (Pages 1 to 3); a copy of the regular meeting agenda of the Zoning Commission, dated February 13, 2013; a copy of the Zoning Commission regular meeting minutes of February 13, 2013 (Pages 1,8 and 9); a copy of a page entitled "*Application #14-1 (2014)*"; a copy of the Zoning Commission agenda of the special meeting of Monday, June 10, 2013; a copy of the minutes of the Zoning Commission special meeting of June 10, 2013 (Pages 1 and 2); a copy of the Zoning Commission regular meeting agenda dated October 9, 2013; a copy of the Zoning Commission regular meeting minutes dated October 9, 2013 (Pages 1 and 4); the Zoning Commission regular meeting agenda dated November 13, 2013; a copy of the Zoning Commission regular meeting of November 13, 2013 (Pages 1 and 5); a referral letter dated November 26, 2013, from the Zoning Commission to the Planning Commission; a Planning Commission regular meeting agenda dated December 18, 2013; a copy of the Planning Commission regular meeting minutes dated December 18, 2013 (Pages 1 and 2); a referral memorandum dated December 30, 2013 from the Planning Commission to the Zoning Commission, regarding their report and recommendations; a copy of the proposed amendments entitled "AZR-14-1: Proposed Amendments to the Bristol Zoning Regulations, Bristol Zoning Commission, Draft for January 15, 2014 Public Hearing; a copy of a map of the Drive-Up Windows in the Downtown Bristol, CT, dated January 2014; the Zoning Commission regular meeting agenda dated January 15, 2014; a copy of the Zoning Commission regular meeting minutes of January 15, 2014 (Pages 1, 3 and 4) and a copy of a Planning article from a National Planning Magazine entitled "*Planning, April 2020, In This Issue: Is Fast-Food Through With Drive-Thrus?, Responding to pressures from consumers and planners, a new generation of fast-food restaurants is replacing the familiar cookie-cutter, car-centric prototype.*"

Attorney James Ziogas, Jr., 104 Bellevue Avenue, explained he submitted the 2012 to 2013 Zoning Regulations language with the addition of his request to that language with a minimum of three acres to be associated with a drive thru window. The request had two intentions: keeping Bristol business friendly and in seven years there has not been much development of the downtown with the exception of the Bristol Hospital facility and the assisted living facility. There were interested developers for the downtown area, but the drive-thru window component was not allowed. COVID-19 caused many problems throughout the country, but the drive-thru windows allowed for many services and businesses to continue. No one was sure how long the pandemic would be and they should be ahead of the need for future applications.

He explained that the Planning Commission meeting vote resulted in a 4 to 1 vote recommendation for approval to develop downtown Bristol. His opinion was this would keep Bristol ahead of the curve with the pandemic.

After inquiries by the Commission, Attorney Ziogas noted eight parcels potentially had three acres, which included: The Barnes Group; Laverio Realty; North Side Square; Webster Bank; Carpenter Realty; Greg Laverio Construction; Bishop Street Plaza; an additional Carpenter Realty property and Depot Square. The drive through facility and the drive-up window was not a large difference.

The Commissioners in favor commented at the time of the moratorium they wanted a walkable downtown, which was incompatible with drive thru windows. They liked the Special Permit requirement and the three-acre minimum that may encourage more medical offices to be constructed. They questioned if additional developments were prevented with this Regulation.

No one else spoke in favor of the application.
No one spoke against the application.

Mr. Flanagan explained the moratorium was discussed in November and December 2012 and voted on January 2013. The moratorium was in effect for all of 2013. At the end of 2013 there was an additional amendment to remove the drive-up facilities in the downtown area and voted on in 2014 and also the Commission repealed the moratorium at the same 2014 meeting. At this point all the drive-up windows had ended – those pre-existing could continue.

The hearing is closed.

By: Massarelli

Seconded: White.

For: Massarelli, White, Harlow, Marra and Provenzano.
Against: None.
Abstained: None.

MOTION: Move that Application #2372 –Proposed amendments to the Zoning Regulations: to add drive-up facilities, including those which are part of a use otherwise permitted by right, with a minimum area of 3 acres, but excluding car and truck washes as a Special Permit use in the Downtown Business (BD) zones (Section V1.C.3.c.); Attorney James Ziogas, applicant, be approved because the Zoning Commission finds that the text amendment, as presented, would be consistent with the goals and policies of the 2015 Plan of Conservation and Development, amended to April 1, 2018, and specifically:

- 1) Section 9.3.1.5. – Encourage the attraction of new business and industry to suitable locations in Bristol.

