



Town of Hamden
Planning and Zoning Department

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September 29, 2020

MINUTES: THE PLANNING & ZONING COMMISSION, Town of Hamden, held a Public Hearing and Regular Meeting via Zoom teleconferencing technology on Tuesday, September 22, 2020 at 7:00 p.m. with the following results:

Commissioners in attendance:

Joe McDonagh, Vice-Chair
Robert Roscow
Paul Begemann
Joseph Banks
Michele Mastropetre
Ted Stevens, Sitting for Vacancy
Shanae Draughn, Sitting for Brack Poitier

Staff in attendance:

Dan Kops, Town Planner
Tim Lee, Assistant Town Attorney
Genevieve Bertolini, Stenographer
Natalie Barletta, Clerk

Mr. McDonagh opened the meeting at 7:00 p.m. The clerk read the Public Hearing items into the record. The Commission and staff introduced themselves. Mr. McDonagh then reviewed the meeting procedures.

A. Public Hearing

- 1. Special Permit and Site Plan #20-1511
82-92 Crestway, M Zone
Site Remediation and Stabilization
Eighty Two-Ninety Two Crestway, Applicant

Mr. Kops told the Commission that there is a petition of intervenor status. Attorney Lee explained what an intervenor is, and said that the intervenor is a citizen named Lauran Garrett. Attorney Lee added that in the petition states the application poses a threat, and the petition seems to be valid, as she describes environmental harm. Attorney Lee recommended that the Commission accepts the party status, and she will be entitled as the same as the applicant.

Mr. McDonagh asked if they submit a petition, the intervenor is treated much like the applicant, versus public testimony. Attorney Lee said that the commission first accepts the petition, and the commission can then make a judgement on whether or not it's still valid.

Mr. McDonagh asked if anyone else has questions.

Ms. Mastropetre made a motion to accept Lauren Garrett as an intervenor to the application for special permit 20-1511 82-92 Crestway. Mr. Roscow seconded the motion. It was unanimous in favor.

Joseph Porto, Attorney at Parrett, Porto and Parese, addressed the Commission and said he is representing the applicant with regard to the Special Permit application for 82 Crestway. Attorney Porto said the property is a 3 acre site that falls into a M zone entirely, and is in a cul de sac in the manufacturing part of Hamden. Attorney Porto said the applicant received Site Plan and Special Permit approval for a landscaping and tree service that includes outdoor storage. In the rear, there were woodchips, and wood sold as firewood. Attorney Porto said that there was already material on the property when the applicant took ownership. Attorney Porto added that when the applicant started to get the site ready for construction of the building, the business moved a lot of material on the eastern edge of the property. Attorney Porto stated that the material, consisting of parts of this site that were excavated for the retention basin, such as earthen material, and rock, which were stacked along the eastern side beyond the limit of his property, and had fallen onto the properties of 925 and 785 Sherman Avenue. Attorney Porto then confirmed the applicant has received consent for the remediation and removal in a manner from the owners of those properties and both owners have written a letter of consent.

Attorney Porto said that the applicant will carry out remediation of the eastern side of the slope on the property, and expressed concern about the timing of the application, since it was filed in March. Attorney Porto then explained that a contractor from Windsor will be taking all of the material.

James DiMeo, DiMeo and Associates, addressed the Commission. Mr. DiMeo said that the hatched area is where the extent of the fill occurred. Mr. DiMeo then explained that there will be four phases of the project. Mr. DiMeo said that Phase 1 would be getting the site ready to handle all of the material on the eastern side of the property, and all existing piles of material, and will be removed. Mr. DiMeo then added that all wood will be saw cut and removed. Mr. DiMeo then said that once that is complete, phase two will begin, which will create a platform to excavate the fill. Mr. DiMeo explained that materials will be dug down, the material will be pulled out, and the excavator will load it to the onsite dump truck and move it. Mr. DiMeo then added that this will create a rock and stone stockpile side, and a wooden one, which will have trees and tree branches inside that pile. Mr. DiMeo added that it will be sorted so it goes to the proper location. Mr. DiMeo stated Phase 2 will involve the bulk of the material, consisting of 2,750 cubic yards. Mr. DiMeo said that the logic is the excavator can work its way onto the property, and work its way back. Mr. DiMeo added that the onsite dump truck would operate in the same manner.

Mr. DiMeo then explained that as soon as the activity has started, the property line will be marked. Mr. DiMeo then said that the same thing will occur along the northern edge, along the buffer. Mr. DiMeo then added that once all of the material is gone, an orange construction fence will be put up so that material doesn't go past it. Mr. DiMeo then said that after looking at the Town engineer's comments, and they do agree that the driveway shouldn't be two way, which is the reason why it was proposed. Mr. DiMeo then said that dump trucks can go in one way and out another way.

