

Chester Planning & Zoning Commission
Regular Meeting, December 8, 2016
Page 1 of 6

1. Call to Order

The Chester Planning & Zoning Commission held its regular meeting immediately following 2 public hearings at the Chester Town Hall, 203 Middlesex Avenue, Chester, Connecticut. Chairman Jon Lavy called the meeting to order at 8:25 PM.

2. Roll Call & Seating of Alternates

In attendance and seated were Jon Lavy, Sally Murray, Steven Merola, Jacqualine Stack, Henry Krempel, Peter Zanardi, Pat Bisacky (seated for M. Seifert), Michael Sanders (seated for D. Joslow) and Elaine Fitzgibbons (seated for K. Scherber).

3. Audience of Citizens

(1) Attorney Christopher Smith from Shipman & Goodwin introduced himself and Tom Metcalf, Brian Hughes and Andrew Drabek. Attorney Smith noted this was a preliminary discussion to get some feedback from the Commission without prejudice. This would involve a text amendment to Zoning Regulations Section 60A(2)N involving Accessory Dwelling Unit in a detached structure. He noted Messrs. Hughes and Drabek own 50 acres on Deep Hollow Road, including various wetlands that has approval from the Army Corps, which is a farming operation. This is in a Residential Zone. They would like to construct a detached new accessory building and have an Accessory Dwelling Unit in it for a farm manager. The current regulation states any detached building with an Accessory Dwelling Unit has to be 10 years old. They would like to omit the 10 year restriction.

Attorney Smith noted there is a recommendation in the Plan of Conservation & Development that the Zoning Regulations be modified to allow for one accessory dwelling unit regardless of the age of the structure. They might also like to consider in the future having a 2nd Accessory Dwelling Unit. Perhaps a regulation could be written for this stating the property has to be a farm operation with a minimum of 10 acres. This would be something to consider in the future. It was agreed Attorney Smith would put together a regulation to be submitted to the Commission at probably its January meeting for scheduling of a public hearing in March.

(2) Rich Gold, 25 Main Street, noted he would like to see the Commission undertake making some guidelines for outdoor amplified music restricted to the Village District. Its become truly untenable what is going on. It seems there has

Chester Planning & Zoning Commission
Regular Meeting, December 8, 2016
Page 2 of 6

got to be a solution, whether it is by Special Exception or some other permitting process. He did not feel a Noise Ordinance was desirable. The Village District is a separate district with very dense mixed use. He felt a subcommittee could be put together to come up with rules so everyone can be happy.

Virgil Lloyd, 73 Main Street, agreed with everything Mr. Gold said. Mr. Lloyd noted he has been in town for 25 years. Its just been the last year where the music has gotten unbelievably loud. It is live music outside amplified quite loudly. The Village is a different environment. We have one tenant in the Village that is dominating the whole issue. Maybe it's regulated by permit or something else, but it needs to be brought back under control.

Mr. Lloyd noted the second issue is loitering, hanging around drinking and smoking on the sidewalk. This blocks the sidewalk and has changed the Village. This is something the Commission should be aware of as it could have a negative impact on the economic health of the Village. He further noted noise and loitering are common problems in communities across the country.

Chairman Lavy noted the Commission can approve new applications with conditions. We can't single out any one place. Virgil Lloyd noted this has been going on many, many years so he wasn't sure what changed in the last couple of years.

Lois Nadel, East Liberty Street, noted they are one mile from the center of Town. On Saturday night their living room vibrates. The noise smacks right into the side of their house. They have called the State Police several times. It helps but its still there. Last Friday night they were out there with the heaters and music again. This is recent, just in the last year or two, something definitely has changed there and something needs to be done. She didn't think the efforts of one business in Town to increase the bottom line should over-rule the quiet enjoyment of other people.

Martin Nadel noted he has been up at 11 PM with the windows closed and can't get to sleep. There are noise regulations that don't impact normal functions in Town. The Town should look into what other towns have done in terms of reasonable noise control. People drinking on the sidewalk is illegal. Why do we

Chester Planning & Zoning Commission
Regular Meeting, December 8, 2016
Page 3 of 6

allow them to continue to do it? When they were allowed to expand outside, part of the Town acceptance included certain specifics as to what was allowed in terms of the permit they were given.

Chairman Lavy noted he has looked into this and remembers having this discussion many years ago. He noted he did some research and found through the DEEP website that 30-40 towns have noise regulations that are reflective of the Connecticut General Statutes. Those are passed by the Board of Selectmen and enforced by local or State Police. Hamden allows for certain exemptions such as parades, town events, ball games, etc. A lot only address amplified sound, human sound is not regulated. Lavy further noted he didn't believe it was up to the Commission to regulate sound, that's not the Commission's purview.

Chairman Lavy noted the Outdoor Dining Permits have to be applied for every year. Past records are reviewed before permits are approved.

Chairman Lavy reiterated a Noise Ordinance is a Board of Selectmen issue to write and it is enforced by State Police or Health Director.

