

October 16, 2018

The continued public hearing was called to order at 7:32 p.m. by Chairman Frank Bood.

Other members' present-Ross Farrugia, Caren Bailey, Alternate Victoria Robinson-Lewis and Dana Morrow (7:40 p.m.)

Staff present-Jamie Rabbitt, Joyce Gustavson, Don Aubrey, and Russell Gray (7:40 p.m.).

Also present-Brian Dumeer and Allen Hull.

The purpose of the public hearing is to accept written and/or verbal comments on the application by agent H. Brian Dumeer, Esq., representing Canterbury Realty, LLC, Ernest J. Jr., & Rebecca Collelo, and Ernest J. Collelo, Jr., for a text amendment to the Town's Zoning Regulations regarding Excavation Permit Requirements, Appendix A for Section 116.7 Site Plan Evaluation and Standards for Review.

B. Dumeer stated he is representing Allen Hull of Canterbury Realty, LLC in regards to the proposed text amendment change. The following was submitted into record: An Airborne Noise Assessment Report Prepared by Acoustical Technologies, Inc., Prepared for B & L Construction, Inc., Point of Contact – Allen E. Hull, dated 10/10/2018, Submitted by J. Rabbitt, Decibel Levels of Common Sounds, Published by Deseret News on 11/13/1988, Submitted by B. Dumeer and a letter from J. Rabbitt, Town Planner, dated 10/16/2018 summarizing the status of the application for a zoning text amendment, the dimensional requirements to process excavated material on site (copies on file).

B. Dumeer stated that at the last Planning & Zoning Commission meeting held in September, the Commission had questions regarding the decibel levels with the two (2) machines that would be used on the property. Common decibel levels, such as regular communication/conversation, are sixty (60) decibels, which is less than the machines that have been proposed.

B. Dumeer asked if anyone had any questions regarding the decibel levels from the Decibel Levels of Common Sounds handout. Carl Cascio is an acoustical engineer who went out with sophisticated equipment to take the measurements and submitted a very comprehensive report.

V. Robinson-Lewis, 791 Margaret Henry Road, asked if the crusher and the screen plant was this just the machine running or was it operating as a crushing plant and operating as a screening plant.

A. Hull stated that it was operating.

B. Dumeer asked if anyone else had any other questions regarding the decibel levels.

F. Bood, 230 Harris Road, asked B. Dumeer how versed he is in decibel readings.

B. Dumeer stated he is not well versed in decibel readings and prefers to lean on experts. He can read the report and can tell the Commission that background noise was taken into account.

F. Bood asked in reference to the handout titled Airborne Noise Assessment, (page 10) Weighted Airborne Noise Levels from Rock Crusher and Screener Operations (in dB reference 20 microPascals), on your proposed letter, what is the distance of the variance you are looking for.

B. Dumeer stated it is five hundred (500) feet.

F. Bood asked if the calculation was done at a fast time-lapse of measure, something the human ear would hear, and at what frequency was this unit picking it up.

B. Dumeer stated that these questions are above his pay grade and he could have C. Cascio available to the Commission to answer any questions. The decibel rating on the crusher is 88 and that meets the exact specifications of the manufacturer's decibel level at the machine.

F. Bood stated that he would have to rely on staff and if the decibel rating is 60 and someone else from staff is on site and says it is not 60, then what?

J. Rabbitt stated that the applicant would not be in compliance with their permit and they would have to cease operations or make modifications to their operation to get below their decibel level.

F. Bood asked if any berming was being proposed.

B. Dumeer stated that part of what the text amendment requires is an elevation change of fifty (50) feet and this would depress more of the sound.

F. Bood asked if anyone else had any questions or comments.

R. Farrugia, 641 Snake Meadow Hill Road, asked if we know the number of excavation permits that are open and shall be affected by this proposed text amendment change.

B. Dumeer stated that J. Rabbitt undertook this task for them and asked that a qualifier be part of the text amendment to limit the operations to Route 14. It would limit it to: Tilcon, Corson, and the holdings of Canterbury Realty.

J. Rabbitt stated there are ten (10) permits right now and eight (8) permits in various stages of expiration. Basically between sixteen (16) and twenty (20) permits that could fall within this. If it is limited to Route 14 that would bring it back to three (3); six (6) parcels; Charlie Corson has two (2) parcels; Tilcon has one (1) parcel and three (3) parcels that are associated with Canterbury Realty. This would limit it to a portion of town.