Mr. DiMeo then addressed the Engineering Department concern that the drainage should be finished as well. Mr. DiMeo then added that it was approved since the revisions were submitted.

Mr. DiMeo concluded by saying that much of the material will be dug up pretty quickly, and it's just a matter of getting started. Mr. DiMeo then added that the silt fence with hay bales will be included on the eastern side of the property as well, but before that happens, the fence will be installed as soon as the site has been brought back to original grades to help stabilize it to original condition. Attorney Porto also added that phase four, the final phase, will involve planting 15 trees in the efforts to return the property back to its original condition. Attorney Porto said that Cube Smart is okay with that.

Mr. DiMeo stated that he estimates the work will be done in 60 days, although he believes it may be done quicker, but since winter is approaching, this will give them a cushion if bad weather were to occur.

Mr. Stevens said that he was looking at the report, and the town engineer noted that there is also encroachment on 100 Overlook and Crestway and then asked what the plans were with those. Mr. DiMeo said that the the slope here was chipped away and material was stacked and material ended up spilling over the property line. Mr. DiMeo added that when additional field work was done, it was brought back to existing grade.

Ms. Mastropetre asked if the materials would be going to an approved storage site as well as if there has been approval from DEEP. Ms. Mastropetre then asked about the materials being removed and wanted to know what they were and how far it goes over the property line. Mr. DiMeo answered that the material makeup of the property line is basic dirt, and a sandy material that is not exactly top soil, and common fill that is comprised of large red rock, boulder, smaller pieces, and trees. Mr. DiMeo added that he doesn't know the full scope. Ms. Mastropetre asked where it came from. Mr. DiMeo said that it originated at the site, and then demonstrated where on the property it is now located. Mr. DiMeo said that there are piles of material everywhere, and between that and the trees with the bad storms we had, one thing led to another, leading to a maximum of it exceeding 90 feet past the property line. Ms. Mastropetre commented that she took a ride to the property and said that the site is a total disaster and finds it hard to believe that someone would accidentally encroach on someone else's property. Ms. Mastropetre added that one would think that it was surveyed and everyone would know where the property lines were.

Attorney Porto answered one of the recommended conditions of approval is to obtain any permits that DEEP requires, and that he will look into and obtain any approvals necessary.

Ms. Mastropetre asked why was it tossed off the site and asked what the value of the materials were. Attorney Porto answered that it definitely needs to be dug up and taken off. Attorney Porto added that he wouldn't put a value on it, since it's a common fill material in the construction trade, and it's being given away. Attorney Porto stated that the site needs to be remediated and the applicant arranged it so it can go off site. Ms. Mastropetre asked if there was any trees, and were these trees that the property owner was paid to remove and ended up being stockpiled on the property. Attorney Porto said that it was a combination of materials on the site, and over a period between the owners.

Mr. Roscow stated that he met with Carl Porto this morning on a personal matter, and added that he didn't believe that would influence his decision. Mr. Roscow then asked how the material was pushed 90 feet into someone else's property, and was shocked to hear that someone wouldn't know what their property line. Mr. Roscow then asked many truck loads estimated to leave the site.

Mr. DiMeo answered that the reason for the special permit is because of the material, and in terms of amount of truck loads, it could range between 400 and 450 truckloads, and only way it can be analyzed. Mr. DiMeo then said that he doesn't know if there were holes and voids. Mr. Roscow then stated how the applicant would separate the materials. Mr. DiMeo then said that they are calling that mixture common fill, which in it is rocks and trees. Mr. DiMeo added that the intention is to bring the material and dump it within the three piles and put it in the associated piles. Mr. DiMeo then reminded the Commission that they are not advertising this as structural fill.

Mr. Roscow asked if that the applicant is just going to be separating the materials and the ultimate site that the material resulting from this will be sorted into different piles used by this purchaser and not for foundation material for any type of buildings.

Mr. DiMeo stated that he no idea what that individual has planned for that material, and the only thing we know he is willing to take it. Mr. Roscow then commented that is where he has the problem, and he thinks that it seems to be transferring the problem. Mr. Roscow then asked if the engineer can speak to these issues.

Attorney Porto asked if it would it be helpful if we were to get a further explanation of what they intend to do, and added that he felt that the Commission is going down a rabbit hole where this material may be used and may be easily solved if he can provide some additional clarification to the Planning Office. Mr. Roscow added that he wanted further information.

Mr. Banks said that he agreed with Commissioner Roscow about what environmental materials it may contain. Attorney Porto said that he believes that his understanding is that they have been contacted and there has been no contact between DEEP and his client in terms of the soil. Mr. Kops then added that there has been communication between the Planning Office and DEEP, but has not met with DEEP nor has DEEP inspected the property.

