

**BRISTOL ZONING COMMISSION
MINUTES
REGULAR MEETING OF MONDAY OCTOBER 17, 2022**

CALL TO ORDER:

By: Chair Provenzano

Time: 7:02 P.M.

Place: Board of Education,
Auditorium, 129 Church Street**ROLL CALL:**

MEMBERS	NAME	PRESENT	ABSENT
REGULAR MEMBERS:	Louise Provenzano (Chair)	X	
	Richard Harlow	X	
	David White (Secretary)	X	
	Thomas Marra (Acting Secretary)	X	
	Marc Gagnon	X	
ALTERNATE MEMBERS:	Brian Skinner		X
	Richard Goodwin		X
	Aileen Abrams	X	
STAFF:	Robert M. Flanagan, AICP, City Planner	X	
	Edward Spyros, Zoning Enforcement Officer	X	

PLEDGE OF ALLEGIANCE:

Chair Provenzano reminded the Commission the next regular meeting was on Monday, November 14, 2022.

ADMINISTRATIVE MATTERS:

1. Approval of Minutes

There were no minutes for approval.

2. Zoning Enforcement Officer's Report

The Commission acknowledge receipt of the following item in their electronic packets: a copy of the Zoning Enforcement Officers report for September 2022 dated October 3, 2022.

Mr. Spyros thanked the Commission for the moment of silence for the officers this evening. He reviewed his report for September with the Commission. The calls for service were significantly reduced from last year.

RECEIPT OF NEW APPLICATIONS:

There was no receipt of new applications.

PUBLIC HEARINGS:

1. Application #2445 - Special Permit for removal and processing of earth materials between south of Barnum Road and north of Farrell Avenue; Assessor's Maps 67, Lot 78 (Farrell Ave.), Lot 57 (Arcadia Road) and Lot 43 (Barnum Rd.); R-15 (Single-Family Residential) zone; Willow Materials, LLC, applicant.

The Commission acknowledged receipt of the following items in their electronic packets: a memorandum dated March 4, 2021, from the Deputy Treasurer, regarding the surety performance bond and an approval letter dated March 4, 2021, from the Zoning Commission (attached 8-3d form.)

Attorney Mark Ziogas, 88 Valley St., representing the applicant, explained this had been a longstanding processing and earth removal area on Barnum Rd. to Farrell Ave. But there was a Special Permit approved two years ago in September for 46 acres. The active earth removal is 11.79 acres. This was a phased plan. Phase I was done and restored. Phase II was being continued to be restored. Phase III was active for the earth removal application, staging area, and processing that was near the center of the property.

The sediment and erosion control were in place for two years and the sedimentation basins were being monitored and maintained. A potential subdivision may occur. All the processes were being done appropriately. There was a potential plan presented in 2016, which remains in place. He is not aware of any complaints. This was a big improvement to the site versus the prior property owner and they look forward to subdividing the site.

Ms. Levesque explained the IW application was not 5 years old yet. Engineering received monthly soil and erosion control reports from the applicant. The IW Enforcement Officer reviewed the site regularly. If there are concerns, they are taken care of immediately. Phase III was the same plan presented two years ago, but for Phase I and II, the areas, contours and topography were updated. The IW permit remained valid because they stayed outside the 100 ft. review area, but Staff monitored that area to ensure they do not go towards the brook.

Commission inquires: Attorney Ziogas was unsure when Phase I was started, but it was with the previous property owner. Phase III would be approximately five more years, which may have two more extensions.

Mr. Flanagan inquiries: Ms. Levesque was comfortable with the remaining Staff comments with the same considerations and stipulations as the first permit. Mr. Flanagan explained Staff would review the remaining Staff comments, but they did not receive the plans in time to review and wanted the Commission to review the request.

No one else spoke in favor of the application.
No one else spoke against the application.

The following person was not in favor or against the application, but had concerns and inquiries: Sylvia Roy, 170 Martin Rd., Ms. Roy explained she lived there a long time and they have been through hell in the area. They hear equipment, noise, and machines. There is a lot of dust. Her windowsills had to be cleaned twice a week. She had a well and heard the applicant wanted to go 60 ft. deeper. She wanted to know what was going on, the plans and when they would be out of the area. There was only one public hearing sign posted. There were no additional public hearing signs posted anywhere, so people do not know what is going on. This should be more publicized.

