



First land deed from the Indians
April 12th 1659

TOWN OF WOODBURY

Zoning Commission

297 Main Street South

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UNAPPROVED DRAFT MINUTES – NOT YET APPROVED BY COMMISSION

MINUTES PUBLIC HEARING/REGULAR MEETING TUESDAY, FEBRUARY 23, 2010

7:30 P.M.

TOWN ANNEX

MEMBERS PRESENT:

Martin Overton
Robert Clarke
Ted Tietz
Alan Green

ALTERNATES PRESENT:

Ron Judson

MEMBERS ABSENT:

Chuck Cosgriff

ALTERNATES ABSENT:

Chris Conto
Roberta Zulpa

ALSO PRESENT: Catherine Adsitt, Jerry Stomski, Barbara Perkinson, Bill Meyer, Andy Peklo, Joe Donato, Carol Brasher, David Cowles, Ronald Wolff, member of the press, and other interested residents.

I. PUBLIC HEARINGS

1. 06-ZC-6038/Town of Woodbury/Land Use Office/2007 Regulation Revisions

Chr. Overton reconvened the public hearing at 7:40 p.m. Seated were Commissioners Overton, Clarke, Green, and Alternate Judson. Reference was made to Section 8-11, Connecticut General Statutes, and Section 901 of the Woodbury Town Charter, Conflict of Interest.

Chr. Overton stated that the Commission has been working on the revisions to the Woodbury Zoning Regulations with the assistance of staff, Town Counsel, and members of the public. Chr. Overton said there were four issues raised to the Commission. One was that there was not a definition of “dry cleaners.” The Commission discussed language which would include “the use of on-site chemicals as separate and distinct from drop off” to differentiate on and off site cleaners. First Selectman Jerry Stomski suggested including “the process of using chemicals for cleaning.” Another issue was to delete the Planning Commission from those who issue zoning permits under the Administrative and Enforcement section of the regulations.

The Commission agreed regarding the issue of how the ZEO responds to Change of Uses which may not be a significant change, to remove the words “after consultation” and replace with “after referral to the Zoning Commission or a decision regarding the significance.”

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Wendy Brazauskas of Middle Quarter Road asked what the difference of a significant and insignificant change is. Chr. Overton said that is the question that the Commission has to decide.

Regarding the candidates for ZEO, the Commission agreed that the submission is made by the First Selectman, but the ZEO is designated by the Zoning Commission.

Public Comments –

Joe Donato of 88 Great Hollow Road said he would like to see the coverage increased in the Middle Quarter district. Chr. Overton said the Plan of Conservation and Development would cover that, and that the Plan is currently being revised by the Planning Commission.

Carol Brasher of Mackey Farm Road asked if there were any changes made to the general keeping of chickens, stating that she has spoken about this issue at 8 different Zoning Commission meetings. Mrs. Brasher said the Commission had said they would regulate the placement of manure and that the chickens would be secured to the owner's property. Chr. Overton read regulation 4.1.2 regarding fowl for non-commercial purposes and said that not more than 20 fowl are allowed on less than 5 acres. The regulation also states that fowl should be secured in a compound or coop and manure be within a 100 foot setback. Chr. Overton stated that if a property is designated as a farm by the Department of Agriculture, the Zoning Commission has no jurisdiction. Mrs. Brasher said roosters are a nuisance, and Chr. Overton said roosters are also not the jurisdiction of the Commission. Mrs. Brasher said her concerns are not just for her benefit, but for the benefit of the town.

Bill Meyer of Mackey Farm Road stated he does not believe that 5 chickens would be a farm operation, but more like pet keeping, and that the agricultural regulation should not cover that. Chr. Overton explained that the Zoning Commission defines "farm" as the Department of Agriculture does, not by quantity, stating that the definition of "farm" applies across the entire town no matter what the zone is. Jerry Stomski added that it actually applies to the entire State. Chr. Overton said his neighbor kept Guinea hens and it was their right of use.

Mrs. Brasher asked what their relief is. Chr. Overton said the Commission is happy to take their complaint and said the Commission did discuss their concerns and made changes to the regulations. Mrs. Brasher said she has submitted complaint letters in the past.

Mr. Meyer asked about the noise from the roosters. Chr. Overton said that would be a police action, not a ZEO action and that noise regulations are governed by the DEP.