Mr. McDonagh said that he has a few questions. Mr. McDonagh asked if there has ever been a Zoning Permit issued. Attorney Porto said no. Mr. McDonagh said there was activity related to the site, but there is no permit, and there was a Cease and Desist order, and a request for an injunction in superior court. Attorney Porto said yes, that is factually correct.

Mr. McDonagh asked when the applicant will be going to cease illegal activity on the site. Attorney Porto said that this application was filed in March and since then, there has been a tropical storm and a tornado that has come through. Attorney Porto added that he has a place in New Haven and moved to Hamden. Attorney Porto commented that he had hoped that the permitting process would have been completed by now. Attorney Porto said that the sale of the New Haven property is scheduled to occur on September 30th, and that leaves him in the position of having no other place to work. Attorney Porto added that the applicant has since filed another application to address the issue between the site plan that was approved, and a Zoning Permit and a Certificate of Zoning Compliance.

Mr. McDonagh referenced a neighbor's complaint filed a year ago about a building that was constructed illegally. Mr. McDonagh asked how the Commission can trust the client on this matter when he has lied so much in the past. Mr. McDonagh expressed that he didn't feel comfortable trusting the applicant, and added that the applicant doesn't have any right to the property.

Mr. Stevens stated that the site in New Haven has been operating illegally for four years, and the owner has made no efforts to fix it. Mr. Stevens then echoed Mr. McDonagh's concerns with illegal operation, and there are reports of being run out of another town. Mr. Stevens then added that operating beyond your property line is something that doesn't happen accidentally, and so he is skeptical.

Mr. McDonagh said that he was astounded that the building was built without any zoning permits.

Attorney Porto stated that a building permit was issued and the Applicant was permitted to build a building permit, with mechanical, electrical, and plumbing. Attorney Porto added that all permits were issued from Town of Hamden. Attorney Porto responded to the comments about the applicant's credibility by saying that it was a mistake, and the applicant recognizes that you can't use another person's property. Attorney Porto added that the applicant is here to remediate the site, and the Town, the neighbors, and the applicant would like it to be removed.

Mr. McDonagh asked if some of the debris and the tree limbs were the result of activity in the Tornado of 2018 or 2020. Attorney Porto answered it was 2018. Mr. McDonagh asked if this was one of the companies contracted with the town, and if he was paid therefore by the town. Attorney Porto answered yes. Mr. McDonagh asked under the arrangements, was the Applicant taking it to there. Attorney Porto said no, he didn't do that.

Ms. Draughn asked if a Certificate of Occupancy was issued. Attorney Porto said no. Ms. Draughn said that there was a total disregard to the rules, as he continues to operate over the Cease of Desist, and then asked what the remedies the Commission can do. Ms. Draughn added it's highlighted during a public meeting and she wanted to know how a Building Permit was issued without a Zoning Permit. Ms. Draughn said that this addresses some deficiencies that the Town must address. Ms. Draughn asked if there currently is a detention pond on the site.

Mr. DiMeo confirmed that a detention basin was built. Mr. DiMeo then added that when the original Cease and Desist order was issued, and then after meeting with town staff, everyone agreed that outlet structure can operate in a functional way. The detention basin just needs to be finalized. Ms. Draughn asked if that was a part of the original approval. Mr. DiMeo answered yes. Ms. Draughn asked when the inspection was by the Engineering Department. Mr. DiMeo said that the last one was when the engineering department said that it can tied into the existing pipe. Ms. Draughn asked if engineering had looked into impact of stormwater system. Mr. DiMeo answered yes.

Mr. DiMeo commented that he didn't remember receiving the Town Engineer's comments until he received the memo from Mr. Kops that morning. Mr. DiMeo said that he saw what he noted, and he was looking for the volumes of each phase, which are 1,489 cubic yards for phase two, 2,742 cubic yards for phase three, and 1,693 cubic yards for phase four. Mr. DiMeo said he believes that was his intention was the phase.

Ms. Draughn said she wants to understand the engagement with DEEP and asked if there was a certain action that is required and once that is completed, the Commission is going to want to see a closeout report of that as well.

Mr. Begemann said that even if the Building Permit was granted, the site still seems to be used in total disregard of the approvals that were obtained. Mr. Begemann the only reason it is before the Commission is because the Applicant totally disregarded the prior approvals, and why should the Commission think that they are going to be followed this time when they weren't followed in the past. Mr. Begemann wanted to know if there was some sort of security that will protect the town from the applicant not following through. Mr. Begemann then added that he felt that the applicant can't use the property in the meantime.

