

Current Edition Adopted July 20, 2009
Effective July 20, 2009
Amended September 17, 2012; Amendments Effective September 17, 2012
Amended February 19, 2013: Amendments Effective February 19, 2013
Amended June 20, 2022: Amendment Effective June 20, 2022

BY-LAWS OF THE KILLINGLY PLANNING AND ZONING COMMISSION

Article I Purpose and Authorization

The objectives and purposes of the Planning and Zoning Commission of the Town of Killingly are those set forth in Chapters 124 and 126 of the Connecticut General Statutes, 1958 Revision, as amended, and those powers and duties delegated to the Killingly Planning and Zoning Commission by the aforementioned statutes, by Section 804 of the Charter of the Town of Killingly, adopted November 4, 1969, and by ordinance adopted September 13, 1973 by the Town Council of the Town of Killingly in accordance with the above enabling laws.

Article II Name

The Commission shall be known as the Killingly Planning and Zoning Commission.

Article III Office of the Commission

The office of the Commission shall be the Planning and Development office (Amend. of 9/17/12) at the Killingly Town Hall, 172 Main Street, Danielson where all Commission records will be kept. Copies of all official documents, records, maps, commission minutes, agendas and legal notices, etc. will be filed or recorded in the office of the Town Clerk as required by Connecticut General Statutes.

Article IV Membership

Section 1. The membership and terms of office shall be as specified in the aforementioned ordinance, Town Charter and General Statutes.

Section 2. The number of regular members shall be five (5). There shall be three (3) alternate members. All regular members or their seated alternates, including officers, shall be entitled to vote.

Section 3. Members of the Planning and Zoning Commission shall be appointed as described in the Town Ordinance and Charter.

Section 4. Vacancies on the Planning and Zoning Commission shall be filled as per Town Ordinance and Charter.

Section 5. The Town Manager and Director of Public Works shall serve as member(s) of the Planning and Zoning Commission ex officio, without voting privileges.

Section 6. Each member shall notify designated Town staff of his or her inability to attend a regular or special meeting.

Section 7. The Commission shall forward to the council for appropriate action the name of any member who is absent without excuse for three consecutive meetings.

Section 8. Resignations from the Commission shall be in written form and submitted to the Town Clerk and the Town Manager (Amend. of 9/17/12), who will forward notice of such resignation to the Town Council, the Commission and the designated Commission staff.

Section 9. In the event of the absence or a disqualification of a regular member of the Commission, the Chair shall appoint an alternate member to act in place thereof. Alternates shall generally be chosen on a rotational basis, so that all serve as equal a number of times as possible. The minutes shall record when each alternate sits. When so appointed, the alternate member shall have all the duties and privileges of a regular member.

Article V

Officers and Their Duties

Section 1. The officers of the Commission shall consist of a Chair, a Vice-Chair and a Secretary.

Section 2. The duties of the Chair shall be as follows:

- to preside at all meetings and hearings of the Commission;
- to call special and emergency meetings of the Commission;
- to sign documents of the Commission;
- to appoint a Vice-Chair Pro Tem in the absence of the Vice-Chair;
- to appoint a Secretary Pro Tem in the absence of the Secretary;
- to act as one of the Commission members having the privilege of discussing all matters before the Commission and of voting thereon.

Section 3. The duties of the Vice-Chair shall be as follows:

- shall act for the Chair due to absence, disability or disqualification of the Chair;
- when acting as Chair, shall appoint a Vice-Chair Pro Tem.
- shall sign official documents of the commission

Section 4. The duties of the Secretary shall be as follows:

- shall act for the Chair due to absence, disability or disqualification of both the Chair and Vice-Chair
- when acting as Chair, shall appoint a Vice-Chair Pro Tem and Secretary Pro Tem.
- shall sign official documents of the Commission.

Section 5. In the absence of all officers, the Commission members who are present shall elect a Chair Pro Tem and Vice-Chair Pro Tem.

Article VI

Administrative Staff

Section 1. A Recording Clerk shall be appointed to keep the minutes of the Commission and shall file those minutes in the Commission's Office

Section 2. In the absence of the Recording Clerk, due to illness or personal reasons, the Chair, with the assistance of available staff, shall appoint a Recording Clerk pro tem.

Section 3. The Director of Planning and Development shall serve as staff to the Commission and shall oversee preparation of the agenda of regular and special meetings under the direction of the Chair, prepare meeting information, provide notice of all meetings to Commission members, arrange proper and legal notice of hearings and other notice requirements, attend to general correspondence of the Commission and other administrative actions necessary to assist the Commission in the exercise of its power, duties, and functions as prescribed by the Connecticut General Statutes.

Article VII

Annual Meeting

Section 1. An Annual Organizational Meeting of the Planning and Zoning Commission shall be held on the evening of the regular meeting in January of each year, or at the next regular meeting that follows (Amend. of 9/17/12). At each Annual Organizational Meeting, the Commission shall elect officers for a one (1) year term, review by-laws and attend to other organizational business as the Chair deems appropriate.

Section 2. A quorum must be present before the election of officers can take place. Elections of officers shall occur as follows: Nominations shall be made from the floor, beginning with nominations for Chair, and elections shall follow immediately upon the

close of nominations for each office. A candidate for each office receiving a majority vote of those present shall be declared elected for one year. (Amend. of 2/19/13)

Section 3. Should any vacancy occur among the officers of the Planning and Zoning Commission, the vacant office shall be filled by a special election to be held at a regular meeting, following the same procedure as outlined above. Such officer shall serve the unexpired term of office in which the vacancy has occurred.

Article VIII

Regular Meetings

Section 1. Regular meetings of the Planning and Zoning Commission shall be held on the third Monday of each month at 7:00 PM in the Town Meeting Room, Killingly Town Hall, 172 Main Street, unless otherwise designated in the yearly filing of meetings with the Town Clerk under Connecticut General Statutes Section 1-225(b) or as posted for another location.

Section 2. At such meetings, the Commission shall consider all matters properly brought before the Commission. Items may be added to the agenda by a two-thirds (2/3) majority vote of the Commission members present and voting. A regular meeting may be canceled by the Commission at a prior meeting or by the Chair. Commission meetings shall be open to the public when in session.

Section 3. The Commission may, by a two-thirds (2/3) (Amend. of 9/17/12) majority of those present and voting, enter into executive session in accordance with Connecticut General Statutes.

Section 4. (Amend. of 9/17/12) Citizens' Comments shall be heard by the Commission at any regular meeting. A citizen's statement may be presented orally or in writing on items not subject to a public hearing (Amend. of 2/19/13). All presentations by citizens under this Section shall be limited to an aggregate of twenty-one (21) minutes for each meeting, and each citizen's presentation shall not exceed three (3) minutes unless otherwise indicated by a majority vote of the Commission. These time limits shall be shown on the agenda and shall be announced by the Chair at each meeting. Each citizen recognized shall state his/her name and address. Following Citizens' Comments, the Commission/Staff shall have time to respond. In the event that an item is added to the agenda after the Citizens' Comments portion of that meeting, then there shall be additional citizen comments and Commission/Staff responses limited to that item.

Section 5. (Amend. of (6/20/22) No Regular Meeting shall run past the time of 10:00 PM unless the Chair entertains a motion to extend the meeting until the hour of 11:00 PM. The motion shall be made at or before 9:45 PM to make the public aware of the Commission's intentions. Once extended, the meeting shall promptly end at or before 11:00 PM and any business not reached shall be continued to the next regular scheduled meeting.

Article IX

Special Meetings

Section 1. Special meetings of the Planning and Zoning Commission shall be held at a time and place designated by the Chair. The notice shall specify the time and place of the special meeting and the business to be transacted. No business other than that listed on the agenda shall be discussed.

Section 2. In addition, such written notice shall be delivered to the usual place of abode of each member of the Commission so that the same is received prior to such special meeting. Emailed notices with "delivery receipt" and "request for read receipt" shall be considered acceptable "written notice" for this section (Amend. of 9/17/12). The requirement of delivery of such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the Commission a written waiver of delivery of such notice. Such waiver may be given by telegram. The requirement of delivery of such written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes.

Section 3. Citizens' Comments shall be heard by the Commission at any special meeting. The statements shall be limited to the subject(s) which is (are) included in the call of the special meeting and shall follow the time limits as for regular meetings in Article VIII. Following citizens' comments, the Commission/Staff shall have time to respond. (Amend. of 9/17/12)

Section 4. (Amend. of (6/20/22) No Special Meeting shall run past the time of 10:00 PM unless the Chair entertains a motion to extend the meeting until the hour of 11:00 PM. The motion shall be made at or before 9:45 PM to make the public aware of the Commission's intentions. Once extended, the meeting shall promptly end at or before 11:00 PM and any business not reached shall be continued to the next regular scheduled meeting.

Article X

Quorum

At any meeting of the Commission, a quorum shall consist of three (3) members of the Commission (Amend. of 6/15/09). No action shall be taken in the absence of a quorum, except to adjourn the meeting to a subsequent date until a quorum is obtained.

Article XI

Disqualification

Section 1. No member of the Planning and Zoning Commission shall appear for or represent any person, firm or corporation or other entity in any matter pending before the Commission or Zoning Board of Appeals. A member of the Commission shall disqualify himself or herself from participating in the hearing or decision of the Commission upon

any matter in which he or she is directly or indirectly interested in a personal or financial sense. In the event of such disqualification, such fact shall be entered on the records of the Commission and the member shall leave the room. Replacement shall be made from alternate members to act as a member of such Commission in the hearing and determination of the particular matter or matters in which the disqualification arose.

Section 2. No member shall be deprived of the opportunity to comment on a matter which directly impacts the member's property provided the member shall disqualify themselves from any participation as a commission member.

Section 3. When disqualification is questionable and the member has not recused him- or herself, a two-thirds (2/3) majority of those present and voting shall make the final decision as to disqualification.

Article XII

Voting

Section 1. At all meetings of the Commission, each member attending shall be entitled to cast one vote. Commission officers shall be entitled to debate and vote on all matters before the Commission. Voting shall be by voice and show of hands. At the discretion of the Chair or upon request by a Commission member the vote shall be by roll call. All roll call voting shall be by voice, with the order of voting rotating alphabetically by the Commission Members' last name, except that the Chair shall have the final vote. (Amend. of 9/17/12)

Section 2. An affirmative vote of the majority of the members present shall be necessary for the adoption of any resolution or other voting matter except as required otherwise by Connecticut State Statutes.

Section 3. The commission must ensure it takes action on all applications and other voting matters before it. In the event of a tie vote, no action has been taken.

Article XIII

Order of Business

Section 1. Unless otherwise determined by the Chair, the order of business shall be as follows:

- a. Call to Order/Roll Call
- b. Seating of Alternates (Amend. of 9/17/12)
- c. Agenda Addendum (Amend. of 9/17/12)
- d. Meeting Conduct and Orientation (Amend. of 9/17/12)
- e. Citizens' Comments on items not subject to public hearing (Individual presentations not to exceed 3 minutes; limited to an aggregate of 21 minutes unless otherwise indicated by a majority vote of the Commission) (Amend. of 9/17/12)

- f. Commission/Staff Responses to Citizens' Comments (Amend. of 9/17/12)
- g. Public Hearings
- h. Unfinished Business
- i. New Business
- j. Adoption of Minutes
- k. Correspondence
- l. Other
- m. Economic Development Liaison
- n. Council Liaison
- o. Adjournment

Section 2. Each formal action of the Planning and Zoning Commission required by law, charter, rule or regulation shall be embodied in a formal motion duly entered in full upon the Minutes Book after an affirmative vote.

Article XIV

Rules of Procedure

All meetings of the Planning and Zoning Commission shall be conducted in accordance with the procedures contained herein, and Roberts Rules of Order, or a widely recognized and accepted text based on Robert Rules of Order, shall govern the proceedings at the meetings of this Commission.

Article XV

Conducting the Public Hearing

Section 1. The Chair of the Commission shall preside at the public hearing.

Section 2. The Chair (Amend. of 9/17/12) shall call for the public hearing by reading the agenda item (Amend. of 9/17/12).

Section 3. The Chair shall describe the method of conducting the hearing. It shall be made clear that all questions and comments must be directed through the Chair only after being properly recognized by the Chair. All persons recognized shall approach the Commission in order to facilitate proper recording of comments and shall give his/her name and address prior to commenting. The hearing shall be conducted only for the purpose of taking testimony, which shall be later considered by the Commission during the application deliberations portion of the meeting of the Commission. The Commission may neither deliberate nor take a substantive vote during the hearing.

Section 4. Unless otherwise determined by the Chair, the Chair shall direct the following order of comments:

- presentation by the applicant
- public comments in support of the application
- public comments opposed to the application

- questions by the Commission
- response by the applicant or appropriate party
- second round of public comments at the discretion of the Chair
- Comments and questions to and by staff
- final questions by the Commission
- final response by the applicant
- closure or continuance of the hearing

Section 5. Parties intervening under the Connecticut Environmental Protection Act (CEPA) CGS Section 22a-19 shall receive all the rights and privileges as the applicant.

Section 6. The Chair or presiding officer shall assure an orderly hearing and shall take necessary steps to maintain the order and decorum of the hearing at all times. The Chair or presiding officer shall reserve the right to terminate the hearing in the event the discussion becomes unruly and unmanageable.

Section 7. Proceedings of the public hearing shall be incorporated into the Minutes Book of the Commission to be a permanent part of the record.

Article XVI

Suspension of the Rules

Any of these rules may be suspended by a two-thirds vote of the Commission Members voting, provided that such action is not inconsistent with any provisions of the Connecticut General Statutes or Commission regulations (Amend. of 9/17/12).

Article XVII

Consultants and Outside Employees

Payment for services by other than town employees shall be made in accordance with Section 12.5-103(b) of the Town's Land Use Application Processing Fees Ordinance.

Article XVIII

Amending the By-Laws

These By-Laws and all future amendments shall be adopted only with the approval of at least four (4) members of the Commission provided that written notice of said proposed amendment(s) is given to all members of the Commission at least seven (7) days prior to the said meeting of vote thereon.



TOWN OF KILLINGLY, CT
PLANNING AND ZONING COMMISSION

RECEIVED
TOWN CLERK, KILLINGLY, CT
2022 JUL 15 AM 8:08

MONDAY – JULY 18, 2022
Regular Meeting – HYBRID MEETING
7:00 PM

Elizabeth M. Wilson

TOWN MEETING ROOM – 2ND FLOOR

Killingly Town Hall

172 Main Street

Killingly, CT

THE PUBLIC IS ALLOWED TO ATTEND THE MEETING IN PERSON
OR THE PUBLIC MAY VIEW THIS MEETING AS DESCRIBED BELOW

AGENDA

THE PUBLIC CAN VIEW THIS MEETING ON FACEBOOK LIVE.

GO TO www.killinglyct.gov AND CLICK ON FACEBOOK LIVE AT THE BOTTOM OF THE PAGE.

- I. CALL TO ORDER/ROLL CALL
- II. SEATING OF ALTERNATES
- III. AGENDA ADDENDUM
- IV. **CITIZENS' COMMENTS ON ITEMS NOT SUBJECT TO PUBLIC HEARING** (Individual presentations not to exceed 3 minutes; limited to an aggregate of 21 minutes unless otherwise indicated by a majority vote of the Commission)

NOTE: Public comments can be emailed to publiccomment@killinglyct.gov or mailed to the Town of Killingly, 172 Main Street, Killingly, CT 06239. All public comment must be received prior to 2:00 PM the day of the meeting. Public comment received will be posted on the Town's website www.killinglyct.gov.

NOTE: To participate in the CITIZENS' COMMENTS– the public may join the meeting via telephone while viewing the meeting on Facebook live.

