

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

**REGULAR Meeting #1735 – March 27, 2018**

***MEETING MINUTES***

***\*\*\*\*\*Minutes are not official until approved at a subsequent meeting\*\*\*\*\****

The Meeting was called to order in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT. at 6:35 P. M. by Chairman Ouellette.

**PRESENT:**    **Regular Members:**    Joe Ouellette (Chairman), Michael Kowalski, Tim Moore, and Jim Thurz.

**Alternate Members:** Frank Gowdy, and Marti Zhigailo.

**ABSENT:**    **Regular Members:**    Dick Sullivan.

**Alternate Members:** Both Alternate members are present this evening.

Also present was Assistant Town Planner Tyksinski.

**GUESTS:**     Richard P. Pippin, Jr.; Kathy Pippin.

**ESTABLISHMENT OF QUORUM:**

A quorum was established as four Regular Members and two 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. Following in accordance with the service rotation schedule Alternate Member Zhigailo would also join the Board regarding discussion and action on all Items of Business this evening as well. Alternate Member Gowdy was encouraged to participate in discussion as well.

**LEGAL NOTICE:**

No legal notice associated with this meeting.

**ADDED AGENDA ITEMS:**           None.

**PUBLIC PARTICIPATION:**

Chairman Ouellette queried the audience for comments regarding items/issues not posted on the Agenda. No one requested to speak.

**APPROVAL OF MINUTES/February 27, 2018:**

**TOWN OF EAST WINDSOR  
PLANNING AND ZONING COMMISSION  
Regular Meeting # 1735– March 27, 2018  
MEETING MINUTES**

2

**MOTION:** To **ACCEPT** the Minutes of Regular Meeting #1733 dated February 27, 2018 as written.

Moore moved/Thurz seconded/DISCUSSION: None.

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

**RECEIPT OF APPLICATIONS:**

Chairman Ouellette noted receipt of the following new Applications:

1. Application of WGB, LLC for a Text Amendment of Sec. 814.3.n *Earth Excavation – Access Maintenance* to delete “one-mile radius” and add “one-half mile radius.”
2. Application of Hamlet Homes for Modification of Approved Subdivision (Harvest View Estates) to eliminate sidewalks for fee in-lieu-of, and modify infrastructure and grading associated with the water quality basin for property located at the northeast corner of East and Middle Roads. (R-3 zone; Map 50, Block 82, Lot 002)

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

**ACCEPTANCE Letourneau Builders** – Request for release of the maintenance bond for Hayfield Lane in the Norton’s Crossing Subdivision, located between Rye Street and Norton Road;

Chairman Ouellette read the description of this item of business. He noted that Town Planner Whitten had provided the Commission with an e-mail regarding Mr. Letourneau’s request for release of a \$26,400 Maintenance Bond for Hayfield Lane, and Town Engineer Norton’s response that he had inspected the road and has no problem with release of the bond.

Chairman Ouellette queried the Commission for comments? The Board accepted Town Engineer Norton’s recommendation.

**MOTION:** To **APPROVE** the request from **Letourneau Builders** for release of **\$26,400** for the **Maintenance Bond** for **Hayfield Lane** in the **Norton’s Crossing Subdivision**, located between **Rye Street** and **Norton Road**.

Moore moved/Zhigailo seconded/DISCUSSION: None

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

**TOWN OF EAST WINDSOR  
PLANNING AND ZONING COMMISSION  
Regular Meeting # 1735– March 27, 2018  
MEETING MINUTES**

3

**CONTINUED PUBLIC HEARINGS: Stanton Equipment** - Text Amendment to Section 503 Permitted Accessory Uses; and Section 503.2b(5) regarding Outdoor Merchandise Display as a permitted use. (*Deadline to close hearing 5/1/2018*)

Chairman Ouellette announced continued discussion on this Public Hearing. Appearing to discuss this Text Amendment proposal was Jay Ussery, of J. R. Russo and Associates, and Scott Stanton, the Applicant.