Mr. Banks asked if about any environmental reports, and if there were any manifests of material brought to the site.

Mr. DiMeo said that no dirt or rock brought onto the site. Mr. Banks said that all of the soils were a preexisting condition, and there is a no report of that. Mr. DiMeo said yes.

Mr. Roscow asked if Mr. Kops can say for the record what the procedure is. Mr. Roscow said that his understanding is first it is a Zoning Permit, then it goes to the Building Department for a Building Permit and then the applicant can proceed.

Mr. Kops said first noted that there was a stone wall that was taken down, and this wasn't confusing nor was it an accident. Mr. Kops said that far as Mr. Roscow's comment goes, there is a procedure to be followed,

and he outlined it correctly. Mr. Kops said that the application is to deal with what they did on someone else's property, and about what he is continuing to do on the applicant's property without zoning approval. Mr. Kops added that fines have been accruing, the applicant was issued a notice of violation Citation and Cease and Desist Order, and Attorney Lee has filed the papers to stop the work. Mr. Kops explained that the fines are estimated \$264,000 at this point and we will make a strong effort to get the money.

Mr. Kops said that the Town is concerned about what is happening, and what he is doing on his property. Mr. Kops added that about 10 years ago, the State of Connecticut gutted the Commission's authority to bond the way it used to make sure that there was money available when things like this happen. Mr. Kops then added that the Commission is only able to bond for sedimentation or erosion controls, and the Commission is only allowed to require additional bonding if there is work that needs to be done when the applicant applies for a Certificate of Zoning Compliance. Mr. Kops then addressed the regulation that allows the town to hire its own consultants paid for by the applicant.

Mr. McDonagh then opened the floor up for the intervenor, Lauren Garrett.

Lauren Garrett then addressed the Commission. Ms. Garrett has been granted intervenor status. Ms. Garrett thanked the commission for allowing her Intervenor Status. Ms. Garrett said that the Commission is here tonight for remediating soil, and while it's necessary because the owner had over 6,000 yards of tornado debris and encroached 90 feet, creating a bulky waste landfill, there is more at stake with this application. Ms. Garrett said that Hamden's values and credibility are on the line here. Ms. Garrett then stated that the soil remediation plan presented by the Applicant takes the problem and swipes it under the rug. Ms. Garrett then added that since the Applicant is a repeat zoning offender, the Town should hold him accountable for all of the fines he owes, and the removal of the waste, as well as to certify and supervise that it is free of insects and contamination.

Ms. Garrett stated that the relentless wood processing on 82-92 Crestway, initiated action by the Zoning Enforcement Officer, which included a cease and desist and an injunction request. Ms. Garrett accused the Town of Hamden of treating the applicant with "kid gloves," due to a conflict of interest, and stated that Zoning Enforcement Officer should be at the meeting. Ms. Garrett said that FEMA grants require the applicant to file a procurement policy, disclosures of conflict of interest, and debris can only be stored on DEEP approved debris management sites. Ms. Garrett then stated that the debris on the site can harbor an insect infestation. Ms. Garrett then added that Paradise has been processing firewood on this site, and reviews have not been favorable, accusing Paradise of selling unseasoned wood while they were under a cease and desist order. Ms. Garrett then added that selling the wood from a tornado from a FEMA grant is a violation due to insect infestation as well. Ms. Garrett concluded that she is here tonight to protect the Town of Hamden and its' taxpayers, not a business that is trying to find a "way out of this mess."

Ms. Garrett then shared photos of the site, which had trucks, wood that is stacked up, and debris. The photos also showed that activity is still occurring on the property. Ms. Garrett then gave a demonstration of how much fill equals 1,000 cubic yards in comparison to the size of a car. Ms. Garrett then said that on May 15, 2018 Town of Hamden experienced a tornado resulting in significant damage including destruction of thousands of trees, and FEMA met with the Town to help defray storm damage removal costs, and the area was declared eligible in August 2018. Ms. Garrett then said that the Town of Hamden pursued a grant to defray the costs of the removal storm debris. Ms. Garrett said that there was an approval of the DEEP location so waste can be accounted for, processed and disposed of with the grant requirement. Ms. Garrett added that the application had financial services to help lessen the cost of private owners. Ms. Garrett then added that contractors were able to bring all debris to a parking lot at Quinnipiac University. Ms. Garrett repeated that any contractor would have needed to bring material to a DEEP approved site.

