

**CITY OF BRIDGEPORT  
ZONING BOARD OF APPEALS  
PUBLIC HEARING  
JUNE 9, 2020**

ATTENDANCE: Maria Alves (chair), Robin Shepard, Edward McLaine, John Carolan, Ira Nagem

STAFF: Dennis Buckley, Zoning Official, Paul Boucher, Assistant Zoning Official, Nick Sampieri, Zoning Inspector, Russell Liskov, City Attorney

OTHERS: Lynn Haig, Attorney Diane Lord, Attorney Joel Green, Attorney; Charles Willinger, Attorney; Raymond Rizzio, Attorney; Kevin Scott, Peter Standish, Frank, Thomas, Frank R, Eyad, Attorney Chris Russo, Eddie Jamal, Tim Butler, Jack, Jacob Herzkowitz, Kevin Sawyer, Rosie Ortiz, El-Rashim McCloud

**CALL TO ORDER**

Commissioner Maria Alves called the meeting to order at 6:05 PM. A quorum was present.

Commissioner Alves recited the following:

“This meeting of the ZBA complies with Governor Lamont’s Executive Order 7B, as it relates to web-based meetings. Therefore, the in-person meeting requirement is eliminated as long as people can participate by phone or video in real time. Also, the sign posting requirement and the return receipt notification to property owners has also been eliminated as long as the ZBA agenda has been online and complying with the statutes as normal, earliest publication date in the Connecticut Post. This agenda was placed on the website on May 28, 2020 and also on June 4, 2020, which complies with that requirement. This meeting is being recorded to comply with the open meeting requirement and will be available on the City webpage following the meeting.”

Commissioner Alves went on to describe the way that the meeting would be conducted, as well as directions for participation.

**AGENDA ITEMS**

**(C-1) 580 North Ave. – Petition of 547 North Ave Bridgeport Realty, LLC – Appealing under Sec. 14-10 of the Zoning regulations of the City of Bridgeport and Sec. 8-7 of the CT General Statutes, whereby it is alleged that the Zoning Officer erred in his decision in the issuance of a Certificate of Occupancy for a gas station convenience store use while the project was the subject of ongoing litigation.**

Commissioner Alves introduced the matter and said that Mr. Buckley's decision had been challenged. She invited Mr. Buckley to explain his reasoning.

Mr. Buckley asked them to recall that this matter has been before the Board on and off since April of 2018. The ZBA approval was July of 2019 regarding landscaping waivers. Following that it was off to the ZBA for final approval. On Monday, March 29, 2020, the petition for the site under review was heard by the Planning & Zoning Commission. After hearing the opposition, it was pointed out that several areas of the map, which was provided by Attorney Willinger, was not in compliance with the regulations. He said that this particular case has gone on and on and the commissioners thought it was time to bring it to closure. At the suggestion of the City Attorney, the Commission approved the petition on the condition that the several items of concern would be evaluated by the City Engineer, which he did, and to submit a letter of his findings, which was also done. The Engineer did find that there were some items that were not in compliance with the zoning regulations.

Mr. Buckley said the findings were sent to all parties concerned and the Judge had decided that the City Engineer would provide information after the Commission had approved it, even though it was a conditional approval. He said it could not be considered or presented because this particular case was finally closed.

On February 4, at the direction of the City Attorney based on Judge Ratcliffe's decision, Mr. Buckley issued a certificate of zoning compliance for 580 North Ave gas station and convenience store. He said that he hadn't yet received the as-built survey, which is the final item to bring this to closure from a zoning standpoint. He said that is basically the history of the matter and how it relates to tonight's challenge.

Mr. Green of Green & Gross Attorneys thanked the Commissioners. He proceeded to review his exhibits related to the matter on screen.

Exhibit 1: The petition to the Board of Appeals.

He said the matter being appealed is the Certificate of Zoning Compliance issued by Mr. Buckley.

Exhibit 2: The procedures set forth in 14-1 of the Zoning Regulations.

Exhibit 3: The application for Certificate of Zoning Compliance submitted by 580 North Avenue.

This was originally submitted on December 6, 2018. The description of work refers to renovation of existing canopy, 542 square foot addition, and interior renovations. The proposed use is a convenience store of 2,094 sq ft with 6 gas pumps. It makes reference to the Planning and Zoning Commission approvals of March 26, 2018 and November 25, 2019.

Mr. Green said that the March 26, 2018 approval was appealed, and Judge Welch reversed and sustained their appeal. That approval was overturned on appeal. He said the November 25, 2019 approval is presently on appeal before the court.

Exhibit 4: The drawing that was originally submitted to the commission and the Zoning Department. It shows what was in the original plan. It shows the traffic island adjacent to the road, parking spaces, and the building. The darker shaded portion is the new addition to the building. Mr. Green said that most of the building that had originally existed on this site was raised and destroyed and replaced with a new structure.

Exhibit 5: Certificate of Zoning Compliance dated February 14, 2020, which makes reference to the March 26, 2018 approval, which was reversed by the Court. This is the subject of the appeal

Mr. Green said that he did not provide the Board with copies of that decision, but he did submit a copy to Mr. Buckley on June 8, 2020 and emailed a copy to Mr. Sampieri and him on this day.

Exhibit 6: The drawing of a proposed project that was approved by the Planning and Zoning Commission on appeal right now. It shows the new addition of 542 square feet. Mr. Green said it purports to show the landscaped area that faces the street.

Exhibit 7: Another angle of the drawing in Exhibit 6.

Mr. Green said that when they appeared before the Planning and Zoning Commission, the issues they objected to were the following: 1) The canopy does not cover the entire fueling area, as required under Bridgeport City Ordinance; 2) The driveway between one of the pumps and the

landscaped area is only 11 ft 6 inches. The Zoning regulation requires that this area be 12 feet, so the regulations were not met; 3) The Zoning regulations require that there be 24 feet cleared behind parking spaces to back out. Mr. Green said that, on the southwest side of the building, they don't have 24 feet of clearance for those spaces; 4) The landscaping on this side was inadequate and not in accordance with the zoning regulations. He said the applicant purported to, and what his counsel, Mr. Willinger said to do, was that the area of the landscaping is Turfstone commercial grade paver, and they were counting that towards the landscaping of the site. Mr. Green said there were other issues raised as well.

Exhibit 8: Letter written by Mr. Buckley following the approval.

Mr. Green said the letter said that they could not assess the issues that he raised on behalf of his client. He said they needed the City Engineer to weigh in on this. Mr. Green said that Mr. Buckley wrote this letter that correctly reflected that this was conditionally approved subject to the City Engineer's input on the following being met: 1) the 12 foot driveway zoning standard, 2) the landscaping, 3) the vehicle maneuvering space, 4) the potentially blocked parking spaces by cars at the pumps, 5) the maneuvering space for delivery trucks.

