

**MINUTES OF BUSINESS MEETING  
HELD BY THE PLANNING AND ZONING COMMISSION  
MAY 18, 2020**

**MEETING HELD VIA ZOOM**

**ROLL CALL:**

Members Present: Eric Prause, Chairman  
Patrick Kennedy, Vice Chairman  
Michael Stebe, Secretary  
Jessica Scorso  
Jessica Poland

Alternates Present: Julian Stoppelman  
Teresa Ike  
Bonnie Potocki

Also Present: Gary Anderson, Director of Planning  
Megan Pilla, Senior Planner  
Nancy Martel, Recording Secretary  
Timothy P. O'Neil, Administrative Staff  
Attorney

The Chairman opened the business meeting at 8:00 P.M. The Secretary read the legal notice when the call was made.

RESOLUTION TO TEMPORARILY AUTHORIZE THE GENERAL MANAGER, IN CONSULTATION WITH THE DIRECTOR OF PLANNING AND ECONOMIC DEVELOPMENT AND THE ZONING ENFORCEMENT OFFICER, TO SUSPEND OR WAIVE THE ENFORCEMENT OR APPLICABILITY OF CERTAIN ZONING REGULATIONS, WHICH IN HIS JUDGMENT WOULD IMPEDE OR PROHIBIT THE OPERATION OF CERTAIN BUSINESSES AND THE RE-OPENING OF CERTAIN BUSINESSES, INCLUDING, BUT NOT LIMITED TO, THE RESTAURANT INDUSTRY AND OUTDOOR DINING, PURSUANT TO THE STATE GUIDELINES AND RESTRICTIONS.

Mr. Stebe noted that there had been discussion during the public hearing that there is a hard end date of October 31, 2020. He questioned whether there is a process within the resolution in the event that there is an extension of the time period.

Mr. Anderson remarked that the practicality of outdoor dining after October 31<sup>st</sup> in New England would be difficult. In his opinion, if the governor were to extend it, the resolution is worded such that it can be amended. He explained that the executive order governs.

Attorney O’Neil interjected that Ms. Pilla represented that the approval will have that expiration date. He suggested that the language in the approval letter be identical to the last sentence of the resolution, presuming it passes with the additional language added.

Mr. Prause questioned whether there is a problem with the way the public hearing was advertised, as the power will be vested to the Zoning Enforcement Officer.

Attorney O’Neil noted that this question has come up many times. The purpose of a public hearing notice is to give notice to the public of the essential subject matter. It does allow the Commission to amend a resolution after the public hearing has been held as long as the substance of the action is not impacted by the amendment. He said he would argue that the Commission is not substantively changing the resolution to the point that a new notice and new public hearing would be needed.

**MOTION:** Mr. Kennedy moved to approve the proposed resolution with the modification to add, “or by an Executive Order of the Governor of the State of Connecticut,” to the end of the last sentence, to read as follows:

**NOW, THEREFORE, BE IT RESOLVED** that the Planning and Zoning Commission of the Town of Manchester hereby authorizes the applicable Local Enforcement Official to suspend or waive the enforcement or applicability of certain zoning regulations, which in his or her judgment would impede or prohibit the operation of certain businesses and the re-opening of certain businesses, including, but not limited to, the restaurant industry and outdoor dining. Such actions shall be consistent with the Governor’s executive orders, in general, and Executive Order No. 7MM, specifically, as it applies to outdoor dining and activities. The authorization contained in this resolution shall automatically expire on October 31, 2020, unless extended to a later date or terminated on an earlier date by the action of the Planning and Zoning Commission or by an Executive Order of the Governor of the State of Connecticut.

Mr. Stebe seconded the motion and all members voted in favor.

RASHMIKANT PATEL – Design Overlay zone for installation of 3 roll-up gates on the windows at 449 Hartford Road (a.k.a. 451 Hartford Road). – Design Overlay Zone Review (2020-018)

Ms. Karla Minchala, representing Mr. Patel, introduced herself. She explained that Mr. Patel plans to install three roll-up gates made of galvanized steel with an electric motor on the windows and the door of his establishment. Ms. Minchala displayed the measurements of the proposed gates as well as similar gates. She explained that the gates will only be used for security purposes when the business is closed.

