

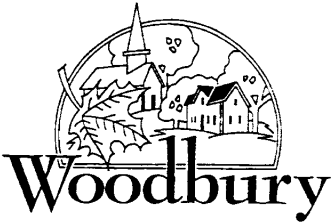
TOWN OF WOODBURY

Zoning Commission

297 Main Street South

Post Office Box 369

Woodbury, Connecticut 06798-0369



First land deed from the Indians
April 12th 1659

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MINUTES PUBLIC HEARING/REGULAR MEETING TUESDAY, JUNE 23, 2009

7:30 P.M.

TOWN ANNEX

MEMBERS PRESENT:

Martin Overton
Barbara Perkinson
Ted Tietz
Robert Clarke

ALTERNATES PRESENT:

Chris Conto

MEMBERS ABSENT:

Chuck Cosgriff

ALTERNATES ABSENT:

Roberta Zulpa
Alan Green

ALSO PRESENT: Atty. Gail McTaggart, Brian Baker, Carole Winer, Russ Barton, Dan O'Neill, Michael Fine, Rod Burgess, Dr. Solhjoo, Rod Taylor, Greg Grew, Cliff Atkin, member of the press, and other interested residents.

PUBLIC HEARINGS

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

Chr. Overton convened the public hearing at 7:30 p.m. Seated were Commissioners Overton, Perkinson, Tietz, Clarke, and Alternate Conto. Reference was made to Section 8-11, Connecticut General Statutes, and Section 901 of the Woodbury Town Charter, Conflict of Interest. The legal notice, which was published in the Waterbury Republican-American on Saturday, June 13, 2009, and Saturday, June 20, 2009, was read.

Present for the application were Atty. Gail McTaggart, Carole Winer, Russ Barton, and engineer Brian Baker. The required Certificates of Mailing were submitted.

Atty. McTaggart explained the application is for a zone change for the rear portion of the property from OS-60 to Main Street Design. The front of the property is currently MSD and the zone change would allow the applicant to make the property more productive with the concept of a restaurant in the existing barn and a Bed and Breakfast or Country Inn in the existing house. There may be the possibility of cabins on the property in the future.

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Atty. McTaggart said the plan at this time is conceptual, but once the zone change is approved, the applicant would submit a permit for a specific plan.

Atty. McTaggart submitted a packet, which included the petition for the Main Street Design District, photos of the property, an environmental assessment, and a traffic analysis.

A vision statement prepared by Carole Winer was also submitted, explaining the history of the property, which she purchased in 1995.

Atty. McTaggart said Chris Wood was consulted to review the application on behalf of the town and agrees the application is positive and consistent with the zoning scheme and meets the goals of the MSD District.

Brian Baker, Engineer, reviewed the existing conditions and preliminary site plan. Mr. Baker said should the Zoning Commission approve the zone change, the application for the actual plan would go before the Inland Wetlands Agency to ensure viable septic systems for the inn and restaurant.

Mr. Baker submitted a map of the conceptual site plan, which included the 8 cottages that may or may not be built in the future.

Dan O'Neill, Traffic Engineer, explained how the proposed zone change and proposed development would impact traffic. The information indicated that the traffic that would be generated by the proposed development can be safely and efficiently accommodated by the surrounding roadway system. Mr. O'Neill said any traffic from special events could be controlled by police and determined on a case by case basis.

Michael Fine, Biologist and Soil Scientist, gave an environmental overview of the property, stating the Woodbury Zoning Regulations required an environmental assessment. Mr. Fine said the rear portion of the property is an old field with a pond, which was likely excavated for an agricultural use. Mr. Fine said most of the property is a mowed field with a narrow wetlands system that flows from the north to south and feeds the pond. Mr. Fine said the property has a shrubbery thicket of dogwood, elderberry, and wild rose. Mr. Fine said the geology under the soil is glacial fluvial and the property is in the aquifer protection district. Mr. Fine said the wildlife is disturbance tolerant. Mr. Fine said a rock face at the southeast of the property has a steep topography, which limits development in that area. Mr. Fine said the site plan is appropriate to the existing conditions of the property, with no wetland impacts and no unusual sediment control problems.

Atty. McTaggart said the non-binding application was approved by the Historic District Commission.

Atty. McTaggart said the Plan of Conservation and Development must be considered and the Planning Commission gave their unanimous approval to the application. Chr. Overton read the Planning Commission motion of May 20, 2009, which stated the Planning Commission recommended that the application is in conformance with the POCD.

