

MINUTES
TOWN BETHANY CONNECTICUT
PLANNING AND ZONING COMMISSION
PUBLIC HEARING @ REGULAR IN PERSON MEETING @7 P.M.
WEDNESDAY, October 6, 2021.

The regular *“In Person Meeting”* meeting of the Planning and Zoning Commission was called to order at 7:04 p.m.

The following Commission Members were present:

Kimberly McClure Brinton, Chair
Donna Shea, Member/Secretary
Robert White, Member
John Corbo, Member
Brad Buchta, Alternate Member
Alex Hutchinson, Vice Chair
Nancy Held-Sheehe, Alternate Member

Absent:

Karen Muller, Alternate Member

Also, present were:

Hiram Peck, Planning Consultant and Lina Frazer, Zoning Enforcement Officer, and Town Counsel Vincent Marino.

APPROVAL OF MINUTES

Member Shea asked for clarification regarding the action for 42 Greenfield Road. Member Hutchinson addressed several editing corrections.

It was moved by Member Shea and seconded by Member Corbo to approve the corrected minutes of the September 1, 2021, Regular Meeting. *Voting for: Brinton, Shea, Corbo, Hutchinson. Abstention: White*

BILLS

It was moved by Member Hutchinson and seconded by Member Corbo to approve the payment of \$125.00, for the court reporting services rendered at this public hearing meeting of October 6, 2021, by Donna Cahill *Voting for: Brinton, Shea, White, Corbo, Hutchinson. Unanimous approval.*

It was moved by Member Hutchinson and seconded by Member Shea to approve the payment of \$1,500.00 (monthly pro rate basis), for services rendered by Hiram W. Peck III, AICP, Planning Consultant, for September 2021, including but not limited to, Planning and Zoning meeting prep and attendance and ZEO matters. *Voting for: Brinton, Shea, White, Corbo, Hutchinson. Unanimous approval.*

It was moved by Member Hutchinson and seconded by Member White to approve the payment of invoice# 2921 for the amount of \$3,000, fiscal year 2022 to New England Geosystems, LLC. *Voting for: Corbo, Hutchinson, Brinton, Shea, White. Unanimous approval.*

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CORRESPONDENCE AND APPROPRIATE COMMISSION ACTION.

The following are items either being submitted to the Commission for formal receipt and appropriate action or discussion with the Commission.

- Letter sent via-email from Lynn Fox, Chief Environmental Services at Quinnipiack Valley Health District to Bethany Planning and Zoning Commission and Inland Wetlands Commission dated August 10, 2021. Re: 244 Amity Road – Proposal: Creation of two lots of commercial use and two lots for residential use. Owner: Roger and Mary Ellen Simon.
- Email Invitation to the Conservation Commission, including Brian E. Eitzer, Conservation Commission Chairman dated September 15, 2021, to a Special Meeting scheduled for October 6, 2021. Re: POCD Plan discussion.
- Letter sent via-email from Michael Sullivan, Bethany Volunteer Fire Department – Water Resource Officer to the Planning and Zoning Commission and Inland Wetlands Commission, dated September 23, 2021. Re: proposed subdivision development at 244 Amity Road.
- Letter sent via-email from Robert Harrison to the Planning Zoning Commission, dated September 16, 2021. Re: regarding SCRCOG Regional Planning Commission representing Bethany, CT
- Letter sent via e-mail from Mark Sette to the Zoning Enforcement Officer, dated September 24, 2021. Re: Request for the Bond deposited for \$7,900.00 to be deposited to William and Wendy Grieger and authorize the transfer of any permit for the property to William and Wendy Grieger.
- Copy of a newspaper article from the New Haven Register to the Planning and Zoning Commission from the First Selectman Paula Cofrancesco, dated September 22, 2021. Re: Mayor and residents at odds over Ansonia pot moratorium.
- Letter sent via-email from the Bethany Conservation Commission to the Planning and Zoning Commission dated October 5, 2021. Re: 244 Amity Road – Opinion on the request for Open Space Waiver.
- Certificate of Partial and Limited Discontinuance and Reservation of Municipal and Public Rights Conn. Gen. Stat. §§13a-49 (a)(1) and 13a-141 (b) Town of Bethany, Connecticut signed by the First Selectman and approved for signature during the Selectman meeting of September 7, 2021.

