

**TOWN OF EAST WINDSOR  
PLANNING AND ZONING COMMISSION**

**Meeting #1616  
July 24, 2012**

**\*\*\*\*\*Draft Document Subject to Commission Approval\*\*\*\*\***

The Meeting was called to order in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT. at 7:00 P. M. by Chairman Ouellette.

**ESTABLISHMENT OF QUORUM:**

A quorum was established as four Regular Members (Devaney, Ouellette, Sullivan, and Thurz) and one Alternate Member (Zhigailo) was present. Chairman Ouellette noted all Regular Members would sit in, and vote, on all Items of Business this evening. Alternate Member Zhigailo would also join the Board regarding discussion and action on all Items of Business this evening as well.

Also present was Town Planner Whitten.

**GUESTS:** Alan Baker, Board of Selectmen Liaison to the Planning and Zoning Commission; Dick Pippin, Selectman; Kathy Pippin and Marie DeSousa, Board of Finance.

**LEGAL NOTICE:**

The following Legal Notice, which appeared in the Journal Inquirer on Thursday, July 12, 2012, and Thursday, July 19, 2012, was read by Chairman Ouellette:

1. Application of Leonard J. Norton, P. E. Director of Public Works for a Special Use Permit for stockpiling of construction materials at Town Public Works Facility, 6 Woolam Road, owned by the Town of East Windsor, for use on Town maintenance/construction projects. [A-1 Zone; Map 44, Block 34, Lot 1].

**ADDED AGENDA ITEMS:** None

**PUBLIC PARTICIPATION:**

Chairman Ouellette queried the audience for comments regarding issues which are NOT the subject of Agenda items this evening. No one requested to speak.

**APPROVAL OF MINUTES/July 10, 2012:**

**TOWN OF EAST WINDSOR  
PLANNING AND ZONING COMMISSION  
Meeting #1616 – July 24, 2012**

2

**MOTION: To APPROVE the Minutes of Regular Meeting #1615 dated July 10, 2012 as written.**

**Devanney moved/Thurz seconded/VOTE: In Favor: Unanimous**

**RECEIPT OF APPLICATIONS:**

Chairman Ouellette acknowledged receipt of the following Application:

1. Application of the Town of East Windsor for a Special Use Permit per Chapter 304 for Municipal Park Improvements along Reservoir Avenue for proposed BMX Park, Dog Park and Community Gardens located at 24 and 40 Reservoir Avenue. [R-3 Zone; Map 78, Block 57, Lot 1].

**PERFORMANCE BONDS – ACTIONS; PERMIT EXTENSIONS; ROAD**

**ACCEPTANCE:** Request from Atty. Bridget C. Gallagher to discuss surety vs. cash bond for 68 Newberry Road.

Chairman Ouellette read the description of this Item of Business. Appearing to discuss the request was Attorney Bridget Gallagher, who currently represents Steve Dearborn.

Attorney Gallagher noted by her letter dated 7/19/2012 she is requesting that the Compliance Bond required of Mr. Dearborn be allowed to be provided in the form of a Surety Bond. Attorney Gallagher suggested a Surety Bond is appropriate as the condition of approval regarding posting of the bond doesn't reference a particular type of bond. Attorney Gallagher reported that Mr. Dearborn's engineer is in agreement with Town Engineer Norton regarding the amount of \$10,500. Attorney Gallagher also referenced an agreement to have the remaining wood removed by Lashway. Attorney Gallagher suggested the \$10,500 is a significant amount for Mr. Dearborn to post as cash.

Attorney Gallagher noted she understood the Erosion Control Bond can NOT be posted as a Surety Bond.

Chairman Ouellette requested clarification regarding the preference for the form of bonding. He understood the concern to be if the Town and Staff need to pull the bond their preference would be a Cash Bond as they may need to act quickly. The need for quick access is the reason the Erosion Control Bond is required to be a Cash Bond. He queried that the purpose of the Compliance/Restoration Bond is similar; if the Town needs to go in and clean up the site if the bond posted were a Surety Bond then Staff would be working with the company holding the Surety Bond to access the funds. Town Planner Whitten concurred.

Commissioner Devanney suggested most of the bonds required of applicants are Cash Bonds; the Commission would be going against its standards. Chairman Ouellette suggested Attorney Gallagher is saying the language isn't clear.

Commissioner Sullivan questioned the agreement with Lashway? Town Planner Whitten suggested the agreement hasn't been signed yet but all parties have agreed to the amount.

Chairman Ouellette questioned what type of situation would require pulling the bond? Would it be something like there being an issue and the owner is no longer involved with the project? Town Planner Whitten noted the bond under discussion is a Restoration Bond; a situation requiring action might be if there were a large amount of material left on site and a storm occurred and the Town had to clean up the site. Town Planner Whitten noted the Erosion and Sedimentation Control Bond is required during construction, and would be released after the site is stabilized. Chairman Ouellette requested another possible scenario. Town Planner Whitten suggested if the site were abandoned for some time. Chairman Ouellette suggested that would be a health safety, and welfare issue; Town Planner Whitten concurred, noting there have been some fires at that site already. The bond under discussion is a bond for the restoration of the property.

Chairman Ouellette questioned what position allowing the Surety Bond puts the Town in for future similar situations? Town Planner Whitten suggested there is another similar operation that has received approval but has not completed their Special Use Permit requirements; that applicant could request posting a Surety Bond as well. Chairman Ouellette questioned if Town Planner Whitten could think of any other situations for which the Commission has allowed a Surety Bond in lieu of cash? Town Planner Whitten suggested that in her 8 years of employment for East Windsor the request has never come up, so she couldn't speak to that question.

