

**ZONING COMMISSION MEETING**

**MONDAY, JUNE 14, 2010**

**TOWN HALL 7:00 P.M.**

Present: Chairman Ronald Sherlock, Peter Brazaitis, Clarence Caldwell, Nancy LaGanga, Todd Ouellette, Alternates Amy Calabrese, Judith Pleau, and Land Use Coordinator Polly Redmond.

Absent: Robert Lavoie and ZEO Karen Nelson

**1. OPEN MEETING – ESTABLISH QUORUM.**

Chairman Sherlock called the meeting to order at 7:00 p.m. and a quorum was established.

**2. APPROVE MINUTES OF PREVIOUS MEETING: 5/24/10.**

Ms. LaGanga **motioned** to approve the minutes of 5/24/10, seconded by Mr. Caldwell. Motion passed unanimously.

**3. MARK DROUIN – APPLICATION FOR GARAGE. 46 WILSON POND ROAD.**

No one is present to represent.

**4. DAN GERVAIS – APPLICATION FOR SPECIAL PERMIT AND SITE PLAN APPROVAL, AFTER THE FACT ACTIVITIES, BRINGING IN/REMOVAL OF FILL WITHOUT A PERMIT, CLEARVIEW STORAGE PARK, LLC, 133 CLEARVIEW AVENUE.**

No one is present to represent. Land Use Coordinator Redmond explains that Mr. Gervais' attorney, Peter Herbst informed her that no one would be present since only a public hearing date is to be set. Discussion on whether the application is for a special permit and site plan approval or just a site plan approval takes place. It is the consensus of the commission that it is only a site plan approval. Mr. Brazaitis **motioned** to accept the application as a site plan approval for after the fact activities and set a public hearing date of Monday, June 28, 2010 at 7:00 p.m., seconded by Mr. Caldwell. Motion passed unanimously. An application fee of \$390 is to be collected prior to the hearing.

**Motion** by Mr. Caldwell, seconded by Ms. LaGanga to add Curt Carlson, representing Carol Kearns, 484 Burlington Road, 1600 s.f. addition to existing home. Motion passed unanimously. Mr. Brazaitis recuses himself from this matter and Ms. Pleau is seated in his place.

Mr. Carlson presents a letter from Carol Kearns and her husband, Harry Schuh, requesting a waiver of an engineered site plan showing the addition comprising of a family room, bedroom, bathroom and laundry room. Distances to property lines from the proposed addition are not shown on a copy of Map 434 obtained from the land records by Ms. Kearns. The property is located in a Country Residential zone on a corner lot with setback requirements for two front yards and two side yards that must be checked for compliance. It is unclear whether there are wetlands on the property therefore preventing the LUC to sign off until it is investigated. TAHD approval has not been received. Mr. Caldwell **motioned** to not accept the application due to it being incomplete, seconded by Ms. LaGanga. Motion passed unanimously. The application will be placed on the 6/28/10 Zoning agenda for further review.

Ms. Pleau is unseated with Mr. Brazaitis being reseated.

5. **DISCUSSION – PROPOSED REGULATIONS ON AGRICULTURAL USE AND FARM DEFINITIONS, RIGHT TO FARM LAW INCLUSION AND REVIEW OF SECTION 6.5 KEEPING OF ANIMALS.**

Land Use Coordinator Redmond distributes packet of material she compiled consisting of proposed Zoning Regulation definitions for Agriculture (as read in CGS Section 1-1(q) but with amended wording), Agricultural Buffer, Farm, Farming and additional wording to Section 1.1 of the regulations concerning The Right to Farm. Information includes copies of power point presentation made by Joan Nichols, Government Relations Specialist – CT Farm Bureau Association, where it was presented at a CAZEO meeting on 4/17/10 in which ZEO Nelson and LUC Redmond attended. A copy of the Town of Lebanon's Right to Farm Ordinance is included with note under *Definitions* that they have amended CGS Section 1-1(q). Lastly, revisions to Section 6.5 are made with inclusion of types of hoofed animals and notation of commercial enterprises.

