

ZONING COMMISSION MEETING

MONDAY, APRIL 8, 2013

TOWN HALL 7:00 P.M.

Present: Chairman Todd Ouellette, Don Truskauskas, Cory Iacino and Land Use Coordinator Polly Redmond

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

Also Present: First Selectman Michael Criss and Town Counsel Michael Rybak

PUBLIC HEARING #1 - continued

1. OPEN HEARING – ESTABLISH QUORUM.

Chairman Ouellette called the hearing to order at 7:00 p.m.. All regular members present are seated.

2. SAMANTHA TILLEY – SPECIAL PERMIT APPLICATION TO REESTABLISH HOME OCCUPATION PERMIT, BED & BREAKFAST INN, 33 SOUTH ROAD.

Mrs. Tilley has sent a letter requesting an extension of the public hearing to the next Zoning meeting on Monday, April 22, 2013 at 7:00 p.m. D. Truskauskas motioned to continue the public hearing to Monday, April 22, 2013 at 7:00 p.m., seconded by C. Iacino. Motion passed unanimously.

PUBLIC HEARING #2

1. OPEN HEARING – ESTABLISH QUORUM.

Chairman Ouellette called the hearing to order at 7:02 p.m. All regular members present are seated.

2. GREG MELE/BIRGE PARK COMMONS, LLC – SPECIAL PERMIT APPLICATION FOR LIQUOR SALES/CONSUMPTION ON PREMISES LOCATED AT 178/182 BIRGE PARK ROAD. HARWINTON. ZONING REGULATIONS 9.7 AND 9.7.1.

Chairman Ouellette reads the call to hearing as published in the Republican-American on 3/28/13 and 4/5/13.

Mr. Mele submits return receipts from certified letters to neighbors within 200 feet of the property giving them notice of this public hearing. Mr. Mele submits a Zoning Location Survey prepared by GM2 Associates showing a 1000 foot separating distance from the 178/182 Birge Park Road property to any town line boundary, church, school, library, park, playground, or any establishment selling or serving alcoholic liquor that is in compliance with Zoning Regulation Section 9.7.1. Mr. Mele explains that there is no immediate activity proposed but that this application is a stepping stone in the event a restaurant does come in to one of the rental units and that the State Liquor Control Commission would be advised if this happens. Chairman Ouellette confirms that Mr. Mele is only looking for *use of the property* at this time with Mr. Mele answering yes. Chairman Ouellette questions that once the use is determined and definite, Mr. Mele will return for a site plan approval? Mr. Mele replies, yes. D. Truskauskas expresses his appreciation of providing the Location Survey. Town Counsel, Michael Rybak, addresses the commission informing them that there are numerous classes of liquor permits and that when giving any approval, the commission should keep in mind that permits run with the land and that there should be a proposed use of the property. Mr. Mele explains that the proposed use would be a full service restaurant and that hours of operation depend on TAHD approval. TAHD is currently reviewing septic upgrade issues. Atty. Rybak advises the commissioners that they should understand the nature of the proposed use and perhaps should be asking if the application is for a bar with entertainment provided and that the Liquor Control Commission application must be specific. Mr. Mele explains that he is proposing a restaurant with a full service bar serving wine, beer and mixed drinks. D. Truskauskas questions whether the commission can approve the application as a restaurant use and the sale of liquor sales/consumption on premises can be a contingency? Atty. Rybak states yes, that could be done because if another owner comes along, the use could change. The approval should be contingent on the type of operation. Mr. Mele questions if the

property were transferred to a new owner, would that new owner have to come back before this commission? Atty. Rybak answers, no, the permit runs with the land and only if the nature of the operation changed would a new owner need to come back before the Zoning Commission. D. Truskauskas asks if Mr. Mele has anticipated hours of operation with Mr. Mele replying, open until 10 p.m. or 11 p.m. Atty. Rybak states that the commission can approve the restaurant permit that would allow Mr. Mele to proceed to the Liquor Control Commission but that the approval should be contingent on him coming back for a Special Permit use. Mr. Mele states that he'd like to proceed with a permit for Restaurant/Grill with hours of operation on this application he is presenting tonight and adds that if breakfast is to be served at the restaurant he would like to open at 6:00 a.m. D. Truskauskas states that it is his opinion that a full-service restaurant would be a benefit to the town with Chairman Ouellette agreeing but as long as it stays a restaurant. Chairman Ouellette questions where the activity is being proposed, at 178 or 182 Birge Park Road, with Mr. Mele stating that the permit will go on as 178/182 Birge Park Road. With no further comments from the commissioners or members of the public, D. Truskauskas **motioned** to close the public hearing at 7:18 p.m., seconded by C. Iacino.

