

**TOWN OF BROOKLYN
PLANNING AND ZONING COMMISSION
Regular Meeting
Wednesday, November 6, 2019
Clifford B. Green Meeting Center
69 South Main Street
6:30 p.m.**

MINUTES

- I. Call to Order** – Michelle Sigfridson, Chair, called the meeting to order at 6:31 p.m.
- II. Roll Call** – Michelle Sigfridson, C. Kelleher, J. D’Agostino, Earl Starks, Alan Fitzgerald, Austin Tanner, Charles Sczuroski, New Alternate Member.

Staff Present: Jana Roberson, Director of Community Development.

III. Seating of Alternates

Motion was made by C. Kelleher to seat New Alternate Member, Charles Sczuroski as a Voting Member for this meeting. Second by A. Tanner. Motion carried unanimously (6-0-0).

IV. Adoption of Minutes: Regular Meeting September 17, 2019

Motion was made by A. Tanner to approve the Minutes of the Regular Meeting of September 17, 2019. Second by C. Kelleher.

Discussion:

C. Kelleher noted that she would like her comment on the last page regarding her request for a three-ring binder for the New Regulations corrected to say that she was asking that all of the Commission Members be provided with three-ring binders.

Motion carried unanimously (7-0-0).

V. Public Commentary

Ashley LeBeau, Gunnar Drive, commented that she would like her property to be changed from the VCD to RA and that other neighbors feel the same way. Her property is not historical. She explained that the VCD limits the type of fencing that they can install. Ms. Sigfridson stated that that had been discussed, but that Ms. LeBeau’s comments would be taken into consideration when the PZC looks at the Zoning Map again.

Mark LeBeau, Gunnar Drive, asked about modifications in the Historic District. Ms. Sigfridson explained that there are different permit requirements in the VCD and the Historic District and that Gunnar Drive is not in the Historic District. She suggested that the LeBeau’s speak with Staff regarding changes that they may want to suggest and what may be required.

Jim Phaiah, 24 Gunnar Drive, stated that he is opposed to any change. He is opposed to chicken coops and he stated that the LeBeau’s had put up a pallet fence in the months that they have lived there. He is opposed to changes that would disrupt the quiet neighborhood.

Mr. LeBeau stated that he moved the chicken coop, got rid of the roosters and asked if he could put up a temporary fence. He commented that that there are holes in his shed due to someone shooting beebes at his animals.

VI. Unfinished Business:

a. Reading of Legal Notice:

Jana Roberson read the Legal Notice regarding Application SP19-002 which was published October 4th and 11th, 2019, in in the *Villager* newspaper. She explained that the meeting scheduled for October 15, 2019 had been cancelled due to lack of quorum and that it was tabled to November 6, 2019.

b. **Continued Public Hearings:** None.

c. **New Public Hearings:**

1. **SP 19-002 – Special Permit**, Mark Olivo, 49 Pomfret Road, New Construction and Multiple Uses in Village Center including commercial agriculture, retail, duplex dwelling, education center (a.k.a. Farmstead Project).

Paul Archer, Archer Surveying represented the Applicant (Mark Olivo was present) and gave an overview:

- Revised plans (dated October 9, 2019) had been provided to Commission Members.
- He said that they had been before the PZC a couple of times and had received comments.
- IWWC and NDDH approvals have been received.
- Mr. Olivo had provided information regarding what the buildings are to look like.
- Comments from the Regional Engineer, Syl Pauley, had been addressed.

Ms. Sigfridson stated that the illustration of the proposed house had been reviewed during the preliminary discussion.

J. D'Agostino asked about Syl Pauley's comments being addressed. Ms. Roberson explained that Mr. Pauley had reviewed an earlier set of plans and provided a 3-page memo of comments on September 20th. Mr. Pauley reviewed the revised plans on and Ms. Roberson read aloud from an e-mail that she had received from Mr. Pauley on October 21, 2019, stating that his concerns had been addressed.

Mr. D'Agostino asked about the questions raised by Jim Larkin (memo dated October 11, 2019). Mr. Archer stated that he did not have comments from Mr. Larkin. Ms. Roberson reported that she and Mr. Larkin had discussed the whole project, including the design. It is new construction and they both found the project to be very consistent with the design standards for new construction in the VCD. She explained that the only concern has to do with the lack of specification on materials which, she explained, is hard to do at this stage.

