

LITCHFIELD PLANNING AND ZONING COMMISSION

Town Hall Annex – 80 Doyle Road, Bantam, CT

REGULAR MEETING MINUTES

October 7, 2013 7:02 p.m.

Chairman Susan Lowenthal called the meeting to order at 7:02 p.m.

Present: Commissioner Susan Lowenthal, Curtis Barrows, Carol Bramley, Peter Losee, Sky Post and Tom Waterhouse. Alternate Commissioners Ed Doyle and Ralph White and Land Use Administrator Dr. Dennis Tobin

Absent: Erin Kennedy and David Pavlick

Appointment of Alternates: Chairman Lowenthal appointed Ed Doyle as a full member until David Pavlick's arrival.

Approval of Minutes for August 19, 2013

Chairman Lowenthal and Carol Bramley listened to the audio tape of the 8-19-13 meeting and Commissioners received a copy of the REVISED minutes in accord with suggested changes at the 9-16-13 meeting and Attorney Steven Byrne's letter recommending changes. Chairman Lowenthal said when a motion is made, the minutes must be specific as to why something is approved or disapproved. She distributed copies of the 8-19-13 minutes with annotations and comments in various colors and these changes were discussed.

David Pavlick joined the meeting at 7:15 p.m. and Chairman Lowenthal decommissioned Ed Doyle.

Motion: Tom Waterhouse moved to accept the 8-19-13 minutes with these changes and the incorporation of the Draft Motion to Deny the Stop and Shop Application. Curtis Barrows seconded the motion. Five Commissioners voted aye, with abstentions from David Pavlick and Carol Bramley since they had recused themselves for part of the meeting, and the motion carried.

Approval of Minutes for September 16, 2013

David Pavlick noted one change to the 9-16-13 minutes: On page 2, ¶7, there should be a space between 500 and ft.

Motion: Peter Losee moved to accept the 9-16-13 minutes with this one change. Curtis Barrows seconded the motion. All voted aye, with abstentions from David Pavlick and Carol Bramley since they had recused themselves for part of the meeting, and the motion carried.

Public Comment:

Dennie Williams asked if the Commissioners were aware that the Engineer (Milone & MacBroom) hired by Planning & Zoning had also been previously employed by Stop & Shop. Chairman Lowenthal responded that she could not answer the question due to pending litigation. Mr. Williams noted that since Carol Bramley recused herself from the Bosson Optical discussion due to her involvement with the Preservation Trust, she should have also recused herself from the Stop & Shop application. Carol Bramley said the two issues are separate and unrelated. Mr. Williams ascertained that Attorney Perley Grimes was the Director of the Preservation Trust and his appearance before Planning & Zoning on behalf of Stop & Shop should have been a conflict since she is in the same organization as Mr. Grimes. Carol Bramley said that it was common for Litchfield residents to serve on more than one board, and that Mr. Grimes was replacing Attorney Tom Cody for the 8-5-13 meeting only.

Commissioners' requests: There were no Commissioners' requests.

REGULAR PLANNING MEETING

Application Proposal: Submission of Technical Information Concerning Proposal to Construct a New Wireless Telecommunications Facility at 469 Bantam Road in the Town of Litchfield, Connecticut

Dennis Tobin distributed to Commission members pertinent documents for this application proposal, as well as a letter from Attorney Steven Byrne. Mr. Tobin is requesting Attorney Byrne to advise both Planning & Zoning and Inland Wetlands on this since it involves the Connecticut Siting Council.

The 150' high steel tower would be disguised as an evergreen tree and would be placed between the Litchfield Car Wash on Route 202 and the new location for Rachel's Consignment. A letter from White Memorial to the Planning &

Zoning Commission stated that a deed restriction on the property proposed as the site for the tower requires their approval as an abutting property owner and they do not approve the proposed tower.

Sky Post said if White Memorial opposes the tower, Planning & Zoning should not go forward with it. Curtis Barrows noted that unless Planning & Zoning becomes involved, the Connecticut Siting Council will make a decision without local input. Tom Waterhouse said he is in favor of the improved technology of a new cell tower, but a better location should be chosen where the terrain could mask some of the height.

Dennis Tobin recommended that Chairman Lowenthal keep this on the next few Planning & Zoning agendas for further consideration and she agreed to do so.

Land Use Administrator Report: Permits, Enforcement, Budget, Office

Dennis Tobin said September was a busy month for permits with two new house permits as well as for additions and decks. Concerning enforcement, Mr. Tobin received a visit and letter from a neighbor of Haight-Brown Vineyard located at 29 Chestnut Hill Road and investigated the complaints about a restaurant on the premises, noise, buses improperly parked and inadequate privacy hedges.

Tom Waterhouse said the Vineyard has shown disregard for Planning & Zoning's previous recommendations and the Vineyard's own agreements concerning bus traffic on the property. Dennis Tobin said the site plan is an important part of the record but the Vineyard has not made changes that are represented on the plan. They were granted a permit for a teaching kitchen but he ascertained this has not been built.

Philip Delves-Broughton, a close neighbor to the Vineyard, spoke about the loud continuous music over the recent two-day Harvest Festival at HBV. There has also been lot of traffic for private parties, including buses and limousines which cannot be accommodated on the property and park on the street. He said the privacy hedges are insufficient and some are dying.