Ms. Garrett then said that the FEMA grant requirements require inspecting the waste for indicating insect infestation, documenting, and disposing of it accordingly. Ms. Garrett then added that infestation of Connecticut's forest has devastated thousands of acres of mature forests, and the state has implemented efforts to manage it and limit the spread of this contagion. Ms. Garrett explained that in Hamden for instance, the Emerald Ash Borer has been present since 2013, and the State grants has monitoring Asian longhorn beetles as well. Ms. Garrett said that the program goals have been incorporated in the Department of Emergency Management and DEEP. Ms. Garrett then explained that the State DEEP has since developed regulations to prevent people from using firewood, and referenced a news story of Hamden officials warning people not to use woodchips from storm debris as well as it may be infested with insects.

Ms. Garrett reminded the Commission that the Crestway property, as well as Cube Smart were not, and are not DEEP approved debris management sites for purposed or program nor was it approved by the Planning and Zoning Commission. Ms. Garrett said Paradise Landscaping and other tree removal sites were contracted and paid by the Town of Hamden to remove storm debris using FEMA grants.

Ms. Garrett added that Paradise Landscaping signed a contract to assist with the work, and submitted their first invoice to the Town of Hamden for \$54,000 on June 12, 2018. Ms. Garrett then added that debris is tornado debris, and was landfilled on the property, as well as the adjacent Cube Smart property. Ms. Garrett said that it is believed that some of this material has been processed without necessary zoning permits, and sold as firewood.

Ms. Garrett then stated that landfilling the debris has created an illegal bulky waste facility, and according to the February 7, 2019 Emergency Authorization, the State of CT, DEEP, EA #20192073 EA Debris Management Sites, landfilling that debris is not permitted. Ms. Garrett added that it is also unknown if the debris was inspected for infestation per the FEMA requirements, and there was no documentation available.

Ms. Garret then referenced attachment A to the EA in Section 5.5.2 which stated that a DEMS must be properly sited because of the adverse impact of the landfill, water and the air of the site. Ms. Garrett said that it is likely that the debris is infested, and removal of the storm debris is within the authority of the Commission. Ms. Garrett added that the rocky soil would be millings from town surfacing projects.

Ms. Garrett then concluded by stating that her key points included: the application containing no information of the zoning enforcements and the violations, the illegal sale of firewood, the illegally issued Building Permit, no Zoning Permit, failure of Hamden Building Permit, and all of these are subject to their review. Ms. Garrett then added that the protocols of the applicants to undertake these actions and the potential impacts to assure that Hamden's residents are at risk.

Mr. McDonagh said he would like to address some questions as well. Mr. McDonagh said that he would assume at the QU parking lot that there was someone there monitoring and asked if Ms. Garrett had any records of Paradise Nursery bring the debris to the Quinnipiac University parking lot. Ms. Garrett answered that she did not. Mr. McDonagh asked if the Town Planner can look into that information. Mr. McDonagh then asked how much storm there was. Mr. DiMeo said that he doesn't have a good estimate. Mr. McDonagh noted that it would be helpful with an idea of how much debris there was. Mr. DiMeo said that the only thing he can do is estimate how much material was there. Mr. McDonagh asked how much is allowed on a dump truck. Mr. DiMeo said 14 cubic yards. Mr. McDonagh commented that it's 450 truckloads. Mr. DiMeo explained that trees form a cavern and it's a big void where there is actually no material.

Mr. McDonagh said that the applicant was selling some debris as firewood. Mr. DiMeo said that yes he was.

Attorney Porto said that the applicant was selling debris as firewood, and he doesn't specifically know what happened, and asked if he would like an answer on that. Mr. McDonagh said that would be helpful and asked if anyone inspected the debris. Attorney Porto said no, that he would like to address that as there is nothing but speculation contained within the intervenor's paperwork. Mr. McDonagh then said that he doesn't disagree with Attorney Porto, but speculation does have its value that is of something that is of concern. Mr. McDonagh said that the Commission doesn't want to transfer the issue to some fill up in Windsor.

Ms. Draughn said that if there is remaining soil it would be spread onto the site and seeded, and there is an environmental impact, so that brings us back to Commission Banks's comment. Ms. Draughn said that the burden of proof can be resolved by providing environmental reports.

Mr. DiMeo said that he would like to address this, and none of the rock debris is millings. Mr. DiMeo explained that it is two separate things, and a lot of the stone and rock are essentially red rock which is very prominent in this area. Mr. DiMeo added that the millings are what's going to be spread around the lot. Mr. DiMeo said that it's going back to the original grade, and then spread out. Ms. Draughn said that since it's on the site, it can have an environmental impact on what's currently on it. Ms. Draughn added that this can be resolved by having an environmental review on the site. Mr. DiMeo commented that the millings are on the opposite side of the property, which are untampered. Attorney Porto added that the burden of proof in the statutes require that the intervenor prove there's an adverse impact to the air, water, and natural resources of the site. Attorney Porto said that the burden is not up to the applicant, and added that there is nothing but pure speculation since there was no expert testimony.

