

Minutes of Regular Meeting No. 12119 of the Killingworth Planning & Zoning Commission held on Tuesday, February 21, 2023, at 7:00 PM by Go-To-Meeting.

1. PUBLIC HEARING:

Application #376 for Special Exception/Site Plan Approval submitted by Papoosha Real Estate Investors LLC for Special Exception, Tree, log or brush processing business, Commercial District, Tax Map 28, Parcel 39, Zoning District CD, 219 Route 80, Killingworth, CT 06419

Commission members present and seated – Lentz, Hogarty, Cook, McGuinness (arrived during the hearing), McLaughlin (departed during the hearing), Tobelman. Drew was seated for McGuinness until his arrival and then for McLaughlin after his departure. Alternates Warren and Martin were present but not seated.

Visitors – Nancy Gorski, Krissie Sward, Tom Talbot, R. Pleines, Donna Savino, Graig Judge, T. Corcoran, Dana Mantila, Chloe, Sean Jules, Elysia Piscitelli, Eric Marshall, Eileen Unger, Bob Doane, H. eichler, Richard Guest, Laura Lefko, John Sampeni, Kathleen Zandi, P. Wilson, Callers 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12. Attorney Sylvia Rutkowska, counsel for the applicant as well as Becky Goetsch and Scott Papoosha.

Public Hearing was opened at 7:05 PM. Hogarty read the Notice of Public Hearing into the record. Chairman Lentz explained the public hearing procedures.

Attorney Rutkowska noted the prior application was withdrawn and this application (#376 was a resubmittal). A report has been received from the Water Company as well as approval from the Wetlands Commission. This is a modification of the site for a Special Exception and Site Improvement Plan. This includes neighbors' concerns about runoff and wetlands and primarily just cleaning things up with regard to these concerns.

Rutkowska noted there are no proposed changes of use, the bins on the original Special Exception approval have been deemed to be problematic. They are proposing a better solution. No change in use and no expansion. There are concerns about volume. The uses have already been approved. The Wetlands Commission has indicated this will be a much needed improvement.

Bob Doane, engineer, will present the application. Mr. Doane introduced himself noting they have prepared the site plan. He noted they are proposing site improvements that reflect concerns from The Water Company and the Wetlands Commission. This was discussed at the wetlands meeting last week. The site was reviewed including the western side drywell with a catch basin and silt sack. The water will flow through a perforated pipe and trench to a gallery system where the storm water will be recharged before flowing into the pond area. The Wetlands Commission did a site walk and reviewed dead trees and invasive species. There is a proposed greenhouse which was previously approved. The greenhouse area will be cleaned up. The berm wrap around area will be rebuilt with a 2 to 1 slope and planted arbor vitae. The

sides of the berm will be planted with a concentration of seeds, a no mow mix. A consistent grass growth will be established.

The existing bins will be removed. When there is a large supply of logs, the bins get in the way. They will be removed. Logs will be grinded (outside of 100' review area of wetlands). This was acknowledged at the wetlands meeting. There is a proposal to install a second drywell. Storm water will be recharged. Reviewed the catch basin insert which will preclude sediment from getting into the drywell. This filters out the silt. It will be maintained on an as needed basis.

The eastern entrance of the property will be regraded and runoff directed to the high point into a swale behind the existing stone wall. Water will run west to east in the swale towards Patrick Drive.

Two items were added to the plan. The zone line that runs through the property, commercial/rural residence district, and the location of the watershed boundary.

Doane noted they have full support of the Wetlands Commission and a favorable letter from The Water Company. He reviewed the area of the two drywells, removal of the bins, removal of the woodchip berm and putting in a 5' high 24' on the bottom of the arbor vitae. The berm will be extended to wrap around the southern end of the property. The storage area replaces the bins. We feel, as well as the Wetlands Commission and The Water Company this improves the operation of the company.

Becky Goetsch noted they are aware of concerns and trying to demonstrate our willingness to improve things and address concerns. Bins and arbor vitae will enhance the site. We will work within the approvals and the permits.

The following communications were read into the record.

- (1) Letter from The CT Water Company dated February 21, 2023.
- (2) Letter from Killingworth Inland Wetlands & Watercourses Commission. Plans by Doane Engineering of 12-30-22 were revised to 2-20-23.
- (3) Letter from the Town Engineer, Nathan Jacobson, Joseph Dillon.
- (4) Letter from the Fire Marshal, Dennis Campbell. No issues with the site map and application as proposed. Last inspection was Dec. 18, 2022. There will be a walk thru this week and a report next week.

