

**TOWN OF BROOKLYN
PLANNING AND ZONING COMMISSION
Regular Meeting
Wednesday, April 7, 2021
6:30 p.m.**

To join this hearing via the web or phone, follow the below instructions:	
Web Go to www.webex.com Click sign in On the top right, click Join a Meeting Enter meeting ID: 126 815 8731 Enter meeting password: First	Phone Dial 1-415-655-0001 Enter meeting number: 126 815 8731 Enter meeting password: 34778 You can bypass attendee number by pressing #

MINUTES

I. Call to Order – Michelle Sigfridson, Chair, called the meeting to order at 6:31 p.m.

II. Roll Call – Carlene Kelleher, Austin Tanner, Earl Starks, Allen Fitzgerald, Charles Sczuroski, John Haefele, Seth Pember, Jimmy Thayer, Michelle Sigfridson.

Staff Present: Jana Roberson, Director of Community Development; Richard Ives, First Selectman and ex officio Member of the Planning and Zoning Commission; Lou Brodeur, Selectman.

Also Present: Mike Cristina; Norm Thibeault, Killingly Engineering Associates; Kari Olson, Murtha Cullina; Jenn Nemeth; Paul Lehto; Richard Klingensmith; Sandy Brodeur.

III. Seating of Alternates

All three new Alternate Members have been sworn in.

Motion was made by A. Tanner to seat Alternates Jimmy Thayer and Seth Pember as Voting Members for this meeting. Second by A. Fitzgerald. No discussion.
Motion carried unanimously by voice vote (6-0-0).

There was discussion regarding when to appoint two of the Alternate Members as Regular Members. Ms. Roberson suggested that it may be best for the Commission to continue to appoint Alternates as needed for the next few meetings.

IV. Adoption of Minutes: Regular Meeting March 3, 2021

Motion was made by C. Kelleher to approve the Minutes of the Regular Meeting of March 3, 2021. Second by A. Tanner. No discussion.

Roll Call Vote: A. Tanner – yes; C. Kelleher – yes; E. Starks – yes; C. Sczuroski – yes; A. Fitzgerald – yes; S. Pember – yes; J. Thayer – yes; M. Sigfridson – yes.

Motion carried unanimously (8-0-0).

V. Public Commentary

Mike Cristina asked for direction from the Commission regarding a project that had been approved in December of 2006 for six residential units at 911 Robin Way. Two were built and people live in them.

Mr. Christina stated the following regarding the other four units:

- Foundations were put in, but the buildings were never built.

- The septic tanks, underground utilities and the well, driveway, slabs for the garage and landscaping are all in. All site work is done.
- He asked whether any of the Commission Members know of the project or if they have any serious reservations about it, or if they think it is a good idea.
- With the exception of a crack here and there, all of the foundations are okay.
- The leech fields have not been installed. He has contacted NDDH and he sees no problem with their approval, pending some new text holes and a little rearrangement of the systems.
- It was approved by IWWC and he is not sure if he would need to go back before them because there will not be any disturbance in the wetlands.
- He would like to present the original plans that were presented in 2006 with no changes and have the approval renewed so he can build the last four units on the foundations.

Mr. Christina does not know if it was originally intended to be a condominium project. It is one lot (23 acres). Right now, it is three duplexes (one completed and two foundations with slabs for the garage). He said that at this time, it is not intended to be condos. He explained that it is like individual units attached by a garage. When asked if this could be considered affordable housing, Mr. Cristina said that he did not know.

Ms. Sigfridson noted that there have been changes to the Regulations since the 2006 approval. Mr. Cristina stated that the foundations were already in the ground. Ms. Roberson commented that this is an informal discussion about something that was approved in the past and those permit have expired. She said that Mr. Cristina is willing to apply for approval as a multi-family development. She said that there isn't anything that was identified that would lead us to think that they couldn't comply with the new Regulations. She said that you can't see it from the road.

Ms. Kelleher stated that if the application is in conformance with the current Regulations, there would be no reason for the Commission not to consider it. Ms. Sigfridson agreed.

Mr. Cristina stated that he would proceed and he will stay in contact with Ms. Roberson.