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NEW BUSINESS

The following are items either being submitted to the Commission for formal receipt and appropriate action or discussion with the Commission

1. 153 Amity Road-William and Wendy Grieger

Request for the Bond deposited for \$7,900.00 to be deposited to William and Wendy Grieger and authorize the transfer of any permit for the property to William and Wendy Grieger. Permit numbers related to the property are 2016-018, 2016-019, 2016-021.

Hiram Peck, Planning Consultant, conferred with ZEO, Lina Frazer that both parties are in agreement and recommended the Commission vote. Applicants have been informed that if the planned use changes they will need to reapply. It was moved by Member White and seconded by Member Shea to approve the transfer of permits and bond to William and Wendy Grieger. ***Voting for: Corbo, Hutchinson, Brinton, Shea, White. Unanimous approval.***

PUBLIC HEARING

At 7: 20 p.m. Chairman Brinton called the public hearing to order. Roll call was taken. Chairman Brinton read the legal notice for the public hearing continuation that was noticed with the Town Clerks' office.

Chairman Brinton received and presented the correspondence received pertaining to the public hearing. Chairman Brinton also commented that all applications were properly noted in the New Have Registrar.

CORRESPONDENCE AND APPROPRIATE COMMISSION ACTION.

The following are items either being submitted to the Commission for formal receipt and appropriate action or discussion with the Commission.

PRESENTATION, COMMISSION DISCUSSION, AND COMMENTS:

1. 67 Country Lane - Michael DelRe III
Appl. # 2021-14 - Accessory Apartment

Chairman Brinton formally read the contents of the file for Application #2021-14 and ceded the floor for Mr. DelRe to address the Commission.

Mr. DelRe explained the desire to add an in-law apartment to the existing structure that will not exceed 1000sq ft and will have the sole purpose of being a residence for his parents. Mr. DelRe's contractor, Netale Giaimo was also in attendance and confirmed the square footage. Mr. DelRe confirmed positive support from surrounding neighbors in the form of text message.

Commission Chairman Brinton asked if anyone from the public would like to speak in favor of the application or against the applications. The following spoke:

1. James Stirling from 20 Miller Rd.

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Chairman Brinton asked for additional comments and for a motion to close this public hearing. It was moved by Member Hutchinson and seconded by Member Corbo. ***Voting for: Corbo, Hutchinson, Brinton, Shea, White. Unanimous approval.***

Chairman Brinton then informed Mr. DelRe that additional discussion regarding the property would take place at the end of the remaining public hearings.

Commission Chairman Brinton closed the Public Hearing for 67 Country Lane at 7:26 p.m.

PUBLIC HEARING

2. **244 Amity Road - Roger and Mary Ellen Simon**
 - a. Appl. # 2021-12 – 4 Lot Subdivision (2 Residential & 2 Business and Industrial Zone)
 - b. Appl. # 2021-15 – Earth and Removal and Excavation.

PUBLIC HEARING CORRESPONDENCE

EXHIBIT 1A - Letter sent via-email from Lynn Fox, Chief Environmental Services at Quinnipiack Valley Health District to Bethany Planning and Zoning Commission and Inland Wetlands Commission dated August 10, 2021. Re: 244 Amity Road – Proposal: Creation of two lots of commercial use and two lots for residential use. Owner: Roger and Mary Ellen Simon

EXHIBIT 1B - Letter sent via-email from Michael Sullivan, Bethany Volunteer Fire Department – Water Resource Officer to the Planning and Zoning Commission and Inland Wetlands Commission, dated September 23, 2021. Re: proposed subdivision development at 244 Amity Road.

EXHIBIT 1C - Letter sent via-email from the Bethany Conservation Commission to the Planning and Zoning Commission dated October 5, 2021. Re: 244 Amity Road – Opinion on the request for Open Space Waiver.

