



Town of Griswold



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**GRISWOLD PLANNING & ZONING COMMISSION
PUBLIC HEARING & REGULAR MEETING
GRISWOLD TOWN HALL**

**APPROVED MINUTES
NOVEMBER 14, 2016**

SALUTE TO THE FLAG

1. REGULAR MEETING (7:00 P.M.)

1. Call to order:

M. McKinney called this regular meeting to order at 7:05 p.m.

2. Roll Call

Present: Martin McKinney, Courtland Kinnie, Erik Kudlis, Alternates Tom Palasky, Robert Parrette, Peter W. Zvingilas, Town Planner Mario Tristany, ZEO Peter Zvingilas, Recording Secretary Donna Szall

Absent: Charlotte Geer, James Krueger,

3. Determination of Quorum

M. McKinney appointed P. W. Zvingilas to sit for C. Geer and T. Palasky to sit for J. Krueger. There was a quorum for this regular meeting.

4. Approval of Minutes

A. Approval of Minutes of the Regular Meeting of October 11, 2016

M. McKinney asked for a motion on the minutes of October.

MOTION: E. Kudlis moved to approve the minutes as presented. C. Kinnie seconded the motion. All were in favor. The motion was carried.

3. Correspondence and Attachments

There was no correspondence or attachments.

4. Matters Presented for Consideration

A. SRC 01-17 ECONOMIC DEVELOPMENT COMMISSION, GRISWOLD, CT. Text Amendment to Section 7 C-Commercial Districts. New Sub-Section 7.3.28 Mixed Use Developments shall be permitted in all "C" Commercial Zones by Special Exception. The development shall be designed as a cohesive project designed to encourage and promote a well thought out and planned development. The mixed-use development shall consist of a minimum of at least three permitted land use types in order to be considered for review.

M. McKinney asked if there was someone to represent the applicant.

Tom Giard, Chairman of the Economic Development Commission gave a presentation to the Commission. Jeff Lefkovich and David Kagan, the developers were also present. T. Giard explained that the EDC, the Planning department and the First Selectman have been working with a local CT developer team for a large

project located on Route 164. He stated that the text amendment is designed to complement the entire project so that all the mixed uses come under our regulations. He stated that there would be 150 jobs created. He stated that phase 1 is about \$80 million in our community. T. Giard stated that it is called Heritage River Village will which will be an assisted living, congregate housing, active 55 adult housing and independent housing. Tom Giard asked that a public hearing be scheduled for this application for next month.

M. McKinney asked for discussion.

M. Tristany stated that there will be Mixed Use Development planned for the 58 acre Siner property located off of Route 164. There will be retail space, commercial space, office space, senior assisted living, Adult Active community, Alzheimer Dementia State of the Art care, senior independent living and non-age restricted market housing. He stated that those uses are currently permitted under our C zoning; the only one that is not is the market rate condos or apartments. M. Tristany explained the criteria for the text amendment to do any one of the components, they must do market rate housing plus three other uses; i.e., retail, office space, and active adult as an example, there must be at least 50 acres, have potable water and sewer, have 10 units per acre. He stated that there will be a total of 450 to 500 units He stated that this is a benefit to the community.

M. McKinney asked for a motion to set a public hearing.

MOTION: E. Kudlis moved to set a public hearing for SRC 01-17 on December 12 at 6:15 p.m. T. Palasky seconded the motion. All were in favor. The motion was carried.

5. Additional Business

- A. OFFICIAL RULING 01-17 BF HOLDINGS, LLC, 264-268 EDMOND ROAD GRISWOLD, CT.** Request for an Official Ruling and letter of Zoning Compliance regarding the former P & J Tire for a continued automotive use and to provide emissions testing services to customers in an R-60 zone which was modified from C-1 commercial zone creating an existing non-conforming use.

M. McKinney asked for information on this item. M. Tristany explained that the official ruling request is because of the town wide rezoning of the map in 2009 change the property from C-2 to R-60. He stated that there is no issue with the reuse of the auto repair and tire sales. He explained that they want to add State emissions testing station; it is a new use to the site. He stated that but because it was rezoned to residential; and there is a request to reconstruct a two care 38 ft. by 30 ft. structure that had burned down. This also adds to the non-conforming issue. M. McKinney asked when it burned down. M. Tristany stated about two years ago. McKinney asked where the structure was. M. Tristany stated that it was behind the house.