Mrs. Brasher thanked the Commission for listening to them and wishes the Commission would reconsider regarding roosters.

Resident Andy Peklo, asked that fish passage and renewable energy be added to the Flood Plain regulations, stating he wants the ability to build fish ladders, which is a structure to facilitate fish passage. Chr. Overton said a structure for renewable energy is not permitted in the Flood Plain District now. Chr. Overton said seeing we are this far in the regulations revisions, he believes that wind power and hydroelectric power should be taken up separately

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at a later date. Andy Peklo said the process for it is arduous with many people involved, but that his proposal is small in scale. Chr. Overton said the Commission cannot write a separate regulation for Mr. Peklo and his property, and writing any language for this could take months. Mr. Peklo said he would build a case and present it. Catherine Adsitt, Town Planner, asked if Mr. Peklo is asking for this townwide or just for his property. Mr. Peklo said he wants it to be permitted to do it. Mr. Peklo said he may take a shot at the Zoning Board of Appeals also. Chr. Overton said he agrees it is a need for the regulations, but not at this late date during the regulation revision process.

Commissioner Ted Tietz arrived at 8:30 p.m. and was seated.

Catherine Adsitt said there will be a final draft version of the regulations finished in about 2 months, at which time the Commission will vote to adopt, and the final version will be filed with the Town Clerk.

The Commission agreed to close the public hearing.

MOTION:

To close the public hearing at 8:40 p.m. for Application06-ZC-6038 for the Woodbury Zoning Regulation revisions.

Made by Green, seconded by Clarke.

Vote 5-0 in favor.

2. **10-ZC-1004a/Cowles/14 Middle Road Turnpike/Special Permit/Main Street Design District/Pole Barn (Tax Assessor's Map 090/Lot 002A)**
3. **10-ZC-1004b/Cowles/14 Middle Road Turnpike/Special Permit/Flood Plain District/Pole Barn (Tax Assessor's Map 090/Lot 002A)**
4. **10-ZC-1012/Cowles/14 Middle Road Turnpike/Special Permit/Aquifer Protection District/Pole Barn (Tax Assessor's Map 090/Lot 002A)**

Chr. Overton reconvened the public hearing at 8:40 p.m. Seated were Commissioners Overton, Clarke, Green, Tietz, and Alternate Judson. Reference was made to Section 8-11, Connecticut General Statutes, and Section 901 of the Woodbury Town Charter, Conflict of Interest. Commissioner Alan Green recused himself.

The legal notice for Application 10-ZC-1012, which convened at this meeting, which was published in the Waterbury Republican-American on February 13, 2010, and February 20, 2010, was read. The required Certificates of Mailing were submitted.

Present for the application was Ronald Wolff, Engineer. Mr. Wolff said David Cowles would be late to the meeting.

Mr. Wolff gave a summary of the plan, which was presented at the last meeting. Mr. Wolff said the applications are for a pole barn style building, which would be used for retail of locally grown produce and dairy products with value added to them.

Mr. Wolff said a letter from Dave Monckton of the Public Works Department, dated February 8, 2010, was in respect to the updated plans. Mr. Monckton questioned how handicapped parking would be delineated on the gravel. Mr. Wolff said there would be signage.

Mr. Wolff said Mr. Cowles is asking that if the application is approved, he would like to continue selling produce until the barn is completed. Mr. Wolff said the products would be placed on benches.

Mr. Wolff submitted a list of proposed uses, which included the making and selling of frozen yogurt and ice cream. Mr. Wolff said Mr. Cowles would take local milk and cream and make the frozen products. Mr. Wolff said fresh salads would also be sold. Chr. Overton asked how this would be different from a restaurant. Mr. Wolff said there would be no seating. Chr. Overton said he did not remember the mention of manufacturing in the application. Mr. Wolff said it was assumed that taking the milk and cream and making a product could be done. Chr. Overton said the Commission thought Mr. Cowles was continuing his use of selling produce like he does now, not manufacturing. Mr. Wolff said it would be limited by the health department. Chr. Overton said the application says "selling of products" not "manufacturing products." Mr. Wolff said he cannot speak for Mr. Cowles, and said the public hearing may need to be continued if Mr. Cowles does not make it to the meeting. Mr. Wolff asked if the application should be revised. Chr. Overton said the application does not give the details to manufacturing such as the appliances being used or the chemicals and detergents for sterilizing and washing.

