

**BRISTOL ZONING COMMISSION
MINUTES
REGULAR MEETING OF MONDAY JUNE 13, 2022**

CALL TO ORDER:

By: Chairman Provenzano

Time: 7:00 P.M.

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

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

PLEDGE OF ALLEGIANCE:**ADMINISTRATIVE MATTERS:**

1. Approval of Minutes – April 13, 2022

Acting Chairman White designated regular Commissioners Gagnon, Harlow, Abrams and White to vote on the April 13, 2022, regular minutes. He also designated alternate Commissioners Abrams and Goodwin to the vote on the April 13, 2022, regular minutes in place of Commissioners Provenzano and Massarelli this evening.

MOTION: Move to approve the minutes of the April 13, 2022, regular meeting.

By: Harlow

Seconded: Abrams.

For: Gagnon, Harlow, Abrams Goodwin and White.

Against: None.

Abstained: None.

2. Zoning Enforcement Officer's Report

The Commission acknowledge receipt of the following items in their electronic packets: two Zoning Enforcement Officer's reports for April and May, dated May 2, 2022 and June 1, 2022, respectively.

With the Zoning Enforcement Officer's absence this month, the Commission accepted the reports.

RECEIPT OF NEW APPLICATIONS:

There was no receipt of new applications.

PUBLIC HEARINGS:

1. Application #2436 – Change of Zone from R-15 (Single-Family Residential) zone to I (General Industrial) zone at 54 West Washington Street; Assessor's Map 44, Lot 60; Jeremy Berube, applicant.

Acting Chairman White designated regular Commissioners Gagnon, Harlow, Abrams and White to vote on the April 13, 2022, regular minutes. He also designated alternate Commissioners Abrams and Goodwin to the vote on the April 13, 2022, regular minutes in place of Commissioners Provenzano and Massarelli this evening.

The Commission acknowledged receipt of the following items in their electronic packets: a referral memorandum dated April 5, 2022 from the Zoning Commission to Therese Pac, Town and City Clerk, regarding the Referral of Proposed Amendment to the Zoning Regulations and a referral memorandum dated April 5, 2022, from the Zoning Commission to the Planning Commission regarding Referral of Proposed Amendment to the Zoning Regulations.

Acting Chairman White explained there were no public hearing signs posted for Application #2436. Mr. Flanagan agreed and explained a letter was received this morning, dated June 13, 2022, from Attorney Mark Ziogas. Mr. Flanagan read into the record the letter dated June 13, 2022, regarding the withdrawal of Application #2436.

MOTION: Move that Application #2436 – Change of Zone from R-15 (Single-Family Residential) zone to I (General Industrial) zone at 54 West Washington Street; Assessor's Map 44, Lot 60; Jeremy Berube, applicant, be withdrawn by the applicant.

By: Gagnon

Seconded: Harlow.

For: Abrams, Marra, Harlow, Gagnon and White.

Against: None.

Abstained: None.

The application is withdrawn by the applicant.

OLD BUSINESS:

There was no old business.

NEW BUSINESS:

2. Application #2371 – Discussion on the Special Permit for the removal and processing of earth materials at south and southeast of Barlow Street, south and west of Martin Road, south of Arcadia Road, and north of Farrell Avenue; Assessor's Map 67, Lots 20, 21, 22, 23, 24, 25, 37, 85, and all paper roads shown on Assessor's Map; R-15/OSD (Single-Family Residential/Open Space Development Overlay) zone; Trademark Acquisitions, LLC, Arcadia Group, LLC and Arcadia Acres LLC, applicants.

The Commission acknowledged receipt of the following items in their electronic packets: a letter dated June 8, 2022, from Attorney Richard Roberts of Halloran Sage to Robert Flanagan, City Planner, regarding the request to review the Earth Removal Special Permit Expiration and reference materials of Application #2371 from May 1, 2020 to August 24, 2020.

Attorney Mark Ziogas, 88 Valley St., representing the applicant, explained this was an existing Special Permit and there was a new public act that he and Mr. Flanagan had a disagreement on whether it applied to this application or not. Attorney Ziogas sent a letter to the Commission that described the public act that the act had specified dates of when the application would expire.

Attorney Ziogas stated that the application was filed in August 2020 and that the permit did not expire by March 10, 2020. The application expiration date is August 25, 2022. The act stated if the approval was within those dates that it would not expire for 19 years. So, there was a disagreement whether this applied or not. But, with the general reading of the public act, the applicant falls within the realm of the public act; therefore, the applicant does not need to submit a new application, but they would discuss the status of the project with the Commission. But it was not necessary for a new permit or to have a public hearing.

This matter was referred to the Office of Corporation Counsel who initially agreed with Mr. Flanagan's view, but then outside counsel was retained for additional guidance and a legal opinion. Attorney Richard Roberts of Halloran and Sage submitted an opinion dated June 8, 2022.

The outside counsel outlined "work to be performed," which is described specifically under a different Statute. Attorney Ziogas' view was this does not apply. The applicant has a subdivision approval and 20 lots were built or being constructed; 11 lots have contracts and are being constructed, so they are working.

Phases I and II are sold out; Phase III is being constructed, which includes the road and the infrastructure. This Special Permit was necessary to construct the location of the water services and for Phase IV. The two-year permit was an expiration date.

Attorney Ziogas' view was the Public Act applied to the applicant because they were within the time frame and a new application was not needed. Attorney Ziogas showed the Commission photographs from his cell phone of the work being done on the property. There was one concern last year with erosion from a storm and that was responded to within a few minutes.

Commission inquiries: Attorney Ziogas explained this was the second permit (expires August 2022) and the third permit if they file. There are 40 to 60 truckloads of sand per day with 2 employees (some offsite.) The employees for sand/gravel are also constructing the subdivision.

Mr. Flanagan inquiries: Attorney Ziogas explained if the application is filed, the applicant would need more than 2 years to complete the work. Mr. Flanagan explained he and the Corporation Counsel agreed with Attorney Roberts view.

Attorney Ziogas explained the improvements they were talking about be under the Public Act. His intent would be to continue working under the existing permit. There were different permits, from the Inland Wetlands Permit and a Subdivision approval.

Acting Chairman White noted there was no action necessary this evening. He agreed with the view of counsel and staff.

The Commission and Mr. Flanagan explained the existing permit would expire in August. The Commission stated they were business friendly and will work with all applicants. The Commission's concern was an earth removal operation for 19 years and that they may lose some control of the Special Permit that far into the future.

Mr. Flanagan read into the record the last page of Attorney Roberts opinion. He also requested Attorney Ziogas to contact his office to arrange for the new permit. Gino Troiano, P.E. Arcadia Acres, 72 Cold Springs Rd., representing the applicant, corrected Attorney Ziogas there was no inland wetlands permits for this site. There was a subdivision approval (3 phases) with final approval and conditional approval (3 phases.) Also, the earth removal permit.

CITY PLANNERS REPORT:

Mr. Flanagan reminded the Commission of the special meeting on Monday June 20, 2022 at the Bristol Central High School at 7:00 P.M. There will not be an online Zoom option for this special meeting.

ADJOURNMENT:

MOTION: Move to adjourn at 7:40 P.M.

By: Harlow

Seconded: Abrams.

For: Abrams, Marra, Harlow, Gagnon and White.

Against: None.

Abstained: None.

This meeting was taped.

Respectfully submitted,

Nancy King
Recording Secretary

Louise Provenzano, Chair

David White, Secretary