To join by phone please dial 1-415-655-0001; and use the access code 2635 543 1798 when prompted.

- V. COMMISSION/STAFF RESPONSES TO CITIZENS' COMMENTS
- VI. PUBLIC HEARINGS – (review / discussion / action)
NOTE: To participate in THE PUBLIC HEARINGS – the public may join the meeting via telephone while viewing the meeting on Facebook live.
To join by phone please dial 1-415-655-0001; and use the access code 2635 543 1798 when prompted

1) **Special Permit Ap # 22-1289** – Dayville Four Corners, LLC (Applicant/Owner); 730 (736) Hartford Turnpike, GIS MAP 115, LOT 6, General Commercial Zone, ~7.07 acres, request use of existing space in building for liquor, beer & wine sales, under TOK Zoning Regs under 420.2.1(a) with reference to 420.1.2(i). **CONT FROM 5/16/2022 & 6/20/2022.**

2) Zone TEXT Change Ap# 22-1294 – Rosemary & Thomas C. Clarie et als; proposed text amendment to Sections 436.1; 436.2; 436.3; 436.4.2; 436.4.3; 436.6.1.b; 436.2.2; and 450 of the TOK Zoning Regulations regarding permitted uses and requirements of the Business Park District – making changes to the Intent, General Requirements, Special Permitted Uses; Interior Circulation; Landscaping and Screening; replace Exemptions with Concept Plan Optional; Concept Plan; and Dimensional Requirements.

3) Ap# 22-1295 Public Hearing – Accessory Dwelling Units State Statute – Per the State Statute, the PZC must conduct a public hearing to review, discuss, and act upon opting-out of the State’s Accessory Dwelling Unit Statute.

Hearings’ segment closes.
Meeting Business will continue.

VII. UNFINISHED BUSINESS – (review / discussion / action)

1) **Special Permit Ap # 22-1289** – Dayville Four Corners, LLC (Applicant/Owner); 730 (736) Hartford Turnpike, GIS MAP 115, LOT 6, General Commercial Zone, ~7.07 aces, request use of existing space in building for liquor, beer & wine sales, under TOK Zoning Regs under 420.2.1(a) with reference to 420.1.2(i). **CONT FROM 5/16/2022 & 6/20/2022.**

2) Zone TEXT Change Ap# 22-1294 – Rosemary & Thomas C. Clarie et als; proposed text amendment to Sections 436.1; 436.2; 436.3; 436.4.2; 436.4.3; 436.6.1.b; 436.2.2; and 450 of the TOK Zoning Regulations regarding permitted uses and requirements of the Business Park District – making changes to the Intent, General Requirements, Special Permitted Uses; Interior Circulation; Landscaping and Screening; replace Exemptions with Concept Plan Optional; Concept Plan; and Dimensional Requirements.

3) Ap# 22-1295 Public Hearing – Accessory Dwelling Units State Statute – Per the State Statute, the PZC must conduct a public hearing to review, discuss, and act upon opting-out of the State’s Accessory Dwelling Unit Statute.

VIII. NEW BUSINESS – (review/discussion/action)

NONE

(*) Applications submitted prior to 5:00 PM on MONDAY, JULY 11, 2022 -, will be on the agenda as New Business, with a “date of receipt” of MONDAY, JULY 18, 2022, and may be scheduled for action during the next regularly scheduled meeting of **MONDAY, AUGUST 15, 2022.**

(*) Applications submitted by 12:00 noon on FRIDAY, JULY 15, 2022, will be received by the Commission (“date of receipt”) on MONDAY, JULY 18, 2022. However, these applications may not be scheduled for action on MONDAY, AUGUST 15, 2022, as they were submitted after the Commission’s deadline. This is in accordance with Commission policy to administer Public Act 03-177, effective October 1, 2003.

IX. ADOPTION OF MINUTES – (review/discussion/action)

1) Regular Meeting Minutes – JUNE 20, 2022

X. OTHER / MISCELLANEOUS – (review / discussion / action)

1) Five Mile River Overlay District – Staff report and recommendations to the Commission.

XI. CORRESPONDENCE

NONE

XII. DEPARTMENTAL REPORTS – (review/discussion/action)

- A. Zoning Enforcement Officer’s & Zoning Board of Appeal’s Report(s)
- B. Inland Wetlands and Watercourses Agent’s Report
- C. Building Office Report

XIII. ECONOMIC DEVELOPMENT DIRECTOR REPORT

XIV. TOWN COUNCIL LIAISON REPORT

XV. ADJOURNMENT

VI. PUBLIC HEARINGS – (review / discussion / action)

3) **Special Permit Ap # 22-1289** – Dayville Four Corners, LLC (Applicant/Owner); 730 (736) Hartford Turnpike, GIS MAP 115, LOT 6, General Commercial Zone, ~7.07 acres, request use of existing space in building for liquor, beer & wine sales, under TOK Zoning Regs under 420.2.1(a) with reference to 420.1.2(i).

APPLICANT(S): Dayville Four Corners, LLC.
LANDOWNER(S): Same
SUBJECT PROPERTY: 736 Hartford Pike
ASSESSOR’S INFO: GIS MAP 115, LOT 6
ACREAGE AMOUNT: ~7.07 acres
ZONING DISTRICT: General Commercial
REQUEST: Special Permit for a Liquor Store
REGULATIONS: Section 420.2.1(a) with reference to 420.1.2(i)
Special Permit – Article VII.
Site Plan – Section 470

Documents Attached

- 1) Letter dated May 10, 2022, from MidPoint Engineering & Consulting
 - 2) Letter dated November 2, 2016, from MidPoint Engineering & Consulting (referred to in 5/10/2022 letter)
 - 3) Compilation Plan – showing an overview of the shopping plaza
 - 4) Interior layout of the proposed “liquor store unit”
-
-

Legal Notices

- 1) A Legal Notice of the Continuation was published in the Friday, 05/20/2022 edition of the Norwich Bulletin.
- 2) A Legal Notice of Continuation was published in the Friday, 06/24/2022 edition of the Norwich Bulletin

Legal Notices

- 1) Legal Notice posted in Town Clerk’s Office on April 21, 2022
 - 2) Legal Notice published in Norwich Bulletin on Monday, 5/2/2022 and Monday, 5/9/2022
 - 3) Placard posted at the site as witnessed by the ZEO
-
-

STAFF COMMENTS AND SUGGESTIONS (7/18/2022)

- 1) At the last meeting, the applicant requested a continuation to prepare answers for questions asked by the commission and to review the Special Permit and Site Plan regulations.
- 2) Some concerns raised by the commission members at the 06/20/2022 hearing/meeting; a) members felt that the entrance needs to be looked at for safety reasons, b) the percentage of sales space to storage space for the store, c) list of possible hours of operation and days opened, d) give applicant opportunity to show they can meet the requirements of the Special Permit and Site Plan sections of the Town’s regulations.

STAFF COMMENTS AND SUGGESTIONS (06/20/2022)

- 1) As it was the applicant that requested the continuation this will be the first time the commission members will be hearing this matter. Therefore, staff has no additional comments to add to those listed below.

STAFF COMMENTS AND SUGGESTIONS (05/16/2022)

- 1) That the commission review the regulations listed above, and verify that the applicant has met all those standards,
- 2) That the commission listen to the testimony given by the applicant and others,
- 3) Staff does not see an issue with a liquor store at this site; however, the State will make the final determination if this site qualifies for a liquor sales license.

May 10, 2022

Ann-Marie Aubrey
Director of Planning & Development
Town of Killingly, Connecticut
172 Main Street
Danielson, CT 06239

RE: Dayville Four Corners Shopping Center, 710-736 Hartford Pike

MidPoint Engineering + Consulting, on behalf of our Client, Dayville Four Corners, LLC, is pleased to submit this letter in support of the special permit application for proposed liquor sales use at the Dayville Four Corners shopping center. The proposed use will occupy the easterly portion of the existing building. This space was previously occupied by "Halloween Spirit" on a seasonal basis and was a portion of the building that was originally occupied by "Beit Brothers" supermarket. The Town has assigned an address of 736 Hartford Pike for this unit.

A preliminary floor plan has been attached to the application which shows, in general, the configuration of the existing space. The proposed liquor use does not have a final floor plan, however, it is expected that no more than 80 percent of the floor area will be dedicated to retail sales. Other space will be used for storage. No improvements are proposed outside the building footprint.

MidPoint completed the attached parking analysis as part of the site plan approval process for the Harbor Freight store also located within the building. The proposed liquor store use agrees with that analysis and thus parking for the center would remain compliant with zoning regulations.

Please contact me at (508) 721-1900 or via email at pdoherty@midpointengineering.com if you need any additional information.

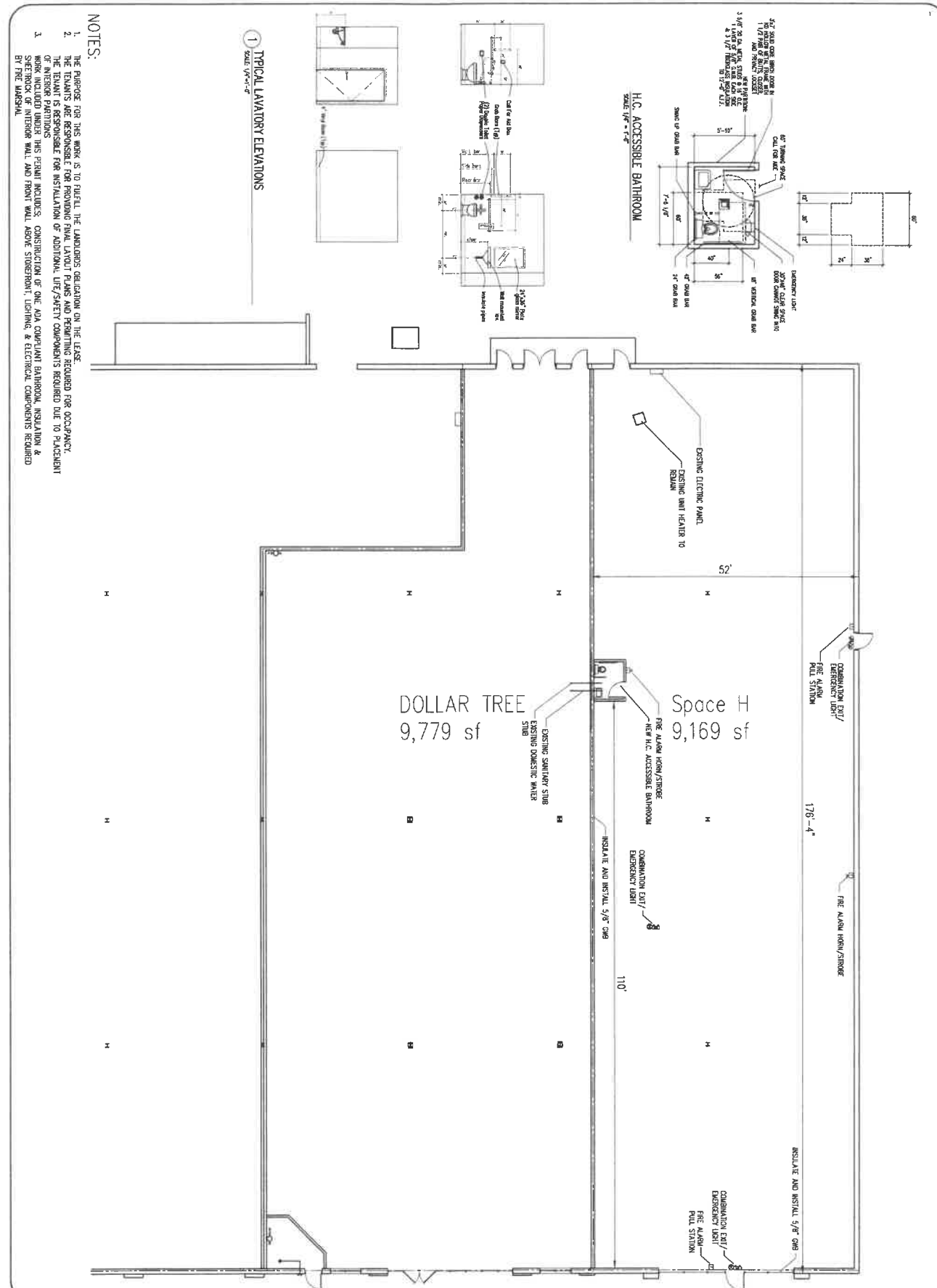
Sincerely,

MidPoint Engineering + Consulting, LLC



Patrick P. Doherty, PE, LEED AP
Principal

cc Michael O'Brien



H.C. ACCESSIBLE BATHROOM
SCALE: 1/4" = 1'-0"

1 TYPICAL LAVATORY ELEVATIONS
SCALE: 1/4" = 1'-0"

- NOTES:
1. THE PURPOSE FOR THIS WORK IS TO FULFILL THE LANDLORD'S OBLIGATION ON THE LEASE.
 2. THE TENANT IS RESPONSIBLE FOR PROVIDING FINAL LAYOUT PLANS AND PERMITTING REQUIRED FOR OCCUPANCY OF INTERIOR PARTITIONS.
 3. WORK INCLUDES UNDER THIS PERMIT INCLUDES: CONSTRUCTION OF ONE ADA COMPLIANT BATHROOM, INSULATION & SHEETROCK OF INTERIOR WALL AND FRONT WALL ABOVE STOREROOM, LIGHTING, & ELECTRICAL COMPONENTS REQUIRED BY THE MARSHAL.

A-1

LANDLORD
WORK SCOPE

DATE: SCALE: 1/4" = 1'-0"
JUNE 14, 2011
REVISIONS:

GALAXY
DEVELOPMENT, LLC

224 SOUTH WINDSOR STREET
SUITE 100
DAYVILLE, ME 04804
PHONE: 724-2962
FAX: 724-8955

DAYVILLE FOUR CORNERS SPACE H
730 HARTFORD PIKE
DAYVILLE, CT

November 2, 2016

Ann-Marie Aubrey
Director of Planning & Development
Town of Killingly, Connecticut
172 Main Street
Danielson, CT 06239

RE: Four Corners Plaza, Dayville, CT – Harbor Freight Tools

MidPoint Engineering + Consulting (MidPoint), has performed an analysis of parking requirements in support of re-tenanting a portion of the existing Four Corners Plaza building located at 730 Hartford Turnpike (Rte. 101) in Dayville, Connecticut. The existing building pre-dates current zoning regulations and thus does not contain a sufficient number of parking spaces to meet the calculated ratios in the regulations. Section 530 of the Zoning Regulations states that " If any existing use of land or structure is changed to a use requiring additional spaces to comply with this Section, such additional spaces shall be provided for the new use in accordance with the standards hereinafter specified."

This analysis has been performed based on the premise that the site will be in compliance with zoning regulations should the calculated number of spaces of the reconfigured building be less than or equal to the calculated number of spaces of the original configuration of the building.

The original building contained two uses which had areas dedicated to retail sales and storage. A large mezzanine for storage was located in the western portion of the building adding to the total square footage. A previous consultant of the Owner, Vanasse Hangen Brustlin, Inc. (VHB), calculated that the total required parking for the original configuration of the building was 382 spaces.

The configuration of space within the original building has changed and there are now six (6) demised spaces. Planet Fitness, Salvation Army, ALDI and Dollar Tree operate in four (4) of the demised spaces, two spaces are currently vacant.

Dayville Four Corners, LLC is seeking approval to allow Harbor Freight Tools retail store to occupy vacant Space E shown on Landlord Plan A-1 dated 2/8/16. Space H shown on this plan will remain vacant.

