

**ZONING COMMISSION
PUBLIC HEARINGS November 20, 2013**

Bill Stopper opened the Public Hearing at 6:30 P.M. with the following in attendance:

MEMBERS:

William Stopper, Acting Chair
Sally Brouillet
Richard Cool
April Slauson
Kathy Donovan
Matthew DeBarber, Alternate, Absent

OTHERS:

Steve Macary, ZEO
Sue Goggin
Public -

PUBLIC HEARINGS

6:00 P.M. PUBLIC HEARING – Special permit for two buildings located at 1257 New Haven Road; Applicant: Newtown Investors, LLC

The applicant sent an e-mail to the Land Use Office asking to postpone the opening of the public hearing. It will open at the December 18th meeting.

6:15 P.M. PUBLIC HEARING – Special permit for the importation of more than 350 yards of earth material located at 1257 New Haven Road; Applicant: Newtown Investors, LLC

The applicant sent an e-mail to the Land Use Office asking to postpone the opening of the public hearing. It will open at the December 18th meeting.

6:45 P.M. CONTINUED PUBLIC HEARING – Special permit to install 6 apartments located on 100 Church Street; Applicant: Attorney Kevin McSherry.

Attorney Kevin McSherry, 38 Fairview Avenue, said that they have an application for a special permit and they were granted a variance to have up to 6 apartment units in the building for purposes of the area and also for parking. He showed the commission pictures of the inside and outside of the building. He said the intent is to keep the building historically sound, as it is. He explained the pictures to the commission. There was no public comment on the proposal. Attorney McSherry asked the commission to waive the Police and Fire reports because they are more applicable once they start building. This is stated in Section 33.3.11 of the regulations. He said they did get wetlands approval and has a letter from Keith Rosenfeld. Sally asked about the lights on the outside of the building. She wanted to be sure that the lights are installed where the wires are sticking out of the building. She also asked about garbage pickup and if the dumpster is enclosed. Attorney McSherry said it is enclosed. They will make enclosing the dumpsters and installing the lights a condition of approval. Bill Stopper closed the public hearing.

REGULAR MEETING
NOVEMBER 20, 2013

1. At 6:00 P.M., Bill Stopper opened the meeting with the Pledge of Allegiance and then took attendance and noted there was a quorum.
2. There was no executive session.
3. Approval of the October 9, 2013 Special Meeting Minutes and the October 16, 2013 Regular Meeting Minutes. The secretary will sign previously approved minutes.

VOTED: 4-0-1 on a motion by Sally Brouillet and seconded by April Slauson to **APPROVE** the October 9, 2013 Special Meeting Minutes as amended.

FOR
William Stopper
Sally Brouillet
Richard Cool
April Slauson

AGAINST

ABSTAIN
Kathy Donovan

VOTED: 4-0-1 on a motion by Sally Brouillet and seconded by April Slauson to **APPROVE** the October 16, 2013 Regular Meeting Minutes as amended.

FOR
William Stopper
Sally Brouillet
Richard Cool
April Slauson

AGAINST

ABSTAIN
Kathy Donovan

4. OLD BUSINESS:

- A. Commission discussion/decision for 6 apartments located on 100 Church Street;
Applicant: Attorney Kevin McSherry

VOTED: Unanimously on a motion by Sally Brouillet and seconded by Rick Cool to **APPROVE** the decision to install 6 apartments located on 100 Church Street with the following conditions:

1. Lights must be installed on the outside to complement the neighborhood and to give enough light for safety.
2. Any dumpsters must be enclosed.

- B. Commission discussion/decision for a special permit for the importation of more than 350 yards of earth material located at 1257 New Haven Road;
Applicant: Newtown Investors, LLC

This item was continued until December 18, 2013.

- C. Commission discussion/decision for a special permit for the importation of more than 350 yards of earth material located at 1257 New Haven Road; Applicant: Newtown Investors, LLC

This item was continued until December 18, 2013.

5. **NEW BUSINESS:**

- A. Approval of 2014 Zoning Commission meetings.

VOTED: Unanimously on a motion by Rick Cool and seconded by Sally Brouillet to **APPROVE** the 2014 Zoning Commission meeting dates.

- B. Additional items require a 2/3 vote of the Commission.

- C. Commission discussion/decision for a modification to a site plan located at 275 Rubber Avenue; Applicant: David Hughes/DaSilva Auto Body

Steve explained that it is an existing structure and he is putting on a proposed canopy addition that is 50' x 40' to shelter some cars. He said it is an allowed use and it meets the setbacks. Bill Stopper asked if the area that he is covering is already being used for detailing. He also asked if he is extending the covering to the end of the building. Mr. DaSilva said yes. Sally asked what the canopy will be made of. Mr. DaSilva said it is a steel structure. There was a discussion on the garbage cans on the property. David Hughes, P.E., L.S., 57 Norway Street, Oakville, showed his plan and explained it to the commission. He passed out pictures of the current building and what it is going to look like with the canopy. David clarified that a commercial vendor picks up the garbage. He showed the commission that they are rolling garbage cans not a dumpster. Sally said she would like to go out to the site to see it.