Mr. D'Agostino stated that he had been, at a previous meeting, in favor of having an architectural design review and was voted down by the Commission and he stated that Mr. Larkin noted six items that the PZC should be concerned about and the Commission does not have something, in writing, stating that Mr. Larkin is okay with this. He feels that the Commission is in an awkward position and he does not feel comfortable with having to make a decision and he asked that his concern for the Commission being put in this position be noted in the minutes of this meeting. Mr. Archer consulted with Mr. Olivo and stated that Mr. Olivo has no problem working with the Ms. Roberson and Mr. Larkin regarding the materials. Mr. D'Agostino expressed concern for Route 169/Pomfret Pike. Ms. Kelleher expressed that her understanding was that a design review would be done by Ms. Roberson in consultation with Mr. Larkin, not by an architect.

Ms. Roberson reported:

- Mr. Olivo had submitted a very complete application which had some deficiencies with the plan, at first, but those were addressed. Photos and architectural renderings were provided.
- Mr. Olivo came before the PZC for a pre-application conference.
- This proposal is consistent with the design standards of the Village Center Zone both in use and design.
- There is no requirement that he provide a materials specification on anything that is not a hard and fast requirement.

- Mr. Olivo has done better than many other applicants in providing a very clear description (visually and in text) of his proposal which is complex (an historical development combining a lot of land uses).
- The proposal is consistent with what is described in the POCD for this part of Town.
- The proposal mimics the Town's historical standards (varied land use).
- The design is compatible with the Town's design guidelines.

Ms. Sigfridson commented that the Commission could place conditions on approval, if appropriate. Mr. D'Agostino stated that there are six unanswered questions and he would not add them as conditions. A. Fitzgerald commented that Mr. Larkin asks the questions, but does not give any guidelines for the Applicant to follow. Ms. Sigfridson stated that he is curious.

Mr. D'Agostino commented that the Commission is asked to do something, but not given the information needed to act.

Mark LeBeau, Gunnar Drive, asked about the educational aspect (bee keeping). Mr. Olivo explained that the educational center would be fee based and will be held in the basement of the house.

Motion was made by A. Tanner to close the public hearing for SP 19-002 – Special Permit, Mark Olivo, 49 Pomfret Road, New Construction and Multiple Uses in Village Center including commercial agriculture, retail, duplex dwelling, education center (a.k.a. Farmstead Project). Second by C. Kelleher. No discussion. Motion carried unanimously (7-0-0).

d. Other Unfinished Business:

1. **SP 19-002 – Special Permit**, Mark Olivo, 49 Pomfret Road, New Construction and Multiple Uses in Village Center including commercial agriculture, retail, duplex dwelling, education center (a.k.a. Farmstead Project).

Motion was made by A. Fitzgerald to approve Application SP 19-002 Special Permit – Mark Olivo, 5 acres, 49 Pomfret Road (Assessor's Map 25, Lot 16), New construction and multiple uses in the Village Center including commercial agriculture, retail, duplex dwelling, education center (a.k.a. Farmstead Project), with the finding that the design is consistent with the design standards for the Village Center Zone. Second by E. Starks.

Discussion:

M. Sigfridson stated that she was going to vote in favor because a clear record had been made that there are not any inconsistencies with the design standards and it is an exciting project.

Motion carried unanimously (6-0-1). C. Sczuroski abstained because he felt that he had not had time to prepare adequately to make a decision.

VII. New Business:

a. Applications:

1. **SPG 19-003 Gravel Special Permit**, Strategic Commercial Realty, Inc., d/b/a Rawson Materials, 30 acres on south side of Maynard Road (Map 29, Lot 5) in the RA Zone; Excavation of approximately 1.2 million cubic yards of sand and gravel.

Attorney Harry Heller, 736 Route 32, Uncasville, CT, represented the Applicant (not present). David Held, the Design Engineer, with Provost & Rovero, was also present.

Attorney Heller stated the following:

- The property is in close proximity to the Canterbury townline.
- All material excavated from the site to be hauled to Laframboise, in Canterbury, for processing.

