

DATE: August 11, 2011
TIME: 7:00 P.M.
PLACE: Large Meeting Room Town Hall
FOR: Regular Meeting
PRESENT: Jonathan Hankin, Chairman; Jack Musgrove
Brandee Nelson, Associate Member
Chris Rembold, Town Planner

Mr. Hankin called the meeting to order at 7:00 P.M. Mr. Hankin elevated Ms. Nelson to a voting member in order to make a quorum.

FORM A's:

There were no Form A's presented.

MINUTES: July 11, 2011

Mr. Musgrove made a motion to approve the minutes as amended, Ms. Nelson seconded, all in favor.

SPECIAL PERMIT/SITE PLAN REVIEW: 5 Comstock Lane

The Planning Board received a special permit and site plan review application for a two-family use on a single lot at 5 Comstock Lane. An apartment is proposed to be added to the garage. The house is located on an inside corner lot.

Mr. Hankin said he drove by the property earlier in the day. He said there are no overcrowding issues. He said the only potential issue could be that this is a single family residential neighborhood. He said there could be an objection at the public hearing to allow a two-family use that should be considered.

Mr. Musgrove said he had no issues.

Ms. Nelson asked Mr. Rembold if he was comfortable with the parking arrangement.

Mr. Rembold said yes. There is no encroachment on anyone's property. He said it is well situated. Mr. Rembold said there will be a new septic system installed and the residence will be connected to the Housatonic Water Company.

The applicants arrived at the meeting.

Mr. Musgrove made a motion to waive the submittal requirements for the site plan review application, Ms. Nelson seconded.

Mr. Musgrove said he didn't see any reason to go through the site plan review requirements.

Mr. Hankin called for a vote on the motion, all in favor.

Mr. Musgrove made a motion to approve site plan review, Ms. Nelson seconded, all in favor.

Mr. Musgrove made a motion to send a favorable recommendation to the Board of Selectmen to allow a two-family residential use on a single lot at 5 Comstock Lane, Ms. Nelson seconded, all in favor.

ZBA: O'BRIEN APPEAL

The Planning Board discussed the appeal of Gary O'Brien Property Services of the Cease and Desist order issued by the Building Inspector for a "landscaper's yard" at 11 Roger Road.

Mr. Rembold said the Building Inspector, Ed May, has determined that the current use is outside the scope of the Agreement for Judgment issued to Leamon Roger, Roger Trucking, Inc. 1996. As the property lies in a residential zone, any commercial activity at the site is a non-conforming use. He mentioned that there have been previous appeals where the Planning Board made recommendation in support of the Building Inspector.

Mr. Hankin said it appears that there has been an expansion of a non-conforming use. He said Roger Trucking is still using the site as allowed by the Agreement, but there is now another business operating on the site.

Mr. Musgrove noted that according to the Table of Use that a landscaper's yard is not an allowed use in a residential zone.

Mr. Hankin said there is clearly an expansion of the use and the use is more intensive.

There were several abutters present. One abutter said he is familiar with the Agreement. He said the Agreement is loosely written. In an attempt to clarify the use the inadequate representation of Town Counsel may need to be addressed.

Mr. Musgrove asked what the abutters notice taking place on Roger Road.

An abutter said there is never a cessation of noise. There are up to four businesses going on simultaneously. The abutter said this is a zoning issue. What is going on is not allowed by the zoning bylaws.

An abutter said they did not understand why there was no enforcement of the first Cease and Desist order. It is unclear why a second order had to be filed.

Mr. Hankin said his understanding of the Agreement was that vehicles could be parked at the site and there could be an office. It was not to be used as a transfer station.

An abutter said the site is being used as a transfer station now. There is machine grinding noise. There is noise like the pouring of cans and bottles from one container to another. There is noise of repair work and moving of vehicles. It is very noisy and annoying.

Mr. Musgrove said it seems that there is clearly a landscaping business being operated and it is not permitted. The uses on the site are clearly an expansion of the trucking business and prohibited by the zoning bylaws.

Ms. Nelson said the memo by Mr. O'Brien's attorney, Edward McCormick, states one thing and the abutters are describing something very different.

Mr. Musgrove said we need to be adamant in our support of the Building Inspector. We should strongly urge the ZBA to uphold the Cease and Desist.

Mr. Hankin said any expansion of use needs to go before the ZBA for a permit.

Mr. Musgrove said it seems clear that the use(s) of the property are new and not grandfathered by the Agreement.

The Board agreed to have Mr. Hankin draft a letter to the ZBA based on the concerns and comments from the meeting.

TOWN PLANNER'S REPORT:

Mr. Rembold had nothing to report.

COMMENTS AND CONCERNS:

There were no comments or concerns.

Mr. Musgrove made a motion to adjourn, Ms. Nelson seconded, all in favor. The meeting was adjourned at 7:53 P.M.

Respectfully submitted,

Kimberly L. Shaw
Planning Board Secretary