

**MINUTES OF PUBLIC HEARING
HELD BY THE ZONING BOARD OF APPEALS
LINCOLN CENTER HEARING ROOM
APRIL 27, 2016**

MEMBERS PRESENT: James R. Stevenson, Chair
Robert Haley, Secretary
Edward Slegeski – Recused for 2016-045 and 2016-046

ALTERNATES PRESENT: Sandra DeCampos, Sitting
John Topping, Sitting
Armando Darna, Sitting for 2016-045 and 2016-046 Only

ABSENT: Albert Gionet, Vice Chair
Kevin Dougan

ALSO PRESENT: Renata Bertotti, Senior Planner
Katie Williford, Administrative Secretary

The Chair opened the Public Hearing at 7:00 p.m. The Secretary read the legal notice for the application when the call was made.

Mr. Stevenson asked if a representative for Botticello Farms, LLC was present for application #2016-029. No representative was present and the item was moved to the end of the agenda.

AMIE HODGE – applications #2016-040 and #2016-041 - Request a variance of Art. IV Sec. 13.10.04.04 to allow a 16' x 5' novelty sign (32 sq. ft. permitted) and a special exception under Art. II Sec. 9.14.02(e) to allow the sale of fireworks from June 15 to July 15, 2016 at 1524 Pleasant Valley Road, General Business Zone.

The applicant, Ms. Amie Hodge of 16 Justin Way, Cranston, RI, presented her applications. She said there would be a 20' barricade around the 20'x30' tent as well as a storage container and portable toilet. The generator would be 20' from the tent, she said. Certificates of flammability for the tent would be given to the Fire Department and posted on the tent, and there would be signs prohibiting smoking and lighting of fireworks within 300' of the tent, Ms. Hodge said. She said the tent would be set up around June 17th or 18th. The dates of sale would be June 24th through July 5th and they would be open from 10:00 a.m. to 10:00 p.m. They would conduct inventory for two days after closing, which would be July 6th and 7th, then the inventory would be picked up on July 8th and 9th, and the tent would be taken down around July 10th or 11th, Ms. Hodge said. The entire process would fall within the June 15th to July 15th timeframe, she said. The tent will take up about 23 parking spaces and have little to no impact on the plaza. Cars will not be allowed in the barricaded area, she said. Regarding the variance application, Ms. Hodge said the reason for the proposed 16'x5' vinyl banner was to ensure that passersby would know who the tent belonged to, and to maximize exposure and sales.

In response to a question from Mr. Topping, Ms. Bertotti said the applicant indicated the generator would be at least 20' from the tent, which is the minimum distance required by the Fire Marshal. The Fire Marshal also said the wording on the sign depicted products not permitted in the State of Connecticut, which should not be used, Ms. Bertotti said. She noted that the variance would be for the sign's area, not its message.

In response to a question from Mr. Topping, Ms. Hodge said the toilet would be serviced once or twice a week. Mr. Haley asked why the tent would be up so long after the Fourth of July, and Ms. Hodge said the sale dates are from June 24th through and including July 5th, then on July 6th and 7th they would do inventory, and on July 8th and 9th the site would be packed up. She said the tent would probably not be up until the 15th; it would probably be taken down around 10th or 11th, but she requested the 15th to allow some leeway in case issues came up. Mr. Haley asked if the tent or storage trailer would be unattended at some times and Ms. Hodge replied that the operator will be there the 5th and either the 6th or 7th for inventory, and whichever day he doesn't, the zone manager can conduct a drive-by inspection. Mr. Darna asked about security and Ms. Hodge replied that the materials would be put away every night using locks that can't be cut with lock cutters. Mr. Topping asked what would prevent vehicles from getting through the barricade and Ms. Hodge replied that they would have as many sawhorses as needed. Mr. Topping said sawhorses would not stop an errant vehicle.

