

**WETHERSFIELD PLANNING AND ZONING COMMISSION
PUBLIC HEARING AND MEETING**

October 20, 2009

The Wethersfield Planning and Zoning Commission held a public hearing and meeting on Tuesday, October 20, 2009 at 7:00 p.m. in the Wethersfield Town Council Chambers located at Town Hall, 505 Silas Deane Highway, Wethersfield, Connecticut.

1. CALL TO ORDER

Chairman Hammer called the meeting to order at 7:03 p.m.

1.1 ROLL CALL & SEATING OF ALTERNATES (5 members required for a quorum)

Clerk Knecht called the roll as follows:

Member Name	Present	Absent	Excused
Joseph Hammer, Chairman	✓		
Richard Roberts, Vice Chairman	✓		
Philip Knecht, Clerk	✓		
Thomas Harley	✓		
Robert Jurasin			✓
Frederick Petrelli			✓
Earle Munroe	✓		
George Oickle	✓		
Anthony Homicki	✓		
James Hughes (alternate)	✓		
David Drake (alternate)	✓		
Thomas Dean (alternate)	✓		

Also present: Peter Gillespie, Town Planner
Denise Bradley, Assistant Planner.

Chairman Hammer noted that there were 7 full members and 2 alternates in attendance at the time of roll call. One alternate arrived during the Public Hearing Application noted in Section 3.1. All members present to participate.

Members of the public were present.

2. OLD BUSINESS

There was no old business.

3. NEW BUSINESS

3.1 PUBLIC HEARING APPLICATION NO. 1688-09-Z Frank Nicotera Seeking a Special Permit, in accordance with Section 3.5.3 of the Wethersfield Zoning Regulations, for an accessory apartment that exceeds the maximum square footage permitted at 179 Griswold Road.

Mr. Nicotera, 246 Two Rod Highway, and his son-in-law, Mr. Todd Whitaker, 678 Highland Street, appeared before the Commission. Mr. Whitaker spoke to the Application. Mr. Whitaker noted that

in October of 2007, he and his wife purchased the 1.13 acre property that contained a residence and 2 barns. The residence was a 3-family dwelling in excess of 4,000 sq. ft., and two accessory barns of 520 sq. ft. and 1,540 sq. ft. respectively. All structures total in excess of 6,000 sq. ft. of building space. At the time of purchase, the 3-family dwelling was unoccupied and appeared on the Town's blight property list due to its overall condition. All 3 structures were beyond repair, and as such the buildings were taken down as to prevent further trespass and vandalism. The main portion of the proposed single family home is approximately 4,000 sq. ft. with an attached 825 sq. ft. garage. Attached to said single family home would be an accessory portion of 1,223 sq. ft. with an attached 625 sq. ft. garage. The total square footage of the entire proposal is similar to that of building square footage that existed prior to the purchase of the property. The single family portion of the home will be occupied by Mr. and Mrs. Whitaker and their 3 children. The accessory portion of the home will be occupied by Mrs. Whitaker's parents, Frank and Marilyn Nicotera, who wish to downsize from their current large residence. Mr. Whitaker noted that due to the size of the lot and the building plan boundaries falling within the property's buildable square, there is compliance with regard to Town regulations. He explained that the front of the home will be set back 150 ft. from Griswold Road, that the side yard setbacks were 13-16 ft on one side and 30 ft. on the south side of the property and that a 100 ft. setback would occur from the building line to the rear of the proposed accessory building. City water and a septic system currently service the property. Mr. Whitaker noted that the Applicant would have the city sewer system connected to the property and have the septic system removed. Mr. Whitaker stated that the view of the home as proposed in the Application from Griswold Road would show main portion of home and a portion of its garage. The view of the home as proposed in the Application from Farmstead Road would show one of the garages and not the other. Blend in well with a Cedar shake look, older style home.

Discussion:

Commissioner Hammer inquired and Mr. Whitaker confirmed that the 3-family home known as 179 Griswold Road is no longer located at the property.

Commissioner Oickle inquired as to the proximity of proposed dwelling to the actual buildings of the abutting neighbors. He also made inquiries regarding footage access to Farmstead Road, the existence of a landscaping buffer, and the existence of multifamily properties on Griswold Road.

Mr. Whitaker responded that proposed home will not directly impact the existing homes of the abutting neighbors. The proposed residence will be set back from both sides of two neighbors and to the rear of the third abutting neighbor's residence. 265 Griswold Road and 279 Griswold Road are multifamily residences over 3k square feet. He stated that existing landscaping would remain to the extent of its condition. He noted the intent of having privacy and would include landscaping to achieve that effect.

Mr. Whitaker noted and Mr. Gillespie confirmed that the proposed driveway on Farmstead Road is 12 ft deep in width and the access way is 25 feet wide.

Mr. Gillespie stated that a Memo was completed regarding the Application. The Memo noted the Fire Marshal's recommendation that the home maintain the Griswold Road address for purposes of fire control system and dispatching, as driveways would exist on both Griswold Road and Farmstead Road. Mr. Gillespie mentioned that the zoning officer would, as a matter of course, administratively approve the plan for an accessory building. However, Mr. Gillespie noted that this matter is before the

Commissioner due to the request in the Application of the accessory building exceeding the 850 sq. ft. maximum. He noted that there are no restrictions on the number of driveways the Applicant could have on the property.

Commissioner Roberts made an inquiry to Mr. Gillespie regarding whether regulations permit a legal right of replacement of a 3-family structure, as one existed on the property prior to demolition.

Mr. Gillespie noted that regulations permit, within a certain timeframe, rebuilding of a structure when certain intent is not met or acts of God occur. Commissioner Roberts noted that the issue regarding intent to abandon the use is more important, and as such, Mr. Gillespie [?]

