

**TOWN OF CROMWELL
PLANNING AND ZONING COMMISSION
REGULAR MEETING
7:00 PM TUESDAY JULY 7, 2020
ROOM 224 CROMWELL TOWN HALL, 41 WEST STREET
MINUTES AND RECORD OF VOTES**

Present: Chairman Alice Kelly, Vice Chairman Michael Cannata, Chris Cambareri, Jeremy Floryan, John Keithan, Ken Rozich, Nicholas Demetriades and Brian Dufresne.

Absent: Paul Cordone, Mo Islam, and Kenneth Slade.

Also Present: Director of Planning and Development Stuart Popper, and Development Compliance Officer Bruce Driska.

1. **Call to Order:**
The meeting was called to order by Chairman Kelly at 7:02 PM.
2. **Roll Call:**
The presence of the above members was noted.
3. **Seating of Alternates:**
Mike Cannatta made the motion to seat John Keithan; Seconded by Chris Cambareri. *All in favor; motion passed.*
4. **Approval of Agenda:**
Mr. Popper passed out a meeting comments memo and asked the commission to add one item under 8. New Business: Accept and Schedule New Applications:
 - a. Application #20-32: Request to Amend the Site Plan (remove materials from the site) at 100 County Line Drive. D'Amato Construction Company is the Applicant and the Town of Cromwell is the Owner.

Michael Cannata made the motion to approve the agenda as amended; Seconded by Chris Cambareri. *All in favor; motion passed.*
5. **Public Comments:**
There were no comments from the public.
6. **Development Compliance Officer Report:**
Mr. Driska passed out the updated report to the commission and said he will address any questions or comments.
7. **Town Planner Report:**

Mr. Popper reported that work is continuing at all the major projects in town including: Starbucks on Berlin Road, the Amazon building on County Line Drive, Arbor Meadows on Field Road and the Marriott hotel on the Berlin Road.

8. New Business: Accept and Schedule New Application:

a. Application 20-32: Request to Remove Materials under Section 6.1 of the Zoning Regulations at 100 County Line Drive. D'Amato Construction is the Applicant and the Town of Cromwell is the Owner.

Mr. Popper asked the Commission to accept and schedule the application to be heard this evening.

Michael Cannata made a motion to approve the accept and schedule Application #20-32; seconded by Chris Cambareri; *All in favor; motion passed.*

9. New Business:

a. Application #20-33: Request to Amend the Site Plan (add outside seating) at the Cromwell Diner at 135 Berlin Road. Halem Saad is the Applicant and Sadd Associates are the Owners.

Mr. Popper said he would present the Application on behalf of the Applicant. He explained that the applicant would like to install seven or less picnic tables on the grass area north of the existing parking lot as shown on the submitted plan. Mr. Popper explained that there would be no outside service these tables are only for customers who wish to order take-out food and then consume it at the picnic tables. The Commission members and staff discussed access to the tables.

Michael Cannata made a motion to approve Application #20-33 for seven or less picnic tables; seconded by Brian Dufresne. *All in favor; motion passed.*

b. Application #20-34: Request to Amend the Site Plan (add outside generator and sign at 120 County Line Drive. Scannell Properties #315 LLC is the Applicant and the Owner.

David Gagne, Civil Engineer with Langan Engineering presented the application. Mr. Gagne indicated on the plans the location and size of the outside generator, the fuel tank and the new signs. The Commission members, staff and Mr. Gagne discussed the modifications. Mr. Popper indicated that the signs had been modified to meet the requirements of the Zoning Regulations.

Michael Cannata made a motion to approve Application #20-34; seconded by Chris Cambareri. *All in favor; motion passed.*

c. Application #20-32: Request to Amend the Site Plan (remove materials from the site) at 100 County Line Drive. D'Amato Construction Company is the Applicant and the Town of Cromwell is the Owner.

Mr. Popper explained that the original approved site plan did not call for the removal of any materials. The Applicant is proposing to remove about 1,700 yards of top soil under Section 6.1 of the Zoning Regulations. He noted that the removal of the top soil can be in conjunction with the approved site plan if the removal is approved by the Commission. It was suggested by the Commission that the top soil be considered for use at the Coles Road filling site.

Mr. Popper noted that the only staff comment was Town Engineer Jon Harriman's comment from his memo dated July 6, 2020. Mr. Harriman stated "The Town and the design/builder must come to an understanding or agreement in regards to the surplus topsoil".

Michael Cannata made a motion to approve the Application #20-32 with the condition contained in Town Engineer Jon Harriman's memo dated July 6, 2020 and with the suggestion that the top soil be considered for use at the Coles Road filling site; seconded by Jeremy Floryan. *All in favor, motion passed.*

10. Public Hearing:

a. Application #20-10: Request to Amend the Zoning Map to Change the Zoning District Classification from Residential -15 (R-15) to Commercial Billboard District (CBD) at 6 Piney Ridge Road. DFC of Cromwell LLC is the Applicant and the Owner.

Michael Cannata made a motion to re-open the Public Hearing; seconded by Nicholas Demetriades. *All in favor, motion passed.*

Attorney Dennis Ceneviva said he was here this evening with Mr. DeMartino the applicant and the owner and Mr. Wayne Violet of BL Companies. Attorney Ceneviva discussed the history of the site and the improvements that have been made to the existing buildings by the owner. Attorney Ceneviva summarized the information presented at the previous public hearing. He described the location and current uses at the site and the location and uses of the surrounding properties. Attorney Ceneviva described the locations of the 14 feet high and 48 feet wide proposed billboards. He noted the locations and heights of the billboards were demonstrated at the site walk on Tuesday June 30, 2020.