First Selectwoman Gister noted she was of a different mind. She agreed it was not Planning & Zoning's job to pass a Noise Ordinance. The Village District is the only part of town with mixed use of commercial and residential. She has discovered at least for the past 3 summers this has come up. The Board of Selectmen discussed it and decided a Noise Ordinance was not a good idea. The Selectmen made an agreement with the Pattaconk and it was broken. The new administration comes in, talks to people who are complaining, meets with the Pattaconk, makes another agreement (didn't know there was a previous agreement).

First Selectwoman Gister noted she believed a Noise Ordinance would be very costly to the taxpayer to enforce. The Town does not have a police force with 24/7 coverage. The ZCO is not full time either.

There was discussion on whether there could be some sort of a permit process for outdoor music, particular kind of music, hours played, etc. with either a fine or pull the permit for any violation. It was noted if there is a Noise Ordinance, they

Chester Planning & Zoning Commission
Regular Meeting, December 8, 2016
Page 4 of 6

have to be caught in the act and the Town then goes to Court.

Chairman Lavy reiterated a Noise Ordinance would be reflective of the General Statutes. The Board of Selectmen would set the zone, the decibels and can exempt certain things. He strongly disagreed this was a Planning & Zoning issue. If they have a band indoors and open up all the windows, how is that Zoning Commission issue.

It was agreed this problem must be solved. Chairman Lavy noted he would speak with Commission Counsel about this matter. First Selectwoman Gister noted she would have to hire another Constable if there is a Noise Ordinance.

Peter Zanardi noted this has been going on for more than 5 years. Twenty years ago the Board of Selectmen battled the same problem. No one could come up with the rules that would solve this problem.

Chairman Lavy noted the Commission can't make deals with certain restaurants. Everyone has to be treated the same.

Martin Nadel noted amplification is a major part of the problem. Amplification could be eliminated.

Lois Nadel asked what the cost was when a State Trooper comes to town.

First Selectwoman Gister noted with regard to drinking on the sidewalk, that is a Liquor Permit. A complaint needs to be made to the Liquor Commission and reported to the State Police.

The question was asked if it was a zoning issue if they were playing beer pong on the patio. Chairman Lavy replied no.

Martin Nadel noted he didn't think the cost matters. The Town can't let one person or place of business control it.

Virgil Lloyd agreed the Board of Selectmen and Planning & Zoning should continue to discuss this matter going forward.

Chester Planning & Zoning Commission
Regular Meeting, December 8, 2016
Page 5 of 6

5. Old Business

(a) Special Exception Application #16-05 submitted by Realty Securities (owner) and Jenny Adee (applicant) for combined Art Gallery and Coffee House (Cafe) at 16-18 Main Street, Chester CT (Map 14, Lot 334, Village District).

Chairman Lavy noted a public hearing was held prior to this meeting and asked for everyone's input. **Motion by Sanders, second by Krempel, to approve Application #16-05 with the following condition – all requirements of the Fire Marshal, Building Official, Water Pollution Control Authority and Sanitarian shall be met. Unanimously Approved.**

(b) Special Exception Application #16-07 submitted by Realty Securities (owner) and W. Carlisle Schaeffer (applicant) for Microbrewery at 16-18 Main Street, Chester, CT (Map 14, Lot 334, Village District).

Chairman Lavy noted a public hearing had been held prior to this meeting and asked for everyone's input.

Motion by Sanders, second by Krempel, to approve Application #16-07 with the following conditions -

1. All requirements of the Fire Marshal, Building Official, Water Pollution Control Authority and Sanitarian shall be met.

2. This approval is subject to the Commission repealing Section 40T(1) of the Chester Zoning Regulations.

Unanimously Approved.

(c) Proposed Medical Marijuana Regulation, public hearing scheduled for January 12, 2017

(d) Proposed Variance Amendment to Regulations, Section 140J, public hearing scheduled for January 12, 2017

(e) Proposed Special Exception Amendment to Regulations, Section 120L, public hearing scheduled for January 12, 2017

(f) Repeal Section 40T(1), Sale of Alcoholic Beverages, public

Chester Planning & Zoning Commission
Regular Meeting, December 8, 2016
Page 6 of 6

hearing scheduled for January 12, 2017
Chairman Lavy noted (c), (d), (e) and (f) above are all scheduled for public hearing on January 12, 2017.

6. New Business – none.

7. Report of Officers and Subcommittees

(a) Report from Zoning Compliance Officer

With regard to the Appeal of Section 80 by Clearwater et als, Attorney Royston has indicated the Appellants intend to file an application to amend the regulation to be received at the January meeting. It will be referred to other entities as required and scheduled for public hearing. If the application is approved, substantially as written, the Appellants have agreed through counsel that the issues in the Appeal will be moot and the Appeal will be withdrawn.

8. Bills for Payment – none.

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

10. Approval of Minutes – November 10, 2016 Public Hearing and Regular Meeting Minutes

Motion by Sanders, second by Murray, to approve November 10, 2016 Regular Meeting Minutes as written. Approved with Bisacky and Lavy abstaining.

Motion by Murray, second by Sanders, to approve November 10, 2016 Public Hearing Minutes as written. Approved with Bisacky, Lavy and Zanardi abstaining.

11. Adjournment

Motion by Merola, second by Krempel, to adjourn at 9:20 PM. Unanimously Approved.

Respectfully submitted,

Sally Murray /jrb

Sally Murray, Secretary