Mr. Stevenson asked if any member of the public wished to comment either in favor of or in opposition to this application. Mr. Brian Hodge of 16 Justin Way, Cranston, RI, introduced himself as the zone manager for the operation last year. Regarding Mr. Topping's concern about vehicles getting through the barricades, Mr. Hodge said the tent would be in a corner lot, with an area walled off where cars won't be getting near. He said the reason for requesting time through the 15th was for leeway to avoid extending past the dates presented.

Mr. Stevenson asked if there were comments from staff. Ms. Bertotti said wooden sawhorses were the Town Traffic Engineer's preferred method of barricade, and he reviewed the application and did not have an issue with this proposal. Ms. Bertotti clarified that there were two separate applications, and one was for a sign variance. She said this type of sign is a novelty sign and a temporary sign, and the regulations allow only one such sign per business, not to exceed 32 s.f. and not to exceed a 16 week display period per calendar year. Ms. Bertotti noted that the applicant is only seeking a variance for one sign that exceeds the area allotment, so if granted the approval will only be for one sign, not more signs as shown on the pictures. She said her memo listed some recommended conditions of approval for the special exception application.

MANCHESTER PUBLIC SCHOOLS – application #2016-042 - Request a use variance of Art. II Sec. 4.01 to allow a metal storage container at 134 Middle Turnpike East, Residence A and Residence B zones.

Mr. Peter Staye, Facilities Director for Manchester Public Schools, presented the application. He said the proposed new 10'x40'x9' tall storage container would be the third container in this location and it would be used to store theater props. The Fire Marshal had no issue with the existing or additional containers, Mr. Staye said. Prior to renovations in 2005, props were stored in an area behind the stage, but that is no longer allowed, so they have to be stored elsewhere.

Mr. Haley asked if the storage containers were owned or rented and if they were secured at all times. Mr. Staye said they were owned and were secured with school system master padlocks. Mr. Haley said he went there today, opened the containers, and went inside. One container had nothing but wood inside, Mr. Haley said. Mr. Staye said he was told the containers were for theatrical props. Mr. Fairbanks, the Tech Director, said one container is used for wood storage for production for the musical in springtime, the second is used for props, and the third would be for chairs and risers that are currently stored onstage and have to be moved for every production. He added that the containers may have been unlocked today because they are preparing for a production. Mr. Haley said he was there for half an hour before someone saw him, and that was for a delivery of some sort. In response to a question from Mr. Haley, Mr.

Fairbanks said props are not thrown out until they are broken or unusable, and he said it was possible there may be props that have not been used for 20 years. Mr. Haley asked if they had considered a permanent building and Mr. Staye replied that that was not in their budget. Mr. Topping noted the need for security and asked where they would be able to store these materials if the Board denied the application. Mr. Fairbanks said they would be stored onstage and then every time the school does a production, students would take 1.5 to 2 hours to move everything from the stage to different rooms to store it somewhere in the building, then after the production they would take another 1.5 to 2 hours to put it all back. Mr. Darna said he understood the need for storage and the desire not to leave sets onstage, which is a fire problem, but he suggested the storage bins should be painted to look neater and should be kept locked. Mr. Haley asked how the first two trailers got there without approval and Mr. Fairbanks said he did not know. Mr. Haley asked what budget the trailers would come out of and Mr. Fairbanks said it would come from the auditorium technical fund, which is generated by groups that use the auditorium. Mr. Haley asked if the school would be able to afford to install a fence to hide the storage containers if the Board required it, and Mr. Staye said yes.

Mr. Stevenson asked if any member of the public wished to comment either in favor of or in opposition to this application. No member of the public came forward at this time.