VOTED: Unanimously on a motion by April Slauson and seconded by Rick Cool to **APPROVE** Mr. DaSilva's modification to the site plan located at 275 Rubber Avenue, DaSilva's Auto Body, with Sally Brouillet doing a walk though inspection and any changes she may request can be added on within reason.

- D. Nomination of Officers to elect Chair, Vice Chair, and Secretary.

VOTED: Unanimously on a motion by Sally Brouillet and seconded by April Slauson to **NOMINATE** Bill Stopper as Chairman of the Zoning Commission. Bill Stopper accepted the vote.

VOTED: Unanimously on a motion by Bill Stopper and seconded by Kathy Donovan to **NOMINATE** Sally Brouillet as Vice-Chairman of the Zoning Commission. Sally Brouillet accepted the vote.

VOTED: Unanimously on a motion by Sally Brouillet and seconded by Kathy Donovan to **NOMINATE** April Slauson as Secretary of the Zoning Commission. April Slauson accepted the vote.

- E. Commission discussion/decision for a site plan to sell beer and wine located at 90 Cherry Street; Applicant: Attorney Kevin McSherry

Steve said the Zoning Regulations call for a site plan to sell alcohol. He said they sold alcohol there before. Attorney McSherry explained the history of the property and business. Ultimately there was a fire and they have been rehabbing the building. They have someone who is interested in renting it and they would like to apply for a beer and wine permit. It was clarified that they will only be selling beer but the permit that they have to apply for through the State of Connecticut is a "Beer and Wine" permit. It was determined that there is not a required distance between stores because it is a convenience store, not a liquor store. It was agreed that there will be sufficient parking. Sally asked where the garbage bins are kept and if a fence could be put up to hide them. Attorney McSherry said there is no room for a fence around them. April said they are not visible from the street. There is not going to be anything done to the outside of the building.

VOTED: Unanimously on a motion by Rick Cool and seconded by April Slauson to **APPROVE** the site plan to sell beer and wine at 90 Cherry Street.

6. Commission discussion/ZEO permits and various complaints; 73 & 89 Locust St., 71 & 75 School Street to discuss air pollution from a wood stove.

Susan O'Bernier, 73 Locust Street, said she was before the commission to discuss Statute 24.4.13. She said she wanted to clarify the record about something that was said at the last meeting in regards to the removal of the trees, which has nothing to do with the lights, but it was suggested that possibly this was when the problem arose. She brought pictures along with the date that the trees were taken down. She passed out the pictures for the commission to look at. She said the trees came down in 1995 and she believes on the record it said 5 years since the issue arose, but it's actually been 18. Bill asked if the trees were on her property. She responded yes. Mrs. O'Bernier said they had to be taken down because of an insect that was killing them. She explained the things they have done since this began. She said before the first meeting in October they had adjusted the lights, moved the lamps down so they wouldn't glare, however they continued to glare and it was not acceptable. She said since the last meeting, they have reduced the bulb wattage to 75% better and she hopes this is satisfactory for the board. She said they have been without lights for 2 months now and she has to walk her guests out with a flashlight, she has to cook on the grill with a flashlight and now the holidays are coming up and she doesn't want anyone getting hurt on the property. She thanked the commission for hearing her out and she hoped the board could come to a conclusion this evening. Bill Stopper asked if the light was always a motion sensor light. Mrs. O'Bernier said the light that was there before was an industrial light and that was there since 1978 and it was just on. The light that is there now is a motion detector and stays on for 5 minutes after it comes on. April Slauson asked if this is the only light that is causing the issues. Mrs. O'Bernier responded yes. Bill asked if any further shrouding around the light has been added to direct it more toward the vehicles. Mrs. O'Bernier said they can't be moved down any more and that they are at their limit. Joe Gallagher, 89 Locust Street, said that Mrs. O'Bernier is claiming they are her trees and his landlord is not at the meeting to defend herself- those are her trees. She has hemlocks all around her house which she planted in 1955 when she moved there, so she can't defend herself.