R. Farrugia asked how long the operation will go on for; years, months, etc.

A. Hull stated that it depends on the amount of construction. It will be years.

R. Farrugia asked if you see this as a day to day operation, based on orders, or as people request material.

A. Hull stated or as needed on the shoreline. It is expensive to get the machines from Old Saybrook to Sterling. He does not see the operation being functional on a day to day basis.

F. Bood asked what would be the expected tonnage.

A. Hull stated about three hundred thousand (300,000) yards.

B. Dumeer stated that the tonnage is for both phases; it was a two (2) phase application.

R. Farrugia asked how many truck loads per day.

B. Dumeer stated they are limited to twenty-five (25) truck loads per day as presented in their original application.

R. Farrugia asked what equipment in addition to the crusher will be on site.

A. Hull stated excavator, loaders, and possibly a dozer.

F. Bood asked where the permitting lies as far as the daily capacity. Is it as simple as talking with the Board of Selectmen and up that as needed?

J. Rabbitt stated from an application stand point they would have to amend any permit that was granted by the Board of Selectmen through the same manner that the original permit was issued.

R. Farrugia asked what are the hours of operation.

B. Dumeer stated Monday through Friday 7:00 a.m. to 5:00 p.m. and 7:00 a.m. to 12:00 p.m. on Saturday. The hours were agreed upon through discussion between the applicant, the Board of Selectmen, and input from the neighbors.

F. Bood stated for the record that he is a stickler for fairness and equality in everything that we do in Town, and asked if there was a large turnout from the neighbors.

B. Dumeer stated two (2) neighbors at the second public hearing and about six (6) at the first public hearing. At the first public hearing, more people were in favor than with criticism.

F. Bood stated that he does not want Canterbury Realty, LLC to be limited as a business owner to a particular time table during the week. The reason for that is because when we originally tried to implement the zoning regulations to affect the sand and gravel, there were a few private family run businesses that would have suffered greatly if they were limited to 4:00/5:00 p.m. I wonder what your comfort level is with the time frame set forth and whether or not you feel that it is equitable to you.

A. Hull stated more time is always better.

F. Bood asked if it is realistic in the summer when you have daylight to 9:00 p.m. and you to have to shut down at 5:00 p.m.

A. Hull stated yes because production after a certain time out of the individuals is hindered with the heat and everything else. I'm okay with that.

F. Bood asked if the operation limits you to being on the property with the crushing aspect; can you still move your vehicles and equipment.

D. Aubrey stated it shuts down processing and shuts down hauling of the trucks.

A. Hull stated no, it shuts down loading of the trucks.

F. Bood stated that he wants all of this information on the record because the last time we went through this, three (3) individuals were not happy and if this individual is happy than that works for him.

J. Rabbitt stated that the discussion he had to date with the applicant was that he isn't looking at modifying the excavation component that's controlled by Appendix A in the existing zoning regulations. The applicant is looking at potential time parameters associated with processing where a setback is reduced.

F. Bood stated that he agrees with that, but if you were to reference Appendix A, you will notice that there is no limiting time factor.

J. Rabbitt stated correct.

F. Bood stated again that he wants everything on the record so that when someone comes in and has something objective to say to the Selectmen or to the staff in the office that great care and caution was put into this above and beyond the normal regulations.

J. Rabbitt stated for clarification, Section 112.2 Site Plan Ingredients, item I of the existing zoning regulations – Hours of Operation: All days and hours of operation proposed by any application shall be shown on the plan submitted and shall be restricted to those approved by the Selectmen.

R. Farrugia asked F. Bood in reference to a question at the last meeting as to exactly where the crusher will be located.

F. Bood stated that it shall be moved around the property depending as to where it would be most suitable.

F. Bood asked if anyone else had any other questions or comments.

J. Rabbitt stated that he submitted a letter from staff dated 10/16/2018 regarding the application. The first part of the letter is administrative in nature. If the public hearing does not close tonight the applicant may consent to an extension in writing as long as the total number of extensions does not exceed sixty-five (65) days, per Connecticut General Statutes. The second part of the letter addresses four (4) items in regards to limiting the language to Route 14 only, potentially limiting the language on hours of day for processing, limiting the days of the week for processing, and any potential limitations on calendar year. J. Rabbitt also stated that if the public hearing closes tonight, the applicant should have the opportunity to respond to the proposed suggested revisions to the text changes.