Ms. Bertotti said there were no outstanding technical concerns from staff. Regarding the two existing storage containers, she said she could not tell how and when they got there, but they have been on the site for a long time. She noted that schools were permitted uses at some point, and this could have been an accessory use that was allowed on the site at that time. Ms. Bertotti said it is not necessarily right to assume that the existing containers were installed in violation of the zoning regulations, but she did not have any evidence to indicate whether they were or not. Ms. Bertotti noted that if this were a building, it would be an accessory building and they wouldn't need a variance, but these kinds of storage units are not allowed in residential zones and so a variance is needed. Mr. Haley asked if the container would need a pad underneath and Mr. Staye said he didn't think a pad or gravel was needed.

OUR COMPANIONS ANIMAL RESCUE – application #2016-043 - Request a use variance of Art. II Sec. 16.13 to allow a veterinary clinic at 34 Sanrico Drive, Industrial zone.

Ms. Susan Linker of Our Companions Animal Rescue presented the application. Ms. Linker said Our Companions Animal Rescue is a nonprofit animal rescue organization with other programs including dog training, public education, and programs for feral cats. The organization moved into 34 Sanrico Drive four years ago, leasing half of the building at that time, she said. The lease expires in 2017, and the property owners are interested in leasing the rest of the building to Our Companions Animal Rescue, Ms. Linker said. She said the applicant's goal is to expand the facility at 34 Sanrico Drive and open a nonprofit veterinary clinic. They would prefer to have the clinic in the same location as their other programs because it would help business to have both in one location, she said.

Mr. Slegeski asked how the proposed clinic would differ from the one on Route 30, and Ms. Linker replied both the prices charged and the services would be different. Part of the applicant's strategy is to have one clinic facility that can absorb their programs when they do outreach as well as their own animals under one roof, she said, and another component is to have a high volume spay/neuter clinic at reduced cost. Ms. Linker said a community clinic is an area of great need, because the working poor have problems affording vet care for their pets.

In response to a question from Mr. Slegeski, Ms. Linker said fees are determined by situation and income level. Mr. Slegeski asked if the clinic would turn people away because of their financial situations. Ms. Linker replied that there are times when Our Companions Animal Rescue cannot help. One factor that limits their ability to help is that they have to ask for assistance from veterinarians who are in business to make money, so having their own veterinarians would allow them to help more, she said.

In response to a question from Mr. Darna, Ms. Linker confirmed that, if approved, the clinic would have surgeons and veterinarians, probably full and part time. The hours would be normal business hours, not 24 hours, she said. Mr. Haley asked if animals would be boarded overnight and Ms. Linker said there would be animals in cages awaiting surgery. In terms of overnight boarding, she said she did not expect dogs, but did expect feral cats to stay overnight. The feral cats would be in covered traps overnight, because sometimes people are not able to come pick them up the same day, and it is beneficial to be able to check them in the morning to see that they are well.

Mr. Haley asked how medical waste would be disposed of and Ms. Linker said the clinic would contract with vendors to remove waste properly. Mr. Topping asked if there might be a time when staff would need to be at the clinic overnight for surgery operations, and Ms. Linker replied that situations that require specialized care overnight would not be done at this facility because it is meant for basic healthcare. Mr. Haley asked if all feral cats coming in to the clinic would be sterilized and Ms. Linker said they would.

Ms. Bertotti said, to her knowledge, there have been no complaints about the applicant during its operation as an animal rescue group. The only public comment received was a letter in support of the application, she said. The Town Traffic Engineer commented that the parking lot will have to be restriped to allow handicapped spaces closer to the entrances, Ms. Bertotti said. She asked the Board to include that memo as a condition of approval if they approved the application. Mr. Slegeski asked whose responsibility the restriping would be, since the applicant would be renting the property. Ms. Bertotti replied that that is not the Board's concern; the applicant and property owner would work that out. Mr. Haley asked if there would be further review of the floorplan later on, if this application was approved. Ms. Bertotti said the floor plan was submitted as a concept only, so there could be minor adjustments to locations, sizes, and types of rooms, but the basic services and hours of operation cannot change. Aspects of the presentation related to the proposed use are more pertinent because this is a use variance, she said.

