



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

**MONDAY – DECEMBER 13, 2021**

**SPECIAL MEETING – HYBRID MEETING**

**6:00 PM**

**TOWN MEETING ROOM – 2<sup>ND</sup> FLOOR**

**Killingly Town Hall**

**172 Main Street**

**Killingly, CT**

*Elizabeth M. Quisenberry*

2021 DEC 20 PM 2:43

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TOWN CLERK, KILLINGLY, CT

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**WORKSHOP MINUTES**

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**PLEASE NOTE:** Scrivener's Error – Numeric item numbers shown on the agenda for this meeting were incorrect.

**I. CALL TO ORDER** – Chair, Keith Thurlow, called the meeting to order at 6:10 p.m.

**ROLL CALL** – Virge Lorents, Matthew Wendorf and John Sarantopoulos (present in person).  
Brian Card and Keith Thurlow (present via Webex).

**Staff Present** – Ann-Marie Aubrey, Director of Planning & Development; Jill St. Clair, Director of Economic Development (present in person).

**Also Present (in person)** – Attorney Michael Carey, Law Firm of Suisman Shapiro and Associates; Nicholas Durgarian and Paul Serabian of Douglas Construction; Mr. Rossman, Project Engineer for Douglas Construction.  
**Present via Webex** – J.S. Perreault, Recording Secretary.

**II. 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](mailto:publiccomment@killinglyct.gov) or mailed to the Town of Killingly, 172 Main Street, Killingly, CT 06239 on or before the meeting. 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](http://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 2632-078-7373 when prompted.

Ann-Marie Aubrey read aloud the above call-in information.

Ms. Aubrey stated that no comments had been received as of 4:15 p.m.

**III. COMMISSION/STAFF RESPONSES TO CITIZENS' COMMENTS – None.**

**IV. BUSINESS – (review/discussion)**

**1) PRE-APPLICATION WORKSHOP - Douglas Construction, LLC; re: 605 Providence Pike, Killingly, CT; GIS 224, LOT 14; Rural Development (DISCUSSION ONLY)**

Attorney Michael Carey, Law Firm of Suisman Shapiro and Associates, represented Douglas Construction for a possible zone boundary change application from Rural Development to General Commercial. Paul Serabian and Nicholas Durgarian of Douglas Construction, were also present. Attorney Carey stated that the Project Engineer, Mr. Rossman, was also expected to attend.

Attorney Carey made the following points:

- He asked that the Commission provide feedback regarding what would need to be improved from the previous application and what will be described tonight, so that when an application is filed, it will be as complete and comprehensive as possible.
- Legal Issues:  
Spot Zoning – He stated that, by definition, this is not spot zoning. The parcel of 180+ acres would not qualify for spot zoning under any circumstances. He said that what is being proposed for a zone change to General Commercial is fully consistent with the comprehensive plan. He said that the comprehensive plan and the POCD are two different things.
- Regarding whether the PZC can or should hear another application less than a year since action had been taken on the previous application, Attorney Carey stated that even if this application were identical to the previous one, the PZC has discretion to hear it and act on it. He explained that the application is not substantially the same as the previous application because it involves additional land and some land has been deleted, as well as other differences.
- Regarding concern between the two commercial zones, Village Commercial and General Commercial, and that General Commercial is not to be located in a residential district, Attorney Carey made references to and read from Section 420.2, Section 420.1, and Section 420.2.2 of the Regulations.

At this time, Keith Thurlow explained the purpose for the workshop and that Attorney Carey's statements sound like making arguments for an application. He stated that he was not comfortable with what is being presented and that, perhaps, the Town Attorney should be present.

