

The Chester Planning & Zoning Commission held a continued public hearing on Thursday, November 13, 2014, for Proposed Amendments to the Zoning and Subdivision Regulations, specially Sections 72, 80, 20, 120C.4(U) of the Zoning Regulations and Section 5.12 of the Subdivision Regulations. The hearing commenced at 7:35 PM.

In attendance were Jon Lavy, Mel Seifert, Sally Murray, Steven Merola, Errol Horner, Keith Scherber, Henry Krempel, Sarah Jansen (seated for P. Zanardi) and Michael Sanders (seated for D. Joslow).

There were 8 or 10 citizens in the audience.

Chairman Lavy read into the record a letter from Kenneth A. Grass, President, of Astrostrike dated November 13, 2014.

Chairman Lavy noted the public hearing from last month was continued to this meeting. He asked if there was anyone else who wanted to provide additional testimony.

William Sangster, 65 Airport Industrial Park Road, noted from the last meeting his intent was not to list every substance that might pose a hazard but to have a broad inclusive prohibition, such as bulk storage for distribution of fuels, chemicals, toxic, noxious, volatile materials, liquids, gases, etc.

Mr. Sangster referenced Section 80A1(D)A "a use similar to the last one". In the new regulation, someone with a new use would not be subject to Section 130 and felt that was not consistent and didn't make sense. As far as expediting the process, at least 2 of the remaining lots are subject to the wetlands application process and the time that goes with that so no one is going to save any time.

Mr. Sangster pointed out 80B.1(C) and 80B.2(A)(1) still require review by the Commission and subject to Section 130 regarding lighting and landscaping. The site plan still has to be reviewed by the Commission and that step still has to be done. As a result this process does not significantly expedite the process. All it does is render the process opaque and secretive using executive or administrative approval. The public is excluded from all knowledge and opportunity to comment in their own interest to protect their property. The only recourse would be legal action against the Town.

Mr. Sangster suggested the petition should be withdrawn and Section 80 as it is now should be retained. If its desirable to allow building expansion, that would still be within the stated coverage of the lot. Withdrawing the petition and moving discussion to a less

formal venue would allow participation of those directly affected.

Mr. Sangster noted his building is designed for 4 separate sections. If he wanted to rent or lease a section, that person would have to go through the Special Exception process. He did that knowing that. He also agreed if there was short term turnover that might get to be burdensome. He indicated there may be a middle ground there for that kind of situation, perhaps notice to abutters.

Mr. Sangster felt an executive or administrative approval process as proposed in the new regulation violates the rights of American citizens to have knowledge of events that affect them and their ability to act to protect their property.

John Schiavone, 80 Airport Industrial Park Road, echoed what he submitted in his letter last month. He noted someone put in a lot of thought coming up with new regulations. He indicated there was a lot of verbiage as to what Chester wanted for that Industrial Park and that's what drew him to the Park. Now there is a new set of rules. He made an investment in one set of rules and now there's a new set of rules. His only concern was protecting his property values.

William Sangster noted Section 80B.1A has a typo ("be reason of fire, explosion..." should be "by reason of fire, explosion...").

Mr. Sangster asked if this would be permitted in the Village District also. Chairman Lavy replied yes. If its a General Principal Use, it does not come before the Commission. If its a Special Principal Use, it does come before the Commission. There is a list of General and Special Principal Uses within the Village. Lavy noted there are occasions where the Commission does not see those uses. He further noted part of the driver for this was so that people didn't have to wait 30, 60, 90 days to move into a business. That was an instigator from the Economic Development Commission so people don't shy away from the buildings at the Industrial Park.

Attorney Jane Marsh noted she was with Mr. Sangster and was here to talk policy. She finds it extraordinary that there are so many people in the Park asking not to simplify this situation. Those are the people who are saying don't streamline this policy. She finds that extraordinary. Most people can't stand regulations and don't want it.

Attorney Marsh noted this is going from the maximum level of review to the most minimal review. There are many steps in between that might make the people in the Industrial Park feel more comfortable

with the process and possibly have some input. Having site plan approval with no public hearing is possible. The Commission could decide whether an applicant is minor or major. If its minor, the applicant talks with the ZCO. If major, it comes before the Commission. Marsh noted so much stuff slips under the radar screen once the Commission no longer looks at it and control is lost. You never know in the future what kind of a ZCO you are going to have in the future, what their experience is, etc. There could be a break in period for a new ZCO and it would be nice to know the Commission is in charge during that time.

Attorney Marsh suggested calling on some technical experience (perhaps the Planning Agency) to draft something less burdensome and time consuming but not to cut out the parties who might want input. Have various tiers rather than cut it right down to administrative only. She urged the Commission to retain some of what exists and not throw it all out.

Sally Murray asked if the Economic Development Commission has seen these. It was noted there have been no comments from EDC. Michael Sanders is a member of EDC.

Errol Horner noted a lot of property owners have come forward with the same issue. In view of that he would be in favor of withdrawing the petition, looking at the two person process and possibly going outside the Commission for some input to help mold this so all parties are comfortable. He felt that was important. He could see the two person process being horribly abused if the wrong players were present. If anything, it would be easier to abuse the relaxed version versus the complicated one.