Attorney Lee said that the intervenor has her facts, however the intervenor is at a bit of a disadvantage because she doesn't have access to the property to perform the testing. Attorney Lee recommended that if the Commission has concerns that he doesn't think it would be an unreasonable request to have the applicant provide a report about the potential of infestation.

Mr. McDonagh asked Mr. Kops if the Zoning Enforcement Officer was prohibited from coming to this meeting tonight. Mr. Kops said that she wasn't prohibited, but was not invited because this application is for a proposed remediation, not the enforcement. Mr. McDonagh asked if the department been dragging its feet. Mr. Kops answered that the Department did not, although the Department has made significant efforts to allow the applicant to correct the violations. Mr. Kops replied that he has not completed this, and the Department has chosen to go to court. Mr. Kops added that the applicant received no kind of favorable treatment in his department, and was not treated any differently than anyone else.

Attorney Lee said that the Town Attorney's Office has filed an injunction. Attorney Lee said that the court had scheduled the hearing in April 2020, but was postponed due to the COVID-19 and courts have been closed for the last six months and have not scheduled it. Attorney Lee that there was a meeting a few weeks prior regarding the status of the item, and another one will be on November 5, 2020 to let the court know of the decision of the Planning and Zoning Commission. Attorney Lee added that is the intention of the town to remedy everything.

Mr. McDonagh said that this is a poor man's Joe Farrisicelli, and told the Commission about his history.

Mr. Roscow said that the intervenor has bought forth opinion, and this has been debated in the courts. Mr. Roscow said that she's relying on her rights as a citizen, and it's ridiculous that she should have to take on the burden. Mr. Roscow added that she has done her duty as a citizen to bring up these issues, as they are issues that should have been bought up by DEEP.

Ms. Mastropetre asked Mr. Kops if the Commission can hire a consultant based on the regulations. Mr. Kops said that in the regulations, the commission has the ability to hire a consultant, and that he recommended that the Commission require a consultant to monitor the remediation work in their Conditions of Approval. Ms. Mastropetre suggested that the Commission should take that avenue.

Attorney Porto suggested that maybe an alternative could be separating the material, as both the rock and the soil doesn't have infestation. Attorney Porto said that this all native rock and soil from the site.

Ms. Mastropetre said that the Commission doesn't know for sure where the soil and rock are from the site, and asked why would the debris get pushed off of a cliff and encroach 90 feet over the edge. Ms. Mastropetre then said that the Commission doesn't know if the other property is contaminated, and the Commission is trying to make sure that there isn't an environmental problem. Ms. Mastropetre stated that too many things have gone wrong with this application, and clearly in the Conditions of Approval it stated that the applicant needs to get a Zoning Permit. Ms. Mastropetre said the applicant was in agreement of the conditions at the time of the meeting. Ms. Mastropetre added that homeowners have paid a lot of money to have their trees removed, only for them to go on other people's property. Ms. Mastropetre then stated that the Commission has a lot of issues brought up tonight, and the Commission wants to make sure that everything is done safely, including the property encroached upon doesn't have any remediation issues, and wherever the material ends up doesn't become a problem.

Attorney Porto said the he appreciates the Commission's concern, but the concern isn't being echoed by the neighbors, as they were given permission to go on others' property.

Mr. McDonagh commented that he wants to have some further information on the environmental, what Paradise Landscaping has been paid for, and a comment on how the Building Department was able to provide a permit without a Zoning Permit.

Ms. Draughn stated that one part of a recommendation is that there is a performance bond is covering the cost of sedimentation and erosion, and asked what the amount would be. Mr. Kops said that he couldn't provide her with a definite answer.

The Commission then took a break at 9:00 p.m. The Commission then resumed at 9:07 p.m.

Ms. Mastropetre said she wanted to know if Mr. Kops could reference the section in the regulations. Mr. Kops read from Section 718.2.i that referenced on any application, the Commission may retain outside consultants to be paid by the applicant for specialized technical reviews, and the payment must be made to the Town prior to the decision being rendered on the application. Ms. Mastropetre said that she was curious if the commissioners have thought about doing so. Mr. McDonagh then said that was an appropriate question that was brought up by the intervenor. Mr. McDonagh then stated that the application would be continued to the Public Hearing a month from now.

Mr. Roscow then wondered why someone would push a stone wall over a hill.

Mr. Banks commented that the material deposited on the site may be illegal and that material needs to get evaluated fairly. Attorney Porto asked how that would be illegal. Mr. McDonagh commented that everything the applicant has done, has been illegal.

