

Zoning Commission Meeting
MINUTES
7:00 PM Thursday, May 28, 2015
Room 133

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, Secretary F. Lollie, J. Cordisco, E. Kukuk (arrived at 7:01 p.m.), Alternate and Voting Members where indicated J. D'Entremont and M. Frankel

Absent: Chairman R. Blessey, Alternate A. Samuelson

Also Present: For Enforcement, Deputy Zoning Enforcement Officer F. Lollie, Recording Secretary D. Cioffi

- a) Review Minutes of Previous Meetings:
4/9/15; 5/14/15 - Not a sufficient quorum.

Commissioner Kukuk moved to go to Agenda Item 5., Old Business. Commissioner Cordisco seconded the motion, and it carried unanimously.

2) Land Use Enforcement

- a) Enforcement Officer's Report:
Alternate Commissioners D'Entremont and Frankel were Voting Members for Enforcement.

Requests for Voluntary Compliance

594 Federal Rd., #201500385 – Deputy ZEO Lollie advised that the debris has been removed. He spoke with the property owner and the business owner. The business is in the process of vacating the site.

48 Skyline Dr., #201500381 – There is allegedly more than one family living in this house. An RVC was sent on 5/11/2015, requesting compliance by 6/10/2015. There has been no response to the RVC as of this date. Deputy ZEO Lollie has not inspected the site.

12 Falls Dr., #201500365 – An RVC was sent on 5/7/2015, related to a chicken coop constructed, allegedly on an abutting neighbor's property. Per the regulation, read by Deputy ZEO Lollie, the chicken coop is a structure. **Commissioner Frankel moved to issue a Cease and Desist if no action has been taken by the property owner by 6/5/2015. Commissioner Cordisco seconded the motion. Commissioner Kukuk noted the importance of the Commission considering the role of wheels being installed on this and other structures in the future. Acting and Vice Chairman Grimes noted that, as it stands now, the property owner must apply for a variance, or face a Cease and Desist if nothing is done before 6/5/2015. Motion carried unanimously.**

27 Mountainview Dr., #201500331– This violation involves a complaint by a neighbor involving a treehouse. Deputy ZEO has been unable to inspect the site. The property owner was given until 6/1/15 to comply. Commissioner Frankel noted that the Commission must decide how to address issues involving treehouses, especially if they sit near property lines. Commissioner Kukuk suggested that Town Counsel provide an opinion.

20 North Lake Shore Dr., #201500330 – Deputy ZEO Lollie has not been able to inspect this site. The property owners have until 6/1/2015 to comply. The violation relates to an alleged boat on the property. Deputy ZEO Lollie will follow up on this item.

Town Counsel Action

44 Old Middle Rd., #201301041 – ZEO Dew filed a lien on the property. Acting and Vice Chairman Grimes advised that a Freedom of Information request was received regarding this property. He requested that if any Commissioners received any sort of correspondence related to this site, that they forward them to Attorney Beecher. Each Commissioner present advised they had not received anything.

1 High Ridge Rd., #201000315 – Judgement lien filed.

14 Oak Grove Rd., #201300832 – Deputy ZEO Lollie advised that someone is living in the house and it does not appear that the apartment is being rented. There is a single family living there and the property is in remediation until 6/20/2015.

148 North Lake Shore Dr., #20131115. – The Notice of Citation was re-sent on 3/12/2015 by Marshal and received 4/6/2015. Attorney Beecher has advised this matter will be pursued by the Inland Wetlands Commission and the Health Department.

3) Review Correspondence:

- a) Minutes of other Boards and Commissions:
- b) Legal Briefings for Building Inspectors:
No discussion/no motions.

4) Continued Public Hearing:

- a) Proposed Regulation Change #201500050: Section 242-202 and Section 242-501 - Brewery and Brewpub / Restaurants
There is no update on this application. The Commission is awaiting comments from Town Counsel. Secretary Lollie will follow up with ZEO Dew on Monday. Continued to June 11, 2015.
- b) 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 (ph close date 6/17/15 - 65 extension days remaining)

Acting and Vice Chairman Grimes polled Commissioners Kukk, Cordisco and Alternate D'Entremont regarding their familiarity with this site and application. He appointed *Alternate M. Frankel has Voting Alternate*.

Acting and Vice Chairman Grimes reviewed that at the last meeting, the legal notice was read, the application was presented, and public comment was welcomed.

R. Posthauer, PE, CCA, 40 Old New Milford Rd., was present, with W. Fontaine. Mr. Posthauer noted that two previous variances were granted in July 2001 and April 1987. At Commissioner Frankel's request, Mr. Posthauer went over the revised site plan. He noted that water quality measures have been taken care of. He also pointed out the handicapped parking spot on the right, the garbage pick-up area, drainage and discharge, and the landscaping. It was noted that there is a fire hydrant across the street. Mr. Posthauer submitted plans that include proposed fire lanes.

Mr. Fontaine reviewed that the building will be 2,400 square feet and will house a dental office. He went over the details of the interior, and advised that the exterior will be hardy plank siding (no color has been decided yet). Commissioner Frankel discussed the sidewalk requirements, and Mr. Posthauer advised that the applicant would be willing to do this.