The effective date of this zoning text amendment is: August 10, 2020.

By: Massarelli

Seconded: White.

For: Massarelli, White, Harlow and Provenzano.
Against: Marra.
Abstained: None.

The application is approved.

- 8. Application #2371 – Special Permit for removal and processing of earth materials at south and southeast of Barlow Street, south and west of Martin Road, south of Arcadia Road, and north of Farrell Avenue; Assessor’s Map 67, Lots 20, 21, 22, 23, 24, 25, 37, 85, and all paper roads shown on Assessor’s Map; R-15/OSD (Single-Family Residential/Open Space Development Overlay) zone; Trademark Acquisitions, LLC, Arcadia Group, LLC and Arcadia Acres LLC, applicants. Chair Provenzano designated regular Commissioners Massarelli, White, Harlow, Marra and Provenzano to vote on Application #2371.

The Commission acknowledged receipt of the following items in their electronic packets: the first and second set of Site Plan Committee Review comments, respectively, dated June 15, 2020 and July 13, 2020; eight pages of fifteen photographs, undated, entitled " 1) View from Earth Removal Staging Area looking North; 2) View from Earth Removal Staging Area looking East; 3) View from Earth Removal Staging Area looking South; 4) View from Earth Removal Staging Area looking West; 5) View from point of excavation looking South; 6) View from point of excavation looking East; 7) View from point of excavation looking North;

8) View from point of excavation looking West; 9) View from Subdivision processing area looking south; 10) View from Subdivision processing area looking West; 11) View from Subdivision staging area looking Northeast (towards residences); 12) View from Subdivision staging area looking East and Southeast; 13) View of a typical Box Screen. Note that engine is enclosed and equipped with a muffler. Screen deck is isolated from vibration with rubber mounts. Machine only vibrates screen decks and does not cause hazards from flying debris; 14) View of a typical Portable Screener. Version shown is mounted on tracks. Engine located in enclosed below the unit and equipped with a muffler. Screen deck is isolated from vibration with rubber mounts. Machine only vibrates screen decks and does not cause hazards from flying debris; 15) View of a typical Portable Crusher. Version shown is mounted on tracks. Engine is located within an enclosure and is equipped with a muffler. Unit has feeder built in that is loaded by excavator or payload. Flying debris is eliminated by feeder unit and shields surround crusher.” a project narrative entitled “Project Narrative for Earth Removal & Processing of Earth Materials, Laurentide Glen, A Residential Open-Space Subdivision, Bristol, CT, dated June 29, 2020”; an e-mail dated, July 1, 2020, from Kevin Desjardin, regarding six photographs and questions for the application; and e-mail from Francis Joyce, dated July 6, 2020, regarding question for the application.

Attorney Mark Ziogas, 106 North Street, on behalf of the applicant, explained the request included a Special Permit for removal and processing of earth materials, which would take several years. A lot of work was done and they were committed to finish the plans. The items constructed/finished: Arcadia Rd. – partial abandonment; Martin Road hammerhead and cul-de-sac; a detention basin; a Barlow St. bus turnaround and a large access road to access the materials. The subdivision was worked on, Pequabuck Rd. realigned and detention basin constructed. The site has been improved. 30,000 cu. yds. of materials was removed; out of that was 5,000 cu. yds. of topsoil and 7,500 cu. yds. of gravel was stockpiled. They used 9,000 cu. yds. for the access road and 7,000 cu. yds. hauled off site.

After inquiries by the Commission, respectively, Attorney Ziogas explained the screening would be done on an as needed basis. The crushing would be done within the limits of the permit hours. He agreed the crushing may begin at 8:00 A.M. Gino Troiano, P.E., 72 Cold Spring Road, Arcadia Acres, LLC, explained a hoe ram would not be used because there were no stones that large. The business hours are 7:00 A.M. to 4:00 P.M. The crushing would be done eight hours a day and five days a week. If there are noise complaints, the crusher or screener would be relocated to a more appropriate location for the neighbors. There was no decibel limitation, but they were comfortable with the decibel levels. The houses on Martin Rd. and Barlow St. would not be affected. In the middle of the property there was a barrier of about 30 ft. All of the modern equipment has noise dampening features to protect the workers with enclosed housing and mufflers. The crusher would be kept full to reduce noise.

