

MINUTES OF WEST HARTFORD PUBLIC HEARING
Ordinance Permitting the Establishment of Certain Additional Uses in
Industrial Zones
MAY 25, 2010 7:15 P.M. LEGISLATIVE CHAMBER

President Scott Slifka called the Public Hearing to order at 7:19 p.m.

President Slifka: We will open the 7:15 Public Hearing. The subject matter is an ordinance permitting the establishment of certain additional uses in industrial zones. Roll call please, Ms. Labrot?

Present were Councilors Steven Adler, Shari Cantor, Leon Davidoff, Rob Durbin, Denise Hall, Scott Slifka and Joe Verrengia. Ms. Casperson arrived at 7:22.

Absent: Tim Brennan

President Slifka: Thank you. Mr. Van Winkle, you're up again.

Mr. Van Winkle: Yes, sir. If you go back in history to the earliest zoning, the first zoning ordinances were adopted in Euclid, Ohio and zoning got the name Euclidian Zoning from that and early zoning said we should separate those ugly uses, those noisy uses, those polluting uses from those residential uses so when you had a fat rendering plant which is what the original zoning laws were set up to separate you put that off in one section of town and the housing would be in another section of town so early zoning separated those uses. As we stand here in 2010 we are seeing industrial uses that are much more compatible to neighborhoods and in particular compatible to other commercial uses so before we would have separated out some retail, professional service kinds of...personal service kinds of uses away from the industrial uses today on a New Park Avenue we could easily see a mixture of uses there including things like daycare. We have several businesses that have looked at that area and suggested that they would like to locate there but our zoning regulations don't allow them. The industrial zoning regulations are something that we're going to spend some time this year taking a look at to make sure that we, in fact, have regulations that provide the best opportunity for business growth. As early in the late 1980s when we were doing our plan of development the Council actually considered mixing uses in that industrial area and then decided not to at that time but it's quite clear that on New Park and other areas that the mixing of commercial uses, you know, this is the stores, the commercial kinds of uses with the industrial uses is quite appropriate in these districts and so this ordinance merely allows some of those additional commercial uses to be located in those industrial zones in the southeast corner of town.

President Slifka: Thank you, Mr. Van Winkle. Any questions, comments from the Council? Mr. Adler?

Councilor Adler: Through you, Mr. Mayor. Well, first of all I am very happy to see this resolution. I think this... You know, when we go back and we take a look at the last, you

know 100 years, I mean in terms of manufacturing and kind of industrialized type of businesses things have changed quite differently in terms of what we looked like as a municipality and as to where we are today and for the future. Are you... I guess the question through the Mayor to you, Mr. Van Winkle - Are you...? Are we thinking about certain things that are kind of driving this resolution and have we identified those commercial zones that in fact may not necessarily need to be industrial zones anymore? They could be mixed use and again I think we are heading in a great direction with this resolution.

President Slifka: Before Mr. Van Winkle may I say... I just want to note for the record Mrs. Casperson is here. Let's go back to the Manager.

Mr. Van Winkle: Yes, certainly that's one of the questions. We actually have four different industrial zones and in a town this size to have four different zones just doesn't make a whole lot of sense so we need to go back and look at what we call an industrial zone, redefine it and look at the uses we allow and certainly in some areas we should be thinking about turning them at minimum into general business zones, BG zones like we have on New Britain Avenue - it's a BG zone - to bring those kinds of uses farther into these areas but it's going to be a study and a discussion that we'll do with our Community Planning Committee and bring back to the Council for their consideration later this year.

Councilor Adler: Through you, Mr. Mayor. That was helpful, Mr. Van Winkle. Are we with...some of the changes...? So at the end of the analysis or where we end up with mixed-use zones based on the resolution do you see amending or updating the Plan of Conservation and Development from a zoning perspective just to, you know, be able to say that our footprint for the future over the next 10 years really is going to be quite different from your perspective?

Mr. Van Winkle: I think the plan we just adopted does some of this but it is certainly a good example of what...we would not only look at the ordinance but look at our Plan of Development and make sure that those two fit together correctly. I just want to emphasize one thing is that we still end up with industrial zones. We still end up with uses that may not be compatible to a single family house without question and so although we may look at additional commercial uses and potentially some multifamily uses in restricted areas or where we can separate them this is primarily a change here today and that we'll look at the future about bringing more of those commercial uses into those industrial zones and making it more successful there so we'll go back and look at the Plan of Development also and have that discussion about have we articulated correctly what our development goals are for these areas.

Councilor Adler: Just in closing I just think this is great stuff so just for the record I think it's great that we're evaluating this.

President Slifka: Thank you, Mr. Adler. Anything else from the Council? Okay, Mr. O'Brien, the sign-up sheet? And while he's doing that Mrs. Cantor, if you could read the items for the record.

