

**PLANNING AND ZONING COMMISSION
TOWN OF DEEP RIVER, CONNECTICUT**

Town Hall

174 Main Street

Deep River, Connecticut 06417

1. A **regular meeting** of the *Deep River Planning and Zoning Commission* held on Thursday, April 18, 2019 at the Richard H. Smith Town Hall was called to order by Chairman Bruce Edgerton at 7:46 p.m., immediately following a duly called Public Hearing. Members present: David Basilone, Anthony Bolduc, Bruce Edgerton, Janet Edgerton, Jonathan Kastner, Jane Samuels, Ben Whelan, and Alternate Christopher Desrosiers. Also present: Nancy Howard (recording secretary), and approximately 38 audience of citizens.
2. Approval of Minutes: A motion was made by Tony Bolduc and seconded by Dave Basilone to approve the minutes of the public hearing of March 21, 2019 as printed. B. Edgerton and J. Edgerton abstained. Approved. A motion was made by Tony Bolduc and seconded by Jonathan Kastner to approve the minutes of the regular meeting of March 21, 2019 as printed. B. Edgerton and J. Edgerton abstained. Approved.
3. Payment of Bills: None
4. Correspondence: Secretary Janet Edgerton noted receipt of the following correspondence: (a) Gateway Commission Annual Boat Excursion scheduled for June 12th; (b) Design Advisory Board minutes of March 29, 2019 meeting; (c) Minutes of Regulations Committee meeting of April 4, 2019; (d) letter (undated) from Roger Williams of 131 Kirtland Street against Application #118 for 138 River Street; (e) letter dated April 17, 2019 from John D. Kennedy submitting letter dated March 24, 2019 from Robert Grieder, former owner of the property at 138 River Street; (f) letter dated April 17, 2019 from Brett Thompson of 137 River Street against Application #118 for 138 River Street; (g) letter dated February 19, 2019 against proposal for 138 River Street signed by 30 residents; (h) letter dated April 9, 2019 from J.H. Torrance Downes of Connecticut River Gateway Commission regarding review of Application #118 by Twice 138, LLC; (i) email dated April 2, 2019 from Kenneth and Diana O'Brien of 64 River Lane and River Street in support of Application #118 for 138 River Street; (j) Memo dated April 15, 2019 from ZEO Cathie Jefferson regarding review of Application #118; (k) letter dated April 18, 2019 from Robert Ghinder of 137 Kirtland Street against Application #118 for 138 River Street;
5. John Waldron, 6 Winter Avenue (Map 56, Lot 75): A public hearing was held immediately prior to this meeting on Application #116, Application for Special Permit by John Waldron for the purpose of a brewery / brew pub on property of Patina Holdings, LLC at 6 Winter Avenue. A motion was made by Janet Edgerton and seconded by Tony Bolduc to approve Application #116, Application for Special Permit, by John Waldron. Voted Unanimously.
6. Scott and Sara Conner, 189 River Road (Map 18, Lot 43): A public hearing was held immediately prior to this meeting on Application #117, Application for Special Permit by Scott and Sara Conner for the purpose of construction of a 4,463 s.f. five bedroom house with garage, pool and driveway on property at 189 River Road. A motion was made by Tony Bolduc and seconded by Janet Edgerton to approve Application #117, Application for Special Permit, by Scott and Sara Conner. Voted Unanimously.

