**Bryan Memorial Town Hall**

**Washington Depot, CT**

**PLANNING COMMISSION**

**MINUTES**

March 19, 2018

7:30 p.m. Upper Level Meeting Room

**Members Present:** Mr. Hileman, Mr. Rimsky, Mr. Carey, Ms. Gager

**Alternates Present:** Mr. Bedini, Ms. Ryland

**Staff Present:** Ms. Hill,Ms. White

**Others Present:** Mr. Cava,Ms. Freidman, Ms. Hilman, Mr. Werkhoven, Ms. Branson, Ms. Dyer, Mr. Solomon, Mr. & Mrs. Mathews, Mr. & Mrs. Lyon, Mr. Hubelbank

**REGULAR MEETING:**

Mr. Hileman called the Regular Meeting to order at 7:30 p.m. and seated himself, Mr. Carey, Mr. Rimsky, Ms. Gager and Mr. Bedini.

There are two items on the agenda and the second item is a referral that is a petition to revise the zoning regulations and it has been withdrawn from the Zoning Commission, so the Planning Commission will not be deliberating on this subject tonight.

**CONSIDERATION OF THE MINUTES:**

The Commissioners considered the minutes from the regularly scheduled Planning Commission meeting held on January 3, 2018.

**Motion:** To accept the January 3, 2018 Regular Meeting Minutes as submitted. By Ms. Gager, seconded by Mr. Carey, approved 5-0 vote.

**OTHER BUSINESS:**

**Referral: Petition to Revise the Zoning Regulations/ Addition of Section 4.4.20 to allow Events and Facilities for the Visual and Performing Arts by Special Permit throughout the R-1, Farming – Residential District:**

The applicant has withdrawn this application from the Zoning Commission and it will not be discussed tonight.

**Referral: CGS 8-24/Regional School District #12/159 South Street/Ag STEM Plans:**

Mr. Hileman said that before the Commissioners discuss this item on the agenda they must first decide whether the Planning Commission has jurisdiction over Regional School District 12. He explained that Regional School District 12 is not owned by the Town it is owned by the District. He reminded the Commissioners that an 8-24 Referral is meant for a municipal agency.

**Discussion:**

Mr. Hileman opened the discussion. He noted that the Commissioners have received information regarding the proposed additions and improvements to The Shepaug School for the already approved Agricultural STEM Program. He stated that the issue here is whether or not the Planning Commission thinks Region 12 is a municipal agency as the term is used in Section 8-24 in the Connecticut General Statutes. Mr. Hileman read the statute. Mr. Hileman informed the Commissioners that if they do find that Regional School District 12 is a municipal agency then they will hear the proposal, ask question and deliberate and determine whether it is consistent with the 2014 Town Plan of Conservation and Development (POCD). If the commission does not believe that region 12 is a municipal agency, then they have no jurisdiction. Mr. Hileman stated that he spoke with Counsel and they told him that the commission has the right to find that there is no jurisdiction and their decision will set a precedent.

Mr. Rimsky asked what the standing was with the Zoning Commission, Inland Wetlands Commission, ZBA, and Conservation.

Mr. Hileman stated that the property is in Washington so anything to do with the land would go to those commissions. He said that Region 12 is in front of the Planning Commission for an 8-24 referral. He noted that if a private school in Town were planning activity in a regulated area they would need to go to all of the commissions except Planning. They would only come to Planning if they were subdividing their property.

Ms. Hill stated with the other commissions the applicant must submit an application for a permit and in this situation, they are requesting a referral to determine if it is consistent with the POCD.

There was a discussion about a definition of a Municipal Agency. It was noted that there is no definition of Municipal Agency in the Statutes.

Ms. Ryland stated that the word ‘agency’ means you are acting on behalf of another person. She stated that Region 12 is acting on behalf of the three towns who have a legal obligation to have a school board and educate the students. She continued to explain that Region 12 is an agent to these three towns, which means that it is a municipal agency in the Town of Washington. She said that the regional school district is acting the same as a local school district under the statutes.

