

New Haven Planning Board Minutes

Held November 29, 2023

Call to Order

Chairperson Karen Valentino called the November 29, 2023 special meeting to order at 6:12 pm at New Haven Town Hall.

Roll call

- Present: Karen Valentino, Mike Cutuli, Cindi Giovio, Linda Bond-Clark, Melissa Windey, Allen Chase, Sue Ann Teifke
- Also in attendance: Rebekah Prosachik, Attorney for the Town; Bettie Jo Cronk, Secretary to the Planning Board; Herb Hawker, Town Constable, and some members of the public

Reports

Planning Board Updates

The Town Board accepted the recommendation of Sue Ann Teifke as an alternate member of the Planning Board.

Public Hearing

Note: Cindi Giovio and Linda Bond-Clark recused themselves from the Public Hearing.

Circle T - Application for Amended Site Plan Review

Motion to reopen the Public Hearing made by Mike Cutuli, second by Allen Chase. Public Hearing opened at 6:16 pm.

Karen Valentino, Aye. Mike Cutuli, Aye. Melissa Windey, Aye. Allen Chase, Aye.
Carried.

Public Comments:

Michelle Allen-Gregory states there are no warrantable change of circumstances to necessitate the change of travel or hours of operation; and expects the mutually agreed upon conditions to be enforced. She states the applicant does not pay an increased amount of sales tax and only pays property tax.

Russ Christensen also does not see a change of circumstances to warrant a change. On September 9, 2023, he followed a truck that traveled north on Darrow Road. The buffer does not help the noise from the plant and is laughable. You can hear trucks, tailgates slamming, back up sirens, etc. at quarter to six in the morning. Increased oversight is needed. There is concrete that will be a barrier to the drainage ditch that will lead to erosion of the road.

Mark Williams comments are attached.

Mr. Williams also read comments on behalf of Cindy and Elmer Konu, who could not attend. This is also attached.

Linda Williams comments are attached.

Attorney Kevin Caraccioli is here representing Circle T. He states the applicants have fully submitted all application materials and have been under consideration of the Planning Board since June. There was some supplemental information that came later. The applicants are requesting a new silo for the storage of different material, not to increase production, and it does not change the total footprint of the plant. They have complied with all that has been asked, including the provision of a noise study. Circle T should not be restricted, and their vehicles should be allowed to travel in either direction. Circle T believes they have been a good neighbor. The Town does not have a zoning ordinance therefore industrial use is allowed in this area. He reminded all that the application was previously approved and they are merely looking to modify the conditions. This application was the subject of a legal proceeding once and hopefully it won't have to happen again, but they are prepared to pursue legal action if needed. The site plan regulations do not state that there needs to be a change of circumstances. Section 3.35(c) states *'Any owner wishing to make changes in an approved site plan shall submit a revised site plan to the Planning Board for review and approval'*. No where does it state 'change of circumstances'. They are simply asking for modifications to the approved use.

Motion to close the Public Hearing made by Mike Cutuli, second by Melissa Windey. Public Hearing closed at 6:32 pm.

Karen Valentino, Aye. Mike Cutuli, Aye. Melissa Windey, Aye. Allen Chase, Aye.
Carried.

The Planning Board had an in-depth discussion regarding the application and the requests for a new silo, change of hours and a change in direction of truck travel and the conditions that were previously agreed to by the Town and Circle T.

New Silo - The second silo is requested for the storage of another type of material, not to accommodate increased demand for the current material. The addition of the silo does not change the footprint of the batch plant, would be installed in the current production area, and fits well within. It has a 14' x 16' base. The 53'4" high silo is similar in height to the already existing silo. There is no new noise associated with the silo.

The planning board members agreed that erecting the new silo should be approved.

Change to the hours of operation – Discussion regarding what actions and noises are considered “batch plant operations”. Activities under that category may include loading and movement of material, mixing of concrete, operation of equipment and payloader and deliveries.

Discussion regarding “ancillary operations”. Examples of ancillary operation activities include warming up vehicles, removing snow, the arrival of plant employees, washing out trucks returning after closing, and/or plowing inside the plant area. There is concern that if allowed to start ancillary operations at possibly 5:30 am to 6:00 am, will that encourage an even earlier start time of these actions? Noises are alleged to be heard currently, starting as early as 5:45 am but it sounds unclear as to what those actions are. The board talked about some neighbors’ complaints about noises during non-plant hours and said even if the batch plant is not running, there still may be noises, such as trucks starting and vehicles coming in/out of the plant before/after business hours. Heaters, necessary in the town’s winter climate, also cause potential noise and may run throughout the night. The board asked if the heater could be enclosed to decrease the noise and was told there would be a three-sided enclosure with spray foam that includes the heater, but a total enclosure is not an option because proper ventilation is required. Winter conditions also require snow removal before operations can start. OSHA regulations require backup beepers on construction vehicles, which can be loud; however, the safety benefit of the backup beepers is necessary.

Warm up time of commercial vehicles such as those operated by Circle T is 15 minutes. Recognition of the desire to expand hours of operations a little earlier than current hours, to facilitate earlier deliveries and a slight expansion of closing hours to accommodate late deliveries to areas such as Syracuse or North of New Haven, delays in pouring/delivery and need for vehicles to return to the plant and clean up. The board considered neighbors’ complaints and input regarding sounds/noises heard outside of agreed upon hours of operation hours and undesirability of same; applicants’ reasons for needing the time to do these things and the level of noise they do or do not make. The noise study information was reviewed regarding sounds and noise equipment makes and the protection required, or not required, in the areas of equipment operation.

