

Kenneth Pilon, Moser Pilon Nelson Architects, addressed the Commission and gave an overview of what was being done with respect to the patio. Mr. Pilon said they are taking out a total of six (6) parking spaces in order to create the patio, but they are still significantly in excess with

respect to required parking spaces. Mr. Pilon said they will end up with approximately 75 spaces, and the requirement is 67 spaces. The total square footage of the building was reviewed by Mr. Pilon. Commissioner Pomeroy and Mr. Peck clarified the special exception being addressed this evening, which was for the liquor permit. Pedestrian and vehicular traffic flow on the property was discussed briefly. Mr. Pilon showed the Commission members the site plan and provided some specifications with regards to the parking.

At this point in the meeting, Mr. Peck suggested that Agenda Item VI(c) (Application #12-36 of Michael J. Cassetta, Owner, for a Site Plan Amendment for a BurgerFi Restaurant on property located at 530R Bushy Hill Road) be addressed next, as it is regarding the same property referenced in the Public Hearing item.

Commissioner Pabich made a motion to close the Public Hearing regarding Application #12-35. The motion was seconded by Commissioner Fiske and passed unanimously.

VI. DISCUSSION AND POSSIBLE ACTION ON ANY AGENDA ITEM

(c) Application #12-36 of Michael J. Cassetta, Owner, for a Site Plan Amendment for a BurgerFi Restaurant on property located at 530R Bushy Hill Road.

Michael Cassetta, 323 Wethersfield Road, Berlin, CT, addressed the Commission regarding the Site Plan Amendment for a BurgerFi Restaurant on property located at 530R Bushy Hill Road. Mr. Cassetta presented a board with photos of existing BurgerFi restaurants. Mr. Cassetta said beer and wine make up only 5-6% of their overall restaurant sales and there have been no issues in the other BurgerFi locations with respect to alcohol. Mr. Cassetta described the interior and exterior style of BurgerFi stores and showed additional photos.

Melinda Otlowski, Halcyon Architects LLC, addressed the Commission providing some specifications of the proposed building as well as describing the modifications they have made as a result of their meetings with Design Review Board. She explained the concept of the restaurant facade and showed the Commission site plans for the building. Some of the site plan details were discussed. Commissioner Pomeroy reviewed the changes suggested by Design Review Board. Mr. Cassetta then spoke about the proposed sign on the property, which is internally-lit. He spoke about the limited visibility of his property from the street and distributed photos of the adjacent properties taken at night. The subject of having a fence around the patio or on the sides of the patio was discussed. Fencing options were discussed in order to create some type of barrier between the BurgerFi and TCBY patio areas. It was decided that there should a partition between the two, which was discussed further by the Commission members, Ms.

Otlowski, Mr. Pilon and Mr. Cassetta.

Commissioner Pabich made a motion to approve Application #12-35 of Kenneth F. Pilon, Agent for Avon Marketplace Investors LLC, Owner, for a Special Exception pursuant to Article 10, Section H, of the Simsbury Zoning Regulations for a liquor permit including a patio permit for outdoor dining and the serving of beer and wine on the property located at 530R Bushy Hill Road. The motion was seconded by Commissioner Fiske and passed unanimously.

Commissioner Salls made a motion to approve the Site Plan Amendment (Application #12-36) including the proposed internally-lit sign (exception allowed pursuant to consistency with the surrounding properties) and with the addition of patio fencing allowing for traffic flow on the outside of the building. The motion was seconded by Commissioner Marecki and passed unanimously.

a) Webster Bank portion only of Application #12-24 of Robert Kuszpa, Agent for Steven Walker, Owner, for a Sign Permit for the Uniform Sign Plan for the Drake Hill Mall on the property located at 710 Hopmeadow Street.

Robert Kuszpa addressed the Commission explaining the halo illumination for the building and the directional signs. He then showed the Commission renderings of the proposed signs and briefly spoke of the materials that will be used. Mr. Peck said Design Review Board did recommend approval of these signs.

Commissioner Pabich made a motion to approve Webster Bank portion only of Application #12-24 of Robert Kuszpa, Agent for Steven Walker, Owner, for a Sign Permit for the Uniform Sign Plan for the Drake Hill Mall on the property located at 710 Hopmeadow Street. The motion was seconded by Commissioner Fiske and passed unanimously.

b) Application #12-25 of Marc Lubetkin, Agent for George Markatos, Owner, for a Sign Permit for Red Stone Pub on the property located at 10 Mall Way.

