

FIFTEEN ROPE FERRY ROAD
WATERFORD, CT 06385-2886



PHONE: 860-442-0553
www.waterfordct.org

MINUTES

PUBLIC WORKS, PLANNING, AND DEVELOPMENT COMMITTEE OF THE RTM PUBLIC HEARING & SPECIAL MEETING

Wednesday, September 30, 2020

6:30 P.M. - Waterford Town Hall

ZOOM Remote Access Only

The September 30, 2020 Public Hearing of the Public Works, Planning, and Development Committee of the RTM was called to order by Chairperson Michael Rocchetti at 6:32pm.

ROLL CALL

Present: Michael Rocchetti, Mike Bono, Liam O'Leary, Miriam Furey-Wagner

Absent: Ted Olynciw

Also Attending: Town Clerk David Campo, Town Attorney Nicholas Kepple, Planning Director Abby Piersall.

AGENDA ITEM 4

PUBLIC HEARING was opened by Chairman Michael Rocchetti at 6:33 P.M. in regard to a proposed deletion to the Waterford Code of Ordinances, Chapter 15.26 – Blighted Premises.

PUBLIC COMMENT was accepted in writing from Mark Dalton along with a statement from BOF Member Bill Sheehan and RTM Member Susan Driscoll.

Discussion ensued.

PUBLIC HEARING was closed by Chairman Michael Rocchetti at 6:47 P.M.

The September 30, 2020 Special Meeting of the Public Works, Planning, and Development Committee of the RTM was called to order by Chairperson Michael Rocchetti at 6:48 P.M.

ROLL CALL

Present: Michael Rocchetti, Mike Bono, Liam O'Leary, Miriam Furey-Wagner

Absent: Ted Olynciw

Also Attending: Town Clerk David Campo, Town Attorney Nicholas Kepple, Planning Director Abby Piersall.

AGENDA ITEM 4

MOTION by Furey-Wagner, seconded by Bono, to approve the minutes from the September 16, 2020 meeting.

AMENDED by Furey-Wagner, seconded by Bono, to approve the minutes with the

2020 OCT -1 PM 3:36

RECEIVED TOWN CLERK

following correction: Liam O'Leary voted in favor of item 6B making the result unanimous.

VOTING IN FAVOR: Unanimous

AGENDA ITEM 6A

Brief recap and discussion.

AGENDA ITEM 6B

Discussion ensued.

MOTION by Furey-Wagner, seconded by Bono, to report the item out of committee and recommend deletion of Chapter 15.26 – Blighted Premises of the Waterford Code of Ordinances because the committee confirmed redundancy under Zoning Enforcement and Property Maintenance rules.

VOTING IN FAVOR: Unanimous

MOTION by Bono, seconded by Furey-Wagner, to adjourn to adjourn at 7:09 P.M.

VOTING IN FAVOR: unanimous

Respectfully submitted,
Michael "Rock" Rocchetti
Chairman

2020 SEP 30 PM 2:47

2020 SEP 30 PM 2:47

September 29, 2020

Public Works, Planning & Development Standing Committee of the RTM

I spoke at the September 16th meeting prior to the decision being made to delete the Blight Ordinance completely. I misunderstood the purpose of that meeting to be a discussion of the changes proposed to enhance the existing Blight Ordinance. No matter which direction the committee goes there are some thought which must be included in the actionable standards of the ordinance or regulations.

The personnel employed by the town to administer and enforce the must act expeditiously and diligently as possible when issuing a citation or violation. It is important to give the offender a minimum amount of time to drag out the process because they will. It has been my experience that the BEO puts too much effort into voluntary compliance with the offender. Also the staff in the zoning department need to be more customer service oriented.

The ordinances were written after careful consideration to circumstance. What was thought of at the time was the intention. The offender no matter how devious they might be should not have the last laugh. And herein lies a very troubling detail of the existing Blight and Vehicle and Traffic Ordinance. In the Blight Ordinance specific language reads under **15.26.020 – Definitions A. Blighted premises: Any house, building, structure or land in which at least one of the conditions exists. A blighted premise is presumed to be a public nuisance. It has been determined by the town's blight enforcement officer that a condition exists that poses serious or immediate threat to the health, safety or general welfare of the community.**

1. Unlicensed/inoperable vehicle (s) which violate existing town zoning regulations

The Vehicle and Traffic Ordinance specific language reads under 10.08.050 – Removal of abandoned, inoperable or unregistered motor vehicles: Any abandoned, inoperable or unregistered motor vehicle within the town limits, which remains unmoved for thirty days after notice by the zoning enforcement officer to the property owner on which said vehicle so remains, requesting removal of said vehicle, and notice by the zoning enforcement officer in a newspaper having a substantial circulation in the town, may be removed and disposed of in accordance with Sections 10.08.020 et seq., of this chapter.

