

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

**Meeting #1634  
June 25, 2013**

***MEETING MINUTES***

***\*\*\*\*\*Draft Document Subject to Commission Review/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 three Regular Members (Ouellette, Sullivan, and Thurz) were present at the Call to Order. Alternate Member Zhigailo arrived at 7:20 p.m. Regular Members Devanney and Gowdy were absent. Chairman Ouellette noted all Regular Members would sit in, and vote, on all Items of Business this evening; Alternate Member Zhigailo would join the Commissioners upon her arrival.

Also present was Assistant Town Planner Newton.

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

**LEGAL NOTICE:** None

**ADDED AGENDA ITEMS:**

See RECEIPT OF APPLICATIONS; no motion.

**PUBLIC PARTICIPATION:**

No one requested to speak.

**APPROVAL OF MINUTES/(June 11, 2013):**

**MOTION:** To APPROVE the Minutes of Regular Meeting #1633 dated June 11, 2013 as written.

**DISCUSSION:** None.

Thurz moved/Sullivan seconded/

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

**TOWN OF EAST WINDSOR  
PLANNING AND ZONING COMMISSION  
Regular Meeting #1634 – June 28, 2013  
MEETING MINUTES**

2

**RECEIPT OF APPLICATIONS:**

Chairman Ouellette acknowledged receipt of the following Application:

1. Application of Dimitri Mitsalexakis for a Special Use Permit per Section 502, to allow an auto body repair shop at 179 South Main Street, owned by Donald J. Corkum. [B-2 Zone; Map 32, Block 21, Lot 69].

**PERFORMANCE BONDS – ACTIONS' PERMIT EXTENSIONS; ROAD  
ACCEPTANCE: Road Bond for Meadow Farms Subdivision – Farms Road:**

Chairman Ouellette referenced a memo dated June 19, 2013 from Town Planner Whitten regarding calling the bond being held in lieu of completion of Farms Road within the Meadow Farms Subdivision. Only one lot within the subdivision remains to be developed. The memo indicates Town Planner Whitten has been in contact with the developer, Jason Ziegler, seeking completion of the road improvements. Residents have lodged complaints that the pavement is uneven, and street lights have not been turned on, which would not occur until the improvements are completed and Farms Road is accepted as a Town road. Mr. Ziegler is no longer responding to Town Planner Whitten's calls; he has sold the remaining lot to another developer which complicates the issue.

Town Planner Whitten – via her memo – is requesting the Commission's concurrence that she call the developer's bond so the Town can make the final improvements.

**MOTION TO APPROVE the calling of the \$131,000 surety bond in order to complete improvements at Farms Road. Map 99, Block 53, Lot 14-9.**

**DISCUSSION:**       None.

**Sullivan moved/Thurz seconded/**

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

**CONTINUED PUBLIC HEARINGS:**

There were no continued Public Hearings this evening.

**NEW PUBLIC HEARING: DMD, LTD Family Partnership** – Special Use Permit under Section 407 to allow an accessory apartment at 341 Rye Street, Broad Brook. [A-1 Zone; Map 15, Block 50, Lot 13] (*Deadline to close hearing 7/30/2013*):

**TOWN OF EAST WINDSOR  
PLANNING AND ZONING COMMISSION  
Regular Meeting #1634 – June 28, 2013  
MEETING MINUTES**

3

Chairman Ouellette read the description of this Public Hearing. Appearing to discuss this Application was Doug King, Jr.

Mr. King advised the Commission this proposal is to renovate an existing in-law apartment containing approximately 900 to 1000 square feet by constructing an additional 1000 square foot area, plus a 2 car garage. The in-law apartment would be occupied by Mr. King's parents when they seasonally return to Connecticut. The apartment will be contained on one level of the home.

Assistant Town Planner Newton noted this proposal came into the Planning Office as a request for a Zoning Permit. As there were no records indicating that the apartment ever came before the Commission as a permitted use; the subject Application will make the conditions conform to Zoning Regulations.

The Commissioners raised the following questions:

- **Access to the subject apartment:** Mr. King indicated the location on the site plan.
- **Confirmation that occupancy will be limited to family members:** Assistant Town Planner Newton noted Mr. King will be requested to sign an affidavit confirming the familial relationship, and requiring a 2 year renewal of acknowledgment of that occupancy. Mr. King agreed the apartment would be for his parent's benefit and would not be rented to others.
- **Parking availability:** Mr. King noted the addition of a 2 car garage, and referenced additional parking availability behind the structure.
- **Utilities service:** Commissioner Thurz questioned if all utilities will serve both residences? Mr. King concurred.
- **Square footage of completed apartment:** Commissioner Sullivan questioned the total square footage of the renovated apartment; Mr. King suggested it would include the existing 1,000 square feet plus the additional 1,000 square feet.

