

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

REGULAR Meeting #1686 – December 8, 2015

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 6:30 P. M. by Chairman Ouellette.

PRESENT: **Regular Members:** Joe Ouellette (Chairman), Lorry Devanney, Frank Gowdy, Jim Thurz, and Dick Sullivan.
 Alternate Members: Michael Kowalski, and Marti Zhigailo.

ABSENT: **Regular Members:** All Regular Members present
 Alternate Members: Both Alternate Members present.

Also present was Town Planner Whitten.

GUESTS: Selectman Bowsza, Board of Selectmen Liaison to the Planning and Zoning Commission; Deputy Selectman Richard P. Pippin, Jr; Kathy Pippin.

ESTABLISHMENT OF QUORUM:

A quorum was established as five Regular Members and both Alternate Members were present at the Call to Order. Chairman Ouellette noted all Regular Members would sit in, and vote, on all Items of Business this evening.

LEGAL NOTICE:

The following Legal Notice, which appeared in the Journal Inquirer on Thursday, November, 2015, and Thursday, December 3, 2015, was read by Chairman Ouellette:

1. Application of Justin Kakley for a Special Use Permit (in accordance with Section 304) to allow proposed commercial recreation use at 32 North Road, owned by Down Realty, LLC (Jonathan Shoham). (M-1 zone; Map 113, Block 17, Lot 3A)

ADDED AGENDA ITEMS: None.

PUBLIC PARTICIPATION:

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Chairman Ouellette queried the audience for comments regarding items/issues not posted on the Agenda.

Steve Dearborn, 144 East Road: Mr. Dearborn announced he is not here as a liaison (note: The Board of Selectmen's liaison to the PZC is Selectman Bowsza), and he is not here as a Selectman. Mr. Dearborn announced he is still concerned about the church deal/La Renaissance; he indicated he understood you guys have approved it? Chairman Ouellette responded affirmatively. Mr. Dearborn reported he read in the minutes, he didn't see anything about that, was this approved because of that; would you have to approve it because of that? Did you have to do it because of Federal law? Chairman Ouellette indicated that was a piece of evidence shared with the Commission. Mr. Dearborn questioned if that forced this Commission to approve that flagship property which can be seen from I-91? Chairman Ouellette suggested that wasn't a yes or no answer. Mr. Dearborn became belligerent, demanding an answer. Mr. Dearborn announced he wasn't done with this; the people in town are pissed. Mr. Dearborn announced he didn't feel that the hotel will ever be built; he believed Frank (Commissioner Gowdy) was the only one with any sense. They won't pay any taxes like he would.

Commissioner Gowdy suggested that what Mr. Dearborn read didn't mandate the Board to make that decision. Mr. Dearborn then charged that meant the Board made that decision on their own and not because of any government law? Commissioner Gowdy replied that was correct. Mr. Dearborn then questioned why we did it? He reported he's not a religious man; he goes to church when someone gets married or someone dies. Mr. Dearborn felt to take that land and give it to a church and take away that tax revenue..... Commissioner Gowdy suggested that bulletin informed the Board they can't deny it because it's a church so the Board approved it because they thought it was the best use of that property. Mr. Dearborn recalled he used to plow that property; the traffic isn't going to matter. Commissioner Gowdy suggested Mr. Dearborn was talking after the fact. Mr. Dearborn proclaimed he's a taxpayer, and he's talking for a lot of people. That decision wasn't for the best interest of the Town; we need development. Commissioner Gowdy questioned Mr. Dearborn what was his point? Mr. Dearborn said the Board shouldn't have done it; it's a slap in the face. Mr. Dearborn warned the Commission that he has been thinking about getting an injunction against that; you took money away from the taxpayers. Come on; do what's in the best interest of the town to move it forward. It's a beautiful piece of building; it does look like a church. Commissioner Gowdy suggested Mr. Dearborn should do what he had to do. Mr. Dearborn charged that Mr. Gowdy didn't vote on it. Mr. Gowdy clarified that he did vote on it. The first part of the application was the Zone Change and the second was the Special Use Permit/Site Plan. He read the minutes. Mr. Dearborn continued that he is disgusted; a lot of people in town are disgusted. He doesn't know why people don't come to these meetings. He indicated he is for moving the town forward; put me in front of the Ethics (Commission) again.

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Mr. Dearborn then taunted where you stand on this, Miss Whitten? Town Planner Whitten clarified that she doesn't take a stand. She indicated she advises the Board as to the legal issues, procedural issues, and provides general staff support.