Mr. Ussery noted the Applicant and staff of J. R. Russo have discussed the comments made at the previous meeting regarding the location of the display items. As a result they are now proposing the display merchandise to be located 25 feet from the property line within the TZ-5 Zone rather than the right-of-way as previously proposed. Mr. Ussery also noted they had previously proposed the display to be only agricultural equipment; they are now giving the same opportunity to other businesses located within the TZ-5 Zone. The changes give the Commission the latitude to look at each business on an individual basis regarding display requests. Mr. Ussery noted the changes discussed are proposed under Section 503, 503.1, and 503.2.b(5) and under new sub-section (6). He indicated he and Mr. Stanton have no problem with the Text Amendment as proposed; they hope for a positive approval.

Commissioner Gowdy questioned if any specification had been included in the Text Amendment regarding the display surface; his concern was oil leaking from equipment onto unpaved surfaces. Chairman Ouellette suggested approval of this Text Amendment would allow anyone to move forward with an application for a Site Plan at any time; the display surface could be discussed at that time.

Commissioner Zhigailo felt it was a good thing to remove the referral to agricultural equipment specifically, as she felt that request had been too narrow. Commissioner Gowdy concurred.

Chairman Ouellette queried the audience for comments during this Public Hearing; no one requested to speak.

Chairman Ouellette queried the Commission regarding action on this proposal.

**MOTION: To CLOSE THE PUBLIC HEARING on the Application of Stanton Equipment.**

**Moore moved/Zhigailo seconded/**

Commissioner Moore wished to expand on the language of his motion; he **RESCINDED his motion, Commissioner Zhigailo rescinded her second**

**TOWN OF EAST WINDSOR  
PLANNING AND ZONING COMMISSION  
Regular Meeting # 1735– March 27, 2018  
MEETING MINUTES**

4

**MOTION:** To CLOSE THE PUBLIC HEARING on the Application of Stanton Equipment for a Text Amendment to Section 503 Permitted Accessory Uses; and Section 503.2b(5) regarding Outdoor Merchandise Display as a permitted use.

**Moore moved/Zhigailo seconded/DISCUSSION: None**

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

**MOTION TO APPROVE**

- 1) Amendment to Section 503 and 503.1 to allow Outdoor Merchandise Display in the TZ5 Zone; and
- 2) Amendment to Section 503.2.b(5) and (6) as proposed or amended.

**Moore moved/Kowalski seconded/DISCUSSION: None.**

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

**REASONS FOR APPROVAL:** Chairman Ouellette voted in favor of the amendment as this is a fair outcome as it allows additional opportunities for other businesses to display merchandise in the TZ-5 Zone. Commissioner Moore agreed with the revised amendment. Commissioner Thurz echoed Chairman Ouellette's comments. Commissioner Kowalski felt the previous proposal was too narrow as it specified only one business type; this revision opens up opportunities for other businesses as well. Commissioner Zhigailo voted in favor of this proposal as this makes it fair for other business in the area.

**NEW PUBLIC HEARINGS:** None.

**NEW BUSINESS: Hamlet Homes, represented by Mark O'Neill** – Modification of Approved Subdivision (Harvest View Estates) to eliminate sidewalks for fee in lieu of, and modify infrastructure and grading associated with the water quality basin for property located at the northeast corner of East and Middle Roads. (R-3 zone; Map 50, Block 82, Lot 002) (*Deadline for decision 5/31/2018*)

Chairman Ouellette read the description of this Item of Business. Appearing to discuss this proposal was Mark O'Neill, Applicant, and Guy Hesketh, of F. A. Hesketh & Associates, Inc., engineer for the project.

