



TOWN OF WINCHESTER PLANNING AND ZONING COMMISSION

Town of Winchester Town Hall, 338 Main Street

P. Francis Hicks Room – 2nd Floor

November 27, 2017 – 7:00PM

Regular Meeting Minutes (MOTIONS ONLY)

1. CALL TO ORDER:

Chairman Craig Sanden called the meeting to order at 7:00PM.

2. ROLL CALL:

At the request of Mr. Sanden, Mr. Sadlowski conducted the roll call, noting that the following individuals were present: Craig Sanden, George Closson, Jerry Martinez, Art Melycher, Barbara Wilkes, and Alternates Pete Marchand and Lee Thomsen.

3. AGENDA REVIEW:

No changes were made to the agenda.

4. EXECUTIVE SESSION:

A. Discussion on Strategy with Respect to the Pending Appeal, Community Health of Greater Torrington vs. Winchester Planning and Zoning Commission.

MOTION: Mr. Closson, Ms. Wilkes second, to enter into Executive Session for purposes of discussion on strategy with respect to the pending appeal, Community Health of Greater Torrington vs. Winchester Planning and Zoning Commission, inviting Attorney Kevin Nelligan and Town Staff Steve Sadlowski and Pam Colombie to join them; unanimously approved.

The Commission and invitees exited the P. Francis Hicks Room at 7:01PM, utilizing the Probate Conference Room across the hall for an Executive Session. They exited Executive Session at 8:45PM.

5. OTHER BUSINESS:

A. Accept public comment on proposed settlement between Community Health Center of Greater Torrington vs. Winchester Planning and Zoning Commission.

Attorney Nelligan explained that an appeal was filed challenging the denial of the Special Permit. He explained how a settlement is often in the best interest of both parties in a lawsuit. Copies of the proposed Stipulated Judgment, dated November 27, 2017, were made available to the public. Attorney Nelligan then reviewed the document explaining what the paragraphs mean, covering the highpoints.

Attorney Nelligan noted that the agreement provided for the plywood on the face of the building to be removed upon the issuance of a building permit. He explained that one of the major considerations in the Commission's decision was to protect retail use on Main Street. As part of the settlement agreement, Attorney Nelligan explained that 3500 square feet of retail space will be protected for an initial period of two years. He noted that the only presence of the health center will be in the form of a sixteen-square foot sign.

A last call for public comment was received prior to the closing of the hearing.

B. Possible Action with Respect to the Pending Appeal, Community Health Center of Greater Torrington vs. Winchester Planning and Zoning Commission.

MOTION: Mr. Closson, Mr. Martinez second, to approve the amended stipulated settlement subject to the following changes:

Paragraph #11 should have the following sentence added to the end of it:
The Center's sign at the front of the building should be no more than sixteen square feet.

Paragraph #13 of the Agreement was modified so that it should read:

13. If, as of the date two years from the date a certificate of occupancy is issued to the Center, the Center has been unable to lease the Tenant Space, the Center shall report as much to the Commission and shall supply the Commission evidence of its efforts to lease the Tenant Space but not of any proposed terms of lease. If the Commission agrees the Center used commercially reasonable efforts to lease the Tenant Space, then the restrictions set forth in Sections 9 and 12, above, shall be terminated and the Center shall be free to use the Tenant Space subject to compliance with the Zoning Regulations and other applicable law. If the Center seeks a permit to expand its medical clinic, or seeks a permit for any other medical office, small format or large format as defined in the Zoning Regulations, and such permit application is denied, the Plaintiffs reserve the right to re-open this appeal and to pursue the Special Permit application. If Plaintiff moves to re-open this appeal, the Defendant agrees to a briefing schedule that will allow a final hearing on the appeal to occur within 90 days of the granting of the motion to re-open. If Plaintiff seeks a permit to expand into the Tenant Space for any use other than a medical office small format or large format, the Center will be subject to the Zoning Regulations and applicable laws and may not re-open this appeal. The listing of the Tenant Space with an independent professional broker shall qualify as evidence of using "commercially reasonable efforts. The Commission may, in good faith, require additional evidence to support the Center's position. If the parties disagree whether the Center used commercially reasonable efforts to lease the Tenant Space, the question shall be resolved by binding mediation through the Litchfield Superior Court under Section 21, below.

Paragraph #15 should be changed to read:

15. The Center will be permitted to make a presentation to the Commission at a regular meeting in the near future at which they may give general information about the Community Health Center.