Commissioner Gowdy questioned Mr. Dearborn what his point was? Mr. Dearborn angrily responded he has a point; he's making it. Commissioner Gowdy suggested if Mr. Dearborn felt he should sue the town then do it; do what you have to do. Mr. Dearborn reminded us that he fought the town for 7 years and he will fight it again. Mr. Dearborn alleged if you people can't make a rational decision you should get off the Board. Commissioner Thurz questioned if Mr. Dearborn read the votes? There was one vote against the application and that was his (Commissioner Thurz's).

Mr. Dearborn continued with his harangue for several more minutes, and then left the meeting.

Chairman Ouellette queried the audience for additional comments:

Jason Bowsza, Board of Selectmen Liaison to the PZC: Mr. Bowsza noted this is the Commission's last meeting for the year; he wished everyone a happy holiday.

APPROVAL OF MINUTES/November 24, 2015:

MOTION: To ACCEPT the Minutes of Regular Meeting #1685 dated November 24, 2015 as written.

Devanney moved/Gowdy seconded/DISCUSSION: None.

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

RECEIPT OF APPLICATIONS: None.

PERFORMANCE BONDS – ACTIONS; PERMIT EXTENSIONS; ROAD ACCEPTANCE – Quarry Meadows – Request for an extension of the 48-lot subdivision (Quarry Meadows) located on the north side of Depot Street for an additional 4 years, based on PA 11-5. (*Previous extension expires on 1/30/2016*)

Chairman Ouellette read the description of this Item of Business. Joining the Commission at the table was Attorney Dale Robeson, of Vernon, CT., representing the Application for Quarry Meadows and his client, Skip Kement .

Attorney Robeson indicated he felt the request for an extension was consistent with Public Act (PA) 11-5, which allows subdivision permits, including their extensions, to extend no longer than 14 years. He noted the Quarry Meadows Subdivision was originally approved in 2006; two five year extensions have extended the permit through

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2016. PA 11-5 would allow extension of the Quarry Meadows Subdivision permit through 1/2020.

Discussion followed regarding the intent, and initiation, of PA 11-5. Attorney Robeson indicated he had reviewed the history of this Act; he felt it's clear that the legislators intended that developers who had invested money in infrastructure, etc. during the period of the recession would not be put in a position of bankruptcy.

Commissioner Sullivan requested clarification that the request was for the full 14 year extension? Attorney Robeson replied affirmatively, noting they have used 10 years of the extension and are now asking for the additional 4 year extension for the full 14 year period. Chairman Ouellette clarified for the Commission that they are under no obligation to grant the full 4 year extension. Town Planner Whitten queried the Commission as to their intent with regard to this subdivision? The consensus of the Commission was to complete the subdivision.

MOTION TO APPROVE Request from owner Stanley J. Kement, Jr. of SJK Properties, LLC, for an extension for the Quarry Meadows Subdivision on Depot Street, to expire without benefit of any further extensions on January 30, 2020.

Condition of Approval:

The applicant/owners is still subject to conditions of approval from the original permit, and amended phasing inclusive of bonding, open space fees, and zoning permits.

Devanney moved/Gowdy seconded/DISCUSSION: None.

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

PERFORMANCE BONDS – ACTIONS; PERMIT EXTENSIONS; ROAD ACCEPTANCE – Meadow Farms and Farms Road – Calling of the surety bonds for Meadow Farms and Farms Road.

Town Planner Whitten reported the permit for the subdivision and the Active Adult Community has expired in 2014 because the developer didn't come in for an extension. Drainage and the roads have not been completed; the detention basin is in bad shape and there is no final layer of pavement on the road(s). Town Planner Whitten reported the developer has not responded to attempts to contact him. She is asking to call the bonds to put that money towards completion of the project.

Commissioner Zhigailo questioned when was the last time the developer came in? Town Planner Whitten recalled he came in about 2 years ago to request a waiver of sidewalks on Farms Road; the Commission denied the request. She noted there is one house lot left on Farms Road; if the developer was willing to work with them they

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would be happy to do that. Chairman Ouellette questioned if the next step is to accept these as public roads? Town Planner Whitten clarified that Farms Road would be a public/town road; the Active Adult Community would be private.

Commissioner Gowdy indicated this is the first time in his 20 years of service on the Board when a developer as walked away from a project.

