

**TOWN OF SOMERS
ZONING COMMISSION
P.O. BOX 308
SOMERS, CONNECTICUT 06071**

**ZONING MINUTES
REGULAR MEETING
October 2, 2006
7:00 p.m. Town Hall**

I. CALL TO ORDER

Chairman Rob Martin called the regular meeting to order at 7:05 p.m. Members Anita Calder, Jill Conklin, Rob Martin, Lise Wood, and Alternate Member Terry Kuzman (seated for Wes Smith) were present and constituted a quorum. Town Planner Patrice Carson was also present.

II. INTERVIEW DESIGN REVIEW BOARD CANDIDATES

Anita Calder introduced Neal Connell. Both Mrs. Calder and Mr. Connell are members of the Historical Society and the Society recommends Mr. Connell as a candidate for the Design Review Board. Mr. Connell has a background in art and history and is interested in New England architecture. He is experienced in restoring antique furniture. The Commissioners explained the intent and purpose of the Design Review Board and Mr. Connell expressed interest in being a member.

It was the consensus of the Commission that Neal Connell would be a welcome addition to the Design Review Board and his name will be recommended to the Board of Selectman as a potential member.

A motion was made by Jill Conklin, seconded by Lise Wood and unanimously voted to address Item a, New Business, out of order.

V. NEW BUSINESS

a. Conference With Town Attorney Regarding Various Pending Matters

Attorney Carl Landolina referred to the Superior Court decision regarding the 3 different site plan applications presented by Worthington Pond Farms. One of the applications was for a tent, another was for a covered walkway from the tent to the shed, and the third was for a covered dock. Mr. Roulier was not satisfied with the Zoning Commission's decisions regarding his applications and took legal action against the town.

Attorney Landolina explained the court cases. When arguing before the Court in favor of the Town, he and Attorney Hal Cummings referred to a Supreme Court Case stating that when a certain use that is governed under a special permit has a site plan component (providing that the applicant seeks to modify the site plan), the Commission has the right to review the application for a site plan as part of the special

permit criteria. Site plan applications are governed by a set of rules that work administratively. Therefore, if an application requires only a site plan review, the Commission must measure the application against certain standards in the regulations to determine if the applicant meets them or does not. If all the criteria are met, then the Commission has no choice but to approve the application.

Special permits are different, however, because the Commission is allowed a certain amount of discretion when considering special permit applications. In the Worthington Pond Farms case the Zoning Commission had the right to consider the use, which is not a site plan criteria, but is a special permit criteria. It was argued that the Zoning Commission had the right to treat this as a special permit because the applicant was coming in for a site plan modification. Given this right, the Commission was able to consider the use when making a decision. The court agreed with this argument and ruled that the Commission had acted properly.

Lise Wood noted that Zoning Regulation 214-105 states that once a special use permit is granted then the applicant only has 2 years to complete what the special use permit is granted for. In the case of Worthington Pond Farms, the special use permit was granted in 2000 and construction was not completed within 2 years. The applicant did not come before the Zoning Commission for a modification until 2004, at which time the work was still incomplete.

She also explained that she sits on the Conservation Commission and in 2005 the applicant put before that Commission an application proposing the installation of a septic system and a grease trap to be used for a kitchen, office and a warming house. At that meeting, she questioned why the applicant had not come before the Zoning Commission for a permit prior to going before Conservation Commission.

Attorney Landolina stated that he did not think that the Zoning Regulations prevent the installation of a septic system without such approval.

Mrs. Wood noted that at the special use permit public hearing the applicant stated that there would be no cooking on the site. Attorney Landolina stated that ultimately the permit would have to be read in order to determine what is allowed on the site. He added that there is no mention as to whether or not cooking would take place on the site on the permit.

Attorney Landolina noted that if the Commissioners wish to discuss whether or not enforcement action is to be appropriate against the Worthington Pond Farms, then the Commission should go into Executive Session to discuss legal strategy. Discussion followed and at 7:30 p.m., a motion was made by Lise Wood, seconded by Jill Conklin and unanimously voted to go into Executive Session to discuss legal strategies about enforcement on the Worthington Pond Farms property. Mrs. Carson and Attorney Landolina were invited into the Executive Session.

At 8:25 p.m. a motion was made by Jill Conklin, seconded by Anita Calder and unanimously voted to exit Executive Session. No votes were taken in the Executive Session.

III. MINUTES APPROVAL

A change was made to the Correspondence and Bills section of the September 18, 2006 minutes to add that “Numerous correspondence was received from Henry Broer regarding Grower Direct not working within their hours of operation under the special use permit.”.

A change was also made under Old Business, Other. “August” was changed to “July” and to strike the wording: “specifically the use of alcohol and the three site plan applications that the Zoning Commission has approved.”.

A change was also made to the third paragraph in the same section to strike the wording: “are no kitchen facilities.” The wording “would be no cooking.” Was added in place thereof.

A change was made to the last paragraph in the same section to add that “The Zoning Commission directed that the Zoning Enforcement Officer inspect Worthington Pond Farms and report back to the Commission regarding her findings on the chapel, the kitchen and the gravel operation.”.

A motion was made by Anita Calder, seconded by Terry Kuzman and unanimously voted to approve the September 18, 2006 Zoning minutes as corrected.

IV. OLD BUSINESS

a. Other - There was no other Old Business.

V. NEW BUSINESS

b. Application for Modification of Special Use Permit Application for Gravel Bank, 164 Hampden Road, Grower Direct Farms

Lise Wood recused herself at this time.

The applicant was not present and has not yet submitted an application so this item was deferred.

Lise Wood returned to the meeting at this time.

c. Other - No Other New Business was presented.

VI. DISCUSSION: PLAN OF CONSERVATION AND DEVELOPMENT

Mrs. Carson reported that meetings will probably resume in November or December, but nothing has been scheduled at this time.

VII. STAFF/COMMISSIONER REPORTS

Mrs. Carson presented the Report of Joy O’Connor, the Zoning Enforcement Officer, and the Commissioners reviewed it, noting that they liked the format.

VIII. CORRESPONDENCE AND BILLS

No bills were presented. Correspondence was received about trucks going in and out of Grower Direct Farms at off hours. These have been given to the Zoning Enforcement for review.

The Commissioners have been forwarded an email received from Mr. Kenneth Prior requesting that he be put on the agenda.

IX. ADJOURNMENT

A motion was made by Jill Conklin, seconded by Anita Calder and unanimously voted to adjourn the October 2, 2006 Zoning meeting at 8:40 p.m.

Respectfully submitted,

A.P. Calder, Secretary

Robin Timmons, Recording Secretary

MINUTES ARE NOT OFFICIAL UNTIL APPROVAL AT A SUBSEQUENT MEETING.