Attorney Heller explained that he is hesitant to provide any information, outside the public hearing record, beyond what was provided in the Application. He cautioned that anything that is evidence should not be discussed until the public hearing is opened. He said that a public hearing had not been noticed yet.

J. Roberson stated that Attorney Heller's comments are taken under advisement and she referred to, and read from, Section 5.8 (Special Permits) of the Zoning Regulations which allows, by a majority vote of the Commission, to require an applicant to provide an environmental impact statement. Ms. Roberson has submitted a Natural Diversity Database Request for this property and she has spoken with Dawn McKay (DEEP) who confirmed that there are endangered species on the property. Ms. McKay will be sending a letter to Ms. Roberson tomorrow stating that the proposal is likely to create adverse impacts to the listed species. Due to the scale of the 1.2 million cubic yards of material proposed to be removed from a 30-acre site, Ms. Roberson asked that the Commission consider the need for an environmental impact statement and to also consider the need for a supplemental consultant to provide environmental expertise in reviewing this application including a hydrogeologist and/or a herpetologist. This is in accordance with Fee Ordinance (Section 20-1.3.b.). Ms. Roberson read from the Ordinance. Ms. Roberson stated that the IWWC will be engaging a hydrogeologist for this project (close proximity to the Quinebaug River and there are wetlands on site).

Attorney Heller stated that the Applicant has already agreed to pay for the hydrogeologist and proposal have been submitted, so that information will be available to the PZC.

Ms. Sigfridson asked if the Applicant has taken a position on the possibility of a requirement of an environmental impact statement. Attorney Heller explained that they do not believe it is necessary, but if the Commission requires it, they will provide it.

Mr. Sigfridson explained that this Application will be heard/considered based on the previous Zoning Regulations as it was received before the new/current Regulations were adopted.

David Held asked, for clarity, on whether the Applicant or the PZC hires the consultant. Ms. Roberson explained that the PZC would hire the consultant and the Applicant would pay for it.

Ms. Roberson read from Section 5.8.2.3. She noted that the IWWC is not allowed to consider items like wildlife habitat because they are strictly relegated to examining impacts to wetlands. The PZC may look at impacts to wildlife and wildlife habitat. She suggested that the Commission consider the potential need for a herpetologist with experience in the specific species listed on site. Attorney Heller stated disagreement with the Commission considering information contained in the letter prior to the opening the public hearing. There was discussion regarding timeline and that the species have not been identified yet.

J. D'Agostino and Ms. Sigfridson stated agreement with Ms. Roberson regarding the environmental impact statement. A. Tanner stated that he is hesitant to require something when there is no information as to whether there is something there.

J. Roberson read aloud Section 5.8 in its entirety (previous Regulations). Ms. Roberson noted that there is publicly available information and she suggested that the Commission enquire of the Applicant's representatives information such as wildlife, terrain, geology, describe the wetlands, describe the slopes, natural diversity, and entries. M. Sigfridson voiced concern for soliciting additional information beyond what was included in the Application.

J. D'Agostino commented that the Commission needs to stand by its Regulations to protect the Town.

Motion was made by J. D'Agostino to require that the Applicant regarding SPG 19-003 Gravel Special Permit, Strategic Commercial Realty d/b/a Rawson Materials, 30 acres on south side of Maynard Road, removal of 1,205,000 cubic yards of material provide an Environmental Impact Statement in accordance with Sec. 5.8 of the Zoning Regulations and, absent of any information coming forth from Sec. 5.8, the following concerns to be addressed:

- Possible impacts on the Quinnepiac (Quinebaug) River and adjacent wetlands;
- Erosion and sediment controls;
- Storm water management;
- Impacts on hydrology of the site which is archeological significance, fisheries, wildlife and plants;
- Traffic and safety issues.

There was no second to the motion. Motion failed. There was discussion.

Ms. Sigfridson noted that 1.2 million cubic yards of sand and gravel is a scale that warrants the PZC to consider the items discussed. She explained that she has reservations about requiring a herpetologist at this point, but not as to the need to gather the information.

Mr. Tanner commented that this may be his last meeting with the Commission, so he has reservations about giving his opinion.