Questions from Commission members:

Lentz noted the applicant is not proposing any new uses, changes or expansion. Last year or two there has been an expansion. They have been processing logs all year long.

Becky Goetsch noted they only grind in the permitted time allowed. She explained the grinding process when it takes place. Piles of grinding is transported off site to their location in Deep

River. Lentz asked what the volume of material was they were planning to produce. They had a permit for 1000 cubic feet of chip storage.

Warren noted she appreciated they are willing to come into compliance with the Town's regulations. She asked what the amount of chipped wood was indicating it seemed excessive. She noted the storage of chipped wood is now unsightly.

Drew asked how the volume of material will be managed without the bins to store it in. He also asked what they plan to do with what's on site now to come into compliance. You are removing the bins.

Lentz noted the regulations allow for one month processing during a 3 month period.

Lentz asked if there were any other questions.

Hogarty asked what the time frame was for all the improvements that were to be done. Doane replied the work will be done within a few weeks of the permit. Papoosha noted it will probably be done during March April and be done May 1st.

McGuinness noted in reviewing the site plan, there was discussion regarding height and spacing of arbor vitae and the processing piles. There was no discussion about log piles. The log pile can't exceed the top of the arbor vitae on top of the berm. Doane noted they were asked to lower the wood chip berm to 5' and slope 2 to 1. The largest trees that can be put in there now are 5 to 6' high. The height of the berm is 20 or 25' per State requirements. The Fire Marshal will be visiting the site. The tree tops will be 5 to 6' spaced 10 to 12' apart center to center. State FM will be visiting to determine height of the berm.

Atty. Rutkowska noted they would be happy to condition approval on requirements of the State Fire Marshal.

Christine Patterson asked for an explanation of how the burning plays into the processing. Goetsch noted the burning is in the wood stove and not part of the processing.

Suzanne Sack noted the hearing tonight is to determine the public's view of the proposed amendments so that a future application would be looked on more favorably. Lentz noted they are applying for an amended approval of the processing application. They propose to remove the bins for the storage area. These are changes for the existing approval and the site plan itself.

Scott Kasper noted there should be some information as to noise and methods to control the same. There's nothing in the application. Atty. Rutkowska noted they are only changing the bins. With respect to the noise, they are not doing anything to change the noise characteristics.

Patterson asked if the runoff would come in to the pond on Patrick Drive and make that worse, an ugly eyesore.

Goetsch noted the major object of this proposal is to reduce runoff. Doane noted the water will be reduced. They are reducing the grade taking surface water to the north away from Route 80 to the drywell and catch basin. This will improve the water quality going toward the pond on the east side of Patrick Drive.

Paul Cody noted the proposal is to reduce and modify existing permits. Lentz noted they have the original permit which was approved.

Goetsch noted it was her understanding they have a site plan which was approved in 2018. They are asking to modify it. If not approved, the original site plan still exists.

There was a question regarding an extension of time to do the processing. How many yards of material are on site. Does the Commission regulate the amount of material that can be dumped on site and the hours regulated for grinding. Can somebody verify the number of yards of material on site now. Further discussion regarding the bins.

Atty. Rutkowska noted they are not asking for any extensions associated with grinding or processing. It's the logistics of the site, where the water goes, etc. Changing some aesthetics and features on the property. The bins will be removed as they have caused some of the existing problems. They are looking to remove the obstacles and process more efficiently and faster. The modifications are all physical features of the site to make everything work. With respect to the grinding, they are looking for what the regulation is, nothing more.

Dana Mantila noted the site plan looks like the previous map in 2015 and never was followed through. How long do they have to comply with the plan approved in 2015. The smoke is invasive. How do we approve anything now when in 2015 nothing was ever followed through on.

Atty. Rutkowska noted the plan today is very different from the previous plan. That was not an accurate statement. With respect to the lawsuit, the Stipulated Judgment included a 4' berm. RBF became compliant.

Pleines asked about hours of operation and days of week. ZEO Talbot noted there were stipulations as to hours of operation.

Pleines noted there was no mention of the drainage proposal. There is still the question if Inland Wetlands has looked into this and also the extra greenhouse. None of these issues were addressed in a proper manner. He further noted his concern is that Inland wetlands came back with a report but it's not a valid report.

Suzanne Sack asked when do trucks get turned away if 1000 yards of material is the limit. Goetsch explained everyone is asked to sign in and pay a fee to drop off so this is a way to keep track of this. Trucks are turned away for the wood chips when it reaches 1000 yards.

