

**ZONING COMMISSION  
SPECIAL MEETING NOVEMBER 30, 2009**

Joe Savarese opened the Special Meeting at 6:02 P.M. with the following in attendance:

**MEMBERS:**

Joe Savarese, Chair  
Diana Raczkowski, Vice Chair  
Stanley Jaroneczyk  
Neil Mascola  
Richard Cool  
Peg Sheehy, alternate

**OTHERS:**

Public: 7  
Allison Hurley, Asst. CZEO  
Wayne Zirolli, Boro Engineer  
Steve Macary, CZEO  
Attorney Steven L. Savarese

**SPECIAL MEETING AGENDA**

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. Commission Discussion/Decision for a Special Permit Application for an Office Park located on lot 3 Great Hill Rd. Naugatuck Industrial Park. Applicant: Bethline Associates.  
The Commission discussed the general considerations regarding the size, intensity, height, location of the proposed building and storm water drainage. A discussion on the general standards for a special permit ensued regarding the neighborhood, erosion and sediment controls.  
The Commission recessed at 7:07 P.M.  
The Commission resumed the special meeting at 7:21 P.M.  
The Chairman asked the commission if there was any further discussion. The Commission stated no and at that point the Chairman asked if there was a motion.
3. **VOTED: 3-1-0** on a motion by Diana Raczkowski and seconded by Stanley Jaroneczyk to **DENY** a Special Permit Application for an Office Park located on lot 3 Great Hill Rd. Naugatuck Industrial Park. Applicant: Bethline Associates.

WHEREAS, The Borough of Naugatuck Zoning Commission ("Commission") has received the Application of Bethline Associates for approval of a special Permit for an office park located on Lot 3, Great Hill Road, Naugatuck Industrial Park. Lot 3 is located on the north side of Great Hill Road and west of East Waterbury Road (the "Property");

WHEREAS, on May 20, 2009, at its regularly scheduled meeting, the Commission pursuant to Section 42 of the Zoning Regulations, accepted the Application for Special Permit for earth excavation activities associated with construction of an office park on said Lot 3 Great Hill Road, Naugatuck Industrial Park.

WHEREAS, Section 67.1.2 Regulations: states that "Within PDD #8, no building

or other structures shall be used and no building or other structure shall be constructed . . . except in conformity with the 'Zoning Regulations of the Borough of Naugatuck, Connecticut'. . . as modified by this section. Within PDD #8, no lot or land shall be subdivided, sold, encumbered or conveyed except in accordance with said regulations as by this section."

WHEREAS, the Zoning Regulations pursuant to 67.15 cross reference, "All provisions of the Regulations that are applicable . . . in Residence Office RO-1 District shall be applicable to Land Use Area 'O-A' of PDD #8; and in Residence R-15 Districts shall be applicable to Land Use Area 'PF-1', 'OS-1' and 'OS-2' of PDD #8, except as modified by this section."

WHEREAS, in addition to Section 42 – Earth Excavation, Fill & Regrading of the Zoning Regulations, the Commission proceeded with its review understanding that a Special Permit is also required pursuant to Sections 67.1.2 and 33 of the Zoning Regulations, Schedule A, Part B "Buildings, uses and facilities of the Borough of Naugatuck" and or Part C Business or Professional Institution.

WHEREAS, pursuant to the Zoning Regulations, the Commission voted to schedule a public hearing to commence on July 15, 2009;

WHEREAS, the Property is located in the Industrial Park Phase II and zoned pursuant to Section 67 - Planned Development District #8, in the Zoning Regulations at 67.2.4" Office #A-Area 'O-A'" and 67.2.7 [sic] "Open Space #2 - Area "OS-2"

WHEREAS, pursuant to the Land Use Plan, dated May 1981, the property contains both "O-A" and OS-2" permitted uses;

WHEREAS, pursuant to 67.3.4 of the Zoning Regulations "Land Use Area . . . 'O-A' is deemed to have the minimum area, shape and frontage required by the regulations.";

