



**TOWN OF KILLINGLY, CT  
PLANNING AND ZONING COMMISSION  
MONDAY – MAY 20, 2019**

**Regular Meeting  
7:00 PM**

**Town Meeting Room, Second Floor  
Killingly Town Hall  
172 Main St., Killingly**

IT WAS  
2019 MAY 30 AM 8:55  
CLOCKED BY

**MINUTES**

- I. **CALL TO ORDER** – Chair, Keith Thurlow, called the meeting to order at 7:07 pm.
- ROLL CALL** – Brian Card, Sheila Roddy, Virge Lorents, Milburn Stone, Mathew Wendorf, Keith Thurlow
- Staff Present** – Ann-Marie Aubrey, Director of Planning and Development; Elsie Bisset, Director of Economic Development.
- Also Present** – Attorney Kari Olson and Attorney Joseph Szerejko of Murtha Cullina. They both left at 9:58 p.m.
- II. **SEATING OF ALTERNATES** – Not at this time. However, Matthew Wendorf was seated as a Voting Member for Motion #'s 6, 10, 11 and 16.
- III. **AGENDA ADDENDUM** – None.
- 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) – None.
- V. **COMMISSION/STAFF RESPONSES TO CITIZENS' COMMENTS** – None.
- VI. **FORMAL ACTION – CANCELANATION OF PRIOR SUBDIVISIONS AND SITE PLANS WHICH HAVE EXPIRED – (review / discussion / action)**
1. **Special Permit #06-904**; John Daley; Section 570; Planned Residential Development; 28 units; 55 Dog Hill Road; GIS MAP 130, Lot 12; ~10.8 acres; Low Density Zone. (Approved April 16, 2007, site plan expired 9 years {2016}, no extension requested.)
- Ms. Aubrey explained the process. She has researched and verified that there have been no requests for extension since 2016. Attorney Joseph Szerejko explained that, according to Statute, a notice of expiration of the subdivision would need to be filed on the land records on behalf of the Planning and Zoning Commission.
- Motion was made by Virge Lorents to allow the Director of Planning to put on record and write it on the recorded site plans that it has expired for **Special Permit #06-904**; John Daley; Section 570; Planned Residential Development; 28 units; 55 Dog Hill Road; GIS MAP 130, Lot 12; ~10.8 acres; Low Density Zone. (Approved April 16, 2007, site plan expired 9 years {2016}, no extension requested.) Second by Milburn Stone. Motion carried unanimously (5-0-0).
2. **Subdivision Permit #08-445**; Bennett & Smilas Engineering, LLC; 31 lot flexible design subdivision; property located at 76 & 90 Ballouville Road; ~16.13 acres; Low Density Zone. (Approved September 15, 2008, site plan expired 9 years {2017}, no extension requested.)

Keith Thurlow recused himself, turned the Position of Chair over to Brian Card, then he left the room.

Motion was made by Sheila Roddy to allow the Director of Planning to put on record and write it on the recorded site plans that it has expired for **Subdivision Permit #08-445**; Bennett & Smilas Engineering, LLC; 31 lot flexible design subdivision; property located at 76 & 90 Ballouville Road; ~16.13 acres; Low Density Zone. (Approved September 15, 2008, site plan expired 9 years {2017}, no extension requested.) Second by Virge Lorents. Motion carried (4-0-0). Keith Thurlow had recused himself.

3. **Special Permit #08-941**; Michael Bennett, LS; Bennett and Smilas Engineering, LLC; 31 lot flexible design subdivision; property located at 76 & 90 Ballouville Road; ~16.31 acres; Low Density Zone. (Approved July 21, 2008; site plan expired 9 years {2017}, no extension requested.

Keith Thurlow had recused himself (see above) and was not in the room.

Motion was made by Sheila Roddy to allow the Director of Planning to put on record and write it on the recorded site plans that it has expired for **Special Permit #08-941**; Michael Bennett, LS; Bennett and Smilas Engineering, LLC; 31 lot flexible design subdivision; property located at 76 & 90 Ballouville Road; ~16.31 acres; Low Density Zone. (Approved July 21, 2008; site plan expired 9 years {2017}, no extension requested.) Second by Virge Lorents. Motion carried (4-0-0). Keith Thurlow had recused himself.

Keith Thurlow returned to the room and resumed the Position of Chair.

## **VII STATE STATUTE §8-24 REVIEWS – (review / discussion / action)**

1. **§ 8-24 Review #19-1218**; Town of Killingly; 30 Furnace Street; purchase of a paved parking lot across from the Imperial Room Banquet Hall; to provide 50 additional municipal parking spaces.

Motion was made by Brian Card to move forward with **§ 8-24 Review #19-1218**; Town of Killingly; 30 Furnace Street; purchase of a paved parking lot across from the Imperial Room Banquet Hall; to provide 50 additional municipal parking spaces. Second by Virge Lorents. Motion carried unanimously (5-0-0).

2. **§ 8-24 Review #19-1219**; Town of Killingly; 31 Commerce Avenue; sale of real estate (the old armory).

Motion was made by Brian Card to move forward with **§ 8-24 Review #19-1219**; Town of Killingly; 31 Commerce Avenue; sale of real estate (the old armory). Second by Milburn Stone. Motion carried unanimously (5-0-0).

3. **§ 8-24 Review #19-1220**; Town of Killingly; 125 Alexander Parkway; sale of real estate (vacant land).

Keith Thurlow recused himself, turned the Position of Chair over to Brian Card, then he left the room.

Brian Card asked about the location of this property and Ms. Aubrey explained that it was originally part of the Industrial Park Expansion and she indicated the location of it and surrounding parcels and easements on a map.

Motion was made by Sheila Roddy to support **§ 8-24 Review #19-1220**; Town of Killingly; 125 Alexander Parkway; sale of real estate (vacant land). Second by Virge Lorents.

Discussion: There was a question raised regarding whether a business is interested in the property at this time. Ms. Aubrey explained that there is interest, but that it is in negotiation with Town Council.

Motion carried (5-0-0). Keith Thurlow had recused himself. Matthew Wendorf was seated as a Voting Member for this Motion.

Keith Thurlow returned to the room and resumed the Position of Chair.

