



Town of Cromwell Zoning Board of Appeals

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2-23 2017 at 1:45 PM
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PUBLIC HEARING AND MEETING
6:30 P.M. TUESDAY, FEBRUARY 14, 2017
ROOM 224 CROMWELL TOWN HALL, 41 WEST STREET

Minutes and Record of Votes

Present: Chairman Joseph Morin, Brian Fisk, John Keithan, John Whitney, Stephen Wygonowski and Mark Zampino.

Absent: Vice Chairman Dan Delisle

Also Present: Director of Planning and Development Stuart Popper

1. **Call to Order** – The meeting was called to order by Chairman Joseph Morin at 6:41 pm.
2. **Roll Call** – The presence of the above members was noted.
3. **Seating of Alternates**

A motion was made by John Keithan and seconded by Mark Zampino to seat Alternates Brian Fisk and John Whitney. *All were in favor; the motion passed.*

4. **Approval of Agenda**

A **motion** was made by Brian Fisk and **seconded** by John Keithan to approve the agenda. *All were in favor; the motion passed.*

5. **Public Comments** – None.

6. **New Business:**

7. **Public Hearings:**

A **motion** was made by John Keithan and **seconded** by Mark Zampino to open the public hearings. *All were in favor; the motion passed.*

- a. Application #17-01: Request for Variances from Section 2.2.B Bulk Requirements of the Zoning Regulations (Front Yard Setback and lot coverage ratio) to allow for the construction of deck in the rear of 29 New Lane. Taylor Scot Gilman is the Applicant and the Owner.

Mr. Gilman addressed the Board saying that he wished to construct a deck to replace the existing back porches that have fallen into disrepair. He said that the deck would not be any closer to the street than the house itself.

Mr. Popper referred the Board members to the map attached to the copy of the application showing the location of the proposed deck. He noted that this is an older house that sits on a corner lot and therefore has two front yards. Mr. Popper said that due to its age and location the house is non-conforming to the current zoning setbacks and that the variance was for the front yard setback and the lot coverage ratio.

The Board members discussed the location of the house and the deck and surrounding neighborhood.

Chairman Morin asked if any members of the public wished to address the Board regarding this application. There were none. Mr. Popper said he had received two phone calls from the public and after he explained the application to them they appeared to have had all their concerns addressed.

A motion was made by John Keithan and **seconded** by Brian Fisk to close the public hearing for Application #17-01. *All were in favor; the motion passed.*

A motion was made by Brian Fisk and **seconded** by John Keithan to approve Application #17-01. *All were in favor; the motion passed.*

Chairman Morin explained that after the legal notice is published there is a fifteen 15 day appeal period. He said after the appeal period is over the applicant will receive the variance form to file on the land records. Chairman Morin said if the applicants have any questions they should contact Mr. Popper.

b. Application #17-03: Request for Variance from Section 4.2.D.3 Flood Plain Variance Procedures of the Zoning Regulations to allow for the reconstruction of a portion of Willowbrook Road. The Town of Cromwell is the Applicant and the Owner.

Mr. Jon Harriman Town Engineer said the Town has received a grant from the State of Connecticut and is moving forward with plans to reconstruct a portion of Willowbrook Road. He explained that the area in the vicinity of Willowbrook Plaza is located in a Special Flood Hazard Area and is subject to Section 4.2 of the Zoning Regulations. Mr. Harriman said the cut and fill activity proposed for the reconstruction involves the placement of 1,150 yards of fill within the flood plain and there is no place within the work area to compensate the proposed filling activity. He noted that Section 4.2.DD.3 allows for the granting of a variance for new construction and the project engineer has certified that there would be an immeasurable effect on the 100 year regulatory floodway from this fill activity.

Mr. Harriman and the Board members discussed the location and extent of the improvements proposed for Willowbrook Road by the project.

Chairman Morin asked if any members of the public wished to address the Board regarding this

application.

Helen Barnaby of 21 Sunridge Lane asked if the Town and the State ever looked at combining Country Squire Road and Willowbrook Road to make it safer. Mr. Harriman said that it was looked at but the issue was the existing grades in the area and that you would have needed to take the land from 1 Willowbrook to construct such a road.

Loretta Carigan of 23 Sunridge Lane said she was concerned about accessing Country Squire Road during the construction process. Mr. Harriman said the work would start at the upper end of Willowbrook Road and will take about one hundred sixty five days (165) and there would always be one lane open.

Beth Drake of 23 Sunridge Lane asked how many nearby roads in Cromwell have separate right turning lanes. Mr. Harriman said Coles Road and Berlin Road.