John Faulise, Boundaries, LLC and a member of BF Holdings and Paul Brycki who was a former owner. He read the letter in the file dated October 31, 2016 for the record. He stated that the property has been an automotive service and repair, automotive tire sales, 24 hour towing and vehicle storage since 1957. He stated that the property owner was granted approval in 1975 to change the Zone to C-1 by the Planning and Zoning Commission; and in 2009, through wholesale re-zoning, the town changed the C-1 zoning for the property to R-60 that created the existing non-conforming use. He stated that there are copies of the zoning approval to C-1 zone in 1975.

J. Faulise explained that the owner/tenant intends to provide emissions testing services to its customers. He stated that in his opinion, an emission testing is consistent with other automotive diagnostic testing and routine maintenance. He stated that M. Tristany and P. Zvingilas suggested that a request for official ruling be sought by the Planning and Zoning Commission.

J. Faulise stated that the building that was destroyed by fire in 2014 is shown on the Assessor's card as a two story building with two overhead doors. He stated that a variance was granted in 1985 to construct

that building. He stated that the Assessor's card and the variance are in your packet. He read Section 16 Non-Conforming Buildings and Uses and, in particular, Section 16.5 Reconstruction for the record. He stated that there is no time limit to rebuild and only to the previous floor area and cubical content. He stated that we are asking that the Commission concur with this.

He stated that the Automotive Sales service and repair. He stated that the site was used for used car sales as an ancillary use along with the service and repair. He stated that the zone change to C-1 in 1975 granted to Paul Brycki allowed the used car sales.

M. McKinney asked if the zone change was done without consent. J. Faulise explained that the zone change in 2009 was done by the Commission that changed the C-1 to R-60 residential. M. Tristany explained that when a town does a comprehensive rezoning, CT state statute requires that the commission only notification required is for of the date, time and place of the public hearing.

M. McKinney stated that you cannot expand the use. J. Faulise stated that he is here for an opinion of whether the addition of State emissions testing is expansion of a non-conforming use. He stated that his opinion is that it is not an expansion but part of any diagnostic testing for automotive service. He stated that there were three State emissions centers; when the State privatized the program, the emissions testing facilities were put into service garages around the state. He submitted a list of the emissions testing facilities in the area; there are 110 testing facilities within a 50 mile radius. M. McKinney stated that there are only ten parking spaces and it will be intensified with the emissions testing. J. Faulise stated that he did not agree that the testing will intensify the use. He stated that there are 20 testing sites within a 20 mile radius. M. McKinney asked if this will be a new place or will one of them be moving over. J. Faulise stated that it will be moving over. He stated that this is not a concentrated use and specialized service in the area. There was discussion of this matter.

M. Tristany stated that he did some research, Thomas Burn in his book, entitled: Planning and Zoning in Connecticut by Attorney Thomas Byrne has a section regarding "non-conforming" use. He stated that according to Byrne, in order for a "USE" to be considered a "non-conformity", the use must possess two characteristics. First, the use must be lawful; and second, it must be in existence at the time the Zoning Regulations were enacted making the "use" nonconforming and that to be an existing use, the premises must be so utilized as to be known in the neighborhood as employed for a given purpose. In other words the "use" must be "actual" and not merely contemplated. M. McKinney asked if the property meets those criteria. M. Tristany stated in his opinion, yes. He stated that he did not get a legal opinion by the town attorney because the request must come from the Commission.

J. Faulise asked if the Commission felt that emissions' testing is an automotive service and repair. M. McKinney stated that we should verify some of the information. J. Faulise explained that Peter, the Zoning Enforcement Officer must sign a DMV application for this use. There was discussion of this matter including whether it is intensification of a use or an expansion of a use.

Paul Brycki gave a history of his automotive service at the property in question, citing that the Planning and Zoning Commission gave him an approval for a C-1 zoning designation. He stated that to run an automotive service, they like to do one stop. He stated that he was doing emissions prepping for years. He stated that it is too bad that it was changed to residential in 2009.

Tom Giard asked that if there was a standalone building where only emissions testing were performed, what classification would it be? Would it be automotive? M. McKinney stated that this property was preexisting, and you are allowed to do certain things. He stated there is a question of whether it is intensification of the use; are there plans for additional parking, or is this just will be the way it is. J. Faulise stated that it is intended to be use the facility as it has been used for 50 years; the only question is whether or not emissions testing are an automotive use. M. McKinney asked the members what they thought.

C. Kinnie stated that he was never comfortable with official rulings. He stated that as far as this property is concerned, there is no question that it is an established business, and when it comes to emissions testing, the facility he goes to, it is tight and lacks parking. He stated that this site certainly has more space. He stated that he considers emissions testing as part of an automotive service. He stated that when the State privatized it, it went into service station business. He stated that for an official ruling he would vote that emissions testing are an automotive service.