MidPoint Engineering + Consulting calculated the number of parking spaces required for the reconfigured building. The calculations considered the existing retail users, Harbor Freight Tools and assumed that the remaining vacant space will be occupied by a retail use tenant with 20 percent of the area dedicated non sales area.

The attached spreadsheet shows that the required number of parking spaces for the reconfigured building is 371 spaces. This total is less than the required parking of the original building which is 383 spaces. Occupancy of Space E by Harbor Freight Tools will therefore be

in compliance with the parking requirements of the Zoning Regulations. Additionally, future occupancy of the remaining vacant space within the building by retail tenants will be in compliance with the regulations.

If you have any question or require any additional information, please contact Patrick Doherty at (508) 721-1900 or via email at pdoherty@midpointengineering.com.

Sincerely,

MidPoint Engineering + Consulting

A handwritten signature in black ink, appearing to read "Patrick P. Doherty", with a long horizontal flourish extending to the right.

Patrick P. Doherty, PE, LEED AP
Principal



VI. PUBLIC HEARINGS – (review / discussion / action)

2) Zone TEXT Change Ap# 22-1294 – Rosemary & Thomas C. Clarie et als; proposed text amendment to Sections 436.1; 436.2; 436.3; 436.4.2; 436.4.3; 436.6.1.b; 436.2.2; and 450 of the TOK Zoning Regulations regarding permitted uses and requirements of the Business Park District – making changes to the Intent, General Requirements, Special Permitted Uses; Interior Circulation; Landscaping and Screening; replace Exemptions with Concept Plan Optional; Concept Plan; and Dimensional Requirements.

APPLICANT(S):	Rosemary & Thomas C Clarie; Darcy R. & Joanne Clarie; and Sarah F. Clarke, Trustee
LANDOWNER(S):	Same
SUBJECT PROPERTY:	D/N/A
ASSESSOR'S INFO:	D/N/A
ACREAGE AMOUNT:	D/N/A
ZONING DISTRICT:	Business Park District
REQUEST:	Making changes to the Intent, General Requirements, Special Permitted Uses; Interior Circulation; Landscaping and Screening; replace Exemptions with Concept Plan Optional; Concept Plan; and Dimensional Requirements
REGULATIONS:	ARTICLE IX – Section 900

Documents Attached

- 1) Letter dated June 1, 2022, from Attorney Evan J. Seeman
- 2) Completed Application and fee paid in full
- 3) Application Narrative
- 4) Proposed changes to Intent; General Requirements; Special Permitted Uses; Interior Circulation; Landscaping and Screening; Concept Plan Optional; Concept Plan; Dimensional Requirements
- 5) Letters of Authorization from Rosemary & Thomas C. Clarie; Darcy R. & Joanne Clarie; and Sarah F. Clarke, Trustee

Legal Notices

- 1) Courtesy Notice was sent to NECCOG via email.
- 2) Memorandum of proposed zone text change posted in Town Clerk's Office on July 1, 2022
- 3) Legal Notice posted in Town Clerk's Office on June 27, 2022
- 4) Legal Notice published in Norwich Bulletin on Tuesday, July 5, 2022 & Monday, July 11, 2022

STAFF COMMENTS AND SUGGESTIONS

- 1) Staff met with the representative of the applicants to discuss their application, staff requested some changes
- 2) Staff suggests that the commission members read the application thoroughly as it is quite complete
- 3) Staff suggests the commission members listen to the testimony given at the hearing
- 4) Staff suggests the commission members review the current Business Park Regulations and compare the requested changes to the current wording
- 5) Staff suggest the commission members, when making their decision state their reasons for said decision

If the commission does approve the requested TEXT changes, then the commission must set an effective date. Staff would recommend Monday, August 15, 2022, at 12:01 am.

EVAN J. SEEMAN

280 Trumbull Street
Hartford, CT 06103-3597
Main (860) 275-8200
Fax (860) 275-8299
eseeman@rc.com
Direct (860) 275-8247

VIA HAND DELIVERY & ELECTRONIC MAIL

June 1, 2022

Town of Killingly Planning & Zoning Commission
Keith Thurlow, Chair
Killingly Town Hall
172 Main Street
Killingly, CT 06239

Re: Zoning Text Amendment – Business Park District

Dear Chair Thurlow and Members of the Commission:

Our firm represents Rosemary and Thomas C. Clarie, Darcy R. and Joanne Clarie, and Sarah F. Clarke, Trustee (“Clarie Family” or “Applicant”), who together own three undeveloped parcels located in the BP (Business Park) District at 308 Westcott Road (Parcel No. 175-048-000-000-9603), 310 Westcott Road (Parcel No. 161-003-000-000-1064) and 115 Mashentuck Road (Parcel No. 174-002-000-000-1062) comprising 199 acres. Pursuant to Section 900 of the Town of Killingly Zoning Regulations, the Clarie Family submits this Application for a Zoning Text Amendment (“Application”) with respect to the BP District regulations. Enclosed please find the following materials in support of the Application:

1. Application form
2. Narrative
3. Proposed text amendment language
4. Authorization letters
5. Application fee

As explained in the attached Narrative, the BP District was created more than 20 years ago, and the vast majority of land in the district remains undeveloped. The Application seeks to update the BP District regulations to facilitate development of property in this district while remaining sensitive to nearby zoning districts and uses. It will bring an underutilized zoning district to its higher potential, benefitting the Town as a whole.

RECEIVED

JUN 02 2022

25082778-v1

Robinson+Cole

Town of Killingly Planning & Zoning Commission

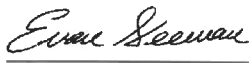
June 1, 2022

Page 2

On March 17, 2022, the undersigned discussed the proposed changes with Town staff in a pre-application meeting with Ms. Ann-Marie Aubrey, Director of Planning & Development, Mr. Jonathan Blake, Planner I / Zoning Enforcement Officer, and Ms. Jill St. Clair, Economic Development Director. The Applicant has revised its proposed text amendment language based on the pre-application meeting and is pleased to submit this Application for the Commission's review.

The Clarie Family is eager to make the BP District and its associated properties more attractive for development. Doing so will increase the tax base, add jobs and boost the economy of the Town of Killingly. The Clarie Family respectfully requests that the Commission schedule this Application to be considered and approved at the Commission's next available meeting or as soon as possible. Thank you for your consideration of this matter.

Respectfully submitted,
Clarie Family

By: 

Evan J. Seeman, Esq.
Robinson & Cole LLP
Its Attorney and Authorized Agent

Copy to: Ann-Marie Aubrey, Director of Planning and Development
Jonathan Blake, Town Planner/ZEO
Jill St. Clair, Economic Development Director
Keith Kumnick, SIOR, Colliers

Office Use Only

Application #:
Date Submitted:
Received By:
Fee:
Date Rec'd by Commission/Board:

APPLICATION TYPE:

- Site Plan Review
- Special Permit
- Subdivision
- Zone Text Change
- Zone Map Change
- Zoning Board of Appeals

TO BE COMPLETED BY THE APPLICANT -- PLEASE PRINT

Applicant's Name: Rosemary and Thomas C. Clarie; Darcy R. and Joanne Clarie; Sarah F. Clarke, Trustee	
Mailing Address: Evan J. Seeman, Esq., Robinson & Cole, LLP, Applicants' Agent 280 Trumbull Street, Hartford, CT 06103	
Day Phone: (860) 275-8247	Evening Phone: Same
Landowner: N/A	
Mailing Address: N/A	
Day Phone: N/A	Evening Phone: N/A

LOCATION OF PROPERTY

Address: N/A				
GIS # N/A	Lot: N/A	Zoning District: N/A	Lot Size: N/A	Frontage: N/A

INTENT OF APPLICATION / PROPOSED ACTIVITY

Description: Proposed text amendment to Sections 436.1; 436.2; 436.3; 436.4.2; 436.4.3; 436.6.1.b; 436.6.2.a; and 450 of the Town of Killingly Zoning Regulations regarding permitted uses and requirements of the Business Park District. See attached narrative and proposed text.

ZONING BOARD OF APPEALS APPLICATIONS ONLY

<input type="checkbox"/> A variance in the application of the Zoning Regulations is requested.
<input type="checkbox"/> There is an error in an order, requirement or decision made by the Zoning Enforcement Officer (Appeal).
<input type="checkbox"/> Other (Specify Above).

Evan Seeman

 Signature of Applicant

June 1, 2022

 Date

See Authorization Letters

 Signature of Owner (if different from Applicant)

 Date

Attachment 1

The Clarie Family Application for Zoning Text Amendment – Business Park District

Application Narrative

This Narrative is in support of the Application for a Zoning Text Amendment submitted by Rosemary and Thomas C. Clarie, Darcy R. and Joanne Clarie, and Sarah F. Clarke, Trustee (“Clarie Family” or “Applicant”). The Clarie Family collectively owns three undeveloped parcels located in the BP (Business Park) District at 308 Westcott Road (Parcel No. 175-048-000-000-9603), 310 Westcott Road (Parcel No. 161-003-000-000-1064), and 115 Mashentuck Road (Parcel No. 174-002-000-000-1062) comprising 199 acres. The Application proposes changes to the following BP District regulations: Section 436.1; Section 436.2; Section 436.3; Section 436.4.2; Section 436.4.3; Section 436.6.1.b; Section 436.6.2.a; and Section 450.

The Application seeks to update the BP District regulations to facilitate development of property in this district while remaining sensitive to nearby zoning districts and uses. It will bring an underutilized zoning district to its higher potential, benefitting the Town as a whole. The proposed changes to the BP District regulations are consistent with the Town’s Plan of Conservation and Development (“POCD”) and will promote the public health, safety, welfare and sound planning principles.

Overview of the BP District

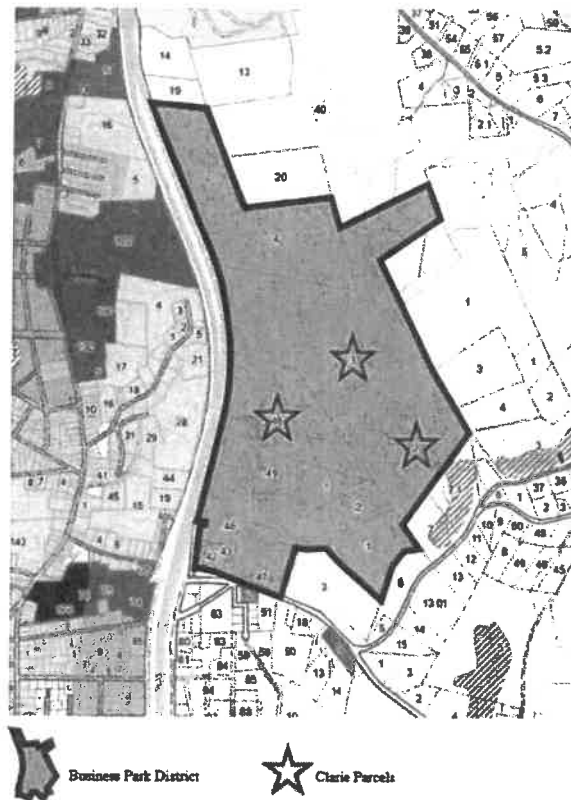
The BP District was established in 2000 through Application #99-97. The BP District properties were rezoned from the Rural Development District (“RD District”) through Application #00-103. The BP District was amended in 2004 (Application #04-127 to allow conference centers, hotels and motels as special permit uses) and 2007 (Application #07-154 for a text amendment to the BP district).

The BP District Regulations were created to “provide facilities consistent with a master plan and restrictions, resulting in the creation of a physical environment that promotes consistency with community goals, efficient business operations, human scale and values, and compatibility with the natural environment.” (§ 436.1). The BP District permits a variety of commercial and industrial uses by special permit (no uses are allowed as-of-right), including: research and development facilities, general office space, data centers, conference centers, hotels and motels, educational training facilities, recreational facilities, and automobile vehicle rental facilities. (§ 436.3).

Wholesale warehouse and distribution centers of up to 40,000 square feet of gross floor storage area are permitted in the BP District but only if they are accessory to a research or development primary use (§ 436.3.i). The BP District also requires that an accessory warehouse and distribution center (a) be setback 750 feet from the boundary line of any residential district or residential use (§ 436.3); and (b) have associated truck parking setback 750 feet from any residential district boundary or residential use (§ 436.4.3). On a development site of 317 acres (which includes the three Clarie parcels and 5 other parcels: 312 Westcott Road, 306 Westcott

Road, 304 Westcott Road, 302 Westcott Road, and 300 Westcott Road), this setback reduces the buildable area by nearly 228 acres or more than 71%.

Currently, most of the land in the BP District remains undeveloped. The below image taken from the Town's GIS mapping shows the boundaries of the BP Zoning District in black (the parcels owned by the Clarie Family are identified with red stars):



No other parcels in Town are zoned BP District. The BP District is next to I-395. It is surrounded to the north and east by properties in the RD District; to the south (across Westcott Rd.) by properties in the RD District and General Commercial ("GC") District; to the west (across I-395) by properties in the GC District and the Low Density Residential District.

Proposed Amendments to the BP District

The goal of the BP District has not been realized. BP District properties remain undeveloped. Since the creation of the BP District more than 20 years ago, demand for warehousing and distribution centers has increased dramatically as the retail sector has evolved to meet consumer demands for online shopping, particularly in response to the COVID-19 pandemic. With its proximity to I-395, the properties included in the BP District are well suited for a warehouse and distribution facility. However, the existing BP District regulations applicable to warehouse and distribution uses have inhibited development.

The changes to the BP District which are proposed in the Application aim to balance the relaxation of development standards specific to warehousing and distribution while maintaining certain standards to protect surrounding properties. They will update the BP District regulations to, among other things, permit warehouse and distribution facilities as a primary use subject to special permit review and reduce existing 750-foot setbacks. They will not introduce an alien use, given that warehouse and distribution centers are already permitted, albeit subject to several restrictions.

The proposed changes will also align with recent changes to the Zoning Regulations approved by the Commission. In 2021, the Commission amended the Zoning Regulations to permit distribution centers in the GC District subject to certain standards. In so doing, the Commission required a landscape buffer of only 25 feet in width but no additional setback distance above what is generally required for the GC District (a 50-foot front, 25-foot side and 30-foot rear setback), even where such a use is adjacent to a residential district or use.

Similar uses in other zoning districts (storage of goods, wholesaling, and freight terminals) require much smaller setbacks than what is required for warehouse and distribution uses in the BP District. In the Light Industrial (“LI”) District, the storage of goods and wholesaling is permitted subject to a 40-ft. front yard setback, 25-foot side yard setback, and 30-foot rear yard setback. (Table A). Further, when a light industrial site adjoins a residential district, a buffer strip of only 25-feet is required. (§ 430.2.5). In the Industrial (“I”) District, the storage of goods, wholesaling, and freight terminals are permitted subject to a 50-foot front yard setback, 25-foot side yard setback, and 30-foot rear yard setback. (Table A). When an industrial site adjoins a residential district, a buffer strip of only 25-feet is required. (§ 430). In the Mixed Use Interchange (“MUI”) District, the storage of goods, wholesaling, and freight terminals are permitted subject to a 50-foot front yard setback and no others. (Table A).

The BP District is the only district to require separate setback standards for warehouse and distribution uses. Although the changes to the BP District regulations would reduce existing setbacks for warehouse and distribution uses to 150 feet, the setbacks would still be more than three times that required in other districts that allow storage or freight terminal uses (the 50-foot front yard setback required in the GC, LI, I, and MUI districts).