LET THE RECORD SHOW Commissioner Zhigailo arrived at 7:20 p.m.

Chairman Ouellette opened discussion to the audience:

**Martin Parker, 337 Rye Street:** Mr. Parker noted he owns the property adjacent to the entrance to the subject property. He raised the following questions:

- **How long the construction will take, and will any disturbance be made to the entrance to the property?** Chairman Ouellette noted construction will be limited to the 1,000 square foot addition, and the 2 car garage. Assistant Town Planner Newton noted the Applicant will have one year to start construction, and the construction must be completed within 2 years.
- **Will the apartment be Mr. King's parent's primary residence?** Mr. King replied it would be their residence while they are in Connecticut.

**TOWN OF EAST WINDSOR  
PLANNING AND ZONING COMMISSION  
Regular Meeting #1634 – June 28, 2013  
MEETING MINUTES**

4

- **Will the apartment be rented out?** Mr. King replied negatively.
- **Are any additional zoning changes being made?** Chairman Ouellette noted there are not any other zoning changes associated with this Application.
- **Is any additional shrubbery required along the entrance?** Chairman Ouellette replied it would not be required under this Application; different conditions would apply if this were a new subdivision.

Chairman Ouellette queried the audience again for comments; no one else requested to speak.

Chairman Ouellette questioned Commissioner Zhigailo if she felt comfortable voting on this Application? Commissioner Zhigailo replied affirmatively, noting some discussion had occurred previously during acceptance of the Application and material had been provided Commissioners in their packets. She suggested her only question would be with regard to the adequacy of the septic system. Assistant Town Planner Newton noted the files include an approval letter from the North Central District Health Department.

Hearing no other questions, Chairman Ouellette called for motions.

**MOTION: To CLOSE THE PUBLIC HEARING on the Application of DMD, LTD Family Partnership for a Special Use Permit under Section 407 to allow an accessory apartment at 341 Rye Street, Broad Brook. [A-1 Zone; Map 15, Block 50, Lot 13]**

**DISCUSSION:** None.

**Thurz moved/Sullivan seconded/**

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

**MOTION TO APPROVE the Special Use Permit application of DMD Ltd. Family Partnership for a Special Use Permit to allow an accessory apartment in accordance with Chapter 407 of the Zoning regulations at 341 Rye Street, in the A-1 Zone [Map 15, Block 50, Lot 13]**

This approval is granted subject to conformance with the referenced plans as approved by the Commission and the following conditions:

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- |        |   |
|--------|---|
| 1 of 2 | Overall Site Plan for property of DMD Realty Family Limited Partnership, 341 Rye Street, East Windsor Ct Map 15, Blk 50, Lot 13, Zone A-1 prepared by JR Russo and Assoc 1 Shoham Rd, East Windsor Ct 06088 860/623-0569, 860/623-2485 fax scale 1" = 40' dated 1/28/13 |
| 2 of 2 | Septic System Plan  |
| A-1    | First Floor Plan for DMD Realty 341 Rye St Broad Brook CT prepared by CNAIA 1917 Main St, Glastonbury CT 06033 860/989-6228   |
| A-2    | Second Floor Plan   |

**TOWN OF EAST WINDSOR  
PLANNING AND ZONING COMMISSION  
Regular Meeting #1634 – June 28, 2013  
MEETING MINUTES**

5

**CONDITIONS**

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

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1. North Central District Health Department shall review and approve the plans for the proposed septic system design and well location to insure adequate capacity for the additional occupancy.

**Conditions that must be met prior to certificates of compliance**

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2. All public health, safety and building code compliance components of the project must be satisfactorily completed prior to occupancy. When all public health, safety and building code compliance components have been completed, the Zoning Official may issue a Certificate of Zoning Compliance.
3. A notarized affidavit in a form acceptable to the PZC, signed by the owner of one of the one family dwelling affirming the intent that either the principal or accessory dwelling unit is to be occupied by the owner of the premises shall be required. Affidavit shall be filed on the land records. The ZEO may request renewed notarized affidavit at 1 year intervals.

