

**ZONING COMMISSION
CONTINUED PUBLIC HEARING MEETING OCTOBER 20, 2010
FOR TEXT AMENDMENT to SECTION 44 (ALCOHOLIC BEVERAGES) of
the NAUGATUCK ZONING REGULATIONS.
APPLICANT: NAUGATUCK ZONING COMMISSION**

Joe Savarese reconvened the Public Hearing Meeting at 6:16 P.M. with the following in attendance:

MEMBERS:

Joe Savarese, Chair
Diana Raczkowski, Vice Chair
Neil Mascola
Stanley Jaroneczyk
Richard Cool
Sally Brouillet, alternate

OTHERS:

Public: 11
Allison Hurley, Asst. CZEO
Steve Macary, CZEO
Edward Fitzpatrick, Boro Attorney
Pat Scully, Burgess Liaison

Joe Savarese stated Mr. Macary has printed copies of Middletown and West Hartford Alcohol Regulations. Joe explained that the Commission is trying to simplify the regulations because they are archaic and put a lot of restrictions on new development and businesses that are happening in the downtown area. He said they will look at each new proposal and its own uniqueness. Joe Savarese will email a final draft to the Commission members with all comments added to it. Diana Raczkowski recommended all applicants adhere to a site plan application. Public Comment: A gentlemen asked if he could see a copy of the proposed amendment. Joe Savarese said he didn't have it put together yet. The gentlemen asked then how can the public comment on something you don't have. Diana Raczkowski stated the commission will have a copy at next month's meeting. Mr. Savarese stated they needed more discussion and input. The Commission will continue the Public Hearing to November 17, 2010 at 6:15 P.M.

RESPECTFULLY SUBMITTED:

Neil Mascola, Secretary, ah

**ZONING COMMISSION
PUBLIC HEARING MEETING OCTOBER 20, 2010
FOR A TEXT AMENDMENT TO SECTION 29, (FLOODPLAIN) OF THE
NAUGATUCK ZONING REGULATIONS. APPLICANT: ZONING
COMMISSION.**

Joe Savarese opened the Public Hearing Meeting at 7:25 P.M. with the following in attendance:

MEMBERS:

Joe Savarese, Chair
Diana Raczkowski, Vice Chair
Neil Mascola
Stanley Jaroneczyk
Richard Cool
Sally Brouillet, alternate

OTHERS:

Public: 6
Allison Hurley, Asst. CZEO
Steve Macary, CZEO

Steve Macary reviewed the following changes: some dates, typos, and some definitions were added. The Commission had no questions. There was no public comment. The Commission closed the public hearing.

RESPECTFULLY SUBMITTED:

Neil Mascola, Secretary, ah

**ZONING COMMISSION
PUBLIC HEARING MEETING OCTOBER 20, 2010
FOR A COMMUNICATION FACULTY LOCATED ON MAPLE HILL SCHOOL
APPLICANT: CLEARWIRE/ ROBERT STAMFORD**

Joe Savarese opened the Public Hearing Meeting at 7:27 P.M. with the following in attendance:

MEMBERS:

Joe Savarese, Chair
Diana Raczkowski, Vice Chair
Neil Mascola
Stanley Jaroneczyk
Richard Cool
Sally Brouillet, alternate

OTHERS:

Public: 4
Allison Hurley, Asst. CZEO
Steve Macary, CZEO

Robert Stanford of Maxton Technologies, representing Clear wire stated the Planning Commission tabled their decision to the November 1st meeting. They had concerns on the safety of the children in regards to the weight of the structure. Steve Macary said the Planning Commission wanted input from the BOE faculties Manager. Mr. Stamford

stated he has a letter from the Borough Engineer stating although he is not a structural Engineer in his opinion the roof is sufficient to hold the weight of the structure. Mr. Stamford said he does have a signed and stamped analysis from the structural Engineer on file and a photo simulation on file with the application. Mr. Stamford said there was an EME study which is part of the application, but he has with him tonight Mr. Hill, a RF Engineer to answer any questions the Commission or public might have. Joe Savarese asked what effects the electro waves could have on children. Mr. Hill said in the application is a letter from Trans Wireless showing an electro magnetic force test was conducted and these tests are based on FCC and State emission guide lines. It was determined the transmitters exceed the requirements of the FCC. Joe Savarese asked the applicant if any other transmitters have been installed on other school buildings. Mr. Stamford said there is one on Branford High School and another one is in the works for a school in West Hartford. Diana Raczkowski asked how high it would be, are there any other antennas on the roof now and will you be able to see it. Mr. Stamford said it will be 32 feet high, there are no other antennas on the roof and it will be screened, and contained in a locked area. Public Comment: Dawn Texiera of 4 Windsor Place stated her concerns, her property abuts the back of the school property, health risks, how the process works and what it would look like. Joe Savarese explained the public hearing process and gave Ms. Texiera a copy of pictures of the transmitter. The Commission continued the Public Hearing to November 17, 2010 at 6:30 P.M.