MOTION TO APPROVE the calling of the surety bonds for Meadow Farms Active Adult Community and Farms Road Subdivision in order to complete improvements at Farms Road. Map 99, Block 53, Lot 14-9.

Devanney moved/Gowdy seconded/DISCUSSION: None.

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

CONTINUED PUBLIC HEARINGS: None.

NEW PUBLIC HEARINGS – Steve Moser - Special Use Permit/Excavation (per Section 814) for driveway relocation and parcel regrading for property located at 55 & 57 Kreyssig Road (Sunset Valley Farms). [A-1 zone; Map 136, Block 75, Lots 10 & 11] (*Deadline to close hearing 1/12/2016*)

Chairman Ouellette read the description of this Public Hearing. Appearing to discuss the Application was Jay Ussery, of J. R. Russo and Associates. Also present was the Applicant, Steve Moser, his wife, and many members of his family. Also present was Attorney Bruce Fader, who represented Steve's Dad several years ago.

Mr. Ussery reported this Application came in under the excavation section of the regulations because they are moving more than 100 cubic yards of material. They are submitting revised plans dated 10/26/2013 this evening which includes the addition of information requested by Mike Caronna (of the North Central Health District).

Mr. Ussery reported the parcel is located on the north side of Kressig Road just west of the Ellington town line. The property has been owned by Valley Farms; Steve Moser has purchased 74 acres of the farm. The remaining acreage has been sold to Bahler Farms; most of that land is in Enfield. The remaining land of Steve Moser is located in Ellington. The plan is to make an access drive off of Kreyssig Road for a new barn and new home to be occupied by Steve Moser, with maybe other family members later in Ellington. Access comes in off of Kreyssig Road; they are showing the relocation of the driveway for which they will be taking down a hill which is a high spot, and removing a barn next to the road (the old red barn), and a silage bunker. There is an existing residence at the southeast corner

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which is occupied by Steve's cousin; the cousin will continue to occupy that home. There were some issues with the septic system with the removal of the barn; they will be putting in a new septic system and leach field and also a new well location due to the removal of the barn. Mike Caronna has approved the location of the new septic system. Commissioner Thurz questioned that the new septic system as shown on the plans isn't too close to the well? Mr. Ussery replied negatively.

Mr. Ussery suggested they will be removing 50,000 cubic yards of material – sand and gravel – to construct the driveway. Mr. Moser will continue to grow corn on the remaining land.

Town Planner Whitten questioned the timing for this work? Mr. Ussery suggested the project will probably take up to two (2) years. Some of the material can be sold, and some will be used for the base of the driveway. That's currently happening on the Ellington land; approximately 75 to 80% of that work has been completed. This is the next area to be tackled.

Commissioner Devaney questioned that the new septic system must be installed prior to the demolition of the barn? Mr. Ussery replied affirmatively. Town Planner Whitten questioned why the septic system is located so far away from the house? Mr. Ussery indicated that will eliminate the need to go through a steep slope, and allow for development of frontage lots and perhaps a rear lot in the future. Mr. Ussery reiterated that the Mosers will be building a new home in the back now and want to put the driveway in.

Commissioner Gowdy questioned if that driveway will be the only access to the home; what about emergency services? Mr. Ussery noted it's a private driveway which will be plowed by the family. They have met with Staff in Ellington; there is nothing to restrict them from building a single family home in the rear. This parcel will have an East Windsor address, so emergency services will be provided by East Windsor. Mr. Moser indicated that's out of his control; the lot must be serviced by East Windsor emergency services. Mr. Ussery reported the driveway will be 18' wide with a 10' paved apron.

Commissioner Devaney questioned if the health department would be monitoring the material being moved around? Mr. Ussery replied negatively but indicated they will inspect the septic system and the new well.

Commissioner Zhigailo referenced the prior problems with wells in the area. Mr. Ussery reported that the Consent Orders have been taken care of and released; the storage of the silage was the issue and silage hasn't been stored in the bunker for 10 years. He reiterated that the silage bunker will be removed. Commissioner Zhigailo questioned if the removal of the bunker would disturb the flow of water?

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Mr. Ussery indicated the overland flow of the water goes north and west; nothing goes to the south. It looks like there should be a culvert under the road but they haven't found one. He reported there is an old culvert pipe under the farm road and under Azalea Court. Mr. Ussery reported Mr. Moser put in new wells for 4 or 5 people.

