

## HARWINTON ZONING COMMISSION MEETING

MONDAY, APRIL 28, 2014

TOWN HALL 7:00 P.M.

Present: Acting Chairman Don Truskauskas, Anne Marie Buonocore, David Mathes, Joseph Marzullo, Alternate Member Lynne Steincamp, Land Use Coordinator Polly Redmond and Zoning Enforcement Officer David Perkins.

### 1. OPEN MEETING – ESTABLISH QUORUM.

Acting Chairman Truskauskas called the meeting to order at 7:00 p.m. All members present are seated.

At this time Commissioner Joseph Marzullo reads a statement he prepared giving his comments and recommendations on roles and responsibilities of the Zoning Commission and how to conduct a meeting regarding *Proposed Public Participation With Regard to Meetings, Proposed Procedure to Maintain Meeting Order, Proposed Zoning Regulation Complaint/Violation Procedure*.

### 2. APPROVE MINUTES OF PREVIOUS MEETINGS: Special Meeting 4/14/14 and Regular Meeting 4/14/14.

J. Marzullo **motioned** to approve the minutes of the 4/14/14 Special Meeting, seconded by D. Mathes.

D. Mathes **motioned** to approve the minutes of the 4/14/14 Regular Meeting, seconded by J. Marzullo.

Both motions passed unanimously with A. Buonocore refraining from vote due to her absence at these meetings.

### 3. BARBARA WHITE – APPLICATION FOR 16' X 20' ADDITION TO HOME, 880 HILL ROAD. REQUEST FOR WAIVER OF ENGINEERED PLAN.

No one is present to represent.

### 4. BORGHESI BUILDING AND ENGINEERING – APPLICATION FOR SPECIAL PERMIT/CHANGE OF USE – SCHOOL BUS PARKING ON PORTION OF PROPERTY FORMERLY OPERATED AS JOHNNYCAKE AIRPORT, 529 BURLINGTON ROAD (ROUTE 4). PROPERTY OWNED BY JOHNNYCAKE AIRPORT PROPERTY, LLC.

Alan Borghesi, Chairman, Borghesi Building and Engineering and Registered Engineer, is present. A letter from property owner, Fred Pesce/Johnnycake Airport Property LLC, is on file allowing application to be made. A letter sent by Borghesi Building and Engineering to the Town of Burlington giving notice of application is submitted. Plans by Borghesi Building and Engineering titled Site Plan All-Star Transportation dated 4/24/14 are presented for review. Mr. Borghesi points out the area of development on the site plan which encompasses approximately one-sixth of the entire 15.8 acre parcel. He states that pavement already exists in the parking lot with a proposal to reduce an area of asphalt on the east side to provide for a grassy area with the preservation of six maple trees in front of an existing office building. The parking lot (which has much broken up pavement) will have curbing added and be resurfaced with recycled asphalt, which is better for bus traffic, and will have spaces for 25 employees, 6 visitor spaces (5 + 1 handicapped) and 40 bus spaces. All structures on the property will remain in place and no new buildings are proposed. A Fuel Island is proposed with an above ground tank. A soil scientist report dated 4/6/14 is on file reporting that the area contains no wetlands. L. Steincamp begins to question Mr. Borghesi about parking with Acting Chairman Truskauskas asking that any questions the commissioners may have be presented at the time of public hearing. Zoning Regulation Section 4.5.2g is reviewed for compliance against the site plan.

Commissioner D. Mathes questions the location of the Fuel Island with L. Steincamp wishing to note for the record her objection to not being able to ask a question regarding parking and D. Mathes being able to question the location of the Fuel Island. D. Mathes states that he was questioning whether there were Zoning Regulations pertaining to fueling areas and that his question was not directed toward Mr. Borghesi. Acting Chairman D. Truskauskas states he is uncertain whether fueling on the property is a permitted use and agrees with LUC Redmond that the proposal should be reviewed by the town attorney. ZEO David Perkins notes that Zoning Regulation 4.5.2a allows for uses that are permitted in a Retail Service zone be permitted in a Light Industrial zone and Zoning Regulation 4.4.1

(RS-A Special Permit Uses) allows for motor fuel filling stations. A. Buonocore expresses her opinion that prior to holding a public hearing for this application that an impartial engineer should review this site plan and proposal and should include possible implementation of low impact development practices. J. Marzullo questions if having a town engineer review the proposal is standard practice with D. Truskauskas stating that when Supreme Industries (past tenant of property) applied for a change of use/special permit for retail sales of wood mulch products on this same property, he believes the town engineer did not review the proposal. D. Truskauskas states that the town engineer could review this proposal if the Commission feels it is necessary though he does not see a need for such review. LUC Redmond asks Mr. Borghesi whether this application has been presented for review before the CTDOT or the DEEP for any required permits or concerns with Mr. Borghesi stating that he spoke to CTDOT and was told that since there were no curb cuts there were no concerns. He states he did not contact DEEP at all as he sees no reason to do so. A. Buonocore questions Mr. Borghesi if LID practices were considered in light of having a fuel tank on the grounds with Mr. Borghesi stating that the fuel area will not be for public usage and the tank is to be above ground, and he believes LID practices are not necessary. A. Buonocore states that perhaps the public would like to know that a private engineer has reviewed the plans. A. Buonocore **motions** that the town attorney be contacted to ask his opinion on whether he believes the town's engineer should review these site plans, seconded by J. Marzullo. Motion passed unanimously.

