

LITCHFIELD PLANNING AND ZONING COMMISSION
Town Hall Annex – 80 Doyle Road, Bantam, CT

Minutes of October 15, 2012

- 1. Chairman, Dr. Susan Lowenthal, called the meeting to order (7:00)**
 - a. Present were Commissioners Curt Barrows, Carol Bramley, Peter Losee, Susan Lowenthal, Dave Pavlick, Sky Post, Tom Waterhouse, and Alternate Commissioners, Ralph White
 - b. Absent: Commissioners: none, Alternates: Erin Kennedy, Ed Doyle
 - c. Also present: Land Use Administrator Dr. Dennis Tobin
 - d. Appointment of alternates: None
 - e. Appointment of Acting Secretary; Mr. White was appointed
 - f. Approval of Minutes of October 1, 2012: Motion to approve by Mr. Post second by Ms. Bramley, affirmative vote unanimous, with the following edits:
 - i. 8a: Add a second sentence, "Attorney Perley Grimes was present representing the Giordanos."
 - ii. 8c: Replace first sentence with, "A lengthy discussion ensued during which several salient facts surfaced, including:"
 - g. Commissioners' Requests
 - i. Lowenthal asked that the Character Committee meet at its earliest convenience.

- 2. Public Comment: (7:07)**
 - a. None

- 3. Public Hearings (7:07)**
 - a. 12 Norfolk Road, Forman School, Special Exception, Site Plan, for new science building. Received 9/18/12. Opened Public Hearing 10-15-12.
 - i. Dr. Lowenthal read the public notice into the record.
 - ii. Attorney Robert D'Andrea was present representing the owner and provided green cards for the file. Also present was Tom Shield, engineer, Michael Stein, architect, Adam Man, headmaster
 - iii. Dr. Tobin has visited the site and discovered several zoning and wetlands violations which have since been remedied.
 - iv. Atty. D'Andrea submitted an October 12 letter from Aquarion certifying its commitment to provide water.
 - v. New site plan was submitted as a result of Inland Wetlands' review.
 - vi. Dr. Lowenthal requested Mr. Stein to provide a plan for chemical use and storage.
 - vii. The Fire Marshal has approved the plan.
 - viii. Inland Wetlands has approved the plan.
 - ix. Mr. Shield, of Malone and McBroom, described the engineering features.
 - x. No members of the public spoke either in favor of, or in opposition to the application.

LITCHFIELD PLANNING AND ZONING COMMISSION
Town Hall Annex – 80 Doyle Road, Bantam, CT

- xi. A motion to approve the application was made by Ms. Bramley, seconded by Mr. Post, affirmative vote unanimous, conditioned upon:
 - 1. the submission of a Connecticut code-compliant plan for containment and storage of hazardous materials, and
 - 2. Litchfield WPCA approval
 - 3. Both above conditions to be met prior to zoning permit being issued.
 - b. 393 Torrington Road, Litchfield Hills Nursery Inc. Special Exception and Site Plan for replacing two hoop greenhouses with one rigid frame greenhouse measuring 75'x100'. Received 8-20-12. Public Hearing opened 10-15-12.
 - i. Dr. Lowenthal read the public notice into the record.
 - ii. John T. Acerbi and John B. Acerbi, owners, were present with green cards.
 - iii. David Wilson, engineer, was present.
 - iv. Zoning Board of Appeals has approved the setback variance
 - v. Motion by Ms. Bramley, second by Mr. Post, to amend the agenda to include a Special Exception (The posted Agenda specified only a Site Plan).
Affirmative vote unanimous.
 - vi. No members of the public spoke either in favor of or in opposition to the application.
 - vii. Motion by to approve the application by Ms. Bramley, second by Mr. Post, affirmative vote unanimous.
- 4. Application Review (8:15)**
- a. 182 East Litchfield Road, Heinrich. Review request for site plan waiver and set Public Hearing 11-19-12 for Special Exception, Bed and Breakfast, Article V, Section 3. Received 10-1-12.
 - b. Attorney Perley Grimes, was present to request a waiver of a site plan.
 - c. Motion to waive site plan by Ms. Bramley, second by Mr. Post, affirmative vote unanimous
- 5. Application Reception (8:25)**
- a. 595 Bantam Road, Strom, receive and set public hearing, 11-19-12, for Special Exception, Personal Service Shop without hazardous materials. Therapeutic Massage, Articles VIII and IX. Received 10-15-12.
 - i. Barry Strom and Rebecca Strom, owners, were present.
 - ii. Ms. Bramley noted that Design Review will need to approve the signage.
- 6. Application Withdrawal (8:31)**
- a. Proposed amendment to zoning regulations. Revision of maximum size for retail buildings (to 12 thousand square feet).
 - b. Dr. Lowenthal read a letter dated October 5, from the applicant, Michelle Crowe on behalf of Plan Litchfield, withdrawing the application, and urging the Commission to address the issues which the applicant raised.