Commissioner Devanney questioned if the health department will monitor the demolition of the barn? She indicated that she is concerned with the stuff that was in the bunker getting into the water. Mr. Moser described the bunker has having prefab walls; it isn't a high silo.

Chairman Ouellette questioned if the Application was subject to Inland Wetland review? Mr. Ussery reported there are no wetlands on the site.

Chairman Ouellette opened discussion to the audience:

Emmett Hubbard: reported he has concerns for what goes into the ground; they definitely get a lot of run-off from the Kreyssig Road side into his back yard and then into a culvert; that's surface water. Mr. Hubbard indicated he didn't have anything against farmers and he didn't file claims but he does have concerns of what goes into the ground, and into the ground around Margaret Drive. When you disturb sand and gravel..... Chairman Ouellette agreed; sand and gravel are highly permeable.

Sue Clarkin: accused Mr. Ussery that you are going to stand there and tell us that their wells won't be contaminated for the third time? Mrs. Clarkin cited problems which occurred at her property the second time her well was contaminated. So excuse me if I'm not hunky dory with your plans; so you stand there are tell me that you can guarantee we won't go through that a third time? Mr. Ussery indicated they have been clear as to what the Moser family will be doing regarding their farming operation, and they will be living at this location.

Ellen Hubbard: indicated she was one of the people affected previously; it hasn't been forgotten. Mr. Moser fought it. He was a nice guy when he spoke to you but then didn't do anything. Mr. Ussery reiterated that Mr. Moser doesn't plan to store silage here any longer. Mrs. Hubbard cited there is a right-to-farm law in East Windsor so that could change in the future.

Jan Albetski, Melrose Road: indicated the excavation has been going on for 2 years and has caused heavy truck traffic; the road isn't meant for it; she also cited the noise. Ms. Albetski reported she doesn't look forward to another 2 years of that. She questioned the driveway, which looks like a road. With regard to the future she isn't sure that's what's best for East Windsor or Valley Farms. She

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isn't pleased with the noise. Commissioner Gowdy questioned Mr. Ussery how long is it anticipated for the excavation to occur; she's talking 2 years. Mr. Ussery indicated that based on the amount being excavated – 50,000 cubic yards, using 16 to 17 yard trucks, it would be 6 trucks/day. Ms. Albetki suggested this isn't what reasonable people do; she felt there is some ulterior motive here. Mr. Ussery suggested there is no ulterior motive; what they might do in the future would require another application.

Chairman Ouellette questioned what was the impetus to put the "road" in? Mr. Ussery clarified that this is the only frontage; the other house is occupied by Mr. Moser's cousin and he will continue to live there; it's anticipated that in the future they may cut out 2 acres for that residence. The price to build the driveway/access is expensive; sale of some of the material would reduce that expense. Commissioner Devaney questioned if they could put in the driveway without taking down the hill? Mr. Ussery replied affirmatively, but noted it would cost six figures to put in the driveway without selling the gravel.

Unidentified resident, believed to be Phil Clarkin, 38 Margaret Drive: agreed with what some of the other people said about the water problems; he cited problems from '86 to '89, and then again in 2006. Mr. Clarkin questioned if silage would be stored back there again? Mr. Ussery replied again negatively; there is no silage storage, there is excavation. Mr. Clarkin questioned if the land in Ellington is landlocked? Mr. Ussery replied negatively, noting it has frontage in East Windsor. Mr. Clarkin reported what they went through previously was awful. He cited Mr. Ussery said the water was running the other way, but he felt they wouldn't have had the problems if that were true. He questioned if the hydrologists and the State were wrong before what about the people on Azalea Court and Pease Road? Mr. Ussery replied that there has not been any silage corn stored there in a number of years; DEEP said that was the problem, and the (DEEP) memos indicate that there isn't any silage storage there now and there won't be in the future. With regard to the ground water flow, Mr. Ussery suggested there is no surface flow going towards Margaret Drive and Pease Road; the people on Azalea have public water.

Phil Clarkin: questioned why is there a 200' pipe for the property on Kreysigg Road? In 1983 the Fusco's had friends whose kids came down to shower in the house. Mr. Clarkin gave a history of various people and their water issues. Commissioner Gowdy questioned that in 10 or 20 years from now if they want to put silage back they could do that? Mr. Ussery replied affirmatively. Commissioner Gowdy suggested there was no covenant to prevent that. Mr. Moser indicated he would be willing to put that in writing.

