

Town of Willington
Planning and Zoning Commission
March 5, 2024
Meeting Minutes

A. Call to Order

W. Parsell called the meeting to order at 7:30pm.

B. Roll Call/Seating of Alternates

Walter Parsell

Bob Shabot

Rebecca Sinosky

Joe Hall

Bill Bunnell

Michael Johansen

C. Applications for Receipt

1. PZ-24-50: Special Permit Renewal, Section 15 Excavation Sand and Gravel at 66 Navratil Rd. Owner: Wayne Williams

D. Public Hearing

None

E. New Business

1. Home Occupation Regulation Discussion

M. D'Amato explained that one of the sections of the regulations the Commission agreed to revisit was Home Occupations. He stated that previously the Commission had talked about trying to establish more clarity, including a tiered system that would be more performance based. Another discussion point was that there is currently no clear ceiling in the regulations as they stand now to control when something gets to be too big as a home occupation. These examples were put in front of you to give you a sense of tiered regulations. We do have different approval requirements and not everything is done the same. One thing we do get a lot of feedback about in the office is that all our Home Occupations are required to submit a renewal annually. This means a tax accountant or any other person working out of their home would have to do a renewal every year, pay a fee and have to go through the review process. I believe for smaller businesses, they feel like it's a bit unnecessary, which is why the Tolland regulations are a useful point to consider. They have major, minor, and what they call a home office. The home office is essentially permitted without approvals, you do not have to go through commission application review, and you don't renew on an annual basis. It does free up those smaller businesses from needing this continuous permit review. With that being said the goal tonight is to just kind of talk about and get ideas. If you have any thoughts on how to structure it and then from there take the regulations we have now, fit them in and fill in the gaps.

R. Sinosky asked if there is a limit to how many small home occupations someone can have on their property.

M. D'Amato said that he's not sure if any of these limit that, but it's something the Commission could consider.

W. Parsell asked if a person working remotely would classify as a home office.

M. D'Amato said no, not unless they were working for themselves or running the business out of the house.

W. Parsell mentioned that our language could use a little modernization. We talk about Radio Repair and TV which is all throw away stuff these days. Computer repair is more modern, not that it matters but it does sound like it was written 50 years ago.

M. D'Amato mentioned the regulation: 11.01.02.10 Any Special Permit issued pursuant to this Section shall be temporary and shall expire upon such date as the Commission may set in its approval of such Special Permit, but in no event more than two years from the date of approval. He stated that you can't provide for the expiration of a special permit because they run with the land. You can require a compliance review, you can have them come back for certain things, but you can't say that in two years this permit is null and void. It is a pretty clear case law now. If you do provide for any timeframes, they can't be less than what's afforded to them through the site plan process.

W. Parsell asked what they are being charged for the annual renewal.

M. D'Amato said that the annual application renewal is \$90.00.

W. Parsell asked what revenue that provides to the town.

M. D'Amato said not much. \$60.00 goes to the state, which leaves \$30.00 to the town.

W. Parsell asked if this is something that's not required if we don't want to do it annually. Like is it up to the commission whether its annual or not no matter what.

M. D'Amato said yes, you could change the regulations so that more minor occupations didn't need the annual renewal. The hard part is that even with the annual renewal if they submit an application for a renewal and I do a review and determine that I don't think it's in compliance, I can't just then say since they aren't in compliance you forfeit your permit. I still have to go through the enforcement process, and the only person that can actually revoke a valid approval is a court. So even if you take them through every year, the process is the same. If there is a violation you send a notice and if they don't comply you go to court. So, this review that we are doing doesn't really afford us the opportunity of just communicating, it's a challenge to get people to actually submit on an annual basis.

W. Parsell asked what percent of the businesses don't submit, or don't pay on an annual basis.

M. D'Amato said in 2022 we had 25% not renewed.

W. Parsell asked what we do about this.

M. D'Amato said that we basically have to track them down. In 2021 it was almost a 50/50 split that didn't renew. Part of that is they may not have been pursued previously for doing renewals or the businesses don't operate anymore, and they don't report it. It fluctuates.

R. Sinosky asked if any of it is tax based. So, if they let the home occupation go are they being taxed less somehow.

M. D'Amato said we do not cross reference between the assessor's office, so if you have any taxable equipment or property associated with the business then you should be filing a personal property declaration with her. Through the EDC we have some business lists, there are around 200 business that annually file personal property.

B. Shabot pointed out that Tolland has a breakdown under the permits required. It goes from home office to minor home occupation, to major home occupation. So, when somebody hits a major home occupation do they need to have a minimum of acreage.