The Application also proposes several standards which are designed to protect nearby zoning districts and uses. The standards have been modeled on those approved by the Commission in 2021 to permit distribution centers in the GC District. One major difference is that a greater setback specific to warehouse and distribution center uses will still be required in the BP District where any such facility is next to a residential zone or residential use. The proposed standards include:

- 150 ft. setback from the boundary of any residential district or use;
- Controlled gate access for warehouse and distribution vehicular traffic;
- Landscaping per § 436.4.3 required for outdoor storage of trailers;
- Goods and products stored or packaged must be indoors (except for those stored within a trailer outside of the warehouse and distribution center); and
- Outdoor lighting to be night sky compliant.

The proposed changes to the Zoning Regulations are designed to make the BP District more amenable to development based on current market demands. With the proximity to I-395, the BP District has ample access for the development of warehouses and distribution centers and other typical business park uses. Reducing existing setback requirements will provide greater flexibility for the development of existing underutilized land within the BP district. Reduced setbacks will also permit flexibility for future development to minimize impact on any environmental constraints such as wetlands and upland review areas which are present on parcels in the BP District, including those owned by the Clarie Family.

While the proposed amendments reduce the setback for warehouse and distribution center uses when abutting the RD District, they maintain a larger setback than that generally required in the BP District. In general, a 50-foot front, side, and rear setback is required in the BP District. Landscape buffer and screening requirements will remain to minimize any adverse effects future development may have on the surrounding properties.

This Application proposes only amending the text of the BP District regulations. There is no specific development proposal to accompany this application or concept plan, as these are not required for text amendment applications. If the Commission approves this text amendment Application, any future development application will be subject to the Commission's discretionary special permit review and site plan approval.

Consistency with the Town's POCD

The Application is supported by and furthers several of the Town's goals and policies identified in the POCD. Applicable goals and policies of the POCD are identified below.

The Introduction of the POCD states that Route 395 "has become an important asset for Killingly, as the town is connected by an interstate north and northeast to Worcester and Boston, and south and southwest to New Haven and New York. Killingly as a crossroads community, could now capitalize on the growing use of trucks to transport goods." (Page 6/78 of POCD). **Comment:** The BP District is ideally located to contribute to this highly beneficial use.

Section 3.2 ("Economics") gives a "Background" of economic conditions in Killingly and states that "Poverty and unemployment are major concerns. The Town is consistently above the state average in unemployment rates." (Page 15/78 of POCD). **Comment:** The Applicant anticipates that approval of the Application will facilitate development of properties in the BP District and will result in substantial direct and indirect job generation.

Section 3.2 of the POCD provides the following goal: "Maximize the quantity, quality and diversification of Killingly's employees and employable workforce while maintaining the advantages of Killingly's character." (Page 18/78 of POCD). **Comment:** The proposed text amendment is intended to encourage development of warehouses and distribution centers within the BP district. Since the BP District was created in 2000, there has been increased demand for warehouses and distribution centers with the rise in e-commerce. The proposed text amendment will attract businesses to the Town that have otherwise overlooked the BP District parcels due to existing constraints. Adding new businesses to Town will increase the number and type of jobs located in Town.

Section 3.5 of the POCD states that a policy is to “encourage and promote business development within the designated commercial and industrial areas.” (Page 35/78 of POCD). The BP District is already designated for a variety of commercial purposes. However, permitted uses are limited. The proposed text amendment will further encourage and promote business development within the BP District by allowing a warehouse and distribution center as a primary use and setting new development standards for such a use. It will help to facilitate possible development in the BP District that has been lacking for more than 20 years. The Commission will retain discretion to review any proposed warehouse and distribution center use through the special permit and site plan review processes.

Economic Benefits from the Text Amendment

The proposed changes to the BP District regulations will help facilitate development of property in this district. The Town of Killingly will reap economic benefit through the development of a warehouse and distribution center in the BP District, which may include (a) generation of additional real property tax revenue; (b) generation of additional personal property taxes; (c) creation of new jobs to construct a possible warehouse and development facility; and (d) creation of permanent jobs and increased business for other local establishments.

Conclusion

The proposed text amendment will update the outdated BP District regulations. Doing so will make the BP District and its associated properties more attractive for development, increase the tax base, add jobs, and boost the economy of the Town of Killingly. The Commission will retain discretion to review any proposed warehouse and distribution center use through the special permit and site plan review processes.

Attachment 2

Proposed Text Amendment Language to Town of Killingly Zoning Regulations

[proposed text shown is underscored; text to be deleted is shown in ~~strikeout~~]

Section 436.1 – Intent

The intent of the Business Park District is to ~~provide facilities for business consistent with a master plan and restrictions, resulting in~~ provide areas which allow the establishment of business uses subject to standards that result in the creation of a physical environment that promotes consistency with community goals, efficient business operations, human scale and values, and compatibility with the natural environment. A Business Park District may be located adjacent to, or nearby, residential districts. Therefore, all uses located within this district shall be clean, quiet and free of hazardous or objectionable elements such as noise, odor, dust, smoke, and glare. In addition, such uses, including related storage, shall be operated entirely within enclosed structures (except for docking areas necessary for receipt of multiple deliveries or as otherwise noted).

Section 436.2 – General Requirements

- g. Any parcel in the BP District to be used must provide a direct access way to a road or street, including through, but not limited to, an easement. Any application to the commission for a proposed use within the business park district on land situated between any public road or street or a previously approved private access way and the remaining land in the business park district shall provide a defined right of way over the land area owned in whole or in part by the owner or the owner's applicant to the remaining land in the business park district. Such right of way access way shall have a minimum width of sixty feet or such width specified by the commission. Said right of access way shall may permit the future installation of all utilities including, but not limited to, sanitary sewer lines, public water, electric, natural gas, communication cables and storm water drainage structures and lines. The location of such right of way shall be approved by the commission. Such access way is subject to approval of the Commission.

Section 436.3 – Special Permitted Uses

- i. ~~Wholesale warehouses and distribution centers, provided they are clearly secondary and supplemental to a research or development primary use, have a gross floor storage area of forty thousand (40,000) square feet or less, and are located at least seven hundred fifty (750) feet from the boundary line of any residential district or any residential use.~~

Warehouses and Distribution Centers, subject to the following standards:

1. Shall be located at least 150 feet from the boundary of any residential district or residential use.
2. Shall have controlled gate access for warehouse and distribution vehicular traffic, though employee traffic for parking purposes shall not require gate access.
3. Outdoor storage of trailers may be provided; however, this area must be landscape screened in accordance with § 436.4.3 from abutting uses if they differ in zoning or a use not provided within the Business Park District
4. Permitted accessory uses include the overnight parking and/or storage of trailers and vehicles used in the conduct of the business; ancillary maintenance and refueling of vehicles used in the conduct of the business; customer pick-up; and retail sales area not to exceed 20% of the total gross floor area of the primary use;
5. All goods and products stored or packaged in the warehouse and distribution center shall be indoors except for those items that are stored within a trailer outside of the warehouse and distribution center. No packaging of goods shall be allowed outside of the warehouse and distribution center.
6. Truck loading docks shall not be located on the street facing side of the building or be located on the building side that abuts a residentially zoned parcel without adequate landscape buffer and screening in accordance with § 436.4.3.
7. All outdoor lighting shall be night sky compliant.
8. The Commission may, at its discretion, hire a third-party consultant, also acceptable to the applicant, to aid the Commission in its review of any proposed facility. The fees charged by the third-party consultant shall be borne by the applicant.

Section 436.4.2 – Interior Circulation

~~The BP District shall be served by an internal roadway system. Such roads shall, at a minimum, comply with the Town standards for “local street”. The Commission may, in its discretion, designate such roads as “access” or “through” streets as defined in the Town’s Subdivision regulations if such standards are warranted by the volume of traffic and type of use proposed.~~ Interior circulation shall provide for the safe movement of vehicles, delivery trucks and pedestrians. Truck delivery routes shall be indicated by signage, pavement marking or other method. Access to commercial delivery points shall be segregated from general public traffic. Provisions for the safe movement of pedestrians between buildings and from buildings to parking areas shall be provided.

- a. ~~Bicycle/pedestrian pathways a minimum of six (6) feet in width are to~~ may be provided along the interior roadway system. Said width may be expanded by the commission to ten (10) feet or to conform with standards of the National Park Service then in effect. The bicycle/pedestrian pathways need not be located adjacent to such roadways. Lots not served by sidewalks ~~shall~~ may be served by bicycle/pedestrian pathways. Sidewalks and bicycle/pedestrian pathways shall be constructed simultaneously with the roadways and ~~shall~~ may provide continuous circulation from one lot to another. Sidewalks and bicycle/pedestrian pathways shall be illuminated to provide safety and security for their users. Any lighting used shall be shielded or diffused so as to reflect light away from abutting traffic and to prevent skyward glare.

Section 436.4.3 Landscaping and Screening

- b. ~~All trucks in excess of a one-ton carrying capacity shall be parked in rear or side yards and screened from view from adjacent properties or any public roads or rights-of-way in accordance with Planning and Zoning Commission requirements. No trucks in excess of a one-ton carrying capacity may be parked in any street yard regardless of screening. Truck parking associated with wholesale warehouses and distribution centers shall be a minimum of seven hundred fifty (750) feet from any residential district boundary or from any residential use.~~ All trucks in excess of a one-ton carrying capacity shall be sufficiently screened from view from adjacent properties or any public roads or rights-of-way.

Section 436.6.1.b – Exemptions Concept Plan Optional

The Concept Plan is not required ~~when the Site plan submitted with a Special Permit application includes all proposed use and development in the entire BP District~~ but may be submitted by an applicant who seeks to develop all property in the entire BP District.

Section 436.6.2.a – Concept Plan

If no concept plan has been approved for a BP District, and the Site plan does not include proposed development for the entire BP District, a Concept Plan ~~must~~ may, but is not required to, be submitted with the Special Permit application(s) for a proposed use or uses. The Commission shall act on the Concept Plan prior to acting on the Special Permit application(s).

Section 450. Dimensional Requirements

...

******Office buildings, and research and development buildings, and warehouses and distribution centers may have a maximum of sixty (60) feet or a height sufficient to accommodate four (4) stories in accordance with industry standards, whichever is greater, with the approval of the Planning and Zoning Commission. When a structure exceeds fifty (50) feet in height, all required yards shall be increased by five (5) feet for each additional one (1) foot in building height above fifty (50) feet.**

VI. PUBLIC HEARINGS – (review / discussion / action)

3) Ap# 22-1295 Public Hearing – Accessory Dwelling Units State Statute – Per the State Statute, the PZC must conduct a public hearing to review, discuss, and act upon opting-out of the State’s Accessory Dwelling Unit Statute.

DESCRIPTION

As of January 1, 2022, Connecticut General Statute Section 8-2o. became effective. That statute is also known as Public Act 21-29 Section 6. That statute allows for municipalities to opt out of the statute if they follow the procedure outlined below.

PROCEDURE – Listed under Sec. 8-2o (f) “...the...planning and zoning commission, as applicable, of a municipality, by a two-third (2/3) vote, may initiate the process by which such municipality opts out of the provisions of said subsections regarding allowance of accessory apartments, provided such commission

- (1) First holds a public hearing in accordance with the provisions of section 8-7d on such proposed opt-out,
- (2) affirmatively decides to opt out of the provisions of said subsections within the period of time permitted under section 8-7d,
- (3) states upon its records the reasons for such decisions, and
- (4) publishes notice of such decision in a newspaper having a substantial circulation in the municipality not later than fifteen {15} days after such decision has been rendered.

THEREAFTER,

The municipality’s legislative body, ...by a two-thirds (2/3) vote, may complete the process by which such municipality opt out of the provisions of subsections (a) to (d), inclusive, of this section, except that, on and after January 1, 2023, no municipality may opt out of the provisions of said subsections”.

Legal Notices

- 1) Legal Notice posted in Town Clerk’s Office on June 27, 2022
- 2) Legal Notice published in Norwich Bulletin on Tuesday, July 5, 2022 & Monday, July 11, 2022

STAFF COMMENTS AND SUGGESTIONS

- 1) Staff suggests that the commission members read the Town of Killingly Regulations enclosed,
- 2) Staff suggests that the commission members read the copy of the CT State Statute,
- 3) Once commission members read both versions then the commission should compare the two to determine the following
 - a) what conditions of the state statute does our own regulations meet or exceed (if any)
 - b) what conditions of the state statute does our own regulations fall short of (if any)
 - c) are there conditions of the state statute that the commission does not agree with
 - d) should the commission revise our regulations to mirror the state statute
 - e) should the commission vote to opt out of the state’s statute
- 4) Staff will have their own comparison chart available at the hearing for review and discussion.

NOTE: Whatever decision the commission makes, the commission must state the reasons for its decision on the record – that is part of the opt out requirement above.

SECTION 566. SECONDARY DWELLING UNIT

Section 566.1 – Intent

It is the intent of this Secondary Dwelling Unit (SDU) section to:

- a. Provide flexibility in housing options in response to the changing needs of families;
- b. Create new housing units while respecting and maintaining the appearance and scale of single-family development;
- c. Provide housing that responds to smaller household size and increasing housing costs;
- d. Provide opportunities for a younger generation to live independently; and
- e. Provide an older generation with a means of obtaining rental income, security, companionship, and/or services, thereby enabling them to stay more comfortably in homes and neighborhoods they might otherwise need to leave.

Section 566.2 Definitions

Secondary Dwelling Unit – an additional dwelling unit established in conjunction with a primary residence (single family dwelling) on the same lot. A secondary dwelling unit shall include a kitchen, sleeping quarters, and full bathroom facilities with a permanent foundation. There are three types of secondary dwelling units: Interior (often referred to as an in-law apartment), Attached and Detached.

Primary Residence – is the principle residential structure.

Gross Floor Area – For the purpose of the secondary dwelling unit, the gross floor area shall be the total floor area (in square feet) of all floors in the secondary dwelling unit. If the secondary dwelling unit is part of a larger structure (garage, barn, or primary structure) then the gross floor area is calculated by the outside area of walls of the secondary dwelling unit only.

This would include stairwells and elevator shafts, but would not include areas such as unfinished basements, garages, or mezzanines.

Example 1: a one story building with exterior wall dimensions of 20' x 25' would have a gross floor area of 500 square feet. If that same building was two-stories, the gross floor area would be 1000 square feet.

Example 2: a one story building with exterior wall dimensions of 20' x 50' (1000 square feet) contained a secondary dwelling unit that was 20' x 25' then the gross floor area of the secondary dwelling unit would be 500 square feet.

Section 566.3 An Secondary Dwelling Unit may be permitted in the following zones:

- Rural Development
- Low Density
- Medium Density
- Residential Medium Density (Borough)

Section 566.4 Secondary Dwelling Unit Types

- Interior – Located within the existing primary residence and is typically a conversion of existing space. For example: an attic or basement.
- Attached – Living space that are added to the primary residence. The additional unit can be converted out of an existing attached garage or constructed on the side and/or rear of the primary residence.
- Detached – A freestanding unit separate from the primary residence. A detached garage conversion or new construction, within the same lot boundaries of the existing primary residence.

Section 566.5 Interior & Attached Secondary Dwelling Unit Requirements (Zoning Permit Only)

Interior and Attached Secondary Dwelling Units shall meet the following standards and requirements:

- a. No secondary dwelling unit shall be approved if accessory to a two-family dwelling or any multi-family use; (SDU are only allowed with a single family dwelling)
- b. Only one secondary dwelling unit shall be permitted for each lot;
- c. All setback requirements for the zone in which the accessory dwelling unit is located shall apply;
- d. The secondary dwelling unit is subject to all the applicable health, fire and building codes as the primary residence;
- e. The owner of the property must reside in either the primary residence or the secondary dwelling unit;

The secondary dwelling unit shall:

- not exceed 1,000 square feet in maximum gross floor area;
 - contain no more than one (1) bedroom;
 - be designed to preserve and maintain the single-family residential appearance of the subject lot and be consistent with the single-family character of the neighborhood;
- f. The lot on which the accessory structure is to be located shall conform to the minimum lot area requirement for the zone in which the property is located;
 - g. Access from the public right-of-way shall serve both the primary and secondary dwelling units; no additional curb cuts shall be created to serve a secondary dwelling unit.
 - h. Parking will be in compliance with Section 530 Off Street Parking and Loading standards.