WHEREAS, pursuant to 67.3.6 of the Zoning Regulations "Land Use Area ". . . 'OS-2' are deemed to have the minimum area, shape and frontage required by the regulations.";

WHEREAS, Section 67.4 Height: does not list "O-A" – therefore Section 67.15 applies RO-1 Height standard per Schedule B:

Maximum Height of Buildings or Structures: 40'

WHEREAS, Section 67.5 Setbacks: does not list "O-A" – therefore Section 67.15 applies RO-1 Setback standards from Schedule B:

From Street Line or Lines: 25'  
From Rear Property Line: 25'  
From Street or Other Property Line: 10'  
From Residence District Boundary Line: 35'  
(R-65, R4-5, R-30, R-15)

WHEREAS, Section 67.6 Coverage and Bulk: does not list "O-A" – therefore Section 67.15 applies RO-1 Coverage and Bulk standards from Schedule B:

Maximum Lot Coverage as Percent Of Net Buildable Area: 40%  
Maximum Floor Area as Percent of Lot Area: 100%  
Maximum Natural Coverage As Percent of Lot N/A

WHEREAS, the Commission has considered the testimony of the Applicant, through their representatives, interveners, adjoining and nearby neighbors, including without limitation the testimony and observation of the abutting owners on July 15, 2009, August 19, 2009, September 16, 2009 and October 21, 2009;

WHEREAS, the Commission conducted a site walk open to the public on July 20, 2009;

WHEREAS, the Commission has considered the Report of Southwest Conservation District dated August 17, 2009 on file and the Applicant's reply;

WHEREAS, the Commission has considered the Report of the Borough Engineer, Wayne J. Zirolli, P.E., L.S., dated October 13, 2009 and reply of Ted Crawford, P.E. of Milone & MacBroom dated October 16, 2009;

WHEREAS, the Commission has considered the Applicant's Hydrogeologist's reports dated September 15, 2009 and October 16, 2009 on file;

WHEREAS, the Commission has considered the letters of interpretation of Sections 42.2 and 42.3 of the Zoning Regulations from Applicant's Attorney, Kevin H. McSherry, dated September 8, 2009 and from Zoning Commission's Attorney, Stephen L. Savarese, dated September 16, 2009 and partial transcript of July 16, 2008 Zoning Commission meeting discussing interpretation of Section 42.1 and 42.2;

WHEREAS, Fire, WPCB, Police and Architectural & Landscaping Review Board requirements have been met and accepted by this commission.

WHEREAS, The Inland Wetlands and Watercourses Commission denied an earlier rendering of the application Said IWWC denial of the application is to be only construed as an action under their jurisdiction.

BE IT RESOLVED, that based on a thorough review of the Zoning Regulations,

the application, plans, reports and all the evidence included in the record, and including all the testimony at the sessions of the public hearing, the Special Permit application is hereby denied for failure to comply with the applicable Zoning Regulations as follows:

1. While the project was endorsed by the Planning Commission as meeting the criteria within the Plan of Conservation and Development, the Zoning Commission is not bound by the conclusions of the Planning Commission re compliance of the application within the Plan of Development and Conservation. Specifically, as pertaining to industrial development, the following objectives and goals of PDD #8 were not satisfactorily met by the application, namely to:

- Encourage development which results in a larger percentage of open space.
- Maintain as much of the natural landscape and topographic features as possible.
- Establish buffer areas, using topographic features, landscaping and setbacks to separate industrial areas from residential areas.
- Require open spaces and setbacks, which protect outstanding topographic features and maintain as much of the landscape as possible.
- Adopt the necessary controls and regulations required to attain and maintain the intent of this Plan and the objectives set forth above.

2. The Southwest Conservation District rendered a less than favorable review of the existing plan. Their opinion indicated a severe modification of the site will detrimentally impact adjoining wetlands and that the proposed plan is not in harmony with abutting residential properties. Alternative

recommendations to lessen impact were offered and taken into advisement by the applicant.