Ann-Marie Aubrey explained that the Commission had wanted possible plans for what would be put on the site and that Douglas Construction would like to know if what is being presented would be sufficient. She said that she had spoken with Legal Counsel and was advised that there is nothing that stops the Commission from hearing an application within the year, especially if there is a substantial change and they have a plan (which they did not have before). That would make it a separate application. They want to know if they can have permission to come before the PZC again. Mr. Thurlow stated that it sounds like they are coming in with a new proposal. He asked Attorney Carey and Mr. Durgarian if there will be different boundaries and adjustments, to which, they answered, "yes." Mr. Thurlow stated that, in his determination, there should be no problem with them coming forward with a new application, as long as it is different, especially since the Town Attorney has been consulted and has expressed the same opinion. Mr. Thurlow expressed that he does not feel that this workshop is the right forum for debating the discussions of the previous application and why this application should move forward.

- Attorney Carey stated that there are over a dozen points in the POCD that are consistent with the proposal. He said that he did not see anything in the POCD that argues against it.

Ann-Marie Aubrey explained that the plan that they have is not an A-2 Survey, but is a plan of what could be there. She asked Brian Card and the Commission if they need more detail or information on the plan.

There was discussion between Virge Lorents and Attorney Carey regarding Village Commercial. Ms. Lorents commented that villages are already existing and that someone cannot come in and create a village.

Brian Card stated that he would not comment on a site plan without an application pending in front of the Commission. Mr. Card stated agreement with Mr. Thurlow regarding the purpose of the workshop and that this seems to be a presentation on an application of what they want to do on the lot.

Nicholas Durgarian, Douglas Construction, clarified their intent for requesting the workshop:

- They went through the application process and had two public hearings and the feedback was that there is more information that the PZC and the public need.
- Two primary shortfalls noted by Brian Card:  
Part 1 - Failure of the Applicant to adequately identify how the zone change would apply to the POCD. The application fell short of trying to demonstrate to the PZC what could go there. So, Mr. Durgarian spoke with Staff about what would be a good next step. The previous application was insufficient/incomplete, not allowing the PZC to be able to adequately make a decision as to whether it was appropriate or inappropriate. Based on that, since they don't know what will go there, they thought about how it would be advertised if they owned it and it was zoned General Commercial. He explained that the intent of this meeting was to have an open dialog about how this lot could be re-zoned and how would that fall within the POCD element and to vet out potential shortfalls.  
Part 2 – Concern about what could go there and what it would look like.  
They put together a conceptual plan which identifies a mixed-use, General Commercial development: containing four or five different uses; it's well laid-out; falls within parking requirements; expands on buffers. He explained that they want feedback so that they can come back with an application as complete as possible.

Virge Lorents suggested that the easiest way to develop the property would be to look at what is possible in the current Regulations for the current zone. Mr. Durgarian stated that they had done that and he explained that over 2,000 units in a planned residential development could go there. He said that they had also considered a solar development. Ms. Lorents expressed that she likes the possibility of a solar development. Mr. Durgarian stated that they feel that this is a site that could be ideal for commercial development and the way they have it laid-out is extremely low impact with a lot of open/conservation space and multiplying the buffer by three. He said they want to discuss the proposition of a compromise that: takes the public's concerns into consideration; creates Economic Development (General Commercial mixed-use development) which would add revenue to the Town, but would not be a draw on services to the Town; and would add land into open space. Ms. Lorents, again, spoke in favor of solar.

Mr. Thurlow commented that, in terms of General Commercial, several years ago, there had been joint meetings, regarding that area of Town, with the Sewer Authority, Town Staff, Town Council and Economic Development. There had been a proposal to make that whole area General Commercial. He explained that there were a lot of negatives (e.g. it would be very expensive to get sewer and water to that area). Mr. Thurlow believes that all parties did not want to move forward with development of commercial in that area other than what was already there. Mr. Thurlow said that he thinks that the Regulations encourage sewer and water, but it would be quite a project to get sewer and water to that area. Mr. Durgarian explained that they had taken sewer and water into consideration at the time of the original application and he said that the uses that they were considering were extremely low utility impact sources meaning they do not require public water and sewer. The only utility they would