Mr. Troiano explained the material processing area (Farrell Ave.) was 130 ft. below the residents on Arcadia Rd.; the ramp on the property blocks the residents on Barlow St. within the earth removal area (north side of property) at the lower point of the subdivision is where they propose to do screening. He reviewed the photographs in the electronic packets.

No one spoke in favor of the application. The following persons spoke in favor of the application: Kevin Desjardin, 99 Arcadia Rd.

The following persons spoke against the application: Kevin Desjardin, 99 Arcadia Road. Mr. Desjardin inquired when the topsoil was leveled, dust went onto his front yard and into his pool. The applicant tried to plant grass seed to stop the dust. Therefore, when the topsoil is worked on in the pit, the dust and sand will go into the residential area. The berm helped, but he requested the following: a permanent structure at the end of Arcadia Rd. to mature in those seven years of this plan (part of the approval), for a buffer to block the equipment view and for safety. He requested an air quality report done because of trucks, crushing and screening, which would worsen.

The initial permit had no stockpiling, which was supposed to be hauled away, which has not happened. Also, water trucks were discussed at the initial plan while they were doing construction. Now there is a Special Permit to stockpile, which has been done on the property. There would be topsoil, crushing, screening and a berm with open pit near his property. He was concern of the air quality and its effects on his children with medical conditions.

The following persons were not in favor or against the application, but had inquiries: Curtis Dimauro, 90 Martin Road; Jesse Kushner, 128 Martin Road; Alice Joyce, 100 Barlow Street; Scott DeAngelo, 212 Martin Rd. and Silvia Roy, 170 Martin Rd.

Mr. Dimauro inquired of the long-term plan for the topsoil and staging it. Mr. Kushner inquired of the decibels of the screener and the crusher. Ms. Joyce had inquiries of trucks on Barlow St. and the truck loads are not covered; also concerns of the truck traffic.

Mr. DeAngelo disagreed the location of the screening equipment would not affect neighbors because it would be below his house. There is noise; his well pump replaced two times (2 yrs. ago and currently) because it was full of sand from the construction; also, his furnace serviced three times. This would not help the resident’s quality of life. He was not in favor or against the application, but wanted the correct procedures.

He agreed with Mr. Desjardin that that stockpiling was not supposed to be on the property. Ms. Roy had concerns of the dust because of medical conditions and her house abutted the street being constructed, but screening and crushing would not be conducive to her condition. They have done a good job, but there were trucks on Barlow St. and on a few occasions, they were working past 3:30 P.M. Also, the noise was an overwhelming concern. After inquiry by the Commission, Ms. Roy explained the noise was an overwhelming concern on a daily basis, but understood this was a construction site.

The following person spoke again: Kevin Desjardin, 99 Arcadia Rd., reiterated his concerns of going ahead the end of with Arcadia Rd. and finishing it; air quality; movement of dust and sweeping his area on Arcadia Rd./Martin Rd. He requested a monthly inspection for his concerns and the neighbor concerns.

Regarding Mr. Dimauro, Attorney Ziogas explained the long-term goals were to use the top soil on the property to stabilize the slopes and for the subdivision. Phase I (largest phase with no sand) was done, but now they are using the stockpiles. Phase II would have stockpiles, but they would not be any larger than they are now.

Regarding Mr. Kushner, Mr. Troiano explained the noise decibels (dB) at the property lines were at 57 to 67 dB compared to a conversation level (inaudible.) Under 75 dB would not impact quality of life. Regarding Arcadia Rd. landscaped buffer, the permanent structures proposed were in place, but the final configuration of Arcadia Rd. was a 30 ft. buffer and a slope down to the property. The Commission and Attorney Ziogas had a discussion regarding Mr. DeAngelo's well.

After inquiries by the Commission, Mr. Troiano explained ambient decibel levels near the houses were about 57 dB, but may not predict the dB inside the houses. To prevent dust, they are limited to water trucks only, which is done as needed. Phase I is exposed about four acres of property. Ms. Roy explained there is noise constantly, which was the construction work. Mr. Desjardin explained there was no sand because the property was grown over, but when the property was excavated the sand was new and started blowing and the berm is needed to prevent this concern. Mr. DeAngelo explained he would provide documentation on the well and the furnace. The well depth is 280 feet or 140 ft. below the pit.