3. The public comments received at the public hearings expressed concerns. Although not necessarily opposed to an office building, reservations exist about the intent and magnitude of the proposed excavation plan. The consensus is the real objective of the plan is to excavate sand and gravel rather than construct an office building. Despite the Applicant's claiming compliance with Section 42.2.2.1, that the "[excavation] is necessary and not created by design and clearly incidental to the improvement of property as permitted by the Naugatuck Zoning Regulations", there was an expressed concern that once the sand and gravel is removed, no building will be constructed. This contention was further supported by the surplus of existing office space in both IP2 and the Borough in general, in addition to the present downturn in the economy.
4. The Application is not in harmony with development of the district as required by Section 33.2.1 and will be a detriment to adjacent properties. The proposed excavation of more than 25,000 cubic yards of material and resulting change in elevation as proposed by the final revision dated October 16, 2009 is unprecedented in PDD #8 and would negatively impact public health, safety and welfare of the immediate neighborhood's drinking water sources.
5. Based on further review of the July 17, 2008 partial transcript of the discussion the change at 42.2 was inadvertent and intended to

explain the enforcement authority at 42.1.2. Accordingly, the July 17, 2008 "Interpretation" which purported to expand the safe harbor provisions for excavation of residential lots for development to include commercial activities is unfounded. The entire structure of Section 42.2 adopted in 2005 is inapplicable to commercial projects by reference to the details set forth in 42.2.1 and 42.2.2 et seq.

6. The scope of the project appears to be designed as fitting a 4.8 acre lot. After subtraction of the open space area, effective lot size is reduced to about 2.6 acres. The size of the impervious surfaces (building, parking lot and driveway) relative to the grade and landscaping may be too intense for the size and contours of the property.
7. The impact of excavation and earth removal may be detrimental to the North, East and West boundaries of the property, containing residential/watercourse, residential, and watercourse/pond respectively.
8. Storm-water controls seem to be well designed, but may be difficult to execute and sustain in the long run due to extreme drops in elevation. Best water management practices do not eliminate concerns over potential pollution problems and remedial action after the damage is done.

9. The close proximity of surrounding residential area is a major concern during construction activity. Traffic, noise and dust controls must be of recent technology so as to insure there is minimum disturbance to the surrounding residential area.

10. Outdoor and/or parking lot lighting is designed to be directional toward the ground so as to not be obtrusive to the surrounding residential area. The angle of the cut, sloping from east to west, and proximity of the parking areas suggest that lighting would be visible from adjacent properties on the north and western sides of Lot #3, with perhaps, a residual glow on the eastern boundary.

The Application would negatively impact the environment including ponds located down gradient to the subject lot by rerouting surface water evidenced at the site walk and described in detail by the longtime residents of the neighborhood through the extensive detention basins proposed. It has been determined that springs flow within the confines of Lot #3, on the westerly abutting property slope, and also under and over Great Hill Road. No impact study or plans have addressed this issue other than two test borings that may be interpreted as inconclusive, relative to the springs in question.

Despite engineering analysis and reports indicating adequate separation between excavation and water table, there are no guarantees (zero impact) that residential wells in the area will not be adversely affected in the long term as a consequence of the proposed excavation. These wells are of very high quality, and city water as an option is inferior in quality and cost prohibitive. Additional boring data to a

sufficient depth at Boring #2 could've enabled a more accurate assessment.

Joe Savarese asked for a roll call:

**FOR**

Stanley Jaroneczyk  
Diana Raczkowski  
Joe Savarese

**AGAINST**

Neil Mascola

**ABSTAINED**

The Motion Passed.

3. At 7:40 P.M. a unanimous motion by Stanley Jaroneczyk and seconded by Diana Raczkowski was made to adjourn the meeting.

RESPECTFULLY SUBMITTED:

Neil Mascola, Secretary, ah