Mr. Stevens commented that it could be done in the winter. Mr. DiMeo stated that the biggest issue when

removing the material is restablizing the slope and it's going to be harder to do since it's getting cold soon. Mr. DiMeo added that the materials are on someone else's property and they would like it removed it as quickly as possible.

Mr. Banks asked if there is contamination, and how to dispose of it properly.

Mr. McDonagh then asked if there was anyone in the public that would like to ask a question.

Ann Altman, a resident of Blake Road, addressed the Commission. Ms. Altman read a letter that she had submitted to Mr. Kops.

Bob Percopo and Lynn Percopo, residents of Nutmeg Road, addressed the Commission. Mr. Percopo asked what the permitted use of this property was. Mr. Percopo said that he can attest that Paradise Landscaping is working full-time and has a complete disregard for the order. Mr. Percopo asked what he can expect going forward as the permitted use of the application. Mr. Percopo referenced another individual who was similar to this, and the Rocky Top Neighborhood banded together, and there he failed to cease and desist. Mr. Percopo said that fines don't work and asked what the town can do to hold residents accountable.

Mr. Kops said that in regard to the first statement, he thought that the applicant was allowed limited processing, and he can look back to an amendment at some point. Mr. Kops added that he can post the original conditions of approval onto the website under the pending applications page. Mr. Kops said that in terms of what can happen in the future would be up to the Commission.

Attorney Lee said that there are the remedies available. The violator is issued a Cease and Desist order, followed by a citation, and the Town may then take them to court to seek an injunction order if all else fails. Attorney Lee commented that the remedies are only as good as the people. Attorney Lee said that there are a few individuals that are ignoring the regulations, and the only remedies the Town has are those. Attorney Lee said that now the town is pursuing it, he is unsure what the answer is. Attorney Lee added that the majority do in fact follow the rules, and there are a select few that do not comply with regulations. Mr. McDonagh commented the law doesn't assume someone who is told to Cease and Desist and then ignore the order.

Mr. McDonagh made a motion requiring that a consultant to be hired to know the degree of storm material and whether there are any environmental issues. Mr. McDonagh added that he will not close the public hearing, and wishes to continue it.

Mr. DiMeo said that the material from the storm is in the slope. Mr. DiMeo said that he was curious how this would even work, and anything from that storm should have left the site by now. Mr. DiMeo said that by doing this, you would disturb the slope. Mr. Kops asked if a test pit would be possible. Mr. DiMeo said that the slope is going to have to be disturbed. Ms. Mastropetre commented that this is the first she's understanding that the stuff is buried. Mr. Roscow agreed.

Ms. Mastropetre said that the Commission can't vote on it while the commission is still deliberating the application. Attorney Lee said if that's the desire of the Commission to hire an expert at the expense of the applicant in order to evaluate the application, and if it's the desire of the Commission, they need to do that tonight. Attorney Lee said if the Town is interested to do so, they should do so now, so it's available at the next public hearing.

Mr. McDonagh asked is it the Commission's intent to request that the applicant pay for the Town to hire an VA environmental consultant to look into the issue of the tree debris that's half of what's being removed.

Mr. Banks asked if that can be expanded on to characterize all of the material that's being removed off of the site include the soil, the trees, and other debris. Mr. Roscow said that he agrees with Mr. Banks.

Mr. Banks made a motion to require the applicant pay for the Town to hire an environmental consultant to look into the material that is being removed from the site, including tree debris, soil, and other debris. It was seconded by Ms. Mastropetre. The vote unanimous in favor.

Mr. McDonagh said that he would like some information on what happened with the storm related debris that Paradise Landscaping had collected, whether this was delivered to Quinnipiac University and how it was accounted for. Mr. McDonagh said that he would like a report from the Building Department explaining how a Building Permit was issued in this situation.

Mr. McDonagh said that the public hearing will be continued until October 27th.

B. Regular meeting

1. Special Permit and Site Plan #20-1511
82-92 Crestway, M Zone
Site Remediation and Stabilization
Eighty Two-Ninety Two Crestway, Applicant

The Public Hearing for this item was continued to the October 27th, 2020 meeting.

2. Site Plan #20-1513
1695 State Street, T-4 Zone
Mixed-Use Retail/Residential
Jose Francisco and Joseph Raiola, Applicant

Joseph Raiola, engineer, addressed the Commission. Mr. Raiola said he is representing the applicant. Mr. Raiola explained that the applicant wants to take a house that he's purchased to turn it into a takeout restaurant that serves breakfast and lunch on the first floor, with an apartment on the upper level. Mr. Raiola added that the restaurant will be run by the applicant, his wife and son. Mr. Raiola noted that the applicant will comply with all health and building codes. Mr. Raiola then added that he did a design for parking lot drainage flows within the parking lot that directed water equally on the property lines. Mr. Raiola then went through notes regarding additional permits that are needed, and added that he will assist the applicant with getting the permits.

