



First land deed from the Indians
April 12th 1659

TOWN OF WOODBURY

Zoning Commission

297 Main Street South

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Woodbury, Connecticut 06798-0369

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MINUTES

PUBLIC HEARING/REGULAR MEETING

TUESDAY, JUNE 9, 2009

7:30 P.M.

TOWN ANNEX

MEMBERS PRESENT:

Martin Overton

Barbara Perkinson

Ted Tietz

Chuck Cosgriff

Robert Clarke

ALTERNATES PRESENT:

Alan Green

Chris Conto

ALTERNATES ABSENT:

Roberta Zulpa

ALSO PRESENT: Judi Lynch, Nancy Grasing, Robert LaBonne, Jr., Office George Romano, Officer Steve Tokarz, William and Judy Platt, Katherine and Vincent Montalbano, and Chris and Jane Hadad, member of the press, and other interested residents.

PUBLIC HEARINGS

None

I. REGULAR MEETING

Chr. Overton convened the Regular Meeting of the Woodbury Zoning Commission at 7:30 p.m. Seated were Commissioners Overton, Perkinson, Tietz, Cosgriff, and Clarke. 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/DiLiso/710 Main Street South/Wildman Carpet to Kitchen and Bath Store Pursuant to WZR 5.2.1 (Tax Assessor's Map 102/Lot 020)**

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

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

MOTION:

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

Made by Overton, seconded by Perkinson.

Vote 5-0 in favor.

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A. PENDING APPLICATIONS

None

B. NEW APPLICATIONS

a. **09-ZC-9015/Scott/DiLiso/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/557 Main Street South, 3 Older Sherman Hill Road, 5 Old Sherman Hill Road/Zone Boundary Change (Tax Assessor's Map 103/Lot 048)**

A public hearing is scheduled for Tuesday, June 23, 2009.

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

Nancy Grasing was present for the application and explained at the event is the same as last year, except that the show will begin at 6 p.m. to allow for a rehearsal in the afternoon. Mrs. Grasing said the existing parking plan has worked well in the past and would be used again, and stated 400-500 cars are expected, with approximately 700-800 people expected to be in attendance (not counting children). Mrs. Grasing said Region 14 Music is supporting the concert with a small grant, which would allow children under 18 years old to attend the concert free of charge.

Mrs. Grasing said police would be on site for traffic control. Regarding signage, two weeks prior to the concert signs would be placed at the Hollow Park entrance and at Sherman Hill Road and on the day of the show there would be 10 signs placed at Hollow Park, including traffic flow signs.

Commissioner Barbara Perkinson asked if a post-event report was submitted last year. Mrs. Grasing submitted the report this evening, and indicated that there were no problems or complaints last year.

Commissioner Robert Clarke said the application states there would be parking for 350 cars. Mrs. Grasing said that is how many cars there have been in the past, but noted that the parking plan shows parking for up to 500 cars, which would be manageable.

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

MOTION:

To authorize the ZEO to issue the necessary permits for 09-ZC-9023 submitted by Waterbury Symphony for Picnic & Pops to be held on July 11, 2009, at Hollow Park. (Tax Assessor's Map 103/Lot 013)

Made by Overton, seconded by Perkinson.

Vote 5-0 in favor.

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

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

MOTION:

To table Application 09-ZC-9025 submitted by Hummel for a timber permit at property on Great Hollow Road due to the absence of the applicant. (Tax Assessor's Map 046/Lot 003)

Made by Clarke, seconded by Perkinson.

Vote 5-0 in favor.

e. 09-ZC-9026/LaBonne/Woodbury Center/238 Main Street South/Expansion of LaBonne's Market in the Main Street Design District (Tax Assessor's Map 104/Lot 017)

Robert LaBonne, Jr. was present for the application and explained the proposal of expanding the market into the adjacent space once used by the dry cleaner. Mr. LaBonne said the entrance would be moved to the dry cleaner site (with a vestibule) and the exit location would be at the current entrance site. Mr. LaBonne said the current produce department, check out area, and deli area would be rearranged.

