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2021 OCT 21 PM 1:13



Town of Griswold



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GRISWOLD PLANNING & ZONING COMMISSION

OCTOBER 12, 2021, at 7:00 P.M.
GRISWOLD TOWN HALL, 28 MAIN STREET, GRISWOLD, CT

Chairman M. McKinney asked all present to stand for the Pledge of Allegiance to Our Flag.

- Chairman M. McKinney called the October 12, 2021, Griswold Planning & Zoning Commission to order at 7:00 p.m.
- Chairman McKinney introduced the following Planning and Zoning Commission Commissioners.

1. Roll Call

- Chairman McKinney noted the following members that were in attendance
- **Present:** Chairman Martin McKinney, Vice Chairman Courtland Kinnie, Jacob Valentine, David Bennett, Town Planner Mario Tristany and Town Attorney Ken Slater

Chairman McKinney appointed alternate member D. Bennett to sit for regular member Erik Kudlis

- **Absent:** Erik Kudlis, Rob Parrette, James Krueger, Peter Zvingilas

2. Determination of Quorum

- Chairman M. McKinney determined that a quorum of the Commission's Membership was present

3. Approval of Minutes

- Approval of the Minutes of the June 14, 2021, Planning & Zoning Commission Minutes. of the Minutes of the September 13, 2021, Planning & Zoning Commission prepared by Town Planner & Court Reporter

- Chairman McKinney asked if there were any questions regarding the June 14, 2021, meeting minutes
there being none, Chairman McKinney asked for a motion
- Commissioner C. Kinnie made a motion to approve the June 14, 2021, meeting minutes
- The motion was seconded by Commissioner J. Valentine and the Commission unanimously voted to
the minutes as presented
- Chairman M. McKinney, asked if there were any questions regarding the September 13, 2021
- Commissioner C. Kinnie noted that on page #2 under the Zoning Map Change ZMC 01-21 section
fifth bullet item should read "...motion to Close" and not continue the Public Hearing.
- It was noted and confirmed that the Public Hearing was closed and the correction so noted
- Chairman M. McKinnie asked for a motion on the September 13, 2021, meeting minutes
- C. Kinnie made a motion to approve the minutes as corrected
- The motion was seconded by Commissioner J. Valentine and the Commission unanimously voted to approve the minutes as corrected

4. **OLD BUSINESS**

A. Zoning Map Change ZMC 01-21 - Applicant Pasquale Camputaro, Jr., - Consider Action on the rezoning of the property at 630 Plainfield Road from C- Commercial, to I – Industrial.

- Chairman M. McKinney asked Town Planner M. Tristany if the current operations at American Industries fall into the I – Industrial Zone uses
- Town Planner M. Tristany stated that he could read into the record the permitted uses under the I – Industrial Zone and the reference to Section 13, which is the Site Plan Section and Section 11.8, which is the Landscaping Section
- Chairman M. McKinney asked if there was anything on file regarding the landscaping and the 60 percent coverage
- Town Planner M. Tristany noted that the 60 percent coverage primarily refers to coverage by structures and impermeable surfaces such as paved or cement that doesn't allow storm water to drain through it

- Town Planner M. Tristany commented that the American Industries site is fully developed and further noted that CT DEEP a few years ago inspected the operation and an earthen berm was installed along the perimeter of the site and the berm is well established with vegetation
- Chairman M. McKinney asked if the site meets the landscaping criteria under zoning
Town Planner stated that without an existing conditions plan, it would be very difficult to determine
- Chairman M. McKenny asked about crushing and excavation and referenced the Tilcon operation and how they come back every two years for reapproval. Will American Industries have to do the same
- Town Planner M. Tristany stated that Tilcon does excavate earth products and processes the earth products. American Industries does not excavate on their property and only produces asphalt. If they desire to excavate material on site, they will need a special exception permit and would be subject to the two-year renewal like Tilcon
- Chairman M. McKenney asked Town Attorney K. Slater does American Industries have to come back to the Commission if the zone is changed
- Town Attorney K. Slater stated that the judgement would still be in effect. If they come in for an excavation Special Permit approval, the Commission can set reasonable conditions
- Town Attorney K. Slater noted that you could change the zone and never hear from them
- Town Attorney K. Slater mentioned that they may still have legal non-conforming grandfathered rights if they have been doing something that isn't permitted in the industrial zone

Town Attorney K. Slater noted that he was grappling with the "Why," in terms of needing the zone change and referenced that this was mentioned during the public hearing