MICHAEL MULL – application 2016-044 - Request a variance of Art. II Sec. 1.03.01 (f) and of Art. II Sec. 4.01.01 to allow a 280 s.f. shed (240 s.f. maximum permitted) 3 ft. 5 in. from the side property line (minimum 10 ft. required) at 11 Clyde Road, Residence A zone.

Mr. Michael Mull and Ms. Marilyn Mull of 11 Clyde Road presented the application. Mr. Mull said he was not aware he needed a variance for his second storage shed. He said they need the shed because they have been in the house for 18 years, have two children, and need more room. There are garage doors on both ends of the shed to allow a truck or equipment through into the back yard if necessary, Mr. Mull said. He said he spoke to his neighbors and asked them to sign a petition, which he provided to the Board.

Mr. Haley asked if Mr. Mull intended to do any business out of the shed and Mr. Mull replied that he did not, and there is no power to the shed at this time. In response to questions from Mr.

Haley, Mr. Mull said the shed is half on concrete and half on the asphalt of driveway. It is not secured to the ground, he said.

Mr. Stevenson asked if any member of the public wished to comment either in favor of or in opposition to this application. No member of the public came forward at this time.

Ms. Bertotti said there were no outstanding staff comments. Mr. Haley asked if the size of the lot would be acceptable in today's definition of a Residence A zone, and Ms. Bertotti replied that it appears to be undersized. In response to a question from Mr. Haley, Ms. Bertotti said if the shed were behind the rear plane of the house they wouldn't need a variance of the side yard setback, but they would still need a variance for the size of the structure because it is larger than the permitted maximum of 240 s.f.

PARKADE CINEMAS – application #2016-045 - Request a special exception under Art II Sec. 26.04.04 (d) and Art. II Sec. 9.14.02(e) to operate a family fun day at 416 Middle Turnpike West and 296 Broad Street, Form Based Zone.

Mr. Slegeski recused himself from both of the Parkade Cinema applications. Mr. Darna was sitting in Mr. Slegeski's place.

Mr. Ali Davis of 465 Hillstown Road, the owner of Parkade Cinemas and Entertainment, presented the application. A Family Fun Day application was approved in 2011, but Family Fun Day was discontinued while the applicant focused on converting the theater to digital, Mr. Davis said. The applicant proposes to provide outdoor activities for the community during nice weather, he said.

In response to a question from Mr. Haley, Mr. Davis said Parkade Cinemas would provide some food through the concession stand, but there would also be some vendors that would get permits from the Town to sell goods. He said the vendors would not be leaving goods onsite overnight.

Mr. Stevenson asked if any member of the public wished to comment either in favor of or in opposition to this application. No member of the public came forward at this time.

Ms. Bertotti said the application included a map for an outdoor movie screening, but the other application material doesn't mention anything about an outdoor movie screening. She requested clarification of whether that was part of the proposal or not. Ms. Bertotti also said that another map was included with the application, showing activity that crosses onto a different property. The applicant provided a letter proving that they are entitled to use that other property for parking only, but from the map it was unclear what the boxes indicate, she said. Mr. Davis said the applicant proposed an outdoor theater in 2011, but didn't continue it because of concerns the Board had at that time. They did not propose to have an outdoor theater this year either, he said. Mr. Davis said the property owner of the other property, George Lee, agreed to provide permission to use the parcel for purposes other than parking if needed, but could not get it to Mr. Davis today. Mr. Davis added that he only needs to use the other property for parking.

In response to a question from Mr. Stevenson, Mr. Davis said he is requesting an approval for three years. Mr. Haley asked if the applicant could give a more specific end time instead of "sundown." Mr. Davis said they would end prior to sundown, which is sometimes at 7, sometimes at 8. Mr. Haley said the end time should be the earliest the sun could go down. Mr. Stevenson suggested 9:00 p.m. and Mr. Davis agreed.