Mr. O'Neill reported he has purchased this subdivision. The original engineer who designed the subdivision has gone out of business; Mr. Hesketh is now assisting Mr. O'Neill with the engineering aspects of the subdivision. Mr. O'Neill suggested the subdivision was originally designed to include sidewalks; Mr. O'Neill indicated there are problems with installation of the sidewalks for the following reasons: 1) Sidewalks are proposed along Middle Road, however there is a drainage easement/swale along Middle Road which conflicts with the location of the proposed sidewalks. The sidewalks would

**TOWN OF EAST WINDSOR  
PLANNING AND ZONING COMMISSION  
Regular Meeting # 1735– March 27, 2018  
MEETING MINUTES**

5

have to be installed between the edge of the road and the drainage swale, or behind the drainage swale on private property. 2) Sidewalks are also proposed along East Road, and within the Jessie Lane cul-de-sac. Mr. O'Neill cited that in most towns he's worked in previously sidewalks are not required unless they are adjacent to an existing sidewalk network, or near pedestrian accessible parks and playgrounds, or would connect to a downtown area. Mr. O'Neill reported that in actuality most towns don't want sidewalks, unless they would be required for safety reasons. The location of the proposed subdivision is within a rural area; there are no sidewalks adjacent to this subdivision. There are no sidewalks on East Road at this time; Mr. O'Neill suggested that to install sidewalks on East Road they would be creating non-conforming building lots. With regard to Jessie Lane, the road is a cul-de-sac with anticipated low traffic volume. Mr. O'Neill reported he had discussed the sidewalk requirement with Town Engineer Norton, who suggested they may have been added to the subdivision as a condition of approval. Mr. O'Neill reported he is requesting elimination of all sidewalk requirements for the Harvest View Subdivision. The subdivision is surrounded by pasture; Mr. O'Neill didn't feel the abutting land would be developed in the next 5 to 10 years.

Mr. O'Neill reported they have already sold 9 building lots within the proposed subdivision. One of the new homeowners was present in the audience and was ready to indicate his opinion regarding the sidewalks; Chairman Ouellette noted this application is not a Public Hearing at which the public can offer comments.

Commissioner Thurz noted the Commission goes back and forth on the issue of sidewalks. Mr. O'Neill felt the Town doesn't want the maintenance of the sidewalks unless it's a safety issue. Chairman Ouellette requested clarification that the infrastructure has already been installed? Mr. O'Neill replied that the drainage has been installed; he reiterated he's sold 9 lots already. Chairman Ouellette noted Mr. O'Neill's request isn't unique; had the subdivision already been built the Commission would be asking for letters from the homeowners requesting the elimination of the sidewalks. Mr. O'Neill concurred, noting he hadn't told any of the potential homeowners that there would be sidewalks. Chairman Ouellette cited that presently the sidewalks are shown on the Site Plan; the sidewalks should have been noted to potential buyers.

Commissioner Gowdy indicated he's totally against them most of the time. Chairman Ouellette suggested he's personally thoroughly for them. Discussion continued regarding ongoing discussions of the appropriateness of sidewalks in varying situations.

Mr. Hesketh joined the discussion. He noted he got involved in this project a year and a half ago; he felt the subdivision was originally approved in 2008. The original engineer is no longer in business; this is the approved subdivision; all the lot lines are the same, Mr. Hesketh felt the original plan had the pipe above the level of the road so the homeowner would have had to get over a bump to get in the driveway. If the swale was installed along the side of the road then there would be no place to put the sidewalk; they

**TOWN OF EAST WINDSOR  
PLANNING AND ZONING COMMISSION  
Regular Meeting # 1735– March 27, 2018  
MEETING MINUTES**

6

would have had to put the sidewalk on the other side of the swale which would require an easement

Mr. Hesketh also reported that the storm drainage was designed in a manner that the catch basin would pick up run off from East Road and Jessie Lane and flow into a stormwater detention basin and eventually into a pond in Ellington. Mr. Hesketh noted they questioned if there wasn't a better way to do that; the hydrodynamic separator used in the design doesn't meet DEEP requirements. Mr. Hesketh reported they've redesigned the detention basin to include a smaller, recommended, forebay and have provided calculations to support the redesign. Mr. Hesketh suggested they felt this proposal is a better design; Town Engineer Norton is ok with the redesign. The detention basin will become part of a Town managed maintenance system.