## **VIII. PUBLIC HEARINGS – (review / discussion / action)**

**A. Continued from the April 15, 2019 Planning Zoning Commission Meeting**

1) **Zone TEXT Change Application #19-1210**; Town of Killingly, Planning & Zoning Commission; under Article IX, Section 900 Amendments; Town of Killingly Zoning Regulations; Section 585 et sec.; Agriculture; amend the Definitions, Permitted Uses, Special Permitted Uses, and Agricultural Use Table; and any minor changes deemed necessary. – **CONT FROM 04/15/2019**

Ms. Aubrey explained that, in response to some questions that the Commission had:

- The Right To Farm
- Health Code regarding distance for pigs
- Number of animals

The following information had been included in packets to the Commission Members:

- Killingly Code of Ordinances – Killingly Agriculture Commission and Right To Farm Ordinance.
- State of Connecticut Right To Farm Statute (Sec. 19a-341).
- State of Connecticut Public Health Code Section 19-13-B23(a) – Keeping of animals re: pigsty.
- Planning for Agriculture (A Guide for CT Municipalities) 2016 edition.
- Guidance and Recommendations for CT Municipal Zoning Regulations and Ordinances for Livestock.

Mr. Thurlow stated that his questions had been answered and asked if other Commission Members had questions. There were no questions raised.

**Frank Anastasio**, 30 Saw Mill Hill Road, Agriculture Commission Member, explained that they are proposing that the Zoning Regulations be changed to avoid the quandary regarding counting the number of animals on a farm so that the number of animals that can be raised on a farm is determined by the size of the farm, the nature of the land, and the location. These are factors that are not constant. He read from the CT Conference of Municipalities Recommendations for Agriculture. He explained the process for complaints for which it would need to be determined whether generally accepted agricultural practices were being followed.

Mr. Anastasio explained that the Right To Farm Law (State and Town of Killingly) does not prevent anyone from farming if the type of farming is permitted in the zone that they are in. He explained that the Right To Farm protects the farmer from being considered a nuisance regarding things like odor, dust and noise (after they have been in operation for one year and has not been substantially changed ). Mr. Anastasio questions whether the one year applies to the whole ordinance or only to Section 2-134(a)5 which deals with water pollution, because this is the only place where that phrase is found. He would like it to be interpreted that it only apply to that specific Section of the Ordinance and he suggested that the Town Attorney could be asked to make a determination.

Mr. Anastasio stated that there have been complaints in the past and the process does work and they would like to continue with that practice.

Mr. Thurlow asked the Town Attorney for an interpretation for the phrase in Section 2-134(a)5 which Mr. Anastasio questions. Ms. Aubrey explained that The Town's Right To Farm almost word-for-word follows the State's Right To Farm Act except for punctuation/format.

Mr. Anastasio explained that he is concerned with farmers being able to diversify and that change being determined as changing the nature of their business and then, no longer being protected by the Right to Farm if someone complains within the year. He said the interpretation could be crucial.

Kari Olson, Town Attorney, stated that she does feel that because of the wording "has been in operation for one year or more, and has not been substantially changed" and what comes after it, she feels that it applies to everything that comes before it. She explained that she would argue that just because you have a substantial change, doesn't automatically make what you are doing a nuisance. If the farmer is complying with the standards of good farming practices, there is little to fear. However, she explained that it would not protect a farmer from a private nuisance claim. Attorney Olson recommends following the Statute. Ms. Aubrey explained that the Town Ordinance/Right To Farm Ordinance would need to be corrected by Town Council, not by the PZC. The PZC just needs to verify that the proposed changes to the Zoning Regulations (Section 585) are not in violation of the Ordinance or State Statute.

There were no comments from the public.

Ms. Aubrey commented that two minor editorial changes had been made since the last Public Hearing:

- Page 9, Item d.8 – Remove “for a 200 square foot store.” To read as follows, “Adequate off-street parking shall be provided at the rate of one parking space for every 200 sf of store area; with a minimum of two (2) parking spaces.”
- Page 10, Item g.4. – Change the location of “shall apply.” To read as follows, “Any structure or building which houses any livestock shall be located at least 100 feet from the boundary line of any adjacent property owner. However when the livestock is pigs, the Connecticut Public Health Code Section 19-13-B23 (a), which lists the requirements for the setback distances for pigs shall apply, provided it remains greater than 100 feet.”

There were no comments from the public.

Motion was made by Brian Card to close the public hearing for **Zone TEXT Change Application #19-1210**; Town of Killingly, Planning & Zoning Commission; under Article IX, Section 900 Amendments; Town of Killingly Zoning Regulations; Section 585 et sec.; Agriculture; amend the Definitions, Permitted Uses, Special Permitted Uses, and Agricultural Use Table; and any minor changes deemed necessary. Second by Virge Lorents. Motion carried unanimously (5-0-0).

2) **Special Permit Application #19-1209**; Section 410.1.2(b) Dog Kennel; Believe Enterprise Inc.; Angelia & Hugh Viele; 81 Squaw Rock Road; GIS Map 257; Lot 10; ~13.6 acres; Rural Development Zone. – **CONT.FROM 04/15/21019**

(NOTE: Applicant has signed a letter of consent requesting the hearing be continued to June 17, 2019; as we have not received a final decision from the Inland Wetlands and Watercourses Commission.)

Ms. Aubrey read the continuation request letter from Hugh Viele into the record.

Motion was made by Virge Lorents to continue the public hearing for **Special Permit Application #19-1209**; Section 410.1.2(b) Dog Kennel; Believe Enterprise Inc.; Angelia & Hugh Viele; 81 Squaw Rock Road; GIS Map 257; Lot 10; ~13.6 acres; Rural Development Zone to Monday, June 17, 2019, Town Meeting Room, Second Floor, Killingly Town Hall, 172 Main Street, at 7:00 p.m. Second by Milburn Stone. Motion carried unanimously (5-0-0).