Commissioner Zhigailo questioned if the Town has ever had to call a Surety Bond? Town Planner Whitten replied not in her 8 years of employment but there are several projects which are currently being considered. Chairman Ouellette questioned that it becomes a delay in an emergency situation? Town Planner Whitten concurred.

Attorney Gallagher suggested as far as Lashway not being in business in a couple of years, her client feels the product (material) has a value and could be sold; her clients feels there should not be a bond at all. Attorney Gallagher reiterated her contention that the only requirement she is aware of is for the Erosion Control Bond. With regard to the storms she noted there is a 100' boundary, and this is a large site with much open space; she didn't feel there should be a problem. Regarding the fires she suggested there was a small fire there a couple of weeks ago but they didn't call the fire department; she didn't know that there were any significant fires. Attorney Gallagher indicated she understood the Commission's concerns.

Chairman Ouellette queried the Commissioners for comments; no one raised additional questions.

Chairman Ouellette questioned the process if the request moves forward? Town Planner Whitten indicated this Restoration Bond would become a Surety Bond and Mr. Dearborn

**TOWN OF EAST WINDSOR  
PLANNING AND ZONING COMMISSION  
Meeting #1616 – July 24, 2012**

4

can move forward to meet the minimum requirements of the approval. If the request is denied the Restoration Bond must be posted as a Cash Bond or a Passbook Bond.

Commissioner Zhigailo questioned the timeline that the Cash or Passbook Bond would be held? Town Planner Whitten suggested they would be retained until the project is completed, or if the project goes out of business. Commissioner Zhigailo suggested the history is that this application hasn't followed the norm. Town Planner Whitten felt that was one of the reasons the Commission required a bond.

Chairman Ouellette suggested that regardless of how the Board votes there will still be a mechanism in place; it's just how fast the funds would be available. Town Planner Whitten referenced the Bond Requirements and Policies acceptable to the Planning Department; the language of the proposed bond would be reviewed by the Town Attorney. She suggested it's reasonable to go either way with the request; the Surety Bond would delay the acquisition process if the bond had to be pulled.

Discussion continued. Commissioner Sullivan suggested even the Cash Bond isn't readily available. Town Planner Whitten reported a Cash Bond is held in an account that the Town can access. Commissioner Zhigailo questioned that the \$7500 Erosion Control Bond is cash and goes back to the applicant? Town Planner Whitten suggested that when a site is stabilized an applicant can requested the release of the Erosion Control Bond; sometimes the Town holds back a portion of the Erosion Control Bond until everything is completed. Commissioner Zhigailo questioned how near completion is this site? Town Planner Whitten suggested that in most cases the Erosion Control Bond would have been released a long time ago.

Chairman Ouellette queried the Commission for a motion.

**MOTION: To APPROVE the \$10,500 compliance/restoration bond for 68 Newberry Road to be in the form of a surety bond.**

**Devanney moved/Sullivan seconded/**

**DISCUSSION: None.**

**VOTE: In Favor: Devanney/Ouellette/Sullivan  
Opposed: Thurz/Zhigailo  
Abstained: No one**

**NEW HEARINGS: Leonard J. Norton, P. E., Director of Public Works** – Special Use Permit for stockpiling of construction materials at Town Public Works Facility, 6 Woolam Road, owned by the Town of East Windsor, for use on Town maintenance/construction projects. [A-1 Zone; Map 44, Block 34, Lot 1] (*Deadline to close hearing 8/28/2012*):

Chairman Ouellette read the Hearing description. Appearing to discuss this Application was Len Norton, Public Works Director/Town Engineer, representing the Town.

Town Engineer Norton submitted a larger map which is a 2009 aerial of the site obtained from the Town's GIS system. The larger map has been provided by the Water Pollution Control Authority which has a large scale plotter. Town Engineer Norton also submitted a 2005 version of the same map. Town Engineer Norton reported the 17 acre site was acquired in 1963. The Town Garage was moved from Mill Street to this location approximately 50 years ago. Additional structures – above ground fuel tanks with pumps, a wood structure which houses raw salt storage, and a sand/salt shed – are also located on the site. Storage of seasonal equipment, catch basins and drainage pipes, bulk storage of stone dust processed gravel, and top soil also occurs at the site. Wood and brush from road clearing is also stored on site until enough material is accumulated to take it to GreenCycle. Dumpsters for metal and tires are also located at the site. An additional metal storage building constructed in approximately 1999 also provides storage for Emergency Management equipment, and carnival equipment for the Broad Brook Fire Department. In front of the Town Garage the area has become the regional training site for police dog training.

A significant amount of storm debris was stored at the Woolam Road/Scantic Road corner of the property after the October storm. Road sweepings have been stored in the same location previously. Recently Town Engineer Norton had the opportunity to receive millings free of charge from the State; those materials are the subject of this Application.

Town Engineer Norton also submitted an Aquifer Protection Map provided by DOT. He noted East Windsor contains a Level B Aquifer, while Enfield contains a Level A. Town Engineer Norton noted the storage of the millings is outside the Aquifer Protection Area.

Town Engineer Norton also submitted a Wetlands Map. Chairman Ouellette noted there is a finger of wetlands on the southwest side of the property; Town Engineer Norton concurred. Town Planner Whitten noted the Wetlands Agent has signed off on a Wetlands Application.

Town Engineer Norton noted there is also a catch basin and outlet pipe which discharges "here". He noted he has had the area surveyed; he plans to design a new water quality unit with a manhole to reduce the velocity. That work would be submitted under an Inland Wetlands Application.

