

## ZONING COMMISSION MEETING - MONDAY, APRIL 26, 2010 - TOWN HALL- 7:00 P.M.

**Present:** Chairman Ron Sherlock, Clarence Caldwell, Nancy LaGanga, Todd Ouellette, Alternates Amy Calabrese and Judith Pleau and ZEO Karen Griswold Nelson. **Absent:** Peter Brazaitis and Robert Lavoie.

### PUBLIC HEARING #1

#### 1. OPEN HEARING – ESTABLISH QUORUM.

Chairman Sherlock called the hearing to order at 7:00 p.m. All regular members are seated with Alternate Member Amy Calabrese seated for Peter Brazaitis.

#### 2. GRJH, Inc. – application for modification of previous approval for special permit (2/17/09) for additional activity inside convenience store to include in-service restaurant, 207 Birge Park Road.

The call to the hearing as published in the Republican American on April 16 & 23<sup>rd</sup> was made part of the record. Receipts of certified mailings sent to (14) abutting neighbors were received and recipients read into the record. April 13, 2010 correspondence from the commission's consulting engineer, WMC Engineering was read into and made part of the record.

Mr. James Metz, applicant/owner addressed his request to have the approved convenience store/gasoline station be classified as a restaurant. Mr. Metz stated that the classification would allow the preparation and sale of deli-foods, sandwiches and other foods such as soups for take-out and that there would be no cutlery or plates or use of a fry-o-lator for the preparation of fried food. Mr. Metz stated that there was no intent to have any outdoor seating and that the seating indoors would be limited to three tables with 10 to 12 chairs.

In response to questions from Mr. Caldwell regarding the lack of a completed septic system, Mr. Metz addressed Torrington Area Health's approval of a 3 tank containment system for septic waste containment until the installation of the leeching fields. In response to questions and concerns regarding the retaining wall, as evidenced in the WMC correspondence, Mr. Metz stated that the Harwinton building official, Frank Rybak had signed off on the wall, that the wall had not been engineered by site engineer Kenneth Hrica and that the retaining wall had created more parking space overall. In response, Mr. Caldwell expressed his concerns regarding the opening of the facility without a completed septic system and an un-engineered wall in an area used for public parking, basing his concerns on public health and safety.

Mr. Robert DePretis, proprietor for the convenience store/gas station/restaurant facilities addressed the commission regarding the interior design, re-affirming the intent not to have any outdoor seating and to limit the restaurant component to no more than three tables as currently sited in the building. In response to questions from commission members and staff, Mr. DePretis addressed the flow of customer traffic, both cars, and expected walkers/bikers from the lake area, the hours and general oversight of the restaurant. With note made by staff (Griswold Nelson) regarding on-site conversations that previous Saturday and observations of people seeking to support the restaurant component by means of a petition, a 235 signature petition was submitted for the record. In response to questions, it was agreed that the convenience store component, including administrative (sales counter and storage) and shelves would be approximately 80% of the actual floor coverage and the 20% balance being the restaurant (3 to 4 tables) component and that the mix would not result in additional need for parking.

The floor was opened to the public for comment. Ms. Nina Callahan and Mr. Bruce Richards spoke in favor of the restaurant usage.

Prior to the close of the public hearing, April correspondence from Don Truskauskus was made part of the record. Conditions for approval were discussed with agreement that engineering details for the retaining wall could be provided and that conditions regarding the percentage of floor space between the restaurant/convenience store, the prohibition of outdoor seating were acceptable to all parties.

### **3. Continue or close hearing.**

**Motion** made by Mrs. LaGanga, seconded by Mr. Ouellette to close the public hearing; motion approved by Mrs. LaGanga, Mr. Ouellette and Mrs. Calabrese: opposed by Mr. Caldwell.

## **REGULAR MEETING**

### **1. Open meeting – establish quorum.**

The regular meeting was opened at 8:00PM with Ms. Pleau seated for regular member Peter Brazaitis.

### **2. Approve minutes of previous meeting: 4/12/10.**

**Motion** made Mr. Caldwell, seconded by Mrs. LaGanga to approve the minutes of the April 12<sup>th</sup> meeting with the correction of the addition of the public hearing date set for Item 10: unanimously approved.