Kyle Shultz of Shultz Corporation, 34 Hull Road, Burlington, (101 North Riverside Ave., Terryville), representing the applicant, explained they keep a water truck on site. When it is dusty, they water the site two times a day. There is an approved Site Plan for that depth. They would not go any deeper than the approved contours, which was an average of 8 ft. The aquifer is likely deeper than 8 ft. The Ferrell Ave. was about 30 ft. depth and at about 40 ft. depth near the river, so the aquifer had to be below that depth. Also, there was a public hearing signage at the end of Martin Ave. was placed properly and at other locations that met the Regulations.

Chair inquiries, respectively: Ms. Levesque explained an earth removal plan such as this would typically not affect the wells because the aquifer is typically deeper than this depth with this plan. Attorney Ziogas explained there were a total of five public hearing signs on Arcadia Rd., Barnum Rd., and Farrell Ave. There were no tentative plans for the end results because a plan was not approved.

The Chair explained she wanted the applicant to continue to be a good neighbor with the water trucks during the summer and to try to do what they can because they were already in the area and they would potentially be there an additional five years. If there are problems, Mr. Spyros would have to inspect the area.

Mr. Flanagan explained for the public hearing signage, they had to follow the Regulations, which was done by the applicant. The subdivision was just a tentative plan. The plan may be approved this evening if Ms. Levesque was comfortable with the plan. Also, a Staff review would be done for the plan subsequent to this meeting.

No one spoke against the application.

The hearing is closed.

By: White

Seconded: Harlow.

For: White, Harlow, Marra, Gagnon and Provenzano.
Against: None.
Abstained: None.

The Commission was comfortable with pending the staff comments and an additional review because there have been no complaints. Ms. Roy was consistent with her concerns and keeps the applicant complying with the plan and the Regulations.

MOTION: Move that Application #2445 - Special Permit for removal and processing of earth materials between south of Barnum Road and north of Farrell Avenue; Assessor's Maps 67, Lot 78 (Farrell Ave.), Lot 57 (Arcadia Road) and Lot 43 (Barnum Rd.); R-15 (Single-Family Residential) zone; Willow Materials, LLC, applicant, be approved, with the following stipulations:

1. The Earth Removal Site Plan shall not be signed off until all remaining staff comments have been addressed and the plan revised accordingly.
2. The operation shall be conducted in accordance with the drawings entitled "Proposed Earth Removal Plan, Barnum Road & Farrell Avenue, Bristol, Connecticut", prepared by R.R. Hiltbrand Engineers & Surveyors, and consisting of the following sheets, all dated 7/23/22 and revised to 10/14/22:
 - a. Cover Sheet: Dated 7/23/20 with a Revised Date of 10/14/22.
 - b. Sheet P: Phase Map
 - c. Sheet E1-E4: Existing Conditions Plan
 - d. Sheet OG: Overall Grading Plan
 - e. Sheets G1-G4: Proposed Grading Plan
 - f. Sheet OS: Cross Section Plan View
 - g. Sheets S1-S4: Cross Section Profiles
 - h. Sheet SE1-SE4: Sediment and Erosion Details Sheet
 - i. Sheet SE: Details Sheet
 - j. Sheet SUB: Feasibility Study for Future Subdivision
3. The current \$180,000 performance bond shall continue to be in place for the two-year duration of this permit.
4. The Special Permit shall be good for a period of two years from the date of issuance.
5. There shall be no operation on Saturdays, Sundays or holidays.
6. The crushing process, pursuant to Section IX.B.5.f., will be conducted on a twice annual basis and shall not exceed a duration of two weeks for each event. Advance notice of at least 7 business days shall be provided to the ZEO (Zoning Enforcement Officer) prior to crushing operations commencing. Once the crushing process begins, the ZEO shall confirm that the operations are being conducted in accordance with the approved plan.
7. The hours of operation for Earth Removal shall be Monday through Friday, 7:30 AM to 4:00 PM. Maintenance can begin at 7:00 AM, but no on-site excavation or removal can occur until 7:30 AM. Crushing operations (within the twice annual two-week windows) cannot commence until 8:00 AM to 4:00 PM.
8. The sifter and crusher shall not be used simultaneously on the property.
9. Measures to control dust from the operation shall be applied as needed.
10. The applicant shall sweep and remove the sand from Barnum Road along the frontage of the property at least once a week.
11. No material shall be stockpiled on the property within 400 feet of any residence.
12. No material shall be brought onto the property for processing.
13. Regular inspections of the excavation sequence used by the applicant shall be conducted by the Zoning Enforcement Officer.
14. The 3-to-1 slope requirement shall be waived along portions of the perimeter of the property in accordance with Section IX.B.5.c. of the Zoning Regulations and a 2-to-1 slope permitted in its place, inasmuch as the steeper slope has previously been permitted and already exists.
15. The required 100-foot buffer shall be reduced as per the approved map in accordance with Section IX.B.5.b.(3) of the Zoning Regulations, inasmuch as the lesser buffer is warranted in order to match proposed contours to the existing contours of the adjoining land.

