

Town of North Canaan
Planning and Zoning Commission
Public Hearing
May 13, 2019

RECEIVED FOR RECORD AT NORTH CANAAN, CT
ON 5-16-19 AT 8:50
ATTEST JEAN A. JACQUIER, TOWN CLERK

- I. **Call to order: 7:06pm**
- II. **Present:** Chairman Steve Allyn, Mr. Dan Adam, Mr. Peter Brown, Mr. Frank Montagna, Mr. Mike O'Connor, Ms. Richelle Hodza
Alternates seated at the table, but not voting: Tony Bascetta, Sarah Visconti
- III. Chairman Allyn read into record the rules of the hearings. Comments will be kept to a 3-minute time limit. The commission will not answer any questions and will only ask questions regarding the public hearings this evening. They will not refer or speak of any other applications. Any copies of evidence received this evening will be available in the building official's office during regular work hours.
- IV. **Public Hearings**
 - A. Matthew Labbadia – Norfolk Rd 337c Application for Home Occupation
Mr. Labbadia is present this evening. Ms. Hodza read into record the notice of public hearing published in the Republican American newspaper on April 30 and May 7. Mr. Labbadia handed in to Chairman Allyn the green cards which had been sent to neighboring properties. Chairman Allyn read the names into record with the assistance of Mr. Labbadia. The application payment has been received. Mr. Labbadia gave a brief description of his business. He has a commercial kitchen in the basement of the house to make the beef jerky. He picks up meat so there is no truck traffic coming in or out. He works alone and is selling online. He met with the health inspector. He got a commercial dishwasher installed per the health inspector's request. She needs to come out and reinspect and then he will receive a copy of the approval. Public Comment: none
Mr. Adam made a motion to close this public hearing. Mr. Brown seconded the motion. Motion was approved.
 - B. STAP LLC proposed Text Amendment addition to table of uses to prohibit the manufacturing, production, and/or storage of asphalt in all zones.
Clarification from northwest council of governments was received by the commission chair. Ms. Hodza stated that she has reservations of continuing with the public hearing this evening due to issues that have been brought up by Attorney Mark Shipman (Ben Metcalf's lawyer) and the town attorney Randy DiBella. She was advised by Attorney DiBella to speak up and let the commission know the concerns and that the recommendation from the attorney was to not go further with the public hearing this evening. One of the concerns is regarding the packet that Attorney Shipman sent and was given to the commission members this evening requesting that the chairman recuse himself. Chairman Allyn asked why the packet was not given to members sooner. Ms. Hodza stated that Attorney Shipman did not have a time limit of when he gave the packet to them. Attorney DiBella is concerned about the table of uses being permissive and making a prohibitive amendment to the table of uses it will controvert everything that is there. Chairman Allyn refused to recuse himself from the evening's hearing and meeting. Ms. Hodza went on to relate that the text amendment written is not in proper form and not specific which she tried to explain to the applicant, and it is not the duty of the commission to interpret the amendment. Chairman Allyn explained how text amendments have been handled in the past. Chairman Allyn read into record a letter from Jocelyn Ayer of the Northwest Council of Governments. Ms. Hodza stated the commission has no jurisdiction to decide what the wetlands regulations are. Ms. Hodza read into record part of the text amendment regarding the wetlands. Chairman Allyn asked the representative of STAP how many members would speak. There will be 3 plus public comment. He received a letter from Attorney Kevin Nelligan who is representing Delores Perotti as the applicant.

Delores Perotti read a prepared statement into record regarding STAP and the objections to a proposed asphalt plant. Robin Markey read into record a prepared statement regarding objections to the asphalt plant. Sally Greene read into record a prepared statement objecting to the asphalt plant.

Lynn Fowler read a prepared statement opposing the asphalt plant into record.
Joe Cieslowski read a prepared statement opposing the asphalt plant into record.

Chairman Allyn requested information to be submitted to the commission in regards to the text amendment change. Robin Markey gave a list of property values. Sally Green entered a petition with 200 signatures. Several other informational items were received and entered into the file by the zoning enforcement officer. Commission members were given hand outs relating to asphalt plant pollution.

Public Comment:

The following individuals spoke on record in opposition to the asphalt plant.

Bob Anderson- Friends of Beckley Furnace, Dean Keister- Limestone Trout Club, Janet Newman, Tru Anderson, Ken Ludwig (Sharon resident and representative of the Northwest Chapter Trout Limited, Rob Mueller, Vanessa Dinacci, Perry Gasparini, Dorothy Kelley, Joe Sebben, Rebecca Roth.