Mr. Kops read a report written by the Assistant Town Planner, Matt Davis, recommending approval of the application with the following conditions:

1. The applicant shall obtain a Zoning Permit, signed by the Fire Marshal, QVHD and the GNHWPCA.
2. Prior to the Issuance of a Zoning Permit, the applicant shall submit a revised site plan for approval by the Town Engineer and Town Planner, containing:
 - (a) A detail of the proposed planters and a list of typical plantings. Said planters and plantings shall not be installed in a location that impedes safe sight lines.
 - (b) A standard dumpster enclosure shall be provided. The dumpster shall be surrounded on three sides by a six inch high asphalt berm.
 - (c) The light fixture shall be placed no lower than 13 feet 6 inches.

- (d) No buffer shall be required to the adjacent R-3, as long as the existing conditions mitigating the need for said buffer shall remain.
 - (e) The applicant shall comply with all requirements of the GNWPCA.
 - (f) All conditions of approval.
3. All work shall be completed by September 22, 2025.

Mr. Raiola added that as far as the handicapped poles, they were modified and the applicant is glad to bring it above 13.6 feet, and the applicant understands the dumpster requirements. Mr. Raiola added that there was a neighbor encroaching onto the property, but will comply with them.

Ms. Mastropetre made a motion to approve the application in accordance with the memo from the Assistant Town Planner. It was seconded by Mr. Begemann. A roll call was taken, and the vote was unanimous in favor. The application was approved.

C. Old Business/ New Business

1. Review minutes of the September 8, 2020 Meeting

Mr. Begemann made a motion to approve the minutes. It was seconded by Ms. Mastropetre, and unanimous in favor. The minutes from the September 8, 2020 were approved.

Mr. Kops said that there was a gentleman that was in front of the Zoning Board of Appeals seeking a variance to store a 30 foot Recreational Vehicle (RV) in the front yard, and was since continued the public hearing in November to allow Mr. Kops to see if it would be possible to add a regulation to allow temporary storage of RVs. Mr. Kops said that he is happy to answer questions.

Mr. Stevens said that he doesn't have any problems with it, nor does he think that it is an issue.

Mr. McDonagh asked how this is related to the pandemic. Mr. Kops said that this was suggested by the chair of the Zoning Board of Appeals, Wayne Chorney. Mr. Kops added that he doesn't know what other towns are doing, but in the case of Hamden, there are RVs and sailboats parked into driveways all over town. Mr. Kops then explained that the Commission can leave it as it is or make a temporary (temporary being a year during the pandemic) or permanent change.

Mr. Begemann commented that he wouldn't want to do anything permanent, as he thinks that it would become a problem very easily. Mr. Begemann added that he is not opposed to temporary storage, as long as it is only for a certain period of time.

Ms. Mastropetre said that she thinks that it also depends on where someone lives. Ms. Mastropetre stated that in the case of Spring Glen and Whitneyville, the lots would be too narrow and could encroach on a neighbor's house. Ms. Mastropetre then added that while she thinks that the regulations shouldn't be changed, under COVID-19, residents should be allowed a pass.

Mr. McDonagh asked Mr. Kops if he would be able to draft something.

Mr. Roscow wondered how this would be relating to the COVID-19 pandemic.

Mr. Kops said that instead of staying in a hotel or resort, people are buying RVs so that they can travel with their family and sleep in the RV. Mr. Roscow commented that basically they can't be park anywhere, and they would need to be parked with a trailer park, where the risk is higher due to the fact that it's challenging to maintain a proper social distance.

Mr. Stevens commented that he doesn't believe that New Haven has any provisions, unless it's parked in the front yard, and agreed with Ms. Mastropetre's concerns.

Mr. Kops added that there is a side-yard that is 10 or 20 feet.

Mr. Stevens asked does this applies to boats as well. Mr. Kops said yes it specifically applies to them. Mr. Roscow added that 30 feet is a large RV, and they present safety hazards as well.

Mr. McDonagh asked who would be in favor of seeing a draft of this brought before the Commission.

Mr. McDonagh asked if there were any Commissioners that would be interested in seeing a draft of this. Only two commissioners raised their hands. Mr. McDonagh then confirmed to Mr. Kops that the Commission didn't have much interest in this matter.

D. Adjournment

Mr. Roscow made a motion to adjourn. It was seconded by Mr. Banks, and unanimous in favor. The meeting was adjourned at 9:55 p.m.

Submitted by: _____
Natalie Barletta, Clerk of the Commission