By: White

Seconded: Harlow.

For: White, Harlow, Marra, Gagnon and Provenzano.
 Against: None.
 Abstained: None.

The application is approved with stipulations.

2. Application #2446 – Special Permit for a fitness club at 95 Wooster Court; Assessor's Map 42, Lot 4; I (General Industrial) zone; Brian Pendergast, applicant.

Chair Provenzano designated regular Commissioners White, Harlow, Marra, Gagnon and Provenzano to vote on Application #2446. The Commission acknowledged receipt of the following items in their electronic packets: a memorandum dated October 3, 2022, from the Town Clerk of Plainville to the Bristol Zoning Commission, regarding Referral of Proposed Amendment to the Zoning Regulations; an e-mail from Mark Devoe, Town Planner, Town of Plainville, to Robert Flanagan, City Planner, regarding 95 Wooster Court – Bristol; an e-mail dated August 30, 2022, from Kristopher Lambert, 95 Wooster Court - Fitness Club. The following persons representing the applicant reviewed Application #2446 with the Commission: Brian Pendergast, 14 Sycamore Lane, Unionville; and Nicholas Pinto, 57 Oxford St., Hartford, representing the landlord and the prospective tenant.

Mr. Pinto reviewed the 36,000 sq. ft. industrial building that was not sufficiently utilized with no access/overhead door to the area in the building. They are requesting a Special Permit for a fitness use for sports performance and not a general gym for the public to go into the building.

Mr. Pendergast explained the company name was B-Sports Performance and they train amateur athletes for a variety of sports such as baseball, football, lacrosse, soccer, and weight training. Also, baseball instruction that was mostly for pitching, which is his expertise. They do not allow the public to walk into the building. There are group classes and scheduled appointments. He and his partner train the athletes. This was a specialty training facility for young athletes (usually ages 9 to 23 years old.) There are a maximum of eight athletes in each class with two coaches for about one and a half hours. The business hours are Monday to Friday from 3:00 P.M. to 8:00 P.M.; Saturday and Sunday 9:00 A.M. to 4:00 P.M.; and summer hours from 9:00 A.M. to 1:00 P.M.

Commission inquiries: Mr. Pendergast explained there are indoor baseball pitching mounds and nets; weight training fitness for lifting with racks and benches. This was a small business and try to be effective with small classes and not large classes with ineffectiveness.

Chair inquires: Mr. Flanagan explained the Site Plan provided with the application was from 1984. He had concerns with parking on the property.

Mr. Pinto explained there are three tenants in the building with access to the rear of the building. Areas one and two were manufacturing; area three is a truck tire service center; and areas five and six are vacant. Areas five and six were manufacturing but may be used as a warehousing area. They are discussing with a potential tenant using this area for warehousing/storage.

The east parking lot had a proposed plan and an alternative plan. There are 91 existing striped parking spaces (original plan) and 87 existing striped spaces. The original plan had 129 parking spaces. When the total building was occupied including areas five and six, the east parking lot only had about seven vehicles in the parking lot. There were 42 parking spaces under-utilized when the building was totally occupied except for area four, which is the request this evening.

Chair inquires: Mr. Pinto explained there would be sufficient parking areas for the twelve people that are in the classes. He explained most people would be dropped off at the facility.

Mr. Pinto is requesting the use as determined by the Commission regarding the parking spaces. The Regulations required one parking space per 200 sq. ft., which required 16 parking spaces. There are sufficient parking spaces per the requirement and ten parking spaces in the front of the building.

The Commission was more comfortable voting on the application because it was a small facility, but if it were a larger, they would want to require a Site Plan.

Commission inquires, respectively, Mr. Pendergast explained there are three restroom facilities separate from the 3,600 sq. ft. area. There is one handicapped restroom facility and three urinals. Their restroom facilities were not available to the tire facility. The north door has a two-hour fire rated door, which required an additional layer of drywall to become a three-hour fire rated door. The east door goes to an occupied area would be closed from the various facilities to comply with the three-hour fire rating between the units for the Building Department.

If the doors are closed off, the next step would be a State of CT application for a building regulations modification. This was discussed with Kristopher Lambert, Fire Marshal, and an architect for the next steps. This only required one exit from the building because of the occupancy of the use. Regarding noise from the different facilities, their business hours were different than the existing facilities.