### **3. Discussion/possible decision - GRJH, Inc. – application for modification of previous approval for special permit (2/17/09) for additional activity to include in-service restaurant, 207 Birge Park Road.**

Mrs. Calabrese was re-seated for Mr. Brazaitis.

After discussion of the open issues including the completed installation of the septic system, the lack of engineering for the retaining wall and with agreement that conditions of approval could be considered to address those concerns.

**Motion** made by Mrs. LaGanga, seconded by Mr. Ouellette to approve the application of **GRJH, Inc for the modification of previous approval for a special permit (2/17/09) for additional activity to include in-service restaurant, 207 Birge Park Road** as per the site plan presented “As Built Zoning Location Survey prepared for GRGH Inc. 207 Birge Park Road, prepared by Hrica Associates, dated March 24, 2010 revised to April 5, 2010” and the oral and written testimony of the applicant and their representatives with the following conditions:

1. The applicant obtains a Class 4 permit from Torrington Area Health for the restaurant use.
2. A qualified engineer addresses the construction of the block retaining wall and provide design information to the Town of Harwinton within 2 weeks for review by the town’s consulting engineer.
3. The septic system as designed be completely constructed within the month of June.
4. The parking near the block retaining wall be blocked off until the approval of the design by the Town.
5. The seating for the restaurant usage be limited to the inside.
6. The floor area in the building maintain a 80/20% ratio, 80% for the convenience store/gasoline service station and 20% for the restaurant usage.
7. The hours of operation to remain to same as originally approved including the sale of food.
8. That there be no outdoor seating of any sort on the site.

**Motion** approved by Mrs. LaGanga, Mr. Ouellette and Mrs. Calabrese: opposed by Mr. Caldwell. Mrs. Pleau was reseeded for Mr. Brazaitis.

### **4. Elliott Cyr – application for special permit for home occupation, manufacturing of springs, 93 Oakwood Drive.**

Elliot Cyr, applicant/owner gave an overview of the application. Based on the information discussed:

**Motion** made by Mr. Caldwell, seconded by Mrs. LaGanga to accept the application of **Elliot Cyr for special permit for home occupation, manufacturing of springs within an accessory structure located at 93 Oakwood Drive** and to set the application for public hearing on May 24, 2010; unanimously approved.

**5. Judy Wasilonski – application for 20' x 20' barn, 51 Lenor Drive. Request for waiver of an engineered plan.**

Judy Wasilonski was in attendance to represent the application. It was stated that approval from Torrington Area Health was part of the file.. After review of the site plan presented:

**Motion** made by Mr. Caldwell, seconded by Mrs. LaGanga to approve the application of **Judy Wasilonski for a 20' x 20' barn for the housing of animals at 51 Lenor Dive** as per the site plan presented and to **approve the request for a waiver of an engineered plan**; unanimously approved.

**6. Gary Iacuone – application for addition to existing home, 58 Hayden Road. Request for waiver of an engineered plan.**

Michael Letourneau was in attendance to represent Mr. Iacuone. It was stated that approval from Torrington Area Health was part of the file. After review of the site plan presented:

**Motion** made by Mr. Caldwell, seconded by Mr. Ouellette to approve the application of **Gary Iacuone for an addition to an existing house at 58 Hayden Road as per the site plan presented** and to **approve the request for a waiver of an engineered plan**; unanimously approved.

**7. Tara and Joe Lockwood – application for single family dwelling, lot 14, Orchard Hill Road.**

Tara and Joe Lockwood were in attendance to represent the application. It was stated that a conditional approval from Torrington Area Health, Inland wetlands approval, an E&S control plan and the issuance of a driveway permit from highway supervisor were part of the file. After review of the site plan presented:

**Motion** made by Mr. Caldwell, seconded by Mrs. LaGanga to approve the application of **Tara and Joe Lockwood for the construction of a single family dwelling, Lot 14, Orchard Hill Road** as per site plan "Septic system design for Tara & Joseph Lockwood, Lot 14 - Orchard Hill Road by Berkshire Engineering dated January 4, 2010 revised to February 11, 2010": unanimously approved.

