

**MINUTES OF BUSINESS MEETING  
HELD BY THE PLANNING AND ZONING COMMISSION  
NOVEMBER 19, 2018**

**ROLL CALL:**

Members Present:	Eric Prause, Chairman Michael Stebe, Secretary Jessica Scorso Timothy Bergin Patrick Kennedy
Alternates:	Teresa Ike
Absent:	Jay Stoppelman
Also Present:	Gary Anderson, Director of Planning Matthew Bordeaux, Senior Planner David Laiuppa, Environmental Planner/Wetlands Agent Nancy Martel, Recording Secretary

The Chairman opened the Business Meeting at 7:00 P.M.

Mr. Prause recognized the service of Andy Kidd, Vice-Chair of the Commission. His term expired and the Commission will miss his input and wisdom.

**NEW BUSINESS**

**MOTION:** Mr. Stebe moved to revise the agenda to reverse the order of the first two items, to start with Connecticut CVS Pharmacy, LLC and then Hilliard Mills, LLC. Mr. Kennedy seconded the motion and all members voted in favor.

CONNECTICUT CVS PHARMACY, LLC – To modify the curb for the access drives between Phase I and Phase 2 and to modify the grading on Phase 2 at 1221 Main Street. – Erosion and Sedimentation Control Plan (2018-118); Special Exception Modification (2018-119)

Mr. Steven Kochis, Professional Engineer, VHB, introduced himself. Mr. Kochis explained that the modifications will be until CVS is able to find a tenant for the Phase II building; everything proposed at the current meeting is temporary.

Mr. Kochis explained the construction of Phase I began in spring 2018 and is ongoing, though it is nearing completion. The current application proposes two intermediate modifications to the Phase I buildout: 1) A request from CVS to curb the driveway between Phase I and Phase II to

improve the vehicular and pedestrian circulation throughout the site in the interim stage until a tenant is found for the Phase II building; and 2) To spread additional soil that was uncovered as unsuitable for reuse as pavement base. This does not pertain specifically to contamination levels, but is due to its levels of clay. The soil was found not to have enough contamination to warrant removal but, because it is part of the Transfer Act, it is cost-prohibitive to remove, or to find an independent contractor to take the soil.

Mr. Kochis reported that the drainage structures on Phase II have been installed and the applicant is proposing grass lined swales lined with erosion control blankets to ensure that storm water runoff will reach the basins on the Phase II eastern half of the site. There is a new proposal to install five additional trees between the Phase I and Phase II limits, according to Mr. Kochis.

Mr. Prause requested clarification that this is a modification of the plan of record. The existing plan would not be the record of design; this would be the official plan. Mr. Kochis stated this would replace the original plans. Mr. Prause assumed the eventual build-out sheets are still part of the record, but this is an additional phase being added. Mr. Kochis agreed that is the intent.

Mr. Prause asked what the impact would be if this never gets developed, and whether this could feasibly last for years.

Mr. Kochis explained this is only temporary to get the project finished. The applicant desires the Certificate of Occupancy. He noted there is no reason to believe this could not be sustainable indefinitely. The area will be loamed and seeded, with swale and drainage structures installed, he reported, and can last indefinitely if need be.

Mr. Stebe noted the change because of the excess fill. On the north end of the lot on Wells, on the western side, there is a catch, he said. The original setup that was on a fairly flat space but there is now a 1:1 or 1:2 slope coming into it from the southern edge. Mr. Stebe questioned how that would affect the functionality of the catch basin. Mr. Stebe observed that it was very steep at that point and if there is anything covering it, it will go straight into the street. He noted there is less than a foot between that and the border space to the sidewalk.

Mr. Kochis explained the proposed drainage pattern. Mr. Stebe assumed that having the 6 ft. slope coming into it on the south end will not affect the functionality.

Mr. Kochis stated there would not be enough storm water as the catch basins were designed for the full buildout.

Mr. Stebe requested a reminder of where the original retaining wall was proposed. Mr. Kochis explained where the retaining wall was originally proposed.

Mr. Stebe assumed the current plans will stay in place but once the original plan set is commenced, the applicant will revert to the original proposal. Mr. Kochis agreed that there will be no effect on the final buildout. When Phase II is built, all the excess soil will be removed and the retaining wall will be constructed along with installation of other utilities associated with the project.

Mr. Prause asked how the Phase II development would work with the temporary stockpile area and the effort needed to take down the additional curbing being installed. He asked about the setup, storage of soil, and the construction equipment needed in the CVS parking lot.

Mr. Kochis assumed when Phase II is installed, one of the access areas would be used as a construction entrance. He further explained the other necessary steps to proceed.