Town Engineer Norton noted the 2005 GIS map shows the earlier milling pile. He noted this is the Town Garage but it is also a contractor's storage yard for maintenance projects. Town Engineer Norton reported the water at the site has high manganese and potassium levels; bottled water is provided for Staff.

Chairman Ouellette noted the suggestion for a 50' separation distance from the property line. Town Engineer Norton referenced the 50' distance on the maps. He noted the Inland Wetlands decision requested the installation of silt fence along the dry drainage ditch in the rear of the property.

Commissioner Devanney questioned the timeline for the storage of the millings in front? Town Engineer Norton indicated they use the material on all the unimproved Town roads, the Town parking lots, and in back of Reservoir Park. This material was provided free of charge which, in a tough budget year, saves the Town the cost of purchasing similar material as it's needed. It's used for basic maintenance of Town roads, parking lots, etc. The pile is larger than people are used to seeing. He acquired a quote to install a berm but that option wasn't approved. Town Engineer Norton noted he may have an opportunity to give some of the material to another town.

Commissioner Devanney questioned the height of the piles? Town Engineer Norton indicated the pile is not as high as the building, which he estimated to be perhaps 20'. He noted there is scant information on the site as it preceded zoning. The site was purchased in 1963; the plaque on the building indicates it was completed in 1964. The site has been the Town Garage during all this time.

Town Planner Whitten concurred, noting it's what a town garage is. It is similar to a contractor's storage yard. Town Engineer Norton isn't filing the application because he's non-compliant, or conducting activities outside the realm of that handled at a town garage. Chairman Ouellette questioned that the decision is before the Commission because of the storage of the millings? Town Planner Whitten concurred. Chairman Ouellette questioned this has arisen because there are more millings than usual? Town Planner Whitten replied affirmatively.

Chairman Ouellette queried the Commissioners for questions or comments; no one requested to speak.

Chairman Ouellette opened discussion to the audience.

**Rosemary Raber, 241 Scantic Road:** indicated she has been a lifelong resident of East Windsor. When she married in 1975 she lived across the street from the Town Garage site. When the Town Garage was built it was promised that a berm would be built but that never happened. Mrs. Raber cited concern for storage of the millings near the Scantic Aquifer. She has a shallow well and is concerned for contamination from the millings. She contacted DEP ( DEEP, the Department of Energy and Environmental Protection) and the Health Department (NCHD, North Central Health District); she submitted information from the DEEP as to what could happen due to water pollution. When the tar is ground up and the rain and air hit it the run off could run into her leach field. Mrs. Raber indicated she contacted the Building Department and the First Selectmen but couldn't get a timeline as to removal. It's a health concern. The pile is

**TOWN OF EAST WINDSOR  
PLANNING AND ZONING COMMISSION  
Meeting #1616 – July 24, 2012**

7

over 20' high; it's ugly; maintenance around the property isn't good. She is looking for a 100% guarantee that the storage won't pollute her well.

**Ron Hocutt, 199 Scantic Road:** Mr. Hocutt indicated he didn't mind the eyesore; he's all for getting something for free. He noted there is a gully behind the property as Town Engineer Norton has pointed out; the Scantic River is less than a quarter of a mile away. He is concerned about the discharge. The gully is unuseable land which is always wet with a high water table; he sees a petroleum film on the water. Mr. Hocutt felt this was a poor place to dump millings which contain a petroleum product.

Chairman Ouellette questioned if the Inland Wetlands Agent considers some of the questions/information this Commission has heard? Town Planner Whitten indicated the site was reviewed by the Wetlands Agent; a copy of the Inland Wetlands Permit has been provided in the Commission's packet. The Wetlands Agent asked DEEP about millings storage – as it is being considered for another site in town as well - and was told they consider it clean fill; the DEEP is not concerned with the milling storage. Town Planner Whitten indicated it seemed DEEP is changing their definition.

Commissioner Thurz questioned if the millings are stored on asphalt? Town Engineer Norton and Town Planner Whitten replied affirmatively. Town Engineer Norton noted we have had hot days recently; they have a difficult time loosening up the pile to work with. During the hot days the material turns back to pavement; if there is any water run off it's little to none. On another site in town a Wetlands expert had said the millings were pervious, and he was proved to be wrong. There is a drainage ditch behind the Town Garage; there isn't water in it unless it rains. Town Engineer Norton felt the water didn't get past the gully.

Town Engineer Norton indicated he will work with Mike Caronna from the Health Department; he isn't getting much direction from the State. Town Engineer Norton indicated he isn't here to create a problem for anyone, but he can't fix ugly. Regarding a timeline for use, three months is unreasonable but the Public Works Department will use it as quickly as it's possible to do maintenance. He may be able to give some of the millings to another town. Town Engineer Norton indicated he grew up in town; he doesn't want to create a problem for anyone.

Chairman Ouellette mulled the possibility of adding a condition of approval from the NCHD on the storage of millings. He felt Staff was trying to get answers and do the right thing.

**Mrs. Raber:** questioned if Chairman Ouellette could give her a 100% guarantee? Chairman Ouellette suggested nothing is a 100% guarantee.

Chairman Ouellette questioned what if the NCHD says it's not their jurisdiction? Town Planner Whitten felt that wouldn't occur. She cited concern for the Town Garage water supply; Town Engineer Norton indicated it's not potable/drinkable. She felt that at the

least they would be checking the well at the Town Garage, and perhaps others in the area. She reiterated that millings have been stored at this location in the past; if there was something in the water it wouldn't be from this pile.

Commissioner Zhigailo questioned Mrs. Raber on the condition of her water. Mrs. Raber suggested she has beautiful drinking water. She is located maybe a quarter of a mile from the Town Garage. Up to this point she hasn't had any problems. She cited concern that the entire Scantic area will have contaminated water; people won't be able to sell their houses.