**General Conditions**

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4. A certificate of zoning compliance shall be filed on the land records and will be automatically expire with change of ownership. New owners must apply for a new zoning permit, otherwise the use will be considered abandoned.
5. No additional Mailbox is allowed.
6. No additional entrances may be allowed on any wall plane facing any street.
7. Zoning Permit shall be obtained prior to the commencement of any work.
8. A Building Permit shall be obtained prior to the commencement of any work.
9. This project shall be constructed and maintained in accordance with the referenced plan. Minor modifications to the approved plans that result in lesser impacts may be allowed subject to staff review and approval.
10. 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.
11. The applicant hereby acknowledges concurrence with the provision of §407 of the East Windsor Zoning regulations in total and in doing so recognizes the authority of the Zoning Enforcement Officer to order removal and conversion of the accessory apartment as allowed by §407

**DISCUSSION:**       None.

**Thurz moved/Sullivan seconded/**

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

**TOWN OF EAST WINDSOR  
PLANNING AND ZONING COMMISSION  
Regular Meeting #1634 – June 28, 2013  
MEETING MINUTES**

6

**OLD BUSINESS:** None.

**NEW BUSINESS:** None.

**OTHER BUSINESS:** None.

**BUSINESS MEETING/(1) Informal Discussion: Internet Café – Sofia's Plaza:**

Appearing for this informal discussion were Attorney Thomas Fahey and Tony Potts, the potential business owner. Despina Tartsinis, owner of Sofia's Plaza, arrived later and joined the discussion.

Town Planner Whitten had brought this potential use before the Commission at a previous meeting to address concerns regarding adequacy of parking requirements at the subject location. The Commission had also asked for a more detailed explanation of the proposed business to better understand the use and the services referenced on a flyer provided to Town Planner Whitten.

The Commission again raised the following questions:

- **Adequacy of parking:** Attorney Fahey initiated discussion by referencing the Commission's – and Staff's – concerns regarding adequate parking for this proposed business at the subject location. Attorney Fahey reported that in 2011 Ms. Tartsinis hired Mr. Ussery of J. R. Russo to do a parking study of Sofia's Plaza. Attorney Fahey referenced a site plan containing Mr. Ussery's hand written calculations which indicate that there are 495 parking spaces available for the entire plaza when including all three buildings. Attorney Fahey indicated Mr. Potts is considering 2 locations within the plaza: 1) a 2,400 square foot unit in the building behind Friendly's Restaurant, and 2) a 5,000 square foot unit in the third building near Tournament Central. Attorney Fahey suggested current regulations require 5 parking spaces per 1,000 square feet of retail space, while Friendly's – as a detached stand-alone building – requires 10 spaces/1,000 square feet. Attorney Fahey suggested Mr. Ussery's calculations indicate there are enough parking spaces to support the proposed business if the entire location is considered. Attorney Fahey indicated the regulations allow a 25% reduction in required parking spaces for situations of shared use when the parking needs fluctuate at different times. Attorney Fahey referenced various retail business uses and suggested the plaza contains many vacant spots after normal business hours. Discussion continued, with Ms. Tartsinis offering her perspective of parking availability.

Mr. Potts indicated he is leaning towards renting the 5,000 square foot unit but would like to have the option to rent the 2,400 square foot unit as well. He reported he currently owns another facility (in Ohio) which requires 35 parking

spaces, but noted the average use at the facility is 18 spaces. A higher capacity of parking spaces is needed when he runs “specials”, which generally occur on weekends.

Chairman Ouellette questioned what would happen if a user spends several hours at this business; the parking requirements would then overlap. Attorney Fahey felt that situation could occur for any of the businesses. Mr. Potts suggested he often sees people carpooling for his operation as a husband and wife may come together. Mr. Potts suggested if he has 55 terminals he won't necessarily use 55 parking spaces.

- **Scope of businesses being offered:** Attorney Fahey suggested the business will be geared to providing internet services, such as the ability to sell or purchase items on E-bay, internet classes 2 or 3 times a week in the morning geared to people over 55 who wouldn't normally have a personal computer, and computer services such as scanners, faxes, etc. A person would be buying computer time at an approximate rate of .25/minute. Additional services will be the management of E-bay sales – including packaging items for delivery and providing a pick-up location for items purchased. Attorney Fahey suggested mailing items for sale is often the bothersome issue of Ebay sales; for a fee Mr. Potts would provide the delivery or pick up services.

Mr. Potts indicated they are able to filter inappropriate use of their computer system, which enables them to filter/prohibit customers accessing pornography sites. Commissioner Zhigailo questioned if gambling can be prohibited as well? Mr. Potts indicated users must be 18 or older. He indicated he hasn't seen anyone do that; people shop online, sign up for Netflix, etc. Attorney Fahey reiterated a customer is just purchasing computer time; what a customer does with that time is their choice.