Mr. Stebe questioned how the gates will fit under the current awning when rolled up. He was concerned that the gates will be visible when the store is open.

Ms. Minchala stated that the awnings will remain and the gates will fit under the awnings. She explained that the canopies will be removed for the installation and will then be reinstalled.

Ms. Scorso inquired about the hours of operation.

Ms. Minchala remarked that she will have to check with the owner, as she is affiliated with the company that will install the gates.

Ms. Pilla informed the Commission that the application is before the full Commission because it is in a Design Overlay zone in addition to being in the Business 2 zone. A Design Overlay review would typically not come to the full Commission right away; it would go to the Planning Director and the Planning and Zoning Commission Chair or their designees first to review and determine if it is in compliance with the Design Overlay zone regulations. However, if the proposed alteration is found not to comply with the general standards in the Design Overlay zone by either the Planning Director or the Planning and Zoning Commission Chair, it is then referred to the full Planning and Zoning Commission for review.

According to Ms. Pilla, in reviewing this application, the Planning Director and the Planning and Zoning Commission Chair have found that the proposed alteration does not comply with the general standards established for the Design Overlay zone in Art. II, Sec. 25 of the zoning regulations. Therefore, the full Commission is to consider the application and should specifically consider whether this alteration complies with Art. II, Sec. 25 for the Design Overlay zone.

Mr. Stebe contemplated whether any businesses in town have roll-up gates, which no one could recall. He reiterated his concerns over whether the gates will fit underneath and be covered by the awning.

Ms. Minchala stated that she could speak with the owner to get something in writing stating he would install the awning back after the gates are installed.

Mr. Prause inquired whether the company that will install the gates has gone to the site to ensure the gates will fit under the awning.

Ms. Minchala reminded the Commission that the pictures displayed with the measurements indicate that the company has gone out to measure. She reiterated that the awning will have to be removed to install the gates and the owner assured her that he will have the awning reinstalled.

Mr. Kennedy stated that he reviewed the standards in Art. II, Sec. 25, but has not noted the incompatibility. He pointed out that this is not new construction or altering a structure, as referenced in Sec. 25.02. There is no historic material or distinctive architectural features

involved. Mr. Kennedy commented that he does not see any issues with size, scale or material, and it is not obvious that the proposal would violate the general standards.

Mr. Anderson remarked that Art. II, Sec. 25.02.03 of the regulations states, “Designs shall be generally compatible with size, scale, material and character of the original structure, and with the standards established in Article II, Section 25.03.” Sec. 25.03 includes standards for new construction and states, “Buildings should be similar in form, complexity, and ornamental detail to adjacent buildings.”

Ms. Minchala sought information on what would be needed for approval.

Mr. Stebe acknowledged that putting security gates in front of large windows makes sense. He restated that his only concern is that the gates fit underneath the awnings. Mr. Stebe questioned whether there would be a mechanism in the motion stating that the awning would be replaced and would cover the roll-up gates during the hours of operation.

Mr. Anderson replied that the application shows the awning as is and he did not believe part of the application is to remove the awning, other than during installation of the gates.

Ms. Pilla responded that it was not mentioned in the application Planning received that the awning would be removed and replaced.

Mr. Anderson assumed that the intent of the application is to leave the awning in place and the owner will fulfill the plan to reinstall the awning or they would have to return with another application to remove the awning.

Mr. Kennedy stated that he reviewed the regulation that Mr. Anderson cited and understands how it is debatable. It states, “It should be similar in form, complexity and ornamental detail to adjacent buildings.” However, he noted that the property is next to Dunkin’ Donuts. In his opinion, the intent is to govern situations where the buildings are more distinctive and this is not an alteration and not out of compliance with the guidelines.

Mr. Stebe remarked that Mr. Anderson addressed his concerns clearly, as it is clear there are no additional changes to be made to the architectural façade. He commented that the Zoning Enforcement Officer would address the issue if the awning is not replaced.

#### Design Overlay Zone Review (2020-018)

**MOTION:** Mr. Kennedy moved to approve the application for the installation of three roll-up gates on the front of the building at 451 Hartford Road. Ms. Scorso seconded the motion. Mr. Kennedy, Mr. Stebe, Ms. Scorso, and Ms. Poland voted in favor of the motion. Mr. Prause voted against the motion. The motion passed four to one.