Mr. Green pointed out, in response, on page 2 of this letter, the reports by Planning and Economic Development, ...the City Engineer...the City Engineer, the Traffic Engineer. He said the City Engineer confirmed: 1) the driveway travel lane does not comply with the requirement, 2) the trucks will not be able to enter the site without traveling over the landscaping area. The Engineer said the landscaping appears to be adequate, however, there are no landscaped trees along the lot lining the street. The Engineer said that the total landscaping complied with the requirement, 3) the maneuvering space is 19 feet, which does not comply with the requirement, 4) the two spaces closest to the building are blocked, 5) fuel delivery trucks will have great difficulty entering and leaving the site.

Mr. Green said that the City Engineer has confirmed that there are significant issues and that this is not a zoning compliant plan.

Exhibit 9: Excerpts from the Zoning Regulations, page 83. Section 11-1-10 and 11-1-11 talks about driveway widths and maneuvering spaces. It makes references to Figure 11A.

Exhibit 10: Shows design standards for perpendicular parking, which require 24 feet of clearance behind those parking spaces for safe maneuvers.

Mr. Green said that this is what the City Engineer was confirming - that this does not meet zoning regulations.

Exhibit 11: Refers to 11-1-14.

Mr. Green said that this was important. There is a table here that talks about minimum parking area setbacks and perimeter landscaping. Mr. Green said that this site is in an aisle zone, so there are two standards that it must meet. For the lot lining the street, on the front of the project, there can be a 10-foot setback of landscaping at L2, which shows the level of landscaping required. He said that all standards must comply with the standards of 11-3 and must be fully protected by damage against vehicles.

Mr. Green pointed out on the next page and that there is general landscaping standards and said that L2 (on the third page) says that low shrubs must form a continuous screen 3 feet high and 95% opaque year round. A tree canopy is also required in the area. L2 also says that a 3-foot-high masonry wall would also be compatible or substituted, but the trees and ground cover are still required.

Mr. Green said that, in L2, when applied along street lines, the screen or wall is to be placed along the interior side of the landscaping area.

Exhibit 12: Refers to trees that are required.

Mr. Green said the landscaping trees that they use have to be 4 inches in diameter minimum at the time of planting, 5 ft above the ground, and a minimum height of 8 feet. Evergreen trees, at the time of planted, must have a minimum height of 6 feet.

Exhibit 13: A view of the site.

Mr. Green said that this purports to be the landscaped area, and that applicant purports that this structured turf constitutes landscaping. He said that, even if it did, it runs to follow the regulation that says that the screen or plantings that are shown must be on the interior portion of the landscaped area. Mr. Green said that there is absolutely no landscaping at all in this area in the picture. There are no shrubs or trees. From another view, he showed that the applicant put some small boxwoods in the area, but they are no 8 feet high, nor do they have 4-inch trunks. He said that this interpretation of landscaped area does not begin to meet the landscaping requirement for development of a site, and was done because the applicant does not have adequate space on the

site for locating the pumps and having safe access for a delivery truck bringing fuel to the site to maneuver on the site.

Exhibit 14: Photos.

Mr. Green showed that the canopy does not cover the entire fueling area. The drawing on the right shows how small the trees are in the landscaping area that do not meet the standards. The area below shows the corner without protection for the landscaping required specifically by the zoning regulation that there be protection. He said that this area has already been run over several times. He said that this is inadequate and too small. He said that the landscaping does not even begin to provide a 95% opaque screen.

Mr. Green said that it was significant to note that there is no Certificate of Occupancy for this operating convenience store. He said that this facility is being operated freely without a final inspection.

Mr. Green said that, as Mr. Buckley indicated, referring to Exhibit 2, there are certain standards that have not been met. As part of the zoning certificate of compliance process, the last step is in 14-1-10. That is final, as-built drawings, and it says that for a new construction, commercial or residential, the footprint is increased greater than 100 feet. He said that they know that the footprint was increased by 542 square feet, an as-built A2 survey to be recorded in the City's land records, shall be required of the applicant to receive a certificate of zoning compliance.

Mr. Green said there is no A2 survey provided. He said that he thought Mr. Buckley has indicated that there has been no A2 survey. Mr. Green said that, not only is this applicant operating without a certificate of occupancy, but there is no final as built. The purpose of the final as built is to confirm the plan that the project is built as proposed, and so the zoning officer can confirm that it conforms with the zoning regulations.

Mr. Green said that he took issue with the ruling by the Planning and Zoning Commission by saying "conditionally approved" because the condition that they imposed was not met. The City Engineer said this doesn't comply. Mr. Green said, not only that, the applicant has not submitted what is required to get the certificate of zoning compliance, and yet it was issued. There is no certificate of occupancy.

Mr. Green said, on that basis, they urge the Board to sustain their appeal because there is no basis to issue a certificate of zoning compliance where the regulations have not been complied with. He

said that close enough does not count, because there is a clear provision in the zoning regulations that have no wiggle room that have simply not been met.

Mr. Buckley said that he had not much else to say on the matter. He said he sought an opinion as to how he should handle the situation, following Judge Ratcliffe's decision. He said he took that advice and signed the zoning compliance.

Mr. Buckley said that he did still need an as-built survey to finish out the process. This is what is filed in the land records with the City.

Commissioner Shepard asked if they are already working, but they still have to have the A2, which is needed at the end of every project. She asked if they would be shut down. Mr. Buckley said he didn't know if they would be shut down, but that would be the end of the process. Someone said they could be shut down.

Commissioner Nachem asked to wait to hear the remaining speakers and then he would ask questions.

Commissioner McLaine asked Mr. Buckley, prior to issuing the certificate of zoning compliance, were inspections required at this location. Mr. Buckley said their inspections come at the end. He said the Building Department would be doing inspections as the construction progresses, and that's not something they normally do.

Commissioner McLaine said that there were certain inspections, like the Fire Department, that had to be performed prior to giving a certificate of zoning compliance. He said these inspections were performed and they were satisfactory. Mr. Buckley said that he meant Fire Marshal rules and Building Department rules. He said that all 3 departments have their own regulations and rules, so one doesn't affect the other.

Commissioner McLaine said that Mr. Buckley had been doing this a long time and he could not imagine that he would issue a certificate of zoning compliance without the minimum being performed and tasked. Mr. Buckley said that he had been doing this a long time and had never experienced a case like this before, which is why he relied on the opinion of the City Attorney.

Commissioner McLaine said that from what he could see here, Mr. Buckley did the right thing. Mr. Buckley said thank you.

Commissioner McLaine clarified with Mr. Buckley that inspections from other departments had been passed or in compliance. He said that before issuing a zoning compliance certificate that he would be sure that everything was as it should be. Mr. Buckley said they actually get the request for the zoning certificate from the Building Department once they are satisfied the City and State regulations are in compliance. He said that he sought legal opinion before issuing the certificate because he had never experienced one like this before. He said that, on the advice of counsel, he issued the certificate.

Commissioner Carolan asked to move on in the proceedings.