EXHIBIT 1D – Letter via e-mail from Ronald Walters, Senior Environmental Analyst at the Regional Water Authority, dated August 31, 2021. Re: 244 Amity Road, Four Lot Subdivision, site plan date: 8/25/08 revised 7/20/2021,

Chairman Brinton formally read the contents of the file for Application #2021-12-4 and #2021-15 and identified correspondence for exhibit. Chairman Brinton then ceded the floor to Mr. John Paul Garcia, License Professional Engineer and Land Surveyor who was present to speak on behalf of the application.

Mr. Garcia described the property at 244 Amity Rd as including 13.5 acres to the east of Amity Rd. and zoned as both residential and industrial. Mr. Garcia described the scope of the project to include building 1200 ft of new road with approximately 650 ft of road having been started in 2007 but has laid dormmate since that time. This proposal will finish that work and include an 8000sqft building on lot 2 and 6000sqft building on lot 1. Lot 3 and lot 4 will include residential building lots. Each parcel will have 2 acres due to zoning requirements. The Inland Wetlands Commission has walked the property but has not ruled due to a lack quorum. Adjacent property owners have been notified by letter for both applications. Mr. Garcia indicated that he has just

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received notice from the Fire Department requesting a 40,000-gallon fire suppression tank and the Conservation Commission requesting a conservation easement or fee in leu of. Mr. Garcia needs to review these requests with his client and is waiting on review comments from the

Wetlands Commission. Mr. Garcia is requesting the Commission keep the applications open for 30 days to properly resolve any outstanding issues.

Commission Chairman Brinton asked the Commission if they had any additional questions and with no questions, Commission Chairman Brinton then asked if anyone from the public would like to speak in favor of the application or against the applications. The following spoke,

1. Ms. Dana Correale from 280 Amity Rd.
2. Carol Boscarino from 79 Meyers Rd.
3. David Boscarino from 79 Meyers Rd.
4. Melissa Pogwizd from 325 Amity Rd.

Additionally, Commission Chairman Brinton noted for the record that she is a property owner in the vicinity and has nothing to gain to from this application. Mr. Garcia addressed this as previously known and not a concern. Also present, Brian Eitzer, Chairman of the Conservation Commission addressed concerns about an easement for a legal trail on the property.

Commission Chairman Brinton asked for any further comments or questions from the public and there being none, the Commission then discussed a plan to set a site walk of the property for next Wednesday, October 13, 2021, at 5: 30 p.m. It was decided the public hearing will be continued and left open to be discussed at the November 3, 2021, meeting.

PUBLIC HEARING

3. Town of Bethany Planning and Zoning Commission Temporary and Limited Moratorium. Proposed Zoning regulations Text Amendment:

Cannabis Establishments, Medical Marijuana Producers, Dispensary Facilities, and/or Retail/Distribution

The moratorium is to allow the Planning and Zoning Commission sufficient time to review the “State of Connecticut Regulation of the Department of Consumer Protection concerning Palliative Use of Marijuana” and the “June 2021 Connecticut Public Act Concerning Responsible and Equitable Regulation of Adult-Use Cannabis (Public Act 21-1, Senate Bill No. 1201)”

PRESENTATION, COMMISSION DISCUSSION, AND COMMENTS:

Commission Chairman Brinton formally read the existing text regarding the Town of Bethany Planning and Zoning Commission Temporary and Limited Moratorium. Proposed Zoning

regulations. Chairman Brinton then explained to purpose of the moratorium is to allow the Commission appropriate time to establish regulations relating to Cannabis Establishments, Medical Marijuana Producers, Dispensary Facilities, and/or Retail/Distribution.

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Town Counsel Vincent Marino informed the Commission that according to the “June 2021 Connecticut Public Act Concerning Responsible and Equitable Regulation of Adult-Use Cannabis (Public Act 21-1, Senate Bill No. 1201)” town Zoning Commissions have been given 3 options: enact a moratorium, establish regulations to allow, or prohibit. Mr. Marino spoke in favor of the moratorium to allow time to properly investigate possible options.

The Commission then discussed potential decisions related to these 3 scenarios and the specific meaning of establishing a moratorium.

Commission Chairman Brinton asked the Commission if they had any additional questions and with no questions, Commission Chairman Brinton then asked if anyone from the public would like to comment. The following spoke,

1. Mr. John Paul Garcia from 190 Fairwood Rd.
2. Anton Glenbovitch from 56 Deerfield Lane

Commission Members addressed questions and concerns to Town Counsel Vincent Marino.