Commissioner Homicki made an inquiry as to whether drainage problems and/or foundation elevation issues occur at the property. He made an inquiry as to whether a landscaping plan with evergreens, arborvitae, or other screening from the neighbors would be appropriate to include in the Plan at this time.

Mr. Whitaker noted that existing trees will be kept on the property if not diseased or decayed. He also noted that a 6 ft. stockade fence, in good condition, exists on an adjoining neighbor's property.

The Applicant responded, noting there are no concerns with drainage, foundation elevation or other topography issues.

Commissioner Drake inquired as to the feasibility of 2 separate residences versus the plan requested in the Application. He inquired as to whether the property could be subdivided. He also inquired as to the possibility of non-family use of this property in the future.

Mr. Gillespie noted that under current regulations, the owner must reside in one of the units, and that there is no regulation requiring family members to reside at the remaining home/accessory building. Mr. Gillespie also noted that the property cannot be subdivided.

Commissioners Oickle and Drake noted that the above issue needs to be further examined.

Commissioner Roberts noted that Stipulations including time limitations would prevent a non-related family living scenario at this property.

Mr. Whitaker stated that the Application is intended to serve the purposes of providing a larger home for his family while accommodating the downsizing for his in-laws. The home would provide access in between the main portion of the home and the accessory building, as well as provide a common basement.

Commissioner Hughes inquired and Mr. Gillespie confirmed that the lot could not be subdivided and that a 10,000-12,000 sq. ft. residence could be constructed within the property's buildable square and within Town requirements.

Commissioner Munroe noted that standard practice regarding accessory buildings required an agreement be in place to address issues of any turnover of any part of the house. Said agreement would include the use of a certain address, mail receptacles, and the understanding of the parties that the conditions apply

to situations where two families are under one roof. He also believes that issues with the Farmstead Road neighbors are apparent, as a second driveway is planned on that road.

The Applicant noted that an additional land purchase was made for the Plan with the intent of placing the additional driveway on Farmstead Road. He also noted that neighbors were made aware of the additional land purchase and the intent for which it would be utilized.

Commissioner Homicki noted that building department and assessor office public records from the building department and/or assessor would verify 3-family status of this property. He questioned that if a timeline existed for razing and re-building at the property, would a lack of voting on the Application at the time of this public hearing and meeting result in the property being defined as a potential 3-family property. He noted that increased traffic flow would result at the property should the property be classified as 3-family.

Mr. Gillespie noted that the issue is complicated and that, as Commissioner Roberts noted, the focus would be on the intent of the parties when razing the existing structure.

Commissioners Homicki and Oickle suggested a landscape plan submission to address screening and buffers to the neighbors.

Commissioner Hammer noted the opportunity for the Applicant to have this Application tabled to the next meeting in order for Staff to address issues and for the Commissioners, Applicant and property owners to review the commentary and information learned from the discussion thus far. He noted that a landscape plan submission outlining buffers and screening to the neighbors and/or any possible reconfigurations to the Application are issues that could be presented at the next meeting.

The following comments were made by the public regarding this Application.

Mr. Dick Lasher, 100 Griswold Road, appeared before the Commission and spoke in favor of the Application, as the property was an eyesore.

Mr. Howard Baldwin, 34 Farmstead Road, appeared before the Commission and spoke against the Application. His objections are to the installation of a driveway on Farmstead Road, and to the size of the project itself. He indicated that the presence of a 4,000 sq. ft. residence and two garages would look out of place on the large property. He submitted a written document that listed the following individuals as those who object to the construction of a driveway on Farmstead Road: Mr. Eric Litke, 33 Farmstead Road; Mr. Peter Prado, 25 Farmstead Road; Ms. Rita Lusczak, 16 Farmstead Road; and Mr. Gary Girouard, 43 Farmstead Road. Mr. Baldwin believes that the Planning and Zoning Commission should not only focus on the present circumstances of this Application but what could happen in the future.

Mr. Eric Litke, 33 Farmstead Road, appeared before the Commission and spoke against the Application. He believes that the proposal would decrease home values on Farmstead Road. He questioned the permissibility of this plan in an A-1 zone and whether the entire structure would be classified as a duplex. Mr. Litke asserted that he spoke with the following residents whom he noted were not in favor of this Application: (1) Thomas Barrabee, 25 Farmstead Road, (2) Joseph Lusczak, 16 Farmstead Road, (3) Gary Girouard, 43 Farmstead Road (note: Mr. Girouard appeared before the Commission, as noted in the second paragraph following this paragraph).

Mr. Joseph Falvo [? Valvo], 60 Farmstead Road, appeared before the Commission and spoke against the Application. He noted that the driveway planned for Farmstead Road would be located directly by his bedroom window, and he chose his property specifically due to the privacy the neighbor provided. He concurs with Mr. Baldwin's remarks and believes that a driveway installed on Farmstead would compromise privacy.

Mr. Gary Girouard, 43 Farmstead Road, appeared before the Commission and spoke against the Application. His residence is across the street from the curb of the driveway proposed for Farmstead Road. He stated that he concurs with Mr. Lasher and the others who have made public comments at this time. He noted his satisfaction and that perceived of his neighbors that another residence would be built at the property. However, he believes the size and scope of the project is too large and will stand out. He believes that approval of this Application would set a dangerous precedent for future rulings regarding home classifications.

Mrs. Melissa Whitaker, 678 Highland Street, appeared before the Commission and spoke in favor of the Application. She stated that the home described in the Application, including the accessory building is not a two-family house. She described the home with the accessory building as her family home, noting that no one else but her family will reside on the property. She noted that the home and accessory building would appear as one building from road view and will enhance the neighborhood, as the family respects the quality and character of the neighborhood. She further stated that the home design takes into consideration the issues of having private family living space while allowing necessary living space, privacy and proximity accommodations to her parents as they age. She indicated that the driveway proposed on Farmstead Road would appear no different in size and scale to that of any other driveway now in existence on Farmstead Road.