M. D'Amato said yes, and that goes to the commission.

R. Sinosky asked if there is a maximum number of these home occupations before you're not in compliance anymore?

M. D'Amato said no but the intent is that it should be one business. It's subordinate to a single-family home which is the primary use. I am not sure how you could really say you have multiple businesses unless someone was a contractor and then had a spouse working in a home office. We would have to build the language in.

R. Sinosky mentioned that would make your start to exceed your ability to have a home occupation.

M. D'Amato pointed out that at the bottom of the Tolland regs it does say you can have up to two minor home occupations or you can have one major and one minor but never more than one major.

R. Sinosky thinks that would be something to adopt into our language.

M. D'Amato mentioned that currently, having several vehicles which require a CDL to drive with employees and equipment coming and going does not fall under Home Occupation. Having several triaxles on the property, to me, is where not having a ceiling within the regulation creates a little ambiguity. These applications come before you and those are the ones that potentially create the biggest issue. Those trucks have backup alarms, and they idle for long times.

B. Shabot said we know there are situations like that, does it mean we approach them to change the zoning of their property because of that?

M. D'Amato said that in the case of a property let's say they got an approval and meets the requirements of whatever it was when it was there, it was grandfathered in. The bigger issue is that historic interpretation of some of the regulations. So, if we change the regulations, they will become pre-existing non-conforming. At the very least they would be prohibited from further expansion. This sort of locks them in stone, if they want to expand, they will have to come before the commission.

B. Shabot said that leads to another situation. By changing and tightening everything up does that put some kind of pressure on the town to provide or at least think about providing an industrial park site in the community. So that those businesses that are in town have an opportunity to go there and grow.

M. D'Amato said it could, and again the hard part is you don't necessarily know how many of them exist. But after going through the process there are operations which the commission has identified as not being something that could be permitted under the language as adopted. We could then let them know that this is where things stand. There certainly is a lot of rationality behind it.

M. Johansen mentioned that if we changed things like you mentioned, what kind of enforcement is there. I mean you are chasing down the 25% right now and if you get them, you get them if you don't you don't. You said the courts are the only ones who can really take something away. So, we could set these in but what kind of teeth would it actually have to enforce it.

B. Shabot mentioned that some of these businesses start going well and getting their second and third trucks then the neighbors start to have concerns. What would be nice is if you wanted to keep your business in town that as an option there was a commercial piece of property that you could go to and remain a business in Willington. When you move a couple pieces around something else needs to adjust and compensate if you want to be fair to a business community.

R. Sinosky asked if the special permits had to be renewed yearly.

M. D'Amato said this is where it gets a little tricky. Before me, applications would come in for a review, staff would look at it, and they would issue the permit. The regulations are very clear that these permits should go to the Commission, so I couldn't even tell you who are renewing and how they were approved because all the renewals have been done through staff. Another thing we could

think about that is similar to what we have done for sand and gravel, which is basically a section about voluntary compliance and acknowledging in the regulation that you know home occupations that come before the commission and have an existing operation will be treated in a manner that is considered permitted. If they wanted to do anything further from an expansion standpoint they would need to come back. We could build something in there so that people that have been doing this for years don't get caught in that weird situation, where they hadn't had standards, or they've been getting renewals for 10 years and now they're feeling like this is changing things. To your point we don't want to encourage these businesses to go elsewhere. We just want to prevent the rub which could come with residential properties and neighbors.

W. Parsell that way they can kind of get a public hearing.

M. D'Amato said that's how Tolland treats the major home occupations.

W. Parsell mentioned that if they are going to expand a business now, they have to come before you anyway, like if it is going to be outside of what permit is for then they should come in for review anyways.

R. Sinosky asked if we could change the number of years based on size for the renewal.

M. D'Amato said we could expand the renewal length based on the demonstrated compliance.

B. Bunnell said that sometimes it's useful to offer an amnesty for people who have fallen by the wayside so that they don't feel concerned about coming up to date and not being penalized.

M. D'Amato said there are some businesses that are not at all tied to what I would consider to be a home occupation that we get renewals for. I think we can straighten some of that stuff out.

W. Parsell asked what we are trying to prevent here. Is it just a business being too large to be considered a home occupation and basically annoying the neighbors.

B. Shabot mentioned that when we get beyond the home office, we need to keep an eye on how big these things are getting.

R. Sinosky mentioned that it sounds like we like the home office, minor, and major home occupation. Dividing it into those three categories.