- **Cost of computer time:** Mr. Potts indicated they charge .25/minute.
- **Explanation of “sweepstakes Games” vs. gambling:** Attorney Fahey noted the Commission had raised questions during a previous presentation by Town Planner Whitten regarding “sweepstake games” noted on the flyer provided for the potential location. Attorney Fahey reported there is a similar facility located in Enfield; the same questions regarding gambling were raised during that application which was held as a Public Hearing. During the Public Hearing a detailed analysis was prepared by an attorney; that brief was forwarded to the State Attorney General's Office which deemed it ok under the State's definition of gambling. A person is given a ticket when they acquire a number of sweepstakes points based on computer use time. The tickets are pre-determined and are therefore not considered gambling. During later discussion Attorney

**TOWN OF EAST WINDSOR  
PLANNING AND ZONING COMMISSION  
Regular Meeting #1634 – June 28, 2013  
MEETING MINUTES**

8

Fahey agreed to pass on the analysis/brief provided for Enfield and the record of the State Attorney General's determination on to this Commission.

- **Interior configuration of facility:** Mr. Potts indicated a customer is provided an area or kiosk which contains an HP computer. Chairman Ouellette questioned what happens if all the areas are occupied; would people be allowed to hand around to wait for a spot? Mr. Potts replied affirmatively.
- **Explanation of Enfield location:** Attorney Fahey indicated the Enfield location is operated by MousePad which is a franchise operation. They also have a different business model as they offer computer repairs and sales and the purchase of phone time.
- **Food service:** Commissioner Sullivan questioned if they would sell food? Mr. Potts indicated they will have hot dogs and a soda machine available on site; other food offerings would be provided via outside vendors. Attorney Fahey indicated they would not sell alcohol. Commissioner Sullivan questioned if dispensing food would require a Special Use Permit? Assistant Town Planner Newton indicated service of food would require approval of the North Central District Health Department.
- **Application procedures:** Attorney Fahey suggested this use would be considered as-of-right as he would consider it a retail use. Assistant Town Planner Newton concurred that retail is a permitted use in this zone. If parking were not a concern approval could be granted administratively, however, the Commission is the authority responsible for approving a reduction in parking requirements. Assistant Town Planner Newton referenced Town Planner Whitten's analysis which determined 190 parking spaces are required, while only 144 are available. All existing uses, and the square footage occupied by those uses, must be considered. She suggested a Site Plan Application should be submitted by Mr. Potts.

Discussion followed, with various conflicting opinions offered. Attorney Fahey and Ms. Tartsinis felt Town Planner Whitten had not considered the "back" building when making her parking determination; Assistant Town Planner Newton noted the back building is located on a separate parcel. She suggested if everyone wanted to include the back building in the calculations then the existing uses, and their square footage occupancy, would be included in the calculations. The lots/parcels should also be combined to consider the parking of all parcels. Attorney Fahey questioned if Town Planner Whitten had used the same site plan when making her determination? Assistant Town Planner Newton referenced the reduced site plan copy included in the Commissioner's packets and found it to be the same site plan, minus Mr. Ussery's calculations. All three buildings comprising the entire plaza are reflected. Assistant Town Planner Newton

**TOWN OF EAST WINDSOR  
PLANNING AND ZONING COMMISSION  
Regular Meeting #1634 – June 28, 2013  
MEETING MINUTES**

9

suggested if all three buildings were to be considered then the parking requirements would be 502 spaces – 190 for the building behind Friendly's, 87 for the building containing Webster Bank, and 225 spaces for the back building. Total spaces available still fell below the required number.

Discussion continued. Attorney Fahey cited filing a Site Plan Application would cause a delay in opening the business. The Commission suggested they are not unfriendly to new business opportunities but cited regulation requirements with regard to approval of reduced parking. Chairman Ouellette suggested Attorney Fahey contact Town Planner Whitten upon her return to the office for further discussion.

**BUSINESS MEETING/(2) Plan of Conservation & Development 2014 – General Discussion:**

Discussion followed regarding the following:

- The number of student submissions for a POCD logo were minimal. Should the Commission open the contest to local artists?
- Review of POCD slogan.
- Review of status of SurveyMonkey survey.
- Review of potential POCD Meeting schedule and meeting topics.

**BUSINESS MEETING/(3) Adult Regulations:** Tabled.

**BUSINESS MEETING/(4) Signing of Mylars/Plans, Motions:**

**Mylars:**

- Recycled Concrete of CT., 33 Apothecaries Hall Road

**Motions:**

- Southern Auto Auctions

**ADJOURNMENT:**

**MOTION: To ADJOURN this Meeting at 8:30 p.m.**

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

Respectfully submitted,

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Peg Hoffman, Recording Secretary, East Windsor Planning and Zoning Commission  
(3046)