Commissioners wish to read through the material and address it at the next Zoning meeting on 6/28/10.

6. **COMPLAINTS/ENFORCEMENT ACTIONS:**

GRJH, 207 BIRGE PARK ROAD

LUC Redmond relays information from ZEO Nelson that Ken Hrica, P.E. will be sending the town a report on the stability/design of the retaining wall that was constructed without a permit. ZEO Nelson was also told by Mr. DePretis, Sunoco Gas Station employee, that the septic work will begin shortly. Commissioners ask LUC Redmond to write a certified letter to Lloyd Helm, GRJH, Sharon, CT informing him that the time frame for receipt of the stability report has expired, therefore, the commission requests their attendance at the 6/28/10 Zoning meeting and to have the report to the town by then. If compliance is not made, a cease and desist order will be considered. LUC Redmond explains that a complaint from a neighbor of 207 Birge Park Road came in to her office regarding hours of truck gas delivery during the very early morning. The neighbor was awakened by the noise and he asked whether hours of operation set by the commission at time of approval included hours of deliveries. It is the consensus of the commission that they cannot condition, and did not condition hours for delivery of goods.

A condition of GRJH's in-service restaurant approval is to be clarified and is as follows:

1. That the applicant obtains a Class 4 permit from Torrington Area Health for the restaurant use. **Said Class 4 permit limits the seating to 12 or less seats.**
2. That 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. That the parking near the block retaining wall be blocked off until the approval of the design by the Town of Harwinton.
4. That the septic system as designed be completely constructed within the month of June.
5. That 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. **The 20% ratio in floor space limits the seating to 12 seats or less as allowed by the Class 4 permit from Torrington Area Health.**
6. That the hours of operation shall remain the same as originally approved including the hours for sale of food.
7. That the seating for the restaurant usage be limited to the inside.
8. That there be no outdoor seating of any sort on the site.

TARGA, SUNSET RIDGE OFF MOUNTAIN VIEW DRIVE

No report.

The Commission would like ZEO Nelson to attend the meeting of 6/28/10 to discuss these complaints further.

7. **ANY OTHER BUSINESS.**

LUC Redmond asks if a 70' x 70' tent located at Fairview Farms Golf Course requires a zoning permit. Frank Rybak, Building Inspector, said that the tent will come down during the winter months but the frame will remain. The commission asks that ZEO Nelson inspect and give her opinion at the next Zoning meeting.

8. **CORRESPONDENCE.**

Letter from Atty. Steve Byrne dated 6/1/10 is received giving information on Lucas v HZC. Prearrangement conference was held 5/4/10 at Hartford Superior Court. Recommendation that Atty. Halloran file a motion for reargument so he (Halloran) can present evidence on aggrievement as he claimed. Deadline to do so is 9/24/10. Letter also offers assistance to ZEO Nelson in the Heavens appeal (held 6/9/10).

Copy of Memorandum of Decision in the Heavens appeal is received. ZBA overturned the Zoning Commission's decision and ZEO Nelson's cease and desist order and ruled the activity at 50 Shingle Mill Road as agricultural.

9. **INVOICES.**

Invoice from Atty. Byrne received regarding work on Lucas v HZC: \$999.00

Invoice from Atty. Byrne received regarding work on Heaven's appeal: \$594.00

**Motion** by Mr. Brazaitis to approve the invoices, seconded by Mr. Caldwell. Motion passed unanimously.

Mr. Brazaitis **motioned** to approve the invoice of ZEO Karen Nelson in the amount of \$700.00 for work done in May, seconded by Ms. LaGanga. Motion passed unanimously.

10. **ADJOURN.**

Mr. Caldwell **motioned** to adjourn the meeting at 8:25 p.m., seconded by Ms. LaGanga. Motion passed unanimously.

Respectfully submitted,

Polly Redmond  
Land Use Coordinator

RECEIVED FOR RECORD AT HARWINTON, CT  
ON 6/16/10 AT 1:22pm  
ATTEST: PATRICIA K. WILLIAMSEN, TOWN CLERK