It is my opinion that the existing Blight Ordinance with its language crafted specifically for its purpose and with the enhancements proposed by the Director of Planning and Development should remain. One other item needs to be addressed is that the Zoning Regulations make no mention of Municipal Abatement in the chance that this event is necessary. The public is used to the Blight Ordinance. Tweak it if necessary to add more clout and put legal teeth in it.

The one caveat going back to my discussion of the inoperable unregistered motor vehicles despite the written word of the ordinances if such a blighted nuisance is put on a registered trailer it is in the ZEO's opinion no longer considered blight or a nuisance. That is ridiculous. Isn't the ordinance the rule of law? That accommodation to the offender is contrary to the intent of the RTM and crosses the line no matter if the document is the Blight Ordinance or the Vehicle and Traffic Ordinance.

Chapter 15.26 - BLIGHTED PREMISES

15.26.010 - Purpose.

- A. The presence in the Town of Waterford of real property which exists in blighted condition constitutes a continuing nuisance, is detrimental to the health, safety and general welfare of the community, and adversely affects property values, thus contributing to the decline of neighborhoods and negatively affecting the economic well-being of the town and its residents. The abatement and/or elimination of blighted premises is necessary to protect, preserve, and promote public health, safety and general welfare of the community. Accordingly, the ordinance codified in this chapter is adopted pursuant to C.G.S. §§7-148(c)(7)(H)(xv), 7-148o(b) and 7-152c.
- B. *Public nuisance.* It is hereby declared a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises in the Town of Waterford to maintain such premises or any public right-of-way abutting said premises in such manner that any of the following conditions described below exist thereon, which shall be defined as blight.

(Amend. of 4-18-17(2))

15.26.020 - Definitions.

For the purpose of this chapter, the following terms and phrases shall have the meanings set forth in this section, unless a different meaning is clearly indicated by the context:

- A. *Blighted premises:* Any house, building or structure or land in which at least one the following conditions exists. A blighted premises is presumed to be a public nuisance:
1. It has been determined by the town's blight enforcement officer that a condition exists that poses a serious or immediate threat to the health, safety or general welfare of the community.
 2. The property is in a state of disrepair or is becoming dilapidated. "State of disrepair" or "becoming dilapidated" shall mean in a physically deteriorating condition causing unsafe or unsanitary conditions or a nuisance to the general public as evidenced by one or more of the following conditions:
 - a. Missing, broken, or boarded-up windows or doors;
 - b. Collapsing or missing exterior features including but not limited to, walls, roofs, stairs, porches, railings, hatches, chimneys or floors;
 - c. Structurally faulty foundation;
 - d. Unrepaired fire or water damage;
 - e. Lacks facilities necessary for habitation;
 - f. Vacant structure(s) open and not secured against entry;
 - g. Rodent harborage and/or infestation;
 - h. Parking lots in excess of ten parking spaces in a state of disrepair or abandonment, evidenced, for example, by cracks, potholes, overgrowth of vegetation within the surface, pavement, or macadam, or within medians and buffers;
 - i. Shrubs, hedges, grass, plants, weeds or any other vegetation that has been left to grow in an unkempt manner that is covering or blocking means of egress or access to any building or that are blocking, interfering with or otherwise obstructing any sightline, road sign, or emergency access to or at the property, when viewed from any property line;
 - j. Whether any building or dwelling on the premises is occupied or not, no grass or weeds shall be permitted by any owner or occupant to reach a height greater than two feet over twenty percent of the property;