**Ron Hocutt:** the water flows towards the Scantic; he felt there is a sizeable amount of water that flows through there. He would like to see that area downstream tested.

**Selectman Alan Baker, 43 Spring Street:** suggested postponing a decision to the Commission's next meeting. He would also like to see the new drainage design Town Engineer Norton referenced. Town Engineer Norton indicated he couldn't do that design in two weeks, and may not be able to do it until the Fall. Selectman Baker suggested he is concerned with the runoff and where it's going. Town Engineer Norton clarified that the repair he plans for the drainage won't have any effect on the drainage ditch; the situation was looked at after the storm in October. Selectman Baker cited concern that if pollutants are carried in the water the silt fence won't hold it back. Town Engineer Norton clarified that he has water samples taken once or twice a year as part of a permit through DEEP for the maintenance facility. The water sample is taken by a third party/environmental company at the Town Garage and 6 other sites in town; he must then submit an annual report to DEEP. Town Planner Whitten questioned if a sample was taken prior to the deposition of materials; Town Engineer Norton replied affirmatively.

Chairman Ouellette suggested the material could be stored elsewhere, or purchased as needed if the budget was available, but he noted the economic reason forces the Town to store the material somewhere. He queried if there the material was stored elsewhere would it also be a Special Use Permit? Town Planner Whitten replied affirmatively, noting any amount over 2000 cubic yards requires a Special Use Permit.

**Selectman Richard Pippin, 37 Woolam Road:** noted this site has a significant amount of clay under it; it isn't being stored over the aquifer. If the material was moved to another site it could be over an aquifer.

Chairman Ouellette and Town Engineer Norton mulled the status of the application; Chairman Ouellette questioned what other information was available that would help with the decision? Town Engineer Norton indicated he couldn't guarantee the Health Department would visit the site within 2 weeks. Town Planner Whitten suggested continuing the Hearing for two weeks until the Commission's August 14<sup>th</sup> Meeting. She noted the Commission only meets once in August. Chairman Ouellette advised the audience members of the process.



**Selectman Richard Pippin, 37 Woolam Road:** indicated he is hearing people compare apples to grapefruit. One person has a shallow well, while this well is a deep well. Selectman Pippin indicated his own well is 227' deep and he has no problems. Selectman Pippin also noted there is a well beyond Mr. Hocutt's property which is 600' deep and it's dry there; the water is gone.

**MOTION:** To CONTINUE the Public Hearing on the Application of Leonard J. Norton, P. E., Director of Public Works – Special Use Permit for stockpiling of construction materials at Town Public Works Facility, 6 Woolam Road, owned by the Town of East Windsor, for use on Town maintenance/construction projects. [A-1 Zone; Map 44, Block 34, Lot 1] until the Commission's regularly scheduled meeting to be held on Tuesday, August 14, 2012 at 7:00 p.m. in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT.

Devanney moved/Zhigailo seconded

**DISCUSSION:** None

**VOTE:** In Favor: Unanimous (Devanney/Ouellette/Sullivan/Thurz/Zhigailo)  
(No one opposed/no one abstained)

**MOTION:** To TAKE A FIVE MINUTE BREAK.

Devanney moved/Zhigailo seconded

**VOTE:** In Favor: Unanimous

The Commission RECESSED at 8:12 p.m. and RECONVENED at 8:22 p.m.

Chairman Ouellette suggested the Commission consider taking Agenda Item XI – NEW BUSINESS: Cellco Partnership d/b/a Verizon Wireless prior to other Items of Business.

**MOTION:** TO GO OUT OF ORDER and take Item XI: **NEW BUSINESS:**  
**Cellco Partnership d/b/a Verizon Wireless – Modification of**  
**Approved Site Plan – to replace 12 existing wireless antennas with 12**  
**new antennas on existing water tower located at 104 Prospect Hill**  
**Road, owned by CT. Water Company next.**

Devanney moved/Sullivan seconded

**DISCUSSION:** None

**VOTE:** In Favor: Unanimous

**NEW BUSINESS: Cellco Partnership d/b/a Verizon Wireless – Modification of**

**TOWN OF EAST WINDSOR  
PLANNING AND ZONING COMMISSION  
Meeting #1616 – July 24, 2012**

10

Approved Site Plan – to replace 12 existing wireless antennas with 12 new antennas on existing water tower located at 104 Prospect Hill Road, owned by CT. Water Company. [R-3 Zone; Map 102, Block 17, Lot 38]. (*Deadline for decision 8/30/2012*):

Chairman Ouellette read the description of this Item of Business. Appearing to discuss this Application was Attorney Ken Baldwin, of Robinson & Cole.

Attorney Baldwin reported the subject site is an existing wireless facility located on the Connecticut Water Company water tank at 104 Prospect Hill Road. The tank is used by 4 other carriers and Verizon. Attorney Baldwin noted Verizon is upgrading their existing facilities throughout the state; the proposed work is an upgrade under which they will replace the current antenna with new, slightly wider antenna.

Chairman Ouellette queried the Commission for comments. Commissioner Sullivan requested clarification of the location as the Special Use Permit Application indicates the facility is within 500' of an adjacent municipality. Attorney Baldwin suggested the reference to an adjacent municipality is an error; this location is at 104 Prospect Hill Road.

Town Planner Whitten clarified that no ground work is being done.