Mr. Whitaker noted that the driveway on Farmstead Road would be used by Mr. and Mrs. Nicotera. He stated that the driveway will not be seen by the adjoining neighbor. The home and its accessory building are interconnected, share a front porch and have a common basement. He noted the societal trend of in-law living arrangements in single family homes and mentioned that the Commission approved at least 3 in-law living arrangement plans in the last few years.

Commissioner Hammer inquired as to whether the Applicant could make the plan work without a driveway on Farmstead Road and/or without the second garage.

The Applicant stated that the driveway on Farmstead is necessary and that an additional land purchase was made, as a precaution, to accommodate the construction of that driveway. He noted that neighbors knew of the intention to construct a driveway on Farmstead Road. He further explained that the intent of including the extra driveway on Farmstead was to provide access to the accessory building for him and his wife. He noted that the design of the entire plan is to accommodate an appearance the single family home, rather than designing a plan where the single family home and its accessory building would look obvious to the public as many in-law quarters tend to appear.

Mr. Howard Baldwin, 34 Farmstead Road again addressed the Commission. He is an 86 year resident of Wethersfield. He formerly resided at 239 Griswold Road and has spent the last 54 years at Farmstead Road. The property subject to the Application was originally owned by Mr. Willard. He believes the previous residence on the property was not a 3 family residence, noting that renters had resided in that

residence with a family. He believes an in-law apartment is smaller than the accessory building now proposed and that an in-law apartment is utilized, generally speaking, for a short period of time by a relative.

Commissioner Hughes inquired and the Applicant confirmed that there was no access to Farmstead Road from property (land formerly owned by the Robinsons) prior to the additional purchase of land from the Falvo property and that the Falvo and the Robinson properties once met at a point.

Commissioner Hammer inquired as to whether driveways on Griswold and Farmstead Roads could be constructed if a single family home without an accessory building at the property.

Mr. Gillespie noted that regulations appear not to limit the number of driveways one could build at the property when taking into account driveway frontage as regulated.

Commissioner Hammer requested that Mr. Gillespie provide, prior to the closing of the hearing, Town regulation information as to whether, with a single family home, as of right, have two garages within the house/attached to the house as opposed to detached could be constructed.

Mr. Gillespie noted that a provision in the regulations speaks to the maximum amount of garage space in terms of square footage and there are other provisions under the accessory use regulations.

Commissioner Homicki suggested that front elevations be referenced on the property plan.

Commissioner Drake noted that he would like to see the accessory building not exceed 850 sq. ft., per regulations.

The Applicant asked the Commission to consider the 850 sq. ft. regulation, in terms of this Application, as subjective. He reasoned that this Application is unique in that the owners of the property could build an even larger home.

Motion: Commissioner Homicki made a motion to continue the hearing of the following Application to the next Planning and Zoning Commission meeting: APPLICATION NO. 1688-09-Z: Frank Nicotera Seeking a Special Permit, in accordance with Section 3.5.3 of the Wethersfield Zoning Regulations, for an accessory apartment that exceeds the maximum square footage permitted at 179 Griswold Road.

Second: Commissioner Roberts seconded the motion.

Aye: Hammer, Roberts, Knecht, Harley, Munroe, Oickle, Homicki, Hughes, Drake
Nay: None
Abs: Dean

Note: Commissioner Dean was not present for a significant portion of this Application's hearing. As such, he did not participate in tonight's vote of this issue.

Vote: 9 - 0 - 1

Application Tabled to next meeting.

3.2 PUBLIC HEARING APPLICATION NO. 1689-09-Z Richard & Cynthia Wasserman Seeking a Special Permit, in accordance with Section 3.6 of the Wethersfield Zoning Regulations, for an accessory building that exceeds the maximum square footage and height permitted at 33 Lincoln Road.

[Chairman Hammer recused himself from the hearing and deliberations on this application.]

Mrs. Cynthia Wasserman, 33 Lincoln Road, appeared before the Commission. She noted that the Application is to build a barn to replace two sheds that were destroyed by the June 26, 2009 tornado. She indicated that 30-40 large mature trees were also lost from her property during the tornado thus creating a large open space that compromises the privacy the property once had. She noted that one part of the accessory building would be used as a workshop, and the other part would be utilized for storage. The variance is being sought due to the existence of a detached garage on the property and due to the height and mass of the proposed accessory building. She reasoned that since much of her three and a third acre property slopes downward and away from the residence, and the desired effect of the accessory building's height and mass not appearing as a garage will be achieved.

Discussion:

Commissioner Oickle inquired and the Applicant noted that the property is within the 100 year flood plain.

The Applicant noted that the Application is before the Inland/Wetland and Watercourses Commission and will be heard on Wednesday, October 21, 2009.

Commissioner Oickle inquired and the Applicant noted that no changes will be made to topography.

Mr. Gillespie noted that the Application is subject to approval of the Inland/Wetland and Watercourses Commission. He indicated that the accessory building is a 960 sq. ft. barn (24'x40') and its height is 23.6'.

Commissioner Roberts stated that the Application is regarding flood regulated activity rather than wetlands regulated activity and, as such, the Planning and Zoning Commission can act prior to Inland/Wetland and Watercourses Commission approval.

Mr. Gregg Burwell, 34 Lincoln Road, appeared before the Commission and spoke in favor of the Application. He reasoned that blocking the view of commercial buildings and the Silas Deane Highway is optimal for the neighborhood.

Motion: Commissioner Hughes made a motion to close the hearing.

Second: Commissioner Harley seconded the motion.

Aye: Roberts, Knecht, Harley, Munroe, Oickle, Homicki, Hughes, Drake
Nay: None
Abs: None

Note: Commissioners Hammer and Dean abstained from this vote.