- k. The overall condition of the property structure and/or grounds causes an adverse impact on neighboring property or the cancellation of insurance on the property; and/or
 - l. Unlicensed/inoperable vehicle(s) which violate existing town zoning regulations.
 - m. Dumpsters placed on private property for the purpose of disposal of any solid or liquid waste for a period of more than sixty days from the date of the dumpster's delivery and which has not been placed in association with a site plan approved in accordance with the Waterford Zoning Regulations or a construction project with an active building permit.
 - n. Rubbish, broken glass, trash, refuse, debris, stumps, roots, or boats and machinery in a state of disrepair that cannot be used for its original purpose.
 - o. *Debris*: Material which is incapable of immediately performing the function for which it was designed including, but not limited to: abandoned, discarded or unused objects; junk comprised of equipment such as automobiles, boats, and recreation vehicles which are unregistered and missing parts, not complete in appearance and in an obvious state of disrepair, parts of automobiles, furniture, appliances, cans, boxes, scrap metal, tires, batteries, containers, and garbage which is in the public view.
 - p. *Decay*: A wasting or wearing away; a gradual decline in strength, soundness or quality; to become decomposed or rotten, except a contained compost pile.
 - q. *Mechanical equipment*: Any apparatus designed to operate by an internal combustion engine, or designed to be towed by any apparatus propelled by an internal combustion engine; to also include electric and pneumatic equipment.
 - r. *Natural field state*: Areas where grass, weeds, and brush exist in their natural, un-landscaped state.
 - s. *Naturally wooded state*: Areas where trees, brush and plants exist in their natural, un-landscaped state.
 - t. *Person*: Any man, woman, corporation, or other legal entity capable of owning real property.
 - u. *Premises*: A platted lot or part thereof or un-platted lot or parcel or land or plot of land, either occupied or unoccupied by any dwelling or non-dwelling structure and includes such building, accessory structure or other structure thereon, or any part thereof. The terms "premises," where the context requires, shall be deemed to include any buildings, dwelling, parcels of land or structures contained within the scope of this chapter.
 - v. *Public view*: Visible from any public right-of-way or neighboring property, a grade level.
 - w. *Structure*: Any building, dwelling, fence, swimming pool, or similarly constructed object.
3. The fire marshal has determined that a building or structure is a fire hazard.
- B. *Citation hearing officer*: A person appointed by the first selectman as an officer, as defined in, and pursuant to C.G.S. § 7-152c, to serve as the citation hearing board. Such officer shall not be an individual who issues citations and shall not otherwise be an employee of the town. The blight citation hearing officer shall serve for a term of two years, unless otherwise removed for cause by the first selectman.
 - C. *Dilapidated*: Any building or structure or part thereof which is deemed an uninhabitable or unsafe structure as defined in the Connecticut State Building Code, or any dwelling or unit which is determined to be unfit for human habitation as defined by the Connecticut Health Code.
 - D. *Blight enforcement officer*: A person or persons authorized by the first selectman to take such enforcement actions and to issue citations as specified in this chapter, who shall not be the blight citation hearing officer.
 - E. *Registrant*: Any person who has commenced an action to foreclose a mortgage on residential property and has registered such property with the town clerk.
 - F. *Naturalized areas*: Contiguous areas of vegetation that come from natural regeneration and/or intentional plantings with native plant material. These areas are an approach to landscaping as a means of promoting bio-diversity, reducing water use, and reducing maintenance costs.
 - G. *Town*: The Town of Waterford.

- H. *Town official*: The officer or officers, who are authorized by this chapter to exercise the powers prescribed herein, including selectman, director of public works, fire marshal, fire services administrator or designated agents, and any police officer.

(Amend. of 4-18-17(2))

15.26.030 - Exemptions.

The following properties and/or portions of properties shall be exempt from this chapter:

- A. Land dedicated as public open space or parks;
- B. Vegetation preserved in its natural state through conservation easements or conservation restrictions;
- C. Maintained gardens, flower beds, and/or xeriscape landscaping as part of a landscape design, or naturalized areas as defined in Subsection 15.26.020.F herein, provided they do not cover or block means of egress or access to any building or block, interfere with or otherwise obstruct any sightline, road sign, or emergency access to or at the property or promote rodent harborage and/or infestation;
- D. Any building or structure undergoing remodeling being diligently conducted pursuant to an active building permit, provided that said exemption is applicable only during such remodeling period;
- E. Any blighted premises for which a land use application is pending for a period of ninety days from the date of submission of the application to the town.

(Amend. of 4-18-17(2))

15.26.040 - Special consideration.

Special consideration may be given to individuals who are disabled, elderly, or low income in the town's effort to correct housing blight. If an individual home owner cannot maintain a reasonable level of upkeep of owner-occupied residence because the individual is disabled, elderly, or low income, and no capable individual resides in the residence, the town may give said individual home owner a reasonable amount of time to correct the problem, the duration of which shall be in the discretion of the blight enforcement officer. If needed, assistance in finding solutions will be offered by the town.

