

**Zoning Commission Meeting -
MINUTES
7:00 PM Thursday, May 14, 2015
Zoning Commission Meeting - May 14, 2015**

1) Convene Meeting

Acting and Vice Chairman Grimes convened the meeting at 7:00 p.m. and established a quorum of members.

Present: Acting and Vice Chairman M. Grimes, Alternate and Voting Members M. Frankel and A. Samuelson

Absent: Chairman R. Blessey, Secretary F. Lollie, J. Cordisco, E. Kukk, Alternate J. D'Entremont

Also Present: Zoning Enforcement Officer A. Dew, Recording Secretary D. Cioffi

- a) Review Minutes of Previous Meetings:
Not a sufficient quorum.

2) Land Use Enforcement

- a) Enforcement Officer's Report:

ZEO Dew reported on the following:

Requests for Voluntary Compliance

594 Federal Road, #201500385 - An RVC was sent to property owner Bill LaVelle for the debris on the site. ZEO Dew advised that the tenant responsible for the debris has been hospitalized. The deadline for compliance is June 27, 2015.

48 Skyline Drive, #201500381 – ZEO Dew indicated that she received a complaint about more than one family living in the house. An RVC was sent, requesting compliance by June 10, 2015. Commissioner Frankel inquired if the field card had been checked, and ZEO Dew replied that it had, and there is no evidence of a permitted apartment on the card. .

12 Falls Drive, #201500365 - This complaint relates to a chicken coop and shed that may not meet the setbacks. The property owner has until June 5, 2015 to apply for a variance or move the structures if they do not meet the setbacks.

27 Mountainview Drive, #201500331 – This complaint relates to a treehouse with stairs that does not meet the setbacks. Commissioner Frankel suggested that the topic of treehouses be considered for discussion at a future meeting.

20 North Lake Shore Drive, #201500330 – This complaint relates to debris. Compliance was requested by June 1, 2015.

330 Candlewood Lake Road, No Activity # - ZEO Dew reported that the lemon ice sign was removed.

277 Whisconier Road, No Activity # - The unpermitted clothing bins were removed.

636 Federal Road, #201500146 – The repair of the pot holes has been completed. This item can be removed from the report.

Town Counsel Action

44 Old Middle Road, #201301041 – No change.

1 High Ridge Road, #201000315 – No change.

14 Oak Grove Road, #201300832 – In remediation until June 20, 2015.

148 North Lake Shore Drive, #20131115 – Town Counsel has advised that the Inland Wetlands and/or Health Department complaints will be pursued.

No motions.

3) Review Correspondence

- a) Minutes of other Boards and Commissions:
- b) Legal Briefings for Building Inspectors: March 2015
[no item]
- c) Memo from Planning Commission and K. Daniel, AICP to Zoning Commission dated 5/7/15 Re: Plan of Conservation and Development
No discussion/no motions.

4) Continued Public Hearing:

- a) Proposed Regulation change #201500050: Section 242-202 and Section 242-501 - Brewery and Brewpub / Restaurants
The Commission is awaiting Town Counsel's opinion related to this matter. Continued.

5) Public Hearing: 7:30 p.m.

- a) 533 Federal Rd #201500201: Design Review including Natural Resource Removal of 1,600 cu. for the construction of a 2,476 sq. ft. Medical Building and associated parking

Acting and Vice Chairman Grimes opened the Public Hearing and introduced the Commission members. He then read the legal notice which was published in the Penny Saver on April 30, 2015 and May 7, 2015. He noted that the application was received on April 9, 2015. He then reviewed the policies and procedures that govern public hearings.

Acting and Vice Chairman Grimes noted the following correspondence in the file: a letter from the Water Source Committee, and a letter from Public Works

R. Posthauer, PE, CCA, 40 Old New Milford Rd., was present, along with W. Fontaine, Fontaine, Construction, Bethel, CT.
New plans, in response to ZEO Dew's comments, were submitted. Mr. Posthauer noted the length and narrowness of property, and advised that a variance was obtained by a prior owner. Mr. Posthauer advised that the building will be a medial office. He then reviewed the access and the parking, with a handicapped spot near the entrance. He noted the proximity to the Still River, and discussed water quality treatment measures. Mr. Posthauer pointed out that the window wells are not part of the structure, and are pre-cast. He stated that there is a fire hydrant across the street, and delineated nearby sidewalks. The landscaping plantings, fencing, lighting and signage were briefly reviewed with the plan set.

Mr. Fontaine advised that there would be storage, a kitchenette and computer equipment in the basement. Upon inquiry from Commissioner Frankel, Mr. Fontaine stated that staff will include: one doctor, one assistant and one secretary.

Mr. Fontaine reviewed the dimensions of the parking lot, the columns, and arches. He indicated that the construction material will be hardy plank, and the compressors will be in the rear of the building, below the deck. Delivery access was discussed. It was noted that there will be a total of 20 parking spaces, including the one handicapped spot.