Commissioner Thurz noted the Commission must treat everyone equally; if the Commission grants Mr. O'Neill's request to eliminate the sidewalks they would have to do that for other developers as well. Chairman Ouellette cited if there were other incomplete subdivisions in Town the Commission would have to eliminate the sidewalks there as well. Commissioner Thurz indicated he would give up the sidewalks on Middle Road but wants them on the cul-de-sac; he noted that would make lots 2, 3, and 4 conforming. Commissioner Gowdy felt people would like to walk on Jessie Lane. Commissioner Thurz noted he understood that sidewalks cost a developer money; Mr. O'Neill suggested he has no problem with the Commission's decision but he's found that in most of the developments he's done the sidewalks aren't used. Commissioner Moore felt there should be sidewalks on the cul-de-sac. He questioned if the area of the detention basin would be Town property? Mr. Hesketh replied affirmatively, noting there will be an easement to the Town to allow access to the basin. Chairman Ouellette noted the shaded area on the plan, noting this is a recorded subdivision plan. Commissioner Zhigailo didn't have a problem with the change to the drainage system as long as Town Engineer Norton was ok with it. With regard to the sidewalks, they'll cause more water; she cited neighbors don't usually like them but in this case she would support sidewalks on Jessie Lane. Commissioner Gowdy questioned that if the Commission agrees to the elimination of sidewalks on Middle Road wouldn't the Town receive a Fee-In-Lieu of the cost of the sidewalks? Commissioner Zhigailo suggested she agreed to the Fee-In-Lieu of the sidewalks on Middle Road as she'd rather not have another maintenance issue. Chairman Ouellette clarified that the maintenance would be the responsibility of the homeowners but it would also add liability and the burden of maintenance to their property.

Commissioner Moore returned to the access to the drainage system. He questioned if other people could walk in that area as there's no open space associated with this subdivision? Mr. Hesketh indicated the drainage access is not for the public; it's only for maintenance. Chairman Ouellette questioned the depth of the revised water quality basin; Mr. Hesketh replied it would be 18 inches. He expected the basin to be dry in the Summer but would be wet during the wet part of the year.

**TOWN OF EAST WINDSOR  
PLANNING AND ZONING COMMISSION  
Regular Meeting # 1735– March 27, 2018  
MEETING MINUTES**

7

Chairman Ouellette questioned the hardship of installing sidewalks on East Road north of Jessie Lane? He questioned if Mr. Hesketh had the same concerns regarding crossing the elevation that he had in the other area? Chairman Ouellette questioned if there was any engineering reason why the sidewalks couldn't be installed north of Jessie Lane? Mr. Hesketh suggested he didn't feel there would be any ponding there; the pitch of the road is less than half of one percent; he didn't think you would go less than 1% to prevent ponding. Mr. O'Neill noted there would be 240 feet of sidewalk on an unpaved road. Commissioner Thurz noted the Commission constantly struggles where to begin and where to stop sidewalks. Mr. O'Neill suggested he hasn't found an ordinance which requires the homeowners to do the maintenance of the sidewalks. Chairman Ouellette cited the homeowner is required to shovel sidewalks; that's maintenance. He suggested that roads are for vehicles and bicycles and in some areas it's too narrow for both. He cited that we're becoming more environmentally sensitive as well; we no longer have the width to mix vehicles and pedestrians. Chairman Ouellette noted that last year alone 52 pedestrians were killed on our roads, and we'll have kids standing on the roads waiting for school buses.

Mr. O'Neill indicated he wasn't in favor of sidewalks on East Road; if the Commission wants sidewalks on Jessie Lane he'd consider that.

Chairman Ouellette noted the Commission has received a formal request for a revision of the drainage system; he felt he's heard the Commission is ok with that.

Chairman Ouellette also noted the formal request is to eliminate all sidewalks. He felt if the Commission opposed eliminating all sidewalks but he felt they weren't in a position to amend the sidewalk request. He cited that if the Commission chose to eliminate some of the sidewalks then they could require the Fee-In-Lieu of those sidewalks. Chairman Ouellette cited the lack of mention in Town Planner Whitten's memo of addressing a partial elimination of sidewalks, and the associated monetary cost of the Fee-In-Lieu option. Chairman Ouellette clarified that there was no issue if the request is denied.