7. Twice 138, LLC, 138 River Street (Map 62, Lot 45): Application #118, Application for Site Plan was received from Twice 138, LLC for the purpose of 25 parking spaces for off-site use within 500 feet, by easement appurtenant, on property at 138 River Street (Map 62, Lot 45). Attorney John Bennet, as agent for the applicant, presented the proposal for the parking on 138 River Street to be adjunct parking for the Lace Factory; the property is within 500 feet of the Lace Factory in accordance with the regulations. He noted that there are no proposed changes to the site with the exception of the continuation of a wooden privacy fence on the western frontage of the property on the west side of the driveway and a privacy fence along the east side of the property, and gravel on the parking area. The existing parking areas are shown on the site plan; the parking is within the existing gravel surface. Attorney Bennet noted that the application made is pursuant to Section 11.6.5 and the application includes an affidavit of the owner indicating that the property owner is aware that by allowing this parking it may compromise the use of the property as required by the regulations and an easement is also proposed to grant the easement to the Lace Factory property to park on Twice 138 property. Attorney Bennet noted that the letter was received from the Gateway Commission and no concerns were raised and he indicates that the property is unlikely visible from the river. The property will be less visible when the privacy fence is put up on the east side of the property. He noted that no trees are proposed to be removed. A row of pine trees separating the parking are staying as well as existing vegetation along the boundary line. The proposal is to render the property more conforming. Attorney Bennet referred to the letter from the former owner, Robert Grieder, indicating that he had three uses on the property, a residential use, retail lobster market, and storage and parking of construction equipment on site. Attorney Bennet noted that the residential use will continue and with the adjunct parking for the Lace Factory. He noted that there is no plan to expand the Lace Factory operation. The parking is for the employees and contractors only and they would be agreeable to a stipulation if necessary. He noted that at the present time, the people disperse to parking areas around town. Mr. Bennet submitted two pictures of the pre-existing conditions of the property when the applicant purchased the property from a bank after foreclosure and two pictures of the current condition of the property. Chris Desrosiers referred to Regulations Section 11.3.4, parking in a residential zone, and questioned the parking for a commercial use in a residential zone noting it is different than parking for businesses in the center of town. Jane Samuels noted concern regarding crossing between different zoning districts. Attorney Bennet noted that the Harbor Development District is not in the list of commercial or industrial districts. He noted that it is in the residential zone serving the Harbor Development District use pursuant to the Regulations and the interpretation of the Zoning Enforcement Officer. Jane Samuels noted that Section 11.3.4 states that commercial should not go into a residential zone with the implication that it cannot cross zones in order to have parking in a residential district. Attorney Bennet noted that the regulations allow for where parking already occurs and historically, as well as taking cars off the streets for functions at the Lace Factory. The intent is not to use the parking for patrons. Ben Whelan noted that the original approval for the Lace Factory in 2016 was for one to five employees and does not reference contractors. Attorney Bennet noted there are 22 parking spaces. Tony Bolduc noted that the Regulations require paving over 20 spaces. Attorney Bennet noted that they would prefer not to have more impervious surface. Ben Whelan stated that there are a number of regulations that have not been addressed to make the application complete, such as the following: 11.2.1 submission of parking analysis; 11.5.3 adequate site line has not been provided; 11.5 no sidewalks; 11.8.4 pedestrian safety; 11.6.5 easement is not shown; 11.6.5 affidavit to be provided; 11.9 lighting must be provided for over 20 spaces; 11.11.2 and 11.11.13 parking area paved if over 20 spaces; 11.11.14 curb or wheel stops must be provided to protect trees etc.; because of what is being asked for, now if

it is being paved, stormwater management must be applied as well, MS4; and the Commission engineer has not reviewed the proposal. Attorney Bennet reported that the easement and affidavit have been provided with the application; and the gravel area behind the trees was surveyed as an existing gravel surface. Janet Edgerton read the memo of the review by ZEO Jefferson. Attorney Bennet noted that Mr. Grieder indicated that he had been storing equipment there for his two businesses and a residence and the current proposal is rendering the property more conforming. Dave Basilone asked if a parking analysis has been done. Attorney Bennet stated that an analysis has not been done because the proposal does not involve the Lace Factory, just parking for employees and contractors. The wording of Section 11.6.5 was reviewed. Ben Whelan stated that on Application #92 for special permit on January 21, 2016 for the Lace Factory, there was no intent to increase the existing capacity and no change in impact. In addition to crossing districts, he noted that the plan provided is not a proper site plan for the parking lot. Attorney Bennet noted that the capacity at the Lace Factory is not changing; the attempt is to isolate cars. Commission members discussed options for action on the application such as tabling action to allow issues brought up by Commission members to be addressed or to reject the application without prejudice to allow the applicant to resubmit with additional information. A motion was made by Ben Whelan and seconded by Jane Samuels to reject Application #116 without prejudice. Discussion followed on the motion. Action on Motion: Voted Unanimously to deny application without prejudice.