Bob Jacquier stated that he was neither for nor against the plant, but wanted to oppose doing a blanket policy in town because it could have adverse effects down the road. In his opinion each application should be reviewed individually and controlled by Planning and Zoning.

Attorney Mark Shipman began speaking regarding the information presented. He was held to the 3 minute time limit. Attorney Shipman believed he should be allowed to cross examine applicants and have more than a 3 minute time limit as the opposition collectively took longer than 3 minutes. Chairman Allyn did not allow cross examination and kept him to 3 minutes. When a debate arose, Chairman Allyn stated that if Attorney Shipman did not sit down he would have Selectman Perotti escort him from the room.

Mr. Adam made a motion to close the public hearing. Mr. Brown seconded the motion. There was no discussion. Motion was approved. Chairman Allyn abstained from the vote.

Hearing closed at 8:21pm

Respectfully Submitted,



Ayrslea A Odell
Recording Secretary

Planning and Zoning Commission
Regular Meeting
May 13, 2019

I. **Call to order: 8:22pm**

- II. **Present:** Chairman Steve Allyn, Mr. Dan Adam, Mr. Peter Brown, Mr. Frank Montagna, Mr. Mike O'Connor, Ms. Richelle Hodza
Alternates not voting: Tony Bascetta, Sarah Visconti

Mr. Adam made a motion to take 5 minute break. Mr. O'Connor seconded the motion. Motion was approved.
Meeting reconvened at 8:27pm

- III. Minutes of April 8, 2019. Chairman Allyn stated he was not in attendance. **Mr. Montagna made a motion to approve. Ms. Hodza asked for one change as the secretary had spelled her last name incorrectly in the minutes. Mr. O'Connor seconded the motion. Motion was approved.**

IV. Old Business:

- A. Possible action in the matter of Matthew Labbadia, Norfolk Rd 337c, and application for home occupation Chairman Allyn stated he did not see a problem with this application. Application could be approved on the condition that he receives the letter from the department of health signing off. Any change/expansion to the business would require another permit. Mr. Labbadia stated approximately 1% of the home is being used for the business. Mr. Brown made a motion to approve the application contingent on the health department approval. Mr. Montagna seconded the motion. Motion was approved. Chairman abstained.
- B. Possible action in the matter of STAP LLC proposed Text Amendment Addition to table of uses to prohibit the manufacturing, production, and/or storage of asphalt in all zones.
Chairman Allyn read into record the draft motion for text amendment. Chairman Allyn stated it is a simplistic amendment and the commission has done text amendments in the past. The commission heard a lot of information tonight related to health concerns and he believes there is significant information to act on the amendment. Mr. Montagna stated that it appeared to him that the town does not want a plant to jeopardize their countryside and he would have to go along with the public. Mr. O'Connor asked if the text amendment had been reviewed by the town council so that there would be no ramifications for making a decision tonight. Chairman Allyn stated it had been reviewed before and there was nothing new that hadn't been heard before. The commission has had other amendments that were never reviewed. Ms. Hodza questioned if the chairman had prepared an approval and a denial. Chairman Allyn stated that he had prepared an approval however, it would be up to a commission member to state a denial if they chose to. Ms. Hodza again stated that based on her previous comments and her conversation with the town attorney she did not believe the commission should proceed. Chairman Allyn stated that he had placed several calls to the town attorney which were never returned. Mr. Adam clarified that the business was not set up as a defendant and that the hearing was for the text amendment only. Attorney Kevin Nelligan requested that the motion read Delores Perotti as the applicant. Mr. Montagna questioned if Ms. Hodza had her conversation with Attorney DiBella in writing. She stated she has an email from him which is not detailed but she did have a phone conversation with him.

Copies of the prepared approval motion were handed out to the members to review. Chairman Allyn read regulation into record along with information in the table of uses. Sarah Visconti feels that manufacturing and processing still need to be clarified. Chairman Allyn said he does not want to deviate which is why it is both. There was a brief discussion regarding the correct application fees and how much the State receives. Cheryl Duntz, Building Official Secretary explained that the fee was \$30 and years ago the Governor doubled it. It was stated that going forward from this point \$60 charge for the State will be in addition to the fee. Chairman Allyn re-read the draft motion again and added

processing to it. Mr. Brown began a motion. Ms. Hodza interjected that the commission cannot change the applicant's language. Attorney Nelligan disagrees with Ms. Hodza and Ms. Hodza stated she deferred to Attorney Nelligan. Attorney Nelligan stated to the commission that the applicant would agree with the changes. The text amendment was again read into record with the changes made and Attorney Nelligan signed acknowledging the changes on behalf of the applicant.

