

Present: Chairman Peter Brazaitis, Todd Ouellette, Don Truskauskas, Glenn Bradley, Land Use Coordinator Polly Redmond and ZEO Karen Nelson.

Absent: Nancy LaGanga, Anne Marie Buonocore, Robert Lavoie and Kevin Ferrarotti

Public hearing #1 and #2 are being audio recorded as required.

**PUBLIC HEARING #1 – continued**

**1. OPEN HEARING – ESTABLISH QUORUM.**

Chairman Brazaitis called the hearing to order at 7:05 p.m. All members present are seated.

**2. JOHNNYCAKE AIRPORT PROPERTY/SUPREME INDUSTRIES – APPLICATION FOR SPECIAL PERMIT FOR RETAIL SALES OF EARTH PRODUCTS, 529 BURLINGTON ROAD.**

Atty. William Tracy is present to represent Johnnycake Airport Property and Supreme Industries. Mark Vigneault, Vice President, Supreme Industries, is also present. Site Plans by Robert Green Associates, titled Plan Showing Mulch Processing and Sales Facility Land Owned by Johnnycake Properties, LLC dated 4/5/12 are reviewed. Atty. Tracy opens by stating that at the last public hearing meeting there was question on Torrington Area Health involvement and that he has since submitted a change of use application to them and received approval. A copy of that approval has been submitted and remains on file. Regarding the Zoning Commission's question at the last meeting concerning notice to DOT for trucks entering, Mr. Vigneault states that Supreme Industries' Safety Manager did contact Thomas Lamb, Traffic Engineer, Thomaston, CT DOT, to ask for "trucks entering/trucks crossing" signs. He was told that DOT considers the request a complaint and that they will look into it but since there is no formal request from the Town of Harwinton or Supreme Industries, there is nothing they can react to at this time though they will advise verbally to Supreme Industries whether they will install signs. Atty. Tracy notes that the applicant requires no change to the existing driveway and there is no encroachment permit. Between the time of the last public hearing on 4/9/12 and tonight, a site visit was conducted by the Zoning Commission where members in attendance were able to see the exterior storage and piles of product that is inventory and the interior area of the office. Chairman Brazaitis states that during the course of the site walk there were questions asked and for the record tonight, he would like to ask the same questions he posed as well as those made by Commissioner Anne Marie Buonocore. He refers to the Special Meeting minutes of 4/18/12 and reiterates his questions concerning what type of dye is used to color the wood product, to which the answer was "Natural vegetable dyes." Chairman Brazaitis questioned any fermentation process with the answer being, "Material does ferment but is located a safe distance away from building and facilities and that the public is not permitted in the raw materials storage area." At the site walk, A. Buonocore questioned where the sale of materials will take place with the answer being "Mostly in the office area and customers will enter and exit the premises from Burlington Road." The last question posed by A. Buonocore was the site relationship to an adjoining site where helicopter landings may take place. Chairman Brazaitis does not recall the answer to that question. Atty. Tracy states that Mr. Pesce was at the site walk also and indicated that he was still waiting for the state DOT to come out and evaluate the approach zones. Mr. Pesce has an idea of where he wishes the location of the helipad to be but it is up to the state to determine. Atty. Tracy states there is an arrangement with the applicant that if the piles of material interfere with the approach zones, they will be moved. Regarding the dye process that Chairman Brazaitis questioned, Atty. Tracy states that the process of dyeing is not part of this application but he does submit information that was provided by Colorbiotics, manufacturer of the dye, regarding the dye product which was previously submitted in January during the wholesaling and processing application. The dye is non-toxic, non-hazardous and takes place inside of a drum.

Commissioner D. Truskauskas states that back in January the commission asked that all MSDS (Material

Safety Data Sheets) be stored on the property for all material, and he now questions if they are stored in the office at 529 Burlington Road. Chairman Brazaitis believes they are required by OSHA to have on site. There is no answer from the applicant.

Chairman Brazaitis opens the floor to public comment at this time.