VI. Unfinished Business:

- a. Reading of Legal Notice:** None.
- b. New Public Hearings:** None.
- c. Continued Public Hearings:** None.
- d. Other Unfinished Business:**
 - SD 20-003 & SD 20-004** – Proposal to extend the subdivision filing deadline an additional 90 days (Applicant: David and Nancy Bell, Church Street and Prince Hill Road subdivisions). **See Agenda Item VI.d.2.**
 - SD 20-005** – Proposal to extend the subdivision filing deadline an additional 90 days (Applicant: VBL Properties, LLC, Beecher Road subdivision).

Motion was made by C. Kelleher to extend the filing deadline an additional 90 days for the following subdivisions: SD 20-003; SD 20-004; and SD 20-005. Second by A. Tanner.

Discussion: J. Roberson explained the process for extension for the three new Members.

Roll Call Vote: C. Kelleher – yes; A. Tanner – yes; E. Starks – yes; A. Fitzgerald – yes; C. Sczuroska – yes; S. Pember – yes; J. Thayer – abstained; M. Sigfridson – yes.

Motion carried (7-0-1).

VII. New Business:

a. Applications:

1. **GBR 21-001** – Application to renew **SPG 19-001 Gravel Special Permit** - HM & E Co, LLC/Applicant, E. Arters/Owner, 120 acres, 291 Canterbury Road (Assessor's Map 23, Lot 1; Map 22 Lot 1-2; Map 22, Lot 1-4), Phased excavation of approximately 20,000 cubic yards of rock.

Norm Thibeault, Killingly Engineering Associates, represented the Applicant and gave an overview:

- This project was approved in 2019.
- Set back on the property with access from Route 169.
- Small operation - mine 1,200 to 1,500 tons of rock per year (typically less than 1,000 c.y. per year).
- They blast once or twice per year. They only cut the slope back from 4-6 feet back at any one particular time. All splitting of rock is done by hand and stacked on pallets and removed from the site.
- There was very little activity on the site last year (less than 400 or 500 tons total).
- Things are picking up and they have some high-quality blue stone which is in demand.
- They do not anticipate increasing production with renewal of the permit. 1,200 to 1,500 tons per year usually results in two-to-three trucks per week.
- They are open to scheduling a site walk.

Ms. Roberson explained that there is at least one wetlands crossing and work in near proximity to wetlands, therefore, she would like to go on a site walk with Margaret Washburn. She recommends that no action be taken by the PZC until after the site walk. She noted that all permits are allowed to continue until the Governor's Executive Order ends.

Mr. Thibeault stated that there is a wetlands permit currently in place that was obtained in 2019. There are three years left on the existing permit.

A. Tanner, A. Fitzgerald, C. Kelleher and E. Starks stated that they do not feel there is a need to go on a site walk.

Mr. Thibeault explained about how they blast using a drill and split procedure.

Ms. Roberson stated that the Commission should be able to take action by the May meeting. She wants to confirm that the site conditions are as they should be.

Ms. Roberson will contact Mr. Thibeault to schedule the site walk.

2. **Request for Waiver of Special Permit Requirement as per Sec. 4.D.6.4.c - 17 South Main St., Requestor: JMN Properties, LLC, d.b.a. The Ice Box, proposed restaurant (fast food) in existing building.**

Kari Olson, Land Use Attorney with Murtha Cullina, represented the Applicant. Jenn Nemeth, owner of 17 South Main Street, was also present.

Attorney Olson explained the following:

- The Applicant is seeking a waiver of the Special Permit requirements pursuant to Section 4.D.6.4.c. of the Regulations, specifically because the

development is not significant and is not likely to have more than a negligible impact on traffic, the neighborhood or the environment.