Commissioner Nachem said he would see if the answers would come out and would hold questions til the end.

Commissioner Alves invited the public to speak.

Mr. Willinger thanked the Commission. He represents Eddie Jamal and his company 580 North Avenue LLC. He said that his clients are directly affected by this because they are the owners and operators of the Gulf Gas Station. He mentioned Attorney Green and his Citgo gas station.

Mr. Willinger said they called over to zoning yesterday and asked if Attorney Green had filed any exhibits, so they could try to get the copies and review his exhibits before the hearing. They were told that there was nothing filed at that time. As a consequence, they haven't had any opportunity to review the exhibits. He said they believe that Mr. Buckley did the right thing by signing the certificate, however, he requested a continuation to next month, because they want to review the exhibit. He said there were a lot of erroneous statements made tonight and he wants to make sure to review every one of the exhibits that Mr. Green has submitted.

Mr. Willinger said that, in the course of the 2 ½ years or so that they have been fighting with the Citgo folks in front of the P&Z, when he sent an exhibit, even when he sent Attorney Green a copy, he kept requesting a continuance so that he could review it. He would like the same courtesy, so that he could prepare his opposition to Attorney Green next month.

Mr. Buckley said that at this point, the Zoning office is open Tuesdays and Thursdays by appointment only and they are already booked until next Thursday. He asked him to keep that in mind, because they can't just drop into Zoning like that due to the virus. He said that they would need to make an appointment with Mr. Boucher in his department, so that they could check out the exhibits. Mr. Willinger said they would make that appointment the following morning.



Mr. Liskov said that, from what he's heard so far, this is ongoing litigation that is pending in court. There have been numerous continuances for people to review documents and applications, and under the very different circumstances of COVID-19, not being able to see things or make appointments. Mr. Liskov recommended that everyone be given as much leeway as possible to look at documents to all parties.

**\*\*COMMISSIONER NACHEM MOVED TO APPROVE THE CONTINUANCE OF ITEM (C-1) TO JULY 14, 2020**

**\*\*COMMISSIONER SHEPARD SECONDED**

**\*\*MOTION PASSES with 3 yes (Nachem, Shepard, Alves) and 2 no (McLaine, Carolan).**

The public hearing is continued until July 14, 2020.

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**#1 135 & 181 East Washington Ave. – Petition of Peter G. Standish – Appealing under Sec. 14-10 of the Zoning regulations of the City of Bridgeport and Sec. 8-7 of the CT. General Statutes, whereby it is alleged that the Zoning Officer erred in his issuance of an Order to Comply regarding the establishment of a portable sanitary equipment and supply business in an MULLI zone and coastal area.**

Commissioner Alves asked Mr. Buckley for his reasoning on the decision since he was being challenged on it.

Mr. Buckley said he was contacted by the owners of A Royal Flush in December regarding a possible location for their relocation at 135 East Washington Avenue. He met with the owners at the property, discussed the approvals they needed to have for a waste processing and transfer facility in the mixed used light industrial zone. He said that basically they needed a use variance, a variance of the outdoor storage and a coastal area management approval. There was also the underlying issue of the numerous pumps and large scale delivery trucks needed to run business, because there were going to be more than 10 truck trips a day.

Mr. Buckley said the clients hired Mr. Willinger, who submitted an application and said the use was for outdoor storage in a coastal area for the portable sanctuary equipment and truck storage. He also put on the application that everything was going to be inside the existing building. Mr. Buckley said this was a rather large misrepresentation based on the photos that he submitted to them in the packets today.

The petition was scheduled before the ZBA on February 20, 2020 to present their case and get their variances. Mr. Buckley said they were about halfway through the meeting when Attorney Willinger learned of the City's opposition. They asked the Chair for a deferment so that he could discuss things with his client. His application was then moved forward to the March 10, 2020 Agenda at his request.

On March 10, 2020, they received a second deferment request from Attorney Lord due to not posting the sign in accordance with the requirement. They never paid the \$245 deferment fee.

On March 13, 2020, City Hall closed due to the pandemic. Mr. Buckley said that, approximately 2 months later, A Royal Flush moved into this property "lock, stock, and barrel". Everything from Pine Street, Block Rock, and everything from their storage lot in Fairfield came onto this site. From the photos he provided, there were a lot of trucks all over the property. He said this was a flagrant disregard for the zoning department and for the City of Bridgeport. He said the department was so helpful to these people for trying to get their application together.

Mr. Buckley said that this was very "in your face" from A Royal Flush and Attorney Willinger, and he really needs the Board's support on this one. He said the City is not in favor of it, and it doesn't comply with the zoning rules. He said they could consult his cease-and-desist order, which was hand-delivered by the marshal to the owner of the property and Attorney Willinger. He said Mr. Standish got this around April 9 and Mr. Willinger got his a few weeks before that.

Mr. Willinger represents Peter Standish, owner of the property, and also represents A Royal Flush, who has signed a lease on the property. He said it was unfortunate that Mr. Buckley would think that he would participate in any flagrant violation of the zoning regulations. He said that is not how he has made his living. He offered background.

Mr. Willinger said that, when his clients wanted to go onto this site, they went to the City to meet with Zoning. He said they were told that they needed 3 or 4 variances, which were applied for. Since there was so much outside storage on the former use of the coastal palette, they didn't think it would be objectionable at all, because they are only storing things on a small portion according to the plan they sought out.

Mr. Willinger said they were told by Mr. Coleman of OPED on the night of the hearing that the City didn't like the not-too-sexy use of A Royal Flush portable toilet storage and distribution and they would oppose them. Mr. Willinger said he asked for a continuance or requested a deferment, so they could meet with OPED and Mr. Buckley. He said in the course of reviewing the facts of

his client on the site, they determined that they did not need any of the variances that Mr. Buckley said they needed, so they withdrew the variance.

Mr. Willinger said the zoning staff has the plans that they are referring to and they ultimately know how they want to use the site. He said that he hasn't had a chance to review the photographs, but he did understand that A Royal Flush is currently on more than the outside storage portion of the site than they know they want, but that is due to the pandemic. He said he would explain what they do with hospitals as a result of the pandemic and explain that they did not want to use the property that way.

Mr. Willinger said that nobody is flagrantly violating anything, other than trying to help out in this pandemic. He said his full defense is based on the fact that their use is a pre-existing, non-conforming use of this site. He said that if they understood that concept, they would understand why they do not need any approvals to continue outside storage on this site.

Mr. Willinger went back to 1973, which he said is the start of this saga. He said that, in 1973, Mr. Standish purchased the property as a sole owner of Coastal Palette. Mr. Standish operated continuously on this site for 47 years.

In December of 2019, Mr. Standish signed a lease with A Royal Flush, just as Coastal Palette was winding up its business in January. He said they had to understand the property was originally zoned light industrial for decades.