George Pelletier, 517 Burlington Road wishes to confirm that at the public hearing for the application held on 4/23/12 that there was no permission granted to do anything more than what was granted back in January for the wholesaling operation, specifically, no permit to sell retail. It is his belief that Supreme Industries/Supreme Forest Products is currently selling retail and is also bringing in woodchips, not just manufacturing them there. He also expresses his concern over the heliport issue and believes that the heliport and the earth products operation cannot coexist. He also has a driveway concern and that is that his and Johnnycake Airport Property's driveway each need to be delineated. Atty. Tracy points out on the site plan the area of the property line and the common easement area.

With no further comments from the public or commissioners, D. Truskauskas **motioned** to close the public hearing at 7:17 p.m., seconded by T. Ouellette. Motion passed unanimously.

## **PUBLIC HEARING #2**

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

Chairman Brazaitis called the hearing to order at 7:18 p.m. The same quorum from Public Hearing #1 exists.

### **2. CONSIDER PROPOSED AMENDMENTS TO THE ZONING REGULATIONS DATED 3-1-11, SECTION 2.3 DEFINITIONS, SECTION 6.5 KEEPING OF ANIMALS, SECTION 11 SIGNS AND SECTION 17 INVALIDATION.**

D. Truskauskas reads the call to hearing as published in the Republican-American newspaper on 4/12/12 and 4/20/12. Chairman Brazaitis calls for commissioner's comments with D. Truskauskas referring to Highway Supervisor John Fredsall's letter, paragraph 2, and questions whether he is referring to permanent signs or semi-permanent or perhaps just the small cardboard signs that are put up. Chairman Brazaitis states that perhaps he is referring to signs that require use of wires for ground support, sandwich board signs and furniture signs. Chairman Brazaitis reads Mr. Fredsall's letter at this time. \*note of the recording secretary: Paragraph 2 of the letter is shown below in italics in connection with the question posed by D. Truskauskas.\*

*I would ask the Commission to consider these questions concerning Free-standing Signs. 1. We are beginning to see more instances of multiple signs at main intersections. Will the Commission limit the number of signs at one location? 2. When these signs become deteriorated or irrelevant who will be responsible to remove them? I know the installer is supposed to but we already have these problems and Town workers end up removing and disposing of these signs. Perhaps a cash deposit should be held until these signs are removed at which time it could be returned or used to offset the cost if the Town has to remove the sign. 3. These signs are often not placed on Town or State property. How about private property? Often times when these signs are put up they are done so on private property not owned by the installer. Will that landowner have to allow these on their property just because it's close to the road? Who removes them if they have to be? 4. Often times lawn signs are put up quite arbitrarily. Are they considered a Free-Standing sign or an Off-Premises sign? I guess what I'm saying is that there could be some confusion between what is a Free-Standing sign and an Off-Premises sign.*

D. Truskauskas notes that Off-Premise signs would require a Zoning permit and Zoning approval. He notes that Free-Standing signs are permanent and the comment regarding cash deposits, he is not sure the town wants to do that.

Chairman Brazaitis opens the floor for public comment.

Jonathan Sederquist, Economic Development Committee member states that there is a lot at stake for local businesses in town and believes the Zoning Commission should consider comments from the EDC before adopting sign regulations. As a personal business owner in town (farming), signs are a big issue. To have rules and specifics for signs, unless the town is going to hire someone to do just that, enforce the sign regulations, he believes the sign regulations should be kept simple. He believes sign discussion should be one of good neighbors and should be up to the townspeople to say, "We don't like your sign." The answer is not an easy one but should be a matter of safety. He adds that the signs he uses are in shapes of Christmas trees and that could get complicated in regards to size requirement.

John DiCarlo, EDC member, states that John Fredsall's letter has some good points. He notes that what is presented tonight in the way of proposed sign regulations shows what will be there and what won't be there. He asks if a commissioner can give a quick comment on where this new regulation is coming from.

Commissioner D. Truskauskas states that the former EDC brought to the Zoning Commission possible wording for sign regulations. The Zoning Commission worked on revisions and came up with what is being presented tonight. The basis for new sign regulations was to help enforce sign usage.

Chairman Brazaitis states he would like to receive EDC comments, brought before the Zoning Commission, after they meet on May 2, 2012 and also any comments from the Agricultural Council. (Both committees have received copies of the proposed amendments.)

D. Truskauskas **motioned** to adjourn the meeting at 7:40 p.m. and to continue the public hearing to Monday, May 14, 2012 at 7:00 p.m. in the town hall. G. Bradley seconded the motion and it passed unanimously.