Dave Cowles arrived at the meeting. Chr. Overton explained that manufacturing is not included in the application, and cited Section 6.1.9.1 of the regulations. Chr. Overton said Mr. Cowles did not apply for a special exception for a use that is not permitted in the Main Street Design, Flood Plain, and Aquifer Protection districts.

Catherine Adsitt explained sales versus manufacturing, stating that manufacturing requires different criteria for professional reviews, such as waste water. Mrs. Adsitt's concern was that she is not sure the engineer review was part of the Inland Wetlands Agency and if manufacturing was included, and also if the Planning Commission review included manufacturing. Mr. Cowles stated he does remember having dialog with the Inland Wetlands Agency about products he plans to make and the process of making it.

Commissioner Robert Clarke stated it was an assumption on Mr. Cowles part that he would sell the product, but not worry about the requirements for making the product. Commissioner Clarke said there is more water usage with manufacturing. Mr. Wolff said the septic system and the kitchen in the barn were discussed with the Inland Wetlands Agency and that the health department came up with the flow rate for the septic system.

Chr. Overton said the only thing in the application is sales, and said the application didn't mention the sale of Christmas trees either, which Mr. Cowles has sold in the past. Chr. Overton said the Commission can only act on what has been applied for, otherwise a special exception application is needed for anything in addition to sales. Chr. Overton said he does not appreciate being blind sighted.

Mr. Wolff and Mr. Cowles said they would move on with the application for sales, and then apply for a special exception for manufacturing. Mr. Wolff said he would meet with Land Use staff to discuss the next step.

Commissioner Ted Tietz wondered if the applicant could come back for a modification. Chr. Overton said without reading what is involved in the manufacturing application, it is not known if a public hearing would be needed.

The Commission agreed to continue the public hearing.

MOTION:

To continue the public hearings for Applications 10-ZC-1004a, 10-ZC-1004b, and 10-ZC-1012 submitted by Cowles for a special permit for a pole barn at 14 Middle Road Turnpike in the Main Street Design, Flood Plain, and Aquifer Protection Districts, on Tuesday, March 9, 2010, at 7:30 p.m. in the Town Annex Conference Room.

(Tax Assessor's Map 090/Lot 002A)

Made by Overton, seconded by Clarke.

Vote 5-0 in favor.

II. REGULAR MEETING

Chr. Overton convened the Regular Meeting of the Woodbury Zoning Commission at 9:40 p.m. Seated were Commissioners Overton, Clarke, Tietz, Green, and Alternate Judson.

A. PENDING APPLICATIONS

1. 06-ZC-6038/Town of Woodbury/Land Use Office/2007 Regulation Revisions

The public hearing has been closed. Staff will prepare a draft tracking all the changes made. Catherine Adsitt said she would give updates at future meetings on any progress.

2. 10-ZC-1001/Kaloidis/40 Sherman Hill Road/Extension-Renewal of Antiques & Flea Market Permit (Tax Assessor's Map 090/Lot 002A)

After a brief discussion the Commission agreed to approve the application.

MOTION:

WHEREAS, the Woodbury Zoning Commission has received application 10-ZC-1001, submitted by Constantine and Antonia Kaloidis pursuant to Woodbury Zoning Regulations Section 8.2.12.C for an extension/renewal of an antiques and flea market permit, originally permitted under application 08-ZC-8002, for property located in the Middle Quarter B Subdistrict at 40 Sherman Hill Road (Tax Assessor's Map 102, Lot 042) for the use of the site for a weekly (Saturday) public flea market; and

WHEREAS, the Commission, under application 08-ZC-8002, received the report of the Woodbury Planning Commission, dated March 5, 2008, in accordance with Woodbury Zoning Regulations Section 5.2 finding that the proposed development is in conformance with the Town Plan of Conservation and Development and the Plan of Development for Middle Quarter, with recommendations that the Zoning Commission clarify the parking and the off-hours appearance and to limit the number of vendors; and

WHEREAS, the Commission, under application 08-ZC-8002, reviewed the report of the Town Engineer, Land Tech Consulting, dated February 15, 2008; and

WHEREAS, the Commission, under application 08-ZC-8002, reviewed the report of the Woodbury Director of Public Works dated February 15, 2008; and

WHEREAS, the Commission received a letter dated December 10, 2009 from the proprietor of Elenni's Restaurant offering parking for the Woodbury Flea Market use; and