Mr. Vincent Marino discussed possible options and flexibility of timeline allowances for establishing a moratorium and addressed questions relating to the Sente Bill. Hiram Peck, Town Planner suggested using the language “not to exceed 12 months” with the option to extend the moratorium after that time. Additionally, Mr. Peck recommended adding the date of public publication to the drafted regulation text and the second date in the text being 1 year after the initial publication date.

Commission Chairman Brinton asked for additional questions or comments from the Commission and for a motion to close. It was moved by Member Hutchison and seconded by Member Shea to close the public hearing for Adopted Zoning Regulations Text Amendment relating to Cannabis Establishments, Medical Marijuana Producers, Dispensary Facilities, and/or Retail/Distribution. *Voting for: Corbo, Hutchinson, Brinton, Shea, White.*
Unanimous approval

Commission Chairman Brinton closed the Public Hearing for the Moratorium at 8:10 p.m.

NEW BUSINESS CONTINUE

1. **200 Litchfield Turnpike – Kristen Iannucci/Happy Homes Dog Care Training, LLC.**
 - a. Appl# 2021-16 – Home Occupation Permit for Change of Use from Adult Daycare to Happy Homes Dog Care Training, LLC.
 - Commission Chairman Brinton noted for the record a previous relationship with the applicant and stated she does not have a conflict.
 - Ms. Iannucci would like to purchase the property at 200 Litchfield Turnpike for the purpose of expanding a dog training and board business she is currently operating in

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Woodbridge. Ms. Iannucci is purposing a personal residence and office in the existing house and building a structure in the back of the property for dog boarding and training. Currently, she anticipates 15 to 20 dogs on the property. She also noted taking noise abatement measures.

- Chairman Brinton questioned if the property is zoned residential or commercial. ZEO, Lina Frazer explained to property was previously used for an adult daycare business
- Letter from current owner of the property giving Ms. Iannucci permission to seek permits for change of use.
- Hiram Peck, Planning Consultant addressed question of residential zone status, suggesting this maybe a special permit citing Horse Stables as an example. He then suggested taking steps for a public hearing.

Commission Chairman Brinton asked for a motion to set a public hearing for Application #2021-16 on November 3, 2021. It was moved by Member Hutchinson and seconded by Member Shea. ***Voting for: Corbo, Hutchinson, Brinton, Shea, White. Unanimous approval***

2. **1051 Amity Road – Patricia Gonzalez.**
 - b. Appl# 2021-17 – Accessory Apartment.

- ZEO, Lina Frazer informed the Commission Patricia Gonzalez was not present
- ZEO, Lina Frazer stated this application was going to the Zoning Board of Appeals so no action was needed.

OLD BUSINESS

Businesses scheduled by the Commission that has previously been before the Commission and is either to be acted on, updated, discussed, or schedule a public hearing date.

1. **Commission Discussion related to Medical Use Cannabis Sales and Recreational/Adult Sales permitting in Town.**

PRESENTATION, COMMISSION DISCUSSION, AND COMMENTS:

- Town Planner Hiram Peck noted to the commission members sitting for any decision are Brinton, Hutchinson, Corbo, Shea, White.
- Member Hutchinson called for a motion to approve Moratorium with Hiram Peck's modifications to the language. Seconded by Member White. ***Voting for: Corbo, Hutchinson, Brinton, Shea, White. Unanimous approval***
- Town Counsel Vincent Marino provided the updated text on the moratorium for the Commission to re-read aloud the amended language, which is included below under Adopted Zoning Regulations Text Amendment.
- Commission Chairman Brinton read the final Moratorium to the Commission and the public present at the meeting.