## **REGULAR MEETING**

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

Chairman Brazaitis called the meeting to order at 7:40 p.m. Same quorum remains.

### **2. APPROVE MINUTES OF PREVIOUS MEETINGS: 4/9/12 AND 4/18/12 SPECIAL MEETING (SITE WALK).**

D. Truskauskas **motioned** to approve the minutes of 4/9/12, seconded by G. Bradley. Motion passed unanimously. Approval of the 4/18/12 minutes are tabled until the next meeting on May 14, 2012.

Commissioner Todd Ouellette is unseated for Item 3.

### **3. DISCUSSION/POSSIBLE DECISION - JOHNNYCAKE AIRPORT PROPERTIES/SUPREME INDUSTRIES – SPECIAL PERMIT FOR RETAIL SALES OF EARTH PRODUCTS, 529 BURLINGTON ROAD.**

D. Truskauskas asks what the answer was to the question, "how many yards of material is on site" that he posed at the January 23, 2012 public hearing for the application for wholesaling and processing of wood mulch products. LUC Redmond refers back to the file and minutes of 1/23/12 and states that Mr. Vigneault answered, "30,000 yards". G. Bradley states that, in regards to the heliport, there are no helicopters coming onto the property on a daily basis and it is his belief that both the heliport and the retail sales activity can co-exist with proper distances. D. Truskauskas notes that CT DOT will review the property and take safety into consideration. Chairman Brazaitis states that the heliport matter is a separate matter and should not be integrated with this application. D. Truskauskas **motioned** to approve the application for special permit with the following conditions: (1) That the amount of material kept on site shall be limited to 40,000 yards; (2) That the applicant proceeds to CT DOT for signage; and (3) That hours of operation shall be 7:00 a.m. to 5:00 p.m., Monday through Saturday. G. Bradley seconded the motion and it passed unanimously.

Commissioner Todd Ouellette is reseated.

4. **DISCUSSION/POSSIBLE DECISION – CONSIDER PROPOSED AMENDMENTS TO THE ZONING REGULATIONS DATED 3-1-11, SECTION 2.3 DEFINITIONS, SECTION 6.5 KEEPING OF ANIMALS, SECTION 11 SIGNS AND SECTION 17 INVALIDATION.**

No discussion.

5. **CHRIS ONEGLIA – APPLICATION FOR 26'6" X 46'2" INGROUND POOL, 267 WOODCHUCK LANE. REQUEST FOR WAIVER OF ENGINEERED PLAN.**

No one is present to represent. Item is tabled until later in the meeting.

6. **DANIEL MANYAK - APPLICATION FOR 24' X 50' POLE BARN WITH ATTACHED 12' X 24' LEAN-TO, 167 BURLINGTON ROAD.**

Mr. Manyak is present. Plans by Robert Wadowski, L.S. titled Property Survey, dated 1/4/12, revised 4/20/11 for barn relocation (ZBA denied original nonconforming location). The barn will be relocated to 35 feet to the side property line. TAHD and IWWC approvals have been received. Use of the barn will be for hay and equipment. T. Ouellette **motioned** to approve the application, seconded by D. Truskauskas. Motion passed unanimously.

7. **GRJH, INC./SUNOCO GAS STATION – APPLICATION FOR MODIFICATION OF APPROVED SITE PLAN, 207 BIRGE PARK ROAD. CORRECT AND ABATE NOTICE ISSUED BY ZONING ENFORCEMENT OFFICER.**

No one is present to represent.

8. **DISCUSSION – BUILDABLE LOT AREA DEFINITION.**

D. Truskauskas states that he still believes the buildable lot area definition should be removed from the Zoning Regulations with T. Ouellette agreeing. Chairman Brazaitis thought that the commission would not take any consideration on this issue until after Lucas v HZC is settled. D. Truskauskas states that the item was to be continuously placed on each meeting agenda to allow for any public comment with Chairman Brazaitis stating this is not a public hearing and if the commission so chooses, a public hearing should be set. D. Truskauskas **motioned** to set a public hearing for Monday, June 25, 2012 at 7:00 p.m. in the town hall to present a proposal to **delete Buildable Area definition under Section 2.3 and to delete Footnote 6 under Section 5**, seconded by T. Ouellette. Motion passed with D. Truskauskas, T. Ouellette and G. Bradley voting in favor of the motion and Chairman Brazaitis voting against the motion. Motion carried 3-1.

