

Chester Planning & Zoning Commission
Regular Meeting, August 13, 2015
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1. Call to Order

The Chester Planning & Zoning Commission held its regular meeting immediately following a public hearing on Thursday, August 13, 2015, at the Chester Town Hall, 203 Middlesex Avenue, Chester, Connecticut. Chairman Jon Lavy called the meeting to order at 7:33 PM.

2. Roll Call & Seating of Alternates

Those in attendance and seated were Jon Lavy, Mel Seifert, Sally Murray, Steven Merola, Errol Horner, Henry Krempel, Doreen Joslow, Peter Zanardi, Michael Sanders (seated for K. Scherber). Judy Brown, ZCO, was also present as was Commission Counsel, Attorney Dave Royston.

3. Audience of Citizens - none.

4. Old Business

(a) The Good Elephant, 59 Main Street - Amendment to Special Exception #15-06 for second floor restaurant use. Linda Reid from L & E Restaurant was present.

Chairman Lavy read into the record the Comprehensive Statement of Use submitted with the application. He noted the second floor was originally approved as a private dining room for L & E back in 2010. It is currently being marketed as a separate restaurant and most people would believe that. Lavy asked Mrs. Reid if when a patron pays their bill if it is paid to L & E. Her response was yes. She said it is marketed as The Good Elephant, but everything is funneled through the same business (L & E).

Sally Murray confirmed with Mrs. Reid that there was no separate bank account and it used the same tax identification number.

Chairman Lavy noted the Reids should have come in and asked for a change to the prior approval and not just gone ahead and done it. Mrs. Reid noted they were doing what the regulation said could be done so they didn't think anything had to be changed. She further noted from their understanding it satisfied the regulations as an extension of the restaurant below.

Attorney Royston asked if there was another way to get upstairs other than the outside entrance. Mrs. Reid noted there is another entrance at the back of the building for employees only, not the public.

Attorney Royston noted the only difference he saw was the private party dining. It is sort of a sub-use of the restaurant use. The

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only significance to amending the approval to eliminate the private party dining is whether or not that condition had an effect on the granting of the original Special Exception in terms of parking. If private party dining is not critical in terms of parking, etc., he noted he didn't see a problem with it. Attorney Royston noted it should be specified that representations were made that it is under the same ownership, same licenses, same operation, etc. He did not see a problem with having a different name. Royston felt the private party dining could be eliminated as long as Commission members didn't feel it had a negative effect on the business operation.

Chairman Lavy noted this could probably be approved with the same conditions as the original Special Exception modifying it to eliminate the private party dining as long as everything remains under the same ownership, the same licenses and same operation as represented in the original application for the L & E Restaurant. All other conditions of the original approval will remain in full force and effect.

Errol Horner questioned the new sign. He felt all signage should be reviewed by the Commission. It was noted this was an existing sign with a change in the text. Attorney Royston felt this was a pre-existing sign and there was nothing specific in the decision of the original Special Exception concerning the sign, therefore, there is a protected right to the sign as long as Commission members feel it is in keeping and harmony with the character of the neighborhood.

Motion by Krempel, second by Zanardi, to approve Amendment to Special Exception for The Good Elephant, 59 Main Street, for second floor restaurant use, including signage, with the following conditions -

- 1. It remain under the same ownership, same licenses, and same operation as L & E Restaurant on the first floor.**
- 2. All other conditions from the original Special Exception approval in 2010 will remain in full force and effect (private party dining is eliminated).**

Unanimously Approved.

(b) Skyview Properties, 59 Winthrop Road - Special Exception application for indoor and outdoor storage of personal belongings, materials, business inventory, vehicles, tractors, trailers and equipment - schedule public hearing.

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Attorney Royston noted an application was filed during the time line of the Court and its Judgment, but the application was incomplete and did not include the application fee. The applicant has been advised that the application was incomplete and lacking the fee. A check for the application fee was received this afternoon.