- A cover letter was submitted with the Application that outlines the history of the property along with attachments that show what has transpired since last June. The Nemeths were granted a waiver of special permit to create an outdoor dining area as well as a connection for the decking/outdoor dining area between the existing bake shop and the Ice Box.
- Part of the application included actual floor plans and what the former bake shop was going to be used for. She said that the Nemeths understood that everything was okay and went ahead and got a permit for the cooking facilities so they could change if from producing baked goods to producing fast food. When they asked for a Certificate of Occupancy and inspection of the improvements, it was asserted that they needed a special permit in order to go forward.
- Based on Section 4.D.6.4.c., the criteria that the Commission needs to consider is whether it is significant:
 - 1) The bake shop was always used for producing baked goods for retail/consumption. The change in food type is not a change in the use, therefore, there is really no “development.”
 - 2) Maintaining footprint.
 - 3) Maintaining the use.
 - 4) They have sufficient parking.
 - 5) Their position is that there would be no more than a negligible impact on traffic and that they could accommodate both outdoor consumption of the food products as well as parking from the anticipated consumers.
 - 6) No impact on the neighborhood or the environment.
 - 7) This has always been, by definition of the Regulations, a fast food establishment.
- One parking space in front of the former bake shop has caused some argument with the Fire Department. The parking space has been used since the early 1990’s without posing a problem. Two-thirds of the parking space is within the actual deeded property rights of the Nemeths. One-third of the parking space is within the right-of-way that is shared by the Fire Department, the Nemeths and the Hair Salon. The Nemeths, who have a \$200,000 investment and are unable to get the final inspection, are willing to forego using that parking space for the foreseeable future. She said they provided a site plan with the parking space crosshatched. Attorney Olson added that the Nemeths own most of that parking space and their position is that they have deeded rights and/or prescriptive rights to be using that parking space and they are willing to forego that (they are willing to stripe it and have it be a “No Parking” space for purposes of this waiver and approval), but without waiving any property rights that they might have as well as any rights in the future, should circumstances change, to come back before the PZC to be allowed to use that parking space should circumstances warrant it. They understand that as long as the Fire Department is there, that they will not be using that parking space.
- Attorney Olson stated that she had submitted a lot of information regarding the history of the property.

There was discussion regarding traffic count. Attorney Olson did not know the traffic count previously or now. She stated that the parking on site meets the Town’s Regulatory requirements.

Ms. Kelleher stated that her packet did not include information on the history of the property. She does not think that the last use of the building was for fast food and she does not think that there were baked goods, but rather party supplies and baking accessories for making cakes. Attorney Olson stated that there were baked goods both baked and sold over the counter and that there was a kitchen to create those baked goods. She said it was taxed and denoted as retail under the Regulations.

Ms. Roberson stated that it was a store and the full name was Ice Box Plus Cake and Party Store. She explained that Staff had brought this up with the Applicant. Staff also contests the use as pre-existing and that it is not anyone's recollection that it was a bakery or that baked goods were sold over the counter. Fast food restaurants are permitted uses in this zone, so there is no reason why a fast food restaurant couldn't be permitted now. Therefore, it is not necessary to discuss some sort of grandfathering of a pre-existing use. It is her understanding that the use that is proposed meets the definition.

Mr. Ives stated that he doesn't think that there is anyone who wouldn't like to see the Nemeths open this store and he feels it will be great for Brooklyn. However, he stated that he is surprised that the reason for a waiver is because of no change in existing conditions. To the best of his knowledge, the store never sold baked goods and he stated that his family had owned a video store in that location.

Ms. Sigfridson stated that since whether or not baked goods had been sold there in the past does not require any further discussion, she asked that the Commission focus on determining whether to grant the request for a waiver.

There was discussion about what had happened regarding the building permit that had been issued, in error, by the Building Official. Ms. Roberson stated that the PZC had granted a special permit waiver of the setback for the deck. Ms. Roberson referred to a letter from Attorney Olson addressed to the PZC, which was included in packets to Commission Members as well as a site plan. Ms. Roberson explained that there were two other letters submitted from Attorney Olson (addressed to other people) that were not contemporaneous to this Application which were not included in packets to Commission Members. Ms. Roberson offered to forward those two letters to Commission Members. She explained that the two letters predated this Application and were regarding background information relevant to a building permit that was accidentally/prematurely issued. Ms. Roberson stated that there are criteria in the Regulations whereby the PZC can use choose to use its discretionary authority to waive a special permit requirement. She explained that if the Commission grants the waiver the Application to create a fast food establishment in the old Ice Box Plus building (western most building on the property) it would be a site plan review application. She further explained that the only criteria applicable to this situation is that it be found to not be a significant change and it is not likely to have more than a negligible impact on the neighborhood or the environment. Ms. Roberson noted the following: In this case, they are not adding any new buildings; they have already added a deck (for which they had been granted permission); they are using a currently underutilized building on the main strip and there are not many reasons why the Town would object to that; there could be discussion about the site plan; most of us are aware of the contentious relationship with the Owners of the access.