The commission will consider Item 5, presented by LUC Redmond.

**CHRIS ONEGLIA – APPLICATION FOR 26'6" X 46'2" INGROUND POOL, 267 WOODCHUCK LANE. REQUEST FOR WAIVER OF ENGINEERED PLAN.**

A sketch of the pool location is presented showing the pool location to be 43 feet to the side property line. The applicant is awaiting TAHD approval. IWWC sign off has been received. T. Ouellette **motioned** to grant the waiver request for an engineered plan, seconded by D. Truskauskas. T. Ouellette **motioned** to approve the application and allow LUC Redmond to sign off once TAHD approval has been received. D. Truskauskas seconded the motion. Both motions passed unanimously.

**9. COMPLAINTS/ENFORCEMENT ACTIONS: GRJH, INC./SUNOCO GAS STATION – CITATION UPDATE.**

ZEO Nelson distributes a set of minutes from the 4/12/12 Citation Hearing. Atty. Joel Perlotto, Hearing Officer, granted a six week extension for GRJH to submit a modified site plan which will eventually come before the Zoning Commission for review. Atty. Perlotto also waived the fines. ZEO Nelson states that Atty. Steve Byrne suggested that GRJH make a Statement of Use of the property including the statement that if a new proprietor takes over the deli, including the seating area, that a new approval must be received from the Zoning Commission. The Hearing will be continued to May 24, 2012 at 4:00 p.m. in the town hall. Minutes remain on file in the Land Use office. D. Truskauskas states that he would like to review the original site plan approved by the Zoning Commission when reviewing the modified site plan to see the differences, minus the new location of the septic approval.

ZEO Nelson submitted a 4/19/12 Zoning Enforcement Report to all commissioners. She discusses a complaint made by Richard Kelly, 90 Clearview Avenue, whereas he believes the activities at 112 Clearview Avenue are not complying with the required Special Permitted Uses under Section 4.5.2 of the Zoning Regulations. He is getting a strong smell of paint drifting over to his property and believes that industrial painting of turbines or propellers is taking place and may be a new activity. He believes the activity should comply with clean air policies. ZEO Nelson suggests Mr. Kelly notify TAHD. Mr. Kelly includes in his complaint the number of junk cars on the property with ZEO Nelson stating that the cars have been there for years and can be considered compliant as motor vehicle storage is permitted in a Light Industrial zone. Mr. Kelly believes otherwise and questions what the difference is between storage and junk yards. D. Truskauskas states that when the same vehicles are on the property for a number of years, that is storage. A junk yard is when vehicles are taken apart and pieces of it are sold. ZEO Nelson states that if Mr. Kelly believes the property to be a junk yard, he can file a complaint with the Board of Selectmen for violation of Ordinance 103 Junk Vehicles. ZEO Nelson lists the names of tenants at 112 Clearview Avenue and states they have all been at this location for over 5 years and in some cases even longer. D. Truskauskas notes that the problem is that the area is in a Light Industrial zone that is boxed in with residential properties. Mr. Kelly also complains about mud on the road after rain and states that has never happened before so there is some type of change in activity toward the north. He is advised to contact Highway Supervisor, John Fredsall concerning that matter. Other complaints ZEO Nelson is looking into is complaint made by Benton Brown, Valley Road, regarding timber harvest on Wildcat Hill Road and a complaint against Cheryl Wasley, North Gate Drive, whereas neighbors are receiving increased amounts of runoff. ZEO Nelson states that the area is historically wet and that she has been to the site and will return again after the recent rainfall received.

10. **ANY OTHER BUSINESS.** None.

11. **CORRESPONDENCE.** None.

12. **INVOICES.** None.

13. **ADJOURN.**

T. Ouellette **motioned** to adjourn the meeting at 8:50 p.m., seconded by G. Bradley. Motion passed unanimously.

Respectfully submitted,

Polly Redmond  
Land Use Coordinator

**RECEIVED**

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**TOWN CLERK**