#### **B. New Hearings Scheduled for Tonight's Meeting**

1) **Scenic Road Application #18-1205**; Article IV., et sec. Scenic Roads; Killingly Code of Ordinances; Richard W. Fedor, et als; designation of the entire unpaved portion of Pratt Road (Between Pettingell Road and Chestnut Hill Road) as a scenic road in accordance with the Killingly Code of Ordinances. (Received 04/15/2019; must be heard within 35 days of date of receipt – **MUST BE HEARD May 20, 2019 according to TOK Code of Ordinances**)

Ms. Aubrey explained that the Town Council (because the Town owns over 51 percent of the frontage along Pratt Road) acted on this on April 9, 2019, and recommends that it be designated as proposed, in accordance with the Killingly Code of Ordinances Article IV Scenic Roads, Division 1, Generally, Section 12.5-61 to Section 12.5-68 Rescindment inclusive.

Ms. Aubrey explained that all abutters that have frontage along the Road signed a petition which was filed with the Town Clerk. Town Council took part in the petition.

**Richard W. Fedor**, 139 Pratt Road, spoke in favor. He is interested in preserving the picturesque look. He stated that one landowner did not sign the petition because she is concerned about dust. Mr. Fedor stated that he is also concerned with storm-damaged trees being left along the Road.

Mr. Thurlow spoke of limited parking and asked if this designation would eliminate the possibility of putting in additional parking near the access to the Chase Reservoir. Ms. Aubrey explained that anything beyond repairs to the Road would need to come before the PZC. Ms. Aubrey provided copies of a Memo from Town Engineer, David Capacchione (dated May 20, 2019) to the Commission Members. There was discussion. Ms. Aubrey read aloud from the Ordinance (Section 12.5-66.a.1. Ms. Aubrey read the Mr. Capacchione's Memo into the record which contains a list of items he asked the PZC to consider during discussion and when making its decision.

Brian Card asked that copies of the written request be provided to the Commission Members. Ms. Aubrey will provide.

**Ron Caron**, Old Breakneck Hill, represented **Arthur Hughes** of 111 Pratt Road, asked if designation of scenic road limits the development of undeveloped property on the road. Ms. Aubrey explained that just the road itself becomes scenic. Curb cuts would need to come before the PZC. Mr. Caron asked to see the petition and if Arthur Hughes had signed it.

Ms. Aubrey noted that all of the landowners had gotten the proper notification (certified mail, return receipt requested). Ms. Aubrey explained that most of the frontage on Pratt Road is Town-owned which is why the Town Council took action and made a recommendation (instead of signing the petition). Mr. Fedor explained that he had spoken with Mr. Hughes who owns property on Pratt Road, but does not live there. Ms. Aubrey read aloud from Ordinance Section 12.5-66.c. Decision. She said that the people who live on Pratt Road filed the petition before the Town Council made its recommendation.

Copies of a letter from Richard Fedor, dated December 10, 2018, and copies of the signed petition were provided to Commission Members.

Motion was made by Brian Card to continue the public hearing for **Scenic Road Application #18-1205**; Article IV., et sec. Scenic Roads; Killingly Code of Ordinances; Richard W. Fedor, et als; designation of the entire unpaved portion of Pratt Road (Between Pettingell Road and Chestnut Hill Road) as a scenic road in accordance with the Killingly Code of Ordinances to Monday, June 17, 2019, Town Meeting Room, Second Floor, Killingly Town Hall, 172 Main Street, at 7:00 p.m. to obtain more information from the Town Engineer and also to verify the percentage of property owners that signed/did not sign the petition.

There was discussion regarding timeline.

Second by Virge Lorents.

Discussion:

- Ms. Roddy asked about the total number/percentage of abutters that did not sign or respond to the petition. Ms. Aubrey explained that she sent out nine addresses and seven people signed the petition. She will verify all of the plat and lot numbers and owners for the next meeting.
- More discussion regarding timeline: 35 days to close the public hearing; 65 days to render a decision. The Applicant can give an extension.

Motion carried unanimously (5-0-0).

2) **Zone TEXT Change Application # 19-1211**; Proposed Adaptive Re-Use of an Agricultural Building; under Rural Development, Section 410.1.2.q (Special Permit); under Low Density, Section 410.2.2.o (Special Permit); and under Medium Density Zone, Section 410.3.2.m (Special Permit); by Pine Hill Farm, LLC. **(Received 04/15/2019; must open hearing by June 19, 2019 – next regularly scheduled meeting is June 17, 2019)**

**Paul Archer**, Archer Surveying, represented the Pine Hill Farm, LLC (owners were seated in the audience). Mr. Archer explained that this would allow people with existing agricultural buildings to be able to re-use them rather than letting them fall apart and be a viable asset to the Town. It would allow more flexibility (e.g. to take a chicken coop and make it into storage units to store boats, etc., or to allow contractors, such as plumbers/electricians to store equipment). The structure would stay with the look of its rural characteristics. Mr. Archer referred to the proposed regulations which were included in packets to Commission Members.

There were questions regarding the possibility of toxic materials being stored. Ms. Aubrey explained that the criteria is already in the Zoning Regulations for those uses in the Zones. There was a question regarding paving for parking lots/driveways. Mr. Archer referred to Item h of the proposed regulations.

Ms. Roddy expressed concern regarding Item b of the proposed regulations. She does not feel that the language is explicit enough about maintaining the rural character. Ms. Lorents stated agreement. Attorney Olson also agreed and recommended that the Commission make sure that what is proposed meets their expectations, expressly. Mr. Card also agreed and stated that he is concerned with how much re-building would be expected to be allowed. There was discussion regarding that this would be considered to be substantial changes and Attorney Olson explained that it would require re-noticing. Attorney Olson stated concern about the chicken coop/barn being on a property that also has a dwelling unit and suggested that it should be considered whether there should be some restriction to avoid ending up with two incompatible uses on the same property. There was discussion regarding home businesses/home occupation.

Ms. Roddy expressed concern regarding a home business/occupation not being run by the person who lives there.

There was discussion regarding how to fix the issues/concerns that have been brought up without penalty to the Applicant. Attorney Olson recommended that the Applicant withdraw the Application without prejudice, then have a workshop, and that the re-filing fee be waived. Attorney Olson recommended that the Commission Members review the various sections of the Regulations that are implicated by this text amendment (what uses are permitted or by special permit).

Mr. Archer will submit a letter of withdrawal and request a workshop.