Mr. Prause noted that the original erosion and sedimentation control plan had put the stockpile at the south portion below where the CVS building will be. Therefore, it would be possible to stockpile on the new Phase I temporary location if needed. Mr. Kochis concurred.

Mr. Prause inquired whether there is a need for a revised erosion and sedimentation control plan currently for the development of Phase II, since it will not be concurrent. Mr. Bordeaux did not believe so at this time, though he would have to review the plans. He assumed it could be done administratively if it could be shown that soil could be retained on the Phase II portion of the property. He assumed there will be anti-tracking pads at the drives being removed currently, though he had not contemplated whether that plan will be effective and functional following this revision.

Mr. Prause questioned which erosion and sedimentation control plan would be approved at the current meeting. Mr. Bordeaux explained that the proposed erosion and sedimentation control plan is incorporated into the Phase II plans. He noted it includes the grading, loam and seed, and questioned whether he omitted a sheet in the Commission's plan depicting where catch basins would be protected with silt fences around the perimeter.

Mr. Kochis was of the opinion that revised erosion and sedimentation control plans were provided in the current application. Mr. Bordeaux stated that sheet C5 only has lines striking out notes that do not apply to Phase II; therefore, all the notes that exist on sheet C5 are consistent with the Commission's packet. In other words, that is the erosion and sedimentation control plan the Commission would be approving.

Mr. Stebe noted the applicant added a number of trees on the western end of the plan. He observed that it appears there will be two trees in the middle of the two driveways that will be eliminated, in addition to the four in the inlet. He questioned whether the trees, after they are planted, will require removal in the future.

Mr. Kochis agreed with Mr. Stebe's observation. He explained they would be amenable to moving the trees to a location that would eliminate the need for removal.

Mr. Bordeaux agreed with Mr. Stebe's comment regarding the trees, noting it would be appropriate to add such language in the motion for the Erosion and Sedimentation Control plan as a modification. While discussing the issue with phasing, and because this may be a temporary situation, it may be appropriate to modify the motion for the Special Exception Modification to approve the Special Exception Modification under Art. II, Sec. 9.14.02(b) to modify the curb for access drives and grading during Phase I at 1221 Main Street, which would contain the activity to Phase I and leave the Phase II buildout approval in place going forward.

Mr. Prause asked for clarification from Mr. Kochis about the potential contaminated soil on the Phase II property, questioning whether there is any issue with contamination on Phase II.

Mr. Kochis explained there is a certain level of contamination, whether PCBs or such, which will require immediate removal from the site once uncovered. The soil was tested for PCBs and none of the soil tested contained levels requiring immediate removal. He noted the entire site must be viewed as a contaminated site in the eyes of the Transfer Act, which makes it prohibitive to remove the soil from the site.

Mr. Prause surmised that if the site remained undeveloped for a period of time, there is no environmental issue. Mr. Kochis stated there would be no known environmental issues.

Erosion and Sedimentation Control Plan (2018-118)

**MOTION:** Mr. Kennedy moved to certify the Erosion and Sedimentation Control Plan with the modification that the applicant retain the number of trees but allow them to be rearranged per the approval of Town Staff. Mr. Bergin seconded the motion and all members voted in favor.

Special Exception Modification (2018-119)

**MOTION:** Mr. Kennedy moved to approve the Special Exception Modification under Art. II, Sec. 9.14.02(b) to modify the curb for the access drives and grading during Phase I at 1221 Main Street. Mr. Bergin seconded the motion and all members voted in favor.

The reason for the approval is that the proposed activity meets the special exception criteria.

HILLIARD MILLS, LLC – For parking area expansion at 640 and 642 Hilliard Street and 370 Adams Street. – Inland Wetlands Permit – Determination of Significance (2018-085); Inland Wetlands Permit (2018-085); Erosion and Sedimentation Control Plan (2018-087); Special Exception Modification (2018-088); Flood Plain Permit (2018-089)

Mr. Peter Bonzani, 642 Hilliard Street, introduced himself. Mr. Bonzani explained he is before the Commission to discuss the paving and the bulk of the site work at Hilliard Mills. He projected the site plan with the areas that have been approved in the past, and the areas being proposed. Mr. Bonzani stated they have endeavored to retain the natural area along the brook as well as the walking trail. He described the need for on-site parking, noting that all parking combined on the site has been approved, and along with the current application, the total would be 150 spaces. Looking at the square footage based on the tenant uses and future uses, he noted, if the applicant utilized every square foot of the site for business and office use, they may actually need a few more spaces.