8. Audience: Sue Huybensz of 38 Fairview Avenue asked for clarification that at the last meeting that the ZEO had issued a cease and desist on 138 River Street. The Chairman noted that letters of violation were sent to the property owner but that a cease and desist has not been issued. A cease and desist order is issued if the property owner shows no attempt to correct the violation. Ms. Huybensz also stated that Mr. Grieder stopped his business in 2015. The Chairman noted the previous owner did not give up his rights for the business on the property with the town so it remained a commercial business. The use goes with the property.

A discussion was held with Commission members and members of the public regarding receipt of public concerns. Tom Perry questioned the process for submission and commission receipt of correspondence and holding of public hearings on proposals that could affect the Town. A commission member noted that the submission of the letters and attendance at the meetings relays that the public is interested. The Chairman noted that there have been inflammatory things written recently which are inappropriate and misleading. The Commission members are trying to do what is good for the entire town. The Commission members urged that any correspondence be submitted as early as possible prior to a Commission meeting so that it can be distributed to and reviewed by Commission members. Another concern raised by the audience was asking that notification be mailed to the neighbors advising of a pending application. Lenore Grunko asked for the name of the resident who submitted in favor of the proposal (Kenneth & Diana O'Brien). The Commission will look into requirements for notification. An audience member asked about placing a sign in front of the Town Hall as notification of Planning and Zoning meetings. Some possible forms of notification discussed were notification by email from the Town Clerk when special meetings are scheduled, the calendar on the Town website contains the schedule of all meetings, and notification on the Town Facebook page. Brett Thompson noted that he has had to take time off from work to go to the Town Hall to get information on what has been submitted for an application. Bob Ghinder asked if an application could be submitted three weeks prior to a meeting to allow time for review and response.

Brett Thomson submitted two complaints of violation which will be provided to ZEO Jefferson when she returns to the office.

Raymond Gill of 128 Kirtland Street commended the commission for work that they do and expressed concern regarding actions of public officials.

199 Stevenstown Road: Gary Clark of Laurelwood Drive asked if a cease and desist issued expires if the property is not brought into compliance. He noted that a cease and desist was issued by the Zoning Enforcement Office on 2017 on property of Scott Papoosha at 199 Stevenstown Road. Mr. Clark noted that a Customary Home Occupation (CHO) application was approved for 199 Stevenstown Road last year for a saw mill on the property, while the cease and desist order was still in place. He noted that customary home occupation applications are supposed to be indoors or in an accessory building. The application did not specify where the activity was to take place. Mr. Clark stated that he attended a site walk with the Conservation and Inland Wetlands Commission (CIWC) within the past month and the saw mill was visible and clearly within 100 feet of wetlands. He noted that because of wetlands on the site, the proposal should have gone before the CIWC before it was issued by the ZEO. The CHO approval was used by the property owner for submission to the State DEEP for application for a clean wood processing permit. The DEEP application is now on hold due to a cease and desist order issued by the CIWC on the property pending remediation of activity in the wetlands and regulated areas. The CHO permit expired a week prior to this meeting. In August 2017, Planning & Zoning amended the cease and desist order to allow Town materials to be stored on the property. Mr. Clark noted that the logs currently on the property are clearly marked as material from Running Brook Farm. Mr. Clark noted that the property owner and engineer presented to the CIWC that the operation is a commercial business in the R80 district. Material apparently continues to be brought to the property with the cease and desist order in place. It is unknown if DEEP is aware of the cease and desist order by Zoning. The Chairman noted that it is an enforcement issue.

9. Reports: Regulations Committee: Jane Samuels reported that the organizational meeting was held and some subjects discussed were Harbor District definition, floating zone, and stormwater. The Chairman asked that minutes of a Committee meetings be forwarded to all Commission members. Dave Basilone noted that the Plan of Conservation and Development references establishing a harbor management commission. Mr. Kastner noted that it was presented a number of years ago and not received favorably.

Commission members noted need for communication between commissions, especially with violations. Future discussion will also continue regarding public petitions for a public hearing and requiring applicants to send notification to neighbors.

10. A motion was made by Tony Bolduc and seconded by Jonathan Kastner to adjourn at 9:34 p.m. Voted Unanimously.

Respectfully submitted,
Nancy Howard
Recording Secretary