Councilor Cantor: Thank you. A letter dated May 4, 2010 from Theodore Doolittle, Chairman of the TP&Z recommending approval for ordinance permitting the establishment of certain additional uses in industrial zones and a letter dated May 19, 2010 from CRCOG finding no apparent conflict with regional plans and policies or the concern of neighboring towns for the ordinance permitting the establishment of certain additional uses in industrial zones. I move that we receive.

President Slifka: Should we...

Councilor Cantor: I mean, read. Yes. Okay.

President Slifka: Just read in the records. It's been read in the records. Thank you. Okay. Moving to the sign-up sheet we have three. Excuse me. The first is Francis Arbuglio.

Mr. Arbuglio: Thank you. Good evening everyone. My name is Francis Arbuglio. I also represent my brother, Joseph Arbuglio. We both live at 31 Grassmere Avenue in West Hartford. I'm talking about the topic that we talked about back on the 17th of March about the safety issues. We still have ongoing problems. Nothing's been corrected still. McKenzie still drips up and down the street. You also have numerous ATV machines, dirt bikes...

President Slifka: Mr. Arbuglio, I'm sorry. You had signed up... I'm reading off the list to testify for the ordinance...

Mr. Arbuglio: Yes.

President Slifka: ...that we're doing in the Public Hearing.

Mr. Arbuglio: Yes.

President Slifka: This sounds like something you would bring up generally to the Council. Is it...

Mr. Arbuglio: No. It's just that Ron Van Winkle told me to bring up what makes this hearing about.

President Slifka: Is this...

Mr. O'Brien: There's a letter on the Agenda.

President Slifka: Oh.

Mr. Arbuglio: Yes.

President Slifka: Oh, okay. So this is... I'm sorry. This is relating to your letter later?

Mr. Arbuglio: Right, the later letter and...

President Slifka: Okay. I apologize, Mr. Arbuglio. This was...

Mr. Arbuglio: Oh, no problem.

President Slifka: We have to bring you up later for that. This is the Public Hearing on the ordinance so...

Mr. Arbuglio: I understand. I do have a letter for this hearing now too.

President Slifka: Oh, you do? Okay. I misunderstood.

Mr. Arbuglio: Yeah. No problem.

President Slifka: I'm sorry. Go ahead.

Mr. Arbuglio: Alright. No problem. I'm just saying that nothing has been corrected since I was here last time. It's still ongoing and nothing's been corrected at all and I would like to know if the Town Council read my packet that I submitted to you people and what are you going to do about this ongoing problem? I mean, what if we start getting these ATV machines and dirt bikes tearing up the dike, ripping up the street? I mean, McKenzie working beyond his hours racing up and down streets. When's it going to go? I mean, when's it going to stop?

President Slifka: Mr. Van Winkle?

Mr. Van Winkle: Yeah, if I could. Obviously drag racing in the street is not an appropriate use of our public streets. Unfortunately a police officer has to be there and see it and I know you've called and by the time we get there it stops.

Mr. Arbuglio: It's already stopped.

Mr. Van Winkle: Yeah.

Mr. Arbuglio: It's ended.

Mr. Van Winkle: It's already stopped so we can't do a ticket because we have a citizen's complaint. We actually have to see the violation so we need for you to continue to get a hold of the police, ask them to get out there when you see that so that we can catch this incident. We have talked to the business that's there that you suggested was doing the drag racing. That hasn't gotten us very far with this so if we see the drag racing, if you call the police they will come out. I talked to the Chief just recently about that and he'll certainly make sure we get out there. Also, on the dikes there are some ATVs that have been using the hills on the dikes to have fun on.

Mr. Arbuglio: And they're getting pretty damaged. It's still going on.

Mr. Van Winkle: And again, inappropriate and they shouldn't be doing that so if you see those you need to just get a hold of...

Mr. Arbuglio: Even in the street and also too, that Suburban guy I'm talking about. He's still dumping toxic stuff in the road. That hasn't stopped even. It's still going on.

Mr. Van Winkle: We went down. We received a complaint from Mr. Arbuglio about a toxic dump on the street. We went down. The Health Department went down. The Fire Department went down and could not discern anything. It was gone by that point in time.

Mr. Arbuglio: Well, Saturdays and Sundays it's still going on. They come around about twelve, one o'clock. It's still going. Their stuff is slippery. It's flammable. I don't know what to do with this guy. You guys don't want to listen. It's like McKenzie. They don't care. I mean, there's no respect for people. I have also a picture to give to you people right here. This is McKenzie's yard. They maintain nothing. It's all weeds. It's like a jungle over there. He doesn't maintain nothing out there. It's an absolute disgrace. The backyard is just as bad as that picture facing my house when I look out my window. I maintain my property. Jake does the same thing. He don't maintain nothing over there either. I mean, you see, sir, they get away with everything. No fines - nothing. Work beyond their hours. They know they can get away with it. I mean, when are we going to start keeping these people in line, Ron? I mean, we lived there for a long time. We never had this problem. Sal Petri used to own that building over there. ..Al Skoen... We never had a problem. Since McKenzie got there and they took over his property it's a big problem. I got contaminants to my property for no good reason so I have expense of attorneys.. I mean, when it is going to stop?

