



# TOWN OF WOODBURY

## Zoning Commission

297 Main Street South

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### MINUTES PUBLIC HEARING/REGULAR MEETING TUESDAY, MAY 26, 2009

7:30 P.M.

TOWN ANNEX

#### MEMBERS PRESENT:

Martin Overton  
Barbara Perkinson  
Ted Tietz  
Robert Clarke  
Chuck Cosgriff

#### ALTERNATES PRESENT:

Alan Green

#### ALTERNATES ABSENT:

Chris Conto  
Roberta Zulpa

**ALSO PRESENT:** Rod Burgess, Rich Lamothe, Marianna Daniels, Marianne Daly, Cliff Atkin, Debbie Tietz, member of the press, and other interested residents.

#### PUBLIC HEARINGS

None

#### 1. REGULAR MEETING

Chr. Overton convened the Regular Meeting of the Woodbury Zoning Commission at 7:30 p.m. Seated were Commissioners Overton, Perkinson, Tietz, Clarke, and Cosgriff. Reference was made to Section 8-11, Connecticut General Statutes, and Section 901 of the Woodbury Town Charter, Conflict of Interest.

#### Tabled Matters

a. **09-ZC-9015/Scott/DiLisa/710 Main Street South/Wildman Carpet to Kitchen and Bath Store Pursuant to WZR 5.2.1 (Tax Assessor's Map 102/Lot 020)**

This application remained tabled due to the absence of the applicant.

#### MOTION:

To remove from table Application 09-ZC-9021 submitted by Sherwood/Burgess for a timber permit at Pomperaug Road (Tax Assessor's Map 034/Lot 019A & 019B) and Application 09-ZC-9022 submitted by the Town of Woodbury for Earth Excavation activity/Screening at the Town Garage at 82 White Deer Rocks Road (Tax Assessor's Map 021/Lot 038).

Made by Overton, seconded by Perkinson.

Vote 5-0 in favor.

#### A. PENDING APPLICATIONS

None

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## B. NEW APPLICATIONS

a. **09-ZC-9015/Scott/DiLisa/710 Main Street South/Wildman Carpet to Kitchen and Bath Store Pursuant to WZR 5.2.1 (Tax Assessor's Map 102/Lot 020)**

Tabled.

b. **09-ZC-9018/Winer/McTaggart/557 Main Street South, 3 Old Sherman Hill Road, 5 Old Sherman Hill Road/Zone Boundary Change (Tax Assessor's Map 103/Lot 048)**

A public hearing has been scheduled in June 2009.

c. **09-ZC-9021/Sherwood/Burgess/Pomperaug Road/Timber Permit (Tax Assessor's Map 034/Lot 019A & 019B)**

Rod Burgess of Scotland Hardwoods was present for the application and explained he is seeking a timber permit for property owned by Sherwood's on Pomperaug Road. Mr. Burgess said the property is 14-16 acres and had been logged years ago. Mr. Burgess said this project would have a 1-3 man crew and the hours of operation would be Monday through Saturday from 8 a.m. to 6 p.m. preferably during the Summer of 2009. Mr. Burgess said the 130 trees to be removed are marked with orange paint. Joe Chapman, ZEO, conducted a site walk of the property last week.

The trees to be removed will be 14 dbh (diameter breast height) and consists of oak, maple, and ash trees. Mr. Burgess said there is one double drainage crossing and portable bridges would be used.

Chr. Overton asked if this project is being called a thinning operation. Mr. Burgess said it is selective timber management. Chr. Overton asked if the roadway being used is an old right-of-way and asked if he knew the legal status of the road. Mr. Burgess said he did not know.

Chr. Overton asked Mr. Burgess to describe the clearing of debris. Mr. Burgess said the main stem of the tree will be taken and the tops would be left and reduced to 5 feet off the ground, stating the tops will rot down with time. Commissioner Chuck Cosgriff asked if the tops would be all moved to one location. Mr. Burgess said they would be left sporadically, explaining the slashed tops would rot quicker this way. Chr. Overton asked if this would be a fire hazard concern. Mr. Burgess said he did not think so.

Mr. Burgess said a truck would load the trees off the property. Commissioner Ted Tietz suggested that perhaps the logs be removed on Saturdays.