Ms. Ryland referred to Mr. Hileman’s comment regarding the example of Region 6 having a complicated application for their facilities that are located in the Town of Litchfield which is not part of Region 6. She explained that if Region 6 planned to build or renovate the facilities and the Town of Litchfield Planning Commission finds that it inconsistent with their POCD Region 6 can go forward, but the residents of Litchfield can vote if they will fund it and most likely would not fund it, in which case, the point would be moot.

Mr. Hileman disagreed. He said that it would not matter who was right and that regional school districts are generally seen and understood to be regional entities. He explained that they are a collection of towns that elect board members through proportional representation, and do not take an oath to act in the best interest of the town that they are representing but in the best interest of the region. They behave as a regional entity.

Ms. Ryland asked who they are an agent for. She stated that when a board member takes the oath they are swearing to act in the best interest of their students. She said that the Planning Commission must decide who Region 12 is an agent for.

Mr. Hileman reiterated that he believes that Region 12 is a regional entity.

Ms., Ryland stated that Region 12 is a regional entity is a circular answer because what kind of entity is it? Is it an agency of municipalities?

Mr. Hileman responded that the statute doesn’t answer that. He stated that he disagrees with Ms. Ryland’s definition of a municipal agency.

Mr. Hileman and Ms. Ryland continued to discuss whether Region 12 is a municipal agency and how the statutes are interpreted.

Ms. Ryland suggested that if Region 12 does claims that it is not a municipal agency, why do they not withdraw their request.

Mr. Hileman asked the Region 12 representative, Mr. Cava, if they would consider withdrawing their request.

Mr. Cava responded, “No.”

Ms. Ryland suggested that we can agree to hear the merits of Region 12’s proposal on the condition that we are making no ruling about the jurisdiction and whatever we find is subject to

Region 12 determining by a court of competent jurisdiction that we have jurisdiction. She gave an example as to how this would work.

Mr. Hileman stated that it is not unusual for any commission to make a ruling on jurisdiction and is not an extraordinary event. He questioned why the Planning Commission would get into that mess and impose that requirement on to applicant when they haven’t established whether they have jurisdiction or not.

Mr. Hileman and Ms. Ryland continued to debate this subject.

Mr. Rimsky stated that the Planning Commission considered education very carefully when revising the POCD. He stated that the 2014 POCD forge an opinion that the community should be put on notice that they had great concerns about the health and future of the educational system in Washington.

Ms. Ryland stated that when the Planning Commission put together the 2014 POCD they didn’t dictate what the school district could do because they did not have jurisdiction and is governed by State Law but if they are proposing to expand a school they have to come to the Planning Commission.

Mr. Hileman asked if there were any more comments or questions from the Commissioners.

**Motion:** Resolved, that the Washington Planning Commission, having reviewed materials at the request of the Region 12 School District for proposed improvements, additions and renovations for the proposed AgriScience STEM Academy at 159 South Street, also known as the Shepaug Valley School, has determined that the Commission has no jurisdiction in this matter as the above mentioned property is not owned by the Town of Washington. This resolution shall serve as the Planning Commission’s report pursuant of Section 8-24 of the Connecticut General Statutes, defeated by 2-3 vote.

**Discussion:**

Mr. Hileman introduced Mr. Cava, a representative of the Region 12 District Board of Education and Chairman of the Building Committee.

Ms. Gager asked who else serves on the Building Committee.

Mr. Cava responded that the committee members are Valerie Anderson, Rob Horrigan, Tony Bedini, Alex McNaughton, John Cook, Jay Hublebank and himself.

He stated that the Building Committee was appointed by the Board of Education and under the law, they have one duty which is to execute the project and build it. Mr. Cava said that he did not expect to be before the Planning Commission this evening because they did not expect the commission to exercise jurisdiction.   He stated that they are not a municipal agency and the principal directs the agency and in this case, the three towns are the principal.

Mr. Cava asked if Ms. Ryland was going to participate in this discussion because she has previously said that she was utterly opposed to this project.  He requested that she recuse herself on the grounds that she has predetermined her decision.