(Attorney) Bruce Fader, representing Moser Farms, and the Moser family:

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Attorney Fader reported the Moser family appreciates all the concerns of the neighbors, and this is the forum to discuss them. He suggested there is a big distinction between allegations and facts. He noted that one of the facts, as Mr. Ussery has repeatedly said, is that there has not been any silage storage for over 10 years, and, assuming the farm operation was the problem the DEEP report indicated that it's the silage that caused the elevated manganese. Also, previously, there were hundreds of cows which probably contributed to the high level of manganese. Attorney Fader reported there is no risk whatsoever. Attorney Fader noted someone asked for a guarantee, the Mosers will be using best management practices. Construction of the "road" won't elevate the high manganese risk.

Attorney Fader also referenced that there were comments made that Valley Farms didn't do enough, he reported that a Consent Order was placed on the Land Records which is the first thing the DEEP does, and that places the burden on the landowner to prove what was alleged wasn't happening. Part of that was a Stipulated Judgment settlement which obligated Valley Farms to engage in extensive investigation via Fuss and O'Neill, and this past September DEEP issued a Certificate of Compliance which indicates that they/Valley Farms satisfied all the requirements of that Stipulated Judgment. Attorney Fader reiterated again that there is no silage storage occurring now. Commissioner Gowdy questioned what if another farmer buys the property and wants to store silage? Attorney Fader suggested there are best management practices in place today.

Commissioner Gowdy suggested the Commission is considering an application for excavation but we're talking about silage; he felt the Commission should be talking about the excavation. Attorney Fader suggested when the "gentleman" was going on about the church before, when an applications is submitted it's not a popularity contest, it's if the applicant meets the requirements. Commissioner Gowdy was concerned with the removal process causing problems again. Attorney Fader suggested that they were dealing with manganese, which is a natural byproduct of farming; it's not a synthetic compound. When you have a synthetic compound which sticks to the soil or groundwater or stays as a vapor that's different. But this is a natural byproduct which attenuates over time. So, when you do remove the concrete pads it's not going to stir up anything, the byproducts have attenuated. Attorney Fader reiterated it's been 10 years since silage storage and 5 years since they've had cows.

Joyce O'Donnell: is also concerned with the truck traffic, and it seems like it's going to get heavier. She question if their "road" would connect to the other road?

Ellen Hubbard: questioned if this is an additional driveway; where will the original driveway go? Mr. Ussery reported the original driveway will be abandoned, and this will be the driveway to the new house. Mrs. Hubbard questioned how the people who live in the other house will get in? Mr. Ussery

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reported there's an existing driveway which goes to that house.

Jan Albetski: questioned the zone for this property? Mr. Ussery replied it's an A-1 – agricultural/residential. Chairman Ouellette suggested he understood there is property to the rear which would be a perpetual farm. Mr. Ussery noted there is substantial acreage for which the development rights were sold; most of that is in Enfield – maybe 50+/- acres – and that will remain in agricultural use for perpetuity. There is a 200' strip to get to Kreyssig Road from that area for which the development rights were sold.

Judy Peck: questioned that the barn is being taken down? Mr. Ussery replied affirmatively. Mrs. Peck questioned what will take its place, and what will happen to the drive? Mr. Ussery indicated there is an 8:1 slope. Mrs. Peck suggested there will be a change to the drainage. Mr. Ussery replied no; it will continue to go as it does now. Mr. Ussery reported they originally thought they could save the old barn but now it will all be coming down.

Commissioner Thurz recalled another application which recently came before the Commission for which neighbors had similar concerns about their wells. That developer agreed to test the wells for those people; would this applicant agree to test the wells for these 5 people? Attorney Fader felt there must be proof of a reasonable relationship between the activity that's being proposed (the excavation) and the well problems. If there was a requirement for the well testing, does that prove that this excavation caused the problems? Commissioner Thurz suggested he would be concerned as well. Commissioner Zhigailo suggested these people want a guarantee, which we can't give them; they just want a baseline. Discussion followed regarding a requirement for well testing. Commissioner Kowalski questioned a timeline for the previous problems – he felt he heard the original problem occurred in the 1980s and reoccurred in 2004; he questioned if there were any significant changes to cause the problems? Attorney Fader suggested there was a drop in the number of cows in 2005, and corn silage was no longer stored on the property.