Mary L. Dauch is his landlord. Bill said the trees don't really seem to be the issue. Mr. Gallagher said he just wanted to clarify that. Bill said the comments on lighting are what the commission is really looking at. Steve Macary said Mr. Gallagher had come into his office and asked him to continue this until next month so he could bring legal counsel with him. Steve told him they would do that. He said he told him that Mr. & Mrs. O'Bernier were coming to the meeting tonight, so he opted to show up. Steve said he wanted that on the record. Mr. Gallagher said at the October 16th meeting they had an agreement. He said he asked Mr. Macary to go up and look at the lighting at nighttime. Mr. Gallagher said they agreed upon Steve doing a drive-by and he's been up there three or four times, never once stepped on his property. He said he needs someone to come into his house and look out his window to see what he's complaining about. He said his bed is right there when those lights come on, if their company is there and he's sleeping and he has to be woken by their company? He asked how this is fair. Sally asked him if he sleeps during the day. Mr. Gallagher said he sleeps at night. Sally said when company comes it is usually at a fairly early hour like 5 or 6. Mr. Gallagher said he is up early and he goes to bed early. Steve said the commission gave him permission to go over after dark and look at it. He said the commission in turn would do a drive-by and observe and see what it looks like. Steve said the commission gave him permission to go onto the property. He said he went up there on October 29, 2013 at 8:30 P.M. He said he told Mr. & Mrs. O'Bernier the light was very bright, beaming on his house. Steve said he did not go in Mr. Gallagher's house because it was probably 8:30-8:45 and he did not feel a need to. He said he went up again on November 19, 2013 after the O'Bernier's changed their light to a very, very dim light. He said he did not see a reflection going on his house and that is his personal opinion. Mr. Gallagher said that is why he needs someone to come inside and look out his window. Steve said if the commission would like him to go inside Mr. Gallagher's house, he would like to bring a couple of commission members with him. Bill said the regulation has to do with glare not whether you can see the light or not. Mr. Gallagher said exactly. He said he called the Attorney General's office and they said they would come down and explain this to the Commission if they need to. Bill said you can see the lights in the parking lot, but if they are not glaring onto your car that's parked next to the parking lot, that's acceptable. Mr. Gallagher said it is in his window. Bill asked if they are pointed right at his window. Mr. Gallagher said the style of lights they have it just reflects the light, because there is like a mirror inside the thing where the light bulb goes in and it reflects lights in all directions, so he needs someone to come inside his house and look out his window to see what he is complaining about. Sally asked if he is on the second floor. He responded yes. Sally asked where the lights are. Mr. Gallagher said the lights are right out his window. He said where his bed is the lights come right in right on his face. Steve showed the commission pictures of the light. Mr. Gallagher said the commission has to understand that across the street from his house are Route 68 and Fulling Mills Deli. He said they've been having burglaries there this past summer so their lights are kept on constantly so he goes to the back of the house where he can sleep but he can't sleep because of his neighbor's spotlight there. Bill clarified that it's only when they are coming and leaving the house. Mr. Gallagher said that is what they claim, but that is so wrong. He said he been dealing with this for 15 years. Bill said it is difficult for the commission to decide on things if the two parties have different opinions. Mr. Gallagher said that's why we have to go by the laws and the regulations and that's why he wants somebody to go look out the windows. He asked if glare is supposed to stop 30 feet at the property line. Bill said it is at the property line. Mr. Gallagher said it is on his house. Steve said he

went out there with Sue and they both looked at it. Bill read the definition for glare from the Zoning Regulations. Mr. Gallagher said they have a shade on their back porch and if they move that shade, they have a light under there that will give them plenty of light on their driveway and their backyard. He said he doesn't understand the problem with this. He said there's POW's that are being tortured by light and they get post traumatic disorder. He said 15 years is enough. Bill said they have some conflicting information. He said if they are motion detector lights, they are not on all the time and Mr. Gallagher is claiming they are on 24 hours a day. Mr. Gallagher said they haven't been since September when he started complaining. Bill asked if that's an improvement over what he had previously. Mr. Gallagher said yes. Bill asked if that was acceptable now. Mr. Gallagher said no that his bedroom is right there and that is why he needs someone to come up and look out the window. He said he thought that's what they resolved the last time because he thought the commission agreed upon doing a drive-by. Bill said Steve did. Mr. Gallagher said he was on foot doing a walkabout. Steve said he didn't go in Mr. Gallagher's house because when he looked outside, it was blatant to him and Sue that the O'Bernier's light was shining directly into his house. He also said it was 8:30 at night and he thought it was too late. Mr. Gallagher said he filed this complaint. Steve said they are following up on it. Mr. Gallagher said he is not because Steve didn't go look out his window. He said Steve told him he was going to do a drive-by but he didn't do a drive-by he did a walkabout. He said Steve's been over there 3 or 4 times. Steve said that's what he was told to do by his commission. Mr. Gallagher said he put on his complaint to come to his house. Bill said you can really look at the property line and if the glare does not extend beyond the property line then it's not necessary to go into the house. Bill said as far as the regulations go there is nothing against seeing the light. Mr. Gallagher said it's not the seeing of the light it's the glare of the light. He said it's like somebody's headlights are pointed right at his window. Bill asked if the light goes beyond the property line onto his property. Mr. Gallagher said yes. Kathy Donovan asked Mr. Macary if it is in compliance from his opinion. Steve said his personal opinion is yes. He said the O'Bernier's cars were robbed a few times and that's why they have the light. Mr. Gallagher said he was robbed too but he doesn't have a spotlight on his neighbors. He said they have car alarms. Steve said the way it was on October 29th it was very bright and that was the main reason he didn't go inside Mr. Gallagher's house. He said he and Sue went up there on November 19th and it is 85% better. He said it is a yellow light, not a bright fluorescent and it is pointed down. He said he did not see it flashing up on his window. He said everybody is welcome to go there. It's up to the commission. Kathy asked Mr. Gallagher if he is going to obtain legal counsel. He said if he needs to yes. He said he's been talking to attorneys and there shouldn't be no problems in resolving this problem because of the laws that are in effect. Sally asked if Mr. Gallagher has a heavy light filtering shade on his window. He said yes, like he said last time, he put Levelors metal shades he put up to block the light, then he has the room darkening roll shade, plus his landlord is a seamstress and she made a double lined black curtain he has to put over that. Sally asked if it still shines in his bedroom with all that. He said yes. Mr. Gallagher said the commission gave him the pleasure of having the moonlight shine through his window once again. He said they can't take that from him again. He said for 15 years he has not seen the stars or the moonlight shining through his window. He asked the commission again to come look out his window. Bill said the question of whether or not Mr. Gallagher can see the light through his window, there is not a regulation for. The regulation has to do with the glare created by the light and it can't go beyond their property line. Mr.