**MOTION TO APPROVE the Application of, Cellco Partnership d/b/a Verizon Wireless and owner Connecticut Water Co., requesting a site plan approval for upgrade of wireless communications antennas per Section 804, to be located on existing water tank, along with associated equipment and ground improvements, located at 104 Prospect Hill Road, East Windsor, CT. [Assessors Map 102, Block 17, Lot 38] R-3 zone.** This approval is granted subject to conformance with the referenced plans (as may be modified by the conditions) and the following conditions:

---

**Referenced Plans:**

- |     |   |
|-----|---|
| T-1 | Title Sheet with location map, notes and legend – Cellco DBA Verizon Wireless E Windsor 2 CT , 104 Prospect Hill Rd, East Windsor, CT prepared by URS Corporation AES , 500 enterprise Drive, Ste 3B, Rocky Hill CT 1/860/529-8882 last dated 6/18/12 |
| Z-1 | Site Plan Antenna Plan  |
| Z-2 | Water Tank elevation Existing Antennas  |
| Z-3 | Water Tank elevation and Proposed Antennas  |

**Conditions that must be met prior to signing of mylars:**

1. The applicant shall submit a paper copy of the final approved plans to the Town Planner for review and comment prior to the submission of the final mylars.
2. One set of mylars shall be submitted to the Commission for signature. All plans shall

- require the seal and live signature of the appropriate professional(s) responsible for preparation of the plans. (One paper set of the structural plans shall be submitted for signature.)
3. The conditions of this approval shall be binding upon the applicant, land owners, and their successors and assigns. A copy of this approval motion shall be filed in the land records prior to the signing of the final mylars.

**Conditions which must be met prior to the issuance of any permits:**

4. A Zoning Permit for all site work, inclusive of grading and placement of concrete pad and cabinets, must be applied for and approved prior to the start of construction. Two sets of the final approved plans shall be submitted at this time.
5. A detailed sediment and erosion control plan for the entire development shall be submitted at the time of application for the site improvement Zoning Permit. The plan shall include the engineers estimated costs for E&S controls. The Town Engineer will review the plan and cost estimates and will set the E&S bond amount.
6. Additional requirements and procedures may be implemented by the Town Planner.

**Conditions which must be met prior to the issuance of any Certificates of Occupancy:**

7. Site improvements must be completed or bonding in place.
8. Final grading, seeding, landscaping shall be in place or the E&S bond will not be released or reduced.
9. Additional bonding may be required by the Planning Department.
10. All state inspection fees must be paid.

**Conditions which must be met prior to the issuance of any certificates of compliance:**

11. A paper copy of the final as-built survey showing all structures, pins, roads, walks, driveways, drainage systems, and final floor elevations as well as spot grades shall be submitted and approved by the Town Planner.
12. A final as-built mylar shall be submitted and signed by the Commission.
13. All public health and safety components of the project must be satisfactorily completed prior to occupancy. In cases where all public health and safety components have been completed, the Zoning Official may issue a Certificate of Zoning Compliance provided a suitable bond is retained for any remaining site work.

**General Conditions:**

14. This site plan approval shall expire **six years from date of approval.** Failure to complete all required improvements within that time shall invalidate the approval. The developer may request an extension of time to complete the improvements from the Commission, in accordance the Connecticut General Statutes. The Commission shall require proper bonding be in place prior to the approval of any such extension.
15. This project shall be constructed and maintained in accordance with the referenced plans. Minor modifications to the approved plans that result in lesser impacts may be allowed

subject to staff review and approval.

16. Additional erosion control measures are to be installed as directed by town staff if field conditions necessitate.
17. All improvements and development must be performed in accordance with the East Windsor Zoning Regulations and applicable Town policies.
18. By acceptance of this approval and conditions, the applicant, owner and/or their successors and assigns acknowledge the right of Town staff to periodically enter upon the subject property for the purpose of determining compliance with the terms of this approval.

**DISCUSSION:**       None

**VOTE:**           **In Favor: Unanimous (Devanney/Ouellette/Sullivan/Thurz/Zhigailo)**  
**(No one opposed/no one abstained)**

**OLD BUSINESS: Armster Reclaimed Lumber Company** – Modification of Approved Site Plan for 232 & 244/246 South Main Street, owned by All American Products Corp., for modification of Phase II wood storage area adding 6 wood storage sheds. [M-1, B-2, & A-2 Zones; Map 12, Block 5, Lots 84-1 & 87] (*Deadline for decision extended to 7/28/2012*):

Chairman Ouellette read the description of this Item of Business. Appearing to discuss the Application was Jay Ussery, of J. R. Russo & Associates, LLC representing the Applicant, Klaus Armster, who was also present.

Mr. Ussery recalled that discussion occurred at the last Meeting which involved various options (previous proposal for installation of sheds instead of fencing was eliminated and replaced with a 5' high berm with arborvitae as screening) for expanding storage space. Since the Commission's Meeting Mr. Armster and Mr. Balch met with Town Planner Whitten; the revisions which resulted from that Meeting are:

- The pink line now shown on the plan is the fence location as approved in 2008.
- Current (proposed) fence location is now shown as a green line. Mr. Ussery indicated the green line provides approximately 40' +/- on the south and 34' +/- on the north for an average of 37' +/- additional feet of storage created by current proposed fence location. Mr. Ussery indicated this location is a bit forward of the original approved fence location line.
- Mr. Armster proposes to leave the fence location at the current, rather than approved, line; he has reverted back to an earlier proposal to install planters containing arborvitae in front of the fence.
- A 15+/-' gravel access drive will extend into Phase II.
- Mr. Armster is now proposing an extension of the green location line which extends the fence across to a 5' berm behind Hotcakes (restaurant); the berm will be planted with arborvitae on top which would grow together in a year or so.