Attorney Royston noted the ZCO, through Attorney Royston, advised the applicant the application was incomplete and she was prepared to provide whatever assistance was required to complete the same, just like any other applicant.

One issue was the waiver of the site plan. Attorney Royston noted it has been made clear to the applicant that the waiver of the site plan was the requirement under Section 120 was what was waived, not the requirement to provide sufficient information for the Commission to determine what the applicant wants to do. If there was going to be anything outside, it would have to be shown where and what. Attorney Royston noted he sent a copy of the Subdivision Map to Mr. Komondy advising him to show what and where he would like any activity outside. There was also one additional box trailer which is permanent storage that should be shown on the map if he wants to keep it. Any parking should also be shown. A comprehensive statement of use should be included in the application. What was provided was insufficient.

Attorney Royston also advised the applicant if he had any questions, he could contact him directly. The intent is to be sure there are no Civil Rights violations against any town officials, the Commission or the Commission's Counsel. There is already a Federal case claiming that. It is prudent to do everything to avoid that and to prove all courtesy has been extended to the applicant. All that is being done is assisting the applicant in putting the application in order that the Commission can make its decision under the regulations. Attorney Royston noted he has received no response yet from the applicant.

It was Attorney Royston's recommendation that a public hearing be scheduled for the September meeting now that the application fee has been paid. The applicant can provide the essential information to the Commission in order for it to make a decision either before the public hearing or at the public hearing.

Attorney Royston briefly reviewed what transpired in Court over the last 3 or 4 years. The Court had granted the Injunction but not the motion for fees, etc. It was felt that money would be better served

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to put together the application in order for the applicant to be in compliance. There was a representation to the Court through the applicant's attorney that the applicant didn't have the money to provide that information. Attorney Royston told the Court the requirement for the site plan would be waived, but he needed to apply for a Special Exception. This was an existing building and parking area which was clearly shown on the Subdivision Map.

The Commission scheduled the public hearing for Thursday, September 10, 2015. Attorney Royston noted the applicant has the option to extend the time period for a total of 65 days anywhere along the process if he wants to.

10. Pending Litigation

Motion by Murray, second by Krempel, to go into Executive Session for the purpose of discussing pending litigation at 8:30 PM. Unanimously Approved. Commission came out of Executive Session at 9:10 PM. No actions were taken.

(c) Extension of Moratorium on marijuana producers and dispensaries within the Town of Chester until February 29, 2016. **Motion by Seifert, second by Murray, to approve extension of Marijuana Moratorium until February 29, 2016. Unanimously Approved.**

(d) Application Fees - continuing review - nothing further at this time.

(e) Proposed Village Sign Regulation - public hearing on September 10, 2015
Chairman Lavy reminded everyone there will be a public hearing on the proposed Village Sign Regulations on September 10th. ZCO Brown will email members the proposed regulation.

(f) Proposed Marijuana Regulations - continuing review
Sally Murray will work on editing the proposed Marijuana Regulations per Attorney Royston's comments from his letter dated July 9, 2015.

5. New Business - none.

6. Report of Officers and Subcommittees

(a) Report from Zoning Compliance Officer
ZCO Brown noted she received a complaint regarding illegal parking and increasingly loud music from the Concerts in the Garden. Commission members felt this was not a zoning matter, but rather a

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police matter. It was determined no further action was needed regarding this matter.

7. Bills for Payment - none.

8. Communications, Receipt of New Petitions, New Applications - none.

9. Approval of Minutes - July 9, 2015 Public Hearing and Regular Meeting Minutes

Motion by Joslow, second by Seifert, to approve Public Hearing Minutes of July 9, 2015 as written. Unanimously Approved with Murray and Sanders abstaining.

Motion by Zanardi, second by Seifert, to approve Regular Meeting Minutes of July 9, 2015 as written. Unanimously Approved with Murray and Sanders abstaining.

11. Adjournment

Motion by Murray, second by Joslow, to adjourn at 9:30 PM. Unanimously Approved.

Respectfully submitted,

Sally Murray */jrb*

Sally Murray, Secretary