Ms. Roberson explained that if the waiver is not granted, it becomes a special permit application which is more time consuming and includes a mandatory public hearing which has to be duly noted, additional fee of \$100 and there is a recording requirement after approval. If the waiver is granted it becomes a site plan review application and the PZC only has to look at the criteria in the Zoning Regulations, no discretionary authority (cannot approve with conditions), and it is less time consuming.

Attorney Olson responded by explaining that her only point regarding the pre-existing nature of the building was that that the development is not significant. She said that it is not a condition of granting the waiver. Secondly, she asked that the information that she had submitted with the Application (the two letters referred to in her cover letter as exhibits which were discussed earlier regarding the background/history of the building) that had not been provided to the Commission Members be provided to them and be made part of the Record. Attorney Olson stated that the letters were meant to give the background/history:

- Deck addition was approved
- Building Official agreed and issued building permits
- Nemeths spent nearly \$200,000 improving the kitchen
- Nemeths were told that they need a special permit
- Building permits (after the fact) were revoked
- They feel strongly that they meet the criteria for a waiver

Ms. Roberson stated that one letter (with attachments) was dated January 21st to Margaret Washburn (ZEO) and the other was dated February 2nd to John Berard (Building Official). Ms. Roberson stated that they are part of the Record and that she will forward them to Commission Members. Ms. Roberson explained that she had considered them to be background to the Zoning Permit and she stated that this discussion is regarding Commission approval (not a zoning permit and not a building permit).

There was discussion regarding the parking space and Attorney Olson explained that there is concern regarding the money spent and delays and she explained the Nemeth's position that they don't feel that it is a public safety issue and they don't feel that the PZC should deny them their parking space, but if the PZC feels it is a safety hazard and objects to the approval of the waiver, they have offered, for the purposes of waiver and site plan approval, that they would forego the former parking space which has been used for decades. She said that the Fire Department has been there since 2003 and there has never been an issue and that this is more of a private dispute than a public safety issue. The caveat is that they are not waiving their property rights or their right to come back before the PZC in the future to use that parking space if circumstances should change.

There was discussion regarding whether the Application, as submitted, includes parking in that space. Attorney Olson stated that the site plan proposes cross-hatching over that parking space, for it to be deemed "no parking." She stated that the decision of the PZC should not be based on objections from a neighbor on an unrelated boundary dispute. Mr. Fitzgerald stated that the site plan shows cross-hatching over the parking space as a fire lane (page 30 in the packet). With regard to the parking space, Ms. Roberson stated, for the record, that the PZC does not and cannot approve parking areas that are not on the subject parcel. She does not want to give the misconception that the PZC has approved something that is on someone else's land. In her estimation, without even counting any of the parking spaces in

front of the building, they can meet the parking requirements for both establishments in the rear. Discussion continued. Attorney Olson explained that the 1/3 of the parking space is within the Nemeth's deeded right-of-way which is shared and it is a parking space which pre-exists. They are not asking the PZC to approve a new parking space. This would be taking away a parking space which they feel that they have a right to use this pre-existing parking space, which they will give up (with the caveat) for the purposes of this approval. Attorney Olson stated that the PZC would not be approving a parking space on someone else's property.

Ms. Kelleher stated that she does not feel that there is a particular benefit in going through a public hearing. She said that everyone seems to be pleased with the businesses there and she thinks that it has been well-received within the community.

Motion was made by C. Kelleher to approve the request from JMN Properties, LLC to waive the Special Permit requirement at 17 South Main Street (Assessor's Map 41, Lot 104) with the finding that the development is not significant and is not likely to have more than a negligible impact on the neighborhood or the environment. Second by A. Fitzgerald.

Discussion:

Mr. Tanner stated that he has bought cakes and chocolates there. He stated disagreement with Ms. Roberson's statement that the PZC does not approve parking spaces. He said that they have to approve them if they have a right-of-way or deed restriction.

Ms. Roberson stated that it comes down to the language of that access easement, for which a copy has not been provided.

A. Fitzgerald commented that he feels the problem started with the Building Official issuing the building permit. He asked if this problem has been fixed.