Mr. Van Winkle: And our issue, of course, is that we do have to catch him in the act of doing these things and we haven't been able to do that.

Councilor Adler: Through you.

President Slifka: Mr. Adler?

Councilor Adler: Through you, Mr. Mayor. Mr. Van Winkle, have we... Has the P.D. actually met with these people to, you know... I mean it seems like there's...80-90 percent of this issue is the relationship. I mean, have we sat down and tried to kind of talk with these people? I mean it's...

Mr. Van Winkle: Yes. Actually, Jim Strillacci and myself met with Fran and Joe several years ago in their kitchen, sat in their kitchen and talked about it. Certainly staff has been down there and talked to them about these issues. This is a great example of what I talked about earlier of separating uses. They have a single family house. It's been there for a long, long time.

Mr. Arbuglio: My grandfather, my father's father built that house there.

Mr. Van Winkle: And...

Mr. Arbuglio: Used to farm there.

Mr. Van Winkle: Right. And on each side of them is a fender banger, an auto body shop and obviously not a great place to have a single family house in between those two and so they have to put up with a lot of noise and things that we would probably not enjoy living next to. It is one of the things that when we do separations, when we look at the way we zone the properties we need to take those hard uses and make sure we put them in a zone so that they aren't next to any residential uses we might... Unfortunately this is a long history that goes back many decades where this industrial area was built up around a single family house. There's two single family houses in the neighborhood?

Mr. Arbuglio: Yes. There was no operating permit there..do we do something about it? (Microphone off)...The same with McKenzie..oily parts all over the ground, no closed in dumpsters, it's still going on. When's it going to stop? I've seen his oil tank over there ..it keeps going on.

Mr. Van Winkle: Just to go back, we can enforce on these kinds of issues. We have to catch him when he does it so the DEP has been out to the site several times and has not found a violation that they can enforce. A pollution violation is not a town ordinance, it's a state ordinance, but zoning violations, the ZBP, the Zoning Board of Appeals, approves a special permit for this type of use and has renewed this permit. Mr. Arbuglio has attended those meetings and presented his case and they have decided to renew those licenses each time they've come up so it's been their determination that they could not prove the allegations that are made. Until we can get... We have no interest in having someone drag race down the street. We have no interest in protecting someone who is violating our zoning codes so if we can catch them and prove it we will certainly enforce them.

President Slifka: Mr. Arbuglio, your mike... Hit the button again.

Mr. Arbuglio: Okay. I'd like also to mention to you that the problem is on both properties. They have been submitted to this town that shows that it is related to McKenzie Automotive and it's also related .. and the thing is this. The DEP tells me that it's up to the town to start keeping these people in line. They can't keep running every minute, keep these guys in line. Like McKenzie. He hasn't put a closed-in dumpster yet. He's still got the oily parts dumped in an open truck. The rain comes, it still leaks into my property. I mean, when is the town going to start doing something about it? Like the stacked floor he supposed to remove. That hasn't been removed yet. The pile of the toxic plywood in back of there is still sitting there. That hasn't been removed. DEP says that's the town's problem to get rid of. Why haven't we done anything about it? I mean, when are we going to start doing something with these people, keep them in line, get after the landlords, get after McKenzie. If he can't follow the orders then revoke his operating permit and tell him to move somewhere else and pollute. I mean I've got to stick to my property where I got a home. I can't keep going like this.

President Slifka: Okay. Thank you very much, Mr. Arbuglio.

Mr. Arbuglio: Okay, thank you very much.

President Slifka: The next speaker is Robert Milne.