Michael Cannata questioned the location of a red line depicted on the map presented and asked whose authority was needed to cut trees along the property line abutting a state highway.

Attorney Ceneviva stated the red line was the property line, and the Connecticut Department of Transportation will have to be notified and a permit obtained to provide the tree cutting authorization.

The Commission members and Attorney Ceneviva discussed the nature and purpose of advertising on the billboards.

Chairman Kelly discussed the definition of “Spot Zoning”. She quoted a number of legal documents including Judge Fuller’s decision regarding “Spot Zoning” in Connecticut. Chairman Kelly presented more information pertaining to the definition and stated that this effort to create a Commercial Billboard District in the middle of Residential 15 Zone District was “Spot Zoning”.

Chairman Kelly and various Commission members and Attorney Ceneviva had a discussion regarding the definition of “Spot Zoning”.

Chairman Kelly quoted various sections of the 2007 Town of Cromwell Plan of Conservation and Development and challenged whether or not the proposed zone change was in conformance with the POCD.

Chairman Kelly asked if there were any members of the public that wished to address the Commission.

Mr. James Woodrow of 47 South Street spoke in support of the application.

Ms. Laura Creger Hall of 37 River Road spoke against the application and read into the record a petition against the billboards signed by residents of Main Street, River Road, Pleasant Street, South Street and Wall Street.

Mr. Tom Bollard of 45 South Street spoke against the application.

Mr. Popper read a letter of support from Silvia Marino of 12 Piney Ridge Road into the record.

Mr. Popper read letters addressed to Council member James Demetriades against the application from Christopher Edelbaum and Todd Farris into the record.

Mr. Popper read a letter from Council member James Demetriades of 272 Skyview Drive against the application into the record.

Nicholas Demetriades expressed his concern regarding the precedent of changing a residential zone district to a commercial zone district in the middle of a residential neighborhood. Jeremy Floryan said he agreed with the concern regarding the setting of such a precedent.

The Commission continued their discussion of the issue of “Spot Zoning” and the impact of the application on the neighborhood. Michael Cannata, Chris Cambareri and Ken Rozich said it was not “Spot Zoning”.

Michael Cannata made motion to close the public hearing, seconded Jeremy Floryan. *All in favor, motion passed.*

The Commission members continued to discuss the various aspects of the application. This included the issue of the site, the location of the billboards, the issue of Spot Zoning, compliance with the POCD and the impact of LED lights.

Michael Cannata made motion to approve the application, seconded by Nicholas Demetriades.

Michael Cannata, Chris Cambarari, Brian Dufresne and John Keithan voted in favor. Alice Kelly, Nicholas Demetriades and Jeremy Floryan voted against. Ken Rozich abstained. *Four members voted for and three members voted against the motion passed.*

b. Application #20-20: Request to Amend the Zoning Map to Change the Zoning District Classification from Local Business (LB) to Commercial Billboard District (CBD) at 241 and 251 Main Street. Rodney Bitgood is the Applicant and Rodnella Realty is the Owner.

A motion was made to re-open the Public Hearing by Michael Cannata, seconded by Nicholas Demetriades. *All in favor, motion passed.*

Attorney Richard Carella said he was here this evening with Mr. Rodney Bitgood the applicant and the owner of the property to present the application. He presented an overview of the site and the surrounding properties. Attorney Carella explained that at the previous meeting it was pointed out that it may be better to limit the area of the proposed Zone Change to the Commercial Billboard District Zone to the land adjacent to Route 9. He explained that this would enable the owner to preserve the site of the former Citgo station for other future development allowed in the Local Business Zone District.

Attorney Carella said Mr. Bitgood agreed and as a result we have changed the area to be rezoned as shown on the Exhibit A submitted this evening. He explained that the all of 241 Main Street would be rezoned to the CBD Zone District. Attorney Carella pointed out only the westerly half of 251 would be rezoned and easterly half containing the former Citgo station would remain in the Local Business Zone District.

Chairman Kelly asked if there were any members of the public that wished to address the Commission.

Ms. Laura Creger Hall of 37 River Road spoke against the application.

Michael Cannata made motion to close the public hearing, seconded by Jeremy Floryan. *All were in favor, motion passed.*

The Commission members discussed this location versus the location at Piney Ridge. Some members voiced the opinion that this was a more appropriate location given the fact that the site is already in a business zone district. They noted for that reason they had had no problem voting in favor of this application.

Michael Cannata made a motion to approve to approve the application with the changes submitted this evening, seconded by Jeremy Floryan. *All in favor the motion passed.*
Ken Rozich abstained.

11. Commissioner Comments:

None.

12. Approval of Minutes:

a. April 7, 2020

Michael Cannata made the motion to approve the minutes of April 7, 2020 with the correction of Brian's name on page 3; seconded by Brian Dufresne. *All in favor, motion passed.*

b. January 21, 2020

No action.

c. March 17, 2020

No action.

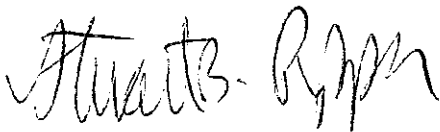
d. May 5, 2020

No action.

13. Adjourn:

Michael Cannata made the motion to adjourn at 8:10 PM. *All in favor, motion passed.*

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Stuart B. Popper". The signature is written in a cursive, flowing style.

Stuart B. Popper
Acting Recording Clerk