F. Bood stated that the applicant responded earlier tonight to the 7:00 a.m. to 5:00 p.m., time frame, but does not see any hours listed on his text amendment application, but believes the hours were listed on his original application.

J. Rabbitt stated that there are no restrictions on hours, days, or months; staff is potentially making a recommendation that the applicant is amenable to that discussion and potentially put it in the regulations so that it is clear for them and/or any applicant coming forward that those are the maximums allowed.

F. Bood asked if the proposed language could be drafted tonight and the close public hearing or would it need to be drafted for next meeting.

J. Rabbitt stated you have a public hearing notice and you have some due process, the regulation would become more restrictive and he doesn't think due process would be a concern as the applicant, for the record, has not stated that they have any objections and it makes sense that the discussion would stand that the Commission could look at language that limits days of week, hours of day, and months of the year.

B. Dumeer stated that as it relates to one there is no objection. As it relates to two, I think it would be fair to have the same processing hours as on the application; 7:00 a.m. to 5:00 p.m. Monday through Friday, and 7:00 a.m. to 12:00 p.m. on Saturday. The days of processing should mirror the Monday through Friday and half day on Saturday hours. There are more hours of daylight during the summer and if the

Commission wanted to reign in the months of January and February, where no processing would occur, we could concede.

F. Bood asked if anyone else in Town is limited to a month.

D. Aubrey stated no.

J. Rabbitt stated no because everybody else in town is adhering to the setback.

R. Farrugia stated he can't see the Commission doing anything with months because it will affect other operations that have been in operation for awhile.

J. Rabbitt stated that if the Commission limited the months, language could be added that it is only applicable to an operation that is looking for a reduction in the setback.

F. Bood stated that we have to be balanced and fair. If we close the hearing tonight, the hours would stand at 7:00 a.m. to 5:00 p.m. Monday through Friday and 7:00 a.m. to 12:00 p.m. on Saturday with no restriction to months. Based on the yardage and twenty-five (25) truck loads per day, if the applicant went full steam, they could wrap it up in a short amount of time and from the sounds of it with the amount of yards it is not going to be a large pit compared to what is going on in town. The overall impact of where the operation is located will not have any negative impact on the Town as a whole. There are approximately five/six (5/6) residents in that area that will be affected.

F. Bood asked if anyone else had any other questions or comments. There were none.

R. Farrugia made a motion, seconded by C. Bailey to close the public hearing at 8:05 p.m. All voted in favor of the motion.

October 16, 2018

Call to Order: The monthly meeting of the Sterling Planning and Zoning Commission was called to order at 8:06 p.m.

Roll was called: Frank Bood-present, Dana Morrow-present, Ross Farrugia-present, Chris Turner-absent, Caren Bailey-present, Alternate Walter Moriarty-absent, Alternate Michael Rouillard-absent, Alternate Victoria Robinson-Lewis-present.

Alternate V. Robinson-Lewis was seated for C. Turner.

Staff present –Russell Gray, Jamie Rabbitt, Don Aubrey, and Joyce Gustavson.

Also present-Brian Dumeer and Allen Hull.

Audience of Citizens: No comment.

Approval of Minutes: V. Robinson-Lewis made a motion, seconded by D. Morrow to approve the public hearing minutes and the monthly meeting minutes of 9/18/2018 as written and presented. All voted in favor of the motion.

Correspondence: 1) F. Bood reported that he received a letter from Demian Sorrentino, Zoning Enforcement Officer, dated 9/19/2018 regarding Official Notice of Zoning Violation & Order to Immediately Cease and Desist for an expired excavation permit of 2/20/2018 for property located at 160 Sterling Road a/k/a/ 0 Sterling Road (Sterling Assessor's ID 03844/16A/8). 2) F. Bood reported that he received another letter from Demian Sorrentino, Zoning Enforcement Officer, dated 9/19/2018 regarding the deposition of fill material in close proximity to property boundary and failure to properly stabilize deposited materials or install erosion and sediment controls for property located at 253 North Sterling Road, (Assessor's ID 03844/016/007C). This is the first notice of a potential zoning violation.

