



TOWN OF OLD SAYBROOK
Zoning Commission

Robert C. Friedmann, Chairman
Mark R. Caldarella, Vice Chairman
Geraldine M. Lewis, Secretary
Ann Marie Thorsen
Marc W. Delmonico

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Alternate Members

Justin Terribile
John Henry
Sandra Dizenzo

REGULAR MEETING MINUTES
HYBRID MEETING

Monday, April 3, 2023 – 7:00 P.M.
Town Hall, 1st Floor Conference Room
302 Main Street, Old Saybrook

I. CALL TO ORDER

Chairman R. Friedmann called the meeting to order at 7:00 p.m.

II. ROLL CALL

Attendant Members: R. Friedmann, M. Caldarella, G. Lewis, A.M. Thorsen, M. Delmonico,
J. Henry, J. Terribile

Absent members: S. Dizenzo

Attendant Staff: C. Costa, Zoning Enforcement Officer/Town Planner; J. Galli, Recording Clerk

Three members of the public attended with two more via Zoom.

III. REGULAR BUSINESS

A. MINUTES

MOTION to approve the meeting minutes of March 20, 2023 as presented **MADE:** G. Lewis **SECONDED:** M. Delmonico **VOTING IN FAVOR:** R. Friedmann, M. Caldarella, G. Lewis, A.M. Thorsen, M. Delmonico **OPPOSED:** None **ABSTAINING:** None **APPROVED:** 5-0-0.

B. CORRESPONDENCE

Correspondence received was related to Agenda items.

IV. CONTINUED PUBLIC HEARINGS

- A. “SPR Oasis, LLC” Application for Special Exception Use** to construct a 20,487 s.f retail grocery store and two indoor fast-food Restaurants with drive through windows. (2,200 s.f. & 2,200 s.f.)
52 Spencer Plain Road (Map 25/Lot 27), Gateway Business B-4 District
Applicant: SPR Oasis, LLC Owner: Ortho Saybrook LLC Agent: Attorney Edward Cassella

WITHDRAWN BY APPLICANT

Absent from the March 6, 2023 meeting, Commission members M. Caldarella and G. Lewis have both stated for the record that they listened to the recording, read the materials and feel they are qualified to participate in the Max's Place and Big Y hearings.

- B. **“Max's Place, LLC. and Big Y Foods, Inc.”** Petition to Amend the Old Saybrook Zoning Regulations to amend Section 53.1 Standards for Motor Vehicle Uses to eliminate separation distance requirements for fuel pumps and add a requirement for vehicle battery charging stations.

Applicant: Max's Place, LLC. and Big Y Foods, Inc. Agent: Attorney David Royston

Attorney Royston presented. In this hearing, the applicant seeks a text change to eliminate any separation distance for fuel pumps. They have provided a legal memorandum regarding their beliefs that the separation distance is “unconstitutional and thus illegal.” According to ZC Attorney M. Willis's letter of April 3, 2023, “Based upon existing Connecticut law, I believe the existing separation distance requirement to be constitutional.” Attorney Royston discussed the zoning regulatory purposes defined in Conn. Gen. Stat. 8-2 as it relates to congestion in the streets, citing that there is a need on the west side of town for another station and that the local traffic authority, Chief Spera, is in agreement. Royston discussed why building on another section of the property outside of the separation restriction wasn't feasible.

As to referrals, the Planning Commission recommends denial as it is not consistent with the Town Plan of Conservation and Development. When open to the public for comments, resident K. DeCapua spoke in support of the text change, regarding the traffic overflow with only one station, especially with future development. She said, “A new modern facility would allow for people to safely enter and exit.” With no other public comment, the hearing was closed.

MOTION to close the Public Hearing for **“Max's Place, LLC. and Big Y Foods, Inc.”** Petition to Amend the Old Saybrook Zoning Regulations to amend Section 53.1 Standards for Motor Vehicle Uses to eliminate separation distance requirements for fuel pumps as presented **MADE:** R. Friedmann **SECONDED:** G. Lewis **VOTING IN FAVOR:** R. Friedmann, M. Caldarella, G. Lewis, A.M. Thorsen, M. Delmonico **OPPOSED:** None **ABSTAINING:** None **APPROVED:** 5-0-0.

During deliberation the Commission discussed letters from Chief Spera, Attorney Willis and the public. They also talked about Section 1.2 of the Zoning Regulations, “The Regulations are made in accordance with a comprehensive plan, with due consideration for the recommendations of the Plan of Conservation and Development of the Town.”

MOTION to approve **“Max's Place, LLC. and Big Y Foods, Inc.”** Petition to Amend the Old Saybrook Zoning Regulations to amend Section 53.1 Standards for Motor Vehicle Uses to eliminate separation distance requirements for fuel pumps as presented **MADE:** R. Friedmann **SECONDED:** G. Lewis **VOTING IN FAVOR:** G. Lewis, M. Delmonico **OPPOSED:** R. Friedmann, M. Caldarella, A.M. Thorsen **ABSTAINING:** None **MOTION DENIED:** 2-3-0.