R. Ives explained that there was miscommunication, that it has been discussed. He apologized that it happened and said that they will try not to allow this to happen again. He feels it is good to allow the waiver and to move forward.

M. Sigfridson noted that the Application would have needed to come before the PZC even if the building permit had not been issued (it would have just been before the investment of time and money was made). Ms. Sigfridson stated that she also supports the waiver as she does not think that this is a significant development considering they are operating within the same footprint and she does not expect that the use that they are proposing (whether or not it poses the same definition of previous uses) will be much more significant or have a greater impact on the neighborhood.

Roll Call Vote: A. Tanner – yes; E. Starks – yes; A. Fitzgerald – yes; C. Sczuroski – abstained; S. Pember – yes; J. Thayer – yes; C. Kelleher – yes; M. Sigfridson – yes.

Motion carried (7-0-1).

3. **(if waiver is approved) SPR 21-001** – Site Plan Review for 17 South Main St., Applicant: JMN Properties, LLC, d.b.a. The Ice Box, proposed restaurant (fast food) in existing building.

M. Sigfridson noted that the site plan was included in packets to Commission Members and stated that this has been discussed quite a bit and she asked if there are more particulars about the plan to be discussed.

Attorney Kari Olson stated that the only difference between this site plan and the one approved in June 2020 is the cross-hatched parking space and the absolute notation of the building being a fast food restaurant. Ms. Sigfridson stated that she was on the PZC in June of 2020, and that she does not recall any discussion about a

restaurant being put in this building at that time, certainly not in detail. They discussed the deck and where it was going to be placed. She stated that the Commission may need to take more time to look at the plan. Attorney Olson referred to the information that had been included with her cover letter that had not been included in packets to Commission Members. Ms. Roberson explained that there were three letters (one which was included in packets, two that she referenced and a single plan). Ms. Roberson stated that she is not comparing the plan side-by-side to the plan that was submitted last March about the deck. Ms. Roberson stated that it had been very clearly stated on the record and as part of the application that it was only about the deck. She said that it is irrelevant because we are here today looking at a site plan for an allowable use in our highest development area in Town. She said that the Commission Members are free to take action on the plan before them. C. Sczuroski stated that he was also on the Commission in June 2020, and that he was at that meeting, and he stated agreement with Ms. Sigfridson and Ms. Roberson. He said this is the first he's heard about it.

Ms. Sigfridson asked, for the purpose of keeping a clear Record, that either Attorney Olson or the Owners give an overview of the intended use for the building. Attorney Olson explained that it is fast food/street food that would be complimentary to the ice cream being produced next door. Jenn Nemeth explained that everything is served to go in to-go containers, whether they leave the building with it or eat it on the premises (on the deck or on the few tables that they have inside). Ms. Nemeth described the food as including soups, sandwiches, salads, easy light fair so that they will still be hungry for ice cream.

There were no further questions or comments.

Motion was made by A. Tanner to approve the Site Plan Review application of Matthew and Jennifer Nemeth for a fast-food restaurant in an existing building (formerly Ice Box Plus – Cake and Party Store) at 17 South Main Street (Map 41, Lot 104), identified in the files of the Brooklyn Land Use Office as SPR 21-001, in accordance with all final documents and testimony with the finding that it is consistent with the Zoning Regulations, except as waived, and the site plan objectives. Second by A. Fitzgerald.

Discussion:

M. Sigfridson stated, for clarity of the Record, that regarding the parking spot, the site plan that she was looking at shows the 1/3 that extends into the right-of-way cross-hatched, so her understanding is that the intent is not to use at least that portion of the parking spot.

R. Ives asked if 1/3 is cross-hatched or if the whole parking space is cross-hatched because it is his understanding that the whole parking space was cross-hatched.

Attorney Olson stated that she did not have the corrected site plan in front of her, but even if they were to cross-hatch 1/3 of it, they would not be able to use the balance of it.

Mr. Ives stated that there had been talk about a motorcycle and he wants to get it straight.

Ms. Nemeth stated their intention: If the Commission would like them to not use the parking spot, they would eliminate the spot completely. She said they are willing to give up the entire spot to get approval.

