



# CITY OF WEST HAVEN, CONNECTICUT Planning and Zoning Commission

City Hall • 355 Main Street • First Floor • West Haven, Connecticut 06516  
Phone 203.937.3580 • Fax 203.937.3742



Kathleen Hendricks, Chairman  
John Biancur, Vice-Chairman  
Christopher Suggs, Secretary  
Steven R. Mullins, Commissioner  
Gene F. Sullivan, Commissioner

Michael Todd Taylor, Alternate  
Gregory Milano, Alternate  
Joseph Vecellio, Alternate  
Christopher Soto, Director  
Catherine Conniff, Asst. City Planner

The West Haven Planning and Zoning Commission held a Regular Meeting and Public Meeting on Tuesday, February 8, 2022 in the Harriet North Room, 2<sup>nd</sup> Floor, City Hall, 355 Main Street, West Haven, CT at 6:00 P.M.

PRESENT: Commissioners Hendricks, Suggs, Biancur (6:12 p.m.), Sullivan, Mullins, ZEO Hotchkiss, Planning Director Soto and Corporation Counsel Kravetz. Absent were Commissioners Taylor, Vecellio and Milano.

## PLEDGE OF ALLEGIANCE

## ELECTION OF OFFICERS

Commissioner Suggs made a motion to nominate Kathy Hendricks as Chair of the Planning and Zoning Commission, seconded by Commissioner Sullivan. Roll call vote 4 – 0 (Biancur absent)

Commissioner Suggs made a motion to nominate John Biancur as Vice Chair of the Planning and Zoning Commission, seconded by Commissioner Sullivan. Roll call vote 4 – 0 (Biancur absent)

Commissioner Mullins made a motion to nominate s as Secretary of the Planning and Zoning Commission, seconded by Commissioner Sullivan. Roll call vote 4 – 0 (Biancur absent)

APPROVAL OF MINUTES: Commissioner Mullins made a motion to approve the Regular and Public Meeting minutes of January 25, 2022, seconded by Commissioner Suggs as amended and passed.

## **Public Hearings:**

- 1. 221 Bull Hill Lane:** MODIFICATION OR ORIGINALLY GRANTED SPECIAL PERMIT #SP 21-70. Modification is a change from a CAFÉ Liquor to a RESTAURANT Liquor Special Permit. (Previously Granted Special permit was: To create an

Entertainment venue for Musical, Dance and comedy Performances. Special Permit application for approval of a liquor Bar / Cafe in the Neighborhood Business District (NB) pursuant to Section 45 and 85 of the West Haven Zoning Regulations. Applicant: Robert Mangino,/ Owner Nickerson Properties, File # SP 21-70

Mr. Soto stated this is a modification to the special permit from café liquor to restaurant. All other conditions will remain in place. The only change will be to menus so a restaurant license can be obtained. Applicant stated the application stated liquor permit and this is to clarify it.

Three calls were made to speak in favor and three calls were made to speak in opposition to this application.

John Vaccino, 4 Knight La, just wanted clarification on the change and wanted to make sure the conditions will remain the same.

Commissioner Sullivan made a motion to close the public hearing on File #SP 21-70, seconded by Commissioner Mullins and passed.

**Deliberation on Public Hearing Item:** File # SP 21-70 (MODIFICATION)

Commissioner Biancur made a motion to approve File #SP 21-70 with the revocation of the café liquor license special permit to approve the restaurant liquor permit, seconded by Commissioner Mullins and passed.

RECESS: 6:13 P.M.

RECESS RESUMED: 6:18 P.M.