Atty. Rutkowska noted they are acknowledging there is more of a volume on site and they are not looking for that to go forward. Extreme weather events caused more volume than normal. There are some issues with the site and they are looking to resolve logistical problems. Also runoff is being addressed.

ZEO Talbot reviewed some issues with the existing site plan. He asked for the line 30' from the zone to be on the plan. A new greenhouse is commercial district. They extended the residential down not into commercial district. Commercial stuff cannot be in the residential district. Engineer needs to redo the plan a little. They also need to address the narrative to be much clearer. An extensive narrative is needed with conditions. Talbot also suggested the plan specifically show where materials will be and limit the height.

Doane noted Section 500-22 allows for extension of 30' into an adjoining zone. It doesn't get shown on the plan. Only the zone line is shown. To allow 30' into commercial is not shown on the plan.

It was noted a lot of documents came out today and the time should be extended. Atty. Rutkowska noted the plans were submitted on time.

Suzanne Sack noted people need to be able to talk without rebuttal.

Mr. Patterson noted there's another greenhouse on the plan. Will this greenhouse provide more smoke. Goetsch noted they will not be increasing any smoke. There's 5 approved greenhouses.

Chairman Lentz asked for those who wish to speak in favor of the application.

John Samperi. Lentz read Mr. Samperi's letter of support into the record.

Natures Harmony LLP. Lentz read letter of support into the record. It was noted they have a good relationship with RBF. They have the highest quality materials and that's very important to the owner of this landscaping service.

Chloe Lamar (Westbrook resident) spoke in favor of the application noting they are taking a positive initiative to solve concerns and issues. Doing positive things. This is a well established business. They are doing everything to become an organic business. Positive actions.

Michael Paglinco spoke in support of the application. This is just an improvement to the site. They are making it better.

Chairman Lentz asked for those who wish to speak in opposition to the application.

Doug Walter, Patrick Drive. He noted there are currently 2 open Cease & Desist Orders. Past actions should be considered for any new approvals. They currently have more than just the logs and brush stored. There needs to be a record of the amount of material processed. Mr. Walter was opposed to the application.

Laura Lefko. She understood they are trying to make improvements but the Patrick Drive residents indicate RBF has not been a good neighbor. The Patrick Drive residents feel there will continue to be problems.

Scott Kasper, 13 Patrick Drive noted he is 1 of 5 affordable homes in Killingworth. He has lived in Killingworth 28 years. There's an impact of smoke and noise, furnaces being loaded at 7 PM, trucks dropping off in the AM. They are being treated like second class citizens in town. They are running an industrial operation in a commercial zone. Not a grinding operation. There's no enforcement on this property. It should never have gotten this far. He was opposed to the application.

Suzanne Sack noted the Planning & Zoning Commission needs to step back and look at this operation. They have not been compliant in the past. The rules are the rules. Past noncompliance cannot go on.

Heidi Eichler spoke in opposition to the application. Her concerns were the same as Sack. Everything is let go and then they ask for forgiveness. This is not a good platform for this town.

Shane Patterson, Patrick Drive, echoed what others have said. Lack of compliance in the past. Who is going to step in and do something about this if they do not comply. It keeps happening.

Paul Cody noted he seconded what Kasper said noting he was in opposition. Smoke billowing out. He noted they live in a residential neighborhood and was asking for a good neighbor. Planning & Zoning Commission should protect the residents of the town.

KR (?) noted more and more days they cannot go outside. Always see smoke. Serious problem for them. RBF doesn't follow the regulations. Without neighborhood support, you cannot run your business. It's how you take care of your business.

Becky Goetsch summarized the application. She thanked the neighbors for their comments noting they are trying to beautify the property and have a good connection with the community. They are trying to address runoff situation and rerouting surface water. The berms will serve as a conservation area. End products and location are important. They want to stay in a way that will be good for everyone.

Scott Papoosha thanked everyone for coming.

Nancy Gorski noted she appreciated what is being done. This is critical. The smoke on the site has to be remediated. She hoped RBF would follow thru on what they say they will be doing.

It was noted Commission member McLaughlin had to leave the meeting because of an emergency. Drew will be sitting in for McLaughlin.

Public hearing closed at 9:25 PM.

2. Call to Order

Chairman Lentz opened the regular meeting at 9:30 PM. Members present and seated: Lentz, Hogarty, Cook, McGuinness, Drew (seated for McLaughlin) and Tobelman. Alternates present but not seated were Warren and Martin. ZEO Tom Talbot was also present.