- They are proposing a 3:1 slope which extends at the back of the parking lot which will allow them enough room to grade that area to prevent water from draining into Hotcakes parking lot.
- In response to Town Planner Whitten's comment which prohibited storage within 10' of the access driveway to the cell tower, Mr. Ussery indicated the plans now show a crosshatched area back to the tower in which storage would be prohibited.
- In response to Town Planner Whitten's comment regarding fence height be limited to 6' Mr. Ussery indicated that regulations allow a storage height of 14' in an M-1 Zone. Discussion during previous Meetings leads Mr. Ussery to feel that the Commission wants to keep the height of the storage piles at 6' regardless of whatever zone in which they are located. Mr. Ussery understands one of the reasons the Commission prefers the 6' height limitation is to prevent the piles from being visible from Route 5; the Applicant could increase the storage height to 14' in areas over the slope.
- The Fire Marshal has been able to review some version of the plans. Mr. Ussery indicated the Fire Marshal has expressed concerns regarding the length of the lanes between piles; she has indicated the operation is NOT to include any deadend lanes longer than 150'. Mr. Ussery referred the Commission to the plans for the revised lane length.
- Plans now show one section of fencing proposed along the farm road for screening.
- A drop-off area is proposed to be located inside the proposed front fence line.
- An existing berm installed in front of the cell tower will be removed; that area will then become additional storage area. Mr. Ussery suggested perhaps some landscaping items could be restored in that area.
- Town Planner Whitten's comments in her memo revised to 7/20/2012 reference the intention for a gate to be located along the accessway to the cell tower. Mr. Ussery felt the note shown on the plans may have been left over from previous proposals or a previous application, and was not intended to be shown on this plan revision. That note has been removed from the plan before the Commission this evening.

Commissioner Zhigailo reiterated her concern raised at previous Meetings for rodents populating the piles near Hotcakes; she questioned if the Health Department had been approached about the issue? Has Mr. Balch said anything to Hotcakes? Mr. Ussery indicated he didn't know; he hadn't contacted the Health Department as that's not a specific requirement for Site Plan Approval. Mr. Ussery indicated they did look at keeping the berm on "this side" far enough back to provide visibility for Hotcakes. Mr. Armster indicated that the last time they had a fence where the berm is now located; he can't store materials as he approaches the berm. Mr. Ussery suggested the width of the berm is 34' at the base; there is almost 50' from the parking lot to the storage area.

Commissioner Sullivan questioned if Mr. Armster was still accepting wood? Mr. Armster replied affirmatively, but noted he ships out more than he accepts.

Commissioner Thurz noted he visited the site and drove around. Wood is stored before the gate, the drive aisles are so bad you couldn't get a van in there, wood is stored in Phase II, wood is stored to the road. Commissioner Thurz suggested the site is a mess; he didn't like seeing that. He would rather see the fence eliminated and see the berm go all the way across Mr. Armster's location.

Commissioner Devanney indicated she has also driven by numerous times. She questioned if the plan was to go with planters again? Mr. Ussery suggested they are proposing 12 planters to be located in front of the fence. Commissioner Devanney indicated she didn't like the fence and planters; she would rather see the berm go all the way across. She also noted there are cars stored in front of Mr. Armster's location; would the cars still be stored there? Mr. Ussery indicated he felt that use would be a future application. Town Planner Whitten noted that location is also the subject of a Violation Citation. Commissioner Devanney felt the planters won't be visible; you will only see the cars.

Chairman Ouellette questioned what would be the surface material for the 15' accessway? Mr. Ussery suggested it would be 6" gravel, which is the same as the material for the accessway to the cell tower. Topsoil in that area must be removed and the gravel installed to create the storage area. Chairman Ouellette suggested he didn't see a note on the plans that prohibit storage within 10' of the access drive; Mr. Ussery indicated he will add those notes to the plans.

Chairman Ouellette questioned Mr. Armster how often he is at this site? Mr. Armster indicated he has guys there every day, also on Sunday when they drive around for 15 minutes or so.

Chairman Ouellette noted Mr. Armster has had issues with maintenance elsewhere on this site; how will the trees get watered? Mr. Armster suggested that if the arborvitae and hemlock don't get watered they do well. Chairman Ouellette questioned if that were true for similar berms down the street? Mr. Ussery indicated those are irrigated as the trees on the top tend to get dry. He noted that sometimes it requires multiple plantings before the trees establish themselves. Mr. Armster suggested his location is on public water. Chairman Ouellette questioned if there is a standard approval condition requiring maintenance of landscaping? Town Planner Whitten indicated a Landscaping Bond is required, but a condition can be included in the approval motion if there is a concern for maintenance.

Town Planner Whitten confirmed she had met with Mr. Armster and Mr. Balch. She, too, would prefer to see a berm installed "here". There should be no storage to the top of the slope. Mr. Armster would lose 40' of storage if he moved it back to continue as a straight line. Town Planner Whitten suggested the berm is better than the fence, but it must be maintained. If the Commission moves forward with the plan bonding for phasing and landscaping should be included in the approval conditions.

Town Planner Whitten suggested the goal is to get the site in compliance with the approved Site Plan. It's a good business; if he has a little more storage area ..... Phase I is difficult to deal with because it's located on multiple iterations of pavement. Mr. Ussery suggested some of the pavement goes back to the 50s; he felt Mr. Balch doesn't really want to tear it up. He suggested the regulations require screening; he felt the fence doesn't do the job as well as the berm. Town Planner Whitten clarified that the Commission can specify the type of screening if they feel it's necessary. Mr. Ussery indicated he understands the concern of the berm going around Hotcakes, but he questions if it's worth doing if the berm is taken straight across the property.