Mr. Hileman stated that Ms. Ryland Is not seated and will not be able to vote on this matter. He continued to explain that as Chairman, he cannot make the decision or even request a commissioner to recuse themselves and that is for the individual commissioner to decide.

Mr. Cava stated that he understood that and that the Commissioner should recuse herself based on prejudgment of the proceedings.

Ms. Ryland stated that the issue before this Commission is whether the AgSTEM project is consistent with the POCD.

Mr. Hileman asked Ms. Ryland to address the request from Mr. Cava to recuse herself.

Ms. Ryland stated that she would recuse herself from the deliberations but she would be staying in the meeting as a resident of the Town and a member of the public.

Mr. Cava continued to explain why they are not a municipal agency and why the three towns cannot direct the Region 12 Board of Education.

The Commissioners noted Mr. Cava’s explanation.  They stated that they had made their decision that they do have jurisdiction over this matter.

Mr. Rimsky asked why Mr. Cava why he does not withdraw his request if he does not believe that the Planning Commission has jurisdiction.

Mr. Cava responded that the Board needs a report of some kind whether they are consistent with the POCD, inconsistent with the POCD, not inconsistent with the POCD, or that the Commission does not have jurisdiction.

Mr. Rimsky stated that he does not see why they are seeking a report from the Planning Commission when they don't acknowledge the Commission's jurisdiction over this matter.

Mr. Cava responded that if they were to subdivide the property they would have to come before this Planning Commission.  So they are here before the Commission tonight expecting that the commission would find that they did not have jurisdiction Because they are not a municipal agency.

Mr. Rimsky Stated that they could withdraw their proposal if they did not believe that this commission had the authority.

Mr. Cava stated that they need the Planning Commission’s decision.

Mr. Rimsky responded that the Commission has decided that they have jurisdiction.

Mr. Cava stated that they are here to discuss the improvements that are being made to the school and not the program itself.  He stated that they will be doing some site work to rearrange structures on the property, a greenhouse addition to the southern end of the property, the northern addition is comprised of several shops related to agriculture for things such as machine repair, woodshop and metal shop, and repurposing an area of the lawn as a growing area.  He added that they are proposing to move some walls in the interior of the existing building to repurpose some classrooms, and the construction of an animal demonstration building which will have an indoor and outdoor riding ring, site improvements include additional parking, and ADA compliant pathways.

Mr. Cava introduced Ms. Mangialli, Architect, from Kaestle Boos and asked if she wanted to add anything.

Ms. Gager asked if there was a larger drawing that the Commissioners could look at.

Mr. Cava responded that he did not.

Mr. Hileman stated that this program was approved after the 2014 POCD was published. He asked if, during the planning of these plans if the Building Committee considered sustainability.

Mr. Cava responded that they have. He noted that the Building Committee met with the Sustainability Committee of this Planning Commission. The Building Committee submitted a sizable report explaining how they have addressed sustainability in their plans. He gave examples; improving the surface water quality by controlling the runoff that goes to the pond, they are changing the energy and improving the carbon footprint of the school.

Ms. Mangialli stated that if the State of Connecticut is going to give funding to a project like this they require a high performance building which is based on a high performance building statute. She explained that there are mandatory requirements that they must meet and other items that they can pick and choose for the project to meet a certain baseline. She stated that all the new systems will be commissioned so they know that, something like the HVAC system is operating the way it should. They need to meet a base energy performance that is greater than the Connecticut Energy Code in order to meet the statutory requirements for this project. She noted that there are ventilation standards, indoor air quality standards, etc. that they must meet. She stated that this project is equivalent to a LEED Silver rating.

Mr. Cava stated that in a variety of ways they are taking a 40-year-old building and making it more sustainable. Through measures that they have done in the existing building in the past years, the electrical and heating costs have been reduced by $90,000 in the District. They have done that by primarily using more sustainable techniques.

Mr. Cava informed the Commission that they will not only be providing education to the students but offering adult education in the community at the AgSTEM program. He said that the POCD addresses the importance of its agricultural history of the Town.

Ms. Gager asked if Mr. Cava would elaborate on the retail space that is being proposed.