- A. *Capable individual* shall mean a person who can be reasonably expected to perform maintenance and yard work around a property or premises. This shall include children above sixteen years of age, without physical or mental disability as defined herein.
- B. *Disabled individual* shall mean, in the case of an owner occupied residence, an individual who has a disability meeting the definitions for the mental or physical disability meeting the definitions for mental or physical disability as defined under the Americans with Disabilities Act of 1990 and does not have a household member capable of providing the necessary maintenance.
- C. *Elderly individual* shall mean an individual over the age of sixty-five, who does not have a household member capable of providing necessary property maintenance.
- D. *Low income individual* shall mean, in the case of an owner occupied residence, an individual, or where more than one person resides in the premises, a family unit, that has an income below the highest level of "qualifying income" established by C.G.S. § 12-170d(a)(3).

(Amend. of 4-18-17(2))

15.26.050 - Creation or maintenance of a blighted property prohibited.

No owner, agent, tenant and/or person responsible for the care, maintenance, and/or condition of real property, shall cause or allow any blighted property, as defined in Section 15.26.020, to be created, maintained or continued.

(Amend. of 4-18-17(2))

15.26.060 - Receipt of complaints and notice of violation.

- A. The blight enforcement officer shall investigate any written, signed complaint and determine whether a violation of this chapter exists.
- B. The blight enforcement officer shall give written notice of a violation of this chapter to the owner and occupant of and may give written notice to their agent(s), and/or any other person responsible for the blighted premises. The notice shall be hand delivered or mailed by both certified mail, return receipt requested and first class mail to the address of the owner on file with the Waterford Tax Collector, or any of the persons identified in Section 15.26.040 herein to the last known address of the person to whom it is directed, and a copy mailed by first class mail to any lienholder's current or last known address pursuant to C.G.S. § 7-148gg. If the notice is mailed to only one of the responsible parties, that shall in no way be, or be construed as, a release of any other party. If there is more than one responsible party identified in the notice, the responsibility for complying with the notice shall be joint and several.
- C. Such notice shall state the violation and demand its abatement within a reasonable time to be determined by the blight enforcement officer based on the nature and extent of the violation. If the violation is not corrected within the time provided in the written notice, the blight enforcement officer may issue an enforcement citation and/or take other enforcement action as specified herein.
- D. If the owner, agent, occupant and/or person responsible for the blighted premises cannot be ascertained or does not accept delivery of the written notice, the notice shall be published once in a daily or weekly newspaper having a substantial circulation in the town and shall be posted on the premises. The notice shall include the name of the last known owner of the real property upon which violation has been found and the address of the real property.
- E. Any person who is a new owner of a blighted property shall, upon request, be granted a thirty-day extension of the notice and opportunity to remediate provided pursuant to Subsection 15.26.060.B. For the purposes of this subsection, "new owner" shall mean any person or entity who has taken title to a property within thirty days of the notice.

(Amend. of 4-18-17(2))

15.26.070 - Penalty for violation.

Violations of this chapter shall be punishable by a civil penalty of fifty dollars for each day a violation continues. Each day after due notice of the violation has been served shall constitute a separate offense.

(Amend. of 4-18-17(2))

15.26.080 - Enforcement citation.

- A. A citation hearing procedure pursuant to C.G.S. § 7-152c is hereby established for the purposes of this section. The first selectman shall appoint a citation hearing officer for the town in accordance with Subsection 15.26.020.B of this chapter.
- B. If a violation remains unabated after the time allowed for abatement contained in the notice of violation issued per Section 15.26.060 hereinabove has expired, the blight enforcement officer may issue a citation to any owner, agent, tenant, or person or entity in control of the property for the violation in accordance with this section. The citation shall state the date by which the uncontested payment of fines, penalties, costs or fees shall be made.
- C. Any person(s) or entity issued a citation pursuant to this section shall be entitled to a hearing to contest the citation pursuant to the provisions of C.G.S. § 7-152c(e).
- D. At any time within twelve months from the expiration of the final period for the uncontested payment of fines, penalties, costs or fees set by a citation issued pursuant to this section, the town shall send notice to the person(s) or entity cited to inform them:
 - 1. Of the allegations against the person or persons and the amount of fines, penalties, costs or fees due;
 - 2. That the person(s) or entity may contest liability before a citation hearing officer by delivering in person or by mail written notice within ten days of the date the duly delivered notice;
 - 3. That if the person(s) or entity does not demand such a hearing, an assessment and judgment shall be entered

against the person(s) or entity; and

4. That such judgment may issue without further notice.

For purposes of this Section 15.26.080, notice shall be presumed to have been properly sent if such notice was mailed to such person/entity's last known address on file with the tax collector. If the person/entity to whom notice is issued is a registrant, the town may deliver the notice in accordance with C.G.S. § 7-148ii, provided nothing in this section shall preclude the town from providing notice in another manner permitted by applicable law.