Section 566.6 Detached Secondary Dwelling Unit Requirements (Site Plan Review)

Detached Secondary Dwelling Units shall meet the following standards and requirements:

- a. No secondary dwelling unit shall be approved if accessory to a two-family dwelling or any multi-family use; (SDU are only allowed with a single family dwelling)
- b. Only one secondary dwelling unit shall be permitted for each lot;
- c. All setback requirements for the zone in which the accessory dwelling unit is located shall apply;
- d. The secondary dwelling unit is subject to all the applicable health, fire and building codes as the primary structure;
- e. The owner of the property must reside in either the primary residence or the secondary dwelling unit;

The secondary dwelling unit shall:

- not exceed 1,000 square feet in maximum gross floor area;
 - contain no more than two (2) bedrooms;
 - be designed to preserve and maintain the single-family residential appearance of the subject lot and be consistent with the single-family character of the neighborhood;
- f. The lot on which the accessory structure is to be located shall conform to the minimum lot area requirement for the zone in which the property is located;
 - g. Access from the public right-of-way shall serve both the primary and secondary dwelling units; no additional curb cuts shall be created to serve a secondary dwelling unit.
 - h. Parking will be in compliance with Section 530 Off Street Parking and Loading standards.
 - i. The secondary dwelling unit must be located within 150 feet of the primary residence or be the conversion of an existing detached structure (e.g. garage) which is not currently a dwelling unit.
 - j. Mobile homes or recreational vehicles shall not be used as an secondary dwelling unit.

provide for conditions on operations to collect spring or well water, effective July 8, 1997; P.A. 98-105 amended Subsec. (c) to provide for protection of amphibolite ridgelines; P.A. 10-87 amended Subsec. (a) by making technical changes and adding provision prohibiting regulations from prohibiting use of receptacles for storage of items designated for recycling or requiring such receptacles to comply with provisions for bulk or lot area and prohibiting regulations from unreasonably restricting access to or size of such receptacles for businesses; P.A. 11-124 amended Subsec. (a) by replacing "housing plan" with "state's consolidated plan for housing and community development"; P.A. 11-188 amended Subsec. (a) by adding reference to Sec. 1-1(q) re definition of "agriculture"; pursuant to P.A. 15-227, "group day care home" and "family day care home" were changed editorially by the Revisors to "group child care home" and "family child care home", respectively, in Subsec. (a), effective July 1, 2015; P.A. 17-39 amended Subsec. (a) to add provision re regulations not terminating or deeming abandoned nonconforming use, building or structure, effective July 1, 2017; P.A. 17-155 amended Subsec. (a) to add provision re town opt out and installation of temporary health care structures; P.A. 18-28 amended Subsec. (a) by adding provision re zoning commission may regulate brightness and illumination of advertising signs and billboards, and added Subsec. (d) exempting certain advertising signs or billboards from municipal ordinance or regulation re brightness or illumination when installed prior to adoption of ordinance or regulation, effective July 1, 2018; P.A. 18-132 amended Subsec. (a) by adding provision re regulations that require special permit or special exception for continuance, effective July 1, 2018; P.A. 21-29 substantially revised section, including by restructuring existing Subsec. (a) into new Subsecs. (a) to (e), moving provision re Long Island Sound from former Subsec. (b) to Subsec. (b)(10), moving provision re traprock ridge from former Subsec. (d) to Subsec. (c)(10), redesignating existing Subsec. (d) as Subsec. (f), in Subsec. (b)(2) adding Subpara. (E) re state's resources, Subpara. (G) re contiguous municipalities, Subpara. (H) re significant disparities, Subpara. (I) re efficient proposal and application review and Subpara. (J) re federal Fair Housing Act, deleting provisions re land overcrowding and undue population concentration, in Subsec. (b)(3) changing "character" to "physical site characteristics" and deleting reference to conserving building value, in Subsec. (b)(6) changing "encourage" to "expressly allow", in Subsec. (c)(3)(B) adding "distributed generation or freestanding" and "wind", in Subsec. (c)(4) deleting "passive solar energy techniques", adding Subpara. (B) re combined heat and power, Subpara. (C) re water conservation and Subpara. (D) re energy conservation techniques, in Subsec. (c) adding Subdiv. (8) re floating and overlay zones and Subdiv. (9) re traffic impacts and mitigation strategies, in Subsec. (d)(3) adding "mobile manufactured homes" and "mobile manufactured home parks" and deleting provision re manufactured homes, in Subsec. (d) by adding Subdiv. (6) re cottage food operations, Subdiv. (7) re minimum floor area, Subdiv. (8) re cap on dwelling units, Subdiv. (9) re parking spaces and Subdiv. (10) re land use application denials and making technical changes.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

(SECONDARY DWELLING UNITS)

Sec. 8-20. Zoning regulations re accessory apartments. Municipal opt-out; exception. (a) Any zoning regulations adopted pursuant to section 8-2 shall:

- (1) Designate locations or zoning districts within the municipality in which accessory apartments are allowed, provided at least one accessory apartment shall be allowed as of right on each lot that contains a single-family dwelling and no such accessory apartment shall be required to be an affordable accessory apartment;
- (2) Allow accessory apartments to be attached to or located within the proposed or existing principal dwelling, or detached from the proposed or existing principal dwelling and located on the same lot as such dwelling;
- (3) Set a maximum net floor area for an accessory apartment of not less than thirty per cent of the net floor area of the principal dwelling, or one thousand square feet, whichever is less, except that such regulations may allow a larger net floor area for such apartments;
- (4) Require setbacks, lot size and building frontage less than or equal to that which is required for the principal dwelling, and require lot coverage greater than or equal to that which is required for the principal dwelling;

(5) Provide for height, landscaping and architectural design standards that do not exceed any such standards as they are applied to single-family dwellings in the municipality;

(6) Be prohibited from requiring (A) a passageway between any such accessory apartment and any such principal dwelling, (B) an exterior door for any such accessory apartment, except as required by the applicable building or fire code, (C) any more than one parking space for any such accessory apartment, or fees in lieu of parking otherwise allowed by section 8-2c, (D) a familial, marital or employment relationship between occupants of the principal dwelling and accessory apartment, (E) a minimum age for occupants of the accessory apartment, (F) separate billing of utilities otherwise connected to, or used by, the principal dwelling unit, or (G) periodic renewals for permits for such accessory apartments; and

(7) Be interpreted and enforced such that nothing in this section shall be in derogation of (A) applicable building code requirements, (B) the ability of a municipality to prohibit or limit the use of accessory apartments for short-term rentals or vacation stays, or (C) other requirements where a well or private sewerage system is being used, provided approval for any such accessory apartment shall not be unreasonably withheld.

(b) The as of right permit application and review process for approval of accessory apartments shall require that a decision on any such application be rendered not later than sixty-five days after receipt of such application by the applicable zoning commission, except that an applicant may consent to one or more extensions of not more than an additional sixty-five days or may withdraw such application.

(c) A municipality shall not (1) condition the approval of an accessory apartment on the correction of a nonconforming use, structure or lot, or (2) require the installation of fire sprinklers in an accessory apartment if such sprinklers are not required for the principal dwelling located on the same lot or otherwise required by the fire code.

(d) A municipality, special district, sewer or water authority shall not (1) consider an accessory apartment to be a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless such accessory apartment was constructed with a new single-family dwelling on the same lot, or (2) require the installation of a new or separate utility connection directly to an accessory apartment or impose a related connection fee or capacity charge.

(e) If a municipality fails to adopt new regulations or amend existing regulations by January 1, 2023, for the purpose of complying with the provisions of subsections (a) to (d), inclusive, of this section, and unless such municipality opts out of the provisions of said subsections in accordance with the provisions of subsection (f) of this section, any noncompliant existing regulation shall become null and void and such municipality shall approve or deny applications for accessory apartments in accordance with the requirements for regulations set forth in the provisions of subsections (a) to (d), inclusive, of this section until such municipality adopts or amends a regulation in compliance with said subsections. A municipality may not use or impose additional standards beyond those set forth in subsections (a) to (d), inclusive, of this section.

(f) Notwithstanding the provisions of subsections (a) to (d), inclusive, of this section, the zoning commission or combined planning and zoning commission, as applicable, of a municipality, by a two-thirds vote, may initiate the process by which such municipality opts out of the provisions of said subsections regarding allowance of accessory apartments, provided such commission: (1) First holds a public hearing in accordance with the provisions of section 8-7d on such proposed opt-out, (2) affirmatively decides to opt out of the provisions of said subsections within the period of time permitted under section 8-7d, (3) states upon its records the reasons for such decision, and (4) publishes notice of such decision in a newspaper having a substantial circulation in the municipality not later than fifteen days after such decision has been rendered. Thereafter, the municipality's legislative body or, in a municipality where the legislative body is a town meeting, its board of selectmen, by a two-thirds vote, may complete the process by which such municipality opts out of the provisions of subsections (a) to (d), inclusive, of this section, except that, on and after January 1, 2023, no municipality may opt out of the provisions of said subsections.



**TOWN OF KILLINGLY, CT
PLANNING AND ZONING COMMISSION**

RECEIVED
TOWN CLERK, KILLINGLY, CT
2022 JUN 30 AM 8:28

MONDAY – JUNE 20, 2022
Regular Meeting – HYBRID MEETING

Elizabeth M. Wilson

7:00 PM

TOWN MEETING ROOM – 2ND FLOOR

Killingly Town Hall

172 Main Street

Killingly, CT

THE PUBLIC IS ALLOWED TO ATTEND THE MEETING IN PERSON
OR THE PUBLIC MAY VIEW THIS MEETING AS DESCRIBED BELOW

MINUTES

THE PUBLIC CAN VIEW THIS MEETING ON FACEBOOK LIVE.

GO TO www.killinglyct.gov AND CLICK ON FACEBOOK LIVE AT THE BOTTOM OF THE PAGE.

I. **CALL TO ORDER** – Chair, Keith Thurlow, called the meeting to order at 7:03 p.m.

ROLL CALL – Brian Card, Virge Lorents, John Sarantopoulos, Michael Hewko and Keith Thurlow (all were present in person).

Matthew Wendorf was absent with notice.

Staff Present – Ann-Marie Aubrey, Director of Planning & Development; Jonathan Blake, Planner I/ZEO (both present in person).

Jill St. Clair, Director of Economic Development (present via WebEx).

Also Present (in person) – Norm Thibeault; Killingly Engineering Associates; Attorney Tim Bleasdale, Law Firm of Waller, Smith & Palmer; Brian Caya, Stuart Peaslee, Peaslee Architect, PC; Ulla Tiik-Barclay; Town Council Liaison; J.S. Perreault, Recording Secretary.

There were two additional people present in the audience.

II. **ELECTION OF OFFICERS FOR THIS YEAR – ORGANIZATIONAL**

Keith Thurlow turned the meeting over to Ann-Marie Aubrey for the Election of Officers.

1) Chair

Ms. Aubrey opened the floor for nominations for the position of Chair.

Motion was made by Brian Card to nominate Keith Thurlow for the Chair position.

Second by Virge Lorents.

Discussion: Mr. Thurlow accepted the nomination. There were no other nominations.

Motion for Keith Thurlow for Chair carried unanimously by voice vote (4-0-0).

2) Vice-Chair

Ms. Aubrey opened the floor for nominations for the position of Vice-Chair.

Motion was made by John Sarantopoulos to nominate Brian Card for the Vice-Chair position.

Second by Virge Lorents.

Discussion: Mr. Card accepted the nomination. There were no other nominations.

Motion for Brian Card for Vice-Chair carried unanimously by voice vote (4-0-0).

3) Secretary

Ms. Aubrey opened the floor for nominations for the position of Secretary.

Motion was made by John Sarantopoulos to nominate Virge Lorents for the Secretary position.

Second by Keith Thurlow.

Discussion: Ms. Lorents accepted the nomination. There were no other nominations.

Motion for Virge Lorents for Secretary carried unanimously by voice vote (4-0-0).

Ms. Aubrey turned the meeting over to Chair, Keith Thurlow.

III. SEATING OF ALTERNATES

Keith Thurlow stated that Michael Hewko would be seated as a Voting Member for this meeting in the absence of Matthew Wendorf.

IV. AGENDA ADDENDUM – None.

Ann-Marie Aubrey explained a correction to Agenda Item IX.3 - The public hearing for **Zone TEXT Change Ap# 22-1294** would be able to be scheduled for the July 18, 2022, meeting of the PZC, as it has been verified that NECCOG does not need to be notified because it is not within 500 feet of the Town boundary.

V. CITIZENS' COMMENTS ON ITEMS NOT SUBJECT TO PUBLIC HEARING (Individual presentations not to exceed 3 minutes; limited to an aggregate of 21 minutes unless otherwise indicated by a majority vote of the Commission)

NOTE: Public comments can be emailed to publiccomment@killinglyct.gov or mailed to the Town of Killingly, 172 Main Street, Killingly, CT 06239. All public comment must be received prior to 2:00 PM the day of the meeting. Public comment received will be posted on the Town's website www.killinglyct.gov.

NOTE: To participate in the CITIZENS' COMMENTS– the public may join the meeting via telephone while viewing the meeting on Facebook live.

To join by phone please dial 1-415-655-0001; and use the access code 2634 149 2509 when prompted.

Mr. Thurlow read the above aloud.

There were no comments from the public in person, via WebEx or received in the office.

VI. COMMISSION/STAFF RESPONSES TO CITIZENS' COMMENTS – None.

VII. PUBLIC HEARINGS – (review / discussion / action)

NOTE: To participate in THE PUBLIC HEARINGS – the public may join the meeting via telephone while viewing the meeting on Facebook live.

To join by phone please dial 1-415-655-0001; and use the access code 2634 149 2509 when prompted

1) **Spec Perm Ap #22-1282**; Jolley Commons, LLC (Applicant/Owner); 120 Wauregan Rd; GIS MAP 220, LOT 21; ~6.4 acres; Gen Comm Zone; excavation & removal of gravel products; under Sect 560, et seq (Earth Filling & Excavation); Sect 700 et seq (Spec Perm); & Sect 470 et Seq (Site Plan) of the TOK Zoning Regs. **CONT FROM 4/18/22 & 5/16/2022.**

Michael Hewko stated, for the record, that he is prepared to vote on this Application.

Keith Thurlow stated, for the record, that he has reviewed the minutes from the last meeting and spoke with Staff earlier in the day and he is prepared to vote on this Application.

Norm Thibeault, Killingly Engineering Associates, represented the Applicant and reviewed the items that needed to be resolved from the previous meeting:

- Section 560.7.i.2 – Mr. Thibeault stated that he had provided a cross section of the elevations at area with the berm and the railroad last month. He referred to, and read from, Section 560.6.c which allows the Commission to waive specific requirements. He explained, for the record, that he does not feel that their activity closer to the boundary, than what is specified in the Regulations, would result in any detriment to railroad property.
Mr. Thibeault stated that he has not received a response from the railroad.
- Mr. Thibeault read aloud from Section 560.7 Performance Standards – He had submitted a plan earlier showing that the two closest residences are 313 feet and 482 feet away, therefore, this Section of the Regulations is met.
- He said that all other outstanding items had been addressed at the last meeting, including drainage concerns.

