

**ASHFORD PLANNING AND ZONING COMMISSION
ASHFORD, CT / REGULAR MEETING MINUTES
VIRTUAL MEETING via Zoom
Monday, July 10, 2023**

Present: Jeffrey Silver-Smith (Chair), Janet Bellamy (Vice Chair), Luther Brauch (Alt), Gerald Dufresne, Alex Hastillo (Clerk), Doug Jenne (Alt), Catherine Sampson, Mark Schnubel, Jeffrey Schillinger, Richard Williams, Nord Yakovleff

Guests: Mike D'Amato, Facilitator and Zoning Enforcement Officer

Online attendance: names noted: Ken Slater, Atty., C. Silver-Smith, S. Rodolakis, C. Acebo, S. Staubach, R. Malchow, L. Wrobel, B&T Guerin, G. Holland, Diane M., Laurie, S. Eastwood, L. Ross, Squaw Hollow

1. Call to Order / Seating of Alternates: All regular members present. No Alternates seated. Chairman Jeffrey Silver-Smith called the meeting to order at 7:02 p.m.

2. Approval of Minutes: June 12, 2023

MS. DUFRESNE MOVED AND MR. HASTILLO SECONDED A MOTION TO APPROVE THE MINUTES OF THE REGULAR PZC MEETING JUNE 12, 2023 MOTION PASSED WITH TWO ABSTENTIONS FROM MR. SCHNUBEL AND MR. SCHILLINGER.

3. Public Comments:

Ms. Acebo asked about how the public could provide input to the rewriting of the regulations regarding the IID zone? Since this will be done in conjunction with the updating of the POCD, the public will be allowed input via that group and the various town boards and commissions also providing input. All written input will be looked at and considered per Ms. Bellamy. Mr. Williams noted that 50 people working on the regulations would not be effective; a smaller working group is needed. He further noted first a draft is written, then the PZC reviews this and third there is further discussion during regular meetings.

Mr. Williams asked about adding "Housing" to the agenda; the Chairman agreed that the commission needed to renew discussions on affordable housing and also noted that the issue of alternate energy (solar, wind etc) needs to be put on a future agenda also. Both should be added to next month's meeting. The deadline for the affordable housing plan has past however recent CT State legislative changes need to be reviewed as part of the planning discourse.

4. Bills: none.

5. Correspondence: none

6. Public Hearing:

A. PZ-23-7 Text Amendment Application: Article 300-14 (Definitions) to define the term "Primary Residence." Applicant: Ashford Planning & Zoning Commission.

Atty. Slater has information on short-term rentals; therefore the Chair recommends that we pull the application for a test amendment PZ-23-7 and add to Unfinished Business further discussion on Short term rentals.

MR. HASTILLO MOVED AND MR. DUFRESNE SECONDED A MOTION TO Rescind OUR APPROVAL FOR 6.A, PZ 23-7 AND PLACE IT UNDER UNFINISHED BUSINESS. MOTION PASSED UNANIMOUSLY.

7. Unfinished Business:

A. PZ-23-6: Text Amendment Application: Article 300-4 Town-wide Temporary Moratorium on "Warehouses, Distribution Centers and Research Facilities including Research and Development Testing Laboratories or Centers. Applicant: C. Vidich.

At the PZC meeting on June 12, 2023, it was decided to ask our Attorney Ken Slater and Zoning Officer Mr. Mike D'Amato their advice on the wording of the moratorium as presented by the applicant. Mr. D'Amato put up on the screen the document dated July 5, 2023 that contained the Zoning Officer's suggested wording. The major items of interest were to suggest a moratorium of no more than nine months, only to relate to the IID zone and a suggested talking starting point of a 25,000 sq. ft. building. The first section contained the actionable language while the second part, list of three items was more the procedure, how to carry it out. **Atty. Slater** agreed with the Zoning Officer's assessment of keeping the moratorium neutral, giving a free hand so that all things proposed by the applicant could be considered. It was stated that the PZC did not need to have a moratorium for every change in regulations, but that if the town might be left vulnerable then that was a good reason to take a break, to see how the regulations could be firmed up to help prevent any problems or future litigation.

Mr. Williams stated that since the PZC has no application for any development in the IID and none of the uses mentioned by the applicant are allowed per out regs - why have a moratorium? **The Attorney** replied that it is better protection for the town to be in control of their own regulations. The 25,000 sq. ft. is only to provide a starting point for discussion. **The Chair** noted that the proposed language was less restrictive than the applicant's proposal. The Commission can amend what has been proposed

Ms. Bellamy thinks this is a special case as there were lots of concerns expressed at the public hearings. **Mr. Brauch** thought why have a moratorium when the uses noted are not allowed per our current regulations? The Zoning Officer stated he did not focus on "uses" but on length of moratorium, just for the IID zone and building size. **The Chairman** stated that with a moratorium the PZC avoids wasting time with applications that might be problematic.

Mr. Slater also said that having clear definitions and tightened up regulations would avoid lack of detail and clarity that can cause issues. The Commission can stop the moratorium at any time; but he is concerned that our regulations leave the town open to some vulnerability.

Mr. Williams spoke about an applicant with a project having to go through the special permitting process. Some felt that that process was not enough protection. It would be too late then to change the regs, if the applicant met the special permit requirements. "Compatible development" is a vague term for example per **Ms. Bellamy**. **Mr. Schnubel** felt no moratorium was warranted and that 25,000 sq. ft. was too small a building. With better regulations it would be fairer to the developer; they could better plan a successful project per **Ms. Bellamy**.

