

**MINUTES OF PUBLIC HEARING ON AN ORDINANCE FURTHER  
REGULATING ADULT DAY CARE FACILITIES**

**AUGUST 2, 2005                      COUNCIL CHAMBERS                      1197**

President Scott Slifka called the hearing to order at 7:06 p.m.

Present were Councilors Barbara Carpenter, Chuck Coursey, David Lemkuil, Scott Slifka, Art Spada, and Joseph Verrengia. John Tucker sat in for Shari Cantor and Bernard Kavalier sat in for Art Spada.

President Slifka: We have a couple new faces. Mr. Tucker you have been here. Mr. Kavalier welcome back, and we have our acting Deputy Mayor this evening, Mr. Coursey. Would you please read the subject.

Acting Deputy Mayor Coursey: Ordinance further regulating adult day care facilities.

President Slifka: Thank you, Mr. Coursey. Mr. Alair, do we have a presentation from the administration?

Mr. Alair: Yes we do, sir, a brief one. The ordinance before you actually, you may recall, arises out of a request, a formal communication to the Council by Attorney Lee Ross, who is here; and I am sure will be speaking to the ordinance on behalf of his client. We have for a number of years had on our books regulations relating to adult day care facilities and defining two classes of facilities. An adult day care home which is one through five clients cared for and an adult day care facility which is six through twelve. When the ordinance was first drafted, there was a third category, an adult day care center, which was twelve or above, or more than twelve rather. The Council at the time, not having had any experience with these kinds of facilities, was reluctant to allow for the creation of facilities in this largest category; and therefore, at the hearing struck that piece from the ordinance.

Now with the passage of time and with the increase in the familiarity with this product, if you will, in the marketplace, the proposal was made by this applicant to add back in that twelve or more than twelve category, the larger centers. At the same time, in order to actually have one of these centers located as a main use, all of the existing ones in West Hartford are adjunct to hospitals, Hebrew Home, facilities like that. So in order to allow one of

these facilities as a stand alone, it has to be a permitted use in our zoning ordinances. So the ordinance in front of you does two things. It adds the category of twelve and up, this largest category of adult day care center to our regulations regarding how these facilities must operate in their permitting process. And then on the zoning side it permits these facilities, it permits all adult day care facilities, regardless of size, as a permitted main use within the BG zone, that is a zone that specifically the location that this applicant is looking at is going to be along New Britain Avenue in Elmwood. It is permitted as a special use permit use so if you were to adopt this ordinance tonight, this applicant would need to go to the TPZ and submit a special use permit application and go through a hearing process reviewing the details of the application.

Now that in essence would have been my entire presentation up until a couple of days ago when I heard from the fire marshal that in January of next year there will be some changes to the fire safety code and some of those changes actually, definitional changes, that are slightly different from our definitions of these categories. So we will be coming back to you with a further ordinance, an additional ordinance that will redefine the definitions in here to be consistent with that code that goes into effect in January. Rather than hold this up tonight, we propose to come back with a second ordinance.

The other component that that is going to have in it is that when we took this ordinance to the TPZ, which recommended approval, one member of TPZ had some fairly strong views that the ordinance is actually too restrictive in its current format. So what we started to do, at least on a staff level, is see if we could expand where these uses are permitted. Certainly maybe not the twelve and up category but the smaller ones and see whether they are possibly appropriate for other zones as well. So we will be coming back to you with an expanded version of this. But we did not want that to slow down this process tonight and this applicant and what he has tried to do since he did bring this issue to our attention, and it is an important issue for us to resolve.

President Slifka: Mr. Alair. Any questions for Mr. Alair at this time? Mr. Kavalier and then Dr. Thornberry.

Councilor Alternate Kavalier: I was just curious as to why it was left open ended twelve and up and no outside range on the high side.

Mr. Alair: Good question. No one actually really discussed that. The original ordinance that was drafted back, I want to say back in 1999 if I remember correctly, had that category in it; and when we sought to sort of reintroduce it, we sought to reintroduce exactly what had been proposed originally without going back and really reinventing that wheel. So we never really discussed the issue of a maximum. That really gets resolved as a practical matter through the special use permit process. If you proposed a facility for 200 clients, the TPZ will look at you as if you are insane in most cases. So it would get resolved.