Mr. Willinger indicated that it became pre-existing, non-performing in 2010. In 2010, without knowledge or consent of Mr. Standish, the property was rezoned right from light industrial to mixed use industrial. He said that rezoning is the key to their appeal and defense, because that made the property pre-existing, non-conforming, and as this type of property, it is absolutely protected by Connecticut law. He said there is a constitutional protection and a statutory protection.

In 2010, another zoning regulation was enacted prohibiting outside storage in a coastal area. Mr. Willinger said that added to making the property non-conforming or pre-existing. He said that A Royal Flush is continuing this usage of the property. He said Coastal Palette's use was the same as A Royal Flush - materials stored outside, warehoused materials, and distribution of materials to their customers.

Mr. Willinger referred them to Tab 1, the affidavit of Peter Standish, who is here tonight to verify its accuracy.

Paragraph 2 says that Mr. Standish is the sole owner of the East Washington Avenue property. It says that in 1973 he was the sole shareowner and operator of Coastal Palette, which made palettes for the shipping of industrial products.

Paragraph 5 says that from 1973 to February 20, 2020, Coastal Palette stored lumber on this site in piles 16-20 feet in height and stored wooden pallets outside the property.

Paragraph 6 says the storage was over the entire property, except for the building and the driveways.

Paragraph 7 says that it stored 5 trailers, 1 tractor, 1 freight truck outside. Mr. Willinger said these were the heavy trucks Mr. Buckley referred to, and there is a regulation on the amount of heavy trucks you can have. A Royal Flush has no heavy trucks.

Paragraph 8 said that the Coastal Palette delivered 2,000 palettes each day to their customers. There were 36 deliveries each day. Raw materials were shipped in on big tractor trailers once or twice a day. There was tremendous truck traffic caused by Coastal Palette.

Paragraph 9 said that Coastal Palette had a Cyclone blower system outside on the property, which collected the sawdust and debris inside the building and emptied every two days by tractor trailer.

Paragraph 10 contains the photographs that are attached to this affidavit.

Paragraph 11 says that in January 2020, Coastal Palette relocated to Thompson.

Paragraph 12 says that 25 Bridgeport residents were laid off as a result of the relocation.

Mr. Willinger showed photographs provided by Mr. Standish where it could be seen that big tractor trailers, palettes, and debris were stored outside, where every other day it was emptied. He showed photographs where it could be seen how high the palettes were stored and raw lumber stored. The next picture showed the materials being stored outside, and the last picture showed the dust collector system outside. Mr. Willinger showed a picture of the site in 2018 where material storage and barbed wire fence could be seen. He said that this demonstrated the Coastal Palette's use of this rezoned industrial site for 47 years.

Mr. Willinger said that Mr. Standish indicated to him, as the owner of the property, that he had no intention of abandoning the storage and warehouse distribution operating on this property, because he knew that no one else would lease the site without an outside storage area. A Royal Flush

wanted to use the site for outside storage, warehousing, and distribution of their products, and a lease was signed.

Mr. Willinger said that A Royal Flush is a Bridgeport-based company and they have been in Bridgeport for 28 years. He said they want to consolidate their business operations on this site and eventually build their headquarters on the second floor of this building. Right now, they have 80 year-round employees, 50 of which are Bridgeport residents. During their 8-month busy season, they have 150 employees, 85 are Bridgeport residents. He said that Tim Butler, CEO of A Royal Flush, works with the Connecticut Probation Department and 10% of his workforce is highbred under the Second Chance program, which gives people released from incarceration a chance to join the working world and turn their lives around, most of whom are Bridgeport residents.

Mr. Willinger explained what A Royal Flush does on this site. He said that their business is delivering portable toilets, luxury restrooms, and sanitizing stations to their customers. Their services include weddings, outdoor parties, events, parties, carnivals, construction sites, camp sites, beaches and so for. They have always been labeled an essential business. He asked them to consider how essential they were during this pandemic.

During this pandemic, A Royal Flush is working almost 24/7 and they have delivered and donated sanitary stations and sanitizing solution to the Bridgeport Rescue Mission, the Jewish Services, the Zoo (because employees are living there, caring for the animals), Habitat for Humanity. They have been working closely with City Hall, working with police stations and substations. They service the Bass Pro Shop. They serviced Homeland Security when they hosted events to collect and distribute food for people who needed it during this pandemic. They worked with Juvenile Detention and the Courthouse on Main Street and the Bridgeport Healthcare Center all during the pandemic, which has overloaded the property.

Mr. Willinger brought their attention to Tab 2, which is the News12 website story on the Bridgeport sanitizing company that donates 100s of kiosks to nursing homes, etc. Mr. Butler, CEO, was quoted about putting people over profit. He said that their workers are frontline employees that go into hospitals and nursing homes where exposure to the virus is higher.

Mr. Willinger said that this is what A Royal Flush is about, and they are not flagrantly violating anything. He said that A Royal Flush has had a significant influence on Bridgeport.

Mr. Willinger showed Tab 3, which shows their 2020 charitable business and list of nonprofits that they help for free, including the City of Bridgeport and the State of Connecticut. It also shows 2 pages of local for-profit establishments that need their services. He said they really fulfill an

important role, and there is nothing sexy about what they do, but it is an important role for the City of Bridgeport.

Mr. Willinger said that A Royal Flush's plans to be storing up to 300 portable toilets (when not in use) in a specific location on this site. They are also going to store the sanitary stations inside, which they manufacture and assemble. They are also going to be storing luxury restrooms.

Mr. Willinger showed Tab 4 - a photograph of A Royal Flush's typical portable toilets. Up to 300 will be stored in the off season and in the summer, he said there will be less than 50 stored there.

Mr. Willinger showed Tab 5 - a photograph of the luxury trailers. He said that these trailers are for weddings and higher profile events and they have 40 of these. Each one costs \$100-130,000, all taxable in Bridgeport. He said that none of the luxury trailers will be stored onsite in the off season. During the summer, he said that not more than 1 or 2 will be stored there.

Mr. Willinger showed Tab 6 - a photograph of the sanitizing station that they will manufacture, assemble, and store inside the building.

Mr. Willinger said that Mr. Buckley considers this a waste processing center, which is far from the truth. He said the way their business works is that the portables or luxuries are delivered onto a site and there are pump trucks that go onto the site, which pump out and clean the toilets. The waste product is then sent in the pumper trucks to the waste treatment facilities in the various communities that they are located in. The toilets are cleaned out where they are after emptied and delivered back to the site they are being utilized, or they are sent back to East Washington and cleaned. No toxic waste or human waste or chemicals, just brought back to the site and stored in a very specific area.

Mr. Willinger referred to Tab 5, which is the site development plan and storm drainage plan. This was given to Zoning, Engineering, and OPED. There is an area in red, which is the storage area for the portable toilets and miscellaneous equipment and trailers. That area will be contained in a 6 foot fence, according to plan, and will be limited to 7,600 sq ft, or 10% of the site.