Mr. Milne: Robert Milne, 3 Osage Road. I'm here on behalf and I'm speaking in support of Francis and Joseph Arbuglio. I have interviewed them personally. I have visited the location and I think there are things that can be done over and above a 15 minute hearing and a change in the ordinances. Specifically, Mr. Van Winkle's comments about the sort of event where police have to see something to do something about... I presented a case for you specifically where it involved a situation where the police made allegations with no witnesses at all and pursued to a ticket so I think there's some inconsistencies with regard to the behavior of the police department. There is clear evidence out there from what I've seen that suggests there's a pollution problem. I've seen the evidence that was shown to us with regard to the issues of the dikes. There's evidence out there. I've seen the staining on the streets that appears to be something related to a chemical type of discoloring of the pavement which was right in front of somebody who apparently does dry cleaning. I've seen evidence on property where piping from a parking lot was wrapped around a garage and dumped onto somebody else's property and I can also attest from the 200 and something items that I've been here with there's generally a lack of comprehensive and fair enforcement across the board. Oftentimes when you start looking at this... Again, one of the people that live on that street happens to be an alternate and substitute for the Town Council and is associated his ownership and part of the history and problems with some of this so, you know, I've spoken here before and I think I understand, you know, you publicly say that you do one thing. It's another thing that behind the scenes it's not being done. The enforcement's not uniform. It's not fair and I think in speaking and visiting with Mr. Arbuglio and his brother it's clear that you've exacerbated the situation out there and it seems to be pretty regularly a lawless kind of situation out there and I don't think anyone should have to worry about a speeding vehicle or have to have the police see it. A picture says a thousand words and patrolling in an area does another thing. I have specifically mentioned these kinds of things to the police department about people going through stop signs on my street, speeding, and the police department did absolutely nothing so I'm going to disagree with the arguments and the objections to how you're receiving Mr. Arbuglio. I support him completely and I think the town needs to take on a more politically neutral response to this and should at least open it up to a comprehensive Public Forum in the interest in getting this information out and learning specifically what is the impact that these changes are going to have and whether the town is going to commit itself to comprehensive enforcement on all levels of safety, pollution and any of these other neighborhood nuisances. Thanks.

President Slifka: Okay, the next speaker is Linda DiNapoli.

Ms. DiNapoli: Good evening folks. I'm here pretty much to discuss the NIMBY issue. What NIMBY is for those of you at home who might not know, I'm sure the Councilors and Council does, it's "not in my backyard." If it's not in my backyard I don't care. The Arbuglio brothers are both very good friends of mine. The nature of my business allows

me to travel by their home morning, noon, afternoon and evening. There are significant serious problems there. We have a town of intelligent police officers and police chief and they can clearly find a way to solve this enforcement. I've witness first-hand the abuse and total disregard on the part of the businesses on this street. They're disregarding their operating laws and permits. These activities are clearly not following zoning policies. As you all know, when the Zoning Department wasn't able to answer my question they told me to buy the book. I did. Probably the worst thing for them. The town called me when I was a landlord. I lived in New York City. I had a zoning issue. They insisted that I come and remediate it. I did. They were right. I took care of it. I think it's very suspicious that they are not contacting the abutting landlords to the Arbuglio brothers and having them get their tenants under control. I also was there one afternoon and there was a substance on the street, down the street a way from the Arbuglio's toward the dikes. We put a match to it. It may not be the BP spill but it went on fire. I call that pollution. I'm not a scientist. It needs to be checked. There are all kinds of ways to find people who do things that are incorrect. It's like when I wanted somebody to be in my property to view the speeders on the street. I gave times, dates and homes that were willing to allow these cars to sit there. They didn't come within those periods of time and basically the report I got was it was all the people who lived on the street which I found interesting. The town took legal action against Mr. Beckerman. I agreed with that. I asked about it. His house is going to be razed because the abutting neighbors rightly so complained. Mr. Arbuglio complains and has been for a number of years and I think that it is now time for the town to take a handle on this situation, contact these landlords and have them take care of the situation. There should not be a double standard by the town. You know, they can't be treated different than Mr. Beckerman or different from the landlords of those properties and by the way, for those of you who have access to a computer I would suggest that you go online and look at who the landlords are on Grassmere Avenue. I think you'll find some interesting information. The dirt bikes, ATVs going up and down the dikes I have personally been there and seen them. I've seen the pollution that is in the back of the Arbuglio property. I complained myself personally. I went there personally to the Zoning Department. The employee I complained to unfortunately is no longer employed there so... I find that the Zoning billing departments are good at a couple of things - filing papers. I don't get a lot of answers to a lot of things that I ask and it's time to stop that. These people are making a lot of money. They have to be accountable to me and everyone else. We don't want to end up like a city like Houston, TX where John Connolly, Former Governor John Connolly's house ended up next door to a gas station. The community needs to be operated so that all departments have accountability to the public like I said.... and to go offline for a moment I'd like to state once more that regarding the referendum...

President Slifka: Ms. DiNapoli, this is a Public Hearing on an ordinance...a zoning ordinance. That would be inappropriate. You're on the Agenda for later this evening and you're welcome to state....

Ms. DiNapoli: Well, I may not make that as you well know. Thank you.

President Slifka: Okay. That concludes our sign-up sheet. Is there anybody who did not sign up who wished to speak to the ordinance that is the subject of this Public Hearing?

Okay. Seeing none is there anything further from the Council? Okay. With that I will close the Public Hearing. Public Hearing closed at 7:44 p.m.

Essie S. Labrot

Essie S. Labrot
Town Clerk/Council Clerk

/sab

APPROVED AT JUNE 8, 2010 TOWN COUNCIL MEETING