Councilor Thornberry: On the same subject wouldn't that also be resolved with capacity issues on a square footage basis as to actually how many people can occupy a particular space with the fire code?

Mr. Alair: Absolutely.

Councilor Thornberry: With the laws, too? But what I wanted to ask you is is there is a body of state statutes that deal with day care, the running of day care, who can work in day cares, and the requirements and all that? Is there another body of state statutes that deal with adult day care facilities?

Mr. Alair: I don't believe so. I think part of the reason that we adopted these regulations in the first place was because there were state regulations on child day care but not on adult day care. Now that may have changed. It has not I am being told. But certainly when we first got into this that is why precisely we did it, because they weren't there.

Councilor Thornberry: I didn't think so either. So that is something we may want to look at. The other thing, too though, I was interested in and I discussed this with Councilwoman McClay, was that the provision in the ordinance has to do with having a first aid kit at the facility that meets the requirements of the American Red Cross. As many of my fellow councilors know, I have been working on heart defibrillators to have them in public buildings. I would like to see a requirement in an adult day care that there be a working heart defibrillator there as well. I don't think a change of this sort would so change the ordinance to require a new hearing. This would not be a real substantive change, I don't believe.

Mr. Alair: That would, of course, be up to the Corporation Counsel if that would be a substantive change.

Mr. O'Brien: I don't think so.

Mr. Alair: I am inclined not to think so either; but certainly if the Council was uncomfortable with changing it at the hearing or at the table, we could do it in the round two which we proposed.

Councilor Thornberry: Right, exactly. That is all I had. Thank you.

President Slifka: Thank you, Dr. Thornberry. Mrs. Carpenter.

Councilor Carpenter: Mr. Alair, you said that when the TPZ looked at this, they thought that part of it was too restrictive. Could you explain to me what part of this proposal was too restrictive?

Mr. Alair: To be clear one member. There were four sitting at the time, and one of the four felt that it was too restrictive. The concern that she had was that by permitting it only in the BG zone, that the smaller family day care facilities, the six to twelve category and the zero to five category, only in the BG zone was just unnecessarily limiting, that somebody who wanted to have one of these facilities as an adjunct use in their own home. For example, the smaller ones, which were really just contemplated, would be allowed to do that. And to that extent, I think she is probably right. Remember when we first visited this, particularly in committee, we were focused on these larger facilities and so that is what we crafted the ordinance for; and we crafted it to be very focused on them, and we weren't really considering the smaller one, which in retrospect, I regret. I think we should have dealt with it at the time. But again, rather than just stop it here and have this applicant unable to proceed, we thought let's do this piece because again TPZ did recommend favorably and follow up with that second piece later. That won't take this back but will add to it.

Councilor Carpenter: Thank you. I also wanted to make note that I did visit this site of the adult day care facility. I went through the house and looked at the property. I was just really impressed with the work that is being done. I know a lot of work is being done. Thanks.

President Slifka: Any further questions for Mr. Alair? Attorney Ross, would you like to step up to the podium.

Attorney Ross: Good evening, Mr. Mayor, members of the Council. My name is Lee Ross with Cohn, Birnbaum, and Shea, and I represent Andrei Brel and Juniper House, which is the, hopefully, potential applicant once we have this ordinance changed. Just a little background for you. 1086 New Britain Avenue is the property we are talking about. Mr. Brel had purchased this about ten months or so ago with the intention and hope of transferring his existing adult day care facility, which is now in a lease premise in Hartford, to this location. In addition to the adult day care, he was also providing home meal delivery service, which we have gotten the approvals for and the work is being done, and the permits should be issued very soon and that will begin almost immediately.

What we hope to do is gain an ongoing existing operation that has been in place since 1990, I believe. It is a very successful private enterprise. It does receive state and it does receive federal funding, programmatic funding, but I have read articles about some of these facilities that have not survived. This has been a very successful one. It is surviving and thriving. It serves at the moment twenty individuals. That is the anticipated amount in this proposed application. In reviewing the regulations, it just turned out we couldn't do it here and through discussions with town staff and with the Community Services subcommittee, we were able to work out this language.

