

**PLANNING & ZONING COMMISSION
EAST GRANBY, CONNECTICUT
MINUTES
August 18, 2018**

A meeting of the East Granby Planning & Zoning Commission was held on Tuesday, August 18, 2018. Members present when Chairman John Welsh called the meeting to order at 7:02 p.m. were David McNally, Amanda Thompson, David Brassard, Robert Ravens-Seger and with alternate member Mark Ricketts.

Chairman Welsh requested a moment of silence in remembrance of two long time Town residents - William Westervelt and Donald Holtman. They had served on many, many Boards and Commissions over the years and were very involved in all aspects of town government and town organizations.

PUBLIC HEARING

The legal notice was read.

- A. Timothy Brignole/Zoning Regulation Change/ Wineries (#18-05)**
(rec'd 7/10/18 (h/d 8/14/18 **cont'd to 9/11/18**) (d/d 11/13/18)

A letter had been received from the applicant stating he was unable to attend the 8/14/18 meeting and requested the hearing be continued to the 9/11/18 meeting.

- B. Karen Gaston – Marijuana Dispensary Regulation Change (#18-06)**
(rec'd 7/10/18) (h/d 8/14/18) (d/d 10/09/18)

Edward Lally, representing the applicant, reviewed his regulation change application details. He discussed why the Commerce Park B zone is the appropriate location and the special permit process which gives the Commission more discretion. He noted that processing and growing are not permitted under these regulations. He discussed the State licensing requirements and that the facility will be in compliance with all State laws. No recreational marijuana would be allowed even if State law changes under these regulations. There would be no consumption on the property (this includes smoking). Under the site plan & special permit process, full details will be required including security measures, hours of operation etc. An annual report would be filed with the Commission and the Town Clerk to demonstrate compliance. A bond of 150% of the cost for cleanup would be posted should the business discontinue or move. The applicant would comply with any other conditions deemed appropriate to protect the Town and any abutters. The regulations limit treatments only to the conditions currently listed by the State. Any additional medical conditions added by the State after the adoption would not be included. He noted that a medical marijuana card is very difficult to get.

Medical marijuana is not cheaper than what is bought illegally on the streets and the “high ingredient” has been removed. He distributed data from the State regarding how many doctors dispense (9), MMD locations in the State, and the number of people who are currently using the

product. Based on this data, he estimated that 38.6 people would use this facility on a once a week or once a month basis. He saw this as a potential benefit to the Town as they may also patronize local businesses while they were in Town. He discussed how this was consistent with the POCD. He noted there would be a benefit to the tax base for personal property taxes and if this applicant locates on Russell Road, the current building would then be full and a new one may be built. These regulations are similar to other Towns.

Mr. Welsh questioned why Simsbury had a production facility but not an MMD. If you had one, you can't have the other? Was that a part of the State law? Mr. Lally did not know the answer to that. Mr. Welsh noted that Simsbury would be closer than South Windsor for residents if they had both.

Mr. Welsh also questioned whether this was a retail use which is not an allowable use in the Commerce Park B Zone. Carl Landolina, attorney for the applicant, stated that it had a retail component to it, but that doesn't mean it can't be permitted. This type of use may be objectionable to some and it should be located far from other types of uses such as schools, churches, daycares etc. The Commission can't disallow uses but they can limit them to certain areas such as was done with adult entertainment. This type of facility can be well managed under the special permit process.

Mr. Haynes noted that in his research, some Towns placed them in their industrial areas while others in the business area. Many consider it more secure in the industrial area and away from the Town Center. Mr. Lally noted that there was a retail component to this business but it's not like a 7-11 where anyone can just go in and buy whatever they want.

Mr. Welsh stated that a special permit "runs with the land". What recourse would the Commission have if the license is revoked or the applicant moved elsewhere. Mr. Lally suggested that many Towns place a five (5) year limit on a special permit and the applicant must apply to renew the permit. Many Towns do this and the Commission can legally pull the permit if any provisions are violated. The applicant would agree to a five (5) year time limit as a condition of approval. He recommended the Commission use similar language as other Towns where the permit can become null and void. Mr. Lally wanted to assure the Town that the applicant wants to be a good neighbor. The Town Attorney would need to offer his opinion on a time limit.