MOTION: Move that Application #2371 – Special Permit for removal and processing of earth materials at south and southeast of Barlow Street, south and west of Martin Road, south of Arcadia Road, and north of Farrell Avenue; Assessor's Map 67, Lots 20, 21, 22, 23, 24, 25, 37, 85, and all paper roads shown on Assessor's Map; R-15/OSD (Single-Family Residential/Open Space Development Overlay) zone; Trademark Acquisitions, LLC, Arcadia Group, LLC and Arcadia Acres LLC, applicants, be continued to the August 12, 2020 meeting to investigate the outstanding concerns of the neighbors and the Zoning Commission.

By: Massarelli

Seconded: Harlow.

For: Massarelli, White, Harlow, Marra and Provenzano.

Against: None.

Abstained: None.

The application is continued.

OLD BUSINESS

There was no old business.

Item #5, under Receipt of New Application was taken out of order and placed under New Business.

NEW BUSINESS

5. Application #2377 – Revision to an Approved Site Plan for fast food restaurant at 1264 Farmington Avenue; Assessor's Map 46, Lot 72A-2; BG (General Business) zone; Parget Singh, applicant.

The Commission acknowledged receipt of the following items in their electronic packets: a set of Site Plan Committee Review comments, undated. Chair Provenzano designated regular Commissioners Massarelli, White, Harlow and Provenzano to vote on Application #2377. She also designated alternate Commissioner Gagnon to vote on Application #2377 in place of Commissioner Marra. Mr. Flanagan explained that he received this request about a week ago. Popeye's Louisiana Kitchen, opted for this location. The Site Plan Comments were prepared last week and the applicant responded to comments today, with a revised plan, but Staff was unable to provide a revised plan for the Commission this evening.

Parget Singh, Franchisee, had technical difficulties with Web-Ex. He was on the call and could hear but could not unmute himself.

Dennis McMorrow, P.E., Berkshire Engineering & Surveying LLC, 143 Bantam Lake Road, on behalf of the applicant, explained they prepared the Special Permit application plans for the Dunkin Donuts drive thru window of April 2019. He explained Mr. Singh had requested that he revise the plans to the Popeye’s Corporation standards.

The revised plans included the relocation of the dumpster at the rear of the building near the cooler area with the drive thru window. The applicant wanted the dumpster was replaced with the standard Popeye’s standard dumpster enclosure on the southwest corner of the property. They prefer the stacking traffic in a “U” shape around the building as shown on the Site Plan. The parking and the stacking lane were on the west side of the building, which eliminated the crossing pattern with the stacking lane on the west side of the property.

He explained the roadway may have to be excavated to upgrade the waterline; gas line and the electrical services. A comment was the ConnDOT had to review the plans, which was started with Scott Hesketh, P.E., traffic engineer, F.A. Hesketh & Associates, Inc., to renew the plans for the drive thru window for the Dunkin Donuts facility. An additional comment was no left turn sign onto Farmington Avenue because of the new granite curb island.

MOTION: Move that Application #2377 – Revision to an Approved Site Plan for fast food restaurant at 1264 Farmington Avenue; Assessor’s Map 46, Lot 72A-2; BG (General Business) zone; Parget Singh, applicant, be approved with the following conditions:

1. The Site Plan shall not be signed off until all remaining staff comments have been addressed and the plan revised accordingly.
2. All site improvements which have not been satisfactorily completed by the time a Certificate of Occupancy is applied for shall be bonded in accordance with Section XI.A.16. of the Zoning Regulations. The performance bond shall be posted by the applicant with the City before the Certificate of Occupancy is issued.

By: Massarelli

Seconded: White.

For: Massarelli, White, Harlow, Gagnon and Provenzano.

Against: None.

Abstained: None.

The application is approved.

ADJOURNMENT

Chair Provenzano designated regular Commissioners Harlow, Marra, Massarelli, White and Provenzano to vote on the adjournment.

MOTION: Move to adjourn at 10:39 P.M.

By: Harlow

Seconded: Massarelli.

For: Harlow, Marra, Massarelli, White and Provenzano.

Against: None.

Abstained: None.

This meeting was taped.

Respectfully submitted,

Nancy King
Recording Secretary

Louise Provenzano., Chair

David White, Secretary