Paragraph #16 should include the following sentence to the end of it:

In the interest of settling this appeal, the Plaintiffs acknowledge that no conflict of interest has been judiciously established.

Motion passed with Mr. Sanden, Mr. Martinez, Mr. Closson and Mr. Melycher voting aye while Ms. Wilkes was opposed.

6. PUBLIC HEARINGS:

**A. PZC#17-19 Special Permit – 2 East Lake Street, Map 114, Block 083, Lot 001F
Applicant: Ron LaPointe Owner: LaPointe's Floor Covering & Design, LLC Proposal:
Add Second Floor to Existing Building to Change into Mixed-use. Add Six 1-Bedroom
Apartments. New Exterior Finishes, Entrance and Landscaping. Requesting Shared
Parking for mixed-uses per III.E.1.e.**

MOTION: Mr. Closson, Mr. Melycher second, to open the public hearing in the matter of PZC#17-19 Special Permit – 2 East Lake Street, Map 114, Block 083, Lot 001F Applicant: Ron LaPointe Owner: LaPointe’s Floor Covering & Design, LLC Proposal: Add Second Floor to Existing Building to Change into Mixed-use. Add Six 1-Bedroom Apartments. New Exterior Finishes, Entrance and Landscaping. Requesting Shared Parking for mixed-uses per III.E.1.e; unanimously approved.

The legal notice for the public hearing was read into the record with it being noted as having been advertised the requisite two times, November 17, 2017 and November 21, 2017 in the Republican American. It was noted that the applicant was not present and that the Certificate of Mailings have not yet been received.

MOTION: Mr. Closson, Ms. Wilkes second, to continue the public hearing in the matter of PZC#17-19 Special Permit – 2 East Lake Street, Map 114, Block 083, Lot 001F Applicant: Ron LaPointe Owner: LaPointe’s Floor Covering & Design, LLC Proposal: Add Second Floor to Existing Building to Change into Mixed-use. Add Six 1-Bedroom Apartments. New Exterior Finishes, Entrance and Landscaping. Requesting Shared Parking for mixed-uses per III.E.1.e to the next regular meeting on December 11, 2017; unanimously approved.

7. OLD BUSINESS:

A. PZC#17-19 Special Permit – 2 East Lake Street, Map 114, Block 083, Lot 001F Applicant: Ron LaPointe Owner: LaPointe’s Floor Covering & Design, LLC Proposal: Add Second Floor to Existing Building to Change into Mixed-use. Add Six 1-Bedroom Apartments. New Exterior Finishes, Entrance and Landscaping. Requesting Shared Parking for mixed-uses per III.E.1.e.

No business discussed as the public hearing in this application was continued.

B. PZC#17-20 Special Permit – 10 Bridge Street, Map 110, Block 054, Lot 003A Applicant: Marty Goldin Owner: XKL Capital, LLC Proposal: Installation of Projection Video Display on 10 Bridge Street. (Application Accepted 11/13/2017, Public Hearing must be Scheduled by 01/18/2018).

MOTION: Mr. Closson, Mr. Melycher second, to schedule the public hearing in the matter of PZC#17-20 Special Permit – 10 Bridge Street, Map 110, Block 054, Lot 003A Applicant: Marty Goldin Owner: XKL Capital, LLC Proposal: Installation of Projection Video Display on 10 Bridge Street to the December 11, 2017 regular meeting; unanimously approved.

8. NEW BUSINESS:

A. PZC# 17-21 Site Plan – 103 Colebrook River Road, Map 18, Block 150, Lot 045 Applicant: Robin Glover and Deborah Minard Proposal: Gift Shop - Small Retail; Store will be 18’x27’, 432 sq. ft., 2 Parking Spaces Required: 2 Parking Spaces + 1 Handicap Space Provided Plus Plenty More Spaces for House.

This application was continued to the December 11, 2017 regular meeting.

9. APPROVAL OF MINUTES: November 13, 2017.

MOTION: Mr. Closson, Mr. Melycher second, to approve the November 13, 2017 Minutes; Motion approved with Mr. Sanden, Mr. Martinez, Mr. Closson, and Mr. Melycher voting aye while Ms. Wilkes abstained.

10. COMMUNICATIONS:

None.

11. TOWN PLANNER'S REPORT:

No business discussed.

12. ADJOURNMENT:

MOTION: Mr. Martinez, Mr. Melycher second, to adjourn at 10:25PM; unanimously approved.

Respectfully submitted,

**Pamela A. Colombie
Recording Clerk**