Commissioner Sullivan read an excerpt from the Consent Order; he felt the responsibility of the Mosers goes on for perpetuity. Attorney Fader cited the second paragraph regarding the Certificate of Compliance issued by DEEP; he suggested that language is standard language for Consent Orders – he referenced another farm in another part of the state which is dealing with the same language. Attorney Fader suggested it says if there is any corn storage in the future that may create problems which DEEP can investigate. Attorney Fader reiterated the 1980 Consent Order has been satisfied.

Chairman Ouellette returned discussion to the truck traffic; he cited that usually

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with regard to an excavation permit a duration for the project is defined. Chairman Ouellette noted there is a sign on this road that truck traffic shouldn't be using this road by order of the Selectmen. He questioned why can't they go out through Ellington? Mr. Ussery suggested that's the way they go out. Ms Albetski questioned what's going by her house? Mr. Ussery clarified that's Ellington. Chairman Ouellette clarified the Commission has no authority in another town. Ms Albetski questioned that they couldn't build this "road" in Ellington? Mr. Ussery noted they have no frontage in Ellington. In response to Chairman Ouellette's question Mr. Ussery referenced the location of the Town line on the map; it's 500' east of the easterly property line. Chairman Ouellette suggested that if the Commission approved this application they would be disobeying the decree of the Board of Selectmen that no truck traffic should be on this road.

Dick Pippin (Selectman), 37 Woolam Road: suggested the sign says "requested"; it doesn't prohibit it. Mr. Pippin felt the Commission couldn't deny the truck traffic because it's a public road.

Unidentified resident: suggested they are hearing of one house that's going to be built in Ellington; if this is approved it could be a development that we would have to provide emergency services for, etc.

Mr. Moser reported he would be willing to say there will be no silage storage, but he is not willing to test wells.

The Chairman called for a short break.

MOTION: To TAKE A FIVE MINUTE BREAK.

Gowdy moved/Sullivan seconded/VOTE: In Favor: Unanimous

The Commission RECESSED at 8:15 p.m. and RECONVENED at 8:24 p.m.

Chairman Ouellette reopened the Meeting by noting that Section 814 of the Zoning Regulations is associated with excavation permits. He noted the regulations indicate the permit shall be for one (1) year unless it's extended by the Commission; Chairman Ouellette indicated he would recommend the one year duration should the application be approved. Mr. Ussery felt the Applicant wouldn't have a problem with that condition. Mr. Ussery noted that's what the Commission has done with other applications, and they have limited it to 65 trucks trips/day. Mr. Ussery suggested that if the excavation occurred over a two (2) year period it would be six (6) per day; if the excavation were limited to one (1) year it would be twelve (12) per day. Mr. Ussery reiterated the Moser family and he appreciate the concerns of the neighbors.

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With regard to the silage, Mr. Ussery indicated it's gone, and DEEP says there is no issue now but if it would make the Commission and the people feel better Steve Moser would agree to stating that the area will be planted with hay.

With regard to the well testing, Mr. Ussery suggested that's a little different. The other application discussed by Commissioner Thurz involved the residents' concern that they would be losing the quantity of their water. Mr. Ussery reiterated overall the groundwater flow is north and west. Chairman Ouellette questioned if a hydrologist study had been done in the past and it proved the groundwater doesn't go south what would be the value of that? Mr. Ussery felt it would indicate that the contamination didn't come from this property. Chairman Ouellette questioned if the hydrology study had ever been done? Mr. Ussery reported he doesn't know. He suggested such a study would cost tens of thousands of dollars, Steve Moser is getting his driveway built by selling this gravel. Chairman Ouellette suggested all of that could be avoided if he put the driveway in another location. Attorney Fader questioned the benefit of putting the driveway in another location? Chairman Ouellette suggested then there would be no excavation, and no trucks.

Discussion continued regarding the excavation relative to the construction of the driveway, and the truck traffic associated with the excavation. Attorney Fader suggested the regulations say they can have up to 65 trucks/day and this proposal would be 6/day and the truck pattern would be going through Ellington. Commissioner Gowdy questioned that the real answer is money; by doing the excavation it won't cost him anything. Attorney Fader noted there is also the issue of the removal of the existing structures. He suggested from a planning perspective this is the best location for the driveway. Attorney Fader felt they have addressed the concerns that this won't cause a public nuisance.

Ms. Albetski: stated it's a public nuisance day after day.