- 2. Proposed Amendment to Zoning Regulations:** An application to amend Article 3, Section 44.4 of the West Haven Zoning Regulations to provide that the restriction on siting gasoline, diesel or other filling stations within 100 feet of a residentially zoned lot shall not apply to a gasoline, diesel or other filling station having a convenience store on the same lot. Applicant: Joseph P. Williams, Esq./ Cumberland Farms, Inc. File #ZR 22-103

Attorney Joseph Williams, Shipman & Goodwin, is representing Cumberland Farms, Inc. and presented a PowerPoint presentation on this application. Also in attendance is Bob Coluccio from Webb Engineering Associates, and Mark Barachi, Civil engineering with CHD. He stated a prior variance was approved by ZBA and two appeals were filed on the variance approval. An approval was granted by P & Z for this development amending the application changing the gate to a closed driveway. Last November the court sustained the appeals from the variance and the plaintiffs argued that the zoning regulations should be amended and the variance should have not been approved. Attorney Williams cited the existing regulation has three requirements. It appears Section 44.4 was enacted by this commission in June 1971. Section 32.2.6 use group #9 showed the reason why this regulation was approved. This regulation states that a gas station can be on the same lot as

a repair business. He pointed out a gas station is different today than in 1971 with most having a convenience store rather than repair. In 2002 the commission increased the separation requirements. Attorney Williams explained the next year the general assembly amended the procedure. In 2006 the P & Z amended the separation requirement again decreasing it. Attorney Williams also explained the intent of commission for the separation requirement is to control certain activities such as selling, repairing, storing cars. Only one of six surrounding towns, Milford, has a minimum separation requirement. The proposed amendment is to insert a new subsection 3 to Section 44.4. This amendment is not asking to remove or amend the separation requirement entirely but asking for an exception for certain uses and that distance requirements not be applied to gasoline stations that have a convenience store on the lot. It also does not apply to properties in a flood plain. Another proposal is to delete the language “on the same street face” in Section 2 because no one knows what that means. Attorney Williams explained the regulation definition of convenience store/gas facility. Commissioner Biancur asked if the regulation covers convenience store, repair facility and gas pumps on the same lot. Mr. Soto stated auto repair in any zone a license is needed from the state and the commission will still have control over setbacks. The auto repair component will still need a separate approval. Attorney Williams stated the amendment they are proposing does not do any damage to the existing regulation. This application does not have a repair facility or the storing or selling of cars. The gas pumps are an accessory use to the convenience store. In the City of West Haven gas stations and their location must be approved by special permit only. This amendment does not take away the commission’s discretion on any special permit application and the conditions imposed by Section 85.4. There are eight other sites in West Haven where gas stations are located within 100 ft. of a residence district. Bob Coluccio, engineer, Webb Engineering, cited his credentials and explained that the federal government got involved in underground tank regulations by improving underground tanks with respect to contamination and air pollution. With regards to air pollution, Mr. Coluccio explained all underground storage tanks need to be approved by the California Air Review Board (CARB). He also explained the various stages of the process how vapors are captured in an underground storage tank. He also showed how the double walled fiberglass storage tanks work by having a sensor that will sound an alarm if there is a gasoline or water leak before it gets into an environment. There are three classes of operators and depending on the class of operator, there is required training. These tanks need to be tested every three years and will be certified by independent testers. In CT these tanks cannot be in the ground longer than 20-30 years. Mr. Coluccio has not seen underground fiberglass tanks fail because of age. Mark Barachi, engineer, DHP, explained the site design layout that is possible on this property. This site with regards to buffering and screening can accommodate a fencing system, a berm and/or a vegetation buffer. This site can accommodate all three of these buffers. Pictures were shown of other stations in other towns with vegetation buffers next to residential districts. Commissioner Hendricks stated showing other stations is fine but getting into details for a specific site, however, this type of information doesn’t pertain to the change of the regulation. Attorney Williams stated this application is consistent with the Plan of Conservation and Development and maintains the intent of Section 44.

Three calls were made to speak in favor and three calls were made to speak in opposition to this application.

Commissioner Mullins made a motion to close the public hearing on File ZR 22-103, seconded by Commissioner Sullivan and passed.