There was discussion on the forms in which the substance is purchased. It can be edible or in oil form as examples. Mr. Lally explained that in most cases, the THC (the substance that makes you high) is removed. That is not the component that eases pain, prevents seizures etc. On the other hand for chemo patients unable to eat, it may be left in to "give them the munchies". The pain relief is not from THC – there is a big difference between the medical form and the street form.

Mr. Landolina explained that new location licenses are determined by a point system. It's not a "first come, first served" situation. This applicant has applied but may not even get a license. That will not be decided for months. An applicant can revise their application as the time goes on to be awarded more points.

Mr. Lally noted that medical marijuana is illegal in the eyes of the Federal Government but 30 States have legalized it and the government is not cracking down on anyone. There has been no prosecution by the federal government. He requested the public hearing be held open to get an opinion from the Town Attorney on the five year limit on special permits. Mr. Welsh agreed to continue the hearing until the 9/11/18 meeting as requested.

Amanda Thompson read from the POCD on attracting businesses to Town that added value to the local economy, supported other business development and were supported by the local EDC and Chamber. She stated that the town needs compatible uses and she doesn't see this as consistent with the goals of the POCD. The Town is too small and there is limited space to make this fit. A bigger town would be better.

Mr. Ravens-Seger felt the applicant was in a "catch 22" situation. The applicant has tried to meet and appease the Commission on all their requests. Where is the compassion for people whose illnesses can be better treated this way.

Mr. Haynes read the permitted uses in a Commerce Park B zone and noted it was not meant for retail and he reiterated that this was breaking federal regulations.

In favor, Brad Wolfe who has Parkinson's disease, discussed how medical marijuana has allowed patients to be free of pain and anxiety. He noted that waiting for the "ideal" business to move into Town hasn't worked. This applicant has a right to try. The State has approved this and the Commission should look forward. This isn't going to hurt anybody.

John Walker stated that the Commission is not here for compassion. As a vet he has only 3 locations that he can utilize for medical assistance with the closest being a 40 minute drive. He'd gladly trade and only have to drive to South Windsor. He is totally against the proposal.

In favor, Karen Caterino noted that many of the East Granby companies in that area make a product and sell it – isn't that the same thing? This is not like regular retail. Not just anybody can walk in. It is highly secure. So many drugs for pain conditions like fibromyalgia are addictive. This business can be sustainable. We need these places – this shouldn't be a NIMBY.

Many other residents spoke in favor and see it as a help to many people and beneficial. Joseph Doering agreed that as a small business owner, traffic may stop and frequent town business rather than just drive through. Some noted that family members who were dying from cancer found this eased their pain. This is not to get anyone addicted. Street drugs and medical marijuana are two different things. Others noted you can't control people and what they do but this is controlled and beneficial.

In opposition, Ed Zawistowski had concerns as to where the money came from to fund this business as banks do not back. This should be a question that is asked. Is there money laundering? He felt this was of such magnitude, the voters of this Town should decide this issue rather than the Commission.

Also in opposition, Angela Ciottone stated the Commission should adopt the recommendations of staff and deny this application. She was concerned with the increased crime in the area of Russell Road and whether this would add to that situation. Would there be increased costs to the Town for police and security. She stated many people fake medical conditions to obtain drugs. We would be attracting lots of these types of people to Town. This may start out as medical marijuana but if the State passes recreational use because of the possible tax revenue, the applicant will be back to ask for more. This wasn't beneficial to the Town. She noted lots of data from Colorado with increased safety issues, poverty and homelessness. Federal law pre-empts State law. We shouldn't support something that only helps a few. There is no benefit to the Town. What type of message are we sending to our children?

Mr. Zawistowski suggested the Commission read an article from the Journal Inquirer about increased drug use in schools after recreational and medical marijuana was approved in other States. In a final comment, Angela Ciottone wanted to note that many Massachusetts towns are against these types of facilities and they know these facilities don't make good neighbors.

The public hearing will continue on this application to the 9/11/18 meeting. The public hearing portion of the meeting closed at 8:35p.m.

NEW BUSINESS

A. Timothy Brignole/Revised Site Plan/103 Hartford Avenue (#18-04)
(rec'd 7/10/18) (d/d 9/11/18) (**discussion postponed to 9/11/18**)

A letter had been received from the applicant stating he was unable to attend the 8/14/18 meeting and requested the hearing be continued to the 9/11/18 meeting.

B. Timothy Brignole/Zoning Regulation Change/ Wineries (#18-05)
(rec'd 7/10/18 (h/d 8/14/18 **cont'd to 9/11/18**) (d/d 11/13/18)

No action taken. See "Public Hearing".