W. Parsell said that's Tolland's terminology. And asked if M. D'Amato liked Tolland or Clinton's better.

M. D'Amato said he likes the simplicity of Tolland's but prefers the layout of Clinton because it's all in one place. Its very easy to see how you go from one to the other. As far as terminology goes there are some standards. For instance, a major home occupation in Tolland would classify as a rural Business in Ashford. We could adopt the same language. Another thing that the regulations are silent on are vehicles. We have some stuff in the regulations that speaks to it, but it's unclear.

B. Shabot said he would like to stay away from the idea "Rural Business". I like to think of Willington as rural, but not all these home businesses.

M. D'Amato said he can take the format that you see with the table and use the language that's currently in the regulations to try and essentially feed our current criteria into a table format. Then we can look at what that is and kind of see where the blanks are. You can then figure out from there how you want to slot stuff in, and we can also talk about making amendments. This will help us see how are regs lay out in a different style.

W. Parsell stated that he doesn't believe any Commissioners want to be an impediment to business and create more layers of bureaucracy. We just don't want things to get out of hand and bother the neighbors.

B. Bunnell asked about disposal of products on property.

M. D'Amato said that we've talked to the state about this. If it's being disposed of on the property by the generator, then they didn't care. Through that discussion, the health department had concerns about burying concrete that could create voids that would later sink or be placed in septic reserves. Now when you apply for a foundation replacement, we flag any property that says the disposal will be on site so that we know.

B. Bunnell asked if it makes sense to ask them what their plan is for debris.

M. D'Amato said yes, we are notified when they tell us they will be disposing on site.

B. Bunnell asked if it was the same for the contractor, if they say they are disposing off site do they have to specify where.

R. Sinosky asked if the price changes if the permit is for a longer duration or if it is just a flat fee.

W. Parsell believes a minor occupation shouldn't have to pay every year but that they should check in every few years.

F. Unfinished Business

None.

G. Approval of Minutes:

02/06/2024 – W. Parsell motioned to approve. B. Shabot seconded. All in favor.

02/20/2024 – R. Sinosky motioned to approve. B. Shabot seconded. All in Favor.

H. Correspondence

W. Parsell asked if there is any correspondence.

M. D'Amato explained that they did receive the annual renewal from the Connecticut Federation of Planning and Zoning agencies and asked if it's something the commission wants to join again. It's \$130.00 for the year. They send legal updates on a quarterly basis of any case law that's happening, and they have an annual meeting. We have it in the budget, I think it's something the town has been doing for quite some time. We can continue with the membership unless we don't want to.

B. Shabot and W. Parsell both think that it's a good idea to stay in touch with.

I. Public Participation (items not listed on the agenda)

None.

J. Staff Report/Discussion

1. 327 Ruby Rd--TA Travel Center: Water Improvement Plans

W. Parsell asked if they were building a drinking water treatment plant.

M. D'Amato said yes. They are going to put in a very small 28'x28' building. He said that the engineer that was brought on by TA has been battling an ongoing issue with the drinking water system. The existing drinking wells on the property are not able to sufficiently keep up with the demand. They are going to be redesigning the system and adding additional wells to basically treat and provide water that's needed for the property. The proposed wells along with the existing ones will lead into the proposed water treatment building where higher levels of naturally occurring iron and manganese will be mitigated before heading to the existing underground storing tank. They don't really have an opportunity to put it anywhere else and I don't personally think this is something that rises to the level of needing a review by the commission. We have a survey and a site plan that meets the criteria. It's not creating any non-conformities, but I wanted to bring this to you to see how you wanted to handle it. If you wanted to just do it as a staff approval, we will review this similar to an accessory structure.

W. Parsell stated that he agreed this could be done as a staff approval.

R. Sinosky asked if this has anything to do with Roadway Inn.

M. D'Amato mentioned that the engineer on mentioned the TA.

B. Shabot asked if they mentioned how deep the well is going to be.

M. D'Amato said that they did not but that he imagines it qualifies as a public water system under the state guidelines. It's something they have to do. There is an existing pump station, and the newer one is going to be a little bit larger. It will be further back from the road where the current one is very close to the road. This existing pump station is noted to be remodeled.

R. Sinosky asked if it was far enough away from parking spots.

M. D'Amato said we don't have anything that says it has to be a certain distance as long as it's not going to interfere with any accessibility issues.

W. Parsell said there is no reason the staff can't handle this.

B. Shabot just wanted to bring to attention that the proposed pipeline does go into the setback area for the wetland.

M. D'Amato mentioned that the wetland does overlap the existing parking lot. We will work out with them if they do end up needing a wetland permit.

W. Parsell said to ask them to plant some shrubbery around this pump house if it is going to be visible.

K. Adjournment

W. Parsell adjourned the meeting at 8:30pm