**Deliberation on Public Hearing Item:** File #ZR 22-103

Commissioner Biancur made a motion to approve File #ZR 22-103 with the following condition to read in Section 44.4.3 The text change was approved with an amendment "Notwithstanding any other provision of these regulations, the distance restrictions set forth in subsections 44.4.1 and 44.4.2, above, shall not apply to a Gasoline, Diesel or Other Filling Station only having a convenience store on the same lot.", seconded by Commissioner Mullins.

Roll call vote:  
Sullivan – Yes  
Mullins – Yes  
Biancur – Yes  
Suggs – Yes  
Hendricks – Yes

Motion is approved 5 – 0.

**Regular Meeting**

3. **106 Morgan Lane:** Site Plan Review Application for a 2,091 SF addition to the Harry M. Bailey Middle School Cafeteria. Applicant: Neil C. Cavallaro/West Haven BOE. File #SR 22-105

Commissioner Sullivan stated he thinks this application should be heard tonight. However, it has been the past practice of this commission that applications that were not received the weekend before will not be heard. He is willing to make an exception for this application tonight, however, going forward he will not hear applications that are not filed timely.

Eric Rossi, architect, Kaestle Boos, representing this application which is for a 2,000 sq. ft. addition to the Bailey School. The reason for this is to add an additional serving line and increase seating for 100 with an egress. There will be minimal site work. There will be no drainage involved. No additional parking is needed. If approved construction will begin in the Spring with completion in the fall. There is no impact to the wetlands.

**Deliberation on Item:** File #SR 22-105

Commissioner Mullins made a motion to approve File #SR 22-105, seconded by Commissioner Suggs and passed.

4. **West Haven Affordable Housing Plan:** Informational session on the status of the West Haven Affordable Housing Plan.

Planning Director Soto gave the commission an update with SCROG and the Affordable Housing Plan. SCROG has done a survey and there are some existing conditions on what the housing looks like in West Haven. He described the increases and decreases in the types of housing and the types of households and what percentage the households are spending on housing. Staff will work with SCROG to put together some goals for affordable housing in the city. Accommodations need to be made for the different types of housing. Regulations are trying to be adopted so there will be smaller units and to allow the old population to move into smaller homes. The commission should look at lot sizes and density going forward. Affordable housing takes in all aspects such as age, salaries and income. It is not low-income housing. There is a difference. A workshop should be scheduled with a public open session with notification ads. A meeting was scheduled for February 24, 2022 at 6 p.m.

**Staff Reports** – Commissioners need to look at the Land Use Guidelines. There is 4 hours of training every two years.

**Other Business** – Commissioner Hendricks would like to put together a bylaws committee especially looking at remote meetings, approval of calendar, regular vs. special meetings. Commissioner Mullins and Suggs volunteered to be on the committee. Recommendations will be discussed at the second meeting in March. Councilperson Quagliani has not attended P & Z as the liaison because he has not received any communications. Mr. Soto stated the person who was working on the bicycle pedestrian plan has retired. SCROG has not picked another person yet. Commissioner Sullivan is concerned about lack of regulations for marijuana dispensaries and would like to see a moratorium to give the commission time to decide where these dispensaries should be located. Mr. Soto explained state statutes have regulated how these dispensaries can look like, advertise and market. The state is leaving the location up to the local municipalities. These uses are being considered retail uses and the regulation is one for every 25,000 residents. West Haven will have two. Currently there is an 800 ft. rule for marijuana dispensary uses and for liquor stores it is 1,000 ft. Currently there are no regulations for marijuana retail uses. Mr. Soto said he can have amended regulations by next meeting if the commission wants. Any application that comes today for marijuana retail will be treated just like a liquor store application. Commissioners agreed to have Mr. Soto draft an amended regulation on marijuana retail uses.

5. **Executive Session:** (9:10 p.m.) Discussion re resolution of claims re: 221 Bull Hill Lane in Executive Session pursuant to Conn. Gen. Stats. 1-200 (6) (B) – Commissioner Mullins made a motion to go into Executive Session inviting Mr. Soto and Attorney Kravetz, seconded by Commissioner Biancur and passed.

No action taken in executive session

**Adjournment:** After executive session