Vote: 8 – 0 – 0

Motion: Commissioner Munroe made a motion to approve APPLICATION NO. 1689-09-Z: Richard & Cynthia Wasserman Seeking a Special Permit, in accordance with Section 3.6 of the Wethersfield Zoning Regulations, for an accessory building that exceeds the maximum square footage and height permitted at 33 Lincoln Road.

Second: Commissioner Hughes seconded the motion.

Aye: Roberts, Knecht, Harley, Munroe, Oickle, Homicki, Hughes, Drake
Nay: None
Abs: None

Note: Commissioners Hammer and Dean abstained from this vote.

Vote: 8 – 0 – 0

Application Approved.

3.3 PUBLIC HEARING APPLICATION NO. 1690-09-Z: Angelo Casanelli Seeking a Special Permit, in accordance with Section 3.6 of the Wethersfield Zoning Regulations, to construct a garage that exceeds the maximum height permitted at 10 McMullen Avenue.

Mr. Angelo Casanelli, 10 McMullen Avenue, appeared before the Commission and described his Application. He noted that a 24' x30', height: 24 ft., detached Dutch colonial style garage is being proposed. Located to the north side of the property is Rte. 15. Located to the east side of the property is a 30' x40', height: 25 ft. barn. Located to the south side of the property is Jordan Lane. Located on the east side of the property is a wooded lot. The proposed garage would have a 16' border on each side and a 20' border in the back of the structure. The plan would also include the construction of a fence. The fencing or screening material may include vinyl, wood, or trees/evergreens of the Cedar or Hemlock varieties. He mentioned that he owns 3 motorcycles, 2 of which are antiques.

Commissioner Oickle noted that the Applicant previously submitted an Application with a garage that was larger in size and scope. The Commission ultimately recommended that the Applicant meet with Town Staff to discuss a plan that was smaller in size and scope. Commissioner Oickle believes that the garage now requested is adequate, as it borders another barn and a slope. Commissioner Drake concurs.

Commissioner Homicki inquired and the Applicant noted that electricity and an alarm would be added to the proposed garage.

Commissioner Oickle inquired and the Applicant stated that he will not operate a commercial business at the property. Commissioner Oickle made inquiries regarding the placement of fencing and shrubbery.

The Applicant noted that shrubbery and fencing would be placed at the south and west side of the proposed garage.

Steve Graff, 128 Jordan Lane, appeared before the Commission against the Application. He wonders why 2 people would need the space requested in the Application. He noted the Applicant's desire to restore and refurbish automobiles and motorcycles, and does not understand why the size of the proposed garage is being requested.

Commissioner Hammer inquired and the Applicant noted that the proposed Application of 28'x30' is 300 sq. ft. smaller than the original Application of 30'x40'. He also noted that he intends to use the second story of the garage for storage, as he would prefer not to utilize a public storage facility.

The Applicant reasoned that storage space was included in the Application because he currently stores furniture and other items in a rented storage unit and he would rather store said items on his property.

Commissioner Knecht inquired and the Applicant confirmed that there are no public risk factors to be considered with regard to the items being stored, as a majority of the items are furniture from his late mother's residence. The furniture is currently stored at an offsite 10'x4' storage unit.

Commissioner Oickle requested an explanation regarding placement of shrubbery and fencing.

The Applicant noted that fencing and shrubs would be placed on the south side and a fence would be constructed on the south and west side.

Commissioner Munroe made an inquiry as to the driveway, noting that the prior application request included utilizing a property in back of the Applicant's for a driveway. He made an inquiry regarding the height of the Applicant's residence.

The Applicant noted that a 10 foot section from each side of the proposed garage will be paved in order to allow for drainage onto McMullen Avenue. He also noted that his residence is about 2 and a half stories.

Motion: Commissioner Hughes made a motion to close the hearing.

Second: Commissioner Roberts seconded the motion.

Aye: Hammer, Roberts, Knecht, Harley, Munroe, Oickle, Homicki, Hughes, Drake, Dean

Nay: None

Abs: None

Vote: 10 – 0 – 0 [can only be 9]

Motion: Commissioner Oickle made a motion to approve, with conditions, APPLICATION NO. 1690-09-Z: Angelo Casanelli Seeking a Special Permit, in accordance with Section 3.6 of the Wethersfield Zoning Regulations, to construct a garage that exceeds the maximum height permitted at 10 McMullen Avenue, with the following conditions: (1) adequate shrubbery/evergreens on the south side of the garage be installed subject to the approval of Town Engineering Manager/Town Staff. (2) any lighting

shall comply with Section 6.7 (Outdoor Lighting) of the Wethersfield Zoning Regulations.

Second: Commissioner Homicki seconded the motion.

Aye: Hammer, Roberts, Knecht, Harley, Munroe, Oickle, Homicki, Hughes, Drake, Dean

Nay: None

Abs: None

Vote: 10 – 0 – 0 [can only be 9]

Application Approved with conditions.

3.4 PUBLIC HEARING APPLICATION NO. 1691-09-Z: John & Shireen Aforismo Seeking a Special Permit to host special events at 185 Broad Street (Renewal & modification to Application No. 1635-08-Z).

Mr. John Aforismo, 185 Broad Street, appeared before the Commission in reference to the above application. He indicated he is one of the owners of the subject premises and directed attention to the items in the packet distributed to Commission members. These items included: (1) a neighbor notification letter sent to the abutting property owners (within 300') of 185 Broad Street regarding the Special Permit Renewal; (2) a copy of the present "Rules For Outdoor Commercial Special Events" with the proposed changes noted in red ink; (3) a June 5, 2009 letter notifying neighbors of commercial and non-commercial events for the 2009 season, those of which were: commercial event of July 4, 2009 – nuptial; non-commercial event of Saturday June 13, 2009 – Wethersfield Historical Society Tour; family event of Saturday, July 25, 2009 – wedding ceremony and reception.