- E. If the person/entity to whom notice is sent pursuant to this section wishes to admit liability the person/entity may, without requesting a hearing, pay the full amount of the fines, penalties, costs or fees admitted to in person or by mail to a designated town official.
- F. Any person who does not deliver or mail written demand for a hearing within ten days of the date of the first notice provided by in Subsection B of this section shall be deemed to have admitted liability, and the designated town official shall certify such person/entity's failure to respond to the hearing officer. The hearing officer shall thereupon enter and assess the fine, penalties, costs or fees provided for by this section and shall follow the procedures for obtaining a judgment from the Superior Court set forth in C.G.S. § 7-152c(f).
- G. A person/entity who makes a timely request for a hearing shall be given written notice of the date, time and place of the hearing. The hearing shall be held at a time and conducted in the manner provided by C.G.S. § 7-152c(e).
1. The hearing officer shall announce the decision at the end of the hearing. If the officer determines that the person/entity is not liable, the matter shall be dismissed and the officer shall enter that determination in writing accordingly. If the officer determines that the person/entity is liable for the violation, the officer shall forthwith enter and assess the fines, penalties, costs, or fees against such person as provided by this section.
 2. If the hearing officer's assessment is not paid on the date of its entry, s/he shall send by first class mail a notice of the assessment to the person found liable and shall file, not less than thirty days nor more than twelve months after such mailing, a certified copy of the notice of assessment and an entry fee with the clerk of a Superior Court facility designated by the chief court administrator.
 3. The person/entity against whom an assessment has been entered by the hearing officer pursuant to this section is entitled to a judicial review by way of appeal pursuant to the provisions of C.G.S. § 7-152c(g).

(Amend. of 4-18-17(2))

15.26.090 - Municipal enforcement and abatement.

- A. In addition to any penalties as permitted by statute, and the citation and hearing provisions of this section, in the event any owner, agent, tenant, or person in control of real property fails to abate or correct any violation specified in a notice, pursuant to Section 15.26.060 herein, after the issuance of an enforcement citation for such failure, once the citation has become final through the failure of such owner, agent, tenant, or person in control to appeal from the issuance of the citation or by such appeal being sustained, the town, acting through its blight enforcement officer issuing such notice of violation, may cause or take any action necessary pursuant to C.G.S. § 7-148(c)(7)(E) to abate the violation upon twenty-four hours notice of its intent to do so. The cost to take such action shall be a civil claim by the town against such owner, agent, tenant, or person responsible for the property, and the town attorney may bring an action to recover all such costs and expenses incurred, including reasonable attorney's fees.
- B. In the event that the blight enforcement officer prevails in such legal proceedings, the violator shall be liable for all costs of bringing the property into compliance, and shall further be liable for all legal costs incurred by the town in doing so, including its reasonable attorney's fees.

(Amend. of 4-18-17(2))

15.26.100 - Recording of lien.

In addition to having a lien for abatement expenses, any unpaid fines or costs shall constitute a lien upon the real estate in accordance with C.G.S. § 7-148aa. Each such lien shall be continued, recorded, and released as provided for therein.

(Amend. of 4-18-17(2))

15.26.110 - Schedule of payments.

- A. The blight enforcement officer or the citation hearing officer may establish a schedule of payments with the owner of property in violation of this chapter subject to the following conditions:
 - 1. A written abatement plan signed by the property owner to abate the violation by a date certain is approved and signed by the blight enforcement officer or citation hearing officer;
 - 2. The abatement plan shall establish the amount and date(s) payment of penalties shall be made.
- B. The blight enforcement officer or citation hearing officer may suspend the accrual of daily violation fees described in Section 15.26.070 of this chapter during the abatement period; provided that the property owner meets terms of the approved abatement plan. Failure of the property owner to meet the terms of the approved abatement plan shall result in the nullification of the plan and the retroactive accrual of penalties from the day after due notice pursuant to Section 15.26.070 of this chapter.

(Amend. of 4-18-17(2))

15.26.120 - Effective date.

The ordinance codified in this chapter shall take effect fifteen days after final approval by the representative town meeting.

(Amend. of 4-18-17(2))