Mr. Bergin questioned the storm water discharge pipe, which is undersized for the anticipated storm water. He inquired about the location of potential flooding. Mr. Bonzani pointed to the area, noting that at some point in the past, across the street, the bank eroded and the river began to undermine the road, which necessitated an emergency repair. He explained there had been a

10” pipe going to the road line and one under the road. For some reason, the Town installed an 8” pipe for the last couple of feet to the river. Mr. Bonzani pointed to an area where there could be some ponding in the 100 year flood events. In order to accommodate that event, there is a note on the plan stating they are aware of the situation. He explained that they have not noted ponding or standing water in that area currently. That area was paved previously, he stated, and is hard-packed at this time with a water table quite close.

Mr. Bergin reported his concern over the proximity to Hilliard Street and questioned whether any other materials were considered for creating parking in the area. Mr. Bonzani pointed to the plans for the area, which is a part of the environmental capping, noting he would have preferred lawn. He pointed out the various areas on the property and the details thereof.

Mr. Prause asked Mr. Bonzani to indicate the new parking spaces on the plan. Mr. Bonzani displayed the areas requested.

Mr. Prause noted that some of the work will be done in the upland review area of the inland wetlands, and inquired about precautions. Mr. Bonzani explained the sediment control lines. He also pointed out temporary stockpile areas.

Mr. Prause asked about the emergency access area and whether there will be traffic flowing through. Mr. Bonzani noted that at this time it is not utilized. There had been discussion about sealing the area off, but there is a deeded right-of-way to both this property and the gas station property, requiring the road be maintained. He believed that currently 50% of his tenants do not know that road exists. In addition, Mr. Bonzani explained, the area will be maintained for access for emergency vehicles.

Mr. Prause surmised, after reviewing the plans, that there will be two more catch basins and a hydrodynamic separator before discharge into the brook. Mr. Bonzani agreed.

Mr. Bordeaux reported three outstanding Staff comments, which are minor and technical in nature:

1. Mr. Bordeaux noted that, in the calculations of activity in the upland review area and flood plain, a decimal point was mislocated and other calculations needed to be consistent. The original spreadsheet had more parking spaces than were being represented on the plans, and Mr. Bordeaux asked for consistency.
2. Mr. Shawn Morris, the Deputy Fire Marshal, Eighth Utilities District, made a comment that drive aisles must be maintained at 24 ft. wide, unobstructed, and that any fire hydrants need to be replaced during construction.
3. Mr. Raymond Myette, Design Engineer, Water and Sewer, had minor technical comments regarding pipes and labeling on the plans.

Mr. Prause noted a proposed stone landscaped area and questioned whether there will be any other landscaping as part of the parking lot extension. Mr. Bonzani displayed landscaped areas on the plans.

Inland Wetlands Permit – Determination of Significance (2018-085)

**MOTION:** Mr. Kennedy moved to find the proposed activity at the above-referenced location as shown on the inland wetlands permit application 2018-085 will not have a significant impact on the wetlands and, therefore, will not require a public hearing. Mr. Stebe seconded the motion and all members voted in favor.

Inland Wetlands Permit (2018-085)

**MOTION:** Mr. Kennedy moved to approve the inland wetlands permit for parking area expansion at 640 and 642 Hilliard Street and 370 Adams Street. Ms. Scorso seconded the motion and all members voted in favor.

The reason for the approval is that the proposed activity does not disturb the natural or indigenous character of the wetlands by significant impact or major effect.

The permit is valid for 5 years. The work in the regulated area must be completed within one year of commencement.

Erosion and Sedimentation Control Plan (2018-087)

**MOTION:** Mr. Kennedy moved to certify the Erosion and Sedimentation Control Plan with the modifications as specified in staff memoranda from:

1. Matthew R. Bordeaux, Senior Planner, dated November 14, 2018; and
2. Shawn Morris, Deputy Fire Marshal, dated November 9, 2018; and
3. Raymond Myette, Jr., Design Engineer, dated November 2, 2018.

Ms. Scorso seconded the motion and all members voted in favor.

Special Exception Modification (2018-088)

**MOTION:** Mr. Kennedy moved to approve the special exception modification under Art. II, Sec. 16.15.02(a) and (b) for parking area expansion at 640 and 642 Hilliard Street and 370 Adams Street, with the modifications as specified in staff memoranda from:

1. Matthew R. Bordeaux, Senior Planner, dated November 14, 2018; and
2. Shawn Morris, Deputy Fire Marshal, dated November 9, 2018; and
3. Raymond Myette, Jr., Design Engineer, dated November 2, 2018.