Tom Waterhouse said Planning & Zoning had done considerable research on the problems at HBV and made recommendations for a wider driveway (by removing a section of the stone wall) and more onsite parking. Dennis Tobin noted that Chairman Lowenthal had signed off on the site plan that was agreed upon between Planning & Zoning and HBV.

Owner Jacques Muratori said they planted arborvitae hedges and will replace the dead ones. Since the bus entrance is so tight between the stone walls, buses drop off their passengers and park at Lourdes. They no longer do the Taste of Litchfield so the Harvest Festival held the third week in September is their only annual outdoor event. This income covers their cost of picking grapes, etc. and is necessary for their business. Their staff tries to monitor noise levels but cannot always control the number of vehicles. They do not plan to have either a teaching kitchen or restaurant onsite, only catered hors d'oeuvres for wine pairings.

Chairman Lowenthal told Mr. Muratori he must make the changes he previously agreed to, including designated parking spots for buses and limousines, and a widened driveway. She asked Mr. Muratori to return to the next Planning & Zoning meeting with a revised site plan.

Ralph White said he should also consider noise abatement at the festival and Mr. Muratori said next year they will move the musicians inside with outdoor speakers.

Tom Witherspoon showed a July 2013 newspaper article that said HBV has a chef who will be offering café menus on the weekend under the name "Amy's Kitchen" which appears to indicate there is an onsite restaurant. He said HBV is not supposed to rent out rooms for private parties as an event venue and they are continuing to operate with a defective septic system.

Mr. Muratori reiterated that HBV does not have an onsite restaurant and said they have made changes to the septic systems and TAHD inspects it annually. There was no further public comment on this issue.

Dennis Tobin next presented his Capital Report: Critique for Planning & Zoning. He began preparing the report the beginning of August by getting vendors' estimates for capital projects. He will be requesting \$75,000 in funding from the Board of Selectmen and the Board of Finance to complete a review of the regulations, ready for voting in

November and available to give to contractors by July 2014. Carol Bramley agreed the Planning & Zoning regulations have not been overhauled since 1984 and are difficult to interpret. There needs to be a page of definitions. Mr. Tobin is also asking for \$100,000 for POCAD 15-16, 16-17.

Chairman Lowenthal said she would like to formally endorse the requested \$75,000 and \$100,000.

Motion: Curtis Barrows moved to approve the Land Use Administrator's Capital Report and request for \$75,000 in funding from the Board of Selectmen and the Board of Finance to complete a review of the Planning & Zoning regulations and \$100,000 for POCAD 15-16, 16-17. David Pavlick seconded the motion. All voted aye and the motion carried.

Size Amendment Special Exception: Discussion after public hearing input and consideration

~~Chairman Lowenthal said the Commission has not yet considered public input about the Stop & Shop application and acted upon it.~~ Ralph White said the idea for two Tables of Use in a proposed revision regulation amendment was Attorney Byrne's idea. Mr. White noted the Stop & Shop public hearing is now closed. Chairman Lowenthal agreed this would lead to too much complexity. Change #1

Curtis Barrows said making this change might preclude a prospective business owner in Litchfield and David Pavlick agreed it would be an inhibiting factor rather than welcoming new businesses. Tom Waterhouse said we can maintain the character of Litchfield without adopting this change. Peter Losee said this proposed change was a good try but Planning & Zoning should instead incorporate the "character" of our town into the new regulations.

Motion: David Pavlick moved to deny the February 4, 2013 Proposed Revised Regulation Amendment as cited: Article IV, Section 5 – Table of Uses – Non Residential

Re-title to read:

Article IV, Section 5a – Table of Uses – Non Residential,
Uses under 10,000 square feet in footprint and 12,000 square feet in gross area.

Add a second table titled:

Article IV, Section 5b – Table of Uses – Non Residential
Uses of 10,000 square feet and over in footprint or 12,000 square feet and over in gross area.

Tom Waterhouse seconded the motion. A roll call vote was taken with the following results:

Yes to Deny: Susan Lowenthal, David Pavlick, Curtis Barrows, Tom Waterhouse, Carol Bramley and Peter Losee.

No to Deny: Sky Post, *Susan Lowenthal* (Change #2)
The motion to deny carried.

Subcommittee Report on Old Route 8

Tom Waterhouse said Leo Paul told him this would require a pumping station near Blue Seal and United Construction and that cost was prohibitive. Zoning can still be changed from industrial to commercial. Chairman Lowenthal said there are trucks in this area and this creates an unsightly "entry to Litchfield" so a change has to be made. Tom Waterhouse, Curtis Barrows and David Pavlick will continue to work on this project.

2014 Commission Meeting Schedule

Chairman Lowenthal recommended eliminating the August 4 meeting since members will be on vacation. That would leave 8 planning meetings for 2014.

Motion: Tom Waterhouse moved to adopt the 2014 meeting calendar with the elimination of the August 4 meeting. Sky Post seconded the motion. All voted aye with David Pavlick voting nay, and the motion carried.

There was neither old business nor new business and no correspondence for discussion.

Change #3
to discuss pending litigation

It was agreed that the Commission would go into Executive Session and the Recording Secretary left the room at 9:17 p.m. Executive Session concluded at 9:21 p.m. at which time the Recording Secretary rejoined the meeting.

Motion: Tom Waterhouse moved to adjourn at 9:22 p.m. Curtis Barrows seconded the motion. All voted aye and the motion carried.

Respectfully submitted, 

Jo Ann Jaacks
Recording Secretary

Date: October 9, 2013