The chairman listed the PZC's options of amending the newly proposed and edited moratorium language, voting on a motion to accept the new language as presented or dismissing the new language and voting on the originally proposed moratorium language from the applicant.

MS. BELLAMY MOVED AND MR. DUFRESNE SECONDED A MOTION TO ACCEPT MR. D'AMATO'S CHANGES TO THE WORDING OF INITIAL TEXT AMENDMENT APPLICATION, PZ-23-6, APPLICANT, C. VITICH. SEE THE JULY 5, 2023 DOCUMENT BY MR. D'AMATO FOR THE EXACT WORDING SUGGESTED FOR THE MORATORIUM. MOTION PASSED WITH 5 YES VOTES (BELLAMY, HASTILLO, DUFRESNE, SAMPSON, SILVER-SMITH) AND 4 NO VOTES (SCHNUBEL, YAKOVLEFF, SCHILLINGER, WILLIAMS).

[**Mr. Vidich** agreed with Mr. D'Amato's motion wording. **Mr. Rodolakis**, the land owner, expects changes to the regulations for the IID zone to be suitable for economically viable ideas. He noted a decision from the PZC was to come 2.5 years ago - but never did.]

8. New Business:

A. PZ-23-7 Text Amendment Application. Article 300-14 (Definitions) to define the term "Primary Residence." Applicant. Ashford Planning & Zoning Commission.

The discussion here centered around the caution from Atty. Slater. The PZC's regulations and ruling are concerned with the land itself not the occupant or owner of a specific building on the land. Therefore, the town might have some risk in stating the regulation that to conduct short-term rentals, the building must be the "primary residence" of the property owner. Whether the property is owned by a corporation or an individual, is of no consequence, as it is what is happening on the land that is the PZC concern. If a corporation owned a house and wanted to have short-term rentals in Ashford, they would have the same regs as an individual home owner; the restriction of only 3 rentals in a 6 months period would still apply. He also explained that the Americans with Disabilities Act does provide for special circumstances.

Also, be aware that there is no case law yet, only one case in Connecticut so far; short-term rentals are newly regulated. Things can change. More towns are creating regulations, and he could help the PZC by providing examples. Mr. Brauch thought it best to avoid exposure to risk. Mr. Slater left at 8:20 p.m.

Mr. Silver-Smith thought looking at what other towns are doing a good idea.

9. New Business:

B, Plan of Conservation and Development Process (to include L Wrobel, Conservation Commission Chair).

Ms. Wrobel spoke of the need to get the process of reviewing and possible revising of the Ashford Plan of Conservation and Development (POCD) started. If preparing is done now it will avoid rushing to meet the 2025 deadline. She recommended constructing a survey for the town to provide input from as many citizens as possible. Earlier POCD reports, 2005 and 2015, were put together by a small group of about 10-12 people. She hopes that people with special skills will provide input and/or get involved. The POCD effects the entire town and is a critically important document. She offers to help work out a survey; questions should be carefully designed to reflect citizen's wishes.

Mr. Williams stated that he had written most of the 2015 POCD; he said there was no survey. He feels that 10-12 people should be the ones to begin and reach out to the town departments, community groups, etc. A leader should be named; but most work was done by NECOG in the past. **Mr. D'Amato's company** is already doing work for other towns to prepare their POCDs. He could do work for Ashford but would need a schedule. He said all the maps and charts provided formally by NECOG are available to the public so he has access to that material.

Mr. Brauch agreed with Ms. Wrobel; engagement with all committees in town to seek help to make up a working group would benefit the PZC. **Mr. Williams** noted that the work is very time consuming and would prefer working with Mike's company, Tiche, rather than NECOG. **Ms. Silver-Smith** will be volunteering to work on the project as the POCD needs to be expanded and updated. We need to know who to contact from each community group. The leadership and ownership of the project should be the PZC per **Mr. Brauch**. **Ms. Wrobel** stated that now is the time to get started. It is lots of work, but a better job is done with time, not rushing at the end to meet a deadline. There are several new groups now such as the Agriculture Comm., Our Town Our Future and others whose input is needed. She thanked the Commission and was thanked for her efforts.

There is no town vote on the POCD per **Mr. Williams**. It should be a living document. Look at the back of the POCD to see the objectives and actionable items, "The Plan of Implementation." We would need to check with the responsible people/groups to see what has been accomplished (or not done) since 2015 per the **Chairman**. It was noted that the narrative part of the POCD would not need much changing, and the survey would be a way to provide new and updated material. **Ms. Acebo** stated that designing a simple and easily accessible survey (mailed out to all citizens) would get the most input. She noted that the last survey only got a low percentage of participants.

9. Zoning Officer's Report:

Hybrid meetings for the numbers of attendees that the PZC has encountered would require better technical equipment than is currently available at the town hall. This of course would be an added cost to the town. Training would also be required for chairman and/or their assistants. Hybrid meetings require that those attending virtually or in person all have the same ability to see what is going on and to hear as well. Mr. Silver-Smith will draft a letter to the BOS about this concern. It was also noted that the meeting recordings are utilized; the PZC meeting on the Campanelli/Rodolakis project, text amendment, was listened to over 300 times.

Mr. Yakovleff asked about the blighted properties. Work is being done via meetings with property owners. With no blight code in Ashford progress is limited, but we are working with the codes we have, building, fire and health.

10.. Adjourn:

MR. DUFRESNE MOVED AND MR. SCHILLINGER SECONDED A MOTION TO ADJOURN. MOTION PASSED UNANIMOUSLY AT 9:11 P.M.

*Respectfully Submitted by,
Valerie B. Oliver, Recording Secretary
7/11/2023*