Chr. Overton questioned the parking area currently in front of the dry cleaner site, and told Mr. LaBonne he should consider creating a wider sidewalk there to deter cars from parking there for safety concerns. Chr. Overton mentioned the groups, such as Girl Scouts, that occasionally set up tables for their organizations and said a larger sidewalk would work better for that. Mr. LaBonne said he could even place a planter there to separate the cars from people walking on the sidewalk.

Commissioner Clarke asked how much square footage would be added. Mr. LaBonne said 1400 square feet would be added for a total of 11,600 square feet for the total store.

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-9026 submitted by LaBonne and Woodbury Center for an expansion of LaBonne's Market at 238 Main Street South located in the Main Street Design District. (Tax Assessor's Map 104/Lot 017)

Made by Overton, seconded by Perkinson.

Vote 5-0 in favor.

f. 09-ZC-9027/O & G Industries/Woodbury Police/Park Road/Firing Range in Park Road Quarry (Tax Assessor's Map 088/Lot 005)

Officers George Romano and Steve Tokarz of the Woodbury Police Department were present for the application. Officer Romano said the Police Department was approached by Ken Faroni of O & G Industries to offer the police a portion of the Park Road Quarry for a firearms training facility, to be used exclusively by the Woodbury Police Department. Officer Romano said currently the department has to go outside of Woodbury for mandated firearm training, and the Town is getting charged a fee to do so. There are currently 8 officers in the department.

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Officer Romano said keeping safety issues in mind, this location is adjacent to the Town transfer station. Officer Romano said sound studies were completed using a decibel meter by firing a total of 20 rounds with the current service gun at several locations, and after interviewing people in the area afterwards, no one heard the firing and nothing was registered on the decibel meter. Officer Romano said the sites included White Deer Rocks Road and Bacon Pond Road, Bacon Pond Road and Park Road, and Park Lane. People interviewed were at the Public Works Department, Transfer Station, and Murray Brothers.

Officer Romano explained there would be a berm placed behind the targets and would have 5 target lanes.

Commissioner Ted Tietz asked what the days and hours would be. Officer Romano said the firing range would most likely be used when O & G is closed and on weekends. Troop L would be notified when the range is being used in case there are any complaints made, and a red flag would be hung on a pole at the site when the range is being used. Officer Romano said it is mandated to practice firing during day and night hours and it takes approximately ½ hour for each officer to complete his firing.

Commissioner Tietz asked Officer Romano to explain where from the quarry weigh station the firing site is. Officer Romano showed the Commission on a map where the site is located.

Officer Romano said Mr. Faroni said the site would be cleared and construction trailer would be placed at the site to use for storage and a classroom.

Commissioner Chris Conto asked if the range would be for the Woodbury Police Department only, and Officer Romano said it would be. Officer Romano also explained that one of the major firearms companies would come to the site to provide the department with training. Chr. Overton asked what types of weapons would be used. Officer Romano said the service revolver, which is 40 calibers; and a 12-gauge shotgun. Officer Romano said they do not have rifles at this time, but it would probably be 223 calibers. Officer Romano said there would be no rapid fire weapons used.

Officer Steve Tokarz explained that when training was done in other towns, it cost up to \$1346 each day, and said it is mandated by statute that 3 hours of training be done by each officer per year. Officer Tokarz said in addition to O & G providing the Woodbury Police Department the opportunity to use their property, Winchester would be providing environmentally friendly ammunition (lead free).

Chr. Overton said the issue is that only earth excavation is permitted in an Earth Excavation Zone, which this is, and that the use of a firing range is not allowed by the regulations. Chr. Overton said it did occur to him, though, that at the Stiles Road Quarry in Southbury, people fish in Blair Lake, there is a dog park on the property, and target shooting is done at that quarry.

Chr. Overton said if the firing range facility is built and left up year round, it would be considered a use of the property. Officer Romano said the range is mobile, not permanent,

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and would not be left up year round. Officer Romano also explained that the berm would be built to catch the ammunition, and it would not ricochet back. Officer Romano also said that Mr. Faroni said the area being used is already an area of reclamation. Commissioner Barbara Perkinson said within 20 years the quarry is supposed to revert to normal.

Officer Romano said the targets would be removed at the end of each day, only the metal posts for the targets would be left.