**8. Bob Sherwood – application for special permit to sell flowers, plants, and gifts, 178 Birge Park Road. Property owned by Birge Park, LLC.**

No one was in attendance to address the matter. It was agreed that the operation and any associated activities were to cease on April 26, 2010 and enforcement to commence if the operation had not ceased.

**9. Complaints and enforcement – 490 Wildcat Hill Road – see after "Other Business.**

**10. Any other business.**

**Motion** made by Mr. Caldwell, seconded by Mr. Ouellette to add **Frank Wright – application for single family dwelling, lot 6, Whetstone Estates Subdivision 50 Elizabeth Drive** to the agenda: unanimously approved.

Mr. Wright was in attendance to represent the application. It was stated that the issuance of a driveway permit from highway supervisor were part of the file as well as an E&S control plan but no approval yet from Torrington Area Health. After review of the site plan presented, with concerns raised by Mr. Caldwell regarding the lack of information as to the size and siting of the proposed single family residence and garage:

**Motion** made by Mr. Caldwell, seconded by Mrs. LaGanga to approve the application of **Frank Wright for the construction of a single family dwelling, Lot 6, Whetstone Estates Subdivision - 50 Elizabeth Drive** as per site plan “Septic system design prepared for Frank & Susan Wright, Lot 6 - 50 Elizabeth Drive prepared by Hrica Associates, dated April 9, 2010” subject to Torrington Area Health and the proper dimensions of the house and garage properly shown on a revised plan: unanimously approved.

**Motion** made by Mrs. LaGanga, seconded by Mr. Oullette to add **Pickett Brook LLC - application for a single family dwelling – Lot 7 - Fox Hunt Way** to the agenda; unanimously approved.

Mr. Paul Gibson was in attendance to represent the application. It was stated that the issuance of a driveway permit from the highway supervisor was part of the file but that there was no approval yet from Torrington Area Health. Mr. Gibson outlined the lot as one of three side by side lots that had been cleared previously, stating that there was no wetlands on the site. After review of the site plan presented:

**Motion** made by Mrs. LaGanga, seconded by Mr. Ouellette to approve the application of **Pickett Brook LLC for the construction of a single family dwelling – Lot 7 - Fox Hunt Way** as per site plan “Proposed plot plan and septic system design prepared for Pickett Brook LLC., Lot 7 - 20 Fox Hunt Way prepared by Jones Engineering, dated March 11, 2010” subject to Torrington Area Health; motion unanimously approved.

#### **9. Complaints -490 Wildcat Hill Road.**

ZEO Karen Griswold Nelson, referencing March 5, 2010 email correspondence received by First Selectman Frank Chiamonte, serving as a complaint, and forwarded to the ZEO, acknowledged other information in the file (photographs) recently received from an abutting neighbor, Ann Howe. Griswold Nelson stated that the information being submitted that evening was in response to the Steel complaint. Griswold Nelson read her letter of findings as to the complaints raised in the Steel email into the record. (On file in the Land Use Office.) The floor was opened for comments and questions from the involved parties.

Carolyn Steel, 95 Hayden Road, re-addressed her concerns with the property as existing as an approved subdivision lot with a barn and animals. Mrs. Steel stated that she was also representing Mrs. Howe who could not be in attendance due to an air flight cancellation from Europe.

Lori Baillargeon Barry, current property owner, and her son, Ryan Barry, the operator of the agricultural operation on the site, addressed the history and ownership of the property by her father and Ryan’s grandfather Henry A. Baillargeon, providing photographs of the site since the purchase of the site by her father in 1969. The floor was opened to the public for comment. Various neighbors and friends of the Barry’s spoke in support of the Barry’s continued use of the site for agricultural purposes, with testimony given as well as to the general well being of the farm animals on the site based on issues raised by Mrs. Steel in her correspondence as to the care, housing and well being of the animals on the site.

Based on Mrs. Howe’s inability to be in attendance, the issue was to be revisited at the next meeting that Mrs. Howe could attend.

**11. Correspondence.** Deferred.

**12. Invoices.** None.

**13. Adjourn.**

**Motion** by action of the chairman to adjourn at 10:20PM.

Respectfully submitted by Karen Griswold Nelson, for Polly Redmond