**3) Subdivision Application #19-1213;** John C. D'Amato, Jr. and Ballouville Road, LLC; 51 lot subdivision; 38 Ballouville Road (GIS Map 63, Lot 50); and 82 Ballouville Road (GIS Map 54, Lot 1.1); ~18.8 acres, Medium Density Zone. **(Received 04/15/2019; must open hearing by June 19, 2019 – next regularly scheduled meeting is June 17, 2019. IWWC has not made a final decision; therefore, this should be continued to our June 17, 2019 meeting.)**

Keith Thurlow recused himself, turned the Position of Chair over to Brian Card, then he left the room. Mr. Card stated that Matthew Wendorf would be seated as a Voting Member for this Application. At 8:47 p.m. Mr. Card called for a two-minute recess.

The Public Hearing started at 8:50 p.m.

Attorney Harry Heller, 736 Route 32, Montville, CT, represented the Applicants (Mr. D'Amato was seated in the audience). David Held, Project Design Engineer, was also present. A Power Point presentation was given. Attorney Heller gave a brief history of the property:

- A portion is the 31-Lot Subdivision that the Commission expired at this meeting. The original 13 acres had been approved in 2008 as a flexible subdivision which was, at that time, in the Low-Density Zone. There was change in the zoning district and it is now in the Medium-Density Zone.
- The project was never built because the site cost to obtain access from Ballouville Road with what was then, the frontage of the project was excessive (involved a very significant cut in order to gain access) and did not make economic sense.
- Since that subdivision was approved, the Applicant acquired an additional parcel that adjoins the original parcel making a total of 18.8 acres entirely in the Medium-Density Zone.
- They are proposing a subdivision of 51 residential building lots with the construction of about 2,200 feet of new Town road.
- As a result of the acquisition of the additional parcel, the grades work much better and the site can be accessed from Ballouville Road near its intersection with Church Street at a much more reasonable grade.
- Notice has been provided as required by the Regulations. Proof of notification has been provided to the Planning Director. The sign has been posted in accordance with the Regulations. Attorney Heller stated that the procedural requirements have been satisfied to proceed with the Public Hearing.

Attorney Olson stated that the Commission needs to determine whether this would be considered as a re-subdivision or a new subdivision. She explained that when it was submitted, it was represented as a re-subdivision and the per-lot fee was based upon the difference between the number of lots from the expired subdivision and the number of lots being proposed in this new subdivision. She advised that the Commission needs to do two things:

- Decide whether it is a re-subdivision or a new subdivision to determine if the per-lot fee needs to be modified.
- Make a determination whether a public hearing is required (not required in the case of a re-subdivision).

Attorney Heller stated that, in Connecticut, a subdivision does not expire unless the PZC expires it (which is the action that the PZC took at this meeting). He said that, at the time that they filed the Application, the approval for the 31-lot subdivision was still in effect and that is why they filed as a re-subdivision.

Brian Card explained that, from his perspective, he looks at it as a new subdivision noting that nowhere on the drawings does it say re-subdivision or reference the old approval. It is a different size lot (18 acres vs. 13 acres), additional lots (31 to 51), the record says subdivision application.

Attorney Olson explained that the notice of expiration is required to be filed on the land records to be official. If they came in and wanted to build what had been previously approved before the expiration is filed on the land records, Attorney Heller's argument has some merit because they have a vested interest in the other plan that was approved, but they are

not asking to build what was previously approved, they are asking for something completely different. Attorney Heller referred to the Statutory definition of re-subdivision and he stated that it clearly falls within what the Statute defines as a re-subdivision. Mr. Card disagreed and stated that the entire project has been revamped noting that the entrance is different, the roadways are different and the zone changed from low density to medium density. Mr. Card's opinion is that it is a new subdivision as referenced in all the documents provided by the Applicant. Mr. Card asked the other Commission Members for their opinions. Ms. Roddy feels that adding more land is not an incidental change. Attorney Heller stated that it is not incidental and that they paid the fee for the additional lots that they are creating.

Attorney Olson read the Statutory definition of re-subdivision aloud. Attorney Heller confirmed that nothing has been conveyed, but they are changing street layouts.

Discussion ensued. Ms. Lorents stated that several conditions have changed and this goes beyond what her understanding of a re-subdivision is. Attorney Heller said that there was an existing house that had frontage on Ballouville Road that has been sold, but he would need to verify it by looking at the original subdivision.

Ms. Lorents asked about one access point. Mr. Held indicated the new location of the one proposed access. Mr. Card noted that the new entrance is not on the original subdivision. Mr. Held stated that it is changing a filed subdivision map which makes it a re-subdivision. Attorney Heller stated that they made a determination, based on the Statutory language, that this is a re-subdivision.

Motion was made by Sheila Roddy, based on the extent of changes (including that there is approximately 40% more land, access different and other changes noted during discussion), that **Subdivision Application #19-1213**; John C. D'Amato, Jr. and Ballouville Road, LLC; 51 lot subdivision; 38 Ballouville Road (GIS Map 63, Lot 50); and 82 Ballouville Road (GIS Map 54, Lot 1.1); ~18.8 acres, Medium Density Zone is determined to be a new subdivision. Second by Milburn Stone.

Discussion:

- Ms. Aubrey noted that the original Application was under the address of 76 and 90 Ballouville Road and that it is now known as 38 and 82 Ballouville Road.

Motion carried unanimously (5-0-0). Keith Thurlow had recused himself.

Attorney Olson noted the issue with the fee. Attorney Heller stated that the Application is complete, so they can proceed. Ms. Aubrey stated that the IWWC has not made a decision, so the PZC would need to continue the Public Hearing.

Ms. Roddy asked if they had requested any waivers in the previously approved Application. Ms. Aubrey will research.