Phil Clarkin: reiterated the past problems; he noted Moser agreed to pay for four (4) wells and water systems. He also noted the wells are deeper now – 250' vs. 35'

Chairman Ouellette questioned the proximity of the excavation to the water table? Mr. Ussery reported they are not excavating into the water table. The water is going to go the same it does now. Mr. Ussery noted Town Planner Whitten asked them to do a test pit and they went down 12' and it was below every contour and there was no groundwater. Chairman Ouellette questioned Town Planner Whitten if the Commission has the right to get another opinion? She agreed they did. Chairman Ouellette indicated he is looking to find where the groundwater goes. The Applicant is changing the elevation. The plans submitted are the surface groundwater but you can't see what happens to the sub-surface groundwater.

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Discussion followed regarding the timeframe of the Application. Town Planner Whitten noted the deadline to close is the next PZC Meeting (January, 2016), and extensions haven't been requested, or granted, yet.

Town Planner Whitten suggested she finds it hard to believe that DEEP didn't do something regarding the sub-surface groundwater. Commissioner Zhigailo felt they did because of the EDB issues on Pease Road, although she wasn't sure who would have conducted the study. Mr. Ussery indicated he would do more research if the Commission would continue the Hearing.

Chairman Ouellette suggested if the amount of truck traffic could be locked down to a more reasonable number it would be helpful. He noted the 65/day limit is usually associated with more intense excavation operations. Steve Moser suggested when Bahler farms their truck traffic coming out of the farm is high during the planting and harvesting periods. He offered that information to help the people not be confused by the truck traffic. When Bahler is bringing in manure, etc; the trucks all look the same; the just smell different.

Commissioner Sullivan questioned when the driveway passes out of East Windsor where does it go? Mr. Ussery reported it continues into the farm and into Ellington. Commissioner Sullivan questioned if the property intersects with Reeves Road? Mr. Ussery noted there are a number of houses along Reeves Road in Ellington – when you get to the town line those residential house lots back up to this farm; there is no access out in Ellington.

MOTION: To CONTINUE the Public Hearing for the Application of Steve Moser for a Special Use Permit/Excavation (per Section 814) for driveway relocation and parcel regrading for property located at 55 & 57 Kreyssig Road (Sunset Valley Farms). [A-1 zone; Map 136, Block 75, Lots 10 & 11]. The Public Hearing is continued until the Commission's regularly scheduled Meeting on January 12, 2016 at 6:30 p.m. in the Town Hall Meeting Room, 11 Rye Street, Broad Brook. CT.

Devanney moved/Gowdy seconded/DISCUSSION: None.

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

NEW PUBLIC HEARING: Justin Kakley - Special Use Permit (per Section 304) to allow proposed commercial recreation use at 32 North Road, owned by Down Realty, LLC (Jonathan Shoham). (M-1 Zone; Map 113, Block 17, Lot 3A) (*Deadline to close hearing 1/12/2016*)

Chairman Ouellette read the description of this Public Hearing. Appearing to discuss the Application was Justin Kakley, the Applicant.

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Mr. Kakley reported the Application is to operate a fitness center at this location. Classes will be small, and will include Pilates, Yoga, and others. Mr. Kakley reported the site currently provides 57 parking spaces; a couple of the spaces are 60' so more spaces could be added if necessary. Chairman Ouellette questioned if Mr. Kakley felt there might be any problems sharing the parking with the other tenants? Mr. Kakley thought not; he noted the guys in the back only have 5 employees, the second business has 3 or 4 employees, and the Fastenal space is now empty. Town Planner Whitten noted she has visited the site at different times during the day; there have never been more than 12 cars in the parking lot.

Commissioner Gowdy questioned Mr. Kakley's background. Mr. Kakley reported he is a personal trainer and nutritionists; he has a partner as well.

Commissioner Devaney questioned if the existing bathrooms are handicapped accessible? Mr. Kakley reported he has purchased handicapped fixtures and the associated bar; they are currently being installed. There will be separate men's and woman's bathrooms and changing rooms; there will not be any showers.

Mr. Kakley reported he anticipates hours of operation to be 6:00 a.m. to 10:00 p.m. Monday through Friday; 8:00 a.m. to 5:00 p.m. Saturday, and 9:00 a.m. to 5:00 p.m. Sunday.

Mr. Kakley reported he plans to add a LED fixture to one of the poles in the parking lot. Town Planner Whitten noted the fixtures must be full cut off; she suggested Mr. Kakley work with Staff before installing the new lighting.