RESPECTFULLY SUBMITTED:

Neil Mascola, Secretary, ah

The Commission took a 10 minute recess.

**ZONING COMMISSION
REGULAR MEETING OCTOBER 20, 2010**

Joe Savarese opened the Regular Meeting at 6:04 P.M. with the following in attendance:

MEMBERS:

Joe Savarese, Chair
Diana Raczkowski, Vice Chair
Neil Mascola
Stanley Jaroneczyk,
Richard Cool
Sally Brouillet, alternate

OTHERS:

Public: 9
Allison Hurley, Asst. CZEO
Steve Macary, CZEO
Edward Fitzpatrick, Boro Attorney

REGULAR MEETING

1. Joe Savarese opened the meeting with the Pledge of Allegiance and then took attendance. At this point, it was determined that a quorum was present.
2. No Executive Session with Borough Attorney.
3. Approval of August and September Regular and Public Hearing meeting minutes and the secretary will sign previously approved minutes.

VOTED: Unanimously on a motion by Stanley Jaroneczyk and seconded by Diana Raczkowski to **APPROVE** the August and September Regular and Public Hearing meeting minutes as written.

4. **OLD BUSINESS:**

A. Commission Discussion/ Decision for a Text Amendment to Section 44 (Alcoholic Beverages) of the Naugatuck Zoning Regulation. Applicant: Naugatuck Zoning Commission.

The Commission continued this Public Hearing until November 17, 2010 at 6:15 P.M.

B. Commission Discussion/ Decision for a Text Amendment to Section 29, (Floodplain) of the Naugatuck Zoning Regulations. Applicant: Zoning Commission.

VOTED: Unanimously on a motion by Diana Raczkowski and seconded by Stanley Jaroneczyk to **APPROVE** a Text Amendment to Section 29, (Floodplain) of the Naugatuck Zoning Regulations. Applicant: Zoning Commission.

C. Commission Discussion/ Decision Communication Facility located on Maple Hill School. Applicant: Clearwire/ Robert Stamford.

The Commission continued the Public Hearing until November 17, 2010 at 6:30 P.M.

D. Commission discussion regarding Follow-up of monthly ZEO Report and Zoning complaints.

Steve Macary stated that he and Keith Rosenfeld are working on a new system and plan to attack 6 to 12 properties with repeated violation and take them to court. He said he needs some more hearing officers. Diana Raczkowski asked if any are under fines right now. Mr. Macary said no. Diana Raczkowski asked

about the tent violation located on 97 Woodbine Street and if this was one of the properties. Steve said no they took it down. Diana Raczkowski stated they took the canvas off but did not remove the frame and he is allowed only keep the old tent up and has to remove the entire new one. Mr. Macary said he will have to take a look at the property because he was not sure if frame was removed.

- E. Commission Discussion regarding an extension for the Special Permit Application and Bond approved on December 14, 2005 for Fox Hollow Active Adult, located at 0 Mill St. Applicant: CDI Fund, LLC.

A brief discussion took place between the Commission and Attorney Mike McVerry, Represent for the Applicant in regards to the conditions that were set in the approval of the special permit. Diana Raczkowski asked if zoning was satisfied. Mr. Macary stated he has no zoning issues. Diana stated to let wetlands decide on the Biofilter.

VOTED: Unanimously on a motion by Diana Raczkowski to **APPROVE** a 5 year extension for the Special Permit Application and Bond approved on December 14, 2005 for Fox Hollow Active Adult, located at 0 Mill St. Applicant: CDI Fund, LLC provided the Wetlands Commission is satisfied with the biofilter that has been installed and any conditions they oppose would apply to this extension.

- F. Commission Discussion regarding Bond, PDD 11 RT.68, Fulling Mill Commons Applicant: James Warren.