Mr. Brown made a motion to accept the draft text amendment. Mr. Adam seconded the motion. Discussion – Mr. O'Connor stated for the record that he has an issue with the wording as cold asphalt should not be included in this but under processing it would be and cold asphalt would not be detrimental. No further discussion. **Mr. O'Connor opposed the motion voting no. Chairman abstained. Mr. Adam, Mr. Brown, and Mr. Montagna voted yes. Draft motion was approved as a motion.**

Mr. Adam made a motion to approve the motion. Mr. Brown seconded the motion. Chairman abstained. Mr. O'Connor opposed the motion and voted no. Mr. Adam, Mr. Brown, and Mr. Montagna voted yes. Motion was approved.

V. New Business

- A. Earl and Christine Dakers, 23 Clayton Road, Application for special permit for home occupation. The special permit was received from Trevor Dakers. The business would be selling of sneakers and clothing. Trevor will be prepared to present information at the public hearing. A public hearing for the home occupation was set for June 10, 2019 at 7:00 pm. Ms. Hodza stated she would be in touch with the applicant to let him know exactly how to proceed with green cards etc.
- B. Veronica Bauer applicant for property owned by Donald Martin, 116 Main Street, Application for change of use from commercial to residential. The applicant has permission by Dr. and Mrs. Martin to present this before the commission. The application and check is in the file. Discussion ensued regarding if Dr. Martin had done anything in the past couple of years. Applicant is unsure. Because this is a pre-existing non-conformity the use could not be changed if it did not meet the setbacks. The applicant provided the commission with a statute that if there were not enough parking spaces, the town could permit the owner to pay a fee to the town in lieu of spaces. The applicant has however spoken to the funeral home which may allow them to rent spaces there. They would not be adding anything and only tearing down one interior wall. A sketch of the layout was provided. Chairman Allyn read part of the regulation regarding the lack of use for 2 years. There was a discussion on ways to make this work for the applicant. Mr. O'Connor recommends going to the Zoning Board of Appeals for a hardship. Ms. Hodza believes the Zoning Board of Appeals could then just approve the application. Chairman Allyn countered that it would have to come back to Planning and Zoning Commission with the approved appeal. **Mr. O'Connor made a motion to deny the application due to non-conforming minimal parking spaces for proposed use of a single family dwelling. Mr. Montagna seconded the motion. Motion was approved.**

VI. Correspondence – none

VII. Zoning Enforcement Officer's Report – Ms. Hodza

- a. 1 action regarding the problem at 32 High Street with trailers. Mr. Rourke came to the office on April 30th and said the trailers are not occupied, there is no water/heat/electricity and sent pictures to the town. He will remove the trailers.

VIII. Public Comment – none

IX. Other Business Proper to come before the commission – none

- X. **Next meeting will be June 10, 2019 Mr. Brown made a motion to adjourn the meeting. Mr. Adam seconded the motion. Motion was approved.**

Meeting adjourned at 9:32pm

Respectfully Submitted,



Ayrslea A Odell

Recording Secretary



THE NORTH CANAAN PLANNING AND ZONING COMMISSION

TOWN HALL, 100 PEASE STREET

NORTH CANAAN, CT 06018

MAY 13, 2019

A Permit application for an Addition of a Text amendment to the North Canaan Planning and Zoning Commission Regulations Dated July 5, 1999 Article IV. Definitions and Article VI. Table of Uses.

To Prohibit the Manufacturing, Production and/or Storage of Asphalt in all zones.

Dolores Perotti P.O. Box 635 East Canaan, CT 06024

APPROVAL

Whereas The North Canaan Planning and Zoning Commission received an application From Dolores Perotti for a Text amendment To Prohibit the Manufacturing, Production, Processing and/or storage of Asphalt in all Zones, Evidence, oral and written, was presented to the Commission and the Commission has received Referral Response from Northwest Hills Council of Government Date Received 4/9/2019 for Public Hearing Date 5/13/2019

Whereas The North Canaan Planning and Zoning Commission Held a Public hearing on May 13, 2019

It is therefore resolved, the Town of North Canaan Planning and Zoning Commission Approves the Application for the addition of the text amendment to The North Canaan Planning and Zoning Regulations Dated July 5, 1999, Article IV. Definitions (Titled, ASPHALT The Manufacturing, Production, Processing and/or Storage of Asphalt) and Article VI. Table of Uses, (Titled, ASPHALT The Manufacturing, Production, Processing and/or storage of Asphalt), X = NOT PERMITTED in all zones.

Respectfully,

Steven P. Allyn, Chairman

RECEIVED FOR RECORD AT NORTH CANAAN, CT
ON 5-14-19 AT 9 14
ATTEST JEAN A. JACQUIER, TOWN CLERK