REGULAR MEETING

1. OPEN MEETING – ESTABLISH QUORUM.

Chairman Ouellette called the meeting to order at 7:19 p.m. All regular members present are seated.

2. APPROVE MINUTES OF PREVIOUS MEETING: 3/25/13

D. Truskauskas motioned to approve the minutes of the previous meeting with the amendment of Item 12 to add *"D. Truskauskas motioned to allow the Land Use Coordinator to deny applications that do not meet setback requirements eliminating the need for the applicant to appear before the Zoning Commission for a formal denial. Applications will be brought directly before the Zoning Board of Appeals Commission. The motion was seconded by C. Iacino and passed unanimously."* C. Iacino seconded the motion and it passed unanimously.

3. GREG MELE/BIRGE PARK COMMONS, LLC – DISCUSSION/POSSIBLE DECISION - SPECIAL PERMIT APPLICATION FOR LIQUOR SALES/CONSUMPTION ON PREMISES LOCATED AT 178/182 BIRGE PARK ROAD.

D. Truskauskas **motioned** to approve the application for a restaurant with a full service bar serving wine, beer and mixed drinks. Daily hours of operation to be 5:30 a.m. to 11:00 p.m. with no live entertainment permitted inside or outside the premises. The approval is contingent upon site plan approval by the Harwinton Zoning Commission once TAHD approval has been received and a tenant is established. The Liquor Control Commission's certified permit is to be filed in the Harwinton Land Records simultaneously with the Special Permit. The application is in compliance with Section 9.1.1 and 9.7.1 of the Harwinton Zoning Regulations.

4. GREG MELE/BIRGE PARK COMMONS, LLC – CHANGE OF USE APPLICATION, 178/182 BIRGE PARK ROAD. RECENT USE OF PROPERTY: OFFICE/RETAIL. PROPOSED USE: RETAIL SALE OR SERVICING OF ALCOHOLIC LIQUOR.

Mr. Mele is present. The Change of Use application is in relation to the Special Permit application presented and approved at tonight's public hearing. Mr. Mele explains that the change of use hinges on TAHD approval and he would like to keep the use of the property as office/retail sale or restaurant serving alcohol. D. Truskauskas questions whether the commission would still need to receive TAHD approval and a site plan with Chairman Ouellette stating, yes. C. Iacino **motioned** to approve the Change of Use application for restaurant serving alcohol and or/office or retail sale space (current use) with the contingency that TAHD approval is received and a site plan is presented to the commission. D. Truskauskas ~~seconded the motion and it passed~~ *unanimously. (pr)*

5. GREG MELE/BIRGE PARK COMMONS, LLC – REVIEW OF LANDSCAPING PLAN FOR 182 BIRGE PARK ROAD.

Mr. Mele presents to the commission a revised landscaping plan by Pony Legs Studio, Kimberly Barbieri, LA, which now provides for a six foot high solid vinyl fence, 170 feet long east to west and 30 feet off the south property line. He explains that the fencing may not be straight due to ledge outcropping with Chairman Ouellette agreeing that with the ledge, drainage and landscape, the buffer was difficult to provide. D. Truskauskas **motioned** to approve the Buffer Design, dated March 4, 2013, with the owner understanding that in addition to the six foot high fence, lawn will be provided within the 50 foot buffer. C. Iacino seconded the motion and it passed unanimously.

6. TIM MISCHKE – APPLICATION FOR 18' X 22' BARN, 580 PLYMOUTH ROAD. REQUESTING WAIVER OF ENGINEERED PLAN.

Mr. Mischke is present and a waiver letter is on file. TAHD and IWWC approvals have been received. Soil and erosion permit is on file. Mr. Mischke notes that the structure will be a post and beam barn with no side walls. D. Truskauskas **motioned** to grant the waiver request, seconded by C. Iacino. D. Truskauskas **motioned** to approve the application, seconded by C. Iacino. Both motions passed unanimously.