Mr. Cava explained that the program will teach how to raise plants and animals but it will also teach them how it relates to agricultural business. He said that there might be plants that the students have grown that they will try to sell. He said that it will be a farm stand type of setup.

Ms. Gager pointed out that people will be coming in and out of the campus that are not necessarily students. She said that she was asking for safety reasons.

Mr. Cava said that it will not be during normal school hours. Mr. Cava stated that they have designed the facility in a way that it is completely separable from the School. He said that they can close off access to the main school during these sale events. Mr. Cava informed the Commissioners of the steps that are taken to ensure the safety of the students and preventing unwanted visitors.

Ms. Gager asked if the greenhouse was ADA compliant.

Mr. Cava confirmed that it was. He said that they are required to bring practically everything, existing and new, into ADA compliance when making improvements of this size.

Mr. Carey stated that he did not understand why this project is in front of the Planning Commission.

Mr. Cava stated that he didn’t think that they would have to come in front of the Planning Commission, but, the Commission has determined that they have jurisdiction over this matter.

Mr. Rimsky stated that Mr. Cava had mentioned earlier that they had been to the ZBA and Wetlands.

Mr. Cava confirmed and stated that they have not been to the Zoning Commission. He informed the Commission that they have been granted an Inland Wetlands permit and granted several variances by the ZBA. He said the variances had to do with lot coverage, the height of the proposed new building, I/W setbacks, etc. He stated the Zoning Regulations are the same for a residence as it is for an institution in the residential district. Most of the regulations were passed after the school was built and they had already exceeded some of the requirements. He noted that they will be going to the Zoning Commission next.

Mr. Hileman stated that one of the more important chapters in the POCD addresses economic development. He asked if Mr. Cava could speak to that.

Mr. Cava responded that teachers will be added for the AgSTEM program, and possibly another maintenance staff person. In regards to economic impact to the Town of Washington, a number of the students end up back in Connecticut and could be the next generation of agricultural business people. He gave examples of possible employment. He informed the Commission that they have received information from the University of Connecticut that concludes that there are more jobs than people in this area of study.

Ms. Gager asked if there was any information on starting salaries for these jobs.

Mr. Cava responded that it would depend where they end up. A student that was part of a program like this ended up an oncologist. He stated that there is the possibility of these students being recruited for positions in Agri-Food Companies. Mr. Cava said that he does not have numbers on this but he would guess that the starting salaries would be around $60,000.

Ms. Gager stated that would be with a high school and a college education.

Mr. Cava stated that they expect the students of the program to move on to pursue a four-year college degree.

Ms. Gager asked what the entry level educational requirements Mr. Cava anticipates for these jobs.

Mr. Cava responded that some of the students will go to college and others might leave and start their own businesses, and some may take additional courses after they leave the program, but he does not know. He stated the educational requirements will differ depending on the job.

Ms. Gager asked if there was any data from the other AgSTEM programs in the area to compare it to.

Mr. Cava stated that there is data but he does not have it with him.

Mr. Rimsky asked if the students maintain these facilities.

Mr. Cava responded that they do to a certain extent. He stated that there will be students there 7 days a week, 365 days of the year and limited staff. The students will be responsible for the animals and plants.

Ms. Gager asked if the science room alterations within the existing footprint.

Mr. Cava stated that the only addition to that end of the building would be the greenhouse and a small area called a head house.

Mr. Hileman stated that the Commission has three options; 1. The Commission could find the proposal consistent with the POCD, 2. Not inconsistent with the POCD or 3. Inconsistent with the POCD. He informed the Commissioners that if they ruled the 3rd option they have to provide reasons.

Ms. Gager stated that she would like to now the number of students from Region 12 and the number from out of the region that will be enrolled in this program. She asked what is the impact on the tax payers. She stated that one of the concerns when the Commission was working on the POCD was the impact of the schools in the community and the cost to the tax payers.

Mr. Hileman stated that the residents have already voted on this. He does not see that the Planning Commission could over rule a referendum. He asked if Mr. Cava could give an estimate of the enrollment.