anticipate bringing in, from the road, would be electric which is plentiful on Route 6. Their intent was never to propose a use that would require the expansion of public utilities in public right-of-ways to service whatever development they would put in. Regarding Brian Card's point regarding what the uses would be, Mr. Durgarian referred to the lay-out in the plan that was presented for the Commission to consider and he stated that the requirements for water and sewer are very small and he said that their Civil Engineer has reviewed it and they specifically laid-out uses that would all be able to be sourced and handled on site as it relates to those items. Attorney Carey commented/explained that changing the zone to commercial with the uses that would be permitted there, as of right or by special permit, will not, in any way, mandate the WPCA to extend sewer and water out there. Mr. Thurlow stated that there is more to consider than water and sewer as the POCD spoke highly of keeping the wetlands unencumbered and trying to keep the rural/forested areas forested.

John Sarantopoulos commented regarding two things that he feels determined the result of the public hearing for the previous application: The residents didn't want it; and the reason the residents didn't want it is because the applicant didn't provide a definite plan for what would be put there. Mr. Sarantopoulos expressed his opinion that he doesn't think the residents would want it again, unless that information is provided.

Mr. Durgarian explained that wetlands and conservation had been taken into consideration for the original application and he responded to Mr. Thurlow's and Mr. Sarantopoulos' comments:

- He referred to the plan presented tonight indicating areas identified as wetlands and open space. He said that they are planning on maintaining the wetland buffers as identified in the POCD and expanding that through a further 75-foot buffer zone between the General Commercial actual development portion of this plan and any residential abutter. He stated that, although the PZC cannot obligate them to this with the zone map change application, this is sort of what they would be planning to do, which would preserve the wetlands and open space and subsequently allows for General Commercial development inside of the areas that would be within the buffers, but outside of the wetlands and outside of the upland review areas of the wetlands. The goal is to create no negative impact to the wetland areas.
- Regarding open space and wooded areas, Mr. Durgarian explained that it is presently zoned Rural Development and if it stays Rural Development there is no guarantee that it would remain wooded. Continuing with the use of gravel operation or putting in a solar development would also put the trees in jeopardy, as well as other allowable uses.
- Regarding the residents and the plan, Mr. Durgarian explained that Douglas Construction would not be the end user and gave examples of projects that they have done in the past. Their thought is that, although they do not know what will actually go in that location, they know what they would advertise if they owned it and were General Commercial: Build to suit. However, that is vague, so they came up with the lay-out plan with the intent to try to work with the PZC. He asked that Attorney Carey be allowed to demonstrate consistency with the POCD.

Keith Thurlow commented that one thing that is consistent in the last three POCD's is that Route 395, by default, became a barrier for the location of where commercial development is wanted, due to public comments made at the public hearings for the POCD. East of Route 395, due to public comment, would be kept rural development. He noted that there are exceptions to every rule because there is some commercial development east of Route 395 (e.g. Dayville). Ann-Marie Aubrey commented that the points that they would like to make regarding the POCD would be part of a complete application and part of the testimony during the public hearing. Ms. Aubrey explained that, what she understood, is that they just want to make sure that this would be considered a different application (which she did verify with the Town Attorney on the PZC's behalf) and they also want to see if the application is complete. She stated that it has been

resolved by Case Law which states that it is the only the Commission (not Staff) that can determine if an application is complete with all information needed. She does not expect the PZC to comment on the site plan, but asked if it is an accurate enough portrayal of what the Commission needs to make an informed decision. She stated that this was one of the big issues why the previous application was denied – no conceptual plan. She noted that the Commission cannot make a zoning decision based upon one particular use and she stated that she believes that is why they showed a various number of uses that would be able to be on this parcel of land. They want to know if they have answered the Commission's questions without getting into the fine details.