Mr. Willinger talked about truck traffic. He said there are no heavy trucks in use. They have light trucks, so that particular regulation does not apply.

Mr. Willinger said the biggest difference between Coastal Palette and A Royal Flush's use is that A Royal Flush uses the site storage from December thru March instead of year round. Coastal had heavy trucks making many trips a day, A Royal Flush currently has light and pick-up trucks for

making deliveries. Where Coastal had 20-foot-high piles for 47 years, A Royal Flush's portable toilets and luxuries are only 6 or 10 feet high and only on 10% of the site, and not visible from the street. Mr. Willinger said that A Royal Flush is really reducing the non-conformity.

Mr. Willinger talked about Mr. Buckley's Order to Comply, which says there are 3 zoning violations. He said that, under Connecticut law, they are supposed to review the application on their own without assuming that Mr. Buckley was right. Mr. Buckley had said that they violated Section 14-1 because they are using the site without a certificate of zoning compliance. Mr. Willinger said that Section 14-1-1 of their regulations requires a certificate of zoning compliance be applied for and obtained for 3 reasons: 1) if the site is vacant and they want to occupy it, 2) if they are building, renovating, or altering a structure on the site, or 3) if the certificate of occupancy is requested. He said that none of these 3 conditions apply here. The site is not vacant, they are not altering the building yet, and they don't need a certificate of occupancy.

Mr. Willinger spoke about Section 14-1-2, which states that you need a certificate of zoning compliance if they want to enlarge a preexisting, nonconforming use. He said that, since they are diminishing the use of the preexisting, nonconforming use site, then they don't need the certificate of zoning compliance.

Mr. Willinger said that they dug a little deeper with Mr. Buckley after they heard the City was opposed to their use of the site. Mr. Buckley said that he wouldn't issue a certificate of zoning compliance, because in his opinion, it is waste processing transfer use.

Mr. Willinger pointed out Section 6.3.6 of their regulations, which speaks to waste processing and transfer. It says that waste processing and transfer use is use that receives soil or liquid waste from others for disposal, storage or treatment on site, or transfer of liquid wastes to another location - uses that collect sanitary waste and treat sanitary materials and uses that process materials on the site. He said that not one of those fits what A Royal Flush is doing.

Mr. Willinger went on to his second argument. He said that Mr. Buckley said that A Royal Flush is violating Section 11-6-2, which contains standards to requirements for outdoor storage in industrial areas. This regulation requires a site plan if a zoning application is required. This is under Tab 7. He said they don't need an application to continue this use. They did file a site plan and stormwater management plan even though they didn't have to. There are also no volatiles on site.

Mr. Willinger said the next issue had to do with debris. He said that Coastal Palette would have a real issue with sawdust collecting or airborne debris, but A Royal Flush wouldn't have an issue.

He said the last standard had to do with stormwater management regulation systems and they submitted to Zoning and Engineer that they are in compliance, even though they didn't have to.

Mr. Willinger went on to review Section 11-6-2 and how it didn't apply to A Royal Flush.

He said that paragraph 6 was important because it says nothing in the regulations precludes Planning and Zoning from imposing additional or stricter conditions pertaining to outside storage in industrial areas. He said this is probably an illegal condition because there have to be standards. He said that, when they met with OPED, they did additional steps to protect the environment and outside storage. They knew OPED wanted a lot of buffering and public access near the river. He referred to Tab 5 - the green belt on Washington Ave - a 15 foot buffering they will provide, including street trees even though they only require 5 feet. He said they won't be able to see anything stored outside from the street because of the slope of the property plus the landscaping. He said they are also getting a 20-foot public access easement to the City along the river. They are removing 8,500 feet of asphalt and planting grass cover there, which is in their plan. They are installing erosion control for the stormwater management and more because they want to be responsible. They are also taking out razor wire. He said they are doing everything they can to comply with 11-6-2.

Mr. Willinger said they are absolutely in compliance of this regulation and the proof of that is Exhibit/Tab 9, the City Engineer's letter dated February 10 that reviewed these plans for stormwater management. They said that a map should be filed for the proposed public easement prior to the building permit. He said they will do that.

Mr. Willinger brought attention to the last argument from Mr. Buckley, which referred to a violation of Section 14-3, because they required site plan approval if they are in a coastal area. Mr. Willinger gave the same argument: since A Royal Flush is in a preexisting, nonconforming use, they can continue with outside storage in a coastal area. He said they are doing this in a way that protects the Pequonnock River and gives the public access by easement. He said there won't be any adverse effect on coastal resources, and they are complying with their own site plan. He said Mr. Buckley's third argument must fail.

In closing, Mr. Willinger referred to Tab 10, which is a copy of the Connecticut General Statutes Section 8-2. He said this is the most critical in any state statute in reference to zoning, because it spells out what kind of zoning regulations they can enact and how they can enforce those regulations. It says that they can regulate buildings, open spaces, and more. He pointed out on the bottom of page 2 where it says that their zoning regulations cannot prohibit continuing and nonconforming building, use, or structure existing at the time of the adoption of the regulations. It



also says they can't provide for the termination of a nonconforming use because it is not being used, unless there is an intent to abandon.

Mr. Willinger said that the Supreme Court, on numerous occasions, has repeatedly proven that preexisting, nonconforming uses are protegent property rights that are constitutionally permitted to continue. He said this is the heart and soul of their defense.

Mr. Willinger said that what A Royal Flush is doing on that property is not out of character at all with the neighborhood. Tab 11 is the zoning map. It shows mixed use/light industrial on both sides of the river with similar outside storage. He listed a number of neighboring industrial uses that use outside storage. They are all protected by Connecticut statutes and state law about preexisting, nonconforming use. He said the point is that they are clearly in conformity with the neighborhood and there are no adverse impacts to the neighborhood or any coastal resource.

Mr. Willinger reminded the Board that they are the judge and jury on this matter. He pointed out to them that when Coastal Palette left the site that 25 Bridgeport residents lost their job. He said A Royal Flush is bringing significant tax dollars to Bridgeport. He said Mr. Standish plays significant real estate taxes on the property. This is a company that employs 50 Bridgeport residents year-round and 85 Bridgeport residents during the busy season.

Mr. Willinger said that Mr. Buckley's Order to Comply must fail for the reasons he said. He asked them to sustain A Royal Flush's appeal.

Commissioner Alves asked to clarify that the port-o-potties are going to various sites and they are pumped out away from the East Washington Avenue site. She asked if they were thoroughly cleaned. Mr. Willinger confirmed and said they are pumped out and waste is disposed of. He said the pumper truck has a cleaning mechanism, which sprays and cleans out the product completely. No hazardous waste, no human waste. He said they are cleaned.

Commissioner Alves confirmed that 300 portable toilets will be stored there over the winter in the outdoor storage area. She confirmed that the luxuries will be brought to another location to be stored out of season.