A. Fitzgerald commented that he feels the study is needed, but had questions regarding the timeline. It was explained that the public hearing must be opened by December 19, 2019, and extension would be at the discretion of the Applicant. Ms. Sigfridson noted that four Members of the Commission were in agreement regarding the need for an Environmental Impact Statement. Discussion ensued. Ms. Sigfridson asked who would review the environmental information provided by the Applicant. Ms. Roberson explained that it would be herself, Margaret Washburn (Wetlands Agent) and the Town Engineer. Ms. Roberson, in consultation with the Wetlands Agent, has determined the need for assistance from one or more third party consultants (hydrogeologist and herpetologist) due the specialized nature of the site and the proposal. Mr. D'Agostino voiced agreement with Ms. Roberson.

Attorney Heller explained that it is premature to be hiring consultants to evaluate information that the Commission is asking for tonight that there has not been an opportunity to discuss and begin to assimilate that information. He said that if the Commission requires an environmental evaluation, it will be provided before the public hearing starts and, based on the quality of that information and the issues that it presents, the Commission then has the opportunity to hire professional consultants, if needed, to evaluate it (as allowed under the Regulations). Attorney Heller stated that an engineering analysis of the site has been done and he has looked at the National Diversity Database Mapping and that it shows that there may be endangered species or species of special concern on the site.

Ms. Sigfridson clarified that there are two issues for the Commission to consider:

- Whether to require the information (Environmental Impact Statement);
- Whether to require the Applicant to pay for a consultant to review it.

Discussion continued. Ms. Roberson read from the Town Ordinance regarding hiring a consultant.

Motion was made by A. Fitzgerald to require that the Applicant regarding SPG 19-003 Gravel Special Permit, Strategic Commercial Realty d/b/a Rawson Materials, 30 acres on south side of Maynard Road, removal of 1,205,000 cubic yards of material provide an Environmental Impact Statement in accordance with Sec. 5.8 of the Zoning Regulations. Second by C. Sczuroska.

Discussion: M. Sigfridson commented that the additional items in the motion that Mr. D'Agostino had made are covered under Section 5.8 of the Zoning Regulations. Applicant is aware that the more information they provide, the better off they are going to be.
Motion carried (6-0-1). A. Tanner abstained.

There was discussion regarding timeline and which date would be best (December 4, 2019 vs. December 14, 2019) to schedule a public hearing.

Motion was made by J. D'Agostino to schedule a public hearing for SPG 19-003 Gravel Special Permit – Strategic Commercial Realty d/b/a Rawson Materials, 30 acres on south side of Maynard Road, removal of 1,205,000 cubic yards of material for a regular meeting of the Planning and Zoning Commission to be held on Tuesday, December 17, 2019, 6:30 p.m., in the Clifford B. Green Meeting Center, 69 South Main Street, Brooklyn, CT. Second by A. Fitzgerald. Motion carried unanimously (7-0-0).

2. **SPG 19-004 Gravel Special Permit**, Strategic Commercial Realty, Inc. d/b/a Rawson Materials, 200 acres +/- on the south side of Rukstela Road (Map 21, Lot 7; Map 30, Lot 16) in the RA Zone; Excavation of approximately 1.9 million cubic yards of sand and gravel.

Attorney Harry Heller, 736 Route 32, Uncasville, CT, represented the Applicant (not present). David Held, Provost & Rovero, was also present.

Attorney Heller stated the following:

- This site is different than the site previously considered (SPG 19-003) as this is an area that had been previously, actively excavated.
- Excavation ceased a few years ago when a cease and desist order was issued (due to failure to renew their gravel special permit).
- This site is currently, partially excavated and has been disturbed.
- Propose to excavate approximately 1.9 million cubic yards of material which will involve excavation into the water table.
- No truck traffic proposed on Brooklyn roads.
- All material from the site will be hauled from the site over the Pinedale haul road to Laframboise in Canterbury.

Attorney Heller stated that an Environmental Impact Statement had not been done in conjunction with this Application. David Held stated that extensive environmental studies had been done for the Quinebaug Solar Project (a portion of which is on the subject parcel). Ms. Roberson asked what the environmental study identified and Mr. Held answered that it identified a lot of things, but that he would not offer evidence outside of the public hearing. Ms. Roberson stated that it is public information that can be found out on the internet. Ms. Roberson stated that she believes that the project is a scale that warrants an Environmental Impact Statement.

