



TOWN OF WOODBURY Zoning Board of Appeals

281 Main Street South
Woodbury, CT 06798
203.263.3467 ▪ www.woodburyct.org

MEETING MINUTES DECEMBER 19, 2022 Shove Building, 281 Main Street South

MEMBERS PRESENT

Joe Donato
Adam Goldberg
Mike Novak
Robert Ratzenberger
Claudette Volage

ALTERNATES PRESENT

Jacob Amorando
Jane Donn

ALTERNATES ABSENT

Vincent Farisello

ALSO PRESENT: Will Agresta (Town Planner), Ted Mannello, Attorney Franklin Pilicy, Hiram Peck, June Peck and interested members of the public.

OPENING OF MEETING

- Call to Order – Chairman Novak called the meeting to order at 7:30 p.m.
- Seating of Members / Alternates – Seated for the meeting were regular members Donato, Goldberg, Novak, Ratzenberger and Volage

NEW BUSINESS

22-ZBA-2205 – 785 Washington Road / Map 70, Lots 26, 27 & 28 / OS-100 District

Application for Special Permit: Change of Non-Conforming Use per Zoning §1.4.4.1, §8.2 and §9.6.1.3 to change the existing nonconforming use to a new nonconforming use involving a proposed year-round full-service fine dining restaurant, a production bakery & full-service café, a flour mill, a farm store, concert and community events venue, wellness spa and agritourism farm with flowers and crops. Drax Wellness Group, LLC (applicant), Tapawingo Tubing, LLC (owner).

Members were reminded of Conflict of Interest. No members expressed a conflict with regards to this application. Chairman Novak read the details of the application from the public hearing legal notice for the record.

MOTION:

To take up application (22-ZBA-2205 / 785 Washington Road / Map 70, Lots 26, 27 & 28 / OS-100 District)

Moved by **DONATO**, Seconded by **RATZENBERGER**

Vote: 5-0-0 – **Approved** – Motion **Passed**

Aye Novak, Donato, Goldberg, Ratzenberger, Volage
Nay None
Abstain None

No representative for the application came forward to present for the public hearing and it was noted that the confirmation of mailing of notice to the abutting property owners had not been received. A number of neighbors were noted in the audience.

MOTION:

To adjourn the public hearing to the January 17, 2023 meeting for the applicant to attend and provide the required certification of mailing of notices to abutters.

Moved by **NOVAK**, seconded by **GOLDBERG**

Vote: 5-0-0 – **Approved** – Motion **Passed**

Aye Novak, Donato, Goldberg, Ratzenberger, Volage
Nay None
Abstain None

Several members of the public who were present for this item and wanting to speak requested clarification of what this meant and wanted confirmation that the hearing would reconvene at the next regular ZBA meeting scheduled for January 17, 2023. Chairman Novak noted that one of the first items of a public hearing is to confirm receipt of abutters notification, and he concurred that the hearing would be reconvened at the next meeting.

22-ZBA-2206 – 858 Main Street North / Map 25, Lot 30 / OS-60 District

Application for Special Permit for Change Use per Zoning §1.4.4.1, §8.2 and §9.6.1.3 to change the existing nonconforming use (as authorized pursuant to 17-ZBA-1760) to a new nonconforming use for a HVAC system business “Husky Energy and Propane LLC” providing business related storage and office use only. Ted Mannello (applicant/owner).

Members were reminded of Conflict of Interest; no members expressed any conflict with this matter. Chairman Novak read the details of the application from the public hearing legal notice for the record.

MOTION:

To take up application 22-ZBA-2206 / 858 Main Street North / Map 25, Lot 30 / OS-60 District
No objections.