WHEREAS, the Commission received a report dated December 28, 2009 from the Woodbury Resident Trooper Supervisor stating that the officers have not received any complaints regarding traffic; and

WHEREAS, the Commission conducted a duly noticed public hearing on January 26, 2010, which was continued to February 9, 2010; and

WHEREAS, the Commission continues to find that the proposed use, as conditioned below, demonstrates conformance with the applicable requirements of the Woodbury Zoning Regulations and more specifically with Section 5.2 of the Woodbury Zoning Regulations; and

WHEREAS, the Commission finds that the Middle Quarter B Subdistrict continues to be an appropriate zoning district for such proposed use; and

WHEREAS, the Commission has, in accordance with the Woodbury Zoning Regulations Section 5.2.4, re-reviewed the proposed parking for the proposed flea market; and

WHEREAS, the Commission has requested and received additional information about the on-site septic; and

WHEREAS, the Commission finds, in accordance with the Woodbury Zoning Regulations Section 5.2.2.B, that the use of the property for a weekly (Saturday) public flea market, as conditioned below, will not be inconsistent with the public welfare, will not impair the integrity of these regulations, and will fully safeguard the appropriate use of land in the immediate neighborhood;

NOW, THEREFORE, BE IT RESOLVED that the Woodbury Zoning Commission hereby extends/renews the Special Permit and previously approved the Site Development Plan, which has been updated, for a weekly (Saturday) public flea market on property located in the Middle Quarter B Subdistrict at 40 Sherman Hill Road (Tax Assessor's Map 102, Lot 042) as depicted on plans by Robert P. Keating Architect dated January 20, 2008 entitled "Proposed Flea Market" and updated on plans by Cynthia Gillette, dated November 26, 2009, revised December 14, 2009 entitled "Proposed Flea Market".

This renewal/extension of the Special Permit is subject to the following conditions:

1. The permittee shall file a Land Record Information Form, containing the text of this Extension/Renewal Approval and Conditions, on the Woodbury Land Records for the subject property prior to the issuance of any Zoning Permit required by this Approval.
2. The permittee shall obtain a Zoning Permit from the Zoning Enforcement Officer for this Special Permit Extension/Renewal.
3. Vendor stalls shall be limited to 42 as shown on the updated plan dated November 26, 2009, revised December 14, 2009, with no use of the area depicted as stalls 34 through 44 shown on the original plan dated January 20, 2008.

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4. Setbacks from the streets shall be demarcated with chalk or rope each week.
5. Authorization of this use is contingent on the availability of the shared parking with the adjacent restaurant and this Special Permit expires upon the loss of rights to use such parking. The permittee shall cause to have filed with the Land Use Office in December of each year a letter from the owners of the adjacent restaurant documenting the availability of parking and permission for the flea market to use such parking.
6. Hours operation shall be limited to 7:30 AM to 3:00 PM on Saturday, with setup and take down permitted from 6:30 AM to 4:00 PM.
7. There shall be at least six waste receptacles on site each Saturday.
8. All waste receptacles and any litter on the site shall be removed from the site at the end of the days operation.
9. The port-o-let(s) shall be screened as described by the applicant during the hearing on February 9, 2010 in accordance with the representation in the file. The permittee shall contact the Zoning Enforcement Official no later than April 15, 2010 to arrange for photo documentation of the screening, which shall be reported to the Zoning Commission.
10. Parking shall be directed and monitored by on-site parking attendants.
11. The permittee, upon notification, shall work with the Woodbury Board of Selectmen, the Woodbury Police Department, and abutting property owners to resolve any off-site parking that is not authorized or that creates any traffic hazards.
12. All signage shall comply with applicable sign standards and shall require necessary sign permits from State or local authorities.
13. Signs may be put up on Friday, but, in all instances shall be removed from the site at the end of each flea market session.
14. The permittee shall install an anti-tracking pad between any unpaved parking or vehicle access area and the existing paved access.
15. The permittee shall file written monthly reports with the Land Use Office. Such reports shall include all pertinent information about the flea market operations such as parking counts (the manner in which the count is developed must be explained, for example whether it is based on number of vacant spaces on the hour, or another manner), vendor counts, and complaints that may be received by the applicant, which will be added to the compliant log that will be maintained by the Zoning Enforcement Officer.
16. This Special Permit Extension/Renewal is valid for the period starting with the filing of the Land Record Information Form, no earlier than fifteen days from February 23, 2010 through December 31, 2011 and may be renewed or modified by the Commission for an additional period of up to two years upon proper application pursuant to the Woodbury Zoning Regulations.
17. The applicant shall take all necessary steps to minimize noise during setup hours.
18. This Special Permit renewal/extension shall not include a farm stand on the premises.