Mr. Ives noted that it had been stated more than once tonight that they were going to cross-hatch the entire spot. He said if that is not the case, we need to know that now. There was discussion regarding that the entire spot is not cross-hatched on the site plan. Ms. Sigfridson explained to Ms. Nemeth that, since this is a site plan review rather than special permit, the Commission does not have the discretion to approve with a condition that the entire spot be cross-hatched, they have to act on the application that is before them. So, it needs to be clear whether the application includes 2/3 of a parking spot or does not include that as a parking spot. Ms. Sigfridson said that her understanding, based on the previous discussion, was that it would not include that as a parking spot.

Attorney Olson said they could have modifications. She said that the point is that the cross-hatching of the 1/3 of that parking space that is within the right-of-way, which is the only area that the Fire Department really has control over, is a compromised position on the Nemeth's part. She said that the Nemeths would like to keep their rights to use that parking space to the extent possible. Based upon an independent determination of the Commission that they should not be allowed to do that, so they are ready and willing to cross-hatch the entire parking space. Attorney Olson stated that this is something that the PZC can approve tonight. She said that it is an insignificant modification.

Ms. Sigfridson asked what information the Commission has to be able to make that determination based on. She said that she does not know information where she would feel comfortable to say whether they do, or do not, need to cross-hatch the entire parking space. She likes that they were offering to cross-hatch the entire space because she would not need to make that decision.

Attorney Olson stated that they do not believe that it should be required. They were strongly encouraged to give that up in order to get the waiver approved. She said the parking space has been there and has been used for decades without incident. She said that the question of the parking space is a relatively recent argument, being raised by a neighbor, regarding access. The Nemeths have invested a lot of money in this property, they feel it is unfair to have to give up the parking space and they just want to open. Attorney Olson stated that there has been nothing submitted that suggests that there is a problem, but if the PZC feels strongly that they should give up their rights to either the 1/3 that is in the right-of-way or the entire parking space, they stand ready with the caveat that they are not waiving any of their other property rights.

R. Ives stated that Attorney Olson offered the parking spot up at least twice tonight and now the story is changed. She said that the whole thing would be cross-hatched and now the plan does not show that. He asked that we get this straight.

Ms. Roberson restated that nobody should leave this meeting with a misconception that an action by the PZC is going to somehow bless the parking space. She stated, for the Record, that the parking space is not necessary to meet the parking standards in the Brooklyn Zoning Regulations or to get site plan approval. She has not been provided with a copy of the access easement, so she does not know if it allows parking. She speculates that it is a driveway for a Fire Department and parking in that access would probably be a long shot. She said that way too much is being made of this 1/3 or 2/3 of a parking space.

M. Sigfridson stated that she does not have an opinion, but would like to know which it is going to be. She asked Ms. Roberson if it is not appropriate to only cross-hatch what is not within their lot. Ms. Roberson stated that she feels that it should not even be shown as a parking space. So, if they were to hatch it out and agree to discourage customers from parking there, she does not believe there is any issue with it. She said that it is wrong for anyone to suggest that the PZC is somehow making a deal about a parking space. It is a mischaracterization of their authority to suggest that they would trade a parking space for site plan approval. She stated that a parking space that does not meet our dimensional requirements is not something that this Board can approve and we have yet to see the language of the access easement which would somehow grant them permission to park there. Ms. Sigfridson stated that she, personally, would feel more comfortable if the site plan were modified to show cross-hatching on the entire spot. She asked what the procedure would be to make that happen, if the Applicant is amenable to that. E. Starks agreed. Ms. Sigfridson asked whether the PZC has the authority to approve a parking space that is 2/3 the typical size.

Attorney Olson stated that their position is that the PZC is not technically approving a parking space that already exists. She stated that they never wanted to make this about a parking space and that the Nemeths unequivocally are willing to cross-hatch the entire parking space if the PZC deems that it is necessary to approve the site plan. It is a minor modification. It is not a condition of approval. The

General Statutes allow minor modifications to the site plan. She stated that she wants to go on Record that they were told that the parking space was an issue and that is the only reason that it came up. She said that they are trying to be responsive and they are trying to get this approved so the Nemeths can move forward.

Motion was made by A. Tanner to amend his motion to approve the Site Plan Review application of Matthew and Jennifer Nemeth for a fast-food restaurant in an existing building (formerly Ice Box Plus – Cake and Party Store) at 17 South Main Street (Map 41, Lot 104), identified in the files of the Brooklyn Land Use Office as SPR 21-001, in accordance with all final documents and testimony with the finding that it is consistent with the Zoning Regulations, except as waived, and the site plan objectives to include the following language:

Adjusting the site plan review to have entire parking place cross-hatched without giving up the rights as were stated previously. Second by J. Thayer.