The Public Hearing continued and Attorney Heller gave an overview of the Project:

- Medium-Density Zone
- Public water and public sewer. As part of the Application, will-serve letters from Connecticut Water and the Sewer Authority have been submitted.
- Proposing a cul-de-sac street system that will access Ballouville Road a little to the east of the intersection of Ballouville Road and Church Street.
- The primary road is a cul-de-sac which extends about 1,900 feet that will provide access. They are proposing to dedicate this road as a municipal street as well as a short cul-de-sac (proposed road B on the subdivision plan) which is approximately 300 feet.
- The drainage design for the Project is a closed drainage system. All of the roads will be curbed with catch basins.
- The system flows by gravity back to a storm water detention basin provided on the west side of the entrance road.
- The Design Engineer has incorporated a storm sceptor (a mechanical device) into the storm water treatment train which is designed to meet the 2002 Storm Water Quality Manual Requirements of removal of 80 percent of total suspended solids. After the storm water passes through that structure, it will be discharged into the detention basin as seen on the first lot in. There is a berm in the middle of that detention basin to create a longer travel time for the storm water through the basin so that we get some secondary treatment within the storm water basin. The water will outlet the basin based on an outlet structure which has orifices that discharges the storm water at a controlled rate during design storm events and it has been designed to ensure that we are not increasing the peak discharge from the closed drainage system from what exists today. Mr. Held stated that the storm sewers in the street are designed for a 25-year storm (as required by the Regulations) and the detention basin is designed for a

hundred-year storm. Calculations have been submitted and have been reviewed by the Town Engineer. Copies of a memo from the Town Engineer dated April 17, 2019, and response from David Held dated May 3, 2019, were included in packets to Commission Members.

Attorney Heller continued with the overview:

- From the detention basin and the outlet structure, the water will be discharged under Ballouville Road. There is an existing culvert in the street which will be rebuilt as part of this Project. They will create a new outlet structure in that location and outlet protection to prevent any erosive characteristics and significantly upgrade that discharge from what exists today, although it will still end up in the same place.
- The proposal is for single-family residences. All, except three, of the lots will obtain access by virtue of their frontage along the proposed Town road to be constructed. Lots 49, 50 and 51 will obtain access by virtue of a proposed shared driveway.
- Sewer will be gravity sewer that will also flow back in the street, back to Ballouville Road where it will tie into the existing sewer system.
- Requesting a waiver of the sidewalk requirement based on the fact that the street itself is a proposed dead-end street. There is no sidewalk system in that location except for a small section which is overgrown and decaying. It does not extend out to Route 12 and it does not extend past the first section of frontage on the subdivision to the east. There is no viable network of sidewalks in the area that would provide meaningful pedestrian access to businesses or places of congregation.
- Included in the Project plans are: the existing condition plan; lot layout plans; conceptual lot development plans for each lot.
- The Engineer has provided a sight-line demonstration at the intersection of the proposed Project street with Ballouville Road showing adequate sight distance both easterly and westerly at the proposed point of access.
- Attorney Heller stated that the Application complies with the Subdivision Regulations and he offered that either he or Mr. Held would address questions with the understanding that the Public Hearing needs to be continued to the June meeting of the PZC.
- David Held stated that the Applicant has secured a drainage easement and rights-to-drain into the old head race from the owner of that property.

There was discussion regarding storm water. Ms. Lorents asked about the remaining 20 percent. Attorney Heller explained that it is not possible to attain 100 percent and that the State goal is 80 percent. Mr. Held explained that the detention basin also includes a sand filter which dewater the basin over a 24-hour period. Attorney Heller stated that the Town would be responsible for the maintenance because it is part of the Town infrastructure.

Brian Card asked about the phasing (Sheet 13 is the Phasing Plan). Mr. Held indicated the lots that would be buildable in each of the three phases. He also indicated a temporary cul-de-sac for Phase 1 and also for Phase 2. Phase 3 is the completion of the entire subdivision road. Mr. Card asked about construction laydown areas, access to Phases 2 and 3, and the process for how things will get built. Mr. Held explained that because it is all gravity sewer and the way the drainage works it sets up pretty well, the way Phase 1 ends, there is less than 300 feet left to the first catch basin. The way they identified which lots are buildable, is a function of which ones could connect into the sewer infrastructure as part of whatever phase that is. So, for laydown area for future phases, he indicated that the existing grades are extremely flat and he said that the entire site is already clear, so there is no problem with laydown areas. He said there is no significant grading to create the temporary Phase 1 cul-de-sac or the temporary Phase 2 cul-de-sac. It would just be installing a construction entrance off of the temporary cul-de-sac and then, they've got the remainder of the site for laydown area. E&S Control is addressed in the narrative that if they are stockpiling material, it must be surrounded by E&S Controls.

Mr. Card asked about responsibility for the maintenance of the pond during construction of Phases 2 and 3 as there will be a lot of sediment coming from those areas. Attorney Heller explained that, because it is phased, it could be dedicated in three phases. Mr. Card asked that this be addressed at the next meeting. Mr. Held noted that they may have to register for a DEEP Storm Water Discharge Permit which would require a lot more detailed storm water pollution control plan.

Mr. Card asked about fire safety. Mr. Held stated that they have had pre-application meetings with Staff, including the Fire Marshal. Since the Town's Subdivision Regulations are in conflict with the NFPA requirements for turning radius for fire apparatus, they have increased the radius of the paved cul-de-sacs to accommodate the NFPA requirements and to satisfy the Fire Marshal's requirements. Ms. Aubrey stated that all the Fire Marshal is looking at is where fire hydrants should be



located. Ms. Aubrey stated that there was ongoing discussion with the Town Engineer and she will have information for the next meeting. Attorney Haller stated that he believes that the Fire Marshal requested one additional fire hydrant.

Mr. Card asked about open space requirements. Attorney Heller stated that they would do a fee-in-lieu. Mr. Held asked if Platt Associates would be satisfactory to do the appraisal. Ms. Aubrey will research.

Mr. Card asked if any special permit is needed for the entranceway for the road. Mr. Held stated that there would be a Public Works permit because they would need to tie into the sewer and drainage.

Mr. Card asked about the mention of a booster station in the letter from Connecticut Water (dated March 7, 2019). Mr. Held explained that Connecticut Water is extending the water main to serve Westview Healthcare and Country Living at Westview Commons and as part of the infrastructure improvements to provide that service, they are upgrading the booster station. This will provide additional capacity at the location of this Application. Mr. Card asked about time of completion. Mr. Held stated that he believes they could serve this development right now and he guessed that the water main might be completed within the year. Mr. Card noted that the letter states that it is subject to that work and, for the record, he asked that this be addressed for the next meeting and he also asked that the design reference the loop extension (as mentioned in Connecticut Water's letter).