Atty. McTaggart said the application was referred to Virginia Mason of COG, who offered a positive recommendation for the application.

Chr. Overton read a letter from Tile Spaces, a business in Woodbury, which stated they are in support of the proposal. Chr. Overton said other letters submitted were for the site plan proposal, not the zone change, and were not read into this public hearing.

Commissioner Chris Conto asked what the size of the restaurant would be. Brian Baker said due to the limited septic flow, the restaurant would seat 124 people in the 3000 square foot patron floor area.

Commissioner Ted Tietz asked if all development would be on the west side of the property. Brian Baker said it would be due to the constraints with wetlands. Commissioner Tietz asked what the acreage is in that area. Mr. Baker said the back side is 17 acres and west of the 2.8 acre wetlands regulated area.

Chr. Overton asked if this is the only zone change needed to accomplish the plan. Atty. McTaggart said she hoped so, stating after a comprehensive discussion, she did not see any other requests for the zone change.

Chr. Overton discussed the build-out MSD, stating the maximum building coverage is 10% and the maximum lot coverage is 50%, and asked if traffic and engineering of a full build out was evaluated. Brian Baker said traffic was not evaluated for build out. Atty. McTaggart said it is easy to see on the plan that it is under 10%. Chr. Overton said according to the MSD regulations 50% of the property can be paved, and wondered if the impact of that was looked at. Atty. McTaggart said first of all the Zoning Commission would never approve that and it would not be marketable that was either and is not realistic. Atty. McTaggart said the Zoning Commission has discretionary authority to protect MSD.

Public Comments –

Dale Killing of 529 Main Street stated it takes her 5 minutes to get out of her driveway with all the traffic, and most often takes a right turn because she has been close to getting hit many times. Ms. Killing asked if the traffic would come off Main Street or Old Sherman Hill Road. Dan O'Neill agreed that traffic gets busy there and said gaps in traffic were timed at 20 to 30 seconds. Mr. O'Neill said the key is the ability to get out safely and felt that the little traffic generated with this project would get out safely. Mr. O'Neill said there are 2 access points that could be used, which could be ironed out in the site plan. Mr. O'Neill said there have been no serious accidents reported at that area of Main Street.

William Hilldreth of Mill House Antiques stated as a business owner he feels this is the right thing to do for the property and would complement Woodbury and preserve the historic nature of the property.

Karen Reddington-Hughes stated also as a business owner, this plan would benefit the town and other businesses.

Barbara Secor stated she endorses the zone change and added that she has known Carole Winer for some time and said with Carole's impeccable taste she will preserve the historic nature of the property. Ms. Secor said it would be lovely to go to dinner there.

The Commission agreed to continue the public hearing to allow them time to review the information submitted.

MOTION:

To continue the public hearing for Application 09-ZC-9018 submitted by Carole Winer for a zone boundary change at 557 Main Street South, 3 Old Sherman Hill Road, and 5 Old Sherman Hill Road on Tuesday, July 14, 2009, at 7:30 p.m. in the Town Annex Conference Room. (Tax Assessor's Map 103/Lot 048)

Made by Overton, seconded by Tietz.

Vote 5-0 in favor.

I. REGULAR MEETING

Chr. Overton convened the Regular Meeting of the Woodbury Zoning Commission at 8:55 p.m. Seated were Commissioners Overton, Perkinson, Tietz, Clarke, and Alternate Conto.

MOTION:

To remove from table Application 09-ZC-9025 submitted by Hummel for a timber permit on Great Hollow Road. (Tax Assessor's Map 046/Lot 003)

Made by Overton, seconded by Clarke.

Vote 5-0 in favor.

A. PENDING APPLICATIONS

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

The public hearing will be continued on Tuesday, July 14, 2009.

B. NEW APPLICATIONS

- a. 09-ZC-9025/Hummel/Great Hollow Road/Timber Permit (Tax Assessor's Map 046/Lot 003)

Rod Burgess of Scotland Hardwoods was present for the application and explained that he is proposing a timber cutting project on a 12 acre property owned by Jean Hummel on Great Hollow Road. Mr. Burgess said the project consisting of the removal of approximately 200 hardwood trees with a 14 inch dba would have a 1-3 man crew and the work would be done Monday through Saturday from 8 a.m. to 6 p.m. Mr. Burgess said Joe Chapman, ZEO conducted a site walk of the property, and the application and approved by the Inland Wetlands Agency on June 22, 2009.