Henry Krempel noted the Commission was trying to put together a new enumerated list where it would be safe for an administrative approval process. What he is hearing from the people is that the list doesn't include some things they would like to see. He felt withdrawing the petition and adding to the list would not hurt the Commission's intentions.

Michael Sanders noted having been on EDC when this originated, this came out of a couple of instances on Inspiration Lane where a dance studio had to wait for 90 days for a Special Exception to go through. Things that were not harmful to the environment, not creating a lot of traffic, an interesting business to keep in town, they still had to go through the Special Exception process for everything. This was a way to make life simpler and make it easier to move into a business faster, especially if there was minimal or no impact.

Sally Murray noted there may be an interpretation issue. Connecticut is prohibitive Zoning. If it is not named, it is not permitted. Given the feedback received, it would be appropriate to meet with some people and amending the General Principal Uses. Anything not on that list goes before the Commission. She did not think it was appropriate to specifically prohibit a particular type of business. She felt retaining the language of noxious fumes and extraordinary dangers, etc. was appropriate.

Mel Seifert noted General Principal Uses are very few and enumerated and don't require a public hearing. We don't have hearings on every commercial use. If it fits under one of the enumerated uses, there is no hearing. Those uses would already be permitted by regulation. That's what the Commission was attempting to do with this and that is to enumerate those that would be allowed without a hearing, similar to commercial and residential uses. Why would the Commission hold a hearing on something that is absolutely going to be approved anyway. That is what causes those businesses to go to Killingworth, Deep River or Haddam or someplace where they don't have to spend months getting approval.

Mr. Seifert noted Section 130 applies to a Special Exception permit, it has nothing to do with General Principal Uses. The intent of this new regulation is to list the enumerated uses that are basically "no brainers" and don't send people to other communities. Hearings are required for pretty much everything else.

Mr. Seifert noted "D" really applies to the Airport.

Mr. Seifert reviewed Section 80B1(A) language "the proposal should not be of unreasonable risk or injury. He indicated at the last meeting Mr. Sangster noted attorneys can twist those words around to mean anything. Mr. Seifert noted attorneys can argue anything. He noted this Commission is collectively a Judge. A Judge looks at the facts and the law and makes a determination based upon those facts. The Commission is therefore the Judge and has to decide if those facts support that it is an unreasonable risk. If the applicant does not like that decision, he can take it to the Superior Court.

Mr. Seifert briefly reviewed the propane facility application noting he read 2 ½ pages into the record and hopefully that discouraged them from taking it to Superior Court. Very specific facts had to be established on the record.

Mr. Seifert noted the Commission doesn't want to make this an undo

burden and is sympathetic to the feelings of the public, but he didn't think it's warranted because of the protection of enumerated uses.

Errol Horner felt there is a middle ground somewhere and there is no rush to push this through. He felt the Commission was here to respond to the public and felt new business deserves a certain review.

Chairman Lavy noted there is a difference when you look at the Village District. They are not building a new building. They move into an existing building and that's a different standard.

Henry Krempel noted the Commission is trying to enable people just moving into an existing property and enumerated certain uses that would be considered no brainers. He felt that would be more comfortable with a list of certain chemicals that would trigger review.

Mel Seifert noted to enumerate certain uses that are permitted would be the better way to do this. If you do it the other way, you will forget something. Chairman Lavy noted if it's not in the regulations, it's not allowed.

Steven Merola echoed everything already said. The Commission's intentions were good. He understands property owners want to protect their businesses and property values.

Mel Seifert noted a site plan review would be a middle ground. Chairman Lavy noted the reality is the previous Sections 72 and 80 already had uses. Steven Merola noted there were a couple businesses that were interested and did go elsewhere.

Sarah Jansen noted this has been going on for almost two years. The Commission has been playing the devils advocate and reviewing this at every meeting to try and make it as safe and non-toxic.

Keith Scherber noted the property owners have spoken and the Commission needs to listen to them. He would withdraw this petition and get the people involved in this process. It may go back to what it already is, but they will be happy. That is very important.

Bill Sangster noted there was a previous application that wanted to cut stones. He did his due diligence regarding dust, noise, vibration. It would not be reasonable to expect anyone on this Commission to know how vibration would affect my business. He got to

voice his concern. He would have no way under the proposed regulation to voice his concerns about dust, noise, vibration. Sangster felt Sections 72 and 80 were tied together.

Mel Seifert noted he felt 72 and 80 were separate and distinct.

A straw poll was taken as to whether Commission members felt 72 and 80 should be withdrawn. Chairman Lavy noted based on the straw poll results, Sections 72 and 80 will be withdrawn. The Commission will continue to work on this and ask those property owners participate in these discussions and come with an open mind.

No one spoke to Section 20 - Definition.

It was noted Sections 120C4(U) Emergency Services and Section 5.12 are housekeeping items requested by the Fire Marshal.

It was decided Sections 72, 80 and 20 have been withdrawn.

Motion by Seifert, second by Murray, to close this public hearing at 8:30 PM. Voting in favor - Seifert, Murray, Merola, Horner, Scherber, Krempel, Jansen, Sanders, Lavy. Opposed - none. Motion Carried.

Respectfully submitted,

Sally Murray /jrb

Sally Murray, Secretary