- Town Attorney K. Slater further noted that if processing of asphalt falls under manufacturing within a building
- Chairman M. McKinney asked Town Attorney K. Slater if manufacturing could be indoors or outdoors and how does the wording read now for inside or outside

- Town Attorney K. Slater stated that the judgement talks about excavation and processing operation.
- The "I" zone allows excavation by permit
- Chairman M. McKinney asked if said manufacturing how does this stand on its own
- Town Attorney K. Slater asked how confident are we that it doesn't fall under the "I" zone uses that are allowed. If it is not allowed, the only right that they have is to continue with the plant is what is in the judgement
- Town Attorney K. Slater stated that if they come back for an excavation permit then the Commission could impose conditions like the ones in the judgement
- Town Planner M. Tristany stated that the asphalt is mixed within a structure and could this be considered a building
- Town Attorney K. Slater stated that if asphalt is not permitted because it is not in a building, then the change of zone doesn't get them anything with respect to the batch plant
- Town Planner M. Tristany read Section 12.4.11 of the Griswold Zoning Regulations which states that rock crushing is only allowed in the Industrial District. During the public hearing Attorney Heller stated that they were rock crushing
- Commissioner C. Kinnie stated that in the judgement it states rock crushing
- Town Attorney K. Slater the regulations state that you are not supposed to change a zone to industrial without a site plan. They have not given you the kind of detail as exactly what is happening to qualify for the change. If they showed a plan as to what was on site and what they wanted to do
- Commissioner J. Valentine stated at the last meeting they said that they wanted to rezone it to a way that more deeply fit what they were doing on site. My question is if they were conforming industrial are we compelled to make the change because they are doing industrial work there. Is there any reason why we almost have to make the change
- Town Attorney K. Slater asked if you are referring to when they come in with a new application. If what they show you falls under any of the 9.3 permitted allowed uses then no, you do not have any discretion

- Commissioner C. Kinnie stated that during the public hearing it was noted and obvious that are not denied any of the uses that are allowed in an industrial zone. As far as being non-conforming they are still able to do those and have them under the stipulated judgement. Creating a different zone doesn't change what they can do at the time.
- Chairman M. McKinney noted that we do not have to act on this tonight as we have 65 days to review it, or we can approve it or deny it
- Commissioner C. Kinnie noted that if we continue it, we cannot take any new information and may not have the same members present
- Commissioner C. Kinnie stated that there was a question on the floor regarding what qualifies as an excavation. Since it is already in use is it a non-issue
- Commissioner C. Kinnie stated that during the public hearing it was noted and obvious that are not denied any of the uses that are allowed in an industrial zone. As far as being non-conforming they are still able to do those and have them under the stipulated judgement. Creating a different zone doesn't change what they can do at the time.
- Chairman M. McKinney noted that we do not have to act on this tonight as we have 65 days to review it, or we can approve it or deny it
- Commissioner C. Kinnie noted that if we continue it, we cannot take any new information and may not have the same members present
- Town Attorney K. Slater noted if you approve the industrial zone, they can keep doing what they are doing. If they do come in for an excavation permit then the Special Permit controls and they would have to give us all the information
- Chairman M. McKinney asked why would they
- Commissioner D. Bennett stated that he agrees with Town Attorney K. Slater on the "why" and in the future if he wants to sell it, then it opens them up to different markets to be able to do different things on the property. If we took it on as industrial the way that it is written now, don't think we have a leg to stand on, or stopping him on anything and think we have to revise the section prior to approving this as rock crushing is not covered under our industrial section and in the future if he wants to sell it, then it opens them up to different markets to be able to do different things on the property. If we took it on as Industrial the way that it is written now, I don't think we have a leg to stand on, on stopping him on anything and think that we have to revise the section prior to approving this as rock crushing is not covered under our Industrial section.
- Chairman M. McKinney asked Commissioner D. Bennett if he wanted to use the attorney's motion and asked him to read it into the record