Made by Overton, seconded by Clarke.

Vote 5-0 in favor.

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3. 10-ZC-1004a/Cowles/14 Middle Road Turnpike/Special Permit/Main Street Design District/Pole Barn (Tax Assessor's Map 090/Lot 002A)
4. 10-ZC-1004b/Cowles/14 Middle Road Turnpike/Special Permit/Flood Plain District/Pole Barn (Tax Assessor's Map 090/Lot 002A)
5. 10-ZC-1012/Cowles/14 Middle Road Turnpike/Special Permit/Aquifer Protection District/Pole Barn (Tax Assessor's Map 090/Lot 002A)

The public hearing has been continued.

6. 10-ZC-1007/Winer-Sorenson/557 Main Street South/3 Old Sherman Hill Road/5 Old Sherman Hill Road/Special Permit/Main Street Design District (Tax Assessor's Map 103/Lot 048)
7. 10-ZC-1008/Winer-Sorenson/557 Main Street South/3 Old Sherman Hill Road/5 Old Sherman Hill Road/Special Exception/Bed & Breakfast (Tax Assessor's Map 103/Lot 048)
8. 10-ZC-1010/Winer-Sorenson/557 Main Street South/3 Old Sherman Hill Road/5 Old Sherman Hill Road/Special Exception/Aquifer Protection District/Proposed Bed & Breakfast (Tax Assessor's Map 103/Lot 048)
9. 10-ZC-1011/Winer-Sorenson/557 Main Street South/3 Old Sherman Hill Road/5 Old Sherman Hill Road/Special Exception/Aquifer Protection District/Proposed Restaurant (Tax Assessor's Map 103/Lot 048)

The public hearings will be held on Tuesday, March 9, 2010.

B. NEW APPLICATIONS

1. 10-ZC-1013/O'Connell/Allied Engineering Assoc./Johannesen/146 Pomperaug Avenue/Special Permit/Renovate and Expand Existing Motel Building/Middle Quarter District (Tax Assessor's Map 102/Lot 001)

The applicant was not present. Catherine Adsitt stated that the applicant is proposing to renovate and expand the existing motel building. Mrs. Adsitt said she has not reviewed the application at this time, but it was accepted last night by the Inland Wetlands Agency. Commissioner Clarke stated he prefers that the applicant be present for discussion.

C. OTHER BUSINESS

None

D. ENFORCEMENTS

Catherine Adsitt reviewed the ZEO report, which is on file in the Land Use office.

E. PRIVILEGE OF THE FLOOR

No one spoke at this time.

F. CONSIDERATION OF MINUTES

Regular Meeting – February 9, 2010

The following changes were made:

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Page 1 – The date should be Tuesday, February 9, **2010**
Pages 5 and 7 – Should be **Certificates** of Mailing
Page 6, Para. 5 – Should read: "...building would be **situated**..."
Page 8, Para. 3 – Should read: "...the **principal** use..."
Page 8, Para. 8 – Should read: "...was there **as** a private citizen..."
Page 11, Para. 1 – Should read: "...and is **requesting**..."

MOTION:

To approve the minutes of the Tuesday, February 9, 2010, Regular Meeting of the Woodbury Zoning Commission, as amended.
Made by Overton, seconded by Clarke.
Vote 5-0 in favor.

G. CORRESPONDENCE

Catherine Adsitt discussed correspondence regarding the process for changing retail use to retail in the Middle Quarter District. Mrs. Adsitt said the present use is a video store and the proposed use is a floor covering store. Mrs. Adsitt asked if the Commission felt they were similar uses. The Commission agreed that someone should come to the meeting to discuss the issue.

Mrs. Adsitt also discussed that a letter was sent to 552 Flanders Road regarding the requirement of the demolition of the house on the property.

H. ADJOURNMENT

MOTION:

To adjourn the meeting at 10:30 p.m.
Made by Clarke.

FILED SUBJECT TO APPROVAL
Respectfully submitted,

Karen Blanchet, Clerk