Commissioner Barbara Perkinson asked how the timber would be removed from the property. Mr. Burgess said the trucks would access the property from the Southbury side of Great Hollow Road.

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

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MOTION:

To authorize the ZEO to issue the necessary permits for Application 09-ZC-9025 submitted by Hummel for a timber permit on Great Hollow Road. (Tax Assessor's Map 046/Lot 003)
Made by Overton, seconded by Perkinson.
Vote 5-0 in favor.

b. 09-ZC-9028/Palinkas/Nolletti/97 Main Street North/Massage Therapy, Counseling, and Personal Training (Tax Assessor's Map 090/Lot 004)

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

MOTION:

To table Application 09-ZC-9028 submitted by Palinkas and Noletti for massage therapy, counseling and personal training at 97 Main Street North, due to the absence of the applicant. (Tax Assessor's Map 090/Lot 004)
Made by Overton, seconded by Clarke.
Vote 5-0 in favor.

C. OTHER BUSINESS

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

Chr. Overton stated that he does not feel the Commission is getting support from the Land Use Office regarding the regulation revisions. Chr. Overton said he has requested an easy-to-read list of the changes to the regulations thus far made by the Commissioners and staff from the office, and have yet to receive it.

b. 09-ZC-INFO/Proposed Regulation Revision Pertaining to Acreage Requirements with Animals

Dr. Solhjoo of 156 Orchard Avenue was present to discuss his frustration with his neighbor who owns alpacas. Dr. Solhjoo stated that he cannot understand the regulation, which suggests that on a property of 4.9 acres one is not allowed to have a horse, but on a property of just .1 acre more, or 5 acres, one can have as many large animals as they wish. Dr. Solhjoo said his neighbor currently has over 100 alpacas on their property, which is 7 acres, but noted that the alpacas are kept on an area of only 1 acre of their property. Dr. Solhjoo stated that the main problem is the odor from the property because of improperly disposed manure.

Chr. Overton stated that the State of CT laws protect farming and noted it was the authority of the Department of Agriculture to decide if the neighbor is meeting their farming practices standards, stating that the Zoning Commission does not have that authority. Chr. Overton said he felt that if the neighbor's animals were being looked after properly, there would not be an odor problem. Chr. Overton stated it is his understanding that the Land Use office asked that the Department of Agriculture visit the site, preferably on a warm day, to assess the odor issue, but has not heard from staff that the visit was done yet. Chr. Overton suggested to Dr. Solhjoo that he speak to the Department of Agriculture himself.

Dr. Solhjoo asked if the regulation could be changed, stating it is currently too broad and should be more specific. Chr. Overton said a change could be discussed, but noted that even if the regulation was changed, it would not affect Dr. Solhjoo's neighbor issue, only future issues.

D. PLAN OF CONSERVATION AND DEVELOPMENT

Chr. Overton stated that Bill Scanlan will be present at the August 11, 2009 Zoning meeting to discuss the Plan of Conservation and Development.

E. ENFORCEMENTS

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

Commissioner Ted Tietz recused himself.

Chr. Overton stated that Judi Lynch prepared a report consisting of the history and correspondence regarding Ray Hardisty's Earth Materials business violation. Chr. Overton said a letter of violation was issued to Mr. Hardisty from the Land Use office on November 18, 2008, a Cease and Desist Order on December 3, 2008, and a letter reiterating the Cease and Desist Order on June 22, 2009. Chr. Overton said the First Selectman was also asked if this issue should be pursued through the courts, but no response was received from Paul Hinckley, First Selectman, at this time. Chr. Overton said, and the Commission agreed, that the issue will again be discussed at the next meeting.

Commissioner Ted Tietz was reseated.

b. 08-ZC-8015/Taylor/Washington Road/3 Cease and Desist Orders Issued (Tax Assessor's Map 056/Lot 016B)

Chr. Overton stated that Rod Taylor has received 3 Cease and Desist Orders from the Land Use office for the issues of alteration of walls, soil and erosion control, and encroachment into the 50 foot setback.

Rod Taylor and Architect Greg Grew were present. Mr. Grew stated that after Mr. Taylor received approval from the Zoning Commission he hired Mr. Grew for the building plans. Mr. Grew said he found that Mr. Taylor was building stone walls that were not on the site plan and suggested to Mr. Taylor that he go before the Zoning Commission to modify his plans to show the walls.