- C. **“Max’s Place, LLC. and Big Y Foods, Inc.”** Petition to Amend the Old Saybrook Zoning Regulations to amend Section 53.1 Standards for Motor Vehicle Uses to reduce the separation distance requirement for fuel and add a requirement for vehicle battery charging stations in the Gateway Business B-4 Shopping Center District.

Applicant: Max’s Place, LLC. and Big Y Foods, Inc. Agent: Attorney David Royston

Attorney Royston presented. This application/petition differs from the 1st hearing in that they are asking for a text change to reduce separation distance for fuel from 1,000 feet to 500 feet along with adding a requirement for EV charging stations. This text change will also only affect shopping centers in the Gateway Business B-4 District. Regarding legality of separation distances, Royston stated that it is unclear in the state of Connecticut. He also said that the litigation would become moot if this is approved.

The Economic Development Commission voted in favor of this application. The Planning Commission recommends approval with the exception that the EV charging stations be removed. There was a lengthy discussion about the definition of “shopping center,” what it is and isn’t in the Regulations. They considered omitting “shopping center” completely, or replacing it with other options for clarity. Being that the end of the timeline is near, the ZEO offered that perhaps the applicant would like to withdraw this application and submit a new clearer version to be sent out for new referrals and a chance for public comment.

MOTION for a 5-minute recess at 8:36 P.M. for Attorney Royston to confer with his client
MADE: R. Friedmann **SECONDED:** M. Caldarella **VOTING IN FAVOR:** R. Friedmann, M. Caldarella, G. Lewis, A.M. Thorsen, M. Delmonico **OPPOSED:** None
ABSTAINING: None **APPROVED:** 5-0-0.

MOTION to reconvene at 8:39 P.M. **MADE:** G. Lewis **SECONDED:** M. Caldarella
VOTING IN FAVOR: R. Friedmann, M. Caldarella, G. Lewis, A.M. Thorsen, M. Delmonico **OPPOSED:** None **ABSTAINING:** None **APPROVED:** 5-0-0.

Upon return, Att. Royston stated that the petition is **WITHDRAWN BY APPLICANT.**

V. NEW BUSINESS

A. 2023 Outdoor Seating Renewals

Annual outdoor seating renewals were sent to restaurants requesting any new change of seating conditions and there was no response. No changes were proposed for any of the restaurants from the previous year.

ZEO Costa reported that she has not heard any news about an extension of the Governor’s Order relating to outdoor seating for 2023 season. The Zoning Commission had previously discussed the matter and determined that if Covid

seating is not extended in 2023, meets Fire Marshal and Building Official standards that they would allow the seating to remain and give business owners who would like to keep the Covid seating permanently until the end of the year to apply for modifications to their Special Exception Permits to obtain zoning permits to keep the seating permanently.

MOTION to approve **2023 Outdoor Seating Application Renewals with no changes from the 2022 approvals** as presented **MADE:** G. Lewis **SECONDED:** M. Delmonico **VOTING IN FAVOR:** R. Friedmann, M. Caldarella, G. Lewis, A.M. Thorsen, M. Delmonico **OPPOSED:** None **ABSTAINING:** None **APPROVED:** 5-0-0.

- VI. WORKSHOP:** Discuss drive-through windows as an accessory use for financial institutions, pharmacies, indoor restaurants or other food and beverage establishments (Section 53).
Moratorium ends: December 31, 2023

ZEO C. Costa gave a brief overview of what was discussed at the March 27, 2023 special meeting regarding drive-throughs. She presented ideas on possible language to add to drive-through window regulations.

- VII. COMMITTEE, REPRESENTATIVE & STAFF REPORTS** – None.

VIII. ADJOURNMENT

MOTION to adjourn the meeting of April 3, 2023 at 8:52 P.M. to the regularly scheduled meeting of Monday, April 17, 2023 at 7 p.m. in the 1st Floor Conference Room as presented **MADE:** G. Lewis **SECONDED:** M. Caldarella **VOTING IN FAVOR:** R. Friedmann, M. Caldarella, G. Lewis, A.M. Thorsen, M. Delmonico **OPPOSED:** None **ABSTAINING:** None **APPROVED:** 5-0-0.

Respectfully submitted,

Joanne Galli
ZC Recording Clerk

NEXT REGULARLY SCHEDULED
HYBRID MEETING

Monday, April 17, 2023 at 7:00 P.M.
Town Hall, 1st Floor Conference Room
302 Main Street, Old Saybrook

Check our website for dial in information and additional meeting documents.

[Zoning Commission web page](#)

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