**5. SILANO REALTY/BRETT STONE – APPLICATION FOR SINGLE FAMILY DWELLING, LOT 1, SILANO DRIVE.**

No one is present to represent.

**6. SILANO REALTY/BRETT STONE – APPLICATION FOR SINGLE FAMILY DWELLING, LOT 2, SILANO DRIVE.**

No one is present to represent.

**7. SKIP DAY – INFORMAL DISCUSSION ON USE OF PROPERTY, 8 OLD ROUTE 72, ZONE CHANGE FOR RESIDENTIAL USE.**

The property is located in a Retail Service zone and the structure has been used as an office for 27 years. Mr. Day now has the property on the market for sale and would like to claim that it is a residential dwelling. Residential dwellings are not allowed in a Retail Service zone. It is the opinion of the Land Use Coordinator that Mr. Day will have to make application for a zone to a Town Residential zone if he wishes to use the structure as a single family dwelling. LUC Redmond has researched minutes and found that Mr. Day had made application in front of the Zoning Board of Appeals to have the structure be changed in classification from a home to office space. Mr. Day will contact his attorney for legal advice.

**8. INFORMAL DISCUSSION - MORATORIUM ON MEDICAL MARIJUANA DISPENSARIES.**

Acting Chairman Truskauskas suggests giving the definition of Medical Marijuana Dispensaries and Producers in the Zoning Regulations and then state in the Regulations that they are not permitted. J. Marzullo notes that he has looked at the City of Torrington's regulations on Medical Marijuana. A. Buonocore **motioned** to add this item for discussion to the Zoning Commission's June 3, 2014 Workshop where discussion on other Zoning Regulations will take place. D. Mathes seconded the motion and it passed unanimously.

**9. SET SPECIAL MEETING TO FILL VACANT REGULAR MEMBER POSITION.**

The Board of Selectmen are now empowered to fill the regular member position since thirty days has passed without Zoning Commission action. LUC Redmond will inform the Board of Selectmen.

At this time, D. Truskauskas requests that his complaint be taken up before Alysén Almand's complaint and recuses himself.

D. Mathes **motioned** to take up the **complaint made by J. Genovese against D. Truskauskas** before the Almand complaint, seconded by L. Steincamp. Motion passed unanimously. Commissioner Joe Marzullo will act as Chairman.

4/12/14 - Jessica Genovese, 109 Scoville Hill Road against Don Truskauskas, 99 Scoville Hill Road – commercial vehicles parked overnight in a residential zone, operating a business out of home.

4/21/14 – Jessica Genovese, 109 Scoville Hill Road against Don Truskauskas – use of property, commercial vehicles parked overnight in a residential zone, operating a business out of home.

\*ZEO David Perkins updates the Commission on his site visit to the Truskauskas property. He submits copies of complaints received in 2007 from Truskauskas' neighbor, Larry and Judith Mareane regarding use of the Truskauskas property as a business with commercial trucks entering and exiting the property. The letter is accompanied by a log of activity on the Truskauskas property that was written by the Mareane's. ZEO Perkins also submits copies of Zoning Commission minutes from 2007 and 2008 where the Commission addressed neighbor complaints against Truskauskas.

Acting Chairman Marzullo states that he does not see in any Zoning minutes any recommended action for the 2007/2008 complaints other than to "play nice" and that the matter seemed to have been resolved. A. Buonocore states that she does not see any evidence that this matter was resolved. She states that regardless of any past occurrence, there is a current complaint that has been made against D. Truskauskas.

Mr. Ronald Genovese, 109 Scoville Hill Road, is present and states that there was a meeting at the Senior Center with neighbors and then-ZEO Karen Nelson. Activity on the Truskauskas property has continued through the years with construction equipment entering and exiting the property and that the issue never went away. The Truskauskas house was to be completed and the equipment claimed to be used for the construction was to be taken off the property. Mr. Genovese states that once the house was completed, no one from the town came out to find out how things were in the way of construction equipment still kept on the property.

Acting Chairman Marzullo states that the current complaints must be addressed and asks that ZEO David Perkins give his report and recommendations on the matter at this time. ZEO Perkins reads his report and finds Mr. Truskauskas in violation of Zoning Regulations 6.19 and 6.20. He recommends that he send a warning letter ordering that the construction equipment be removed from the property.

Don Truskauskas at this time addresses the Commission and reads Zoning Regulation 6.20 stating that the ZEO has missed some important points of Section 6.20, noting that the truck on his property is being used onsite. Mr. Truskauskas gives his interpretation of Zoning Regulation 6.20. A. Buonocore states that she believes the Commission should be able to discuss this matter and asks that D. Truskauskas leave the room. Mr. Truskauskas states that he is not sure he should be asked to leave. ZEO Perkins states that the letter will be delivered to Mr. Truskauskas and if an appeal is taken, the Zoning Board of Appeals will hear the case and make a decision on the order. ZEO Perkins states he will report back to this Commission at their next meeting on May 12, 2014 at 7:00 p.m.

