



First land deed from the Indians  
April 12th 1659

# TOWN OF WOODBURY

## Zoning Commission

297 Main Street South

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### MINUTES PUBLIC HEARING/REGULAR MEETING TUESDAY, APRIL 13, 2010

7:30 P.M.

TOWN ANNEX

#### MEMBERS PRESENT:

Martin Overton  
Robert Clarke  
Ted Tietz  
Alan Green

#### ALTERNATES PRESENT:

Chris Conto

#### MEMBERS ABSENT:

Chuck Cosgriff

#### ALTERNATES ABSENT:

Roberta Zulpa

**ALSO PRESENT:** Catherine Adsitt, David Cowles, Gus Kaloidis, Matt Brazauskas, Kevin Yates, member of the press, and other interested residents.

#### I. CALL TO ORDER

Chr. Overton convened the meeting of the Woodbury Zoning Commission at 7:30 p.m.

#### II. SEATING OF MEMBERS AND ALTERNATES

Seated were Commissioners Overton, Clarke, Tietz, Green, and Alternate Conto. Reference was made to Section 8-11, Connecticut General Statutes, and Section 901 of the Woodbury Town Charter, Conflict of Interest.

#### III. PUBLIC HEARINGS

None

#### IV. REGULAR MEETING

The Regular Meeting of the Woodbury Zoning Commission convened at 7:32 p.m.

#### A. PENDING APPLICATIONS

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

Chr. Overton stated that the final draft has been mailed to Commissioners for their review and a date for the adoption of the regulations would be set.

Commissioner Robert Clarke said he still had several issues. The Commissioners discussed the issues including the fee schedule and collection of fees, the definition of "farm," "formula food/fast food," and the numbering of the FEMA/Flood Insurance regulations.

The Commission agreed to schedule the date for adoption at the next meeting on April 27, 2010. Chr. Overton also suggested that credit be given to Barbara Perkinson, who is no longer on the Commission, for her involvement in the regulation revisions.

Chr. Overton said there should be an annual review of the regulations, possibly in May or June of each year. The Commission agreed.

**2. 10-ZC-1013/Johannesen/146 Pomperaug Avenue/Special Permit/Renovate and Expand Existing Motel Building/Middle Quarter District (Tax Assessor's Map 102/Lot 001)**

A public hearing is scheduled for Tuesday, April 27, 2010.

**3. 10-ZC-1015/Johannesen/146 Pomperaug Avenue/Special Permit/Renovate and Expand Existing Motel Building/Aquifer Protection District (Tax Assessor's Map 102/Lot 001)**

A public hearing is scheduled for Tuesday, April 27, 2010.

**B. NEW APPLICATIONS**

**1. 10-ZC-1018a/Cowles/14 Middle Road Turnpike/Special Permit/Main Street Design District/Construct a pole barn style building (and related site improvements) to house a retail store/dairy plant with kitchen facilities in addition to current selling of produce and related products grown both on and off premises (Tax Assessor's Map 090/Lot 002A)**

**2. 10-ZC-1018b/Cowles/14 Middle Road Turnpike/Special Permit/Aquifer Protection District/Construct a pole barn style building (and related site improvements) to house a retail store/dairy plant with kitchen facilities in addition to current selling of produce and related products grown both on and off premises (Tax Assessor's Map 090/Lot 002A)**

**3. 10-ZC-1018c/Cowles/14 Middle Road Turnpike/Special Permit/Flood Plain District/Construct a pole barn style building (and related site improvements) to house a retail store/dairy plant with kitchen facilities in addition to current selling of produce and related products grown both on and off premises (Tax Assessor's Map 090/Lot 002A)**

**4. 10-ZC-1018d/Cowles/14 Middle Road Turnpike/Special Permit/Special Exception/Construct a pole barn style building (and related site improvements) to house a retail store/dairy plant with kitchen facilities in addition to current selling of produce and related products grown both on and off premises (Tax Assessor's Map 090/Lot 002A)**

Commissioner Alan Green recused himself.

David Cowles was present for the applications. Catherine Adsitt stated that she has contacted the town attorney regarding if the application for a special permit/special exception (10-ZC-1018d) is actually needed, questioning if the special permit application for the Aquifer Protection District is redundant.

Mr. Cowles asked if the Commission had any technical questions for his Engineer, Ronald Wolff. Mr. Cowles said Mr. Wolff would be present for the first session of the public hearing, but said he himself is capable of speaking on the proposed uses. Chr. Overton said there are a few technical questions regarding the 100 year flood line and the aquifer protection boundary.