There was a question earlier, I think it was Dr. Thornberry, about the federal, state regulation, and you know this is one of those rare instances where the state has not regulated something and adult day care is not regulated by the state. I think that was the impetus back in '88 or '89, whenever the original ordinance was proposed, where there would be local regulation of this. There is a state-wide association, the Connecticut Association of Adult Day Care Centers, which has a licensure process, a certification process rather. They work with state officials with all the ancillary stuff, including any medical requirements, any code requirements, and things like that. And this facility is certified with that organization. So what we would like to do is have the opportunity to bring this operation to West Hartford. The majority, if not all of the individuals, served at the moment through the program are from West Hartford. Because it is a lease premise right now, there is uncertainty that that lease will be up. So Mr. Brel, I think, wisely had

purchased the building with the anticipation that this will be a permanent place to do this.

What I would like to do now, if there are any questions, I would be happy to answer them. If Mr. Brel, would you come up and answer any specific questions about the program itself. The building, to answer one question, because I did ask him while we were sitting, the top floor, right now is going to be used for storage. The basement is the kitchen area, the first floor will be sort of the recreation, general areas, and there will be an office upstairs. It is anticipated because of the size of the program that those will remain as storage, recordkeeping, and that kind of thing. That will all be part of the proposal when we bring it before TPZ.

President Slifka: Why don't we bring Mr. Brel up; and if there are any questions for you or for Attorney Ross, we can ask them at the same time. Mr. Brel, did you want to say anything at the beginning?

Mr. Brel: Good evening. Thank you very much for your time and that you find some time to take a look at my issue. I appreciate it. A few corrections, we have about 25 people right now. And we anticipate the same amount of 25 people in the Elmwood section, if it happens some day. Juniper House is pretty successful. We are open seven days, seven days a week. We know what we are doing. We have our loyal clients, and they will follow us to the Elmwood section when we open. I am ready to answer any of your questions.

President Slifka: Are there any questions for Mr. Brel from the Council?

Councilor Thornberry: Good evening. Could you tell us a little bit about the cliental that is served by your adult day care.

Mr. Brel: Yes. The average age of my clients is about 80 years old. It is definitely elderly, mostly. I don't want to say it is frail people, because what I am running now is a social model day care, which means these people do not need a lot of medical help. But they do need supervision and they need meals and they need some kind of activity and recreation. It is pretty evenly divided between gender, women and men. Many of them speak Russian because we are specialized on serving people who do not speak English or have limited understanding. We have transportation and we bus people.

We bring them to day care and we bring them home. We have a very educated staff, extremely loyal and extremely caring staff. At the new place we will have a nurse all of the time, which will bring us peace of mind, of course, and these expanded services for our clients because right now we have a nurse on call only if it is necessary.

Councilor Thornberry: Thank you.

President Slifka: Thank you, Mr. Brel. Are there any further questions?  
Mr. Tucker.

Substitute Alternate Tucker: Good evening, Sir. Can you indicate what kind of training does this staff have? Do they have any kind of formal training to care for their charges?

Mr. Brel: Yes, sure. Even despite that adult day care is not regulated by the state, it is extremely difficult to open an adult day care. It is a peer review process. You have to get a license, the kind of approval done by the Association of Adult Day Care. They have a policy, thick like this, that you have to go page by page where all the requirements for clients, for staff, for faculty, for fire. It is very complicated and a very strong document. What you have in every day care is their own policy, of course, based on the association's policy. Before the association granted to you the license, it was the Department of Social Services, who were regulating day cares before. That is why I cannot say it is not regulated. It is not officially regulated, but we follow all the rules. The requirements for the staff are very strict. For example, the director of adult day care is mandatory to have a Bachelor's degree and at least five years of experience working with elderly population. For example, recreation directors must have recreation degree in this area. If you are talking about drivers, they must possess a commercial driver's license or public transportation license. We check referrals, we check in crime, all kinds of safe guards before we hire someone to do our work.

President Slifka: Mr. Tucker, any further questions? Mr. Lemkuil.

Councilor Lemkuil: Yes, sir. Now you mentioned that the bus, or some type of transportation, would bring them to the facility and bring them back home. Is it door-to-door service? My next question is kind of related. Are

all activities going to be at the premise, 1086 New Britain Avenue, or will you be taking field trips?