He reviewed the improvements that would be made to the building including artificial turf and matting. The footprint would remain the same with the exception of the Variance. Mr. Pinto explained the tire facility serviced vehicles on the road with no services at the facility. Area four has not been occupied since 1984, but tires were stored in this area. The entire building was a manufacturing facility at one point. There are environmental reports on the property (recent to last year) with no restrictions.

Mr. Flanagan explained the applicant had to apply for a Variance from the State Fire Regulations and they cannot go into the building as it exists without the approved Variance.

Commission inquiries: Mr. Flanagan reiterated the State Variance application was the applicant's responsibility, but the application may be continued to next month if the Commission was uncomfortable voting this evening. This was not a Site Plan application so there was no Site Plan map to review this evening, except for the 1984 map. The applicant has the right to request a Special Permit. Mr. Flanagan explained the Commission's options for the application including requesting a Site Plan. He spoke with the Fire Marshal and Building Official and reviewed their comments.

The Commission, Mr. Flanagan, and Mr. Pendergast discussed the concern of no second egress from the facility area. Mr. Pendergast explained they wanted to discuss with the Commission if this plan was feasible with them and the requirements. He reiterated they found they needed the permits from the State.

No one else spoke in favor of the application.
No one spoke against the application.

Chair Provenzano was comfortable approving the application this evening. Also, a Site Plan was unnecessary because of the required State applications and egress reviews. Mr. Pinto explained if approved, a State approved application is required from the Fire Marshal and Building Official.

Mr. Flanagan explained an approval was needed from the Bristol Fire Marshal and the Bristol Building Department. They need to vary the State Regulations is sent to Bristol for review and input. The applicant cannot occupy the building without the Fire Marshal's approval from a State Variance, which he described the process. Two exits are needed for the building without an approved Variance. The Commission's concern was the property use and the Variances were the applicant's responsibility.

The hearing is closed.

By: White

Seconded: Marra.

For: White, Harlow, Marra, Gagnon and Provenzano.
Against: None.
Abstained: None.

Commissioner White agreed with Commissioner Marra's view of the Commission requesting to change the use, but he understood the concerns with liability. The various entities would review these concerns, which was a moot point. Chair Provenzano agreed and explained they have approved Special Permits previously without a Site Plan. If the Variance was not approved, that was the applicant's responsibility. Commissioner Gagnon agreed and was confident the Fire Marshal and the Building Official would ensure all local and State Regulations complied for the property.

MOTION: move that Application #2446 – Special Permit for a fitness club at 95 Wooster Court; Assessor's Map 42, Lot 4; I (General Industrial) zone; Brian Pendergast, applicant, be approved.

By: White

Seconded: Marra.

For: White, Harlow, Marra, Gagnon and Provenzano.
Against: None.
Abstained: None.

The application is approved.

3. Application AZR #22-1 – Proposed amendments to Sections VI.B.3.z. & VI.E.3.o. of the Zoning Regulations to correct references to Section V.A.9. Adaptive re-use of existing non-residential principal buildings; initiated by the Bristol Zoning Commission.

Chair Provenzano designated regular Commissioners White, Harlow, Gagnon and Provenzano to vote on Application #AZR-#22-1. She also designated alternate Commissioner Abrams to vote on Application #AZR-#22-1.

The Commission acknowledged receipt of the following items in their electronic packets: proposed amendments to the Zoning Commission entitled "AZR22-1: Proposed Amendments to The Bristol Zoning Regulations, Bristol Zoning Commission, Draft for Public Hearing: dated October 17, 2022"; a memorandum dated September 6, 2020, from the Zoning Commission to the Planning Commission, regarding Referral of Proposed Amendment to the Zoning Regulations; a memorandum dated September 27, 2022, from the Planning Commission to the Zoning Commission, regarding Application AZR #22-1 – Proposed amendments to Sections VI.B.3.z. & VI.E.3.o. of the Zoning Regulations to correct references to Section V.A.9. Adaptive re-use of existing non-residential principal buildings; initiated by the Bristol Zoning Commission; three memorandums dated September 6, 2022 from the Bristol Zoning Commission to the Town Clerks of Farmington, Plainville and Southing, regarding Referral of Proposed Amendment to the Zoning Regulations; a memorandum dated September 6, 2022, from the Zoning Commission to Therese Pac, regarding Referral of Proposed Amendment to the Zoning Regulations; a Zoning Referral Form, dated September 6, 2022, from the Zoning Commission to Christopher Henchey, Capitol Region Council of Governments (CRCOG); a memorandum dated September 6, 2022, from the Zoning Commission to the Capitol Region Council of Governments (CRCOG), regarding Referral of Proposed Amendment to the Zoning Regulations; a memorandum dated September 23, 2022, from the Bristol Planning And Zoning Commission to the Capitol Region Council of Governments (CRCOG), regarding Referral Z-2022-122: Proposed zoning amendment pertaining to correcting references in original text; a memorandum dated September 6, 2022, from the Bristol Zoning Commission to the Naugatuck Valley Council of Governments (NVCOG) (via e-mail), regarding Referral of Proposed Amendment to the Zoning Regulations; and a Staff Referral Report memorandum dated September 15, 2022, from Joanna Rogalski, Senior Regional Planner, NVCOG, to the Planning Commission, CEO, and City Planner of Bristol, Capitol Region Council of Governments (CRCOG), Northwest Hills Council of Governments (NHCOG), and Naugatuck Valley Council of Governments (NVCOG) Regional Planning Commission (RPC) representatives, regarding NVCOG FILE NO.:BRIS-17-090622-Z.