Unfinished Business:

a. Discussion Regarding the Plan of Conservation and Development: D. Morrow made a motion, seconded by R. Farrugia to table this item to the next meeting. All voted in favor of the motion.

b. Application #PZ-2018 by Canterbury Realty, LLC, Ernest & Rebecca Collelo and Ernest Collelo for property located at 76, 92, and 94 Sterling Road for a Proposed Text Amendment to Excavation Permit Requirements:

The public hearing closed earlier tonight. F. Bood stated that when the proposed text change is amended it will reflect everything that was laid out during the public hearing, as well as, the time that is on the original application. The acoustical handouts will be part of the Planning and Zoning Commission's permanent record, as well as, part of the Board of Selectmen's permanent record, when the applicant files an amended application to the Selectmen. J. Rabbitt stated that the decibel level, common sounds, the acoustic study, all becomes part of the file of this application and is kept as record. Retention is seven (7) years. If a permit is granted for processing, under that regulation, it would be kept in the file; the Commission could require reference to it on the plans in a limited manner, so that if any enforcement issues ever came up, the report is referenced. Discussion was held on whether to have staff draft a motion tonight or table and continue to next month's meeting. J. Rabbitt stated that the only thing that staff would be inserting into the proposed language by the applicant is the revision limiting processing to Route 14. The Commission could make a motion to approve tonight with staff inserting the language contained to Route 14. J. Rabbitt stated that the proposed existing language revisions to Section 116.7 of the Sterling Zoning Regulations, is as follows: "There shall be no processing of materials such as screening, sifting, washing or crushing within two hundred (200) feet of any property line or one thousand (1,000) feet from a residential structure, whichever is greater, except where such processing already exists in connection with and a continuation of a previously approved operation". The applicant is suggesting that they insert language that says: In such instances the Board may grant the reduction for properties as follows: Setback from property line reduction and setback from residential reduction. J. Rabbitt recommends the language to read: "In instances, the Board may grant setback reductions for properties with frontage on State Route 14. The only limiting factor would be for someone who is eligible for a setback reduction or for properties located on Route 14.

R. Farrugia made a motion, seconded by C. Bailey to approve #PZ-2018 application submitted by agent H. Brian Dumeer, representing Canterbury Realty, LLC, Ernest J., Jr., & Rebecca Collelo, and Ernest J. Collelo, Jr. for the proposed text amendment to the Sterling Zoning Regulations regarding Excavation Permit Requirements, Appendix A for Section 116.7 Site Plan Evaluation and Standards for Review, limited to properties with frontage on Route 14; setback from a property line would be reduced to one hundred (100) feet provided that the property is undevelopable within one hundred (100) feet of the common boundary and setback from a residential structure would be reduced to five hundred (500) feet provided the processing operation is sufficiently screened with vegetation, has an elevation difference of at least fifty (50) feet or a combination of these criteria deemed sufficient by the Board (Selectmen) with an effective date of October 29, 2018. Three voted in favor of the motion, two voted against the motion. Motion carries.

c. Setbacks and In-Law Apartments: Due to unforeseen circumstances, staff was unable to submit an application on behalf of the Commission for a proposed text amendment to setbacks and accessory (in-law) apartments for tonight's meeting. An application should be received next week and a public hearing shall be scheduled for the November meeting. From an administrative standpoint, when a commission is amending their regulations, there is flexibility on receipt. State Statute states that when receiving applications, you have to schedule a public hearing within sixty-five (65) days. On the next agenda you will have receipt of the application and then a public hearing. Administratively, an application can be submitted next week and a public hearing scheduled without violating any State Statute.

New Business: None.

Audience of Comments: No comment.

Any Other Business:

1. F. Bood asked Chris Turner to resign so his seat can be filled. Once the Board of Selectmen has received C. Turner's resignation letter, it is the consensus of this Commission to ask the Board of Selectmen to move Alternate Victoria Robinson-Lewis to a full time member leaving the alternate position vacant.

2. Commission Workshop – Roles, Responsibilities, Policies and Procedures: C. Bailey made a motion, seconded by R. Farrugia to enter into a workshop. The tape was turned off at 8:25 p.m. and the Commission entered a workshop to discuss roles, responsibilities, policies and procedures. No motions or actions will be made during the workshop training. The tape was turned back on at 8:45 p.m. All voted in favor of the motion.

Adjournment: C. Bailey made a motion, seconded by V. Robinson-Lewis to adjourn at 8:45 p.m. All voted in favor of the motion.

Attest: _____
Joyce A. Gustavson, Recording Secretary

Attest: _____
Dana Morrow, Secretary