The planning board agreed that there are unavoidable noises before and after the plant’s business hours and separated activities into Batch Plant Operations, conducted during business hours only, and Ancillary Operations, conducted at the earliest 30 minutes before opening and at the latest 2 hours after closing. During ancillary operations, there can be NO loading of aggregate and/or cement, NO running of the batch plant, and NO batch plant deliveries of aggregate and/or cement.

Enforceability may be easier if consistent hours throughout the year.

The planning board agreed upon the following year-round business hours:

Batch Plant Operations

Monday-Friday: 6 am - 6 pm

Saturday: 6 am - 2 pm

Sunday: Closed

Ancillary Operations are permissible during the following hours:

Monday-Friday: 5:30 am - 8 pm

Saturday: 5:30 am - 4 pm

Sunday: Closed

Travel direction restriction on Darrow Road – Traveling south on Darrow Road after exiting the plant was one of the conditions for approval for Circle T's original application; however, the discussion focused on whether a change should be made. From the batch plant heading south, Darrow Road ends after about a half mile at a four-way stop sign with County Route 6, County Route 51, and Darrow Road. From the batch plant heading north, Darrow Road passes several minor roads, including Lily Marsh Road and Stone Road, and ends at a "T" on Soper Mills Road, which is about 2 miles from the plant. A right turn on Soper Mill Road is limited to low-weight vehicles because of a single-lane bridge. A left turn on Soper Mills Road leads to a short road section leading to State Route 104. Signs limiting trucks except for local deliveries are located on Lily Marsh Road, Stone Road, and Soper Mills Road.

Circle T trucks have been traveling south on Darrow Road since they opened two years ago, and no significant increase in wear and tear on the road has been identified, according to the Highway Superintendent; therefore, there is little reason to believe wear and tear of the road is of concern should the trucks travel north on Darrow Road.

The type of vehicles that currently travel north on Darrow Road, local and non-local deliveries, and the inability to control vehicles used by other businesses located within and outside the Town of New Haven, or even government entities was discussed. DOT regulations and classifications of vehicles were also discussed, as well as commercial versus non-commercial class and the weights of those vehicles. Comments made by the public were considered regarding the road being narrow and curvy, the weight limit of the bridges, and concerns about safety and speed.

The Planning Board is not able to control the travel of other entities who are not governed by the town's local law and authority, however businesses located within the town limits are subject to the Planning Board's control. There were questions regarding fairness to Circle T being subject to restrictions when others are not. Fairness to residents was also raised as the business is in a residential area.

The board discussed complaints made to the Code Enforcement Officer regarding vehicles traveling north on Darrow Road. It is not always Circle T vehicles when complaints are made. CEO Ron Marsden is contacted by Circle T regarding local deliveries that require trucks to travel north. The language in conditions allows Circle T ten (10) days to correct a condition when informed of a violation.

The intent of language in current special use permit conditions should not be construed to prevent individual employees from driving smaller vehicles to come to work or get lunch. The restriction was meant to limit the travel of the larger trucks of Circle T and their suppliers. Clarifying language is needed to allow these trips to be permissible.

Possible speed limit reduction and weight limit signs was discussed as a method to address concerns regarding all vehicles traveling north on Darrow Road. The current speed limit on Darrow Road is 45 miles per hour. The board discussed possibly recommending to the town board any of the following: no trucks on the Soper Mills Road bridge; no trucks other than local deliveries on Darrow Road; speed reduction on Darrow Road; weight limit signs on Soper Mills Road, Lilly Marsh Road, and/or Stone Road. Questions arose about whether we could request the speed limit be reduced to 30 miles per hour, which is a decision made at the state level. The Highway superintendent is needed to answer questions regarding traffic and road issues. The board will request that the highway superintendent be present at the next meeting.

Allen Chase expressed the question as to whether the planning board has the authority to restrict road usage according to interstate commerce laws. He said it might be possible to post maximum weight limit signs, such as for commercial vehicles (10,001 lb. or more) on the road so that all commercial vehicles would be restricted; however, as the roads were okay, this may not be possible.

Karen Valentino was unfamiliar with potential highway law limitations and thought it was within the board's permissible rights to recommend restrictions on road usage to the town board as long as no individual or company was singled out for the restriction. She recommended a sign limiting trucks except for local deliveries be placed on Darrow Road at the intersection with County Route 6 and County Route 51, as was the case shortly after Circle T opened two years ago. The sign was removed, possibly the result of a misunderstanding in communication between Circle T and the Highway Superintendent. Re-installation of the sign should be discussed with the highway superintendent. Removal of the sign was not done by Circle T.

Melissa Windey expressed concern that the neighbors to the south of the plant on Darrow Road had all the truck traffic, while the neighbors to the north did not. She said allowing the trucks to travel in both directions on Darrow Road would be fair to everyone on the road.

Mike Cutuli said traveling south from the plant, trucks had a straight section of road and a stop sign within a half mile, which would limit the speed of trucks and provide a safer path of travel due to the straight road. Traveling north from the plants, truck drivers could build up more speed and would encounter more curves and intersections with side roads, increasing potential accident risk.

There are still questions regarding a change of circumstances that would warrant amending the conditions.

The planning board did not come to an agreement about the direction of truck travel.

No action was taken at this time.

Tabled to December 20, 2023.

Adjournment

With no other business before the board, a motion was made by Mike Cutuli, second by Karen Valentino to adjourn the meeting at 8:45 pm. All in favor. Carried.

Respectfully submitted,

Bettie Jo S. Cronk

New Haven Planning Board Secretary

POSTING ON WEBSITE DISCLAIMER: THESE MINUTES HAVE NOT YET BEEN APPROVED BY THE PLANNING BOARD. PLEASE REFER TO NEXT MONTH'S MINUTES FOR ANY AMENDMENTS, CHANGES, OR MODIFICATIONS AND APPROVAL.