Mr. Cava responded that he is not on the committee that could answer this but he did know that there would be 6, possibly 7, sending towns and the 3 towns in Region 12. He stated that the majority will be from out of Region 12.

Ms. Gager asked if she was correct that the Region pays and average of $30,000 a student per year.

Mr. Cava explained how the per pupil expenditure is calculated and said that they do not feel that it is accurate because of the size of the region.

Ms. Gager asked what is the revenue coming in per student that will attend outside of the district.

Mr. Cava responded that it would vary. He stated that there are two components of it and one is the State of Connecticut and the State increases or decreases that number based on the number of students enrolled statewide.

The discussion regarding cost per student continued. They concluded that it would be, roughly, $10,000 per student. They discussed the amount of student within the district that would stay and the amount of students they estimate would be coming in from other districts. Mr. Cava stated the program should have some positive economic impact not immediately but as the program progresses.

Mr. Cava briefly discussed the history of the decision to improve the school district and then just the high school.

Ms. Gager asked where the students are coming from.

Mr. Cava responded that they will be coming from New Milford, Sherman, New Fairfield, Brookfield, Newtown, Danbury are the six principal sending towns.

Ms. Gager asked what percentage of the enrollment will come from these communities.

It was noted that this information is on the Board of Education website.

Ms. Gager asked what this proposed plan does to address all of the concerns of the existing building.

Mr. Cava stated that the building is 45 years old and they have strived, in the last ten years to make improvements in all of the school buildings in the Region.

Ms. Gager asked if those improvements are going to be done as part of this project.

Mr. Cava responded that some of the issues regarding the roof will be addressed with this project.

Ms. Gager asked for clarification of whether most of the deficiencies of the Shepaug Valley School building would not be addressed with this project.

Ms. Mangialli stated that it will address some major deficiencies such as sprinkler systems, ADA accessibility, science labs will be upgraded, and energy efficiency.

There was a brief discussion regarding the handling of animal waste. Mr. Cava stated that the new building will have its own septic system and the existing system is in great condition and will not need to be replaced. There are plans for removing the manure from the site.

It was noted that the primary schools will be integrated into some of the program.

Mr. Hileman asked the Commissioners for their thoughts.

**Point of Order:**

Ms. Ryland requested that Mr. Bedini recuse himself from the deliberations because he sits on the building committee.

Mr. Bedini responded that he is an advisory position on the committee. He read a list of why this is not a conflict of interest for him, that he could make an unbiased decision and remained seated.

There was a brief discussion whether Ms. Ryland could rescind her recusal.

Mr. Rimsky stated that he has mixed feeling regarding this proposal. He said that he can’t say that it is consistent with the POCD but he doesn’t feel that it is inconsistent with the POCD. He informed the Commission that, given the choices they have, he feels that the proposed plan is not inconsistent with the POCD. He added that he has serious concerns but they don’t make this proposal inconsistent.

Ms. Gager stated that she would like to see more data.

Mr. Hileman stated that he is comforted by the fact that sustainability has been considered and addressed with this project.

**Motion:** Resolved, that the Washington Planning Commission having reviewed materials at the request of Region 12 School District for proposed improvements, additions and renovations for the proposed AgriScience STEM Academy at 159 South Street, also known as the Shepaug Valley School, has determined that the proposal is not inconsistent with the Town’s 2014 Plan of Conservation and Development. This resolution shall serve as the Planning Commission’s required report pursuant of Section 8-24 of the Connecticut General Statutes, by Mr. Hileman, seconded by Mr. Bedini, motion passed by 3-2 vote. Mr. Carey and Ms. Gager voted against.

Mr. Rimsky wanted to be clear that we achieved two things that we concluded that we have jurisdiction on this matter and by the motion the applicant should take notice that this community has some serious concerns that need to be addressed by the Board of Education.

**Adjournment:**

**Motion:** To adjourn the meeting at 9:42 p.m. By Mr. Carey, seconded by Ms. Gager, approved 5-0 vote.

**FILED SUBJECT TO APPROVAL**

Respectfully Submitted,

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Shelley White, Land Use Clerk

March 26, 2018