ZEO Dew's report, dated April 15, 2015 report was reviewed. It was noted that this application has received approval from the Inland Wetlands Commission (this is missing from the file). Additionally, the Fire Marshal approval is in the file. Commissioner Frankel requested to see a copy of the previous variance, as well as renderings of the proposed building. The application has not been approved by the Water Pollution Control Authority, per a memo dated 4/7/2015 from K. McPadden, Administrator, WPCA. Mr. Posthauer added that the revised plans include: labeling of the loading area, a lighting plan, and the added sidewalk along Federal Road. Samples of the building materials and colors will be brought to the next meeting. Commissioner Frankel inquired if an island is required between parking spaces, and ZEO Dew advised that an island is only required for 20+ spaces.

There were no questions of clarification. No one was present to speak in favor of the application, nor was anyone present to speak in opposition.

The applicant was requested to provide a copy of the variance, Inland Wetlands approval, and six more sets of plans for the other Commissioners to review.

Commissioner Frankel moved to continue the Public Hearing for 533 Federal Rd., #201500201: Design Review including Natural Resource Removal of 1,600 cu. for the construction of a 2,476 sq. ft. Medical Building and associated parking, until May 28, 2015. Commissioner Samuelson seconded the motion, and it carried unanimously.

6) Old Business:

- a) Medical Marijuana Moratorium

Acting and Vice Chairman Grimes reviewed the history of this discussion. He indicated that Secretary Lollie is monitoring the status of the enactment of State regulations, and the Commission is unaware if regulations have been devised by a State agency as of yet.

Acting and Vice Chairman Grimes moved to extend the Medical Marijuana Moratorium until June 15, 2015, at which time the Commission will see if regulations are. Commissioner Samuelson seconded the motion. Commissioner Frankel stated she believes the extension requires a public hearing. Motion carried unanimously.

- b) 131 Tower Rd #201400996 (DiGrazia Vineyards): Use for the Vineyards

Dr. DiGrazia, 131 Tower Rd., and M. Langford, were present. ZEO Dew advised that Town Counsel and Attorney Hunt discussed this matter. Since then, a new complaint occurred regarding an event on Mother's Day. The complaint has been forwarded to Town Counsel. ZEO Dew noted that there is no formal approval for the use of the site as a winery, although it has been utilized as such since the 1970's as an indoor, non-conforming use.

Acting and Vice Chairman Grimes inquired regarding the specifics of the complaint and ZEO Dew indicated it related to noise and vehicles. ZEO Dew noted that having a winery in a residential zone is not a permitted use, and there have been other complaints. She also stated that you cannot permit a public event in a residential zone. She added that previously, the Commission has allowed private events, i.e., weddings. Acting and Vice Chairman Grimes stated he did not see any difference between private and public events for the potential for noise and parking. ZEO Dew indicated that Town Counsel has recommended that public events be prohibited.

Dr. DiGrazia advised that Attorney Hunt is expected to be present but is stuck in traffic. Commissioner Frankel suggested that the matter be continued, due to the lack of a full Commission and lack of a written opinion from the Town Attorney.

Dr. DiGrazia stated that the events at the winery usually run from 12 noon to 5 p.m. and music is not always provided.

Commissioner Frankel requested that the matter be continued and that Dr. DiGrazia be prepared to come back and discuss the complaints and permitted uses on the site.

At 7:15 p.m., Attorney P. Hunt arrived, present on behalf of Dr. DiGrazia. He submitted a document from 1984 to the file, for future discussion.

G. Chelso was present. He Chelso inquired what would happen with the Vineyard's scheduled event on May 25, 2015. Acting and Vice Chairman Grimes indicated that could be discussed with the Zoning Enforcement Officer. This matter was tabled.

7) New Business:

- a) Proposed Zone Change #201500322 - 874 Federal Rd: From TCD to Incentive Housing District Overlay Perimeter Sub-zone.

Acting and Vice Chairman Grimes moved to set a Public Hearing regarding Proposed Zone Change #201500322 - 874 Federal Road, from Town Center District to Incentive Housing District Overlay Perimeter Sub-zone, for June 11, 2015, at 7:30 p.m. Commissioner Frankel seconded the motion, and it carried unanimously.

- b) 398 Federal Rd (Barnbeck) #201500342: Site Plan Modification for approval of window and door locations for the barn

R. Posthauer, PE, CCA, 40 Old New Milford Rd., was present. He indicated that the barn will be utilized as a community room. The application relates to windows and doors for this structure. The Commission requested that the windows and doors match the other buildings.

Commissioner Frankel moved to approve BRT/Barnbeck, an application to install windows and doors at 398, 414 Federal Rd., #201500342, the barn that sits on the site, to be used as a clubhouse for residents. Commissioner Samuelson seconded the motion, and it carried unanimously.