Chr. Overton stated that the Commission told Mr. Taylor two months ago to be sure that everything he wanted to do on the property was put on the plans.

Mr. Grew noted that the site plan for the building is vague. Mr. Grew said the walls Mr. Taylor was building were not safe for even the able-bodied, so it was redesigned and in all intents and purposes feels it will now work well and meets safety and code compliance. Mr. Grew submitted photos showing the area. Chr. Overton stated that the Commission cannot keep approving one thing for Mr. Taylor and he then build another. Chr. Overton stated that all other residents who receive approvals comply, and Mr. Taylor should also. Chr. Overton told Mr. Taylor he cannot ignore his site plan.

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Chr. Overton suggested that all work that is not in conformance to the plan be stopped until Mr. Taylor revise his plan and submit it to the Land Use office.

Chr. Overton stated that Joe Chapman, ZEO last inspected run off on the property on June 9, 2009, and there is no erosion control.

Chr. Overton said regarding the encroachment into the 50 foot setback, Mr. Taylor was told to plant a buffer so people would not damage the fence owned by Sarah Shinn-Pratt and protect the integrity of the boundary line. Mr. Taylor said that Judi Lynch told him he had to erect a chain-link fence after Commissioner Clarke asked that it be done. Chr. Overton said he did not believe the Zoning Commission required the fence and read the condition, which stated that Mr. Taylor place stakes at 25 foot intervals marking the 50 foot setback so contractors knew areas they were to avoid. Chr. Overton said the plan did not show a fence. Mr. Grew said the plan does show a fence. Chr. Overton said he has no idea why it is there and said it would make sense for the fence to go up after the work is done anyway.

Chr. Overton also suggested to Mr. Taylor that regarding soil and erosion, he do what the law required and put the information on the plan and resubmit it.

F. PRIVILEGE OF THE FLOOR

Greg Grew said he was present for Rod Taylor regarding a proposed modification for a building. Mr. Grew said the building is currently one story and Mr. Taylor would like to extend the proposed apartment over the existing building so the building is one level all the way across. Mr. Grew said a 2 bedroom apartment has been approved and the modification is for a 4 bedroom apartment.

Chr. Overton asked if the owner was going to live in the apartment. Mr. Taylor said international students who are hired for periods of 2 ½ months would live there. Chr. Overton said before the Zoning Commission considers the modification, they must know if the apartment would be owner occupied, rented, leased, or free.

Cliff Atkin, a neighbor of Raymond Hardisty asked the Commission if Mr. Hardisty has a registered farm, because that is what Mr. Hardisty told Joe Chapman, ZEO. Mr. Atkin said he attended an Inland Wetlands Agency meeting because Mr. Hardisty is clear cutting property in wetlands that is abutting his property. Chr. Overton said unapproved activity in wetlands is an Inland Wetlands Agency issue, not the Zoning Commission, but that a timber harvesting project would have to come before the Zoning Commission. Mr. Atkin said he was told by Judi Lynch that if there is no monetary compensation, it is not timber harvesting. Chr. Overton said the Commission does not have jurisdiction on this issue.

G. CONSIDERATION OF MINUTES

Tuesday, June 9, 2009

The following changes were made:

Page 2, Para. 1 – Should read: “...Region 14 Music Foundation is supporting the concert...”

Page3, Para. 4 – Should read: “...and said he must change the site plan to show a wider sidewalk.”

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Page 5, Para. 3 – Should read: “Commissioner Conto was concerned they would leave equipment there and be used by O & G employees.”

Page 8, Para. 1 – Should read: “...instead of the required 3 days as quoted in WZR Section 7.10.5.i.”

H. CORRESPONDENCE

Chr. Overton read a letter from Paul Hinckley, First Selectman, regarding the work on the Town Hall being completed by July 1 and offered the building to the Commissions for one of their meetings.

Chr. Overton read a letter from the Siting Council regarding Walter Henderson’s property on Hoop Pole Hill Road being an alternate cell tower site.

Chr. Overton read a letter from the Land Use office regarding a violation of signage at Thimbles sewing store.

I. ADJOURNMENT

MOTION:

To approve the minutes of the Tuesday, June 9, 2009, Regular Meeting of the Woodbury Zoning Commission, as amended.

Made by Overton, seconded by Perkinson.

Vote 5-0 in favor.

MOTION:

To adjourn the meeting at 10:40 p.m.

Made by Tietz.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Karen Blanchet, Clerk