Ms. Aubrey commented that a bond is usually required for this and that a bond amount of \$71,000 had been offered. Ms. Aubrey has reviewed this with the Town Engineer who feels it is okay by today's standards, but he would like a condition that the amount be verified before work commences.

Motion was made by Virge Lorents to close the public hearing for **Spec Perm Ap #22-1282**; Jolley Commons, LLC (Applicant/Owner); 120 Wauregan Rd; GIS MAP 220, LOT 21; ~6.4 acres; Gen Comm Zone; excavation & removal of gravel products; under Sect 560, et seq (Earth Filling & Excavation); Sect 700 et seq (Spec Perm); & Sect 470 et Seq (Site Plan) of the TOK Zoning Regs.

Second by Michael Hewko. No discussion.

Motion carried unanimously by voice vote (5-0-0).

2) **Zone TEXT Change Ap # 22-1287** – Town of Killingly, special permitted use under Business Park, General Commercial, Light Industrial, Mill Mixed Use and Mixed-Use Interchange Zones for the creation of cannabis establishments **CONT FROM 5/16/2022.**

Ann-Marie Aubrey explained that the issue of the 1,500-foot distance from all schools and public parks that had been raised by John Sarantopoulos at the last meeting. Staff and the Town Attorney did some research and verified that it is no longer required and it is now up to the individual municipalities to decide the distance. The proposed draft has it at 500 feet.

There was discussion:

- Mr. Sarantopoulos voiced disagreement with the 500-foot distance due to concerns that he has and he read aloud from Section 21.a of the Connecticut General Statutes. He feels that the distance should be 1,500 feet.

- Jonathan Blake expressed caution and explained about how the 1,500-foot distance would eliminate some zones. He suggested that there could be a different number for different zones.
- Virge Lorents asked if it is mandated to put this in the Regulations.
Mr. Blake explained that if we do not, it would go to the nearest similar use (package store). He explained that you have to adopt or prohibit and that prohibiting would need to be done by Town Council, but there has been no direction from them to do that.
- Keith Thurlow read aloud the following from page 6 of the Minutes of the PZC Meeting of May 16, 2022: “Ms. Aubrey asked if the Members of the Commission were happy with the following:
 - Within 1500 feet of the property comprising an elementary or secondary school or a licensed day care center and the remaining will be at 500 feet.
No opposition was expressed.”

Mr. Thurlow asked if this is correct. Mr. Hewko stated that he thought it was and Mr. Card stated no. Mr. Thurlow asked the Commission Members how they feel:

Mr. Card stated that he felt they did a good job with the 500.

Ms. Lorents expressed that she is ambivalent and explained that she, personally, would not want it in Town. She feels that it is the Town Council’s responsibility to take the first step.

Mr. Card feels that the PZC should move forward with drafting regulations and if Town Council wants to vote one way or another, they can do that. Mr. Card, for the record, referred to his comment from page 6 of the Minutes of the PZC Meeting of May 16, 2022, for which he was Acting Chair:

“Mr. Card recommended that the public hearing be continued so that the Town Attorney could be consulted for an opinion regarding the Drug Free Zone – Minimum of 500 feet or Consistent with State Law.”

Mr. Card stated that he feels that 500 feet or consistent with State Law is appropriate, which was his position at the May 16th meeting.

- Mr. Blake explained that this is being proposed as a special permit and, under special permit, the Commission has more authority. These would be guidelines and the distance could be increased if the Commission feels it is necessary.
- Mr. Thurlow asked for the opinion of Jill St. Clair, Director of Economic Development.
Ms. St. Clair stated that it is an opportunity that the Town can exercise and that the Commission has control through the application process.
- Ms. Aubrey noted that if there were no regulations passed and an application were received, it would have to go under the most similar use. If it is a store, it would be retail. If a grow facility, it would be agriculture. She stated agreement with Brian Card that it is best to put regulations in place.
- Mr. Thurlow asked Ulla Tiik-Barclay; Town Council Liaison, to comment:
Ms. Tiik-Barclay stated that it had not been brought forward to the Town Council that they can deny the grow and sell establishments. Only the tax information had been presented and that part of the revenue received would have to be used for drug abuse education. She said that she will bring it before the Town Council at their next meeting.
- Mr. Sarantopoulos feels that this is a pathway drug. He explained that he feels some regulations need to be put in place rather than taking no action. He explained that he is still in favor of 1,500 feet separation.
- Ms. Lorents explained that she disagrees with the term gateway drug as she feels that it does not apply.
- Mr. Thurlow stated that there are two Commission Members leaning to the State Regulations and that he, also, is leaning to the State Regulations based on what Mr. Blake explained that the distance can be increased if the Commission deems it necessary.
- Ms. Aubrey explained that the municipalities need to determine distances, there is no drug-free zone anymore. She suggested that there are two ways for special permit:
 - 1,500 feet just for schools and parks;
 - Leave it at 500 because there is higher scrutiny under special permit.

Mr. Blake suggested that clarifying language could be added under Section a, that the Commission may increase separation distance. Mr. Sarantopoulos commented that he disagrees with 500 feet as it gives the green light to the first applicant, it is too close.

Ms. Aubrey drafted the following language, "The Commission may, in its sole discretion, increase separation distances between the cannabis establishments and schools and public parks if the Commission deems it necessary." Discussion continued.

Jill St. Clair commented that, with this legislation, there is a delivery system that is not being regulated as to where they can deliver (at this point). Therefore, someone who lives next to a school could have a home delivery under a license permit. She noted that current street marijuana is being laced with fentanyl and that is where the real danger is. So, just because there is an establishment, it doesn't mean that everyone is going to partake in purchasing recreational marijuana.

Ms. Aubrey, again, asked about the following language, "The Commission may, in its sole discretion, increase separation distance between the cannabis establishment and schools, daycare centers and public parks if the Commission deems necessary."

Mr. Card commented that he wouldn't limit it to schools, daycare centers and public parks. He suggested "any institutions identified in this paragraph." He said that he doesn't like the language being open-ended. He suggested putting a maximum of 1,500 feet. Mr. Sarantopoulos expressed disagreement as he feels that it should be a minimum of 1,500 feet and he referred to, and read aloud from, Section 21.a. Discussion continued.

COMMENTS FROM THE PUBLIC:

A woman from the audience asked that the amended proposed language be read aloud. Ms. Aubrey read aloud the following amended proposed language to be added to Paragraph 1.a:

"The Commission may, within its sole discretion, increase separation distance between the cannabis establishment and any other uses identified in this paragraph, the Commission deems necessary, up to a maximum of 1,500 feet."

Ulla Tiik-Barclay, specified that she was speaking as a member of the public and not as a Town Council Member, and she stated that she agrees with John Sarantopoulos regarding the distance and with Virge Lorents regarding not wanting this in the Town.

Motion was made by Virge Lorents to close the public hearing for **Zone TEXT Change Ap # 22-1287** – Town of Killingly, special permitted use under Business Park, General Commercial, Light Industrial, Mill Mixed Use and Mixed-Use Interchange Zones for the creation of cannabis establishments

Second by Michael Hewko. No discussion.

Motion carried unanimously by voice vote (5-0-0).

3) **Special Permit Ap # 22-1289** – Dayville Four Corners, LLC (Applicant/Owner); 730 (736) Hartford Turnpike, GIS MAP 115, LOT 6, General Commercial Zone, ~7.07 acres, request use of existing space in building for liquor, beer & wine sales, under TOK Zoning Regs under 420.2.1(a) with reference to 420.1.2(i). **CONT FROM 5/16/2022.**

Patrick Dougherty, MidPoint Engineering & Consulting, represented the applicant and gave an overview:

- They would like to have the space (end unit, formerly the seasonal Halloween Spirit) be allowed for liquor sales.
- The prior use was retail and liquor sales would not require any more parking and it would continue to meet the Zoning requirements.

COMMENTS FROM COMMISSION MEMBERS:

- Virge Lorents asked how many liquor stores there are currently in that area.
Mr. Blake explained that there are a total of seven and that the newest license was the seventh.
Mr. Dougherty stated that it would be almost 9,200 s.f., not a mom and pop shop.
- Brian Card asked for clarification of the parking in the cover letter (dated May). He asked if the number of parking spaces has been recalculated for all of the existing uses. He said that the front entrance to the parking lot needs to be reconfigured which could be part of this application for a special permit.
Mr. Dougherty explained that they always assumed that retail would be 80 percent sales and 20 percent storage or inventory. He said that they would accept a condition that the sales area would be no larger than 80 percent of the area. He also asked about uses, hours of operation, etc., that is part of the special permit process for General Commercial.
Mr. Dougherty explained that they had come before the Commission in 2016 with a site plan change showing handicapped spaces, grading, and new utilities that were put in. He said that they would have made any necessary changes at that time. He feels that it is functioning pretty well. He offered to research with the Police to see if there have been any accidents.
Mr. Card asked to see that information and he commented that the configuration should be looked at again to be sure that it is still safe.
Mr. Dougherty stated that they will put something together regarding the hours of operation, etc. He said that they would probably do something similar to what the other stores are doing. Mr. Thurlow stated that Sections 720.4 and 740 need to be addressed.
- Ms. Lorents commented about it being a very busy parking lot.
- Mr. Thurlow expressed agreement with Mr. Card.
- Mr. Hewko asked if there is a Knox box on each store or one for all.
Mr. Dougherty stated that he is not sure, but will check. He said that they did whatever the Fire Department required. He thinks there are at least three in the fire rooms, he will confirm.
- Ms. Lorents asked if storage of bottle returns would be included in the 8 percent in the back storage area.
Mr. Dougherty stated that he would have an answer at the next meeting.
- John Sarantopoulos, for the record, stated that the number of liquor permits is governed by the State.
Mr. Dougherty stated that this would not be adding to the inventory. He said that if a current licensee wanted to expand or move into a bigger space, they would be able to provide that for them.

Ms. Aubrey noted that this would be the last continuance (July 18th). Mr. Dougherty stated that they do not have a lease in place right now, so they would request a continuance.

Motion was made by Virge Lorents to continue the public hearing for **Special Permit Ap # 22-1289** – Dayville Four Corners, LLC (Applicant/Owner); 730 (736) Hartford Turnpike, GIS MAP 115, LOT 6, General Commercial Zone, ~7.07 acres, request use of existing space in building for liquor, beer & wine sales, under TOK Zoning Regs under 420.2.1(a) with reference to 420.1.2(i), to the next regularly scheduled meeting of the Planning & Zoning Commission on Monday, July 18, 2022, Town Meeting Room, 2nd Floor, 172 Main Street, at 7:00 p.m.

Second by Michael Hewko. No discussion.

Motion carried unanimously by voice vote (5-0-0).

4) **Special Permit Ap# 22-1291** – Melting Point Welding & Fabrication, LLC (Weld, LLC / Owner), 543 Wauregan Road, GIS MAP 262, LOT 20, Light Industrial, ~2.1 acres; to conduct manufacturing activities pursuant to TOK Zoning Regs. Sec. 430.2.2(b). **CONT FROM 5/16/2022.**

Attorney Tim Bleasdale, Law Firm of Waller, Smith & Palmer; Stuart Peaslee, Peaslee Architect, PC; and Brian Caya, Applicant were all present.

Attorney Bleasdale explained the following:

- Revisions were made to the site plan.
- A site walk with Staff had taken place looking at on-site conditions, sight lines, topography and existing vegetation. Discussion included changes that could be made to meet the spirit of the Regulations and to soften the building.
- He reminded the Commission that on the frontage of the property on Wauregan Road, the roadway is considerably higher than the parking lot in front of the building. He said that with the revisions, they are trying to come up with a plan that will soften the view of the building from the road knowing that it would be very difficult to plant any kind of vegetative buffer in that area that would completely block the view.

Stuart Peaslee reviewed the revisions (plans were displayed as discussed):

- He explained that they did not focus on trying to create a wall of green because it would not be practical due to height differential between the roadway and the parking lot.
- He explained that he wanted to make it look like there were features that would be a good representation of the business and also accommodating to those driving by: a sculpture pavilion; and added two other landscaped areas at the north and south ends of the parking lot.
- He suggested replacing 30-40 foot eastern white pines with another type of conifer that would be easier to maintain, but still provide an attractive buffer (e.g. arborvitae family).
- Existing 5-6 foot high and wide shrubbery are working well toward the buffering.
- The sculpture would highlight the production inside the facility and also a landmark/brand that people would recognize.
- This is a chance for creativity and innovation.

QUESTIONS/COMMENTS FROM COMMISSION MEMBERS:

Keith Thurlow asked about truck traffic/deliveries:

- Mr. Peaslee stated that incoming truck traffic for the existing loading dock will come from Lucienne Avenue. It is not high volume.
- Attorney Bleasdale stated the following regarding deliveries:
 - Steel deliveries (generated by the demands of the business) 1 to 3 deliveries per week. Unloading may take approximately 20 minutes. They are proposing to try to do the steel offloading indoors.
 - Consumable deliveries once per week.
 - UPS/FedEx once per day.

Mr. Thurlow asked about trucks exiting with finished product.

- Mr. Peaslee explained that the drivers would have two choices: Lucienne Avenue or Route 12. Mr. Peaslee stated that both would be bi-directional for trucks and that it works and he does not see a problem with it.
- Regarding the two entrances from Lucienne Avenue, Attorney Bleasdale stated that one leads only to the loading dock (near James Jr. Avenue) and the other is marked as "service entry" and is in the vicinity of the mechanic shop across the street (all, but steel deliveries, would use this entry). There are no customers, just employees and deliveries. There are seven field work employees who would come to the site to pick up tools from the tool storage area and then leave the site.

Mr. Thurlow asked about the buffer on Lucienne Avenue.

- Attorney Bleasdale explained that they would be preserving the existing vegetative buffer and augmenting it with additional plantings, as discussed with Staff on site. They are trying to soften the view for the neighbors in that area also.

Mr. Thurlow asked about the dimension of the buffering.

- Mr. Peaslee explained that the existing is approximately 25-feet thick and that the boundary of the property extends into that greenery approximately 5-10 feet (maybe more in some places). He said that along Route 12, it is only about five feet.

Mr. Thurlow asked about employee parking.

- Attorney Bleasdale explained that all of the parking would be available because there are no customers.

Mr. Thurlow expressed concern regarding trucks being able to travel through and he suggested having a designated area for employee parking where it would be out of the way of the 53-foot trailer trucks.

- Brian Caya, Applicant, explained the traffic pattern for the trucks having enough room to back into the existing loading dock and to maneuver the way they need to (Sheet 105).

Mr. Thurlow asked about hours of operation.

- Attorney Bleasdale referred to Exhibit 2 submitted with the Application package. He read them into the record:

- Office Hours: 7:00 a.m. to 5:30 p.m. There are three office employees.
- Shop Hours: 6:00 a.m. to 4:30 p.m. There are five workshop employees.
- Field Hours: 7:00 a.m. to 4:30 p.m.

Attorney Bleasdale explained that the Field Workers work off-site, but come to the site to pick up tools and products and take them off-site.

Attorney Bleasdale explained that the total number of employees at the site at one time fluctuates with business demand. Currently there are 15 employees, but may increase to a maximum 25 (driven by business demands).

- Weekend Hours – Limited to the Owner, Brian Caya (office work, smaller equipment and vehicle maintenance tasks). No other employees on site on weekends.

Michael Hewko asked if the entrance would be gated.

- Mr. Caya stated that there would be a small swing gate that would be locked to keep vehicles out of the parking lot.