Motion by Hogarty, second by Cook, to add new application #377 to the Agenda. Attorney Rutkowska noted there is concern because of the limited time frame unless there will be a Special Meeting. Timing is important to the property owner. **PASSED UNANIMOUSLY.**

3. Minutes of Regular Meeting January 17, 2023 and Special Meeting January 31, 2023

Motion by Hogarty, second by Cook, to approve January 17, 2023 Minutes as written. PASSED UNANIMOUSLY.

Motion by Hogarty, second by Cook, to approve January 31, 2023 Special Meeting Minutes as written. PASSED UNANIMOUSLY.

4. Communications and Bills – communications were read during the public hearing prior to this meeting.

5. Old Business

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Chairman Lentz noted a public hearing was held prior to this meeting. He asked for Commission members comments at this time.

Drew noted the Commission has seen this a number of times. Past performance has been terrible. There is controversy about the site plan, removing bins, etc. We also fall short in addressing noise and smoke.

Hogarty noted there was discussion about the 30' encroachment and if the ZEO wants it on the plan, then it should be put there. This is an industrial use in a Commercial District. The

comment about putting a round peg in a square hole was right. Past performance is indication of the future. How can we approve this?

Motion by McGuinness, second by Hogarty to approve application. Discussion followed regarding the Town's Charter and Robert's Rules of Order.

Motion by Drew, second by Hogarty, to reject Application #376. Discussion followed. Hogarty briefly reviewed Patrick Drive residents' comments. They have no confidence in compliance.

Lentz noted they have far exceeded what was permitted by that permit. They are processing year round and it's turned into an extended industrial activity in a commercial zone with neighbors around it. It has continued for years. This has turned into a year round industrial activity not appropriate for the commercial zone.

Cook reviewed 3 things – site plan improvements, grinding process, and air pollution from outside furnaces. The furnaces are not part of this application. Chipping is allowed for one month in the 12 week period.

Chairman Lentz called the question – **Motion to deny Application #376 made earlier by Drew, seconded by Hogarty. In favor of denial – Drew, Hogarty, McGuinness, Tobelman, Lentz. Opposed – Cook. Application #376 was denied.**

Application #377 – limited grinding. Hogarty noted the applicant's record should speak for itself.

Motion by Hogarty, second by Drew, to deny Application #377. Discussion followed. It was noted nothing has worked in the past. Cook noted everything is coming to a head and if we approve the 28 days, this is their opportunity to show us the first step. Attorney Rutkowska noted the applicant has a right to make a presentation of their application. **Motion was withdrawn.**

Becky Goetsch noted it will be very challenging the way we look if we can't grind during month of March. We will have no ability to clean up.

Atty. Rutkowska urged the Commission to consider minimal grinding operation. It will make the property more compliant and look better. She urged the Commission to think of consequences if no grinding.

ZEO Talbot must confirm the 4 weeks.

Motion by Drew, second by Hogarty, to deny Application #377. Discussion followed. Hogarty noted they could clean up the site and then come back with an application. McGuinness noted they could make improvements to the site in the next 2 months and only then the Commission

could allow for grinding. **Vote on the motion – In favor of denial– Hogarty, Tobelman, Drew, Lentz, McGuinness. Opposed to denial – Cook. Application #377 was denied.**

It was suggested RBF try to clean up the place and then come back to the Commission. Hogarty noted that site was never envisioned for an operation of that size.

6. Zoning Enforcement Officer’s Report

ZEO Talbot indicated he had nothing to report. Cook asked who is taking the lead regarding the outside furnaces at Running Brook Farms. First Selectperson Gorski noted the town currently does not have a Building Official. The Regional Health Department is involved now and they will be in contact and work this out. She also noted DEEP has ultimate control over outdoor fireplaces.

7. New Business – none.

8. Report of Officers and Subcommittees

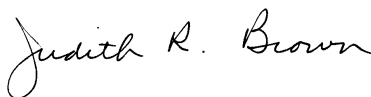
It was reported the initial ZEO applicant got another job and withdrew. The Town did get another new applicant and will be interviewed by Gorski, Lentz and Hogarty.

R. Pleines noted the current boilers at RBF are not permitted. They require Zoning and Building Department approvals. State DEEP is investigating. Pleines noted he has stop work orders on current boilers in place. They have not stopped and he will take it to the next level. There is a violation of the State Statute.

9. Adjournment

There being no further business, the meeting adjourned at 10:20 PM.

Respectfully submitted,



Judith R. Brown, Recording Secretary