Mr. Sarantopoulos stated that he does not feel that they are showing a substantial change from the original application and he feels that the applicant will be faced with the same opposition because there are no specifics and the public does not want it. Attorney Carey stated that the Commission has to consider the general public welfare, not just the welfare of a handful of people that live nearby the project. When the Commission considers this in the context of the whole Town, Attorney Carey explained that he is confident it will found that this proposal is to the benefit of the Town as a whole as it will generate property revenues from a property that is, right now, hardly generating anything. To make a point, Attorney Carey said that he respects the neighbors, but nobody has a right to expect that the Zoning Regulations on their property or properties nearby will never ever change, but will only change if they are satisfied. Mr. Thurlow commented that the Commission likes to hear the neighbors weigh in, but they know that neighbors usually don't want things to change and the reality is that they would have to buy the parcel.

Mr. Thurlow asked if there were additional comments from the Commission regarding a zone change for the area because if there is one zone change, there could potentially be more:

**Matthew Wendorf** commented that although there is now a conceptual plan, there are additional impact that need to be considered: There has been some work done regarding maintaining and adding to the boundaries; traffic impact at the Route 6 connection; some of the surrounding areas that will also be impacted by this change; propose something that addresses abutters' concerns. He commented that it could end up being three buildings with a single thruway. He said that we would need to work back and forth with moving forward, especially with getting input from the public in the next application process.

**Virge Lorents** commented that the Town has been dealing with a major corporation where the people feel that it has already been a burden on their community.

Mr. Durgarian stated that they have reached out to traffic engineering and, based on square footage, which is a low threshold, it automatically triggers a traffic study at further points down the application process, not for the zone map change application. Mr. Durgarian explained that, if the zone map change were approved, there are still a number of steps that they would need to go through to present specific items before the PZC.

**Virge Lorents** commented about light pollution and noise pollution.

Mr. Durgarian stated that they have taken these things that had been previously discussed into consideration. He explained, that this site, as it relates specifically to the abutters, has the ability to naturally retain noise within the current topographics of the site. The expansion of the buffer from 25 feet to 75 feet also continues to push that out. He said that they are prepared to comment on these items if there is an application.

**John Sarantopoulos** commented again that unless they come up with a more specific use for the property, he feels that they are going to have a problem moving forward. He commented that he relates this to village zoning as they would be putting a zone change in the middle of another zone.

Mr. Durgarian asked if either the Commission or individual Commissioners have a vision (zone or development) of what they would like to see on this site.

- John Sarantopoulos explained that he would want what conforms to the existing Regulations.
- Brian Card said that he would focus on the POCD because, theoretically, that is the Commission's and the Town's vision.

Mr. Card commented that he looks at zone changes as what is for the betterment of the community as a whole: Is it consistent with the POCD?; Is it going to better that local area?; Are there better avenues for us to develop commercial properties such as redevelopment of brownfields or other areas in Town? He explained that he does not put much weight into the site plan. Mr. Card stated that if they do come back with this application, which his opinion is that it is very similar or identical to the previous application, they should focus on the following: Why is this good for the community?; Why is this change better than another opportunity for us to develop general commercial somewhere else in Town, consistent with what we have established in the POCD?

Attorney Carey asked for clarification on the two questions that were the focus of the workshop:

- Whether this application is so similar that the Commission won't take up a new one.
- Whether the Commission needs a more detailed plan than the one that has been presented already.

Mr. Thurlow asked if it is within the same boundaries. Mr. Durgarian stated that it is not, it is dropping one of the properties and it is picking up one of the abutter properties that likes the idea of moving this to General Commercial. Mr. Thurlow stated that, in his rough determination, it can move forward if boundaries have changed. However, he would like to have the opinion of the Town Attorney. Ms. Aubrey stated that she had verified it with the Town Attorney.

Regarding the site plan, Mr. Thurlow stated that when you do a zone change, it is to the property and, once it is changed, it is opened up to whatever you want to propose. He said that the Regulations, there is a statement regarding some sort of a lay-out, but he not sure how much it really matters.