Mr. Topping asked Mr. Davis to explain the boxes outlined in green on one of the maps. Mr. Davis said the outlined areas were areas that would be used for some events where they would set up inflatables for Family Fun Day, and where vendors for the flea market would be. There is a more specific map, Mr. Davis said, on which the space marked "84 spaces" would be where events would be set up.

Ms. Bertotti asked why one map shows only one property being used, while the other map shows both properties. Mr. Davis said he thought the map with green outlines was not for Family Fun Day, but rather to show parking spaces. Ms. Bertotti asked if the Board could exclude that map from the application and Mr. Davis agreed.

Mr. Topping asked where the parking would be and Mr. Davis said there is parking in front of the theater, and an easement gives Parkade Cinemas the right to use the parking spaces other properties at the Parkade. Mr. Topping asked if an errant vehicle could get into the Family Fun Day activities and Mr. Davis said no, there is no access except the entry to the theater. The area would be surrounded by cones and garbage can barrels and there would be no vehicular traffic in the area, he said.

Mr. Darna asked what kind of inflatables there would be and Mr. Davis said there would be a bounce house, which will be anchored to the ground using existing holes. Power will be brought from the theater and conduit and rubber mats would be put over the cords, he said.

Ms. Bertotti said there were no other comments from staff. In addition to recommended conditions of approval mentioned in her memo, Ms. Bertotti recommended that the Board state on the record that no outdoor movie screening would be allowed and that the map with green outlines presented tonight be excluded from the application. She said she did receive verification that there is a parking agreement, so as long as the area is only used for parking, staff has no problem with the proposal. Mr. Stevenson noted that the applicant had said he would submit additional letter if they needed to use the property for something other than parking. Mr. Topping asked if the Police Chief had any comments and Ms. Bertotti said he did not.

PARKADE CINEMAS – application #2016-046 - Request a special exception under Art II Sec. 26.04.04 (d) and Art. II Sec. 9.14.02(e) to operate a flea market at 416 Middle Turnpike West and 296 Broad Street, Form Based Zone.

Mr. Ali Davis of 465 Hillstown Road, the owner of Parkade Cinemas and Entertainment, presented the application. The flea market would use the same area as the Family Fun Day, he said. He showed a map with spaces marked and numbered for each vendor. Space would be left between vendors' displays, he said, and there might be hot dog vendors, which would be properly licensed by the Town. Mr. Davis said there was an error on the dates listed in the application. His assistant listed the starting date as July 3rd on the application, but in the previous application the flea market started the first week of May and ended the last week of August, he said. Ms. Bertotti said because the date wasn't part of the legal notice, the applicant could amend the dates in front of the Board. Mr. Davis proposed dates starting May 1st and running through the first weekend in September, for three years. He noted that a similar application was also approved in 2011. In response to a question from Mr. Haley, Mr. Davis said no alcohol would be sold.

Mr. Stevenson asked if any member of the public wished to comment either in favor of or in opposition to this application. No member of the public came forward at this time.

Ms. Bertotti said the only item she wanted to bring to the Board's attention was one of the maps that showed spaces for parking on different properties, but that was sorted out under the letter that was provided to her today. There were no outstanding staff comments, she said. Ms. Bertotti recommended the Board consider limiting the hours of operation to a specific end time instead of "sundown," to make it easier to enforce. Mr. Stevenson asked if this event would also end at sundown and Mr. Davis replied that a 6:00 p.m. end time would be fine. Mr. Stevenson clarified that the proposed hours of operation were 10:00 a.m. to 6:00 p.m. on Sundays, from May 1st to the first Sunday in September.

The public hearing on application #2016-029 for Botticello Farms, LLC, was not opened. Mr. Stevenson said that application would be heard at the May meeting.

The public hearing portion of the meeting was closed at 8:17 p.m.

I certify these minutes were adopted on the following date:

May 18, 2016

Date

James Stevenson, Chair

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

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