Mr. Brel: Thank you for your question. How I see this business is that most of the activities will be inside the Elmwood center. It is a few issues here. It is going to be a medical model day care, which our clients will be more frail than I have right now at the social model. The facility itself, inside and back yard, is beautiful enough that it is not necessary to bus them to go to some other places, opposite of what I do. On the other hand, I have at this moment three buses: fifteen, thirteen, and twenty-three person passenger buses. I will still need three, anyway, for example, even though I don't bus them for recreation activities because people are coming from different directions, from Elmwood, from Farmington Avenue, and I also have a few clients who come from Newington or even Manchester who I bring to the center.

Councilor Lemkuil: Thank you.

President Slifka: Mr. Lemkuil. Mrs. Carpenter.

Councilor Carpenter: Yes, hi. Like I said, I looked at the property, and it is really beautiful. You are doing a great job restoring it.

Mr. Brel: You did not see my floors.

Councilor Carpenter: No, I did. I saw the floors.

Mr. Brel: No, they are going to be brand new floors.

Councilor Carpenter: You were sanding upstairs, and I was really impressed with the facility. You are really doing a great job. It is a small space if you are just using the first floor for your clients for twenty-five. I assume that most of them will not be ambulatory?

Mr. Brel: Most will be ambulatory.

Councilor Carpenter: Most will be?

Mr. Brel: Yes. By definition, I have to accept. There will be handicapped accessibility, of course. If I am going to get the referral for a wheeled chair

client, of course, I am not going to deny this referral. On the other hand, I am planning to use the second floor for ambulatory, for clients who are well, for clients who are pretty independent and who can go upstairs, especially if they only have one flight. They will be spread out in an area that will take from twenty to twenty-five; it will not be very crowded.

Councilor Carpenter: A follow-up question will be. In the back there are just three or four, right now, parking spaces and that is going to remain? I mean you cannot turn around there. If you drive in, you have to back out. So you are not going to expand the number of parking spaces? That is going to stay the way it is?

Mr. Brel: I don't have any additional space. But we have more than three, we have all together twenty.

Attorney Ross: If I can just respond. There are some spots in the back and then there are several spots in the front. I think there are about eighteen or twenty total spaces. One of the things we will be doing the next step after this, hopefully with your approval, is to sit with the staff and go over the site and modify the site plan to make sure that we are meeting all the parking requirements, turnarounds, anything that we will need to meet the reg's, the zoning regulations. So given the size of the vehicles, we already have had a discussion with the Town Planner and others so they are aware of the vehicles. They are aware of the proposed use and in our initial requests for site plan approval to allow for the home meal delivery service, we have already begun those discussions. So they understand what needs to be, what is required, on the side, and if it is there, great, if it needs to be modified a little bit, then it will have to be modified as part of the proposal. So we are dealing with those issues.

Councilor Carpenter: Thank you.

President Slifka: Mr. Brel.

Mr. Brel: I would like to add that this twenty-three passenger bus for the public will probably have to begin so there won't be a need for this type of heckling anymore. The fifteen passenger bus, and they look like vans, and they are vans, they just expanded the roof more appropriately for elderly people. But in the size they are very similar to the smaller fifteen passenger van, regular van.

President Slifka: Mr. Brel. Are there any further questions for Mr. Brel or Mr. Ross? Okay. Thank you very much.

Mr. Brel: Thank you so much.

President Slifka: Is there a sign-up sheet, Mr. O'Brien?

Mr. O'Brien: No one has signed up.

President Slifka: For those who are just walking in or have been here for a few minutes, we are still in a public hearing so I am going to ask if there is anybody who did not sign up who wants to speak about the topic before us right now, which is subject to the public hearing, not anything that is going to be on the council meeting later, you will have your opportunity to talk about that after we end this. So is there anybody who did not sign up who wishes to speak to this application?

President Slifka: Okay, seeing none, anything further from the administration? Anything further from the Council? Mr. Kavalier.

Substitute Alternate Kavalier: Can I just ask Mr. Alair one additional question?

President Slifka: Certainly.

Substitute Alternate Kavalier: Thank you. Mr. Mayor, Mr. Alair, since this will not only change the ordinance for this applicant but potentially for others, has there been any other interest from any similar providers in town?

Mr. Alair: None. At least none that has been raised with us.

Substitute Alternate Kavalier: Thank you.

President Slifka: Thank you, Mr. Kavalier. Anything further from the Council? Seeing none, we will close the public hearing.

The hearing adjourned at 7:32 p.m.

Norma W. Cronin  
Town Clerk/Council Clerk