Mr. Durgarian commented that their goal is to be collaborative with the Town and to find common ground that is productive for everybody. He explained that they are trying to work within the Regulations of the Town, but there is also a process that permits a zone map change through the Regulations and they are trying to follow through that process to the extent that they have the ability to demonstrate that it is beneficial to the Town as a whole.

Mr. Thurlow commented that the Commission makes decisions on the merits and how those merits fit into the Regulations and the POCD. He said that the previous application was done based on those conditions.

Jim Vance, 226 Snake Meadow Road, current owner of 605 Providence Pike, stated that he agrees with Virge Lorents regarding solar. Mr. Vance explained that he has had three different solar companies come to the property, but they can't get through Eversource. They are only allowed to put 2.6 megawatts out of that property onto the poles on Route 6. Currently, the wires on the

poles cannot carry the amount of electricity that could be generated on the property. To generate what would be economically feasible to put a solar field there would cost maybe millions of dollars to build a substation there or to put up wires to have it brought to another substation that could handle it. Mr. Vance stated that if Douglas Construction were to put in a facility there, they could put in enough solar panels to help their company and could probably sell 2.6 megs which would help make their endeavor more feasible.

Mr. Vance asked if it would be allowable, under the current rural zoning, if someone wanted to build a bunch of greenhouses on the property and grow tomatoes, cucumbers, lettuce and marijuana. Ms. Aubrey explained that under Rural Development, you would be able to do the greenhouses. However, the marijuana would not be allowed because of the cannabis moratorium on growers and sellers. She explained that, until we can get our regulations in place that mirror the State's regulations, but the State's directions have not come out yet. Based upon the Town's population (under 25,000 people), only one grower and one retailer would be allowed.

Mr. Durgarian stated that he had reviewed the notes on cannabis growing and distribution and he asked when the Killingly cannabis moratorium expires. Ms. Aubrey stated December 31, 2022. Regarding solar generation, Mr. Durgarian stated that, on this site, they could probably do 80 acres of solar array depending on the type of array. Generation would probably be between 40-50 megawatts, so to be limited to 2.6 megawatts would most likely be economically unfeasible. There was discussion regarding solar megawatts.

2) **WORKSHOP – Discussion** – should the zoning regulations allow for an accessory structure to be constructed on a vacant parcel of real estate without the primary structure being in place

Ann-Marie Aubrey explained that the idea of an accessory structure is that there is a primary structure there on the property where there is a primary use. If there is no other building there, then there is the issue of, is it truly an accessory structure or is it a primary use in and of itself. The Town Attorney agrees that this is the issue that needs to be resolved. Ms. Aubrey stated that it would need to be defined and she suggested getting advice from the Town Attorney regarding whether any other municipalities have done something similar to this. She noted that a barn is already allowed on a property by itself for agricultural purposes. She explained that another thing that is allowed is for someone to build a garage, however, they need to come in for a permit for a house at the same time (primary use would be the house).

Discussion ensued and included the following:

- Concerns that had been discussed in the past include blight and that it may become a hidden commercial area (something not allowed under the Zoning Regulations).
- Virge Lorents suggested getting rid of the word "accessory."
- John Sarantopoulos asked about the number of requests Staff gets. Ms. Aubrey explained that most requests are for reasons that are already allowed like putting a garage or shed up before the house is built or for agricultural purposes.
- Keith Thurlow spoke about how he feels that people should be able to use their property for personal uses (e.g. a garage to store vehicles).
- Mr. Sarantopoulos debated in opposition and Ms. Lorents debated in favor.
- Matthew Wendorf stated that he feels it is a good idea as it incentivizes people to own property that they may not use as a primary location, but would pay taxes on a "secondary" or "satellite" structure that can exist within a property that is completely separated from a primary residence. He suggested restrictions such as no Town utility hookups. He suggested that it could generate on-site power and use a natural means of on-site plumbing to allow there to be a useful nature to the building on the site, but

not allowing for an expansive building used for something beyond storage. He feels it would be beneficial to come up with a regulation and define it.