The current Special Permit expires on January 20, 2010, and Mr. Aforismo noted the following proposed changes to the current permit: (1) Increase the number from 2 to 4 weddings and large parties and be able to have 2 within one calendar month instead of 1; (2) The term of the Special Permit shall be for five (5) years, expiring on January 20, 2016; (3) Elimination of no parking on Robbinswood Drive to include parking on Robbinswood Drive as well as any public thoroughfare according to the parking policies of the Town of Wethersfield; (4) Elimination of the no amplified music or other sound requirement (not to exceed 8PM during commercial events).

Commissioner Hammer noted for the record the following correspondence: (1) Letter dated October 15, 2009, from Howard Greenblatt, Chairman of the Town of Wethersfield Economic Development & Improvement Commission endorsing the proposal; (2) Memo dated October 15, 2009, from the Central Connecticut Health District with no comment; (3) Letter dated October 9, 2009, from Mary Claire Quirk, 44 Robbinswood Drive, including another letter from her dated January 2, 2009. She is requesting that the Commission deny the requests for amplified music, increased parking on Robbinswood Drive and increased number of events; (4) Letter dated October 14, 2009 from Tom and Holly Landers, 205 Broad Street, requesting that the Commission deny the special permit renewal; (5) Letter dated October 11, 2007, from Tom and Holly Landers, 205 Broad Street, requesting that the Commission deny the original special permit. Included with their letter was a petition signed by as many as 20 abutting residences and which included a map delineating said residents and photographs of the Silas Robbins House and its surrounding area; (6) Letter dated October 16, 2009, from Kyle and Kathryn Senk, 95 Broad Street, requesting that the Commission deny the special permit renewal based

on amplified music, noise levels, parking on the Broad Street Green; (7) Letter dated October 15, 2009 by Carmen Cid, 192 Broad Street, maintain the PZC earlier carefully made decision; (8) Memo to Peter Gillespie, Town of Wethersfield, dated October 19, 2009, from the Wethersfield Police Chief reported one complaint (July 25, 2009) of loud music during calendar year October 2008-2009. The Police Chief noted that the Applicant complied with the responding officer and was very cooperative.

Commissioner Homicki inquired as to shuttle service in and out from the events.

The Applicant noted, for example, that during the event of July 4, 2009, shuttle service was successfully utilized to and from Putnam Park.

Commissioner Drake inquired and the Applicant confirmed that 4 rather than the existing 2 commercial events are being requested in the Special Permit renewal.

Commissioner Roberts inquired as to the Applicant's explanation/interpretation/position what constitutes a family/friend event and what constitutes a non-family/friend (commercial) event.

The Applicant indicated a commercial event would occur when one pays for an event.

Where the line is between events which are subject to the conditions PZC established for commercial events versus ones governed by the rules pertaining to noise and riot.

The Applicant noted that a good job has been done to determine friends versus commercial patrons. Many non-Wethersfield residents have approached the family in terms of hosting a wedding, and determinations have been made that the client is not a good fit in terms of atmosphere, and the like.

Commissioner Drake inquired as to how many non-family events the Applicant had this year.

The Applicant noted that there was only one non-family event held this year.

Commissioner Hammer noted that the one non-family event of July 4, 2009 was not problematic to the community versus some non-family events of previous years. He also noted that the friend event had amplified music and parking issues, as noted in the past. He inquired as to how the matter would be handled if amplified music control regulations could not be met.

The Applicant noted that the previous complaints were made after 9:00PM, and the Applicant stated that the amplified music would end at 8:00PM.

Commissioner Hammer noted that compliance with Town regulations as to acceptable decibel readings being met when read at the property line would be virtually impossible. As such, Commissioner Hammer inquired if compliance could be met.

The Applicant indicated that during the family/friend event of July 25, 2009, the disc jockey had the ability to modify the amplification. Mr. Trahan had approached the Applicant at 9:15PM noting that the noise might be getting a bit loud, and the Applicant instructed the disc jockey to modify the amplification. Coincidentally, the police arrived just as the Applicant was correcting the problem.

Keith R. Ainsworth, Esq. of Evans, Feldman & Ainsworth, L.L.C., 261 Bradley Street, New Haven, CT 06507, appeared before the Commission representing many of the neighbors who are opposed to commercial events being held at the property, specifically noting: Tom and Holly Landers, Lorin Hardy, Mark Bryant, Wayne and Dorothy Burwell, Carmen Cid, John Jezowski, Bob and Jean Clark, Jack McConnell, Paula McNamara, Frank Morris, Alice Norsigian, Mary Clare and Bill Quirk, Aaron Rutherford, Luis and Maria Ocasio. Attorney Ainsworth submitted an Intervention Petition under C.G.S. § 22a-19 and a Brief in Opposition to the Application. Counsel noted that the Planning and Zoning Commission does not have the legal jurisdiction to grant the special permit requested. He asserted that PZC is re-writing the Town's zoning regulations through the special permit process. If the Applicant wanted a prohibited use in a residential zone, they should go to the Zoning Board of Appeals. Counsel asserts that the Applicant would not succeed at the Zoning Board of Appeals because they do not have a hardship. Shoehorning and twisting of the definitions in the application has occurred to the point of absurdity, resulting in the benefit of the Applicant in self-policing the site. Definitions of friend/family events are purely subjective, admittedly by the testimony of the Applicant. Counsel stated that since money transfers in many ways such as cash, check, in kind, etc., the Commission and the Town have no way of knowing whether someone has paid to attend an event or otherwise. Therefore, no one could check on the transfer. The problem is that a residential and mixed use has occurred in a residential zone, rather than a mixed use or commercial zone. Counsel asserted that the subject property is a commercial property in a residential A Zone. He asserted that the Applicant does not have the authority to decide what events are permissible on the property, reasoning that the authority is with Zoning. Counsel believes that the Applicant will violate the regulation regarding amplified music despite any attempt by the Planning and Zoning Commission to accommodate an agreement by way of special permit. Counsel asserts that after a considerable amount of thoughtful opposition to the original special permit, the Planning and Zoning Commission granted it anyway. Restrictions placed on the Applicant are unenforceable, as shown in the past, because definitions are vague and enforcement is lax, and the neighbors bear the brunt of it. Zoning is to provide its citizens the reliance and comfort to do activities in a particular area and to avoid incompatible uses.