- Commissioner D. Bennett read the following into the official record:
 1. *The site is commercially zoned containing a legally nonconforming earth products excavation and manufacturing operation.*
 2. *As a result of a zoning enforcement action in the matter of Town of Griswold v. Camputaro, Docket No. CV-95-01072322 S, the earth products excavation and earth products processing operation on the site is regulated by an agreed judgment of the Superior Court that imposes restrictions allowing reasonable use of the land while protecting impacts to properties in the neighborhood including residences.*
 3. *Changing the zone would, among other things, enable unrestricted earth products processing as a permitted by right manufacturing use on the site that would result in increased noise, fumes and traffic that would be incompatible with nearby land uses, is not accordance with the comprehensive plan of zoning in Griswold, and would deprive the commission of any right to establishes conditions and limitations on the use like those contained in the stipulated judgment to protect interests of the community.*
 4. *The change from industrial to commercial use is not consistent with the Griswold Plan and Conservation and development which recommends no change in its commercial zoning designation in the Future Land Use Plan, Map 3.6.2, recommends that the excavation regulations of the town be amended to better protect natural resources, and recommends in increase in commercial uses in the community.*
 5. *The applicant failed to present a site plan of the planned use of the site as required by Section 9.2.2 before any property is zoned industrial.*

- Chairman M. McKinney noted that a motion has been and asked if there was a second
- Commissioner C. Kinnie seconded the motion and the Commission unanimously voted to deny the application

5. NEW BUSINESS

- A. Home Occupation Zoning Permit 03-2021** – Application by James and Lori Graves, 56 Browning Road, to make Handmade Country Crafts.
- Chairman M. McKinney asked if there was anyone present for this application
 - John and Lori Graves stepped forward and presented two sample of what they are planning to craft at their property. One item was an American Flag made from wood, and the other was a hand-crafted blanket
 - Following a brief discussion by the applicant on his work shed, Chairman M. McKinney asked for a motion
 - Commissioner C. Kinnie made a motion to approve Home Occupation ZP 03-2021 as presented and commented that it was a straightforward home occupation
 - Commissioner J. Valentine seconded the motion and the Commission unanimously voted to approve Home Occupation Permit 03-2021

6. Reports from the Zoning Enforcement Officer

A. 15 Susan Avenue – Illegal Shed Construction – Judge decision enclosed.

- Chairman M. McKinney asked Town Planner M. Tristany for an update regarding this matter
- Town Planner M. Tristany presented several photographs documenting the razing of the Court Ordered removal of the two-story illegal shed on Thursday, October 07, 2021
- Town Planner M. Tristany noted that a contractor was hired and supported by the Griswold Department of Public Works
- Chairman M. Kinney asked if the property would be leaned for the cost of the demolition
- Town Planner M. Tristany stated yes

B. 177 Sheldon Road – Illegal Fence Construction

- Chairman M. McKinney Asked Town Planner M. Tristany for an update
- Town Planner M. Tristany stated that we still awaiting a court date

7. Any other business that may properly come before the commission

A. Letter dated September 27, 2021, from George Maistrelis regarding Special Exceptions SE 03-2007 and SE 04-2007 for property located at 411 Voluntown Road, Griswold, CT

- Chairman M. McKinney asked Town Planner M. Tristany to give a brief overview
- Town Planner M. Tristany stated at last months meeting the Commission asked me to get an opinion from Attorney Mark Branse
- Attorney Branse indicated that the new legislation would only be applicable if the Maistrelis application was complete, and what he meant by complete was the filing of the required E&S bonds and filing mylars on the land records
- Chairman M. McKinney gave a brief overview of what G. Maistrelis was looking for and referenced the recent State amendment that granted an additional nine (9) years extension to Planning and Zoning approvals that were approved within a certain time frame.
- Chairman M. McKinney noted that the Special Exception approvals date back to 2007 and further noted that we spend a lot of time being pro-business. He understands more of the project's history. He referenced when Cumberland Farms backed out of the at the eleventh hour and they were stuck with a substantial amount of bills from surveyors, engineers, etc.
- Chairman M. McKinney's thought process is that sense the State is allowing some grace, he felt that we should reciprocate to a degree by allowing them to apply for filing the mylars thus making the property more marketable for a few more years. And as a pro business approach it's no skin off this board and if we do change our mind to let this go through, it must go back to the Wetlands Commission as they need to go back to Wetlands for their approval