Ms. Scorso seconded the motion and all members voted in favor.

The reason for the approval is that the proposed activity meets the special exception criteria.

Flood Plain Permit (2018-089)

**MOTION:** Mr. Kennedy moved to approve the flood plain permit for parking area expansion at 640 and 642 Hilliard Street and 370 Adams Street with the modifications as specified in staff memoranda from:

1. Matthew R. Bordeaux, Senior Planner, dated November 14, 2018;  
and
2. Shawn Morris, Deputy Fire Marshal, dated November 9, 2018; and
3. Raymond Myette, Jr., Design Engineer, dated November 2, 2018.

Ms. Scorso seconded the motion and all members voted in favor.

ASSOCIATION OF MUSLIM COMMUNITY – For a place of worship use at 35 Oak Street, 46 Cottage Street, and 50 Cottage Street. – Special Exception (2018-111) – Request for Extension Until December 10, 2018

Mr. Bordeaux explained that it came to Staff's attention that neither Oak Street nor Cottage Street is an arterial street. Therefore, the applicant will appear before the Zoning Board of Appeals on November 28 to request that a place of worship be allowed on a street that is neither a collector nor an arterial street.

Mr. Prause asked if the applicant was before the Zoning Board of Appeals for any other application. Mr. Bordeaux believed the applicant went before the ZBA for the original approval for the existing place of worship at 50 Cottage Street. The applicant received the variance for a place of worship on a local street and is returning for the other two parcels.

**MOTION:** Mr. Kennedy moved to approve the request for extension until December 10, 2018. Mr. Bergin seconded the motion and all members voted in favor.

STEPHEN LOHNES – 17 Arch Street – Subdivision (L-114) – Declare subdivision null and void

Mr. Bordeaux reported that the subdivision known as Lohnes – Arch Street and Pine Street was approved by the Planning and Zoning Commission in 2007. That approval has expired, including the additional four years granted per the Public Act 11-05, which extended any existing approval for a term of up to nine years. The subdivision has expired and, because public improvements were part of that subdivision, the State statutes require that the Planning and Zoning Commission declare the subdivision null and void. Mr. Bordeaux noted that it is the opinion of the Administrative Staff Attorney and other Staff members that this is a recommended action by the Commission to avoid any future confusion in the event of an acquisition or a plan for a project involving this parcel. Should the Commission approve the declaration of the subdivision null and void, he explained, the Administrative Staff Attorney will make a notation on the subdivision plan filed in the Town Clerk's office to that effect.

**MOTION:** Mr. Kennedy moved to declare the Stephen Lohnes, 17 Arch Street Subdivision (L-114) null and void. Mr. Bergin seconded the motion and all members voted in favor.

The reason for declaring the subdivision null and void is that the subdivision approval has expired and no public improvements have been completed.

### **PROPOSED ZONING CITATION ORDINANCE**

Mr. Anderson reported the proposed zoning citation ordinance has been deliberated over for four or five years. The Town Board of Directors directed Staff to look at an ordinance that would provide the Zoning Enforcement Officer with more power to enforce the zoning regulations. About a year ago, he noted, there was a discussion about flashing signs in town, and while the Zoning Enforcement Officer addressed those issues, many businesses would correct the problem but over time the issue would recur. Mr. Anderson explained that sending a letter warning business owners was not getting the message across. The only tool the Zoning Enforcement Officer currently has is a Cease & Desist Order, which is very strong. He reported the proposed ordinance is based on the blight ordinance in town that allows property maintenance staff to establish a warning and then assess a fee. Mr. Anderson clarified that the ordinance is not about the accumulation of fees but about the ability to do something to encourage owners to comply with the blight ordinance.

Mr. Anderson related that the crafting of the ordinance was done by the Town Attorney's office with input from himself, former Senior Planner Renata Bertotti, and Jim Davis, the ZEO. The Zoning Enforcement Officer is in favor of this proposal, according to Mr. Anderson. He explained Staff worked with zoning enforcement officers in different Connecticut towns, particularly Ridgefield, who reported that once this ordinance was in place and a warning given out, approximately 95% of the violators fixed the problem the first time they were notified. Approximately 5% of those were given a citation and 80% of those were dealt with very quickly, according to Mr. Anderson. He stated Staff was confident this would be a step in the right direction moving forward. It will not be something used lightly, but will be used when needed, according to Mr. Anderson.

Mr. Stebe questioned the Appeal and Hearing section, Paragraph A, which states the Planning and Zoning Commission appoints a hearing officer. Mr. Anderson replied that there is a hearing officer, a local attorney, dealing with the blight ordinance, though the Planning and Zoning Commission did not appoint the officer. He suggested having that hearing officer look at zoning citation issues as well.