There was discussion regarding the request for waiver of sidewalk requirements. Ms. Lorents expressed concern for children and school buses if there are no sidewalks. Mr. Stone commented that he feels that it may not be appropriate to waive the sidewalk requirements in this case, Ms. Aubrey read aloud from the Subdivision Regulations.

Mr. Card asked about snow shelves. Mr. Held stated that it had been discussed at the pre-application meetings with the Town Engineer and that he was satisfied with the width of the shoulders they are providing. They are grading the entire 50-foot right-of-way width at road grade. He said there is lots of snow storage room off the side of the road. Mr. Card asked about the cul-de-sacs. Mr. Held said that Mr. Capacchione reviewed the plans and did not make any further comments on it. Mr. Held also stated that the Town Engineer encouraged that a waiver of the sidewalk requirement be requested.

Ms. Aubrey stated that the Town Engineer has not yet submitted his opinion regarding probable construction cost because of the bond situation.

Mr. Card stated that he would like to hear from the public before the Commission makes a decision regarding open space vs. fee-in-lieu. Attorney Heller stated that creating small pockets of open space in residential subdivisions is not beneficial and the greater good can be accomplished with a fee-in-lieu and having some kind of an overall open space for the municipality.

#### **COMMENTS FROM THE PUBLIC:**

**Ray**, 394 Putnam Pike, the property abuts the back of his property. He asked about a 30-foot right-of-way and stated concern regarding the increase in the number of houses.

**Susan Chase**, 144 Pleasant View Drive, stated that her privacy was destroyed when they cleared the land. She is concerned about the number of units.

**Bonnie Woodward**, said that her property is near Phase 1. She asked about if there were plans for putting up a fence and she voiced concern regarding the number of houses and traffic with only one entrance in and out.

**A Woman who did not identify herself**, 60 Ballouville Road, said that her neighbor's back yard looks like a war zone. She voiced concern for the number of houses, traffic, and the number of children being placed into the school system. She stated sidewalks would be a necessity.

**Kyle Johnson**, 90 Ballouville Road, was fine with the original plan, but he voiced concern regarding the number of houses be added to that section of Town. He asked if fencing would be provided since no open space. He is also concerned regarding traffic.

**Cecilia Kent**, 416 Putnam Pike, spoke about the Quiet Corner and the rural atmosphere of Killingly. She voiced concern regarding the number of houses, no open space, size of lots, three lots abutting her property are on a small slope and she is concerned with how gravity-fed septic works, she mentioned wetlands, she said it would be a huge drain on the school system and it is not good for the Town or the people who live around it.

**Dylan Desmarais**, 54 Ballouville Road, said that his pool (which is approximately 50 feet from the property line) is visible on the plans and that there is no buffer between his backyard and the property. He asked that a buffer of some kind be put in (trees, fencing, sound barrier).

Mr. Held responded:

- All lots to be served by municipal sewer system. No septic, all gravity, no sump pumps.

Attorney Heller responded:

- This is an administrative review and the PZC has, in its legislative capacity, has made a determination that the area is suitable for residential development at that density. He reminded the Commission Members that they are charged with determining compliance with the Regulations.
- He stated that they will address the issues identified by the Commission before the next meeting.
- He asked that the Public Hearing be continued.

Mr. Card asked that a copy of the drainage easement be submitted for the record. Attorney Heller submitted a copy and stated that it is filed in the Killingly land records at Volume 1339, Page 72.

Motion was made by Sheila Roddy to continue the public hearing for **Subdivision Application #19-1213**; John C. D'Amato, Jr. and Ballouville Road, LLC; 51 lot subdivision; 38 Ballouville Road (GIS Map 63, Lot 50); and 82 Ballouville Road (GIS Map 54, Lot 1.1); ~18.8 acres, Medium Density Zone to Monday, June 17, 2019, Town Meeting Room, Second Floor, Killingly Town Hall, 172 Main Street, at 7:00 p.m. Second by Milburn Stone. Motion carried (5-0-0). Keith Thurlow had recused himself. Matthew Wendorf was seated as a Voting Member for this Motion.

Keith Thurlow returned to the room and resumed the Position of Chair.

Mr. Thurlow asked if a scenic road can ever be undone. Attorney Olson answered that it can and Brian Card stated that it is in the Ordinance.

There was discussion regarding possibly scheduling another Training Session.

Attorney Kari Olson and Attorney Joseph Szerejko left at this time (9:58 p.m.).

## **IX. UNFINISHED BUSINESS – (review / discussion / action)**

### **A. Continued from the April 15, 2019 Planning Zoning Commission Meeting**

1) **Zone TEXT Change Application #19-1210**; Town of Killingly, Planning & Zoning Commission; under Article IX, Section 900 Amendments; Town of Killingly Zoning Regulations; Section 585 et sec.; Agriculture; amend the Definitions, Permitted Uses, Special Permitted Uses, and Agricultural Use Table; and any minor changes deemed necessary. – **CONT FROM 04/15/2019**

Motion was made by Virge Lorents to approve **Zone TEXT Change Application #19-1210**; Town of Killingly, Planning & Zoning Commission; under Article IX, Section 900 Amendments; Town of Killingly Zoning Regulations; Section 585 et sec.; Agriculture; amend the Definitions, Permitted Uses, Special Permitted Uses, and Agricultural Use Table; and any minor changes deemed necessary with the two noted corrections:

- Page 9, Item d.8 – Remove “for a 200 square foot store.” To read as follows, “Adequate off-street parking shall be provided at the rate of one parking space for every 200 sf of store area; with a minimum of two (2) parking spaces.”
- Page 10, Item g.4. – Change the location of “shall apply.” To read as follows, “Any structure or building which houses any livestock shall be located at least 100 feet from the boundary line of any adjacent property owner. However when the

livestock is pigs, the Connecticut Public Health Code Section 19-13-B23 (a), which lists the requirements for the setback distances for pigs shall apply, provided it remains greater than 100 feet."

Effective date of June 17, 2019. Second by Milburn Stone.

Roll Call Vote: Brian Card – yes; Virge Lorents – yes; Sheila Roddy – yes; Milburn Stone – yes; Keith Thurlow – yes. Motion carried unanimously (5-0-0).