A **motion** was made by John Keithan and **seconded** by Brian Fisk to close the public hearings for Application #17-03. *All were in favor; the motion passed.*

A **motion** was made by John Keithan and **seconded** by Mark Zampino to approve Application #17-03. *All were in favor; the motion passed.*

c. Application #17-02: Request for a Motor Vehicle Location approval under Section 10.5 of the Zoning Regulations at 201 Main Street. Timothy Anderegg is the Applicant and S & S Partners Inc. is the Owner.

Attorney Sal Petrella said he was here tonight representing the Applicant Timothy Anderegg and noted that the owners Mr. Arthur Sibley senior and Mr. Arthur Sibley junior are also here tonight. Attorney Petrella summarized the application before the Board tonight, he described in detail the property, the uses at the site, the building and the location of the proposed garage. He also described the abutting properties and land uses.

Attorney Petrella explained that in 1995 the property owner applied for and received a Special Permit from the Zoning Board of Appeals for a Change of Non-Conforming Use. The permit allowed for the repair and service of trucks belonging to customers, in contrast with the existing non-conforming use (repair and service of trucks belonging to the property owner).

Attorney Petrella noted that from 2000 to 2004, a portion of the building was occupied by First Line Emergency Service, Inc., a Department of Motor Vehicles licensed repair facility. First Line performed major mechanical repairs to fire trucks and ambulances. Bill Sullo, the owner of First Line Emergency Services, Inc., held Department of Motor Vehicles Repairers License R4767 at 201B Main Street in Cromwell.

Attorney Petrella said since 2004, there have been other lessees who have used portions of the building to conduct repairs to diesel engines. Paul St. Amand operated Commercial Diesel Services out of the premises at 201 Main Street, repairing diesel engines in large boats and other water craft until sometime in 2008 or 2009. Cory Wagner then operated a boat and jet-ski engine repair facility at the premises. A DMV license was not required for those types of repairs.

Attorney Petrella explained that the owner currently has a lessee who now wants to open up a licensed facility for diesel truck and equipment repair. The lessee, Timothy Anderegg, who plans to operate as Bridgeview Truck and Auto, LLC, needs a Department of Motor Vehicles Repairers License in order to repair diesel trucks and automobiles. No license is needed to operate an equipment repair facility at this location.

Attorney Petrella said that zoning approval is a prerequisite to DMV licensing, which is the reason this application is being submitted. Cromwell has adopted a zoning regulation, Section 6.4.D 5, that restricts new motor vehicle repair facilities from opening up within 2,600 feet of an existing repair facility. There is an existing repair facility within 2,600 feet of 201 Main Street, namely Cromwell Automotive at 263 Main Street in Cromwell.

Attorney Petrella noted that the Purpose of this particular regulation, set forth at Section 6.4.A specifies the intent to provide for public garages “within certain zoning districts in the Town of Cromwell while minimizing environmental and aesthetic effects of through (sic) careful design, siting and screening.” This is an existing facility in an industrial area designed and intended for vehicle repair work.

Attorney Petrella explained that the prohibition in this regulation does not apply to the instant application as this is not a new motor vehicle repair facility. The property has been used as a repair facility for over fifty plus years, long before the adoption of this regulation. The intent to continue to use the property for such purposes was never abandoned by the present owner. All of his actions in using and leasing the property clearly indicate an attempt to continue this type of use.

Attorney Petrella closed by saying that the Zoning Board of Appeals should grant DMV location approval for a repair facility based upon all of the factors in this application, including its historic use, the previous Special Permit issued in 1995 for S&S Partners, Inc., and the previous DMV location approval in 2000 for First Line Emergency Services Inc. Alternatively, the use of this property as a repair facility should be grandfathered in, as that use existed and continued both prior to the adoption of the zoning regulations and prior to the adoption of the spacing regulation. Moreover, this is the most appropriate use of this property based upon the design, construction, historic and current use of the property.

Mr. Arthur Sibley Senior P.O. Box 734 Old Lyme, Connecticut addressed the Board. Mr. Sibley summarized the history of the property this included the development by the previous owner and all of Mr. Sibley’s efforts to improve the property. He spoke in length about the history of the previous automotive uses at the property and the proposed new tenant. Mr. Sibley noted that his son Arthur Sibley Junior and co-owner of the property is here this evening.

Mr. Timothy Anderegg of 22 Harlem Place East Hampton, Connecticut addressed the Board. Mr. Anderegg described the proposed automotive repair business he wishes to open at 201 Main Street. He summarized his work experience and his thoughts on Attorney Petrella’s position on the grandfathered use a garage at the site. Mr. Anderegg explained how his proposed use fits the site and questioned the motives of those here in opposition this evening.