Mr. Stebe assumed that the attorney handling the blight ordinance is not a Town Attorney or Assistant Town Attorney. Mr. Anderson reported it is a third party.

Mr. Kennedy pointed to a potential issue with appointing a hearing officer. By statute, he noted, appeals from the Zoning Enforcement Officer are vested in the Zoning Board of Appeals. Blight is not a zoning regulation, he explained, but rather a town ordinance and falls outside the jurisdiction of zoning altogether. Mr. Kennedy suggested researching the issue.

Mr. Bergin expressed his concern if the Zoning Enforcement Officer were to be the individual conducting the hearing, though that is not contemplated in the draft ordinance, and if it were decided the Zoning Board of Appeals is the correct body. The Town Attorney may then determine there is the need for clarity and require that the hearing officer not be the ZEO.

Mr. Kennedy observed that, in his opinion, that would not be a conflict.

Mr. Bergin stated there is language about when the appeal hearing would be scheduled, based on the date of the mailed notice. However, he reported, the notice can also be delivered by hand, in which case there would not be a date on the mailing. Mr. Bergin noted two typos in the sentence.

Mr. Prause questioned whether the Planning Department is requesting action from the Commission, such as endorsement, or if comments would be sufficient. Mr. Anderson conveyed that comments are sufficient, though if the Commission chose to make an endorsement, that would be fine.

#### **ADOPTION OF 2019 MEETING SCHEDULE**

Mr. Prause inquired about the January 2019 meeting dates. Mr. Bordeaux informed Mr. Prause that the meetings will be on January 7<sup>th</sup> and January 23<sup>rd</sup>.

Mr. Prause pointed out that the second to last date on the proposed schedule should be January 6, 2020.

**MOTION:** Mr. Kennedy moved to adopt the proposed 2019 meeting schedule with the correction noted by the Chairman. Mr. Bergin seconded the motion and all members voted in favor.

#### **ADMINISTRATIVE REPORTS**

##### Administrative Approvals:

##### Patricia Whitehill – Lot Line Revision (2018-116) – 203 and 235 Fern Street

The property owner is interested in selling 203 Fern Street and retaining the remainder of the property, Mr. Bordeaux said. However, the prospective owner was not interested in a lot of that size and, therefore, the owner flipped the lots in terms of area and frontage. Mr. Bordeaux noted that 203 Fern Street meets all conventional standards. The plan is for access from Fern Street, he noted, and Sunnybrook Drive will become a permanent cul-de-sac.

##### Other Administrative Reports:

Mr. Anderson reported that the Board of Directors, at its last meeting, approved the first portion of the Downtown 2020 initiative. He explained that the Downtown 2020 initiative is a three-

pronged approach to encouraging redevelopment downtown; the first piece was approved last week by the Board of Directors. They approved a no-interest loan program for multi-story buildings downtown which hopefully will have a transformative effect on the downtown. Mr. Anderson continued that the second piece will be capital improvements, which will be discussed at the next Board of Directors meeting. The last prong will be simultaneously lowering the special mill rate for downtown property owners and reorganizing the relationship between the Town and the Special Services District, according to Mr. Anderson. These issues have been debated for quite some time, most strongly in the last year. There is a lot of interest currently, he noted, in the downtown, and the hope is these items will spark redevelopment in the downtown. Regarding the loan program, Mr. Anderson explained, will be a two-year program as a way to entice owners or potential owners to move on projects. Only code improvements are eligible, i.e., building code, fire code, accessibility, health code, and ways to bring older buildings up to code which would be difficult to meet because of financial implications, he stated.

### **APPROVAL OF MINUTES**

#### November 5, 2018 – Business Meeting

**MOTION:** Mr. Kennedy moved to approve the minutes of the business meeting of November 5, 2018 as written. Ms. Scorso seconded the motion and all members voted in favor.

### **RECEIPT OF NEW APPLICATIONS**

KENNETH BOYNTON – Zone Change (2018-127) – Zone change from Rural Residence to Residence AA zone at 426 Wetherell Street.

**MOTION:** Mr. Kennedy moved to adjourn the business meeting. Mr. Bergin seconded the motion and all members voted in favor.

The Chairman closed the business meeting at 8:30 P.M.

I certify these minutes were adopted on the following date:

January 7, 2019  
Date

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Eric Prause, Chairman

**NOTICE: A DIGITAL RECORDING OF THIS BUSINESS MEETING CAN BE HEARD IN THE PLANNING DEPARTMENT.**