Marc Lubetkin, Owner/Partner, Red Stone Pub, addressed the Commission saying he had a two-part request. First request is to be permitted to erect a new freestanding sign in the courtyard building to replace the current sign on the wall that is currently not functional. Mr. Lubetkin explained this would make it visible from the main street. Mr. Lubetkin said their biggest challenge is for customers to find them and then he showed a photo of the current obscured sign and explained what he proposes for a freestanding sign. Secondly, Mr. Lubetkin said he proposes a slotted portion of his freestanding sign in order to communicate daily special events. Mr. Lubetkin said this slotted sign could allow businesses in the center zone to provide announcements without having a plethora of A-Frame

signs. It was clarified where the freestanding sign would be located. Commissioner Salls asked if the current freestanding sign on the property is non-confirming, which Mr. Peck confirmed. He said a freestanding sign is not currently allowed in this zone, so the regulation would have to be modified before they can approve this requested. Mr. Peck said if they want to modify the regulation, it would require a public hearing. Commissioner Salls said she would be more hesitant on approving the slotted sign, as it could be abused and is setting a precedent. Commissioner Post said they do need some sign visibility for that building, as it is difficult to find, but that the language needs to be crafted carefully. He continued by saying he thinks the advertising slot is reaching. Commissioner Pabich confirmed that DRB had an issue with the sign due to the fact that it is not allowed due to the current regulations. Commissioner Salls asked Mr. Peck what a regulation change would sound like and what are the possible ripple effects of that change. Mr. Peck gave some language options that would allow for this special exception. Mr. Peck also said they are working on a way-finding system in order to bring visibility to businesses on those side streets off of Hopmeadow. Mr. Peck explained way-finding signs in further detail. Commissioner Salls said she does think this is an important issue, especially as more businesses move onto those side streets. Mr. Lubetkin said a way-finding system would be great for the community in terms of discoverability for walkers and bikers. Mr. Lubetkin then asked what is the alternative to the slotted signs, if that is not allowable. Mr. Lubetkin then asked if could hear sooner rather than later, as he has been working on this issue since April. Commissioner Salls noted if there has to be a regulation change, it will take time. Mr. Peck spoke about how to communicate this process to the public and said it can be put on the agenda for discussion for each of the regular meetings until there can be a public hearing. Commissioner Salls also asked Mr. Peck to further pursue the way-finding signs.

d. Discussion regarding setting possible public hearing dates for:

(1) Local regulation on Palliative use of Marijuana based on PA 12-55.

Town Attorney, Robert DeCrescenzo, addressed the Commission and said this law goes into effect today and then described what the act allows regarding production and distribution. Attorney DeCrescenzo explained what the Zoning Commission can do in order to limit/control the dispensing of medical marijuana. Attorney DeCrescenzo said he thinks they can block the production by having it as a prohibited use. Federal versus State law was discussed by the Commissioners and Attorney DeCrescenzo. Attorney DeCrescenzo spoke about how they can make the production a prohibited use, but he said, the dispensaries could probably not be prohibited, but could be tightly regulated. Commissioner Salls asked if there was any possible benefit to having a producer within town. Attorney DeCrescenzo said it might provide some excess taxes, but security would create a serious issue. Commissioner Pomeroy said they should create the regulation language, which

Mr. Peck had drafted for review by Commission members, and it will have to go to public hearing. When on the topic of limiting distributors, Commissioner Pomeroy said he wants reasonable corporate controls from a distributor in order to ensure public safety. Attorney DeCrescenzo said it would be less prohibitive if they did not act on this issue. Commissioner Pomeroy said they should review Mr. Peck's drafted regulation language and be prepared to prohibit the production within Simsbury and define a regulation to restrict the selling in a very controlled manner. Timing was discussed and Attorney DeCrescenzo said they have approximately one year before it needs to be adopted.

(2) Administrative renumbering of zoning regulations

Mr. Peck provided everyone with the revised numbering and asked to set a hearing date for this topic.

Commissioner Salls made a motion to set a public hearing and accept the revisions. Commissioner Post seconded the motion, which was unanimously approved.

(3) Revision or redefinition of the term "arterial" road re: Assisted Living Facility regulation. Mr. Peck provided some options for wording in order to address this issue. The language was discussed and Mr. Peck said this modification would also require a regulation change. He said it could be addressed along with the previous issue.

(4) Discussion of whether to consider revision to Simsbury Center Code re: Commercial signage

This topic was discussed previously in the meeting.

Hemchandra Shertukde addressed the Commission with an informal presentation regarding his property located at 50 Walcott Road, Simsbury. Mr. Shertukde said he is requesting a use reclassification of their home, which is currently located within the I-1 Zone, in order to run their business out of the home (Diagnostic Devices). Mr. Shertukde explained their business and where their business would be conducted within the home. While they are in an industrial zone, they are classified for residential use, which does not allow them to run their business out of their home. Mr. Peck said he would prepare a motion for the next meeting in order to put on the consent agenda.

IX. ADJOURNMENT

Commissioner Pabich moved to adjourn the October 1, 2012 Regular Meeting of the Zoning Commission at 8:53PM. The motion was seconded by Commissioner Fiske and passed unanimously.

Respectfully submitted,

Robert Pomeroy, Chairman