Joe Savarese had questions on the standards that were set in the approval in regards to the bond. He said would like to understand what the differences are between the public and private parts of the project and which should be bonded. Wayne Zirolli, Boro Engineer handed out copies of bonds, that included guardrail and on without. Attorney Ned Fitzpatrick stated the PDD regulations are different from subdivision regulations. He said the Regulations provide for both public and private improvements and amenities not limited to landscaping, private walks, paving areas, street frontage and that famous word etc. He has met with staff and reviewed many documents on the plans and bonding proposals and also has spoken with the applicants Attorney on numerous occasions. Attorney Fitzpatrick stated the ultimate decision as to the bond and what it should cover is the judgment of this Commission. He said in normal circumstances the setting of the bond is done by the Boro Engineer meeting with the applicants Attorney and engineer and an agreement is worked out. Then it is reviewed by the Borough Attorney and his role is to recommend what form of bond it will be, which is a letter of credit, your zoning regulations say cash bond which is why your regulations are out dated. Diana Raczkowski said we the Commission have agreed per our decision of approval we would accept reputable insurer. Attorney Fitzpatrick commented that a reputable insurer is not what it used to be. Diana Raczkowski said when it comes to businesses coming into town it is probably more restrictive to require letter of credits and this is not something we want to do is be more restrictive. She stated the point of having a letter of credit is to make it easier for the Borough Attorney so you don't have to go to court. Diana said why we would want to make it more restrictive in an area where we have never had to call a bond. It is easier for Developers to get an insurer to give him, bond than a letter of credit where he has to put up all his collateral. Attorney Fitzpatrick said regulations allow cash bonds or performance bonds so if that is what this Commission wants to do then you can do it. He stated his preference is a letter of

credit because it puts the Borough in a stronger position. Attorney Fitzpatrick stated they came to a delineation of how the Borough could be protected and insured the improvements this Commission voted on would be done while allowing an applicant in a commercial reasonable way to develop the property. He has met with the applicants Attorney in trying to strike a balance in protecting the Borough and allowing the applicant to develop. Attorney Fitzpatrick stated we certainly want to encourage commercial development. The Borough's obligation is to ensure the regulations are met and the requirements set forth in Section 34.8.5 are also performed. The amount of the bond was determined by the Borough Engineer. Diana Raczkowski said this Commission agreed in the conditions of approval to bond the public improvements, sanitary sewer work, public roads, SEC, landscaping, buffer planting, storm water control and detention structures and these were based on Mr. Zirolli's recommendations because it is private property. Attorney Fitzpatrick stated a PDD is private by its nature. Applicant James Warren asked the Commission and the Borough Attorney If I give you the Bond amount set tell me what court of law will ever let the Town come on his private property to finish the improvements to sell my private Industrial buildings. If I don't finish the project I cannot obtain a Certificate of Occupancy. Mr. Warren doesn't see at any point where the Borough has the authority to step in and take the bond money to use to bid out the project so it can be finished. He believes the Commission agreed in the approval what should be bonded. Attorney Fitzpatrick said the Borough would have access to call the bond and with that have the right to go on the property. Mr. Warren said if he does not finish the job the town has no purpose to go in and complete it. Diana Raczkowski stated this Commission should bond things that effect people off site and the Town. Attorney Fitzpatrick said you are protecting future owners too. A discussion continue between the Borough Attorney, the Commission and staff on what items should be bonded, what type of bond should be required and the draft bond proposal given by the Borough Engineer. Attorney Mike McVerry stated during the application process it was suggested what should be bonded and that we had gone through many discussions with Mr. Zirolli and Attorney Fitzpatrick. The applicant's engineer Paul Benevich spoke with Mr. Warren and came up with a bond estimate of \$65,934.00 Diana Raczkowski asked if that was for the entire phase one. Mr. Benevich said it is for everything stated to be bonded in the approval. Diana Raczkowski stated the Commission needs to give the Borough Engineer direction on what items should be bonded. She said the commission can not expect the Borough Engineer to come up with figures if we have not told him what to bond. Joe Savarese would like to continue discussion on the bonding issues with the parties involved and a commission member to come to an agreement on the many issues brought up tonight. Wayne Zirolli stated he is trying to work in a dispassionate manner not favoring the applicant or the Commission and bond what is fair while protecting the Borough. Attorney Fitzpatrick stated it is important for the Commission to have the input of the Borough Engineer because of his expertise. Diana Raczkowski said we need to look at past practice and should not do anything different than what was done on other applications. Joe Savarese said he would like to get a list of everything that is going into the project without dollar figures, so the Commission can look at it and make a decision on items needed to be bonded and move this project forward. Attorney Mike McVerry stated if the Commission was going to change the game plan of what was in the approval his client would have had time to appeal the decision, but because now your saying even though we said this we meant

something else. Attorney McVerry said it is too late to file an appeal so we are left here in negotiation. This may be something we can resolve in the next month but the Commission should take into consideration what was presented to them prior to the vote and the exact language. Attorney Fitzpatrick emphasized for the Commission to please rely on their staff when making any judgments. Mr. Zirolli stated he will put together a list of items regarding priority and safety and present it to the Commission.

5. **NEW BUSINESS:**

There was no new business.

6. There were no Change of Use applications.

7. There was no Public Comment.

8. There were no additional items to be added to the agenda.

9. No Chairman Report.

10. Adjournment.

VOTED: Unanimously on a motion by Stanley Jaroneczyk and seconded by Neil Mascola to adjourn the meeting at 8:24 P.M.

RESPECTFULLY SUBMITTED:

Neil Mascola, Secretary, ah