Catherine Adsitt said the applicant has requested a waiver of the fees since the fees had been paid when Mr. Cowles originally submitted the applications, but later withdrew the applications. Mrs. Adsitt said she would ask Town Counsel to advise. Chr. Overton said the Commission is sympathetic to the issue. Mrs. Adsitt said there was an engineer review for the Inland Wetlands Agency application, which was approved.

The Commission agreed to schedule a public hearing for April 27, 2010.

**MOTION:**

To schedule a public hearing for Application 1018a submitted by Dave Cowles for a special permit in the Main Street Design District to construct a pole barn style building (and related site improvements) to house a retail store/dairy plant with kitchen facilities in addition to current selling of produce and related products grown both on and off premises, Application 1018b for a special permit in the Aquifer Protection District to construct a pole barn style building (and related site improvements) to house a retail store/dairy plant with kitchen facilities in addition to current selling of produce and related products grown both on and off premises, Application 1018c for a special permit in the Flood Plain District to construct a pole barn style building (and related site improvements) to house a retail store/dairy plant with kitchen facilities in addition to current selling of produce and related products grown both on and off premises, and Application 1018d for a special permit and special exception to construct a pole barn style building (and related site improvements) to house a retail store/dairy plant with kitchen facilities in addition to current selling of produce and related products grown both on and off premises on Tuesday, April 27, 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 4-0 in favor.

**C. OTHER BUSINESS**

None

**D. ENFORCEMENT**

Catherine Adsitt read the enforcement report prepared by Joe Chapman, ZEO.

-The Commission discussed the removal of the house on Flanders Road. Mrs. Adsitt said the property owner met with Janet Morgan, Fire Marshal, and the house is being donated to the town for a practice burn, tentatively planned for the first weekend in June. Mrs. Adsitt said the owner's have also donated to Habitat for Humanity any parts of the house they would like before it is destroyed. The Commission agreed to give the property owners until June 30 to raze the house.

-The Commission discussed that they have received the first report from Gus Kaloidis' for the flea market, including photos, the number of vendors, number of cars, and a written report, which was a condition of approval by the Commission.

Mrs. Adsitt said there have been two complaints made regarding the flea market – one by Matt Brazauskas for the fencing around the portable toilet, the parking, a lack of a traffic study, and a recent accident near the site. The other complaint was made by Kevin Yates for the parking, the fence around the portable toilet, and the layout of the flea market.

Chr. Overton said the question is whether or not Mr. Kaloidis is complying with his permit. Chr. Overton said when he attended the flea market he saw no violations. Commissioner Clarke agreed that he also saw no problems when he visited the flea market.

The Commissioners agreed that Mr. Kaloidis is complying, and that the Commission is aware of the complaints.

#### **E. PRIVILEGE OF THE FLOOR**

-Carole Peck, of Good News Café, was present to discuss an event she plans to hold at the Devino property on Main Street South. Ms. Peck said she was not aware she had to apply for the event. Ms. Peck submitted an invitation for the event and said 150-200 people are expected to be in attendance. Ms. Peck said there would be enough parking on the site.

Ms. Peck explained that by holding the event at this location, rather than her restaurant in Sherman Village, the cost would be \$9000 less by not having to erect a tent. Ms. Peck said the event is a fundraiser for Woodbury Community Services and for the Pomperaug River Watershed Coalition.

Commissioner Robert Clarke asked if the building had a Certificate of Occupancy. Ms. Peck said it does not but that Joe Chapman, ZEO, Gary Testa, Building Official, and Janet Morgan, Fire Marshal, all visited the site and determined it would be okay to hold the event at the site. Chr. Overton said the lack of a Certificate of Occupancy is not a Zoning Commission issue anyway. Ms. Peck said there would be lit exit signs installed prior to the event and that four members of the fire department would be present at the event. Ms. Peck said a one day liquor license would be obtained. Ms. Peck said she would not be cooking at the site and that all food would be prepared at her restaurant and brought over.

Chr. Overton thanked Ms. Peck for coming before the Commission to explain her plan.

-Matt Brazauskas and Kevin Yates of Middle Quarter Road were present to discuss their concerns regarding Mr. Kaloidis' flea market. Mr. Brazauskas said there are violations at the flea market including the number of vendors, and the portable toilet screening. Mr. Yates said there is morning noise coming from the site, parking in the wooded area, and vendors are located where they are not supposed to be. Catherine Adsitt said the Land Use staff does not design the sites for applicants. Chr. Overton suggested that Joe Chapman check if the layout of the flea market is what the Commission approved and if there are any violations of the permit.

Matt Brazauskas said regarding the portable toilet, they could see the top of the toilet from his house and his wife does not like it. Chr. Overton said he feels that the buffer around the toilet looks decent. Mr. Yates said the toilets will never feel right to them.