Commissioner Conto was concerned about the employees that work at O & G and if they would be aware of the firing range. Officer Romano said O & G would advise their employees and customers for their safety.

Chr. Overton asked who would be in charge of complaints. Office Tokarz said he would be and that a complaint plan would be in place.

Commissioner Clarke asked where the pole with the red flag would be placed. Officer Romano pointed out on the map where it would be and said no one from the public will have a view of the area.

Chr. Overton asked if there would be any observers allowed. Officer Romano said no one would be allowed to observe. Chr. Overton did advise there should be documentation of who was firing and when.

Chr. Overton asked the Commission if they feel that because the Zoning Commission can't issue a permit for the firing range, if the Woodbury Police Department and O & G Industries should handle this issue between themselves. The Commission agreed.

C. OTHER BUSINESS

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

Judi Lynch said she anticipated that at the next meeting a list being prepared by Chris Wood of all the changes made at this time would be available to the Commission. Chr. Overton said definitions of residential, formula food, and farming should also be included.

D. PLAN OF CONSERVATION AND DEVELOPMENT UPDATE

Chr. Overton said any questions or comments the Commissioners may have should be brought up with Andy Peklo, Bill Scanlan, Judi Lynch, or Paul Hinckley.

Judi Lynch offered to invite Bill Scanlan to a Zoning Meeting to discuss the POCD. The Commission agreed that would be helpful. Mrs. Lynch said she would ask Mr. Scanlan to attend the August 11, 2009, Zoning meeting.

Commissioner Cosgriff felt to be better prepared, any concerns should be discussed at a Zoning meeting prior to the one Mr. Scanlan would be present at.

E. ENFORCEMENTS

Commissioner Ted Tietz resused himself. Alternate Chris Conto was seated.

A ZEO Report was distributed. Chr. Overton mentioned a violation by Rod Taylor at the Woodbury Ski Area. Chr. Overton said Mr. Taylor was told to include everything he was going to do in his plan, which he has not done. Judi Lynch suggested that the Commission conduct a site walk of the property. Chr. Overton told Mrs. Lynch to write a letter to Mr. Taylor issuing a Cease and Desist Order, and to let Paul Hinckley, First Selectman, know the letter was sent.

Chr. Overton also mentioned the violation regarding Ray Hardisty at 200 Minortown Road involving an illegal earth material operation. Chr. Overton said a Cease and Desist Order was issued in 2008 and in April 2009 it was updated. Chr. Overton told Judi Lynch to send a letter to Mr. Hardisty with a specific date of July 1, 2009, to stop any work or the issue will be taken up with the First Selectman and Town Attorney. Chr. Overton said Mr. Hardisty needs to remove any equipment related to the earth material operation off of his property.

Chr. Overton requested a report on the item on the ZEO Report regarding boarding horses at 30 Tophet Road.

Commissioner Clarke mentioned issues he has with signs in town. Chr. Overton told Commissioner Clarke to contact Judi Lynch or Joe Chapman regarding the issues.

Alternate Chris Conto was unseated. Commissioner Tietz was seated.

F. PRIVILEGE OF THE FLOOR

Residents of Paper Mill Road, William and Judy Platt, Katherine and Vincent Montalbano, and Chris and Jane Hadad, stated they were opposed to the proposed cell tower planned to be erected on their neighbor's property.

Judy Platt said the proposal took her and their neighbors by surprise and said they learned Paul Hinckley had the proposal on his desk for a 60 day review period and the neighbors on Paper Mill Road weren't informed of the plan. Mrs. Platt said she knows the FCC regulations supercede the Zoning Commission and that the town cannot discriminate among carriers or disallow one to be put in town.

Chr. Overton explained that the AT&T representative did come before and Zoning Commission, and when asked if the application meets all the regulations, he said they did.

Mrs. Platt said the neighbors believe the applicant is in violation regarding the balloon being flown, since the applicant only flew the balloon one hour prior to the public hearing, and noted that the balloon was twisted in tree branches and was flying horizontal.

Mrs. Platt said they attended the public hearing and were not allowed to ask questions and that Mr. Hinckley appeared briefly and only said a few words about the application.