Commissioner Thurz suggested there is so much wood there; the piles are 8 to 10 to 12' high. There is a lot of product there. Town Planner Whitten suggested if the wood could be offloaded behind the berm, or the fence, it would be better.

Chairman Ouellette questioned what the situation would be if this application were denied? Town Planner Whitten suggested the situation would revert back to the previous approval, and they would have to come back for an expansion request.

Commissioner Thurz cited frustration with Mr. Armster's lack of compliance with the approved plans. Mr. Armster felt he had gotten into compliance; it took 11 or more months; he just kept getting materials. Town Planner Whitten noted that every time wood is delivered it's taken up front. Chairman Ouellette suggested it's almost insulting; the Commission and Mr. Armster have discussed this situation for weeks now and Mr. Armster continues to do the same things.

Mr. Armster reported that when he met with Town Planner Whitten and Mr. Balch he felt that having the fence which was approved for Phase II would eliminate the cost of the installation of the berm for Mr. Balch. It would allow him to get into compliance. Mr. Armster suggested you can move "it" around any way you want but there's too much product; we're in places we shouldn't be. But the fence is already approved. Town Planner Whitten clarified that Mr. Armster wasn't in compliance. Mr. Armster concurred, but noted if he put the fence in he would be, but Mr. Balch agreed to the berm. Mr. Armster suggested for him it's a holding pattern. He's not saying screw the Commission, or screw the Town; he hopes it gets approved so he can move forward. Mr. Armster suggested he is also looking at other land options; this isn't an ideal site. Mr. Armster indicated he is aggressively looking at other sites.

Commissioner Thurz noted that in 2008 the Commission approved a fence, but it didn't go up, and there is wood everywhere. What's to say if the Commission approves the fence now that it will get done? Mr. Armster suggested there is really nothing he can say, but he is looking at additional land in other towns but he must go through similar approval processes in those towns as well. Mr. Armster indicated he had also spoke to a representative for another property owner to use a 14 acre parcel across from Harkens Market, and he has been speaking to people in Hartford and Bloomfield. Commissioner Thurz cited frustration, noting people in town talk to him all the time about how the

Commission could approve this. Mr. Armster reiterated he has had tried to make progress; he isn't out of compliance for the fun of it; it's a situation that they don't have the space.

Commissioner Devanney questioned the timeline for compliance? Mr. Armster suggested Town Planner Whitten had suggested bonding to ensure it gets done. Town Planner Whitten clarified that just ensures you can do that item; until you get the bonding in place you can't move forward. If the Commission denied this application then your approval would revert back to the pink (fence) line. The fencing existing today would have to be removed back to the previously (2008) approved plan. .

Chairman Ouellette directed discussion to the height of the piles. Mr. Ussery felt the height approved in 2008 was that the wood stacks in front must not exceed the height of the fence. Mr. Armster felt the height should be no higher than the screening – 8'. Chairman Ouellette questioned the height of the piles today? Mr. Armster suggested the height was closer to 12'.

Commissioner Sullivan suggested he gets the impression that if the Commission doesn't grant this approval Mr. Armster doesn't have a prayer of ever getting in compliance. He noted Mr. Armster was still out of room, so how can he continue to accept more wood? Mr. Armster felt if he could put up the fence and reorganize the wood he will be in compliance. Commissioner Sullivan questioned that Mr. Armster would have to let this site sit? Mr. Armster suggested he wouldn't use the additional space. Chairman Ouellette suggested if it's that simple do Phase I and call it a day. Mr. Armster suggested Phase I doesn't allow him to put the aggregate down; he would be fine with putting up the fence and getting into compliance; it's a perfectly acceptable solution for him. Town Planner Whitten suggested the Commission could theoretically approve paving as proposed under Phase II, and revert to the previously approved site plan – but allow the paving or processed stone.

Commissioner Thurz requested clarification that Mr. Armster has said he wouldn't have enough room. Mr. Armster suggested to put in the fence is a different/lower cost than installation of the berm. Commissioner Thurz reiterated his request for clarification on the lack of room. Mr. Armster indicated if he does the berm he would have to pay the landlord an additional amount each month, so it isn't cost effective for him for that small amount of additional space – but the fence he could put in for less cost.

Chairman Ouellette questioned if Mr. Armster had the ability to put the fence in all the way across the property? Town Planner Whitten clarified that Phase I should be compliant before he goes into Phase II, but he is already in violation..... Every time Mr. Armster gets a delivery he becomes non-compliant because the wood gets dropped off in front of the fenced in area. Mr. Armster suggested one of the reasons the fence doesn't look good is because you can see the wood over the fence. If he did the fence straight across, but be allowed to keep it where it is (40' in front of the approved line) it would give him more space, and if he didn't have to push it back he could put wood in



that area. Chairman Ouellette indicated that he personally would not vote for anything that enhances, or adds, to what Mr. Armster already has. Chairman Ouellette suggested Mr. Armster should go back to the Phase I approval. Town Planner Whitten offered if Mr. Armster could keep the fence “here” with the planters, and allow installation of the aggregate, but Mr. Armster can’t go into Phase II. Commissioner Sullivan suggested he would only buy into that suggestion if Mr. Armster wouldn’t bring in more material. Chairman Ouellette didn’t feel that would occur; he noted Mr. Armster has brought in more material this week. Mr. Armster indicated the wood he is taking in is a function of the business; it’s something he is taking in for existing orders. If the Commission allows him to do what’s been discussed he’ll get in compliance. Commissioner Sullivan questioned when compliance could be accomplished? Mr. Armster suggested it will take him a little bit of time to put in the fence and install the aggregate but he promised “by the end of the year.” Town Planner Whitten requested clarification that Mr. Armster would install the fence, or the berm? Mr. Armster replied the fence.