Upon inquiry from Commissioner Frankel, Mr. Posthauer indicated that the second set of plans have lighting details. The applicant is unable to install a bus shelter without getting a variance. Secretary Lollie indicated he wanted the sidewalk across the driveway displayed prominently.

Commissioner Frankel requested a copy of the recorded variances. Mr. Posthauer stated that it is his belief that the proposal was reviewed by the Town Attorney. Commissioner Frankel stated that the 2001 variance was denied. She inquired if the proposed building is a different size than that brought forth in 2001, and Mr. Fontaine indicated that it is not as deep, but has the same width. Secretary Lollie read a copy of the variance from the file, with a note attached from Attorney Beecher stating that the variance still applies. The setbacks were discussed, and Mr. Posthauer advised they are: front 76.0, 31.4 on the side, and 56.8 on the other side.

Commissioner Frankel verified with Mr. Posthauer that the egress windows will be flush, on grade. She also requested that the applicant provide finalized colors.

Secretary Lollie moved to continue the Public Hearing for 533 Federal Rd, #201500201: Design Review including Natural Resource Removal of 1,600cu. for the construction of a 2,476 sq. ft. Medical Building and associated parking to June 11, 2015, at 7:30 p.m., in advance of any new public hearings, for the purposes of receiving information with respect to the lighting detail, the color scheme, the sidewalk plan, and for clarification regarding the filing of the variance. Commissioner Cordisco seconded the motion. Commissioner Frankel noted that this is a Public Hearing, and the Commission should be listening to participants. Motion carried unanimously.

5) Old Business:

- a) Medical Marijuana Moratorium - extended until 6/15/15
Commissioner D'Entremont was a Voting Member for this item.
Acting and Vice Chairman Grimes reviewed that the State did not implement regulations when the statute relating to this issue was enacted. The Commission previously put a moratorium in place until that occurs. Commission members were polled, and agreed that the moratorium should stay in effect. This matter will be extended to the June 11, 2015 meeting. It was requested that Town Counsel be consulted regarding whether or not a Public Hearing is necessary.
- b) Proposed Zone Change #201500322: 874 Federal Rd to go from Town Center District to Incentive Housing District Overlay Perimeter Sub-Zone (public hearing scheduled for 6/11/15)

Public hearing scheduled for June 11, 2015.

- c) 17 Long Meadow Hill Rd #201500342: Solar Array
Commissioner Frankel reviewed that the Commission requested a survey from this applicant. Acting and Vice Chairman Grimes indicated that the topic of solar panels is a discussion for the full Commission. Continued to June 11, 2015.
- d) 476 Candlewood Lake Rd (Brookfield Bay Marina) #201500367: Site Plan Modification for repair of a shed roof and fixing of water issues (dec date 7/17/15)
No one present. Continued to June 11, 2015.
- e) 131 Tower Rd #201400996 (DiGrazia Vineyards): Use for the Vineyards

Acting and Vice Chairman Grimes read a letter from Attorney Beecher to Alice Dew, ZEO, dated May 22, 2015.

Attorney Hunt requested that his letter to Attorney Beecher, and Attorney Beecher's letter to ZEO Dew be submitted for the record, as well as any correspondence from any complainant(s). He stated that Attorney Beecher's letter references information not contained in the file.

There was discussion regarding the difficulty in determining the difference between private and public events, and the increase in outdoor activities and music at the vineyard over the years. Dr. DiGrazia advised that the provision of music occurred due to the increase in wineries in the area, in an effort to stay competitive in the market.

There was discussion regarding how the music and noise travels in the area, as well as decibel measurements and landscaping to buffer the noise.

Acting and Vice Chairman Grimes noted that the real issue is what is permitted in the zone. Attorney Hunt pointed out that the music is only meant to be "background music", not the main purpose of the vineyard. He indicated that the property owner may submit a regulation change. He argued that the music is "customarily incidental" to the winery's events.

Commissioner Kukk advised that the current regulation must be reviewed, as well as any information Attorney Hunt submits in support of the accessory use of music at the vineyard. Attorney Hunt advised that the property owner will not play music until that occurs, noting that a Memorial Day event was cancelled.

Mr. Langford added that the winery is not seeking to hold large events that would draw over fifty cars. He discussed prior events held in 2001 involving "wine-stomping" that drew too many people.

Commissioner Frankel emphasized that the interested parties must go back to the 1984 regulation, and seek out the transcripts of that discussion, if necessary, to determine what the intent of the regulation was. Additionally, she noted that the sufficiency of the parking for the vineyard use must be explored, and determine what occurs to the parking situation when music is added. She pointed out that the burden of proof is on Attorney Hunt and his clients to determine if the use is permitted.

Commissioner Cordisco stated he believes that Attorney Beecher's letter is ambiguous in its discussion of outdoor activities. He added that the vineyard is not charging for the music as a formal event, and likened it to throwing a party and having live music. He acknowledged that the noise could be an issue, but there are noise regulations enforceable by the police already in place. Commissioner D'Entremont agreed.