Discussion:

M. Sigfridson stated that she feels more comfortable with the language added in the amendment to the motion.

#5 - Roll Call Vote on the Amendment: E. Starks – yes; A. Fitzgerald – yes; C. Sczuroski – yes; J. Thayer – yes; S. Pember – yes; C. Kelleher – yes; A. Tanner – yes; M. Sigfridson – yes.
Motion carried unanimously (8-0-0).

#6 - Roll Call Vote on the Main Motion As Amended: A. Fitzgerald – yes; C. Sczuroski – abstained; J. Thayer – yes; S. Pember – yes; C. Kelleher – yes; A. Tanner – yes; E. Starks – yes; M. Sigfridson – yes. Motion carried (7-0-1).

b. Other New Business:

1. **Enforcement SPG 20-001:** Cease & Desist Order (C&DO) issued to Paul Lehto for violations of the Gravel Special Permit conditions, scheduling of hearing as per Sec. 9.D.8.5 of the Zoning Regulations.

The Cease & Desist Order dated March 31, 2021, was included in packets to Commission Members.

J. Roberson explained that she and Margaret Washburn had visited the property with the permission of the Owner:

- Work was conducted before the bond was issued
- There was work conducted that was not detailed in the permit at all
- Wetlands enforcement action is underway
- Because of the extent of the activity and because it is a special permit, it was suggested that the PZC may hold a public hearing - Regulations Section 9.D.8.5. Ms. Roberson read the Section aloud.

Paul Lehto explained that the operator, Richard Klingensmith, was not aware of the rules. He said that his contract with Mr. Klingensmith clearly states that he is to follow all of the rules for gravel extraction in Brooklyn. Mr. Lehto stated that Mr. Klingensmith stayed in contact with the Zoning Office, but did not receive any guidance. He said that Mr. Klingensmith was naive to the process.

Richard Klingensmith stated that when he met with Mr. Lehto in November he was not aware of the rules. He said that he got the rules in January or February when he met with Ms. Roberson.

Mr. Fitzgerald noted that it is up to the owner/operator to know the conditions of your permit.

Ms. Roberson stated that the original permit was issued in September 2020. She said that she spoke with Mr. Klingensmith for the first time in December 2020 and she sent him the approval letter with all of the conditions on December 7, 2020. Mr. Lehto is the permittee.

There was discussion regarding why the bond was not posted. It is Mr. Lehto's responsibility to make sure that the bond is posted. Mr. Lehto stated that it is in his contract with Mr. Klingensmith that it is Mr. Klingensmith's responsibility to place the bond. Ms. Sigfridson clarified that whatever contract that exists between Mr. Lehto and Mr. Klingensmith is between them and that the Commission's issue is with Mr. Lehto because he is the permittee. Mr. Lehto explained that it is impossible to get the bond for this particular piece because of the way it was written. He said that five different bond companies rejected it. He said that he directed Mr. Klingensmith to put up a cash bond and that he wasn't supposed to start work until everything was settled with the Town.

Mr. Ives stated that he has met with Ms. Washburn and Ms. Roberson who expressed their displeasure regarding this situation. Mr. Ives stated that the permit is with Mr. Lehto, so he believes that the Commission should be look to Mr. Lehto to make sure that it is done. Mr. Ives consulted with Town Attorney, Peter Alter who suggests to have a public hearing to get answers. Mr. Lehto stated that his answer is that nobody was supposed to start work until the bond was met and all the conditions that the permit requires.

Ms. Sigfridson stated that the question is how to rectify the situation and the suggestion is to hold a hearing to consider revoking the permit since Mr. Lehto has acknowledged that work has commenced when it should not have. She asked the Commission if they think that is a good idea. Mr. Tanner and Mr. Fitzgerald expressed agreement with holding a hearing.

Motion was made by A. Fitzgerald to schedule a public hearing for May 5, 2021 at 6:30 p.m. via Webex to review the status of permit SPG 20-001 following an enforcement order issued by the ZEO in accordance with Zoning Regulations Sec. 9.D.8.5. Second by A. Tanner. No discussion.