Counsel indicated that if the Planning and Zoning Commission grants the special permit, the neighbors will hold the Town accountable in Court.

Counsel indicated that the Planning and Zoning Commission granted the Applicant permission to operate and bed and breakfast which was tolerated by the neighbors due to its low impact as such.

Counsel noted that the decibel levels at the July 25, 2009 event were between the 72-85 levels at a neighbor's yard (not at the property line). He noted that at 85 decibel, hearing damage would occur over time. He asserts that the Applicant has a proclivity to violate the special permit.

Counsel noted that regulations forbid offsite parking in commercial use, that parking on the Green is harmful to the trees and that parking accommodations along Robbinswood Drive would become crowded, thus impeding residents and emergency vehicles to residents.

Counsel cited the case *Booth vs. Manchester ZBA* (151 Conn. 358). It was found that in order to grant a Special Permit, the use has to be expressly permitted, regulations need to be met, and conditions providing the health, safety and welfare of a community can be met. If these standards cannot be met, then there is a violation in the law.

Under Town zoning regulations, Counsel reasoned that accessory use is understood as not the primary use. A special permit for said use would be subordinate and not customarily incidental to a bed and breakfast operation.

Counsel indicated that Town regulation 6.1.c.4 notes that with regard to parking, preservation of trees is the maximum desired effect. 6.2.b.1. parking spaces shall be located on the same lot, and 42 spaces must be available at the property for commercial events.

Counsel indicated that Town regulation 6.9.b.1. notes safety concerns when parking on a street. Access to emergency vehicles cannot be compromised.

Counsel requested that the Commission reprise the testimony from the January 2009 hearing rather than having his clients speak at this hearing.

Commissioner Hammer noted that he appreciated the request in an attempt to streamline hearing of this matter but suggested that the public be given the opportunity to speak. He reasoned that another season has passed and that there may be members of the public who wish to speak or haven't yet spoken to this Application.

Commissioner Hammer made an inquiry regarding the event of July 25, 2009. He noted that the Applicant classified the event as a family/friend event. However, he believes the neighbors felt otherwise. As such, Commissioner Hammer requested Counsel to weigh in on the issue.

Counsel noted that the Applicant did not comply with, thus violated, the noise ordinance. He believes that the neighbors cannot weigh in on whether an event is considered family/friend or otherwise. As such, he believes the definition of friend/family is legally unenforceable. He believes events on the property are classified commercial or not.

Commissioner Drake noted that if the special permit is not in effect, then the Applicant can do whatever they please. He reasoned that the special permit was an attempt to have an agreement that everyone could live with.

Counsel noted that if the permit was taken away and the Applicant violated the law, nuisance may result.

Commissioner Roberts inquired that, if it is legally accurate that the Commission cannot grant a special permit for this property, then the recourse regarding this issue just evolves into a civil matter where proof of illegal accessory use is the guide, said recourse and end result may not actually help the neighborhood. He noted the sad irony is that the rules have worked for the current year despite the 2 years prior and despite the struggle in achieving common ground in the understanding of friend/family or commercial event classification.

Counsel indicated that lack of a special permit is optimal because a judge would not have to entertain a definition of friend/family event. He noted that the legal definition component of unlawful activity when defining "nuisance" and its relevance to the special permit. Lack of a special permit would result in the Applicant bearing the risk of having events with no legal permission.

Commissioner Roberts noted that if a commercial event rule was violated, Town enforcement would occur. He also noted that having no permit and leaving the fallout from a continual dispute regarding this property may not be the best solution for the community at large.

Counsel indicated that no one will ever know what is or isn't a commercial event, as the Applicant could consider anyone a friend.

Commissioner Hammer noted that the simplest way to resolve the issue could involve the Applicant agreeing to abide by any standards established by the Commission which seem to have worked for commercial events when holding any event with over a certain number of people, regardless of whether it is for friend, family or pay.

Public Comments:

Mr. Jack McConnell, 182 Broad Street (located across the street from the Applicant), a resident of over 30 years, spoke against the Application due to excessive noise stemming from prior events.

Ms. Paula McNamara, 182 Broad Street (located across the street from the Applicant), spoke against the Application due to issues of safety due to alcohol consumption and excessive noise stemming from celebrations. She noted that many neighbors were in the front of their homes at the time the police arrived at the July 25, 2009 event, and she believes that they spoke with the police. She noted that she confronted someone at the event, requesting an end to the loud music, and that she was rudely responded to. She believes that granting a special permit is not ideal for the community.

Mr. David Quirk, 149 Broad Street (11 year resident residing 4 houses away from the Applicant), spoke in favor of the Application. He noted that the Applicant's property was previously an eyesore and welcomed the restoration by the Applicants into what he described as a "gem". He believes that the level of noise at the June 13, 2009 event is unfavorably exaggerated. He indicated he held a wedding on his premises the day before, complete with live music, and no one complained. He also noted that on that day (June 12, 2009) students in their vehicles converged on the Green for the annual pre-prom gathering. He further reasoned that the Broad Street Green is not a quiet place, as events of various sizes occur regularly. He believes the property has added more value to the area.