Acting and Vice Chairman Grimes agreed that the intent of the regulation in 1984 must be looked into. He also pointed out the noise element, and Attorney Beecher's discussion of outdoor activities. He acknowledged that Attorney Beecher's letter stated that "the playing of live music at wine-tasting events is customary incidental to the use of the property as a licensed farm winery", as well as, "there is no basis to conclude that live music outdoors is customarily and incidental to the use of the property". Acting and Vice Chairman Grimes stated that the Commission must follow Attorney Beecher's advisement until evidence to the contrary is introduced. Commissioner Frankel suggested that Attorney Hunt provide any information for that argument prior to the next meeting. She pointed out that while it is similar to having a party with live music, it is occurring at a commercial venue, not a residence.

All of the parties agreed that it is difficult to determine the difference between public and private events.

Dr. DiGrazia reiterated that other wineries in the state have music. Acting and Vice Chairman Grimes reminded him that the Brookfield Zoning Regulations must be followed. Attorney Hunt stated that he believes the vineyard did not have to get a zoning permit in 1984 because of the agricultural use.

Acting and Vice Chairman Grimes reiterated that Attorney Beecher's conclusion is based on the information available, and until there is authoritative evidence to the contrary, it is what the Commission must follow. He suggested that Attorney Hunt address the points in Attorney Beecher's letter and send it to the Land Use Office prior to the next meeting.

Mr. Langford inquired if public comment could be submitted, and the Commission advised that it could be done in writing; that the matter is not a public hearing.

No motions.

6) New Business:

- a) 1055 Federal Rd #200501081: Request for 4-year permit extension:

Alternate Commissioner D'Entremont was a Voting Member for this item.

Alternate Commissioner D'Entremont was a Voting Member for this item. R. Posthauer, PE, CCA, 40 Old New Milford Rd., was present. He indicated that the request is to extend the permit. The site was approved ten years ago for several buildings, but nothing has been built yet due to difficulty finding a tenant. The site is approximately twenty-five acres and has wetlands. Four years is the maximum request.

Commissioner D'Entremont moved to approve #200501081, 1055 Federal Rd., for an extension of the zoning approval. Commissioner Cordisco seconded the motion, and it carried unanimously.

- b) 250 Whisconier Rd #201400635: Request for bond release of \$2,625 leaving \$1,875 remaining. Deputy ZEO Lollie advised **he inspected the site and the grass is beginning to germinate.**

Secretary Lollie moved to recommend to the Board of Selectmen the release of \$2,625 of the bond for 250 Whisconier Rd., #201400635, which will leave a balance of \$1,875. Commissioner Kukuk seconded the motion.

- c) 460 Candlewood Lake Rd #201500431: Site Plan Modification for a hskealf batball urt (25' x 44') tcoo replace old full sized court (dec date 7/31/15)
D. DiPinto, Director of Parks & Recreation was present. He reviewed the drawing and site plan, and stated that the court has been modified to 44' X 25'. The court is on lake side, and will not be lit. It will be closed when the park is closed.

Secretary Lollie moved to approve #201500431, Site Plan Modification for a basketball court located at 460 Candlewood Lake Rd. Commissioner Kukuk seconded the motion, and it carried unanimously.

- d) 3 Newman Place #201400856: Request for bond release / reduction:
Deputy ZEO Lollie advised he inspected the site, and recommended full release.

Commissioner D'Entremont moved to recommend to the Board of Selectmen the final bond release of \$5,000, with respect to 3 Newman Place, #201400856. Commissioner Cordisco seconded the motion, and it carried unanimously.

Secretary Lollie moved to go to Informal Discussion. Commissioner Kukuk seconded the motion, and it carried unanimously.

7) Tabled Items:

8) Informal Discussion:

- a) 499 Federal Rd: U-Haul truck rental business - requested by Paul Burrachio and Waldo Parades

P. Burrachio, 499 Federal Rd. , J. Marizino, and W. Parades were present. They wish to open a rental truck business at the site. The location of the building, and the use table were reviewed. There was discussion regarding the size and number of trucks that will be present at the site. The gentlemen were advised to complete a formal application, and list a use compliant with the IRC 80/40 zone.

No motions.

9) Comments of Commissioners:

Commissioner Frankel indicated that she has researched regulations from New Fairfield and Fairfield regarding accessory apartments. She will provide copies to the Commissioners for the next meeting.

She also suggested that A2 surveys be required for site plan and special permit applications.

Lastly, she asked if the Commission would consider a moratorium on additional apartments. Several Commissioners voiced

support for such action. Acting and Vice Chairman Grimes and Commissioner Kukk noted that considerations involving affordable and incentive housing, including State Supreme Court decisions, must be reviewed. Commissioner Frankel will look into possible language for a moratorium.

No motions.

10)Adjourn:

Commissioner Frankel moved to adjourn at 8:30 p.m. Commissioner Cordisco seconded the motion, and it carried unanimously.