Mr. Hewko asked that there be access to it, by the Fire Department, on off hours.

- Mr. Caya agreed.

QUESTIONS/COMMENTS FROM STAFF:

Jonathan Blake explained about a map that Staff had made up showing plantings. He said that the only real, slight change is the rounded edge of the reclaimed green space at the southern entrance. He said that it is tentatively bi-directional, which he had not known. He stated that Staff had concern about the swing radius of the trucks and he said that the rounded edge should be more cut back.

Mr. Blake stated that, based on the discussion at the site walk, Staff feels that the landscaping, as proposed by the Applicant, is adequate and meets the spirit of the Regulations in terms of infilling of existing, as well as maintaining across the other areas of the site. He commented that, if, at some point, the State wanted to exercise their easement and cut down all of the plantings off-site, in theory, they could. He explained that the conversation with the Applicant would be, "Does the current Application meet the approved plan?" Could it be approached as a violation of the site plan approval or a portion of the special permit?

Ann-Marie Aubrey commented on the following:

- She explained that they had looked at other Commercial/Industrial properties along Route 12 and she noted that the buildings are visible from Route 12.
- She also commented about how the sculpture/artwork will be visible from Route 12.
- There will be no outside storage.
- She explained the Staff map that had been provided to Commission Members.

ADDITIONAL QUESTIONS/COMMENTS FROM COMMISSION MEMBERS:

Mr. Thurlow asked about the number of parking spaces for the up to 25 employees.

- Mr. Peaslee stated that there are 42.

Mr. Thurlow asked if it is the intent that the island stay there. If yes, will it be a problem for trucks.

- Mr. Peaslee stated that he does not see a problem with it at all.

Mr. Thurlow asked about lighting.

- Mr. Peaslee stated that they would be adding one new light over the export dock (pointing down), but the others will stay the same.
- Attorney Bleasdale stated that all existing lighting will stay on-site as much as possible.

Mr. Thurlow asked if the directional lines will be repainted, at least at the entrances.

- Mr. Caya explained that they will be restriping after everything is established throughout the lot.

Mr. Thurlow stated that it looks like the special permit requirements have been addressed. He asked about noise.

- Mr. Caya stated that everything will be inside the building.

Mr. Thurlow asked about clients coming to the site.

- Mr. Caya explained that there will be some, but it is relatively rare.

There were no comments from the public.

Motion was made by Virge Lorents to close the public hearing for **Special Permit Ap# 22-1291** – Melting Point Welding & Fabrication, LLC (Weld, LLC / Owner), 543 Wauregan Road, GIS MAP 262, LOT 20, Light Industrial, ~2.1 acres; to conduct manufacturing activities pursuant to TOK Zoning Regs. Sec. 430.2.2(b).

Second by Michael Hewko. No discussion.

Motion carried unanimously by voice vote (5-0-0).

VIII. UNFINISHED BUSINESS – (review / discussion / action)

1) **Spec Perm Ap #22-1282**; Jolley Commons, LLC (Applicant/Owner); 120 Wauregan Rd; GIS MAP 220, LOT 21; ~6.4 acres; Gen Comm Zone; excavation & removal of gravel products; under Sect 560, et seq (Earth Filling & Excavation); Sect 700 et seq (Spec Perm); & Sect 470 et Seq (Site Plan) of the TOK Zoning Regs. **CONT FROM 4/18/22 & 5/16/2022.**

Motion was made by Brian Card to approve **Spec Perm Ap #22-1282**; Jolley Commons, LLC (Applicant/Owner); 120 Wauregan Rd; GIS MAP 220, LOT 21; ~6.4 acres; Gen Comm Zone; excavation & removal of gravel products; under Sect 560, et seq (Earth Filling & Excavation); Sect 700 et seq (Spec Perm); & Sect 470 et Seq (Site Plan) of the TOK Zoning Regs. with the following conditions:

- That the performance Bond be a minimum amount of \$71,075 to be revisited with the Town Engineer prior to construction in the field in case of a price increase.
- That restoration continue as they go. They had stated that they would continue to restore behind them.
- That the provision of Section 560.7.i.2 was satisfied by the Applicant and is reference to the PZC having the ability to waive Section 560.6.c.

Second by Virge Lorents. No discussion.

Roll Call Vote: Brian Card – yes; Virge Lorents – yes; John Sarantopoulos – yes; Michael Hewko – yes; Keith Thurlow – yes.

Motion carried unanimously (5-0-0).

2) **Zone TEXT Change Ap # 22-1287** – Town of Killingly, special permitted use under Business Park, General Commercial, Light Industrial, Mill Mixed Use and Mixed-Use Interchange Zones for the creation of cannabis establishments. **CONT FROM 5/16/2022.**

Motion was made by Michael Hewko to approve **Zone TEXT Change Ap # 22-1287** – Town of Killingly, special permitted use under Business Park, General Commercial, Light Industrial, Mill Mixed Use and Mixed-Use Interchange Zones for the creation of cannabis establishments

Second by Brian Card. Discussion: See Roll Call Vote on Main Motion as Amended below Motion #10.

Motion was made by Brian Card to amend the motion to approve **Zone TEXT Change Ap # 22-1287** – Town of Killingly, special permitted use under Business Park, General Commercial, Light Industrial, Mill Mixed Use and Mixed-Use Interchange Zones for the creation of cannabis establishments to include the following:

- Additional language in Item 1.a: “The Commission may, in its sole discretion, increase separation distances between the cannabis establishment and any uses previously mentioned “identified” in this paragraph up to a maximum of 1,500 feet, as the Commission deems necessary.”
- Effective date of July 18, 2022 at 12:01 a.m.

The Amendment to the Main Motion was seconded by Michael Hewko. No discussion.

Roll Call Vote: Virge Lorents – yes; John Sarantopoulos – no; Brian Card – yes; Michael Hewko – yes; Keith Thurlow – yes. Motion to Amend the Main Motion carried (4-1-0). John Sarantopoulos was opposed.

(Vote on Motion #9) Roll Call Vote on the Main Motion As Amended: John Sarantopoulos – no; Brian Card – yes; Virge Lorents – yes; Michael Hewko – yes; Keith Thurlow – yes.

Motion carried (4-1-0). John Sarantopoulos was opposed.

Motion was made by Brian Card to lift the Moratorium on cannabis establishments with an effective date of July 18, 2022, at 12:01 a.m.

Second by John Sarantopoulos.

Discussion:

Mr. Sarantopoulos asked if it would be the same as the Town Council denying if the PZC did not lift the Moratorium. Mr. Blake and Ann-Marie Aubrey explained the purpose of the Moratorium and that it would expire at a certain date and time.

Roll Call Vote: Brian Card – yes; Virge Lorents – yes; John Sarantopoulos – yes; Michael Hewko – yes; Keith Thurlow – yes.

Motion carried unanimously (5-0-0).

3) **Special Permit Ap # 22-1289** – Dayville Four Corners, LLC (Applicant/Owner); 730 (736) Hartford Turnpike, GIS MAP 115, LOT 6, General Commercial Zone, ~7.07 acres, request use of existing space in building for liquor, beer & wine sales, under TOK Zoning Regs under 420.2.1(a) with reference to 420.1.2(i). **CONT FROM 5/16/2022.**

Continued to Monday, July 18, 2022, Town Meeting Room, 2nd Floor, 172 Main Street, at 7:00 p.m.

4) **Special Permit Ap# 22-1291** – Melting Point Welding & Fabrication, LLC (Weld, LLC / Owner), 543 Wauregan Road, GIS MAP 262, LOT 20, Light Industrial, ~2.1 acres; to conduct manufacturing activities pursuant to TOK Zoning Regs. Sec. 430.2.2(b). **CONT FROM 5/16/2022.**

Motion was made by Virge Lorents to approve **Special Permit Ap# 22-1291** – Melting Point Welding & Fabrication, LLC (Weld, LLC / Owner), 543 Wauregan Road, GIS MAP 262, LOT 20, Light Industrial, ~2.1 acres; to conduct manufacturing activities pursuant to TOK Zoning Regs. Sec. 430.2.2(b), with the following conditions:

- That the hours of operation be clarified in Exhibit 2.
- Landscaping as discussed during the public hearing with the Applicant, the Commission and Staff.

Second by John Sarantopoulos. No discussion.

Roll Call Vote: Virge Lorents – yes; John Sarantopoulos – yes; Michael Hewko – yes; Brian Card – yes; Keith Thurlow – yes.

Motion carried unanimously (5-0-0).

IX. NEW BUSINESS – (review/discussion/action)

1) PLANNING ZONING COMMISSION BY-LAWS – Review and discuss the proposed amendment to the by-laws and act on same. Proposed amendment is the designated end of meeting time, and the requirement to make a motion to continue the meeting passed that time for one hour. NOTE: All members were notified of this proposed amendment.

There was discussion. Ms. Aubrey read aloud, for the record, the following proposed language to be added as Section 5 under Article VIII – Regular Meetings and as Section 4 under Article IX – Special Meetings:
“No Regular / Special Meeting shall run past the time of 10:00 p.m. unless the Chair entertains a motion to extend the meeting until the hour of 11:00 p.m. The motion shall be made at or before 9:45 p.m. to make the public aware of the Commission’s intentions. Once extended, the meeting shall promptly end at or before 11:00 p.m. and any business not reached shall be continued to the next regularly scheduled meeting.”
Discussion continued, but no changes were made to the above language.

Motion was made by John Sarantopoulos to amend the By-Laws by adding the following language as Section 5 under Article VIII – Regular Meetings and as Section 4 under Article IX – Special Meetings: “No Regular / Special Meeting shall run past the time of 10:00 p.m. unless the Chair entertains a motion to extend the meeting until the hour of 11:00 p.m. The motion shall be made at or before 9:45 p.m. to make the public aware of the Commission’s intentions. Once extended, the meeting shall promptly end at or before 11:00 p.m. and any business not reached shall be continued to the next regularly scheduled meeting.”

Second by Virge Lorents. No discussion.

Motion carried unanimously by voice vote (5-0-0).

2) OPT-OUT – ACCESSORY DWELLING UNITS STATE STATUTE – Per the State Statute, the PZC must schedule a public hearing to review, discuss, and act upon opting-out of the State’s Accessory Dwelling Unit Statute. **The suggested hearing date is July 18, 2022.**

Motion was made by Virge Lorents to schedule a public hearing to review, discuss, and act upon opting-out of the State’s Accessory Dwelling Unit Statute, on Monday, July 18, 2022, Town Meeting Room, 2nd Floor, 172 Main Street, at 7:00 p.m.

Second by Michael Hewko. No discussion.

Motion carried unanimously by voice vote (5-0-0).

3) Zone TEXT Change Ap# 22-1294 – Rosemary & Thomas C. Clarie et als; proposed text amendment to Sections 436.1; 436.2; 436.3; 436.4.2; 436.4.3; 436.6.1.b; 436.2.2; and 450 of the TOK Zoning Regulations regarding permitted uses and requirements of the Business Park District – making changes to the Intent, General Requirements, Special Permitted Uses; Interior Circulation; Landscaping and Screening; replace Exemptions with Concept Plan Optional; Concept Plan; and Dimensional Requirements. **Receive and schedule a public hearing for August 15, 2022 – to allow time to properly notify NECCOG of proposed text changes.**

Ms. Aubrey explained, again (see Agenda Item #4 above), that the date for this public hearing can be set for July 18, 2022.

Motion was made by Virge Lorents to receive and schedule a public hearing for **Zone TEXT Change Ap# 22-1294** – Rosemary & Thomas C. Clarie et als; proposed text amendment to Sections 436.1; 436.2; 436.3; 436.4.2; 436.4.3; 436.6.1.b; 436.2.2; and 450 of the TOK Zoning Regulations regarding permitted uses and requirements of the Business Park District – making changes to the Intent, General Requirements, Special Permitted Uses; Interior Circulation; Landscaping and Screening; replace Exemptions with Concept Plan Optional; Concept Plan; and Dimensional Requirements, on Monday, July 18, 2022, Town Meeting Room, 2nd Floor, 172 Main Street, at 7:00 p.m.

Second by Michael Hewko. No discussion.

Motion carried unanimously by voice vote (5-0-0).

X. ADOPTION OF MINUTES – (review/discussion/action)

1) Regular Meeting Minutes – APRIL 18, 2022

Motion was made by Michael Hewko to adopt the Regular Meeting Minutes of April 18, 2022.

Second by Brian Card. No discussion.

Motion carried unanimously by voice vote (5-0-0).

2) Regular Meeting Minutes – MAY 16, 2022

Motion was made by Virge Lorents to accept the Regular Meeting Minutes of May 16, 2022.

Second by Michael Hewko. No discussion.

Motion carried by voice vote (4-0-1). Keith Thurlow abstained as he had not attended that meeting.

XI. OTHER / MISCELLANEOUS – (review / discussion / action)

1) Five Mile River Overlay District – No discussion. Staff will report during July 18, 2022, meeting.

XII. CORRESPONDENCE

1) Letter dated 04/11/2022 – Copy of correspondence from GDIT to Melanie A. Bachman, Ex. Director, CT Siting Council,

RE: Notice of Exempt Modification – 246 E. Franklin Street, Killingly, CT. Complete Notice is in the Planning and Development Office for Review.

2) Letter dated 05/25/2022 – Copy of correspondence from Northeast Site Solutions to Members of the CT Siting Council, RE: Tower Share Application – 246 E. Franklin Street, Killingly, CT. Complete Notice is in the Planning and Development Office for Review.

3) Letter dated 05/24/2022 – Copy of correspondence from Northeast Site Solutions to Members of the CT Siting Council, RE: Tower Share Application – 280 Ross Road, Killingly, CT. Complete Notice is in the Planning and Development Office for Review.

Ms. Aubrey explained about the three items above which are all about towers – just general notifications.

XIII. DEPARTMENTAL REPORTS – (review/discussion/action)

A. Zoning Enforcement Officer’s & Zoning Board of Appeal’s Report(s) – Jonathan Blake reported that the ZBA met and elected the same slate of Officers.

B. Inland Wetlands and Watercourses Agent’s Report – Jonathan Blake reported that there was no meeting since there were no applications.

C. Building Office Report – No report.

XIV. ECONOMIC DEVELOPMENT DIRECTOR REPORT

Jill St. Clair reported:

- Town Council authorized ARPA Funds to be used for a Phase 1 and Phase 2 environmental assessment on 125 Alexander Parkway. RFP will go out soon.
- To submit a National Endowment for the Arts Grant application for “Our Town” for public art programming and video documentary.
- She is working with the Planning Department and UCONN Brownfield Target Assessment Team to assist with submitting a Community Brownfield application for the fall 2022 cycle.

- The State’s Tourism Site is being revamped.
- EDC launched Eastern Connecticut Real Estate Group featuring presentations on Killingly’s secondary dwelling regulations and the Brickyard Plaza Project.
- Over the summer, she will be working with a Sustainable CT intern.

XV. TOWN COUNCIL LIAISON REPORT

Ulla Tiik-Barclay reported:

- Mill rate was set at 25.14 (no increase).
- Proclamation recognizing June as Post Traumatic Stress Syndrome Month and National Dairy Month.
- Appointments to Boards and Commissions.
- Approved the Town Manager to expend some of the funds under the American Rescue Act Funding: Almost \$800,000 - Reynolds Street Sewer Project; \$800,000 - Police relocation/improvements; \$155,000 – Economic Development Phase 2 environmental assessment on 125 Alexander Parkway; \$4,700 – QV Senior Center reimbursement for HVAC system; QVCCA Facility requested \$20,000 for improvements; some for Meals on Wheels; ARC - \$7,500 for Organizational Study; Access Agency - \$21,000 for window replacement.
- Presentation by Attorney Roberts, Halloran & Sage, regarding Council Members’ conduct at Boards & Commission meetings.