Roll Call Vote: A. Fitzgerald – yes; C. Sczuroski – yes; J. Thayer – yes; S. Pember – yes; C. Kelleher – yes; A. Tanner – yes; E. Starks – yes; M. Sigfridson – yes.

Motion carried unanimously (8-0-0).

2. Discussion: Contractor's yards, outdoor dining, and expansion of self-storage facilities.

- Contractor's Yards - J. Roberson explained that she included in packets to Commission Members everything relating to contractors' yards currently in the Regulations. She asked the Commission to review the information. She noted that the Industrial Zone is very hard to access. She asked that the Commission think about contractors' yards as something that is not necessarily a home occupation, but is a business use that would be a great fit for the Town. She asked that they consider where in Town it would be appropriate. Ms. Roberson was unable to locate her previous draft language on this subject.

- Outdoor Dining – Legislation is definitely going to pass that automatically extends outdoor dining as a permitted use. There are three in Town: Grill 445; Countryview Restaurant; Ice Box.
- Self-Storage Facilities – There is nothing in the Adaptive Re-Use of an Agricultural Building that would allow to add buildings. There is a successful business that would like to expand and would like to do an addition that would not be visible from the road. Ms. Roberson asked how the Commission for feedback on this kind of situation.

Ms. Kelleher stated that when we allow something, we ought to describe what we are going to allow. She is concerned about setting a precedent for one situation and then another situation may come up later where it might not be acceptable to the Commission.

There was discussion regarding a percentage increase of the existing structure.

Ms. Roberson offered to draft language. It has to be an existing structure as of February 7, 2002.

Discussion continued. Is something that was approved under an adaptive re-use scenario allowed to expand beyond what is being re-used?

Mr. Fitzgerald thinks there would need to be an addendum to the special permit.

There was a suggestion to make expansion of the building its own special permit. Ms. Roberson will draft language.

Mr. Ives asked if the Commission would consider a new building. Ms.

Roberson stated that if it is its own special permit, you could pretty much leave it open for anything.

Ms. Kelleher asked if that would mean that the Commission would consider expansion from other uses that are currently existing in an agricultural structure.

Ms. Roberson explained that there are currently four things that you can do in an adaptive re-use of an agricultural building: Light Industry; Self-Storage Facilities; Offices; Shops and/or Storage Space for Electricians, Plumbers, Carpenters and Craftspersons, but not including sales on the premises of crafts items created by the craftsperson.

It was agreed that it would need to be applicable to all four.

Ms. Roberson will draft language.

Discussion continued regarding contractor's yards.

VIII. Reports of Officers and Committees:

a. Staff Reports

Ms. Roberson meant to include the latest draft of the contract with NECCOG for the POCD in packets. She will forward it tonight. She asked that Commission Members look at the scope of work and let her know of suggested changes.

Ms. Roberson showed the signs that came in for Blackwell's Brook. There was discussion regarding the overgrown trail. Mr. Thayer will check with his son's Boy Scout Troop about cleaning it up and repairing the bridges.

Margaret Washburn's Report dated April 1, 2021 was included in packets to Commission Members. See Below Item VIII.d.

b. Budget Update

Report was included in packets to Commission Members.

c. Correspondence – None.

There was discussion regarding the training webinar. Mr. Fitzgerald was unable to connect for it. Mr. Tanner attended it and said that it was just mainly what other states are doing.

Ms. Sigfridson spoke about the CT Bar Association's bi-annual training webinar that she had attended and recommended that it may be helpful to other Commission Members the next time.

There was discussion regarding Desegregate Connecticut and affordable housing. Ms. Sigfridson stated that the Commission should comment if there is an opportunity.

d. Chairman's Report

See above Item VIII.c.

She is happy to have the three new Alternate Members. There are two vacancies for Regular Members and the Commission should think about filling those positions relatively soon.

There was discussion regarding Margaret Washburn's Report. Mr. Fitzgerald would like to see something on 222 Hartford Road (contractor's yard/blight).

IX. Public Commentary – None.

X. Adjourn

M. Sigfridson adjourned the meeting at 9:17 p.m.

Respectfully submitted,

J.S. Perreault
Recording Secretary