Chairman Ouellette suggested he would be willing to compromise to eliminate some of the sidewalks. Commissioner Gowdy wanted sidewalks on Jessie Lane; he'd be willing to eliminate the rest. Noting that the Commission was still conflicted Chairman Ouellette suggested continuing the application until the Commission's next meeting so staff could rewrite her recommendations based on this discussion.

Discussion continued regarding approval options. Commissioner Kowalski felt there was a difference of opinion on two options; he questioned if the applicant could be asked to return with optional requests? Mr. Hesketh interjected, offering three approval options – deny as written, approve with modifications, or approve. Chairman Ouellette concurred but cited the Commission doesn't have the appropriate language to address the issue of the Fee-In-Lieu associated with the revised sidewalk requirements. Mr. Hesketh suggested the Commission could revise Condition #15; Chairman Ouellette reiterated he

**TOWN OF EAST WINDSOR  
PLANNING AND ZONING COMMISSION  
Regular Meeting # 1735– March 27, 2018  
MEETING MINUTES**

8

wasn't comfortable wordsmithing the revised condition at the table. He queried Assistant Planner Tyksinski for his comfort level; Assistant Planner Tyksinski concurred with Staff rewriting the recommendations after considering this discussion. Commissioner Gowdy questioned if Staff could complete the wordsmithing and then approve that condition administratively? Chairman Ouellette suggested he felt the Commission should continue the application request and make its decision at the next meeting.

A poll of the Commissioners found their preference for sidewalk to be: Commissioner Moore preferred sidewalks on Jessie Lane but not Middle or East Road; Commissioner Thurz preferred that option as well. Commissioner Kowalski preferred sidewalks on East Road and Jessie Lane. Commissioner Gowdy preferred sidewalks on Jessie Lane only. Commissioner Zhigailo preferred sidewalks on only one side of the cul-de-sac. Commissioner Moore noted Mr. O'Neill has commented that sidewalks are an issue and are usually concrete; he questioned if Mr. O'Neill would put in pavers instead? Mr. O'Neill felt the Town Attorney wouldn't allow that if it's private and must be maintained, and their insurance companies wouldn't be happy with asphalt. Chairman Ouellette suggested he'd like to see the sidewalks installed following the approved plan but felt it would be difficult. He noted an alternative would be to widen the road and move everything down the street, but he felt it would be an expensive option. Commissioner Kowalski questioned the option of piping Middle Road? Mr. Hesketh suggested that would add significant cost to the project. Mr. O'Neill felt Town Engineer Norton favored no sidewalks.

Chairman Ouellette recommended the Commission consider continuing the application request for two weeks so Staff can prepare a revised condition including a Fee-In-Lieu of eliminating sidewalks on East and Middle Road and continuing sidewalks on the east side of Jessie Lane.

Mr. Hesketh suggested again that the Commission could take action tonight and the language revision could be a condition of approval.

Commission Gowdy felt the Commission wasn't comfortable with that option. Chairman Ouellette suggested the Applicant contact Town Planner Whitten regarding amending the drawings with the recommendations as stated, which will be reflected in the Minutes.

**MOTION: To CONTINUE the Application of Hamlet Homes, represented by Mark O'Neill for a Modification of Approved Subdivision (Harvest View Estates) to eliminate sidewalks for fee in lieu of, and modify infrastructure and grading associated with the water quality basin for property located at the northeast corner of East and Middle Roads. (R-3 zone; Map 50, Block 82, Lot 002) until the Commission's regularly scheduled Meeting to be held on April 10<sup>th</sup>, 2018 at 6:30 p.m. in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT.**



**TOWN OF EAST WINDSOR  
PLANNING AND ZONING COMMISSION  
Regular Meeting # 1735– March 27, 2018  
MEETING MINUTES**

9

**Moore moved/Thurz seconded/DISCUSSION: None.**

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

**OLD BUSINESS: None.**

**OTHER BUSINESS: None.**

**CORRESPONDENCE: None.**

**BUSINESS MEETING/(1) TOD Smart Growth Grant for Warehouse Point:**

No discussion this evening.