There was discussion and Ms. Sigfridson commented that she doesn't feel that this Application should be treated less stringently than the previously discussed (SPG 19-003).

Mr. D'Agostino asked if any reclamation had been done at the eastern pit. Ms. Roberson answered that her understanding is that no reclamation had been done at the eastern pit. She said that she could not speak for the western pit because she had not been there, but that she is not aware of re-vegetation.

C. Kelleher stated that she does see any reason to handle this Application any differently than SPG 19-003. Mr. D'Agostino agreed.

Motion was made by A. Fitzgerald to require that the Applicant regarding SPG 19-004 Gravel Special Permit, Strategic Commercial Realty d/b/a Rawson Materials, 206 acres on south side of Rukstela Road, removal of 1,945,000 cubic yards of material provide an Environmental Impact Statement in accordance with Sec. 5.8 of the Zoning Regulations. Second by C. Kelleher. Motion carried (6-0-1). A. Tanner abstained.

Motion was made by J. D'Agostino to schedule a public hearing for SPG 19-004 Gravel Special Permit – Strategic Commercial Realty d/b/a Rawson Materials, 206 acres on south side of Rukstela Road, removal of 1,945,000 cubic yards of material for a regular meeting of the Planning and Zoning Commission to be held on Tuesday, December 17, 2019, 6:30 p.m., in the Clifford B. Green Meeting Center, 69 South Main Street, Brooklyn, CT. Second by A. Fitzgerald. Motion carried unanimously (7-0-0).

There was discussion regarding GBR 19-001- Gravel Bank Renewal, Sansoucy Quarries (Paul Sansoucy), 45 acres on east side of Pomfret Road, renewal of 2014 Gravel Special Permit which had been received. There was no representation.

Motion was made by A. Tanner to add Quiet Corner Inn 479 Providence Road to the Agenda as Item VII.b.3. Second by A. Fitzgerald. Motion carried unanimously (7-0-0).

b. Other New Business:

1. Zoning Map Text Corrections

There was discussion regarding Sansoucy Quarries being in the Scenic Overlay Zone. Ms. Roberson explained that it must be within view from the road (Route 169). She referred to the Section, Jurisdictional Boundary Defined. She explained that just operating the quarry, as is, is not subject to any design review for the Zone.

Ms. Roberson will correct a typographical error that had been found on page 44 of the Zoning Regulations. It was decided to keep a list of grammatical errors to be included the next time that there is a public hearing on something of this nature.

Discussion regarding Gunnar Drive:

- C. Kelleher felt that discussion regarding Gunnar Drive should be on the agenda rather coming through public commentary as there may be neighbors who would want to be present. J. D'Agostino and M. Sigfridson agreed.
- Ms. Roberson asked if the Commission would like to put review of the VC Zone Map on the agenda for future discussion. She said that the Commission had discussed Gunnar Drive in the past, but it had been dropped. Ms. Roberson stated that she had discussed the options with Ms. LeBeau who chose, at this time, to bring it up during public commentary to encourage the Commission to look into the changes that had been discussed in the past. Ms. Roberson explained proposed Map changes - Commission generated vs. private petition.

J. D'Agostino, A. Fitzgerald, C. Kelleher and M. Sigfridson stated agreement that changes to Gunnar Drive should be by private petition.

Ms. Roberson stated that Margaret Washburn, ZRO, has a suggestion regarding the new gravel regulations. Ms. Roberson will provide Ms. Washburn's letter to the Commission before the next meeting.

There was discussion regarding the roads within the Fairgrounds which show on the Map. Ms. Roberson will try to block them out.

2. Pierce Memorial Baptist Nursing & Rehabilitation Center

Ms. Roberson provided copies of an e-mail dated October 17, 2019) and a map (page 3 of 5). She also displayed the property on Google Earth and orientated the property.