XVI. ADJOURNMENT

Motion was made by Virge Lorents to adjourn at 9:02 p.m.

Second by Michael Hewko. No discussion.

Motion carried unanimously by voice vote (5-0-0).

Respectfully submitted,

J.S. Perreault
Recording Secretary

X. OTHER / MISCELLANEOUS – (review / discussion / action)

- 1) Five Mile River Overlay District – Staff report and recommendations to the Commission.

DESCRIPTION

The commission asked staff to review the Five Mile Overlay District, and the regulations that apply to that district.

- 1) This is the only River Overlay District included in the Town of Killingly Zoning Regulations
- 2) This Overlay District does not even include the entire River
- 3) The Five Mile River goes from the Northeast corner of Killingly and meets the Quinnebaug River in Danielson
- 4) A substantial portion of the Five Mile River Overlay District (FMROD) is classified as a critical habitat area; however not all the DEEP critical habitat area is included – so if that was the basis for creating the FMROD why was that portion left out?
- 5) DEEP critical habitat areas are governed by DEEP and sometimes State Archeological Office
- 6) The Town has numerous DEEP critical habitat areas throughout Killingly and, except for the Alexander Lake Zoning Overlay District (ALZOD,) no other critical habitat areas are included in an overlay district
- 7) The wetlands 100-foot buffer is regulated under the Town’s Inland Wetlands and Watercourses Commission
- 8) Yes, the area is part of the Natural Resource and Open Space Focus Area; however, approximately two-thirds (2/3) of the Town is included in that Focus Area as well
- 9) The FMROD is difficult to enforce (thinking in a court of law) when the regulations are not clearly written and appear (on the service) to be snob zoning
- 10) Most of the “environmental standards” within the FMROD could be managed through IWWC review, Special Permit, and Site Plan review, or through other regulatory agencies.

NOTE: The only other overlay district is the ALZOD which surrounds Alexander Lake

NEXT STEPS

- 1) What would the commission like to do
 - 2) If the commission believes the FMROD should remain as is, then please let staff know
 - 3) If the commission agrees with staff that such “concerns” can be managed through the town’s regulations please instruct the staff to review where and how the town’s zoning regulations could include the concerns for environmental standards listed in the FMROD
 - 4) The commission would then need to hold a public hearing for those regulations to be approved and become effective
 - 5) Only after that has occurred, would staff suggest that the commission then hold a public hearing to remove the FMROD from the Town’s regulations – please be aware that we would need to personally notify all landowners within the overlay district of this public hearing
-

SECTION 581 FIVE MILE RIVER PROTECTION OVERLAY DISTRICT

Purpose - The Five Mile River Protection Overlay District shall be defined as the Five Mile River within the Town of Killingly, including the area within the river's ordinary high water marks, floodplain, wetlands, and a contiguous buffer strip which together constitutes a culturally significant and environmentally sensitive river corridor. Its establishment furthers the goals of the state and municipality in river protection efforts under Connecticut General Statutes Section 25-102xx. All uses and activities established after the effective date of this regulation shall be in accordance with the standards and requirements in this regulation which are established to accomplish the following publicly recognized purposes:

- A. To establish standards and requirements for the use and conservation of the district and to contribute to the regional conservation of the river corridor**
- B. To prevent any alterations to the natural flow of the river, in order to maintain its ecological, recreational, aesthetic and other qualities.**
- C. To prevent water pollution caused by erosion, sedimentation, nutrient or pesticide run-off, and waste disposal facilities and to encourage retention and enhancement of shore vegetative cover, including diversity of native species, age distribution, and ground cover density to provide a protected buffer and pollution filter strip along the river as required in other important river corridors and as recommended in numerous pollution prevention studies, such as published by the Smithsonian Environmental Research Center.**
- D. To conserve the ecological, water supply and flood storage functions of the river's flood plain and related groundwater table and aquifer recharge areas and to protect life, public safety and property from flooding hazards.**
- E. To protect valuable fisheries and wildlife habitat within and along the Five Mile River.**
- F. To conserve and enhance the natural scenic and topographic conditions in the river corridor and its environmental quality, recognizing that these are vital to the economic and environmental health of the Town, and to preserve the natural scenic quality of the river by maintaining, where possible, screening of man-made structures from the river view, and:**
- G. To carry out the recommendations of the Town Plan of Conservation and Development and the State Plan of Conservation and Development and to prevent unnecessary or excessive expenditures of municipal funds for services**

and utilities which might be required as a result of improper development of land within the district.

Boundary - The limits of the Five Mile River Overlay Protection District are:

Beginning at a point in the Killingly/Putnam Town Line which is the western most point of property now or formerly of Douglas C. Cutler and known as Killingly Tax Map 7658 Block 377 Lot 1; thence easterly following the southerly line of the above property until its intersection with the westerly line of Cutler Road; thence southerly along Cutler Road to its intersection with North Road; thence in an easterly direction along the southerly line of North Road to the 400' USGS contour; thence in a southerly and westerly direction along the 400' USGS contour crossing Yosemite Valley Road and Mason Hill Road to a point in the easterly line of Chestnut Hill Road; thence northerly along the easterly line of Chestnut Hill Road and Pineville Road to Putnam Road; thence easterly and southerly along Putnam Road to Stone Road; thence northerly and easterly along the easterly line of Stone Road to Chase Road; thence northerly and easterly along the easterly line of Chase Road to the Putnam/Killingly Town Line; thence easterly along the Putnam/Killingly Town Line to the point of beginning.

Reference is made to a map entitled "Five Mile River Protection Overlay District".

* Permitted Uses - all uses which are permitted in the underlying, existing zones by right or by special permit are also permitted in the Five Mile River Overlay Protection District with the following exceptions, restrictions and requirements:

- A. Sanitary waste water discharge from on-site septic systems or their equivalent shall not average more than six hundred (600) gallons per acre per day, unless a denitrifying waste disposal system is installed and reviewed by a registered sanitarian.
- B. Any new or enlarged waste storage facilities accessory to agricultural and other permitted and special permitted uses shall obtain required permits or approvals from the Connecticut Department of Environmental Protection in accordance with the provisions of Chapter 446k of the Connecticut General Statutes as amended.
- C. The following uses are prohibited:
 1. Road salt storage and loading facilities.
 2. Solid materials disposal sites. The location of sanitary landfill or dump for the disposal of solid materials is prohibited.
 3. Septage disposal sites and lagoons. Disposal of septage in lagoons is prohibited.

4. The use and/or storage or manufacture of hazardous materials.
5. Effluent disposal into surface or groundwater associated with any land use is prohibited.
6. Underground fuel storage tanks
7. Golf Courses.
8. Commercial earth removal.
9. Outdoor commercial recreation.
10. Impoundments, dams or structures which would alter the rate, volume or character of the flow of the river.
11. Public service corporation
12. Motor vehicle junk yard
13. Collection centers for recycling operations
14. Bulk Storage of cement and petroleum products; concrete mixing plant; bituminous paving mixing plants;
15. Commercial storage and sale of fuel and bottled gas
16. Freight and materials trucking business and terminals
17. Clear cutting except for maintenance of existing agricultural fields and/or the minimum necessary to accommodate permitted structures and their appurtenances.

Adopted December 11, 2000

Effective Date: 12:01 AM, January 10, 2001

Five Mile River Protection Overlay District

Adopted December 11, 2000

Effective Date 12:01 AM, January 10, 2001



CONNECTICUT FEDERATION OF PLANNING AND ZONING AGENCIES QUARTERLY NEWSLETTER

Summer 2022

Volume XXVI, Issue 3

STATE SUPREME COURT RULES SPECULATION CANNOT BE BASIS FOR COMMISSION DECISION

An owner of property located within an industrial zone appealed the denial of his special exception application to court. The appeal proceeded to the Connecticut Supreme Court. One of the issues before this court was whether a special exception application could be denied solely because it did not comply with the general standards contained in the zoning regulations.

The application would have allowed for the operation of a crematory. Other owners of property within the industrial zone as well as the town's economic development commission objected to the application claiming that a crematory would decrease property values and discourage business from staying in the town. The planning and zoning commission agreed, denying the application on the basis that a crematory would negatively affect property values.

Because the zoning regulations included protecting property values as a general requirement for approving a special exception, the Supreme Court found that it was a valid reason. The court then searched the record to determine whether this reason for the decision was supported by substantial evidence in the record.

When it reviewed the record, the court found that while the applicant had offered expert testimony on the issues of

health, safety and property values, the evidence presented by the economic development commission and others that opposed the application amounted to nothing more than generalized concerns and speculation. Since such evidence cannot support a commission's decision, the court sustained the appeal and ordered the commission to approve the application. *McLoughlin v. Planning & Zoning Commission*, 342 Conn. 737 (2022).

DENSITY LIMITS ON CANNABIS USES REMOVED

The state legislature removed the limit on the number of cannabis retailers and micro-cultivators that can be permitted in a town. There had been a limit of one of each use for every 25,000 residents. Public Act 22-103 removed this density requirement. Apparently, there has been a tremendous demand for state permits for these cannabis uses and this amendment seeks to appease this demand. Commissions should take action now to address this use as a town could face an unprecedented demand for the permitting of these uses.

2022 LAND USE LEGISLATIVE UPDATE

In stark contrast to last year, very little legislation was passed that affects municipal land use law. House Bill 5203, 'An Act Concerning a Needs Assessment and Fair Share Plans for

Written and Edited by
Attorney Steven E. Byrne
790 Farmington Ave., Farmington CT 06031
Tel. (860) 677-7355
attysbyrne@gmail.com
cfpza@live.com

RECEIVED

JUL 13 2022

PLANNING & ZONING DEPT.
TOWN OF KILLINGLY

CONNECTICUT FEDERATION OF PLANNING AND ZONING AGENCIES QUARTERLY NEWSLETTER

Summer 2022

Volume XXVI, Issue 3

Municipalities to Increase Affordable Housing', thankfully failed to advance. If this Bill had become law, local control of land use would have been greatly reduced and subjected to state oversight and control. State control would be exercised by 'experts' who would have determined each planning region's fair share housing need and then assign each town within the region how much fair share housing it needs to provide. This would all have been done according to formulas and policies developed by these experts and would not be subject to elected officials' oversight. In addition, these experts would develop rules and regulations for local land use agencies to use in meeting their fair share housing needs. In short, the current democratic process which governs the local control of planning and zoning would be replaced by appointed experts governing in the name of the state.

Another troubling Bill that also failed to become law this legislative session was entitled 'An Act Concerning Transit Oriented Development', House Bill 5429. This Bill would have allowed for the "as of right" development of housing with a minimum overall density of fifteen dwelling units per acre on land located within a half-mile radius of any passenger rail or commuter rail station or any bus rapid transit station. There would be no limit as to the size of a

proposed development and the time period allowed to consider such a request would be drastically reduced. In addition, the commission's discretion would be greatly reduced as these developments are allowed 'as of right'. This bill would also result in the violation of the rule that all property within a zoning district be treated the same, as a parcel of land more than one-half mile from a transit center would be treated differently from a parcel within the one-half mile radius despite both being in the same zone district.

APPELLATE COURT AFFIRMS MONETARY AWARDS IN ENFORCEMENT CASE

A cease-and-desist order was issued against a family farm business alleging that the farm was being used as the site for the storage of construction materials as well as the operation of the processing and sale of earth materials. The subsequent court action was resolved by a stipulated judgment. The terms of the judgment included the requirement that the property be used solely for farming activities which could include composting,

Following complaints from neighbors of this property, the zoning enforcement officer conducted an investigation, which included the use of a drone to fly over the property. This investigation revealed that the offending activities had resumed. A follow-up onsite investigation showed that the

Written and Edited by
Attorney Steven E. Byrne
790 Farmington Ave., Farmington CT 06032
Tel. (860) 677-7355
attysbyrne@gmail.com
cfpza@live.com

CONNECTICUT FEDERATION OF PLANNING AND ZONING AGENCIES QUARTERLY NEWSLETTER

Summer 2022

Volume XXVI, Issue 3

owner of the property was also taking steps to conceal the illegal activity.

A motion for contempt was filed by the enforcement officer. After several court hearings, the motion was granted due to the enforcement officer offering credible evidence to the court in the form of photographs and testimony of what was taking place on the property, that these activities were not permitted by the judgment and that the violations were willful. In addition to ordering the cessation of activities violating the judgment, the court also awarded the enforcement officer's monetary remedies. These money remedies included an award for daily fines as well as legal fees and costs incurred in bringing the motion for contempt. The court also ordered the property owner to pay for future inspection costs due to a finding that he was likely to violate the judgment in the future based upon his past and present actions.

The State Court of Appeals affirmed the trial court's decision. This is a rare case where a municipality was made whole by a court ruling and a serial zoning offender is made to suffer the full range of penalties offered by the General Statutes. *Newtown v. Gaydosh*, 211 Conn. App. 186 (2022).

ELECTRONIC MEETINGS HERE TO STAY

The Freedom of Information Act was amended by Public Act 21-2 to

allow public agencies to hold their meetings by electronic means. This can be done either solely by these means or in conjunction with in-person meetings.

ANNOUNCEMENTS

Membership Dues

Notices for this year's annual membership dues were mailed March 1, 2022. The Federation is a nonprofit organization which operates solely on the funds provided by its members. So that we can continue to offer the services you enjoy, please pay promptly.

Workshops

At the price of \$180.00 per session for each agency attending, our workshops are an affordable way for your board to 'stay legal'. Each workshop attendee will receive a booklet which sets forth the 'basics' as well as a booklet on good governance which covers conflict of interest as well as how to run a meeting and a public hearing.

ABOUT THE EDITOR

Steven Byrne is an attorney with an office in Farmington, Connecticut. A principal in the law firm of Byrne & Byrne LLC, he maintains a strong focus in the area of land use law and is available for consultation and representation in all land use matters both at the administrative and court levels.

Written and Edited by
Attorney Steven E. Byrne
790 Farmington Ave., Farmington CT 06032
Tel. (860) 677-7355
attysbyrne@gmail.com
cfpza@live.com

BOOK ORDER FORM

Name of Agency: _____

Person Making Order: _____

Address: _____

Purchase Order No.: _____

“PLANNING AND ZONING IN CONNECTICUT”
 at \$ 35.00 each for members Copies _____ \$ _____
 at \$ 40.00 each for nonmembers

“CONNECTICUT ZONING BOARD OF APPEALS”
 at \$ 30.00 each for members Copies _____ \$ _____
 at \$ 35.00 each for nonmembers

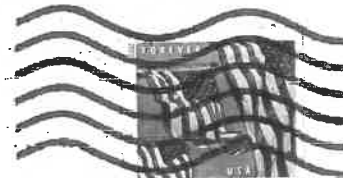
“WORKSHOP BOOKLETS” at \$14.00 each for members & \$18.00 each for nonmembers
 Planning & Zoning Commissions Copies _____ \$ _____
 Zoning Board of Appeals Copies _____ \$ _____
 Inland Wetlands & Watercourses Copies _____ \$ _____
 Historic District Commissions Copies _____ \$ _____

TOTAL DUE: _____ \$ _____

Please make check payable to:
 Connecticut Federation of Planning & Zoning Agencies
HARTFORD CT 060

**CONNECTICUT FEDERATION OF
 PLANNING & ZONING AGENCIES**
 2B Farmington Commons
 790 Farmington Avenue
 Farmington CT 06032

11 JUL 2022 PM 2 L



Killingly Planning & Zoning Commission
 172 Main Street
 Killingly, CT 06239