Gallagher said he understands that. Bill said if there's a glare going beyond their property line they've got to correct that. Bill asked Steve, when he went to look at it, did he see glare beyond their property line. Steve said in his opinion, no. Bill said this commission has no ability to settle neighborly disputes over something that isn't regulated. Mr. Gallagher said he thought they had an understanding that they were going to do a drive-by. Bill said they did a walk-by which is the equivalent to a drive-by. He asked the commission again to go look out his window. April said she didn't think it was necessary. Mr. Gallagher asked if he puts his mirror back up and it shines right back is that considered glare. Steve said he thought it would be a police issue. Mr. Gallagher said no. There was further discussion on whether or not the light shines beyond the property line. The commission agreed that the light coming through his window is not a zoning issue and that Mr. Gallagher can pursue the matter through legal action to get it resolved. There was no further discussion on this matter.

VOTED: Unanimously on a motion by Kathy Donovan and seconded by Sally Brouillet to withdraw the lighting issue at 73 & 89 Locust Street.

Bill said the second item is regarding 71 and 75 School Street. He said it is regarding air pollution from a wood stove. Bill asked if there was any public comment regarding this item. Steve said he gave both parties a letter from the Naugatuck Fire Department. April read that letter into the record. Steve said he did an inspection and took some pictures. He said there are other wood stoves on the street. She read a letter from Valley Health into the record. Steve said the homeowner with the wood stove extended his chimney up by about 6 feet to try to accommodate his neighbor. Steve said he has exhausted all options and doesn't know what to do now. Zdzislaw Mycek, 75 School Street, said the smoke from wood stove next door goes into his bedroom window. Mr. Mycek said they have electric heat and they should be using it. Steve said they are allowed to burn wood. Mr. Mycek said in the regulations under Section 52.1 it says they cannot have any dust or smoke from the chimney. He said it is air pollution. Timothy and Christine Patchell, 71 School Street, said they supplement their heating costs by heating with wood. Tim said they have done everything possible and everything that has been asked by their neighbor to accommodate all of his needs. He said they haven't burned wood since they got the notice from Steve. The Fire Marshall inspected everything and gave his blessing. Tim said he is licensed by the State of Connecticut to install and inspect chimneys and everything is in 100% proper working order. He said this morning another neighbor was burning wood and you could smell the smoke. He said they have a high efficiency stove. Christine said the stove puts out 3.69 grams per hour which is well below the EPA recommendations. Tim said it is the amount of any type of material left over that enters into the atmosphere. He said the Fire Department has been out there over the last 3 years and has asked Mr. Mycek to close the windows on negative temperature days. They said they have attempted to work with their neighbor. The commission determined that this is a matter for the health department and it is not a zoning issue. Bill said they are in compliance with the zoning regulations.

VOTED: Unanimously on a motion by April Slauson and seconded by Kathy Donovan to withdraw the air pollution complaint from the wood stove issue between 71 & 75 School Street.

7. There was no Chairman Report.
8. There was no Public Comment.
9. Adjournment

VOTED: Unanimously on a motion by April Slauson and seconded by Sally Brouillet to adjourn the meeting at 8:04 P.M.

RESPECTFULLY SUBMITTED:

April Slauson, Secretary/sg