Chairman Morin asked if there was anyone who wished to address the Board either in favor or against the application.

Mr. Rodney Bitgood owner of Cromwell Automotive at 263 Main Street Cromwell addressed the Board. He said he was here to speak in favor of Section 6.4.D.4 of the Zoning Regulations which requires that automotive uses be at least 2,600 feet apart. Mr. Bitgood noted that the last licensed motor vehicle operation left 201 Main Street in 2004 and therefore any new motor vehicle facility would be subject to the 2,600 foot rule.

Mr. Michael Slifer of 205 Pondview Drive Cromwell addressed the Board. He summarized the history of the 2,600 foot separation distance explaining that when the Planning and Zoning Commission updated the Zoning Regulations in 2011 they upped the separation distance from 1500 feet to 2,600 feet. Mr. Slifer said the goal was to limit the concentration of automobile uses so that certain streets in town would not become gasoline alleys so to speak. He said that given the history of the automotive uses at the site the new applicant should be subject to the required separation distance.

Attorney Richard Carella of Updike Kelly and Spellacy at 179 Main Street in Middletown addressed the Board. He said he was here to represent Mr. Bitgood. Attorney Carella raised a number of concerns he had regarding the operation of an automotive repair facility at 201 Main Street. He noted that the addition of a garage at the same location with the Daniels Propane facility may not be a safe match and the issue of the location of the building in the Special Flood Plain Zone has not been addressed. Attorney Carella also raised the issue of sharing the only access way in to the site with the existing Mattabassett Sewer facility and questioned where the location for the parking needed for the garage was.

Mr. Nicholas Anderegg of 16 Coe Avenue Portland addressed the Board. He said he is here in support of his father's application and He noted that some of these comments were self-serving and questioned the legitimacy of such comments.

Mr. Popper read a series of letters in opposition to the application. These included letters from:

Mr. Arthur Simonian Executive Director of the Mattabassett District 245 Main Street Cromwell raised concerns about traffic, vehicles on the shared driveway with the District and the use of the Mattabassett property and easement by vehicles and parking of equipment.

Mr. John Natale owner of C.A.R.S. LLC at 160 Sebethe Drive Cromwell in support of the current regulations.

Mr. Greg Godston owner of Ultimate Automotive at 551 Main Street Cromwell raised concerns about traffic at the site and supporting the current regulations.

Ed Bartolotta President and CEO of Cromwell Growers 419 Main Street said he was in support of Mr. Bitgood's comments regarding the last time and automotive use was at 201 Main Street and supports the current regulations.

Mr. Popper said given the question raised by Attorney Petrella as to whether or not the automotive use is grandfathered I think we need to ask the Town Attorney for her opinion. He recommended that the public hearing on Application # 17-02 be continued to the March 14, 2017 meeting. Mr. Popper said we should have the Town Attorney's opinion by then.

Chairman Morin agreed.

Attorney Petrella asked to address the Board regarding these comments. He again explained his position regarding the previously granted special permit for the operation of a repair facility. Attorney Petrella stated that none of the speakers against the application have been able to prove that the operation of a motor vehicle repair facility has been abandoned.

Mr. Arthur Sibley Senior addressed the Board. Mr. Sibley again discussed the history of the property and responded to the Mattabassett District concerns and Attorney Carella's comments.

Mr. Arthur Sibley Junior addressed the Board and responded to the comments about safety at Daniels Propane and parking and the Mattabassett District concerns.

Mr. Timothy Anderegg addressed the Board. Mr. Anderegg again explained how his proposed use fits the site and questioned the motives of those here in opposition this evening.

A **motion** was made by Mark Zampino and **seconded** by Brian Fisk to continue the public hearing until the next regular scheduled meeting which will be on Tuesday March 14, 2017 at 6:30 pm. All were in favor; the motion passed.

7. Commissioners Comments:

8. Approval of Minutes:

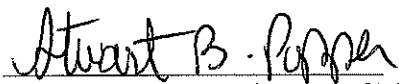
a. December 13, 2016

Chairman Morin noted that he was not present for that meeting and neither was John Whitney. A motion was made by Brain Fisk and **seconded** by John Keithan to approve the minutes. Joseph Morin and John Whitney abstained. **All others were in favor; the motion passed.**

9. Adjourn

A **motion** was made by John Whitney and **seconded** by Brian Fisk to adjourn at 8:40 pm. *All were in favor; the motion passed.*

Respectfully Submitted



Stuart B. Popper, Director of Planning and Development
Acting Clerk