Mr. Dick Hass, 179 Broad Street (lives next door to the Applicant), managing partner of Hass, L.L.C. He is concerned with what will happen with other residences along the Broad Street Green, as a precedent would continue to be set in connection with approving commercial businesses at residences.

Mrs. Judith Keane, 126 Broad Street, a 30 year resident at her property (residing near Constitution Way which is located across the street from the Applicant), spoke in favor of the Application. She noted that the Applicants are good custodians and that property values in the area have increased due to the presence and functions at their home. She noted that the Applicants have invested heavily in shrubbery to enhance their property and that the extreme pride they take in caring for their home is apparent. She mentioned that the Applicants were required to reside on the property as a condition to obtaining approval for their Bed and Breakfast. She also noted that she hears music from functions held at the Webb Barn located on Main Street, which is much further from her than the Applicant's property. She indicated that one of the parties complaining of excessive noise at the Applicant's property has no trouble driving their 18 wheeler truck at 4:00 a.m. down the Broad Street on a regular basis. She also

noted that a physician's office was previously located on the corner of Broad and Garden Streets. She noted that the exact verbiage with regard to zoning laws is not always followed, as patrons of Anderson Farm park on town property and storage of vehicles, boats and such occurs. She is concerned that the main attraction status the Applicant's home has achieved would be compromised if the special permit was not granted.

Ms. Janet Leombruni, 200 Broad Street, spoke in favor of a special permit with terms identical of those made for the April 1, 2009-November 30, 2009 term. She noted her recollection of discussions and decisions made in good faith that resulted in a clear definition of friends/family and believes that the matter should not be further complicated.

Ms. Gloria Mclean, 38 Midwell Road (44 year resident), spoke in favor of the Application, noting that someone should represent the interests of the entire Town. She noted that Wethersfield is interconnected and not just a group of neighbors controlling a Town. She stated that the Applicants have done more for the Town than most residents. She believes that not having the presence of the Applicants property now versus prior to their ownership would be economically disastrous for the area. If encouraging economic activity is a problem, it is time to relocate. The opposite of having events is having nothing. The opposite of prosperous is decay. The opposite of growth is atrophy. The opposite of thriving is ending. She believes Counsel has a lack of understanding of the economic health of the Town. We need the Applicant's property and the activity it brings. She expressed an appreciation for having fun, and that everyone should have the right to hold events at their own home. If the community allows the Applicants to be driven from their property and disallow the activity it brings, she reasons, a great property like the now vacant Comstock Ferre will emerge. She believes most of the citizens in Town are not agreeable to that result.

Mr. John Jezowski, 15 Robbinswood Drive (directly across the street – north, since 1994) noted that he is not a client of Keith Ainsworth, Esq. He resides 25-50 ft. from the property. He promoted the Bed and Breakfast operation to the Historic District Commission with the proviso that the residence not turn into a commercial operation. He noted that the property is a shining star in the neighborhood. However, he's highly impacted by what's going on, and he appreciates the quiet aspect to the neighborhood. He also noted that the Applicants have good moral character and that the Planning and Zoning Commission permit was a good attempt to quell things.

Mr. Pete Leombruni, 200 Broad Street, spoke with recommendations for a 5-year special permit. He believes parking on Robbinswood Drive, Broad Street Green, as well as amplified music should not be allowed, thus creating an environment respectable to the neighborhood. He also noted that commercial activity should involve nuptials only. He also believes that no one should park on the Broad Street Green, and perhaps the Wethersfield Police Department, to place no parking signs around the Broad Street Green.

Mr. Mark Bryant, 55 Robbinswood Drive, spoke against of the Application. He noted that commercial events do not fit in the neighborhood, as noise ordinances cannot be followed. He also noted that parking on Robbinswood Drive would make it difficult for neighbors to exit their driveways.

Mr. Chris Casey, 160 Broad Street, spoke in favor of the Application. He noted that the amplified music at the June 25, 2009 event wasn't so loud. He noted that despite issues of safety raised as concerns to the Application, a basketball hoop and its stand are located in the travel portion of Robbinswood Drive.

Mr. Luis Ocasio, 220 Broad Street, spoke in favor of a 5 year permit operating in the same vein as the special permit period of April 1, 2009-November 30, 2009. He found this past season not to be offensive. However, he expressed concern regarding how far liberties will go with a result of a full blown catering facility. In that vain, he wonders how precedent will transfer to potential title holders.

Mr. Shane Aforismo, 49 Broad Street, spoke in favor of the Application and expressed the good stewardship of his parents. He mentioned his disappointment with friends and citizens who are not taking into account what his parents' property has done for the community.

Commissioner Hammer encouraged an open dialogue with the neighbors and Applicants. He also noted that Wethersfield Police Department input is necessary in the review of safety and other concerns.

The Applicant noted that he and his family are trying to do the right thing. He noted that he will not abide by any restrictions as to how he and his family enjoy their home. He also noted that if he and his wife cannot reside in the home and operate as a Bed and Breakfast, then that the property could turn into an Inn. An Inn would fall under different restrictions and guidelines that the Town would not want. He indicated that he and his wife have directed others to hold their weddings at the Webb Barn while staying at the Bed and Breakfast. He reasoned that this is due to his perception of how the neighbors would have received said weddings as such. He noted that not so much money is made from events held at the property.

Commissioner Hammer asked the Applicant to consider the comments made this evening and encouraged dialogue with the community.

Commissioner Oickle inquired as to police input regarding noise ordinance enforcement.

Mr. Gillespie noted that he has spoken to the police department, and the issue comes down to enforcement on the street. The police have indicated that the situation will be monitored.

Motion: Commissioner Hughes made a motion to continue the hearing of the following Application to the next Planning and Zoning Commission meeting on Wednesday, November 4, 2009, regarding: APPLICATION NO. 1691-09-Z: John & Shireen Aforismo Seeking a Special Permit to host special events at 185 Broad Street (Renewal & modification to Application No. 1635-08-Z).

