

## LITCHFIELD PLANNING AND ZONING COMMISSION

Town Hall Annex – 80 Doyle Road, Bantam, CT

### REGULAR MEETING MINUTES

December 16, 2013 7:00 p.m.

Chairman Thomas Waterhouse called the meeting to order at 7:00 p.m.

**Present:** Commissioners Curtis Barrows, Carol Bramley, Thomas Waterhouse, David Pavlick, and Ed Doyle. Alternate Commissioner Denise Schlesinger and Land Use Administrator Dr. Dennis Tobin.

**Absent:** Commissioners Peter Losee and Susan Lowenthal; Alternate Commissioners William Conti and Ralph White.

**Appointment of Alternates:** Denise Schlesinger appointed for Peter Losee.

Chairman Waterhouse stated an application needed to be added to the agenda as new item #6 with items 6-11 being renumbered accordingly.

C. Bramley moved to accept the Special Exception application of Financial Vision LLC, 10 South Street, North Unit for change of use from retail to business and professional offices. C. Barrows seconded the motion. Vote: Barrows – yes; Pavlick – yes; Bramley – yes; Schlesinger – yes; Doyle – yes; Waterhouse – yes. Required 2/3 majority met.

#### Approval of Minutes of December 2, 2013

Add to **Election of Officers** to middle of line 3, “Dr. Lowenthal asked if there were any other nominations. With none offered, C. Barrows requested the nominations be closed.” C. Barrows moved the minutes be accepted as modified, E. Doyle seconded and the motion carried unanimously.

**Public Comment:** None

**Commissioners’ requests:** None

#### Regular Meeting

**8-24 Application** – Exchange 1970 sq.ft. (0,05 acres) on Beecher Lane with Kenneth M. Sena and Joseph Mazzaferro, 63 Beecher Lane.

Kenneth Hrica, engineer, was present representing the Town of Litchfield. He stated Messrs. Sena and Mazzaferro own 63 and 66 Beecher Lane, the properties located at the end of Beecher Lane. The town plows the street but has a limited turn around area in the winter. Plow headlights create a lack of privacy for the house and the owners are in favor of the exchange of property to provide the plows an adequate area to turn around. In addition, the town will receive a drainage easement for piping that already exists but will now be extended 80-100 feet with an 18” pipe, easterly across the southerly edge of 63 Beecher Lane to provide drainage for the street which slopes downhill to the property. The drainage will now flow to a wooded rear portion of the property and not impact the adjacent property owner on the Torrington Road. Wetlands approval has been granted.

Commissioner Lowenthal arrived at 7:22 p.m. and assumed her seat.

Motion for a favorable report to the 8-24 was made by C. Barrows, seconded D. Pavlick and unanimously carried.

#### Financial Vision, LLC,

#### 10 South Street North Unit

12/16/13

Special Exception change of use from retail to business and professional office.

Gillian O’Mara was present representing the tenant, David M. Parent. The business was located in the south unit at 10 South Street and they plan to move into the space recently vacated by Flora and Fauna. Ms. O’Mara was informed the change of use would require a public hearing. Certified letters will need to be sent to property owners within 150 feet of the space and the green cards presented at the public hearing. It was noted a floor plan of the space should be presented, parking for employees addressed and signage or any changes to the exterior of the building would need to be submitted to the HDC.

C. Barrows moved to set the public hearing for the 21<sup>st</sup> of January, seconded by C. Bramley and unanimously carried.

#### Hunter’s Chase of Connecticut, LLC – Hunter Drive

Mike Massamino and attorney Peter Herbst were present to request: a change in the cash bond to a letter of credit; commission approval of the release of the existing cash bond; and the approval of the letter of credit. Atty. Herbst

explained the Town of Litchfield is holding a cash bond in the amount of \$440,000. As a result of the 12/19/11 Litchfield Superior Court Stipulated Judgment in the matter of Springfield Development, Inc. vs. Planning and Zoning Commission of the Town of Litchfield, the court ordered that the bond for Hunter's Chase at Litchfield be in the amount of \$440,000 and may be in the form of a letter of credit subject to review and acceptance by the Commission's legal counsel. Atty. Herbst stated Atty. Byrne's approved language for the letter of credit had been received and submitted to Rockville Savings Bank, who will be providing the letter of credit to the town. Dr. Tobin requested a review fee for Atty. Byrne of \$2,000 and a check in that amount has been received by the land use office. There was discussion between the applicant and the commission as to whether the letter of credit would protect the town from unfinished work on the project. It was noted the statutes now permit letters of credit and to comply with the stipulated judgment, the commission must exchange the cash bond for the letter of credit. Dr. Tobin noted there were three motions that needed to be made with regard to the release of cash bond for the letter of credit as follows:

1. C. Barrows moved to request fee of \$2,000 from Hunter's Chase, LLC for the Commission's attorney to review and approve the letter of credit. D. Pavlick seconded the motion which was unanimously carried.
  2. D. Pavlick moved to accept a letter of credit in the amount of \$440,000 in lieu of the cash bond contingent upon an affirmative review by Commission attorney Steven Byrne. C. Barrows seconded. Vote: Pavlick – yes; Barrows – yes; Waterhouse – yes; Bramley – yes; Lowenthal – yes; Schlesinger – yes; Doyle – yes. The motion carried unanimously.
  3. D. Pavlick moved that subsequent to notification of Atty. Byrne after a positive review and approval of the letter of credit, that the cash bond be released to Harlow, Adams & Friedman, P.C. for Hunter's Chase, LLC site improvement bond by the Town of Litchfield. C. Barrows seconded the motion. Vote: Pavlick – yes; Barrows – yes; Waterhouse – yes; Bramley – yes; Lowenthal – yes; Schlesinger – yes; Doyle – yes. The motion carried unanimously.
- T. Waterhouse and C. Barrows commented to Mr. Massamino with regard to the poor condition of the roads within Hunter's Chase and voiced concern the conditions would be adequately addressed, particularly with regard to accessibility for the town's emergency vehicles. Mr. Massamino stated they were working to complete additional units and top coating the road wasn't practical until the construction was complete.

Dr. Lowenthal left the room at 8:20 p.m.

#### **Revision of Organizational Bylaws**

The revisions to the commission's Bylaws submitted by Atty. Byrne were reviewed. C. Bramley moved to adopt the amended Bylaws as revised by Atty. Byrne dated December 16, 2013. C. Barrows seconded the motion which was unanimously carried by the six commissioners present.

**Old Business:** None

Dr. Lowenthal returned to assume her seat at 8:35

**New Business:** None

#### **Possible Executive Session – pending litigation**

Motion to go into executive session at 8:43 p.m. by S. Lowenthal, seconded C. Barrows and unanimously carried.

Present, all commissioners and Dr. Tobin.

Motion to come out of executive session at 8:44 p.m. by C. Bramley, seconded C. Barrows and unanimously carried with no action taken.

**Correspondence:** Chairman Waterhouse read a memo from Atty. Byrne regarding a recent court case that ruled that by statute only a Zoning Board of Appeals can waive a zoning regulation by special permit even if the regulations include discretionary varying of elements of the special permit. Atty. Byrne suggested the commission look at its regulations to be sure there are no areas where the language exists.

**Adjournment:** Motion to adjourn at 8:46 p.m. by S. Lowenthal, seconded C. Barrows and unanimously carried.

Thomas Waterhouse

Date:

Chairman

DRAFT