- Property is in the VC Zone.
- Proposed site improvements may qualify as minor modifications and routine maintenance.
- Site Plan Changes (3 work areas):
 - 1) Create a useable outdoor area for a dementia-safe garden patio which would be visible from the road. Adding a new, stone retaining wall with railing above a locked, secure gate. No change to footprint of the building.
 - 2) Remove existing covered walkway and a new main entrance to be built which will not be visible from the road.
 - 3) Ms. Roberson indicated the location of where they are proposing eleven additional parking spaces on the other side of the gazebo. The architect says not to be visible from the road, however, Ms. Roberson stated that you may be able to see a little bit (part of a car).
- New windows throughout.
- New roof throughout.
- New white vinyl siding on the white house which currently has white aluminum siding.
- Existing trim work to be replaced/repared as necessary to match and paint.

Ms. Roberson feels that these are all good improvements that are all consistent with the design review standards for the Zone.

If the Commission finds that these are minor modifications/routine maintenance, Staff would do the design review.

Motion was made by J. D'Agostino that the proposed landscape modifications presented at the regular meeting of November 6, 2019, of the Brooklyn Planning and Zoning Commission regarding Pierce Memorial Baptist Nursing & Rehabilitation Center be referred to Staff to act in accordance with the Regulations as minor landscape modifications and routine maintenance. Second by A. Fitzgerald.

Discussion: Mr. Sczuroski voiced concern regarding how adding eleven new parking spots could be considered as being minor modification. Ms. Sigfridson and J. Roberson explained Site Plan Review by Staff and determining when visible/not visible from the road. Mr. Sczuroski suggested landscaping/bushes on the other side of the retaining wall. Motion carried unanimously (7-0-0).

3. Quiet Corner Inn, 479 Providence Road

J. Roberson explained that the caretaker's unit is now under construction, but they have having an issue with the siding. They are unable to use Texture -111 due to structural reasons (gap that cannot be rectified) on the outside of the building. They want to change to clapboards in a slightly different color. Eventually, they would like to replace all of the Texture -111 with clapboards. Ms. Roberson stated that this is just a slight change from what had been approved.

Motion was made by J. D'Agostino to approve the modification proposed for Quiet Corner Inn, 479 Providence Road. Second by A. Fitzgerald. Motion carried unanimously (7-0-0).

Mr. D'Agostino asked that discussion and suggestions for the POCD be added to the agenda for the next meeting.

VIII. Reports of Officers and Committees:

1. ZEO's Report (included in packets to Commission Members).
There was discussion regarding chickens at 28 Gunnar Drive (Village Center Zone) and also in other zones. There was discussion regarding non-commercial agriculture in the VC Zone is by site plan review. It is not clear how it is supposed to work, so more clarifying language is needed. There was agreement to put this on the agenda for a future meeting. Ms. Roberson suggested a subcommittee. Ms. Sigfridson stated that she agrees with the way Ms. Washburn is interpreting the current Regulations.
2. Budget Update (included in packets to Commission Members).
A. Tanner asked if Legal Services is because of law suits.
Ms. Roberson reported that the Commission's decision had been reversed regarding FCR Realty. There was discussion regarding renewal.

Ms. Roberson did not have anything to report regarding the lawsuit with Brooklyn Sand & Gravel. There have been requests for additional information which she has provided.

3. Correspondence.
Ms. Roberson provided copies of a letter from the Connecticut Siting Council regarding the Quinebaug Solar, LLC project (dated October 31, 2019) which included a photograph. There was discussion.

Ms. Roberson introduced New Alternate Member, Chuck Sczuroski, who spoke of his background experience that will be helpful as a Member of the Commission.
4. Chairman's Report.
M. Sigfridson stated that the POCD would be on the next agenda.

IX. Public Commentary

C. Kelleher commented that there is not enough parking at Grill 445 on the weekends when it is very busy. The Hostess told her that they would be getting additional parking spaces. Ms. Roberson stated that they had submitted and withdrawn an application to expand parking, but that they are planning to submit another application.

A.J. Kerouac:

- Stated that the majority of the solar panels for the Quinebaug Solar, LLC project would be in Brooklyn.
- He asked about a log of reasons for abstentions.
- He cautioned that the Commission to keep a broad view (thinking to the future) regarding rehashing regulations/maps that the Commission had spent hours developing. He said that the easiest solution may not be the best.

X. Adjourn

The meeting adjourned at 9:26 p.m.

Respectfully submitted,

J.S. Perreault
Recording Secretary