2) **Special Permit Application #19-1209**; Section 410.1.2(b) Dog Kennel; Believe Enterprise Inc.; Angelia & Hugh Viele; 81 Squaw Rock Road; GIS Map 257; Lot 10; ~13.6 acres; Rural Development Zone. – **CONT.FROM 04/15/2019**  
(NOTE: Applicant has signed a letter of consent requesting the hearing be continued to June 17, 2019; as we have not received a final decision from the Inland Wetlands and Watercourses Commission.) – Continued See Above.

#### B. New Hearings Scheduled for Tonight's Meeting

1) **Scenic Road Application #18-1205**; Article IV., et sec. Scenic Roads; Killingly Code of Ordinances; Richard W. Fedor, et als; designation of the entire unpaved portion of Pratt Road (Between Pettingell Road and Chestnut Hill Road) as a scenic road in accordance with the Killingly Code of Ordinances. (Received 04/15/2019; must be heard within 35 days of date of receipt – **MUST BE HEARD May 20, 2019 according to TOK Code of Ordinances**) - Continued See Above.

2) **Zone TEXT Change Application # 19-1211**; Proposed Adaptive Re-Use of an Agricultural Building; under Rural Development, Section 410.1.2.q (Special Permit); under Low Density, Section 410.2.2.o (Special Permit); and under Medium Density Zone, Section 410.3.2.m (Special Permit); by Pine Hill Farm, LLC. (Received 04/15/2019; must open hearing by June 19, 2019 – next regularly scheduled meeting is June 17, 2019) – Withdrawn without prejudice and a Workshop meeting will be scheduled (See Above).

3) **Subdivision Application #19-1213**; John C. D'Amato, Jr. and Ballouville Road, LLC; 51 lot subdivision; 38 Ballouville Road (GIS Map 63, Lot 50); and 82 Ballouville Road (GIS Map 54, Lot 1.1); ~18.8 acres, Medium Density Zone.(Received 04/15/2019; must open hearing by June 19, 2019 – next regularly scheduled meeting is June 17, 2019. IWWC has not made a final decision; therefore, this should be continued to our June 17, 2019 meeting.) – Continued See Above.

#### X. NEW BUSINESS – (review / discussion / action)

##### A. New Applications / Site Walks / Schedule for Hearing

1) **Zone TEXT Change Application # 19-1212**; Town of Killingly, Planning & Zoning Comm.; under Article IX, Section 900 Amendments, Borough of Danielson Zoning Regulations; Section 580, et sec.; Agriculture; amend the definitions, Permitted Uses, Special Permitted Uses, and Agricultural Use Table; and any minor changes deemed necessary. **Receive, and if the file is complete, schedule a public hearing for Monday, July 15, 2019 (due to notification requirements) in the Town Meeting Room, Killingly Town Hall.**

Ms. Aubrey stated that the Application is complete.

Motion was made by Virge Lorents to schedule a public hearing for **Zone TEXT Change Application # 19-1212**; Town of Killingly, Planning & Zoning Comm.; under Article IX, Section 900 Amendments, Borough of Danielson Zoning Regulations; Section 580, et sec.; Agriculture; amend the definitions, Permitted Uses, Special Permitted Uses, and Agricultural Use Table; and any minor changes deemed necessary, for Monday, July 15, 2019, Town Meeting Room, Second Floor, Killingly Town Hall, 172 Main Street, at 7:00 p.m. Second by Milburn Stone. Motion carried unanimously (5-0-0).

2) **Special Permit Application #19-1214**; Dayville Fire District (Town of Killingly/ Landowner); proposed two (2) bay garage; Zoning Section 410.1.2; 22 Williamsville Road; GIS MAP 111; Lot 14; ~25.62 acreage(5 acres leased parcel); Low Density Zone. **Receive, and if the file is complete, schedule a public hearing for Monday, June 17, 2019. The last application filed with the IWWC was #14-1399, no current application to date.**

Ms. Aubrey stated that the Application is not complete because they need to file an application with the IWWC. There was discussion regarding timeline.

Motion was made by Brian Card to receive and schedule a public hearing for **Special Permit Application #19-1214**; Dayville Fire District (Town of Killingly/ Landowner); proposed two (2) bay garage; Zoning Section 410.1.2; 22 Williamsville Road; GIS MAP 111; Lot 14; ~25.62 acreage (5 acres leased parcel); Low Density Zone, for Monday, July 15, 2019, Town Meeting Room, Second Floor, Killingly Town Hall, 172 Main Street, at 7:00 p.m. Second by Virge Lorents. Motion carried unanimously (5-0-0).

**3) Special Permit & Site Plan Application #19-1215**; Preserve At Valley View, LLC; (Richard O'Keefe/Landowner); proposed 20 duplex residences (40 units) condominium complex; Zoning Section 410.2.2.L and 570.4; 55 Dog Hill Road; GIS MAP 130; Lot 12; ~11.7 acres; Low Density Zone. Receive, and if the file is complete, schedule a public hearing for Monday, June 17, 2019. IWWC Application #19-1464 was filed, scheduled for action on June 3, 2019.

Ms. Aubrey stated that the Application is complete and the IWWC application has been filed and is scheduled for action on June 3, 2019.

Motion was made by Virge Lorents to schedule a public hearing for **Special Permit & Site Plan Application #19-1215**; Preserve At Valley View, LLC; (Richard O'Keefe/Landowner); proposed 20 duplex residences (40 units) condominium complex; Zoning Section 410.2.2.L and 570.4; 55 Dog Hill Road; GIS MAP 130; Lot 12; ~11.7 acres; Low Density Zone for Monday, July 15, 2019, Town Meeting Room, Second Floor, Killingly Town Hall, 172 Main Street, at 7:00 p.m. Second by Milburn Stone. Motion carried unanimously (5-0-0).

Keith Thurlow recused himself, turned the Position of Chair over to Brian Card, then he left the room. Mr. Card stated that Matthew Wendorf would be seated as a Voting Member for this Application

**4) Site Plan Application #19-1216**; Desmarais & Sons (Frito Lay/Pepsico Inc.); 300 ft. railroad spur to be developed off of current railroad spur; 1886 Upper Maple Street; GIS MAP 62; Lot 53; ~79 acres; Industrial Zone. Staff is requesting that this site plan review be completed in house by staff, due to the limited nature of disturbance, and the fact that the railroad will govern the standards for the spur construction.