Commissioner Alves confirmed what would be stored inside. Mr. Willinger said that toilet paper, sanitizers, sanitizing stations would be stored inside.

Commissioner Alves confirmed the number of Bridgeport residents employed at peak season. Mr. Willinger said 85 are employed for eight months out of the year and 50 are employed year-round.

Commissioner Alves confirmed that there are 10 parking spaces on the site.

Commissioner Alves confirmed that the port-o-potties would be stored on the far end of the site.

Commissioner Alves confirmed that the storage would be fenced in by a 6-foot fence. Mr. Willinger said they wouldn't mind installing a stockade fence if that is what the City wanted. He said that they wouldn't be able to see the fence because of the grade, the height and the landscaping.

Commissioner Shepard did not have any questions.

Commissioner McLaine confirmed the number of 10 parking spaces and asked if that accommodates over 80 of their employees. Mr. Willinger said that the 80 employees don't go to this site, and the only employees that go there are the ones who are delivering the toilets, as well as a couple of maintenance employees. These employees go to 4 different states and locations like New York and the Bronx, for instance.

Mr. Butler, CEO of A Royal Flush, spoke to the Board. He said that they have Bridgeport employees who take mass transit or walk to work. They also have employees from Bridgeport that go to the Bronx or other locations. He said that when most of the people arrive on the facility, they leave on the pickup trucks to do services. The technicians and workers leave the site to work in the tri-state area. He said the Bridgeport employees are dependent upon the site because a lot of their employees walk or take the bus to work. He said that, if he were to move the company, he would lose a lot of his employees for this reason. He said a lot of them are like family to him and this would be important.

Commissioner McLaine asked if the pump trucks would be stored on East Washington Avenue. Mr. Butler said no way, because they are way too expensive to park there. Commissioner McLaine asked if they were storing anything of value in Bridgeport. Mr. Butler said no, he is just not storing expensive equipment out of the street. He said that they have been operating in Bridgeport for over 20 years with no issues and he didn't know why OPED didn't want them in the new area and they intend to continue their business in Bridgeport.

Commissioner Carolan had no questions.

Commissioner Nachem confirmed the condition that they are going to provide a 20 foot public access easement to the Pequonnock River.

Commissioner Nachem confirmed the grass cover that will be installed on the asphalted area. Mr. Willinger said this was all confirmed on A Royal Flush's site plan.

Commissioner Nachem confirmed installing soil erosion prevention and a double filter fence.

Commissioner Nachem confirmed that this site will be solely used for storage, distribution, and warehousing activities. Mr. Willinger said that a small component of manufacturing will be done inside the building for the assembly of sanitizing station products.

Mr. Liskov asked if any chemicals would be stored on site. Mr. Butler confirmed they are being stored in a dry condition. He asked how many gallons of chemicals would be kept in the warehouse area. Mr. Butler said he would get that information for them. He said he keeps sanitizing solution in the warehouse and all their products are green products and non-toxic and water soluble. He confirmed that there is 60% alcohol in the hand sanitizing solution to be CDC compliant for the COVID virus. He said they get many 10 55-gallon barrels at a time.

Mr. Liskov asked if the Fire Marshal knew about the chemicals being stored there. Mr. Butler said that he didn't know. Mr. Liskov said he was concerned about volatiles and explosions because it happened on another site, which resulted in millions of dollars lost and chemicals leaking.

Mr. Liskov asked if John Goucher, Coastal Area Manager, ever held positive that this use is acceptable and nondestructive in a regulated coastal area. Mr. Butler said he didn't know. Mr. Willinger said that their concerns could be easily addressed if they provide a condition that the storage of chemicals needs the preapproval of John Goucher and the Fire Marshal.

Mr. Liskov said they did not have to decide tonight. He said that if they did the process of coastal management application, then they would have the approvals from John Goucher.

Mr. Willinger said that if the commission would like to sustain their appeal with the condition that they provide the site plan approval. They have no issues obtaining a coastal site plan approval.

Mr. Buckley said that Mr. Willinger was blowing smoke and mirrors with regards to the virus and the businesses A Royal Flush helps out. He said he still held the opinion that this needs some approvals before they move in there and set up shop. He said that the products are cleaned off-site, but they come back to the East Washington Avenue site for a final cleaning. He said he never met with Mr. Willinger on the subject, but he did speak with him on the phone twice. They had a difference of opinion over waste processing.

Mr. Buckley said that Coastal Palette was operating in 1973 under the 1949 rules, which were pretty liberal. He said that the new regulations were put in place to clean up the waterways, not to give this guy a hard time. He said that, unfortunately for A Royal Flush, they need a coastal management approval. In 2010, the zoning rules changed the use to a mixed-use light industrial. He said the intention of the Planning and Zoning staff, who had meetings on this, that this was to

protect the downtown area with a buffer. He said the time has come to move these industrial uses away from the waterfront. He said they are just messing up the environment with all the things that go down there.

Mr. Buckley said that he did not see that A Royal Flush is considered manufacturing and processing and said that there is waste processing going on inside the facility. He said the pictures of the storage showed something that is not environmentally friendly. He said that a 6-foot fence isn't going to cover the luxury restrooms. He said that Mr. Willinger forgot to put in the use schedule of Table 2A, which specifically does not allow waste processing or transfer activity. He claimed that it was warehousing and storage, which Mr. Buckley said would need approval as well. Mr. Buckley said that any change of use requires a certificate of zoning compliance.

Mr. Buckley said this is a much more intense use of the site than Coastal Palette, even in their heyday. He said this lot is packed full and they have so many trucks that they have to store them blocks away on Madison Avenue. He said that he really felt they needed to come back to this Board of Appeals. He asked the commissioners how many times they have heard applications to turn from one nonconforming use to another based on preexisting right. He said the purpose of his Order is to have them do these approvals properly.

Commissioner Alves opened the discussion up for the general public.

Ms. Lisa Becker of Trumbull, CT, representing Jewish Senior Services spoke in favor of the petition. She said the community needs a company like A Royal Flush. She said they have been a fabulous community partner and they have come to their aide. They have brought hand sanitizing dispensers and helped with the process of caring for the community.

Mr. Thomas Butler, CEO of A Royal Flush, of 145 West 10th Street, Apt. 4C, New York, NY, spoke in favor of the petition and introduced his employees to speak in favor.

Ms. Rosie Ortiz of 190 Hazelwood Ave, Bridgeport, spoke in favor of the petition. She said she had been with the company for five years. She is local and a single mom. She said that the location in Bridgeport helps her take care of her kids on lunch breaks and pick up kids from school, which she has no help with. She said that relocating to Stamford or Norwalk would be a big issue and she would most likely lose her job, because traveling that far would not be an option.

Mr. El-Rashim McCloud of 267 Pennsylvania Avenue, Bridgeport, spoke in favor of the petition. He said that he and his wife work for the company and they are local to Bridgeport. They love the workforce and they have small children that go to school in the City. He said that working

somewhere further would be an inconvenience for them because they would be farther away in the instance of an emergency. He said that A Royal Flush is an asset to Bridgeport and asked the Board to keep the company here now.