Second: Commissioner Homicki seconded the motion.

Aye: Hammer, Roberts, Knecht, Harley, Munroe, Oickle, Homicki, Hughes, Drake, Dean
Nay: None
Abs: Dean

Vote: 10 - 0 - 0 [only 9 can vote]

Application continued to next meeting.

4. OTHER BUSINESS

4.1 A discussion regarding APPLICATION NO. 1636-09-Z/295 Ridge Road – Request for an

extension.

Rick Mahoney, Esq. appeared before the Commission of behalf of the Applicant, and noted that the delay in the commencement in construction is due to issues of title resulting from retroactive and unilateral change in federal regulations with regard to commercial real estate ventures and HUD.

Motion: Commissioner Oickle made a motion for an 18-month extension of the November 5, 2009 deadline for commencement of construction, as noted in Section 10.1.D.5.B. of the Wethersfield Zoning Regulations.

Second: Commissioner Hughes seconded the motion.

Aye: Hammer, Roberts, Knecht, Harley, Munroe, Oickle, Homicki, Hughes, Drake, Dean

Nay: None

Abs: None

Vote: 10 – 0 – 0 [only 9 can vote]

Request for extension of deadline Approved.

4.2 2010 Meeting Dates.

Motion: Commissioner Oickle made a motion to approve the following meeting schedule for calendar year 2010.

January: Tuesday, January 5, 2010; Tuesday, January 19, 2010
February: Tuesday, February 2, 2010; Tuesday, February 16, 2010
March: Tuesday, March 2, 2010; Tuesday, March 16, 2010
April: Tuesday, April 6, 2010; Tuesday, April 20, 2010
May: Tuesday, May 4, 2010; Tuesday, May 18, 2010
June: Tuesday, June 1, 2010; Tuesday, June 15, 2010
July: Tuesday, July 20, 2010
August: Tuesday, August 3, 2010; Tuesday, August 17, 2010
September: Tuesday, September 7, 2010; Tuesday, September 21, 2010
October: Tuesday, October 5, 2010; Tuesday, October 19, 2010
November: Wednesday, November 3, 2010; Tuesday, November 16, 2010
December: Tuesday, December 7, 2010; Tuesday, December 21, 2010

Second: Commissioner Roberts seconded the motion.

Aye: Hammer, Roberts, Knecht, Harley, Munroe, Oickle, Homicki, Hughes, Drake, Dean

Nay: None

Abs: None

Vote: 10 – 0 – 0 [only 9 can vote]

5. MINUTES – Minutes of the September 1, 2009 Meeting.

Commissioner Oickle noted a correction to the Minutes. The Minutes will be revised accordingly.

Motion: Commissioner Oickle motioned to approve the minutes with the suggested revisions.

Second: Commissioner Roberts seconded the motion.

Aye: Hammer, Roberts, Knecht, Harley, Munroe, Oickle, Homicki, Drake

Nay: None

Abs: Hughes, Dean

Vote: 8 - 0 – 2 [only 9 can vote]

Commissioners Hughes and Dean abstained from the vote, as they were not present for the Tuesday, September 1, 2009 meeting.

Minutes approved as corrected.

Minutes of the September 15, 2009 Meeting.

Commissioners Roberts and Oickle noted corrections to the Minutes. The Minutes will be revised accordingly.

Motion: Commissioner Roberts motioned to approve the minutes with the suggested revisions.

Second: Commissioner Oickle seconded the motion.

Aye: Roberts, Knecht, Harley, Munroe, Oickle, Hughes, Drake, Dean

Nay: None

Abs: Hammer, Homicki

Vote: 8 - 0 – 2 [only 9 can vote]

Commissioners Hammer and Homicki abstained from the vote, as they were not present for the Tuesday, September 15, 2009 meeting.

Minutes approved as corrected.

6. STAFF REPORTS. There were no reports made by Staff.

7. PUBLIC COMMENTS ON GENERAL MATTERS OF PLANNING AND ZONING.

Mr. Peter Gural, 759 New Britain Avenue, Rocky Hill, CT 06067, appeared before the Commission regarding an additional issue concerning his previous Application [**APPLICATION NO. 1681-09-Z Peter Gural** Seeking a Special Permit to conduct a retail business from a roadside vehicle without a principle building at 1881 Berlin Turnpike.] Mr. Gural is seeking to add an additional trailer of approximately 20 ft. to the vending vehicle approved in the Application. Commissioner Hughes suggested and the Commissioners and Mr. Gillespie agreed that the Applicant is to prepare a sketch including the proposed additional trailer and the original vending vehicle/site plan and present the entire proposal to the Commission at its next meeting.

8. CORRESPONDENCE

8.1 A letter from Michael Turner to Dan D'Addeo and Bill Bellock regarding bond requirements for Stillman Walk and Folly Brook Commons.

8.2 A memo regarding the increase in state fees.

8.3 Information regarding upcoming Training for Land Use Commissioners.

8.4 A letter from the Connecticut Siting Council regarding the intent to modify an existing telecommunications facility at 100 Great Meadow Road.

8.5 A letter from the Connecticut Siting Council regarding the intent to modify an existing telecommunications facility at 250 Silas Deane Highway.

9. PENDING APPLICATIONS TO BE HEARD AT FUTURE MEETINGS. Currently, there are no pending Applications to be heard at future meetings.

10. ADJOURNMENT

Motion to adjourn at 10:40 PM – by Commissioner Oickle.

Seconded – by Commissioner Knecht.

Vote: 10 - 0 – 0 [only 9 can vote]

Aye: Hammer, Roberts, Knecht, Harley, Homicki, Munroe, Oickle, Hughes, Drake, Dean

Nay: None

Abs: None

Meeting adjourned.

Respectfully submitted,

Ellen Goslicki, Recording Secretary