The Commission cited the need for Mr. Armster to stop taking in wood, and get the site into compliance. Mr. Armster reported that would be shutting the business down; he has 10 men working for him. Mr. Armster reported they have shipped out 10 trucks of junk/sawdust which was a concern of the Fire Marshal. Town Planner Whitten suggested the removal of the sawdust was a maintenance issue which should have been taken care of on an ongoing schedule; not removing the sawdust was an issue of the Fire Marshal shutting down the business. Mr. Armster reiterated if he satisfies the Commission it would be putting himself out of business; he indicated he needs the wood he buys to do the orders he has.

The Commission reiterated their frustration with Mr. Armster’s lack of compliance, particularly while he continues to take in more material daily. Mr. Armster reiterated that he only takes in as much as he ships out for an order. The Commission reiterated their previous reiteration that Mr. Armster was not in compliance with his current Site Plan Approval granted in 2008 even before the exchange of material; the current storage of material 40+/-’ in front of the approved fence line and the expansion of storage into Phase II prior to compliance with Phase I creates the current/ongoing lack of compliance at the site which is the subject of the Zoning Citation. Mr. Armster reiterated again he only takes in an amount of material similar to that he has recently shipped out. L-E-N-G-T-H-Y discussion continued, with the Commission continuing to cite their frustration with the lack of compliance, and Mr. Armster continuing to cite the reasons for his lack of compliance.

Chairman Ouellette questioned the Commissioners how they felt on the most recent plan revisions? The majority of the Commissioners didn’t like the planters; the Commissioners were divided on the installation of a fence vs. a berm, and the location of whatever is installed. Three of the Commissioners wanted the fence returned back to the 2008 approval line; two of the Commissioners were ok with the fence installation at the current location of accumulated material 40’ +/- in front of the 2008 approval line.

Mr. Armster reiterated the history of his non-compliance. Chairman Ouellette noted the Commission asked during previous Meetings for an opinion from the North Central Health District regarding the proximity of the storage to the existing restaurant, and the Commission had also asked for some type of visualization of how the proposed revisions would affect the site – not an elaborate rendering, just photos of the site – and the Commission has received none of those items.

Chairman Ouellette queried Mr. Ussery regarding guidance for Mr. Armster. Mr. Ussery suggested that based on what he has heard from the Commission it makes no sense for Mr. Armster to come back with a different plan. Mr. Ussery suggested if he were the Applicant he would go back to the original plan and make it work, then maybe in 6 months after becoming compliant to return to the Commission to request expansion.

Mr. Armster asked if there was a possibility of getting approval for the fence at the location it is now? Chairman Ouellette suggested he had heard 3 Commissioners say they wouldn't vote for that. Mr. Armster noted the current location of 30' to 40' closer to the road doesn't make that much difference visually but it makes a difference to him for storage. Commissioner Sullivan suggested he wasn't in favor of allowing the fence without a timeline for completion – he suggested perhaps 3 months. Mr. Armster agreed to the 3 month suggestion. He reported he has been focusing on other issues – the removal of the sawdust – he indicated he has not been taking the Zoning Citation seriously because he has been working on the other things. L-E-N-G-T-H-Y discussion continued again. The Commission again noting the lack of compliance, the steps needed to seek compliance, and the need to stop taking in product. Mr. Armster continued to cite his need for accepting materials, and his concept of compliance via accepting only enough product to match that which was shipped out.

Chairman Ouellette questioned if Mr. Ussery would like a few minutes to confer with Mr. Armster?

**MOTION: To TAKE A FIVE MINUTE BREAK.**

**Devanney moved/Thurz seconded/**

**VOTE: In Favor: Unanimous**

The Commission RECESSED at 9:40 p.m. and RECONVENED at 9:47 p.m.

Mr. Ussery reported he would like to offer an extension to the Commission's August 14<sup>th</sup> Meeting on behalf of Mr. Armster.

**MOTION: To GRANT AN EXTENSION for the Application of Armster Reclaimed Lumber Company for Modification of Approved Site Plan for 232 & 244/246 South Main Street, owned by All American Products Corp., for modification of Phase II wood storage area adding 6 wood storage sheds. [M-1, B-2, & A-2 Zones; Map 12,**

**TOWN OF EAST WINDSOR  
PLANNING AND ZONING COMMISSION  
Meeting #1616 – July 24, 2012**

19

**Block 5, Lots 84-1 & 87] . EXTENSION continued until the until the Commission's regularly scheduled meeting to be held on Tuesday, August 14, 2012 at 7:00 p.m. in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT.**

**Devanney moved/Thurz seconded/**

**DISCUSSION:       None**

**VOTE:       In Favor: Unanimous (Devanney/Ouellette/Sullivan/Thurz/Zhigailo)**

**OTHER BUSINESS:**

Town Planner Whitten noted the Stakeholders (for the Route 140 Business Corridor) has been received, and will be sent to the stakeholders in the next week. The Commission briefly discussed the report. Town Planner Whitten suggested zoning isn't a fast moving process. Although changes in the uses of the properties located within the corridor may not change quickly the rezone is a step in the right direction.

**BUSINESS MEETING/(1) Correspondence:       None**

**BUSINESS MEETING/(2) Staff Reports:       None**

**BUSINESS MEETING/(3) Signing of Mylars/Plans, Motions: None**

**ADJOURNMENT:**

**MOTION:    To ADJOURN this Meeting at 9:50 p.m.**

**Devanney moved/Sullivan seconded/VOTE: In Favor: Unanimous**

Respectfully submitted,

---

Peg Hoffman, Recording Secretary, East Windsor Planning and Zoning Commission  
(8350)