The reason for the approval is that the proposed alteration complies with the general standards established in the Design Overlay Zone pursuant to Article II, Section 25.

## ADMINISTRATIVE REPORTS

Ms. Pilla reported a lot line revision approval earlier in May at 520 and 538 Bush Hill Road. The plan was submitted for the revision and reviewed by Town Staff. She noted that the applicants have filed the stamped mylars for the lot line revision with the Town Clerk.

### APPROVAL OF MINUTES:

April 20, 2020 – Public Hearing/Business Meeting

**MOTION:** Mr. Kennedy moved to approve the minutes as written. Mr. Stebe seconded the motion and all members voted in favor.

### RECEIPT OF NEW APPLICATIONS

1. **RASHMIKANT PATEL – Design Overlay Zone Review (2020-018)** – Design Overlay zone review for installation of 3 roll up gates on the windows at 449 Hartford Road (a.k.a. 451 Hartford Road).
2. **TOWN OF MANCHESTER PLANNING & ZONING COMMISSION – Zoning Regulation Amendment (2020-019)** – Comprehensive revisions to the Form Based zone regulations at Art. II, Sec. 26 to simplify and clarify requirements and encourage desired development.

Mr. Stoppelman, referring to an article in the newspaper, asked Ms. Pilla about an advertisement regarding the zoning regulation amendment to be heard on June 1<sup>st</sup>.

Ms. Pilla explained that the changes are comprehensive throughout because Staff is looking to dissolve the subdistricts that are currently within the Form Based zone. The language will be changed to refer to it as one cohesive district. She stated that there are also some changes to parking requirements, changes to the way outdoor spaces are described, and a handful of grammatical or minor language changes. The goal, according to Ms. Pilla, is to promote the kind of development the Town seeks in the Form Based zone in the future.

Mr. Stebe requested a paper copy of the edits and changes if they are more than 20 pages. After many requests, it was determined that all members of the Commission will receive paper copies.

After a question by Mr. Prause, it was determined that he was the only member of the Commission to be invited to an outdoor dining workshop recently. He reported that the Planning and Zoning Chair in Hartford, who also works for UConn Law, Sarah Bronin, held a webinar about how towns are accommodating the executive order regarding outdoor dining. One problem that has arisen is the 50% restriction; i.e., a restaurant owner with a large parking area may still only serve 50% of the indoor dining capacity. Mr. Prause inquired whether that is established by a building code and there is no added flexibility.

Mr. Anderson concurred and stated that would be in conflict with the executive order. He speculated that, for the future, this may provide some lessons for handling outdoor dining.

Ms. Potocki stated that it would be beneficial for the Commission members to see what will be given to the applicants. She suggested a webinar for interested applicants. In addition, Ms. Potocki feels the public should have a method to report any violations.

Mr. Prause elaborated on his concern about an appeals process if there are unintended consequences. He stated that he was told that it would go through the standard process for zoning complaints.

Mr. Anderson reported that the State has a hotline to report social distancing concerns, though he is unsure if that is related to these types of complaints. He explained that he sent an advisory e-mail several weeks ago to all the food and beverage locations in town outlining the process. Mr. Anderson praised his Staff for reaching out to those establishments; specifically, Tana Parseliti has reached out to the downtown locations personally. He displayed the Town website where it refers to outdoor dining, the letter he sent to owners, and the link to apply for an outdoor dining permit, which also contains some guidance. Mr. Anderson explained the steps for the approval process in detail.

Ms. Potocki suggested referring applicants to resources if they have problems with the application.

Mr. Anderson interjected that there is no fee for the application. The GIS Department assisted Staff in compiling a file of every restaurant in town and produced maps of each property, which owners may utilize.

Mr. Stoppelman asked if it would be acceptable for individuals to put picnic tables outside and serve themselves, or if they have to be waitress service.

Mr. Anderson responded that the process is for sit-down service, and does not include establishments with take-out service with tables outside.

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

The Chairman closed the business meeting at 9:00 P.M.

I certify these minutes were adopted on the following date:

June 1, 2020

\_\_\_\_\_  
Date

\_\_\_\_\_  
Eric Prause, Chairman

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