- Vice Chairman C. Kinnie stated that what you are suggesting is we add stipulations
- Chairman M. McKinney stated yes that he files a mylar immediately and that he gets his Wetland approval and we give him the two or two and a half year whatever the State's statutory time is
- Vice Chairman C. Kinnie asked Town Planner M. Tristany can we add stipulations to an extension? Usually, an extension is to a valid application
- Commissioner J. Valentine stated that he is asking for five years
- Town Planner M. Tristany stated that you might have a little wiggle room saying because he is asking for an extension, the application is being opened for review by the Commission, and sense it is a quasi-new application, the Commission could add contingencies to their decision
- Vice Chairman C. Kinnie noted that the original approval was in 2007, fourteen years have passed
- Commissioner D. Bennett asked how this shows that we are pro-business. Or is it just making the application easier for him
- Chairman M. McKinney responded b saying he has a piece of land approved for a gas station and the developer pulled out and they have been paying the property taxes
- Chairman M. McKinney asked G. Maistrelis to address the Commission
- G. Maistrelis gave a brief history of the assets Associates project
- Town Planner M. Tristany stated that his other option would be to re-submit a new application which would not require the filing of any bonds due to new regulations
- Vice Chairman C. Kinnie noted that some of the bonds that were required back then are no longer required now
- Chairman M. McKinney stated that we are not obligated to do anything but feels that it is the right thing to do
- Commissioner D. Bennett asked he is now looking for the permits to be extendable and if the property is being marketable
- G. Maistrelis stated yes and referenced the Cumberland Farms history and Covid
- Chairman McKinney referenced the new State public act that allows extensions out to 19 years
- Town Planner M. Tristany noted that at the request of the Inland Wetlands Commission requested a legal opinion from our Land Use Attorney, Mark Branse.
- M. Tristany further noted that the Planning Commission had received a legal opinion from Attorney Branse several years ago which stated that the applicants did not follow through with

the Special Exception Approval requirements, namely the filing of the required bond and the filing of mylars for endorsement by the P&Z and Wetlands Chairmen for filing on the Town's Land Records

- Town Planner M. Tristany further stated that Attorney Branse's Legal Opinion is identical to his previous opinion
- Vice Chairman C. Kinnie asked for a time frame to get the mylars
- J. Faulise, the project consulting engineer stated that realistically a couple of weeks would work
- Chairman M. McKinney asked what are we thinking
- Vice Chairman C. Kinnie stated if we are going to grant the extension, we set a 60-day time frame stipulation for completion and receipt of the mylars
- Commissioner D. Bennett asked what will it take to finalize his permit, the mylars. So technically this permit with the mylars could be brought to completion
- Grant the five-year extension for Assets Associates SE 03-2007 and 04-2007 with the condition that mylars be received by the Town Planner within 60 days. The motion was seconded by Commissioner J. Valentine and the Commission unanimously voted to approve the motion as stated
- Chairman M. McKinney read item B on the agenda – Email dated September 17, 2021, from Attorney M. Branse regarding Public Act 21-163 in response to the George Maistrelis Wetlands and P&Z letters
- Chairman M. McKinney noted that this was discussed as part of the previous application
- Chairman McKinney noted that there was an additional item to be added to the agenda
- Chairman M. McKinney asked Town Planner M. Tristany if there was an application number for this application
- Town Planner M. Tristany commented no and to reference the name and address on the site plan
- Chairman M. McKinney asked for a motion to place Lot Line Modification for 326 Geer Road and 54 Havey Avenue
- Vice Chairman C. Kinnie stated so moved and the motion was seconded by Commissioner J. Valentine and the Commission unanimously voted to add this item to the agenda
- J. Faulise, Boundaries, LLC stated that this is a lot line modification in accordance with Section 7.9 of the Griswold Subdivision regulations which requires that any lot line modifications made to an approved subdivision, must be approved by the Planning and Zoning Commission

- J. Faulise noted that lot 3 was part of the 2006 Dudek subdivision and further noted that the Sweet family owns the property to the west and wants to maintain the monument for historical preservation purposes
- J. Faulise submitted an Uncas Health approval for the subject lot and noted that the deeding of the portion to the Sweet family does not affect the 6-acre flag lot
- J. Faulise also submitted a copy of the Monuments history to the Commission that was set back in the 1700's by the Daughters of the American Revolution
- Commissioner J. Valentine and a motion to approve lot line modification for 326 Geer Road and 56 Havey Avenue as presented. The motion was seconded by Commissioner D. Bennett and the Commission unanimously voted to approve the lot #9 lot line modification as presented

8. Adjournment

Chairman M. McKinney asked for a motion to adjourn

- Commissioner D. Bennett made a motion to adjourn at 8:35 p.m.
- The motion was seconded by Commissioner J. Valentine and the Commission unanimously voted to adjourn the meeting

Respectfully Submitted,

Mario

**Mario J. Tristany, Jr.
Town Planner & Zoning Enforcement Officer**