Mr. Kevin Sawyer of 112 Emily Street, Bridgeport, spoke in favor of the petition to stay in Bridgeport. He said that he has been with the company for about 2 ½ years. His kids go to school out here and he helps his mom in the area as well. He said he is dependent on his family for a lot of needs, so being able to go to work locally helps him out a lot.

Mr. Kevin Scott spoke in favor of the petition. He said that he knew them personally and they are a big contributor in the Bridgeport community and very good stewards of the environment. He said that he thought everything said tonight supports that.

Mr. Peter Standish, property owner of the East Washington Avenue site, of 135 Point Beach Drive, Milford, said that he owned Coastal Palette and Briggs Fabricators before that. He has been on the site since 1973. He said they had between 20-25 employees over time. He said they had a lot of wealth creation for the City of Bridgeport. He said they never asked Bridgeport to do anything for them ever. He said all they've done is create value and wealth for the community. He said he never had an intention to give up the storage space. This building is his retirement and he always wanted to keep this storage space as a part of the sale or lease of the building because it is an industrial area which uses that kind of space for any of their operations. He said that if he had known that this would be contested, he would not have sold out the unit for packaging a few years ago.

Mr. John Angel, principal of Angel Commercial LLC, located at 24-25 Post Road, Southport, said he has been a local real estate broker for over 31 years. He started his career in the Bridgeport market. Part of what he does is consult companies about their plans prior to them being made public. He has been called by some long-standing businesses that have no choice but to shutter some of their locations locally and regionally as a matter of survival. He said this makes A Royal Flush's quest to stay in Bridgeport even more critical. First, he gave background on the real estate in the neighborhood. He made clear that the adjacent properties have consistently been used in industrial capacities with extensive outside storage. Many of these properties are in close proximity to the property and have documented significant environmental problems. He said the idea of any commercial development other than industrial at this point in time is futuristic due to the market and economic conditions. Consistent with the neighborhood, the former occupant, Coastal Palette stacked their raw materials outside over 20 feet high through the property and added heavy trucks entering and exiting daily. A Royal Flush will improve the aesthetic because they will not stack their products as high and they are committed to creating a landscape buffer, installing opaque fencing and they will have no negative impact on the environment, despite what was heard tonight.

He said this was a less intensive use of the property than the previous occupant and they should be welcomed. He thought it was important to share more background. He said that A Royal Flush was an important role in the community, particularly during an unprecedented economic time and the economic fallout is far from over. As a family business, A Royal Flush has operated for over 30 years, employing over 150 Bridgeport residents. He said the loss of A Royal Flush would have a significant impact on local employment, exacerbating the current number of unemployed residents. Additionally, A Royal Flush has proven itself to be an exemplary corporate citizen with their critical role in responding to the COVID-19 crisis by providing help to area hospitals and essential businesses and by donating kiosks and thousands of units of hand sanitizer to Connecticut nursing homes, helping to protect the most vulnerable residents. As a responsible commission, he said they had an opportunity to retain this company in Bridgeport to help preserve jobs while utilizing the property in its best and most appropriate use. In a time where companies all around are closing for good, it is critical that they support those that are trying to stay and grow, which starts with business retention. He said he was sorry to report that Bridgeport has the highest unemployment rate in the county, and several local economists have predicted that this trend will continue. He said that, with their support, they can help right the ship by allowing this applicant to continue to operate their business and keep the 100+ employees gainfully employed. He respectfully employed them to support this effort.

There was no one who spoke against the petition.

The public hearing was closed.

**\*\*COMMISSIONER MCLAINE MOVED TO DENY THE APPEAL**

**\*\*COMMISSIONER CAROLAN SECONDED**

**\*\*MOTION PASSES UNANIMOUSLY.**

Commissioner McLaine said that they believe the zoning official acted properly in the issuance of his cease-and-desist order, because there were extra approvals needed. Commissioner Alves said that they still wanted to keep A Royal Flush in Bridgeport.

ITEM: #1

**RE: 135 & 181 EAST WASHINGTON AVENUE** – Appealing under Sec. 14-10 of the Zoning regulations of the City of Bridgeport and Sec. 8-7 of the CT. General Statutes, whereby it is alleged that the Zoning Officer erred in his issuance of an Order to Comply regarding the establishment of a portable sanitary equipment and supply business in an MU-LI zone and coastal area.

**DECISION:** Denied, 5 to 0

**REASONS:**

1. The Zoning Officer was correct in his decision to issue an order to comply.
2. The petitioner should submit an application to the Board seeking to establish this business at this location.
3. A coastal application will also be required for this proposed use at this location.

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**#2 1862 East Main Street – Petition of 1862 East Main, LLC – Seeking a use variance of Sec. 6-1-2 and also seeking a variance of the maximum number of off-street parking spaces requirement of Sec. 11-1-2 to permit the conversion of a retail sales and service facility into a warehousing/self-storage facility with four (4) on-site parking spaces in an OR zone.**

Commissioner Alves introduced the matter and Attorney Rizzio.

Mr. Rizzio represents 1862 East Main, LLC. He said this property sits on East Main Street up where the old motor vehicles property was, and it used to be the home of Bedman Industries. Bedman Industries was an industrial cleaning business that sold vacuum cleaners and cleaning equipment with a retail front. Years later, they added a large addition with loading docks and a warehouse in the rear. The property was built as a storage facility with the new addition in the rear. It has concrete floors that withstand 125 lbs per sq ft. It has a loading dock. It has very limited parking. They used to have small offices on the second floor. 17,000 sq feet.

Mr. Rizzio said that the property would not be changed at all. The retail space up front will be dedicated to supplies like twine that would help pack up. He said it is a very attractive building and one of the newer ones along East Main Street. This is North of Boston Avenue. The parking is in the rear and there is a lot of glass in front, so it is consistent with the OR regulations.

Mr. Rizzio said that the issue becomes when they need to make this a self-storage facility, they need to ask for a use variance. He said that self-storage has taken on many different looks over the last few years. In the current regulations, which they hope to have updated, this would come into the Planning & Zoning commission as an adaptive reuse, or that self-storage will end up as more of a retail use. He said that what happens in an area where there is frequently a lot of apartments - one of the problems is that they don't have a lot of storage in the apartments. Typically, people need a place to keep their things when they move, so you see storage facilities popping up everywhere in more residential areas. Along Fairfield Avenue is the UHaul storage

facility, for example. Also on Boston Avenue, across from Modell's. Towns like Fairfield, Wilton, or Milford also have these facilities along retail corridors.