Ted Mannello, property owner/applicant and Franklin Pilicy attorney representing the owner presented the application. Attorney Pilicy noted that the abutter notifications were in the file and gave a background of the property including a previous Special Permit approval from 2017 which was included with the application for reference. The 2017 approval was submitted as a starting point. A HVAC system business is being proposed, the primary uses being storage and office. No fabrication will be done on site. On site will be for staging and office use. No landscape buffers will be removed. No material changes will be made to the outside of the property. Proposed business hours to be 7:30 a.m. – 5:30 p.m., Monday – Friday with approximately 6-7 employees. No appreciable retail traffic. No additional signage at this time, signage to be approved at a later date if proposed. Doors to be closed during business operations. Only one 55-gallon drum for associated chemicals will be housed on site. The residential space will be maintained with the rest of the building to be commercial in nature. Applicant agrees not to manufacture on site and/or items to be assembled in quantity. There will be 3-4 vehicles associated with the business, with 2 of them being parked inside the building. A lean-to overhang is desired to cover a propane delivery truck parked outside the building but was not part of the application. A floor plan of the basement has been submitted. They have tried to track what was approved at the time they acquired this building. Mr. Mannello stated they are an HVAC business. The building is being used to store furnaces, materials and other materials associated with his business. They stage jobs before they go out to the client site. Employees meet in the morning, get their stuff and leave to the job site. There will be office work done in the evening. There will not be much activity at the building, with the exception of morning staging and in the evening finishing up. There are no proposed changes to the driveway or parking area. Exterior lighting will remain the same. The chemical to be stored on site is methanol, used to dry out the tanks prior to installation. Staging is done at 7:30 a.m. There may be occasional emergency use of the site on a Saturday or Sunday or off hours. The location of the possible overhang was shown to members of the board. The overhang may help to block the view from Route 6. The business will be HVAC and propane. There is no manufacturing of ductwork, that is bought. No workers will really be at the building just during staging and at the end of the day for office work. Propane deliveries will be just a few times per week. No customers are expected to visit the site. Workers at this time park and take trucks out, in the future they will probably take the trucks home.

Neighboring property owners Hiram and June Peck were present. Mr. Peck addressed his concerns with the Board. They have been trying to work out their concerns directly with Mr. Mannello with regard to the operation. Mr. Peck submitted photos from their property of activity that has taken place on this site including some heavy equipment and noted associated noise. Mr. Peck requested the hearing be continued to the next meeting date. Section 1.4.4.1 was noted, stating an equal to or less intense use on site. In the past there has not been huge equipment or parking of significant trucks. Mr. Peck feeling this is an expansion of what was there. Relocation of nonconforming uses is not allowed in the regulations. There are trailers and other equipment on the lot that was never there before. Being the closest neighbor, they are concerned with the impact on the neighborhood. He reminded that Section 8.2.11 talks about the impact of noise and character of use and compatibility of surrounding uses. Residential versus significant parking of large trucks with back up beepers. They feel with the request to park trucks on the site that it will continue to get worse, not less intense, more intense. Mr. Peck indicated this would be an expansion of a nonconforming use noting more noise and trucks. He stated that expansion of hours is not permitted. A letter from the Peck's attorney, Evan Seeman dated December 19, 2022, was submitted for the record. Chairman Novak read the entire letter into the record.

Mr. Mannello addressed the photos submitted by Mr. Peck. He explained that several photos were from one day within about one hour. There was a delivery of 14 empty propane tanks that took place around Noon during the week. It was all one truck. There will be normal deliveries. Empty tanks are stored inside. Mr. Mannello had no explanation for the tractor trailer that was photographed. Perhaps the truck pulled off and parked there temporarily. They don't receive deliveries from tractor trailers, deliveries are usually in box trucks. Deliveries are usually from 8:00 – 9:00 a.m. Deliveries are not dropped off before business opening. Previous tenant's approved hours were from 8:30 a.m. – 5:00 p.m. with 6-7 employees. Mr. Mannello expressed that the only commercial vehicle to be parked outside would be the propane truck. The applicant was amenable to erecting a fence or buffer to the neighbor. The residential portion of the building was questioned, Mr. Manello explained that it is not "really there." It is a big warehouse, three levels, concrete and steel. Historically he felt that it has always been a warehouse type space. The question of expansion of hours was discussed. Planner Agresta noted that intensity can be looked at by what is being proposed during those hours compared to the business being conducted previously. The most intense activity will take place in the morning during the staging and returning at the end of the day. The workers are done at close to 4:00 p.m., office paperwork will be done after 5:00 p.m.

Andrew Rowan - 84 Cross Brook Road: Mr. Rowan spoke in favor of the application. He is familiar with the furniture manufacturer that had previously occupied the building. He felt that their work throughout the day was probably more intense than what is being proposed.