Commissioner Barbara Perkinson asked when the trees are down if they would affect any inland wetlands, and wondered if the application should go before the Inland Wetlands Agency. Mr. Burgess said he spoke to Joe Chapman who also conducted a site walk, and it was deemed there were no wetlands on the property. Chr. Overton said timber cutting is a land use operation and the Zoning Commission has no jurisdiction on wetlands, but felt Commissioner Perkinson was correct in questioning the wetlands issue. Mr. Burgess said the Inland Wetlands Agency did accept the application and they would discuss it at their next meeting.

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Commissioner Robert Clarke said the file stated a preliminary cutting plan had not yet been supplied by the applicant. Chr. Overton said the plan is in writing and is being recorded at this meeting.

Commissioner Clarke said he is concerned about the slash that is being left. Mr. Burgess said they would be removing 65-70% of the tree, leaving 30-35%, which is normal for a long term forest management plan. Mr. Burgess said removing the slash could cause more damage to the property and wildlife. Chr. Overton said the regulations don't specify anything but good management practices.

Commissioner Clarke asked Mr. Burgess to explain the slashing operation. Mr. Burgess said the cuts are made and the tops are run over by a machine reducing the tops to breast height, getting them as low as possible.

Commissioner Clarke asked if the road constitutes a recreation road. Chr. Overton said it is a logging road, and is considered a paper street on the map.

The Commission agreed to authorize the ZEO to issue the necessary permits.

**MOTION:**

To authorize the ZEO to issue the necessary permits for Application 09-ZC-9021 submitted by Sherwood/Burgess for a timber permit at Pomperaug Road. (Tax Assessor's Map 034/Lot 019A & 019B)

Made by Overton, seconded by Perkinson.

Vote 4-0-1 in favor. (Clarke abstained)

**d. 09-ZC-9022/town of Woodbury/82 White Deer Rocks Road/EE Activity/Screening at Town Garage (Tax Assessor's Map 021/Lot 038)**

Commissioner Tietz recused himself. Alternate Alan Green was seated.

Rich Lamothe of the Woodbury Public Works Department was present and explained he was told a permit was needed to use and operate a screening plant at the Public Works property to screen approximately 1000 yards of millings, top soil, and gravel, which would then be reused on the roadways. Mr. Lamothe said the department has been screening the material for 12-15 years, and now because of the issue with Ray Hardisty, the department has been told they need to come before the Zoning Commission. Mr. Lamothe wondered how the Town was able to do this for so many years and now it is a problem, which will now end up being a big expense for the Town.

Chr. Overton said unfortunately the Zoning Commission cannot grant a waiver for something that is prohibited, because the screening is not being done in an Earth Excavation District. Chr. Overton said there are currently only 2 EE districts, one owned by O & G Industries and one owned by Ted Tietz. Mr. Lamothe wondered if the Town would have to now apply for a zoning change for the Public Works facility. Chr. Overton said talk is that the Public Works Department would be moving in the future and this should be kept in mind.

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Chr. Overton said the material could be stored at the Public Works facility, but the processing cannot be done there. Commissioner Clarke wondered if the material could be moved to a neighboring facility to be screened.

Chr. Overton suggested that the application be withdrawn and suggested Mr. Lamothe speak to Paul Hinckley, First Selectman. Mr. Lamothe said he would withdraw the application and stated there is supposed to be a meeting on June 5, 2009, to discuss the issue with Town Counsel.

**e. 09-ZC-9023/Waterbury Symphony/Hollow Park/Picnic & Pops on July 11, 2009 (Tax Assessor's Map 103/Lot 013)**

The Commission agreed to table the application due to the absence of the applicant.

**MOTION:**

To table Application 09-ZC-9023 submitted by the Waterbury Symphony for Picnic & Pops to be held on July 11, 2009, at Hollow Park due to the absence of the applicant from the meeting. (Tax Assessor's Map 103/Lot 013)

Made by Overton, seconded by Clarke.

Vote 5-0 in favor.

**f. 09-ZC-9024/St. Paul's Church/Daniels/294 Main Street South/Church Fair on June 27, 2009 (Tax Assessor's Map 104/Lot 005)**

Marianna Daniels and Marianne Daly were present for the application. Mrs. Daniels said the 62<sup>nd</sup> Annual Fair would be held on June 27, 2009, from 9 a.m. to 3 p.m. A shuttle bus from Mitchell School would run from 8 a.m. to 3 p.m.