Mr. Montalbano stated he is concerned about the impact the cell tower will have on their properties, neighborhood, and health issues. Mr. Montalbano also said he shares the driveway with the neighbor where the cell tower will be.

Mrs. Platt said there are 15 houses within 1000 feet of the proposed cell tower site and said the other towers in Woodbury are on agricultural land or located in the woods.

Mrs. Platt said they were told the tower can be from 150-170 feet tall and the foundation would be built for a 170 foot tower, which will rise 90-100 feet above the trees. Mrs. Platt said there is no guarantee those trees will always be there either.

Chr. Overton asked if the group had spoken with Paul Hinckley. Mrs. Platt said not as a group, but individually made phone calls.

Chr. Overton said if the group can show that the applicant is not following the regulations, and that there are procedural flaws, they make a good case. Chr. Overton asked Judi Lynch to send an email to the applicant's attorney asking him to put in writing to the Zoning Commission that the statements made were true and that procedures are being followed. Chr. Overton suggested that the group ask the DPUC if they would defer the closing of the public hearing for one month.

Chr. Overton explained that the Zoning Commission requested to the First Selectman that a public hearing be held in Woodbury, otherwise the public hearing would have been held in Hartford. Chr. Overton also said that the Commission requested that notifications be made to the neighbors, but said that the applicant's representative said the notifications were not required.

Chris Hadad said the access road is only about 16 feet wide and curvy and is shared with another property. Mrs. Platt said the driveway was a big issue for the Siting Council.

Mrs. Platt said there were 15 properties in the original search and there is even someone on Hoop Pole Hill Road that would like the cell tower on their property.

Mr. Montalbano said they were told the project would take 6 weeks to complete, once approved, and said he is not surprised if it would take double that time, and also mentioned his concern with the trucking that would be done on the road during the project. Mr. Montalbano said he and his neighbors will do their best to try to stop this project. Chr. Overton suggested the group speak to the Selectmen and legislature.

Mr. Hadad asked what could be done if the Commission finds out the applicant has not been following the procedures. Chr. Overton said it would be discussed with the First Selectman.

Mrs. Platt asked who would be the person to speak to regarding the tower being in the Historic District. Judi Lynch said Paper Mill Road is not in the Historic District, but is in the State Historic Registry, which the town has no authority.

Commissioner Ted Tietz asked how many days prior to the public hearing were the neighbors informed. Mrs. Platt said they received a letter on April 13, 2009, for the May 12, 2009, public hearing, and noted that the balloon was only flown an hour prior to the public hearing, instead of the required 3 days.

Chr. Overton told the group they have made good points, and he knows they want to be heard, but said as far as the Zoning Commission, the Siting Council has full control. Chr. Overton said as far as AT&T, the only person who needed to be informed is the First Selectman, and he could not refuse a tower in Woodbury.

Chr. Overton thanked the group for sharing their concerns.

G. CONSIDERATION OF MINUTES

Regular Meeting – May 26, 2009

The following changes were made:

Page 3, Para. 8 – Should read: “Mr. Lamothe said the department has been screening the material since the Department of Public Works was there, and has personal knowledge of the past 12-15 years.”

Page 4, Para. 5 – Should read: “...a letter from each of the following is needed to be in the file:...”

Page 5, Para. 4 – Should read: “...provide the Commission **with**...”

MOTION:

To approve the minutes of the Tuesday, May 26, 2009, Regular Meeting of the Woodbury Zoning Commission, as amended.

Made by Overton, seconded by Perkinson.

Vote 4-0-1 in favor. Tietz abstained.

Regular Meeting of the Woodbury Aquifer Protection Agency – May 26, 2009

The following change was made:

Page 1, Para. 3 – Should read: “...to **continue** the public hearing for Application...”

MOTION:

To approve the minutes of the Tuesday, May 26, 2009, Regular Meeting of the Woodbury Aquifer Protection Agency, as amended.

Made by Overton, seconded by Perkinson.

Vote 5-0 in favor.

H. CORRESPONDENCE

None

I. ADJOURNMENT

MOTION:

To adjourn the meeting at 9:40 p.m.
Made by Overton.

FILED SUBJECT TO APPROVAL
Respectfully submitted,

Karen Blanchet, Clerk