Motion was made by Virge Lorents to allow Staff to review **Site Plan Application #19-1216**; Desmarais & Sons (Frito Lay/Pepsico Inc.); 300 ft. railroad spur to be developed off of current railroad spur; 1886 Upper Maple Street; GIS MAP 62; Lot 53; ~79 acres; Industrial Zone. Second by Milburn Stone. Motion carried (5-0-0). Keith Thurlow had recused himself. Matthew Wendorf was seated as a Voting Member for this Motion.

Keith Thurlow returned to the room and resumed the Position of Chair.

**5) Special Permit & Site Plan Review Application #19-1217**; Country Living at Westview Commons; (Same/Landowner); revised plans; acquiring additional acreage from abutting lot; will allow revision of living units from 73 to 76 with no change in structure of building; additional acreage will also allow retention pond to be moved farther from living units (residential structure); and allow for the "front circle" to use concrete instead of pervious pavers; 117 Ware Road; GIS MAP 32; Lot 41; Low Density. Receive, and if the file is complete, schedule a public hearing for Monday, June 17, 2019. IWWC Application #19-1467 was filed, scheduled for action on June 3, 2019.

Ms. Aubrey stated that the Application is complete and the IWWC application has been filed and is scheduled for action on June 3, 2019.

Motion was made by Brian Card to receive and schedule a public hearing for **Special Permit & Site Plan Review Application #19-1217**; Country Living at Westview Commons; (Same/Landowner); revised plans; acquiring additional acreage from abutting lot; will allow revision of living units from 73 to 76 with no change in structure of building; additional acreage will also allow retention pond to be moved farther from living units (residential structure); and allow for the "front circle" to use concrete instead of pervious pavers; 117 Ware Road; GIS MAP 32; Lot 41; Low Density for Monday, July 15, 2019, Town Meeting Room, Second Floor, Killingly Town Hall, 172 Main Street, at 7:00 p.m. Second by Milburn Stone.

Discussion: Mr. Wendorf asked why the change from pervious pavers to concrete. Ms. Aubrey explained that the site was crowded and also to allow penetration. After researching, they determined that the concrete would be safer for the residents.

Motion carried unanimously (5-0-0).

6) **Possible Zone (TEXT) Change #19-1221**; Town of Killingly; Planning and Zoning Commission; under Article IX, Section 900 Amendments; Town of Killingly Zoning Regulations; Section 530 Off Street Parking and Loading; proposing amendments to actual parking spaces required per certain uses. **Start discussion of proposal – workshop – once commission is comfortable with proposal, commission must schedule a hearing on same. Earliest a hearing could be held would be Monday, July 15, 2019 (due to notification requirements).**

Mr. Thurlow explained that, he had spoken with Linda Walden regarding more appropriate/practical parking regulations. Ms. Aubrey explained that the trend is that making your parking spaces based on the square footage of a building is not necessarily the best thing. Some communities have put in maximums instead of minimums. Staff suggests increasing the size of the individual parking spaces. Draft regulations for Section 530 were included in packets to Commission Members for their review and comments. Discussion ensued. The Commission will review it for next month and will then schedule a workshop.

**XI. ADOPTION OF MINUTES – (review/discussion/action)**

1) Special Meeting of Monday, March 18, 2019 – Special Meeting POCD

Motion was made by Brian Card to approve the Minutes of the Special Meeting of Monday, March 18, 2019 – POCD. Second by Sheila Roddy. Motion carried (4-0-1). Keith Thurlow abstained.

2) Regular Meeting of Monday, March 18, 2019 – RE: Regular Meeting

Motion was made by Brian Card to approve the Minutes of the Regular Meeting of Monday, March 18, 2019. Second by Virge Lorents. Motion carried (4-0-1). Keith Thurlow abstained.

3) Special Meeting of Monday, April 15, 2019 – Special Meeting POCD

Motion was made by Virge Lorents to approve the Minutes of the Special Meeting of Monday, April 15, 2019 - POCD. Second by Milburn Stone. Motion carried (4-0-1). Brian Card abstained.

4) Regular Meeting of Monday, April 15, 2019 – RE: Regular Meeting

Motion was made by Sheila Roddy to approve the Minutes of the Regular Meeting of Monday, April 15, 2019. Second by Milburn Stone. Motion carried (4-0-1). Brian Card abstained.

**XII. OTHER / MISCELLANEOUS – (review/discussion/action)**

**1. Schedule a Special POCD Meeting for Monday, June 3<sup>rd</sup> (RM 102) and/or Monday, June 10<sup>th</sup> (Town Meeting Room) @ 6:00 PM – Review/Discussion/Action**

**1. Next Regular Meeting – MONDAY, JUNE 17, 2019**

2. Special Meeting – Ms. Aubrey will schedule for Monday, June 3<sup>rd</sup> at 6:00 p.m. (RM 102). A second meeting can be scheduled later, if needed.

**XIII. CORRESPONDENCE – (review/discussion/action)**

**A. Zoning Enforcement Officer's & Zoning Board of Appeal's Report(s)**

Enclosed

**B. Inland Wetlands and Watercourses Agent's Report**

Enclosed

**C. Building Office Report**

Enclosed

**XIV. ECONOMIC DEVELOPMENT DIRECTOR REPORT – No Representation.**

**XV. TOWN COUNCIL LIAISON REPORT**

Lynn LaBerge reported:

- Both budgets passed.
- Voted to increase the stipend for Town Council Members.
- Discussed/accepted the purchase of 30 Furnace Street.
- Town Manager to research regarding animal shelter.
- Executive Session regarding NECCOG land sale.
- Clean audit report.
- Set public hearing date for non-lapsing account for BoE.
- Resolution opposing tolls in CT did not pass.
- Mark LaPrade was appointed to fill the vacancy left by Chris Dillon.
- Set date for public hearing for Draft Report for the Charter.
- Raised the maximum for the non-lapsing account to \$1,750,000 for the BoE.

**XVI. ADJOURNMENT**

Motion was made by Milburn Stone to adjourn at 10:27 p.m. Second by Brian Card. Motion carried unanimously (5-0-0).

Respectfully submitted,

J.S. Perreault  
Recording Clerk