Commissioner Zhigailo noted the plan shows only 3 handicapped parking spaces. They also seem to be the most distant spots in the lot. Town Planner Whitten noted the number of handicapped parking spaces is determined by the Building Department. She noted there has been some repaving of the parking lot; the lot currently lacks stripping to define the spaces. If the Commission requires reconfiguration of the lot, and restriping, the handicapped spaces could be moved closer to the building.

Chairman Ouellette questioned what signage Mr. Kakley was proposing? Mr. Kakley suggested he plans to reuse the 2' x 8' sign used by the previous owner. Town Planner Whitten noted it's a free-standing sign in front of the building.

Commissioner Gowdy questioned what type of equipment would be available? Mr. Kakley gave Commissioner Gowdy a list of his typical equipment.

Chairman Ouellette noted the site has 2 driveways; he questioned if Mr. Kakley's customers would use the one in front? Mr. Kakley replied affirmatively, noting he

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had not really seen anyone other than the guys in the back use the other driveway.

Town Planner Whitten noted this is a Special Use Permit Application, which requires a Site Plan. If the Commission feels an existing Site Plan is sufficient for this new use the Commission can waive the new Site Plan requirements. She noted this Application is a re-occupation of a vacant space; she suggested she's trying to be helpful to a new business starting out.

The Commission discussed Conditions of Approval. The Commission decided to require the landlord to restripe the parking lot and designate the handicapped spaces, and to require the Applicant to have site lighting be approved by Staff prior to installation.

No one from the public requested to speak.

MOTION: To CLOSE the Public Hearing on the Application of Justin Kakley for a Special Use Permit (per Section 304) to allow proposed commercial recreation use at 32 North Road, owned by Down Realty, LLC (Jonathan Shoham). (M-1 Zone; Map 113, Block 17, Lot 3A)

Devanney moved/Gowdy seconded/DISCUSSION: None.

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

Motion to approve the waiver for a site plan per Ch 900.2a

Devanney moved/Gowdy seconded/DISCUSSION: None.

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

Motion to Approve the Application of Justin Kakley and owner Jonathan Shoham, requesting a Special Use Permit per Ch 304 for a Commercial Recreation facility to be located at 32 North Road, in the M-1 zone (Map 113, Block 17, Lot 3A)

This approval is granted subject to conformance with the referenced plans (as may be modified by the Conditions) and the following conditions (subject to change at meeting per PZC discretion):

Referenced Plan: Site Plan Prepared for Shoham Plasticoid , 32 North Road East Windsor CT prepared by Palmberg & Russo LS And PE , 15 Barber Pond Rd, Bloomfield CT scale 1" = 40' dated 4/11/85

1. The conditions of this approval shall be binding upon the applicant, land owners,
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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 plans.

Conditions which must be met prior to certificates of compliance:

3. 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 not been completed, the Zoning Officer may issue a Certificate of Zoning Compliance provided a suitable bond is retained for any remaining site work.

General Conditions:

4. A Zoning Permit shall be obtained prior to the commencement of any site work or change of use.
5. Any modifications to the proposed drainage or grading for the site plan is subject to the approval of the town engineer.
6. Additional erosion control measures are to be installed as directed by town staff if field conditions necessitate.
7. 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
8. Cars may not at any time be parked in landscaped areas, or outside of approved parking areas, unless approved as such on the site plan.
9. No Special Use Permit shall remain valid if the activity has not commenced within 24 months of the date of approval, unless an extension is granted by the Commission.

Additional Conditions:

10. **Site lighting must be approved by Town Staff before installation.**
11. **Striping of parking lot required prior to issuance of Certificate of Occupancy.**

Devanney moved/Gowdy seconded/DISCUSSION: None.

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

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OTHER BUSINESS: None.

OLD BUSINESS: None.

NEW BUSINESS: None.

BUSINESS MEETING/(1) Signing of Mylars/Plans, Motions:

Mylars/Plans: None.

Motions:

- Application of Latchman Haripaul for a Special Use Permit/Sale of Alcohol (in accordance with Section 805) to allow a package store at 124 Main Street, Broad Brook, owned by United Bank. [B-2 zone; Map 88, Block 37, Lot 10-11]

ADJOURNMENT:

MOTION: To ADJOURN this Meeting at 9:10 p.m.

Gowdy moved/Sullivan seconded/VOTE: In Favor: Unanimous

Respectfully submitted,

Peg Hoffman, Recording Secretary, East Windsor Planning and Zoning Commission
(6708)