

Wednesday, July 16, 2014, Town Hall, 7:00 p.m.

Regular members present: Tom Rotondo, Janet Duchaine, Mark Gelormino, Theodore Root, Michael Durstin.

Alternate members present: Jesse Smith, Timothy Wyllie.

1. Open meeting – establish quorum.

At 7:02 p.m. Chairman Tom Rotondo opens the special meeting. Seated members are Tom Rotondo, Janet Duchaine, Mark Gelormino, Michael Durstin and Jesse Smith. ZBA Clerk Christine Neal is present and proceedings are recorded on audio tape.

2. Approve minutes of previous meeting: 7/2/14.

Motion Mrs. Duchaine, second Mr. Gelormino to approve the 7/2/14 meeting minutes, correcting the spelling of the word “fourth”, otherwise as submitted. The motion passes unanimously with five affirmative votes, all seated members: Tom Rotondo, Janet Duchaine, Mark Gelormino, Michael Durstin and Jesse Smith.

3. Discussion/possible decision – Don Truskauskas – appeal from Notice of Violation by ZEO David Perkins regarding use of a home for personal business and overnight parking of commercial vehicles in a residential zone, Zoning Regulations Sections 6.19 and 6.20, 99 Scoville Hill Road. Town Attorney Michael Rybak, appellant Don Truskauskas and other interested persons are present.

Atty. Rybak has provided the board, Mr. Truskauskas and Atty. Grimes with the following documents relating to points he made verbally at the previous meeting (July 2, 2014): Sections 8-6 and 8-7 of the statutes, excerpt from Fuller regarding duties of ZBA and the two court cases (Perusse v. Litchfield ZBA, 1999 and Papastravos v. Eigen, 2008). These documents were made part of the record.

Chairman Rotondo provides a brief overview of the consensus formed at the July 2 meeting and asks board members if this is still the consensus, if there is anything further to add or to discuss regarding the making of a decision.

Member Janet Duchaine provides copies to the board and reads aloud a draft motion that she has written based on the discussions at the last meeting, her notes she had written in the efforts made to come up with a motion at that meeting and the meeting minutes. The members discuss the wording.

Atty. Rybak notes that there is an appeal period of 15 days from the date of publishing of the decision.

Motion Mrs. Duchaine, second Mr. Smith to **modify** the Notice of Violation, dated April 29, 2014, from the ZEO David C. Perkins, to Don Truskauskas, 99 Scoville Hill Road, as follows:

1. Reverse the ruling of violation of Section 6.20 which deals with overnight parking of commercial vehicles in a residential zone.

Reasons cited:

- Section 6.20 became effective 10/6/2008.
- There was uncontroverted evidence presented at the public hearing that the 2000 Mack dump truck being stored on the property prior to 10/6/2008.
- Therefore, the overnight parking of said vehicle, the 2000 Mack dump truck, is a **legally nonconforming use**.

2. Modify the ruling of violation of Section 6.19 to violation of Section 4.1 and 1.3.1, and to issue a Cease and Desist.

A contracting business is not permitted under Section 4.1, and therefore, per Section 1.3.1, is prohibited.

Reasons cited:

- Exhibits 17-1, Secretary of State Commercial Recording Division, and 17-2, State of CT registration number and registration type, home improvement contractor, both indicating 99 Scoville Hill Road as a business address.
- Exhibits 17-4, 17-5, and 17-6, Harwinton Assessor's Motor Vehicle Listing, 11 units 2010, 9 units 2011, 11 units 2012, and Exhibit 17-7, 2010, 2011, and 2012 Harwinton Assessor's Personal Property Listing, all indicating 99 Scoville Hill Road as the address.
All of the items noted above are taxed in the place where they are stored.
- According to testimony of the appellant and evidence submitted, there is no other place of business, no other address, for Autumn Contracting, LLC, other than the 99 Scoville Hill Road address.
- The preponderance of evidence submitted by neighbors, in writing, in photo form, and in oral testimony leads to a reasonable person concluding that a contracting business has been operated (conducted) on the property for a number of years, down to and including the date of the ZEO's decision and letter of April 29, 2014.

Taking all of the above into account, the conclusion is that a contracting business has been operating at 99 Scoville Hill Road, which is in violation of Section 4.1 and Section 1.3.1.

This decision shall become enforceable upon expiration of the appeal period.

There is no further discussion and **the motion passes unanimously** with five affirmative votes, all seated members: Tom Rotondo, Janet Duchaine, Mark Gelormino, Michael Durstin and Jesse Smith.

5. Correspondence. None.

6. Invoices. None.

7. Adjourn.

Motion Mrs. Duchaine, second Mr. Smith at 7:25 p.m. to adjourn. The motion passes unanimously with five affirmative votes, all seated members: Tom Rotondo, Janet Duchaine, Mark Gelormino, Michael Durstin and Jesse Smith.

Respectfully submitted,

Christine Neal
ZBA Clerk

RECEIVED FOR RECORD AT HARWINTON CT
ON 7-21-2014 AT 4:00 PM
ATTEST NANCY E. ELDRIDGE TOWN CLERK