Mr. Rizzio said the problem is that the regulations are getting changed. They list self-storage as freight and warehouse. He said they always thought of storage and warehousing as industrial use, and never as an amenity to residential users. He said that the beauty of this application is that the property doesn't really work as a retail use - it has 10 nonconforming spots and 4 conforming spots. If it were 17,000 sq ft retail or office use, then they would need almost 50 parking spots to accommodate that type of use. He said the beauty of self-storage is the limited parking and people will come to a facility like this once or twice a day to pick up their things. The typical timeframe for using a storage facility is 6 months to a year. This is dry storage. No perishables would be permitted to be stored there.

Mr. Rizzio said they have a facility that was built for retail/quasi-industrial use. He said that the parking could not accommodate 17,000 sq ft retail use. They believe the proper and adaptive reuse of this building, since they cannot use the adaptive reuse regulations, because they only apply to historical buildings, they cannot go directly to Planning and Zoning. They need a use variance from the ZBA.

Mr. Rizzio referred to the plan. The building will be 17,000 sq ft. Storage on both floors. Fronts on East Main Street. Front door with a lot of glass. There is a loading dock. There is an entryway in the rear of the property. People will be able to pull or back into the loading dock directly or enter through the rear. The interior floor plan showed all different sized boxes. Full, easy access around the first and second floors. There is a reception area and a retail space. From the outside, it will maintain the look. It looks like a building to be used in an OR zone. They will not be changing the facade.

Mr. Rizzio said the key to retail is parking and this facility is vastly under parked, so it is very difficult to attract a certain type of user there. He said there will be no negative impact on the neighborhood or traffic. He said this is the perfect use and they sat down with OPED and they were comfortable with the use. With the Board's permission and the use variance granted here, which they thought was dictated by the historical size of the building, the lack of circulation and parking provided for this building and the fact that they obtained it for retail use - this is not a self-created hardship, but this is a hardship that with their waiver will make for proper use of this building and make a good tax payment.

Mr. Rizzio said the building doesn't work as a retail building although it is in a retail zone. Self-storage is moving towards the retail areas because of the amount of apartments and apartment



dwellers in this area. Self-storage in the other areas mentioned have been successful. He said this is a very important use to the City where the smaller units have less storage, and this would service an area with a tremendous amount of apartment dwellers.

Commissioner Alves asked to confirm how many storage units this will hold. Mr. Rizzio said they have the ability to change the sizes. There should be 80 units. 40 per floor.

Commissioner Alves asked if there were restrictions to what could be stored. Mr. Rizzio said that there will be no perishables stored, so they don't have to worry about anything rotting, or any smell. There will also be climate control, so there won't be any problems with mold. No chemicals will be stored.

Commissioner Alves asked what supplies they will be selling. Mr. Rizzio said they would sell tape, boxes, twine, accessories used for the moving and packing industry.

Commissioner Alves asked how many employees they expect to work there. Mr. Rizzio said they only need 1 to 2 on site at a time.

Commissioner Alves asked how many people would be on site at any given time, minus employees. Mr. Rizzio said they don't get 1 an hour and compared it to a facility with over 100,000 sq ft, where they get about 5 people a day.

Commissioner McLaine had no questions.

Commissioner Carolan had no questions.

Commissioner Shepard had no questions.

Commissioner Nachem had concerns regarding ingress and egress. He asked to confirm when facing the building to the left, there is a loading dock with a ramp and that is accessible to one car at a time. So they can only have one guest loading/unloading at a time. Mr. Rizzio said a larger truck would be able to dock and a car would be able to pass in the rear. To the right of that, someone coming in off the street would be able to go to the back, but he wondered how to control traffic. Mr. Rizzio said that unfortunately, someone would have to wait, but this is why they were looking for a low-intensity traffic type use. Commissioner Nachem asked if there could be traffic control. Mr. Rizzio said there would be enough room to bypass a loading truck on the ramp, and there would be room in the back to load as well. He said that it's mostly personal household stuff, which could fit through the double door.

Mr. Liskov said that if this was going to be such good use in the future, then they should rewrite a regulation in the OR zone, rather than doing a hodgepodge of use variances back and forth. Mr. Rizzio said that he had spoken to Lynn Haig. He said that one of the things he thinks is very important is that both Ms. Haig and Mr. Coleman spoke about giving a broader use for the adaptive use. He said that, unfortunately, the adaptive reuse read that the City only allows them to come before the Planning and Zoning commission for the adaptive reuse of a building, only if it is on a historical register. Mr. Rizzio said that he couldn't speak for OPED, but one of the issues with self-storage is that they are all different types. Some range up to 150,000 sq ft that they might not want to see in an OR zone. Mr. Liskov asked him to write one up with only so many square feet. Mr. Rizzio said he would try to work with P&Z in the future as they try to do their rate change and try to introduce a concept that would allow self-storage in an OR zone. He said he thought that would be a lot of research. Mr. Liskov agreed with him and commented on the hodgepodge of it.

Mr. Rizzio said they would look at this building differently if there were 50 parking spaces in the rear with two way in and out access, and it is in an OR zone. He said they might say this is retail use and they wouldn't see any hardship here. This is a building that already has a loading dock and already has a one way in and out. It would be a hardship for most of the uses that would be permitted in a retail zone to try to exist in that facility. He said that in this instance the hardship would be driven by its site and because they have that hardship, he believed it warrants a variance.

Mr. Rizzio thought it was important to stress the uniqueness of this site. He said the beauty of it is that it still maintains a retail type look.

Commissioner Alves opened the discussion up to the public.  
The public hearing was closed.

**\*\*COMMISSIONER MCLAINE MOVED TO DENY THE PETITION**

**\*\*COMMISSIONER CAROLAN SECONDED**

**\*\*MOTION FAILED TO PASS with 3 in favor (McLaine, Carolan, Alves) and 2 against (Nachem, Shepard).**

ITEM: #2

**RE: 1862 EAST MAIN STREET** – Seeking a use variance of Sec. 6-1-2 and also seeking a variance of the maximum number of off-street parking spaces requirement of

Sec. 11-1-2 to permit the conversion of a retail sales and service facility into a warehousing/self-storage facility with four (4) on-site parking spaces in an OR zone.

**DECISION:** Denied, 3 to 2

**REASONS:**

1. The petitioner failed to establish an unusual condition or unusual hardship related to this parcel of property.
2. The petition as presented is out of character for the immediate area.

**APPROVAL OF MINUTES**

**\*\*COMMISSIONER MCLAINÉ MOVED TO APPROVE THE FEBRUARY 11, 2020 MINUTES**

**\*\*COMMISSIONER CAROLAN SECONDED**

**\*\*MOTION PASSES with one abstention (Nachem).**

The commissioners moved to postpone the approval of the April 21, 2020 minutes until the following meeting.

**ADJOURNMENT**

**\*\*COMMISSIONER CAROLAN MOVED TO ADJOURN THE MEETING AT 9:06 PM**

**\*\*COMMISSIONER MCLAINÉ SECONDED**

**\*\*MOTION PASSES UNANIMOUSLY.**

Respectfully submitted,

Telesco Secretarial Services