Mr. Brazauskas submitted photos of trucks driving over the septic galleys, along with many other photos he feels show violations.

Mr. Yates said people are parking across the street. Chr. Overton said when he attended the flea market he did notice people parking across the street and they never even attempted to find parking on the site. Chr. Overton said he drove right in and found a parking spot. Mr. Brazauskas said people are also parking on steep slopes and feels that it could be dangerous if the ground is wet and a car slides into a pedestrian. Chr. Overton said the Commission views the property from 10,000 feet and decides whether or not the use is acceptable for the site and if parking is reasonable, and that the Commission did feel it was and approved the application.

Mr. Yates said he feels the flea market has been unfair and frustrating to the neighbors. Mr. Yates said if the restaurant requested that much parking, it probably wouldn't have been approved. Mr. Yates also brought up the motorcycle night that is still held at the restaurant even though they were told not to have the event there and that when he called the police the police said they cannot do anything about it. Mr. Brazauskas said the restaurant also served outside and they were not supposed to. Catherine Adsitt said we were not talking about the restaurant and that she was getting uncomfortable with the conversation.

Mr. Brazauskas submitted a letter from his wife, Wendy Brazauskas, which stated her concerns about the flea market.

Mr. Brazauskas said traffic is a concern and wondered who would be liable if an accident happened, stating a judge would probably have to make a decision. Chr. Overton said the applicant has adequate parking on the site and if people choose not to use the on-site parking, no one else is at fault but themselves if they choose to cross the road.

Mr. Brazauskas said it is the wrong site for a flea market. Chr. Overton said the Commission cannot tell the applicant it is the wrong spot for his business if it meets all the requirements.

-Rod Taylor was present and said he has an opportunity to pick up a new lift to replace the t-bar at his ski area, and submitted a pamphlet describing the magic carpet lift. Chr. Overton said the problem with the installation of the other magic carpet lift was that it was installed too close to the adjacent property line. Chr. Overton told Mr. Taylor he would like to see a site plan endorsed with all the proposed changes.

Chr. Overton said any uses not on the approved list of uses are not allowed at the site, such as the summer tubing Mr. Taylor discussed at the last meeting.

Mrs. Adsitt commented on Mr. Taylor submitted plan, stating that one of the general notes on the plan says that the engineer did not design the course and has no responsibility for the

proposed course. Chr. Overton stated that the engineer was supposed to calculate that drainage is adequate and note it on the plan.

Mr. Taylor said he thought that the summer tubing could take place on Lane 1 where the handle tow is. Chr. Overton said the Commission is not qualified to know if this is where the summer tubing could safely take place.

Mr. Taylor wondered if he could submit an application tonight. Chr. Overton said an application cannot be submitted during a meeting, and explained that it would need to be looked at by staff first. Catherine Adsitt stated that she has met with Mr. Taylor about submitting an application, and that it was explained to Mr. Taylor the next step would be to submit a completed application. Mr. Taylor wondered if this use would need a public hearing, stating that he feels it is a non-conforming ski area. Chr. Overton said the Commission would not be able to decide if a public hearing was needed until the application was reviewed.

Commissioner Ted Tietz asked if the pipe in the curtain drain was on Mr. Taylor's property and wondered whether it would work in the winter. Mr. Taylor said it was on his property and said artificial snow is very wet and when it drains and the weather is very cold it freezes on top. Commissioner Tietz said the State is now putting in new catch basins on Route 47 and wondered if Mr. Taylor could work with the State to ensure his curtain will drain work well in the winter.

Mr. Taylor said he cannot afford another Cease and Desist Order. Chr. Overton suggested that Mr. Taylor meet with Land Use staff to put together an application.

Catherine Adsitt stated that Mr. Taylor had asked that his bond be released, but there is still soil and erosion fencing up. Mr. Taylor said Joe Chapman visited the site and saw that the fencing was taken down. Mrs. Adsitt said she would check with Mr. Chapman regarding the matter.

## **F. CONSIDERATION OF MINUTES**

Regular Meeting – March 23, 2010

The following change was made:

Page 4 – First Para. of motion should read: "...that would allow the **conversion**..."

### **MOTION:**

To approve the minutes of the Tuesday, March 23, 2010, Regular Meeting of the Woodbury Zoning Commission, as amended.

Made by Overton, seconded by Clarke.

Vote 5-0 in favor.

## **G. CORRESPONDENCE**

None

## **H. ADJOURNMENT**

### **MOTION:**

To adjourn the meeting at 9:25 p.m.  
Made by Clarke.

FILED SUBJECT TO APPROVAL  
Respectfully submitted,

Karen Blanchet, Clerk