**BUSINESS MEETING/(2) Zoning Compliance Issues:**

Assistant Planner Tyksinski recalled the zoning violation at 20 Margaret Drive; part of the issue is the storage of a commercial truck at the residential property. The Commission has previously held discussions in an effort to determine or clarify the definition of a commercial vehicle. Assistant Town Planner Tyksinski had provided the Commission with information resulting from his research and an e-mail from Stu Brown, the property owner; he is seeking a clarification from the Commission.

Commissioner Kowalski indicated he agreed with Mr. Brown's e-mail; the definition is based on the truck's classification. Commissioner Gowdy concurred with Commissioner Kowalski; he felt the truck's classification is the best terminology and is what's used in the industry. Discussion followed regarding the current regulations prohibiting parking the vehicle at a residential location. Chairman Ouellette suggested the issue tonight is how to determine the vehicle; regulation revisions should be handled at a workshop meeting.

The consensus of the Commission was to base the determination on the classification of the vehicle.

**BUSINESS MEETING/(3) Discussion on Aquifer Protection Regulations:**

No discussion this evening.

**BUSINESS MEETING/(4) General Discussion of Planning Issues– Signage and Digital Signs:**

Assistant Town Planner Tyksinski noted Town Planner Whitten continues to receive requests for use of digital signs. He reviewed slides from a recent seminar regarding various examples of signage and the timing of the change of information. After viewing

**TOWN OF EAST WINDSOR  
PLANNING AND ZONING COMMISSION  
Regular Meeting # 1735– March 27, 2018  
MEETING MINUTES**

the samples the Commission favored the 10 second delay at this time; they felt the 3 second delay almost invited people to wait for the next image to appear.

Commissioner Gowdy questioned if the Police Department had offered any recommendations, or if any research had been done with the Department of Safety regarding accident rates associated with the movement of digital signs? Assistant Planner Tyksinski indicated he wasn't aware if Town Planner Whitten had contacted staff associated with safety issues.

Chairman Ouellette noted he had asked Town Planner Whitten to contact other Planners regarding this issue. Assistant Town Planner Tyksinski reported that since the Court case in 2015 not many municipalities have rewritten their sign regulations so the department has no consensus yet.

Discussion continued regarding appropriate locations and zoning districts, overall size, sightline concerns, should digital signage include free-standing signs or building mounted? The Commission cited concern for balancing the desire to maintain the rural character of East Windsor vs. visibility of information. Commissioner Thurz wants to see signage on Town Buildings larger; he cited as an example people often can't locate the Middle School because of the size, location, and visibility of the current signage. Commissioner Gowdy suggested perhaps sign applications should now come before the Commission as Special Use Permits so the Commission can consider the sightline, location, and size.

Discussion to continue at the next meeting.

**BUSINESS MEETING/(5) Signing of Mylars/Plans, Motions:**

**Mylars:**

None.

**Motions:**

- **Steve Moser** - Renewal of Special Use Permit / Excavation for driveway relocation and parcel regrading for property located at 55 Kreyszig Road. [A-1 zone; Map 136, block 75, Lot 11]
- **Laird Building, LLC** - Text Amendment to Section 201 *Definitions*; and Section 502 *Permitted Uses in Business and Industrial Districts* – to allow the fueling of fleet vehicles in the M-1 zone.
- **R & R Tool and Die** – Request for one-year extension to the Site Plan approval for a building addition at 94 Newberry Road.

**TOWN OF EAST WINDSOR  
PLANNING AND ZONING COMMISSION  
Regular Meeting # 1735– March 27, 2018  
MEETING MINUTES**

11

- Proposed Zoning Text Amendment, Zoning Map Change and minor modifications of the Plan of Conservation and Development (POCD): Highway Interchange Floating Zone (HIFZ) with modified uses and expansion, and renamed to Highway Interchange Overlay Zone (HIZ)

**ADJOURNMENT:**

**MOTION: To ADJOURN this Meeting at 8:15 p.m.**

**Moore moved/Kowalski seconded/VOTE: In Favor: Unanimous**

Respectfully submitted,

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Peg Hoffman, Recording Secretary, East Windsor Planning and Zoning Commission