

**MINUTES OF WORKSHOP
HELD BY THE PLANNING AND ZONING COMMISSION
MARCH 20, 2017**

ROLL CALL:

Members Present: Eric Prause, Chairman
Andy Kidd, Vice Chairman
Michael Stebe, Secretary
Jessica Scorso

Alternates: Julian Stoppelman
Patrick Kennedy
Teresa Ike

Also Present: Gary Anderson, Director of Planning
Renata Bertotti, Senior Planner
Timothy O’Neil, Assistant Town Attorney
Nancy Martel, Recording Secretary

Time Convened: 7:50 p.m.

CONDITIONS OF SPECIAL EXCEPTION APPROVALS

Mr. O’Neil said he was asked by Mr. Anderson and Ms. Bertotti to come to the workshop and have a discussion on conditioning special exception approvals with the Planning and Zoning Commission members. In preparation for the workshop he reviewed some of the case law as well as the general section in the Manchester zoning regulations dealing with special exception criteria. He said it was his opinion that special exceptions were essentially permitted uses to which the Commission could impose conditions, when such conditions were consistent with the provisions of their regulations.

Mr. O’Neil cited several case law examples.

Commissioner Kidd asked about the Commission’s rights to condition approvals upon “soft” criteria such as “neighborhood compatibility”. Mr. O’Neil said that, since that criteria was included in the regulations, the Commission could condition the approval based on it; however, in his opinion this particular criteria was a bit vague and could prove problematic should it ever be challenged in court.

Commissioner Kennedy said it was his understanding that special exception approvals were to be granted on a case by case basis, upon the review of the special exception criteria. He believed that, if the proposed use did not meet the criteria, the Commission was not obligated to approve it.

Mr. Kidd expressed concern about the provision allowing the Commission to impose additional requirements as conditions on a special exception, and how that should be managed. Ms. Bertotti said that her understanding always was that, as long as the regulations are specific, reasonable, and related to the proposal, the Commission could condition a special exception

approval. She also always believed that the Commission could deny special exceptions that did not, in their opinion, meet the criteria, as long as those criteria were spelled out in the regulations and were related to the proposal, and the Commission's reasoning was entered into the record.

I certify these minutes were adopted on the following date:

May 1, 2017
Date

Eric Prause, Chairman

R:\Planning\PZC\2017\03 - March 20\Minutes\Workshop Minutes 20 MAR 2017.docx