LITCHFIELD PLANNING AND ZONING COMMISSION
Town Hall Annex – 80 Doyle Road, Bantam, CT

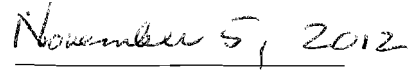
- c. Dr. Lowenthal charged the Character Committee to take up the matter at its next meeting.
- 7. Review of 2013 Scheduled Meeting Dates (8:30)**
- a. Deferred to the next Planning meeting
- 8. Old Business (8:38)** 39 Andre Drive, Northfield, saw mill operation in a residential zone.
- a. Jonathan Zwick, grandson of the owner, and operator of the sawmill, was present. Gary Giordano, engineer, was present representing Mr. Zwick's neighbors, several of whom were present in support of Mr. Giordano. Giordano submitted photos of the Prospect Mountain site disputing several of Mr. Zwick's previous assertions.
 - b. In summary, Mr. Zwick's neighbors feel that the operation of a sawmill on the subject property violates residential zoning because it is effectively a manufacturing operation; it is unsightly, noisy, and out of harmony with the neighborhood. They see an adverse impact on property values, and ask that the Commission issue a Cease and Desist Order. Mr. Zwick believes that his sawmill operation constitutes a legitimate use of the property as a farm and that there is no basis in law to require him to desist. A related issue is whether the saw mill operation can or should be relocated to a property owned by Mr. Zwick on Prospect Mountain Road in Milton. Such relocation would satisfy Mr. Zwick's neighbors, but he is concerned about theft since the property is relatively remote and unoccupied. Moreover the Prospect Mountain property is also zoned residential so the same issues could resurface.
 - c. Mr. Zwick submitted a site plan, the registration for the "saw rig," and a letter posing several questions for the Commission.
 - d. Dr. Lowenthal asked Dr. Tobin to opine on whether a sawmill can be operated in an R80 zone and he declined to do so, citing imprecision in the regulations.
 - e. Ms. Bramley moved, and Mr. Waterhouse seconded, to refer the matter to Attorney Byrne for an opinion on the questions raised in Mr. Zwick's letter and on s enforceability of a Cease and Desist Order, affirmative vote unanimous.
- 9. New Business (9:23)**
- a. None
- 10. Correspondence (9:23)**
- a. Dr. Lowenthal read a letter dated Sept 28, from Atty. Byrne regarding limitations on the legal liability of commissioners
- 11. Executive Session (9:24)**
- a. None
- 12. Adjournment (9:24)**
- a. Motion by Mr. Post, second by Mr. Waterhouse, affirmative vote unanimous

LITCHFIELD PLANNING AND ZONING COMMISSION
Town Hall Annex – 80 Doyle Road, Bantam, CT

Respectfully Submitted,
Ralph White, Acting Secretary
October 15, 2012



Susan W. Pitman Lowenthal, MD
Chairman



Date