- There was discussion about vehicle storage and about the risk about loop holes. Mr. Thurlow commented that the Regulations for the zone would apply and we have a blight ordinance.
- Mr. Sarantopoulos commented that Zoning Regulations are to protect individual landowners from one another. He referred to the self-storage industry and to an instance in the past where someone wanted to convert a chicken coop to self-storage.
- Brian Card suggested creating a new definition - “personal use structure” and make it by special permit, so it is allowed, but they have to present it before the PZC. This would control the commercial nature, what is being stored, how it is being stored, how big it is, where it is located. Special permit would require neighbor notifications so everyone would know what is happening, but it would allow people to use their property.

Motion was made by Virge Lorents to move forward with Staff and the Town Attorney drafting language for the Zoning Regulations to allow for an accessory structure to be constructed on a vacant parcel of real estate without the primary structure being in place, as defined by Brian Card and as discussed by the Commission:

- New definition for Personal Use Structure.
- To be by Special Permit in each district, so it would have to come before the PZC.
- This would allow people to use their property and the neighbors will know what is happening.

Second by John Sarantopoulos. No discussion.

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

### 3) WORKSHOP – Discussion – Five Mile River Overlay District.

Ann-Marie Aubrey displayed a map and also provided copies for Commission Members. Keith Thurlow commented that there had been a suggestion to eliminate the Five Mile River Overlay District and he asked Ms. Aubrey to speak about the pros and cons of keeping it or eliminating it.

Ms. Aubrey explained that the hand-drawn map is the basic outline of how the District looks now.

- She indicated and described how the Overlay District only covers a small section of the River itself. She indicated where there may be some listed species and critical habitat areas which she had found on the DEEP website (these areas are not included in the Overlay District).
- She suggested that the Commission review the Regulations because a lot can also be covered by the Wetlands Regulations/200-foot Upland Review Areas.

Ms. Lorents suggested merging all together under one title for the entire length.

Ms. Aubrey asked if the Commission would want to:

- Put the Five Mile Protection Overlay District throughout the whole Five Mile River?
- Question why it is on the Five Mile River, but not the Quinebaug River? What would be the differences between the two rivers?

Discussion ensued. Ms. Aubrey offered to compare the Wetlands Regulations vs. the Five Mile Protection Overlay District Regulations and to make up a chart to show what each does or does not do, as well as species/habitat areas. Mr. Thurlow suggested looking at the Regulations for substance and he said that the Town Attorney questions the value of having these Regulations because everything was pretty much covered under other Regulations. Mr. Thurlow suggested that Ms. Aubrey outline any substantive portions of the Regulations so that the PZC can evaluate its value. Mr. Wendorf noted that the Overlay District extends beyond into properties further than Wetlands would cover. Mr. Card explained that there is no rhyme or reason to it and he said that if we are truly worried about the Five Mile River, why don't we protect it everywhere? Mr.



Wendorf expressed concern regarding the additional properties beyond the boundaries that would be affected, if the Overlay District were removed. Discussion continued.

Ms. Aubrey will review the Regulations and prepare a graph/table to see what is covered under which Regulations and if there is duplication. Ms. Aubrey noted that it doesn't necessarily follow lot lines or road lines, some lots are divided in half and some are not, some are totally enclosed and there doesn't seem to be a reasoning behind it. She said that a surveyor had made up a legal description.

Ms. Lorents suggested that UCONN may be able to help with what needs to be protected. Ms. Aubrey will look into this.

Mr. Wendorf commented that, if this is an arbitrary line that got drawn around these properties, it does provide these properties additional protection beyond what Inland Wetlands has and the Zoning Regulations, so we would be stripping those properties of their protections. Discussion continued.

Mr. Thurlow suggested getting the Town Attorney's opinion so it can be discussed next time.

## **V. ADJOURNMENT**

Motion was made by Matthew Wendorf to adjourn at 8:24 p.m.

Second by Brian Card. No discussion.

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

Respectfully submitted,

J.S. Perreault  
Recording Clerk