7. COLIN & JENNIFER DINWOODIE – APPLICATION FOR 18' X 24' BARN, 87 CEMETERY ROAD. REQUESTING WAIVER OF ENGINEERED PLAN.

No one is present to represent.

8. PETER LEVASSEUR – APPLICATION FOR 36' X 44' BARN, 86 GALE ROAD.

No one is present to represent.

9. GEORGE MOLITOR – APPLICATION FOR SINGLE FAMILY DWELLING, CORNER OF BREEZY HILL ROAD AND GREEN ACRES ROAD. ASSESSORS MAP NO. B9-03-0034.

No one is present to represent.

10. INFORMAL DISCUSSION – PURCHASE OF 4.27 ACRES OF LAND FROM ESTATE OF WILLIAM KAMINSKI. ASSESSORS MAP NO. A3-01-0003. LAND SITUATED SOUTHERLY FROM THE CAMPVILLE/NORTHFIELD BRIDGE, ON THE WESTERLY SIDE OF VALLEY ROAD AND ON THE EASTERLY SIDE OF THE NAUGATUCK RIVER.

First Selectman Michael Criss and Town Counsel Michael Rybak are present. First Selectman Criss informs the commission that the 4.27 acre parcel located between Valley Road and the Naugatuck River is the site of what once was the Hopkins and Alfred clock factory and is a piece of town history that should not be lost. The property is owned by heirs of William Kaminski, recently deceased, who are trying to be located by Atty. Rybak. Money to purchase the property for \$20,000 will be obtained from ~~remaining funds of a \$74,000~~ ^A grant acquired under former First Selectman Frank Chiaramonte from the U.S. Fish and Wildlife Service. First Selectman Criss states that the federal grant money is specific and can only be used to buy property along the Naugatuck River. Possible uses of the land could be for Greenway Trails, river access, parking area and is also a step in the right direction in preserving the Naugatuck River. A town meeting to approve the purchase of the property is set for April 23, 2013. Commissioners are in agreement that the purchase of the property will provide beneficial uses for residents of the town.

11. DISCUSSION/POSSIBLE DECISION – SAMANTHA TILLEY – SPECIAL PERMIT TO REESTABLISH HOME OCCUPATION PERMIT FOR BED & BREAKFAST INN, 33 SOUTH ROAD.

No discussion.

12. DISCUSSION – ZONING REGULATIONS.

Tabled at this time to take up Item 13 and 14.

13. DISCUSSION – ZONING ENFORCEMENT OFFICER POSITION.

Stacey Sefcik is present. Commissioners conduct an interview. Chairman Bruce Burnett is present in the audience and it is agreed that Ms. Sefcik will meet the Inland Wetlands Commission at a special meeting to be held on Monday, April 15, 2013.

14. COMPLAINTS/ENFORCEMENT ACTIONS.

Tiffany Torres is present with a complaint against her landlord, Doug Morrow, at 39 Catlin Road. It appears to her that he is residing in the basement while she rents out the main floor, which is in violation of Zoning Regulation Section 6.1 and should be of concern to the Fire Marshal and Torrington Area Health. LUC Redmond will forward the information to each of those departments. The commission instructs LUC Redmond to contact property owner, Doug Morrow, and ask him to attend the commission's April 22, 2013 meeting at 7:00 p.m. to discuss the matter of use of property as a possible illegal two-family dwelling.

Item 12 is to be tabled until the next Zoning meeting.

15. ANY OTHER BUSINESS.

None.

16. CORRESPONDENCE.

None.

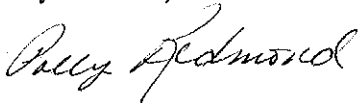
17. INVOICES.

None.

18. ADJOURN.

C. Iacino motioned to adjourn the meeting at 9:30 p.m., seconded by D. Truskauskas. Motion passed unanimously.

Respectfully submitted,



Polly Redmond
Land Use Coordinator

RECEIVED FOR RECORD AT HARWINTON CT
ON 4/15/2013 AT 12:33 PM
ATTEST NANCY E. ELDRIDGE TOWN CLERK