Chr. Overton said the following is needed to be in the file: A letter from the Police Department, Health Department, bus company, Region 14, Fire Department, Building Department, and information on signage.

Commissioner Ted Tietz asked if there were any problems noted from last year's event. Chr. Overton said there was not a post-event report in the file. Mrs. Daniels said she would submit a report to Judi Lynch.

Commissioner Chuck Cosgriff asked how soon the sign would be put up and asked that they conform to the 2 week regulation. Mrs. Daniels said it would be put up in front of the church on June 13.

Commissioner Robert Clarke asked if there would be tents. Mrs. Daniels said there would be.

The Commission agreed to authorize the ZEO to issue a special events permit.

**MOTION:**

To authorize the ZEO to issue a Special Event permit for Application 09-ZC-9024 submitted by St. Paul's Church for a church fair to be held on June 27, 2009, at 294 Main Street South. (Tax Assessor's Map 104/Lot 005)  
Made by Overton, seconded by Tietz.  
Vote 5-0 in favor.

**C. OTHER BUSINESS**

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

Chr. Overton asked that Judi Lynch provide a list of regulation changes to the Commission.

Chr. Overton mentioned that wind turbines should be discussed. Commissioner Clarke said he would provide information on that issue to the Commission for discussion.

**D. PLAN OF CONSERVATION AND DEVELOPMENT UPDATE**

Chr. Overton asked that Judi Lynch provide the Commission will an updated draft.

**E. ENFORCEMENTS**

**a. 09-ZC-ENFO/Hardisty/200 Minortown Road/Earth Material Operation (Tax Assessor's Map 025/Lot 034)**

Cliff Atkin, Ray Hardisty's neighbor was present. Chr. Overton stated that a Cease and Desist Order was issued to Mr. Hardisty for an illegal earth material operation at 200 Minortown Road. Chr. Overton said Judi Lynch was asked to resend a letter to Mr. Hardisty reiterating the Cease and Desist Order, which he has not complied with.

Mr. Atkin stated on May 13 he noticed trucking from the property and he called Joe Chapman. Mr. Chapman then visited the property around 10 a.m. and noticed that the noise stopped at around 11:30 a.m., although a full truck of gravel then pulled out of the property. Mr. Atkin said he saw Mr. Hardisty driving a truck with a full load of gravel on May 14, and on May 14, 15, and 23, he noticed trucking, which started at 6 a.m. Mr. Atkin said on May 26 he saw an excavator leaving the property on a low boy.

Commissioner Clarke asked if all the trucks leaving or entering the property belonged to Mr. Hardisty. Mr. Atkin said he noticed that one truck said "Woodward" on it.

Chr. Overton said at this time, if Mr. Hardisty continues not to comply with the Cease and Desist Order, it could only be pursued in court.

Commissioner Barbara Perkinson asked Mr. Atkin to continue to monitor the situation. Mr. Atkin said he can't be out there everyday.

Mr. Atkin stated that Judi Lynch has been nothing but professional in dealing with this matter.

Chr. Overton said he would ask the Land Use Office to reinstate the ZEO reports and offer updates on this situation.

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## F. PRIVILEGE OF THE FLOOR

No one spoke at this time.

## G. CONSIDERATION OF MINUTES

Regular Meeting – April 14, 2009

### MOTION:

To approve the minutes of the Tuesday, April 14, 2009, Regular Meeting of the Woodbury Zoning Commission, as submitted.

Made by Overton, seconded by Perkinson.

Vote 4-0-1 in favor. (Cosgriff abstained)

Regular Meeting – May 12, 2009

The following changes were made:

Page 1 - Debbie Tietz was also present at the meeting.

Page 2 – The motions should read: "...due to the applicant's **absence from** the meeting."

Page 2, Last Para. – Should read: "the First Selectman **about** the issue and send a letter to Mr. Hardisty reiterating the order and **saying** the Town..."

### MOTION:

To approve the minutes of the Tuesday, May 12, 2009, Regular Meeting of the Woodbury Zoning Commission, as amended.

Made by Overton, seconded by Perkinson.

Vote 5-0 in favor.

## H. CORRESPONDENCE

None

## I. ADJOURNMENT

### MOTION:

To adjourn the meeting at 8:30 p.m.

Made by Clarke.

FILED SUBJECT TO APPROVAL  
Respectfully submitted,

Karen Blanchet, Clerk