#### 10. COMPLAINTS/ENFORCEMENT ACTIONS.

##### Follow-up:

3/26/14 - Alysén Almand, 401 Burlington Road against Fred Pesce, 529 Burlington Road – trailer on property.

\*ZEO David Perkins reports that a Notice of Violation has been sent to Mr. Pesce and that Mr. Pesce is in the process of taking an appeal on this matter.

4/12/14 - Jessica Genovese, 109 Scoville Hill Road against Don Truskauskas, 99 Scoville Hill Road -- commercial vehicles parked overnight in a residential zone, operating a business out of home.

\*See page 3.

New:

4/21/14 - Alysén Almand, 401 Burlington Road against Fred Pesce, 529 Burlington Road -- commercial vehicles parked overnight in a residential zone.

\*ZEO David Perkins states that an excavator is not a commercial vehicle.

4/21/14 -- Jessica Genovese, 109 Scoville Hill Road against Don Truskauskas -- use of property, commercial vehicles parked overnight in a residential zone, operating a business out of home.

\*See page 3.

D. Truskauskas is reelected as Acting Chairman.

#### 11. PUBLIC COMMENT.

Joseph Campoli, 111 Shingle Mill Road, explains what a "lay-down yard" is in connection with a construction business and states his belief that Mr. Truskauskas' "lay-down yard" is his home. He mentions a 2004 complaint made against Mr. Truskauskas when he lived on Bull Road. J. Marzullo states that past complaints should not be addressed.

Shawn Pace, 186 Scoville Hill Road, wishes to thank ZEO David Perkins for his work and that the neighbors on Scoville Hill Road are just looking for peace. He adds that one must look at the intent of Zoning Regulation 6.20 and not Mr. Truskauskas' interpretation of it.

Sabrina Janco, 95 Campville Hill Road, wishes to express her disgust.

Mike McGoff, 580 Litchfield Road, references J. Marzullo's comment regarding looking at Torrington's Regulations (on Medical Marijuana Dispensaries) and states that looking at Torrington's Regulations is not a wise thing to do and Harwinton should not use Torrington as a model. He also states that this Commission should deal with issues, not personalities and he sees many irregularities within Zoning. He states he is impressed with the work that ZEO David Perkins has done.

Pat Richards, 170 Scoville Hill Road, questions the Commission on what constitutes a farm. She questions whether D. Truskauskas has cows on his property. She addresses to D. Truskauskas the ill-health of his neighbor and the elderly gentleman who lives next to him and asks that he stop being rude in doing what he is doing. She asks that D. Truskauskas keep the truck off of his residential property.

D. Mathes **motioned** to add to the agenda: **Heidi Kirchofer, 221 Burlington Road, application for Special Permit for Home Occupation** of a dance studio, seconded by J. Marzullo. Motion passed unanimously.

Ms. Kirchofer is present and explains that she would like to conduct dance classes in her home and that TAHD has been contacted and approval for a Change of Use has been received. A. Buonocore **motioned** to accept the application and set a **public hearing date for Monday, May 12, 2014 at 7:00 p.m.**, seconded by D. Mathes. Motion passed unanimously.

12. **ANY OTHER BUSINESS.**

A. Buonocore – discuss ZEO Position

\*A. Buonocore states that she asked that this item be placed on the agenda to discuss because complaints have not been addressed in a satisfactory manner but after tonight's meeting, she states she is very impressed with ZEO David Perkins' work and that it is good to have him in attendance at the meeting. She asks that ZEO Perkins look into the ability to impose fines on violators. She adds that the ZEO needs to have more contact with the Land Use office.

D. Truskauskas reminds ZEO Perkins that he had requested information on open complaints against him and that he is still waiting for that information.

J. Marzullo – Commission Meeting Procedures

\*J. Marzullo states that he would like to discuss the way complaints are handled. He believes that the ZEO should act on complaints and not wait on direction of the Zoning Commission. After an investigation is made, the ZEO should report his findings back to the Commission.

A. Buonocore expresses her opposition to the way J. Marzullo is trying to implement changes in the way the Zoning Commission acts. J. Marzullo responds that he has not seen a written process on how to review proposals and if

A. Buonocore has one he would like it to be sent to him.

13. **CORRESPONDENCE.**

None.

14. **INVOICES.**

None.

15. **ADJOURN.**

A. Buonocore **motioned** to adjourn the meeting at 9:15 p.m., seconded by L. Steincamp. Motion passed unanimously.

Respectfully submitted,

Polly Redmond  
Land Use Coordinator

RECEIVED FOR RECORD AT HARWINTON CT  
ON 5-6-14 AT 1:08pm  
ATTEST NANCY E. ELDRIDGE TOWN CLERK