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ADOPTED ZONING REGULATIONS TEXT AMENDMENT

Cannabis Establishments, Medical Marijuana Producers, Dispensary Facilities, and/or Retail/Distribution

The Bethany Planning and Zoning Commission shall not accept or consider any application to permit the establishment of a Cannabis Establishment as defined by SB 1201, §1 (4) or for Medical Marijuana Producers, Dispensary Facilities, and/or Retail/Distribution as defined in §21a-408 and §21a-408-1 to 21a-408-70 of the Connecticut General Statutes for a period not to exceed twelve (12) months following the date that this regulation is published in a newspaper having general circulation in the Town of Bethany. All such uses shall be prohibited in all zoning districts within the Town of Bethany. The moratorium is to allow the Planning and Zoning Commission sufficient time to review the “State of Connecticut Regulation of the Department of Consumer Protection concerning Palliative Use of Marijuana” and the “June 2021 Connecticut Public Act Concerning Responsible and Equitable Regulation of Adult-Use Cannabis (Public Act 21-1, Senate Bill No. 1201)” in order to consider the adoption of potential changes to the Zoning Regulations pursuant to §8-2 of the Connecticut General Statutes. The expiration date of said Moratorium will be the three-hundredth and sixty-fifth day following the date that this regulation is published in a newspaper having general circulation in the Town of Bethany or the effective date of newly adopted zoning regulations, whichever is sooner.

- Commission discussed possible dates for publication in the New Haven Register and was decided on Sunday, October 10, 2021.
- Commission Chairman Brinton called for a vote to adopt the Planning and Zoning Commission Temporary and Limited Moratorium related to Cannabis Establishments, Medical Marijuana Producers, Dispensary Facilities, and/or Retail/Distribution. The Moratorium was adopted and voted. *Voting for: Corbo, Hutchinson, Brinton, Shea, White. Unanimous approval*

POTENTIAL ACTION ON ANY AGENDA ITEMS

PUBLIC HEARINGS DISCUSSION BY COMMISSION

2. **67 Country Lane - Michael DelRe III**
 - a. Appl. # 2021-14 - Accessory Apartment.

Member Corbo moved to approve Application #2021-14 Member Hutchinson second. *Voting for: Corbo, Hutchinson, Brinton, Shea, White. Unanimous approval*

OLD BUSINESS

3. **Affordable Housing Committee Update.**

- Member Hutchinson informed the Commission that there was no update on the Affordable Housing Committee at this time.
- Town Planner, Hiram Peck recommended bringing this to POCD Special meeting scheduled October 13, 2021.

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4. **Plan of Conservation and Development (POCD) Update.**
(No Action Needed Tonight)

- Town Planner, Hiram Peck recommended bringing the discussion to the POCD Special meeting scheduled October 13, 2021, at 7: 00 p.m.

ENFORCEMENT OFFICER'S REPORT & APPROPRIATE COMMISSION ACTION.

- 59 Munson Road and 735 Litchfield Turnpike.

ZEO, Lina Frazer informed the Commission of an issue of a possible property line dispute and a misplaced fence. The property owner from 59 Munson Road would be looking into hiring surveyors to establish the property line and possible have the abutting neighbor move the fence. Believed to be a civil matter.

- 49 Deerfield Lane and 51 Deerfield Lane.

ZEO, Lina Frazer informed the Commission of a property conflict affecting 4 (four) properties at end of Deerfield Lane. Discussion between the property owners, the Commission, Town Counsel Vincent Marino, and Town Planner Hiram Peck to determine what material was needed to properly research the concern and where the matter should be sent.

OTHER BUSINESS

Nominations of SCROG representative & Appointments and Re-Appointments of Commissioners and Staff

- Member Hutchinson read an email from previous SCROG representative Bob Harrison detailing the specific time requirements and meeting dates for any potential new representatives.
- Commission discussed the possibility to of rotating responsibility and meeting attendance. Town Planner Hiram Peck agreed that this was a viable option and supporting documentation and communication could share among Commission members.
- Member Hutchinson volunteered to be representative for October and Commission will determine succeeding representation on a Month-to-Month basis.

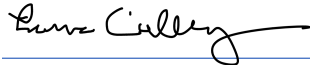
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ADJOURNMENT

There being no further business to come before the Commission, it was moved by Commission Member Brinton and seconded by Member Shea to adjourn the regular meeting at 9:30 p.m.
Voting for: Brinton, Shea, White, Corbo, Hutchinson. Unanimous approval.

Respectfully submitted,



*Laura Callery,
Town Minutes Clerk.*

APPROVED