- c) 17 Long Meadow Hill Rd #201500366: Solar Array

S. Dalton, 17 Long Meadow, and G. Fitzsimons, Ross Solar Array, were present. Mr. Dalton explained that the solar array will be ground-based, and positioned in one place. He advised that it cannot be put on the roof due to too much shade, and other possible locations are not ideal due to shade and the septic. The plans have been revised to reduce the height to 7' 9" tall, and the distance from the property line is now 10'. Commissioner Frankel inquired if the applicant received a variance for this request. Mr. Dalton advised that he did not because of a zoning regulation provision that allows solar panels 10 feet from the property line. Commissioner Frankel inquired if an A2 survey had been obtained, and Mr. Dalton advised it had not.

ZEO Dew has been to the property. She agreed that there is a provision that allows the Commission discretion in reviewing this application. The proposed panel is 62 feet long. Commissioner Frankel inquired if ZEO Dew checked to see if the neighbor had a survey, and she replied that she had not. She did note that the panel will be visible to the neighbors. There is a fence that is 6' tall, so 1' 9" of the panel will be exposed. Commissioner Frankel inquired what the setback is for the lot, and ZEO Dew indicated it is 50 feet, which would be the center of the lot. ZEO Dew read the Minutes of the ZBA meeting, citing the concerns of the neighbors. Additionally, it was noted that this proposal would have to go before the Historic District Commission. Mr. Fitzsimons explained the reconfigurations done since the ZBA meeting, in an attempt to address the neighbor's concerns.

Commissioner Frankel expressed her concerns regarding the length of the proposed array, and pointed out the listing of a measurement of 70' that the applicant will correct. Mr. Fitzsimons indicated that the size of the array is based on the electrical power needs for the house. He further explained the rationale behind the measurements, the tilting and the proposed location of the array. Mr. Fitzsimons offered to send a surveyor out to stake the location to guarantee that it is ten feet from the property line.

The Commission recommended that this matter be tabled until there is a full Commission, to determine if the neighbors have a survey, and correct the measurements on the diagrams. Acting and Vice Chairman Grimes noted that review of the solar array application is "new territory" for the Commission, and review before a full Commission is preferred.

Acting and Vice Chairman Grimes moved to table 17 Long Meadow Hill Rd., #201500366: Solar Array, until the May 28, 2015 meeting. Commissioner Samuelson seconded the motion, and it carried unanimously.

Commissioner Frankel moved to add to the Agenda, as Item 7.f., under New Business, 57 Laurel Hill Rd. for discussion regarding changing the color of siding. Commissioner Samuelson seconded the motion, and it carried unanimously.

- d) 476 Candlewood Lake Rd (Brookfield Bay Marina) #201500367: Site Plan Modification for repair of a shed room and fixing of water issues.

John Sharkey, 8 Allen Rd., Brookfield, CT, was present. He noted that there are water issues on the site that the property owner attributes to the flat roof. He advised that the business would like to raise the roof to prevent ice dams. Commissioner Frankel advised Mr. Sharkey that if this is a nonconforming use and it does not meet the setbacks, the applicant cannot build up. She further inquired what the setbacks were, and if the applicant was in possession of a survey. ZEO Dew indicated there is a GIS map. Commissioner Frankel and Acting and Vice Chairman Grimes agreed that a survey would be necessary. Commissioner Frankel discussed the recent regulation change related to expansions of nonconformities. She and Acting and Vice Chairman Grimes added that to consider site plan modification, the owner should be present, and a survey should be done. Acting and Vice Chairman Grimes encouraged Mr. Sharkey to make an appointment with Chairman Blessey and Secretary Lollie. He also discussed the procedure for applying for a variance.

Commissioner Frankel moved to table 476 Candlewood Lake Rd., #201500367, until the May 28, 2015 meeting. Commissioner Samuelson seconded the motion, and it carried unanimously.

- e) 57 Laurel Hill Rd. - Discussion to change the color of the siding

Matt Rose, Kenosia Development, Plumtrees Rd., Danbury, was present. He showed colors of the proposed siding. The Commission indicated its dissatisfaction with the proposal for three colors, and requested that Mr. Rose provide a rendering with the preferred single color. There was discussion regarding the favorability of stone and masonry. It was noted that there is no application right now. The Commission requested that if a formal application is completed, it must include a site plan and rendering.

The Commission will discuss this item when there is an application, a full Commission, a site plan and a rendering.

8) Tabled Items:

None.

9) Informal Discussion:

- a) 460 Federal Rd: Discussion of approval for a roofing / sheet metal contracting business

ZEO Dew advised that a sheet metal fabrication would like to move into this site. She noted that the site is in the aquifer protection zone. The Commission agreed the proposed use is more of a manufacturing use.

No motions.

10) Comments of Commissioners:

Acting and Vice Chairman Grimes will speak with the Commissioners regarding the importance of their attendance at the meeting on May 28, 2015.

11)Adjourn:

Commissioner Frankel moved to adjourn the meeting at 8:11 p.m. Commissioner Samuelson seconded the motion, and it carried unanimously.