Mr. Peck noted that the applicant is already using the facility for their business and it is his opinion that continuing to the next meeting would not stop him from doing his business.

Members discussed the location of the property being off Route 6, that there is traffic noise. A buffer could help satisfy Mr. Peck. Trees or a fence to buffer any additional noise. Mr. Mannello showed the Board that there are trees currently there, he is willing to add a fence or additional buffer if that is to be required by the Board.

Chairman Novak summarized the conditions discussed by the Board to limit the hours of operation to 5:00 p.m. and requiring the applicant to add a line of shrubbery/trees or a fence. It was noted that the Board had the information it needed and did not believe there was a need to delay closing the public hearing on their part, that the concern of Mr. Peck to continue was to address issues between him and the applicant, not the Board as there are no additional questions from the Board or need for additional information on the application for the Board.

MOTION:

To close the public hearing on 22-ZBA-2206.

Moved by **GOLDBERG**, Seconded by **DONATO**

Vote: 5-0-0 – **Approved** – Motion Passed

Aye Novak, Donato, Goldberg, Ratzenberger, Volage

Nay None

Abstain None

MOTION:

To add to the agenda discussion and possible deliberation of pending matters.

Moved by **GOLDBERG**, Seconded by **VOLAGE**

Vote: 5-0-0 – **Approved** – Motion Passed

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|---------|---|
| Aye | Novak, Donato, Goldberg, Ratzenberger, Volage |
| Nay | None |
| Abstain | None |

MOTION:

To open discussion on application 22-ZBA-2206

Moved by **GOLDBERG**, Seconded by **Donato**

Vote: 5-0-0 – **Approved** – Motion Passed

| | |
|---------|---|
| Aye | Novak, Donato, Goldberg, Ratzenberger, Volage |
| Nay | None |
| Abstain | None |

It was discussed that the problems with noise and unsightliness could be resolved with a fence or buffer, to which the applicant did not object to doing. In regard to noise, it was noted that Route 6 is already noisy with trucks running up and down all day. Chairman Novak felt that this use is commensurate with the previous uses. Members felt the previous use was more intense, especially with machine use in the building throughout the day. With the proposed new business, employees are out on the road for a good part of the day. Some of the parking of trucks will be inside. Chairman Novak reminded that the difference is “materially” not exemplary. Parking is a commercial use now. The Board is not looking at the overhang at this time. Planner Agresta noting that any physical changes to the outside will need Site Plan approval from the Zoning Commission.

MOTION:

To approve application 22-ZBA-2206 subject to conditions.

Moved by **RATZENBERGER**, Seconded by **GOLDBERG**

Discussion: The motion of approval was to be conditioned upon providing a buffer consisting of shrubs and/or a fence along the property line as discussed during the public hearing, as well as shortening the normal business hours to 5:00 p.m. (Monday through Friday, 7:30 am to 5:00 pm). The buffer location to be in the area along the common property line with the neighbor Peck to the southeast.

Vote: 5-0-0 – **Approved** – Motion Passed

| | |
|---------|---|
| Aye | Novak, Donato, Goldberg, Ratzenberger, Volage |
| Nay | None |
| Abstain | None |

OTHER BUSINESS / CORRESPONDENCE

- None

ADMINISTRATIVE - Meeting Minutes – 11/22/22

MOTION:

To approve the meeting minutes from November 22, 2022, as presented.

Moved by **VOLAGE**, Seconded by **RATZENBERGER**

Vote: 3-0-2 – **Approved** – Motion **Passed**

Ayes Novak, Ratzenberger, Volage

Nayes None

Abstain Donato, Goldberg (both due to being absent at the 11/22/22 meeting)

New Member Jacob Amarando was welcomed by the board.

ADJOURNMENT

MOTION:

To adjourn the meeting at 8:26 p.m.

Made by Novak, with no objections.

Respectfully Submitted,

Anne Firlings

Anne Firlings, ZBA Clerk

RECEIVED & FILED
IN WOODBURY, CT
This 21st day of Dec 2022
at 2:50 o'clock M
Maria Mercie
Town Clerk