Mr. Flanagan explained this adaptive reuse for non-residential buildings was approved in 2016. There were incorrect references in various parts of the Regulations, which was discovered when reviewing the Regulations with a potential applicant. This was a request to correct the references to "b" and "f." The list was reordered and does not make sense any longer. The corrected references are "a" & "j" in the BG zone and BHC zone. This was referred to the Planning Commission and had a positive referral of the adaptive reuse of buildings within the Regulation. This was referred to the following: town clerks of Farmington, Plainville, and Southington because this would border these towns; Therese Pac, Town and City Clerk; CRCOG, Hartford and the NVCOG in Waterbury. There were no conflicts with any of the referrals.

A potential applicant may file an application for this Regulation in a few months.

No one else spoke in favor of the application.
No one spoke against the application.

The hearing is closed.

By: White

Seconded: Harlow.

For: White, Harlow, Abrams, Gagnon and Provenzano.
Against: None.
Abstained: None.

MOTION: Move that Application AZR #22-1 – Proposed amendments to Sections VI.B.3.z. & VI.E.3.o. of the Zoning Regulations to correct references to Section V.A.9. Adaptive re-use of existing non-residential principal buildings; initiated by the Bristol Zoning Commission be approved – because:

The text amendment to the Regulations, as presented, would be consistent with the goals and policies of the 2015 Plan of Conservation and Development, amended to April 1, 2018, and specifically:

1. Section 8.3.1.4. – Policies:
Encourage the adaptive reuse of existing buildings and the redevelopment of underutilized sites.

The effective date of the text amendment shall be November 10, 2022.

By: White

Seconded: Harlow.

For: White, Harlow, Abrams, Gagnon and Provenzano.
Against: None.
Abstained: None.

The application is approved.

OLD BUSINESS:

There was no old business, but the Commission discussed various approved applications and their status.

Commission inquiries: Mr. Flanagan explained the Dairy Queen property was not going forward yet but the applicant was reviewing a cost savings plan for the building. Regarding the gas station across from the Whole Donuts, the property owner would eventually build the project. Regarding the gas station on Terryville Ave., they are reviewing a cost savings plan for the building as well.

The 551 Farmington Ave. property had no inland wetlands but 50 Terryville Ave. did because it was adjacent to a watercourse and the site is stabilized. The applicant was also reviewing a cost saving plan.

Mr. Spyros explained the property on Middle St. was compliant, but the fine was about \$21,000. The City may place a judgment on them. The Nuchie's property owner took actions against the tenant and was trying to evict them. They have not complied with the property owner.

Regarding Minor Street, Mr. Flanagan explained the heating oil distributor would be filing an amended site plan to show phasing.

NEW BUSINESS:

4. Election of Officers

Chair Provenzano noted they would have election of officers at the next special meeting if all the regular Commissioners are in attendance.

CITY PLANNERS REPORT:

Mr. Flanagan explained the Wheeler Clinic site plan has been signed off. He has seen a preliminary plan for Carrier Construction in the down zone, but no plan was received to review but the preliminary plan depicts two buildings versus the three buildings that were planned. The building sign has been on the building for one year. The Commission was reminded that on October 26, 2022, at 5:30 P.M., City Hall West, the Zoning Regulations rewrite process would reconvene. Mr. Gomes would be at the meeting.

ADJOURNMENT:

MOTION: Move to adjourn at 8:36 P.M.

By: White

Seconded: Harlow.

For: White, Harlow, Abrams, Gagnon and Provenzano.
Against: None.
Abstained: None.

This meeting was taped.

Respectfully submitted,

Nancy King
Recording Secretary

Louise Provenzano, Chair

David White, Secretary