E. Kudlis stated that one it was a zone change by the town that made it nonconforming; and that automotive care is evolving, such as the use of fuel cells and electric batteries. He stated that automotive service changes with technology.

M. McKinney asked if there is a stipulation of how many cars can be there. P. Zvingilas stated that he looked at it as a new use and that it was located on a town road and not a state highway; frequency of traffic will increase on that town road.

T. Palasky stated that the emissions testing have changed and now they plug a meter in and read the data off the engine control module. He stated that it was no different than a service technician performing a diagnostic test when there is a problem with a car. He stated that it is no different than what goes on in a service center on a daily basis. He stated that if there is a question regarding the legalese, then we should talk to the town attorney.

P. W. Zvingilas stated that they should look at incidental use to what is there and whether it will intensify what is going on there. R. Parrette stated that the business use back and forth is growth in Griswold for us. He asked what the concern was regarding an official ruling. M. McKinney stated that official rulings can create precedence for a use. M. Tristany stated that official rulings are based on past actions of the commission that are on the records. There was discussion of this matter.

R. Parrette stated that during business hours, there could be an impact with cars exceeding the available parking. T. Palasky stated that State regulates their hours for emissions testing such as Saturday are 8 am to 1 pm.

M. McKinney asked what the commission wanted to do. R. Parrette stated that there are better things to spend our money on for Branse's opinion that this. M. McKinney asked for a motion:

MOTION: E. Kudlis moved that the Commission rule on Official Ruling 01-17 BF Holdings, LLC that the emissions testing is consistent with automotive servicing and automotive repairs. C. Kinnie seconded the motion. All were in favor. The motion was carried.

6. Old Business

A. . Discussion and update of the PoCD subcommittee meetings

M. Tristany stated that the first meeting of the PoCD subcommittee meeting is this Thursday, November 17th at 5 p.m. M. McKinney stated that he did not have a copy. D. Szall will make him a copy.

7. New Business

M. Tristany stated that he received an email from Shannon Webster a member of the Ordinance Committee and she had a question regarding an ordinance for mobile homes. M. McKinney asked if they can change the regulations by making an ordinance. M. Tristany stated no. He stated that Section 1-3 Repeal of Inconsistent Ordinances in the Code of Ordinances which he read for the record. M. Tristany stated that they must put a reference to the Griswold Zoning Regulations, Section 11.9 of the He stated that the ordinance in question states that the Selectmen can grant approval for the location of a mobile home where there is adequate lot size, water and septic and drainage. M. Tristany stated that Section 1-3 is superseded by the Town's Zoning Regulations. There was discussion of this matter including that this ordinance in question was made in 1962.

There was consensus by the Commission that this ordinance can be listed as M. Tristany stated that he will tell the Ordinance Committee that Section 1-3 that the Griswold regulations supersede this ordinance.

7. Reports from the Enforcement Officer

- A.** Cease and Desist Order issued October 13, 2016 for 79 Banjo Sullivan Road, Griswold for violation of Section 11.12 Refuse Disposal/Junk Yard Definition & Section 11.17 Unregistered Motor Vehicles of the Town of Griswold Zoning Regulations.

P. Zvingilas stated that the homeowner is in the process of removing all the trash. Should be done in a day or two.

- B.** Cease and Desist Order issued October 13, 2016 for 65 South Main Street, Jewett City for violation of Section 10.5 Jun Yards Prohibited in All Zones/ see definition of "Junk Yard" attached of Borough of Jewett City Zoning Regulations.

P. Zvingilas stated that the junk has been removed. He stated that it was owned by different people.

- C.** Cease and Desist Order issued October 17, 2016 for 49 Bitgood Road, Griswold for violation of Section 11.12 Refuse disposal / Junk Yard Definition & 11.17 Unregistered Motor Vehicles.

P. Zvingilas stated that He will go there tomorrow to update what is going on there.

- D.** Cease and Desist Order issued October 27, 2016 for 25 Mechanic Street, Jewett City for violation of Section 10.5 Junk yards prohibited in all zones/ see definition of "Junk Yard" in Borough of Jewett City Zoning Regulations.

P. Zvingilas stated that this will go to court. There was discussion of how the blight ordinance works and what constitutes a junk yard. P. Zvingilas stated that he gets better results using the Junk Yard designation more effectively through the town attorneys going to court. M. McKinney stated that the blight ordinance is unenforceable.

8. Adjournment

M. McKinney asked for a motion to adjourn. E. Kudlis moved to adjourn. P. W. Zvingilas seconded the motion. All were in favor. The meeting adjourned at 9:20 p.m.

Respectfully Submitted,

Donna M. Szall
Recording Secretary