C. Karen Gaston – Medical Marijuana Dispensary Regulation Change (#18-06)
(rec'd 7/10/18) (h/d 8/14/18) (d/d 10/09/18)

No action taken. The hearing has been postponed to 9/11/18.

D. Juliano's Pools/Brandon Freeman - 31 North Main Street
PRD rear yard request & 40% waiver – in-ground pool

Eric Levesque from Juliano's Pools and Brandon Freeman, the owner, were present to answer any questions. Mr. Haynes explained that he proposal was for an L shaped in-ground pool. The F.V.H.D. requires a 25 ft. separation distance from the septic system. This pushes the pool within 13 ½ feet of the rear line. The PRD has no side & rear requirements so the Commission must make the determination if the R-40 setbacks can't be met. The applicant has been working on purchasing additional property from the abutting neighbor. This is still in progress. If completed,

the rear yard line would be 31 ft. Mr. Haynes had an aerial photo which should the property to the rear has a sewer line easement and is wetlands therefore it is virtually unbuildable. Mr. Freeman stated that they couldn't execute the lot line revision at this time as the property is tied up in a mortgage and may take months.

Mr. Haynes explained the 40% rule deviation was minor. The pool and two sheds is only 17 sq. ft. over the 40% of living area. There was a concern with a 13 foot rear yard but the land behind the property is useless. Mr. Freeman said his neighbor had no problem with the pool location. It was suggested that a letter from the neighbor be submitted as a condition of the approval stating that the parties have agreed in principle to the purchase and it is in progress but if that is unattainable, the neighbor has no issue with the 13 ft. rear yard.

A motion was made by David McNally and seconded by Amanda Thompson to approve the 40% waiver request as submitted and recommended by staff. Votes in favor were unanimous. Motion carried.

A motion was made by David Brassard and seconded by John Welsh to approve the PRD rear yard line request subject to the submission of a letter from the abutting neighbor prior to the issuance of a building permit. Votes in favor were unanimous. Motion carried.

E. William H. Wilson/Extension Request for East Granby Meadows

Mr. Haynes explained the history of the East Granby Meadows development off East Street. State Statutes were revised to allow nine (9) years until completion of a project with an extension of an additional five years. Mr. Wilson is requesting the additional five (5) years.

Mr. Wilson explained that the economy still has not improved enough to start building. The housing market has not improved enough and the cost of material has skyrocketed. All the utility infrastructure is in place except for paving.

A motion was made by David McNally and seconded by Mark Ricketts to the five year extension request as submitted and recommended by staff. The new expiration date will be 12/08/2023. Votes in favor were unanimous. Motion carried.

DISCUSSION WITH APPLICANT AND/OR PUBLIC

None.

MINUTES

A motion was made by David McNally & seconded by Robert Ravens-Seger to approve the minutes of 5/08/18 as submitted. Votes in favor were unanimous. Motion carried. (No alternates voted)

COMMUNICATIONS

The Commission received:

July

- A copy of a ZBA legal notice for 6/28/18 & of the decision
- Copies of info on Statute requirements for voting
- Application #18-04 by Timothy Brignole for a revised site plan for 103 Hartford Avenue – winery/vineyard
- Application #18-05 by Timothy Brignole for Winery/Vineyard regulation changes
- Application #18-06 by Karen Gaston for a regulation change to allow for Medical Marijuana Dispensaries

August

- Quarterly Newsletter from the CT Federation of PZC Agencies
- IWC Minutes for 6/18/18 & 8/1/18
- A PRD rear yard & a 40% waiver request for 31 North Main Street for an in-ground pool
- PRD side yard request for 26 Austin Brook Drive for a shed
- A resubmittal of information and previous staff comments for Application #18-06
- An extension request from William H Wilson for East Granby Meadows
- Staff comments for 31 North Main Street
- Aerial photographs from staff for 31 North Main Street

OLD BUSINESS

A. **Zoning Enforcement Report** – No report.

B. **Planner Report** -

- a. Administrative Site Plan Approvals: None

C. **CRCOG Regional Meeting Report** – No report.

ADJOURNMENT

A motion was made by David McNally and seconded by Mark Ricketts to adjourn the meeting at 9:15 p.m. The votes in favor were unanimous. Motion carried.

Respectfully submitted,

Rosalie McKenney
Land Use Administrative Assistant