

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

**ZONING MINUTES  
REGULAR MEETING  
JUNE 18, 2007 - 7:00 p.m.  
TOWN HALL**

**I. PUBLIC HEARINGS**

Vice Chairman Jill Conklin opened the public hearing to order at 7:02 p.m.

**a. Continuation: Special Use Permit Application for Gravel Bank, Stafford/Root/Wood Roads, Wood Gravel Operation, LLC**

Mrs. Carson noted that we have now received comments from Merv Strauss and a recommendation of approval from the Planning Commission subject to terracing of the slopes, freshening the hay bales and checking the stone check dams. The bond of \$73,056.00 was acceptable to the Town Engineer.

Bruce Wood presented plans and noted that there is currently not an erosion problem so he doesn't want to disturb the hay bales already in place, but he will add to them to refresh them.

There were no comments from the audience and a motion was made by Dan Fraro, seconded by Ray Hafford and unanimously voted to close the public hearing at 7:06 p.m.

**b. Continuation: Special Use Permit Application for Gravel Bank, 164 Hampden Road, Grower Direct Farms**

Environmental Engineer Mike Mocko gave a site overview for the applicant. The changes to the plan included the addition of more existing topography which help analyze slope conditions. One requirement that Merv Strauss had in his letter was that there was not enough clearing to accomplish temporary and permanent slopes so they have increased the tree clearing line enough to make a 3 to 1 slope. A safety fence is proposed parallel with the tree clearing. Mr. Strauss has approved these changes in his most recent letter.

Geotechnical engineer, Clarence Welti, has visited the site as requested by The Town Engineer and Mr. Strauss has checked that his recommendations are included on and conform with the current plans.

The Town Engineer has also recommended that Mr. Mocko periodically view site work for continual compliance with the plan.

The Planning Commission recommended that the Zoning Commission not approve the application until

Merv Strauss's recommendations are met. Mrs. Carson stated that the applicant has complied with all recommendations.

No audience comments were given in favor of the application.

**Patricia Broer, 74 Hampden Road**, spoke against the applicant and read a letter she had written which was submitted for the record. She noted several violations of the applicant, including the 6:30 a.m. work starting time of Holden Trucking Company, pollution of Thrasher Brook which runs on their property and into adjacent neighbors' ponds, the ignoring of a Cease and Desist order made by the Town, and a notice sent from the DEP listing 9 violations.

**John Clark, 104 Hampden Road**, explained that a large portion of his land abuts the applicant's land. He has 1-½ ponds on his land (½ of one pond belongs to Mr. Bealey). The second pond is upstream from the first pond and was designed to catch any runoff from the sandpit area and it has been steadily filling with silt through the years. The runoff from the sand pit area went off his property and into other ponds. Grower Direct then expanded and filled in a pond on their property. They then built another pond of equal size and diverted the runoff upstream from his property. But now they have started digging again and the runoff is all coming into his pond area and filling it in. His pond is turning into a swamp. Mr. Clark stated the convoys of trucks are a danger and a nuisance.

**Henry Broer, 74 Hampden Road**, asked about blasting going on in the past. He stated that they felt blasting in the ground at his home and called Mr. Pinney's Office, reached the secretary who called the fire marshall who told her that the blasting was not in Somers but was in Massachusetts because there was no permit given for blasting. This leads Mr. Broer to believe that Mr. Van Wingerden is blasting without a permit.

He questioned the Minutes of the June 4, 2007 meeting, noting that there are two rather large paragraphs devoted to what Mr. Van Wingerden said and very little about his comments. He had presented photos of the Bealey pond adjacent to Mr. Clark's pond, submitted copies of the State DEP notice that listed 9 Grower Direct violations that, if not corrected, were subject to a fine of \$25,000.00 a day. But this was not mentioned in the minutes. He thinks the minutes left out a lot of what happened at the meeting.

The very next night the Conservation Commission met and Mr. Bealey again presented photos dated at the end of May and once again the pond has been adversely impacted by Grower Direct Farms. Mr. Askew is quoted in the minutes as saying that as the Town's Enforcement Officer he has been through 2 years of this type of activity on the part of Grower Direct. Mr. Bealey has numerous photos of his silted pond and as the Enforcement Officer Mr. Askew believes the Town's enforcement actions have not adequately protected Mr. Bealey's pond. Mr. Broer adds to this that the Town has not protected Thrasher brook or his wetlands.

Mr. Broer read from a Journal Inquirer article that he feels covers everything well. He felt that the best part of the article was that one truck goes by like a limo and another goes by like a tank. In addition, Mr. Van Wingerden is quoted as saying that 30 or 40 trucks go in and 30 or 40 trucks come out of his pit. Mr. Broer noted that this number of trucks is a nuisance and reduces property values. He stated that Mr. Van

Wingerden has said in the past that he is not doing anything differently from Mr. Woods operation, but this is not true.

Mr. Broer noted that he has asked for relief in the past and the one-hour lag in starting time did not seem to help. He also noted that the article states that the Zoning Board is fair and evenhanded and they don't want another spectacle like February. Mr. Broer asked what Mr. Van Wingerden means by this and suggested that he is threatening the Town. He also added that unlike other Somers gravel banks, Mr. Van Wingerden is not reshaping his land primarily to sell sand and topsoil, but to sell flowers. He added that the Beautification Committee benefits from it and every one is happy, but Mr. Van Wingerden is not giving the gravel away.

So he believes that what he has been saying for the last 18 months is true and they had 5 people appear last spring, including Mr. Stedding, who has now "given up the ghost" and moved out of Town. Mr. Van Wingerden always does things after the fact and he asked that the Commission give them some relief.

Mr. Mocko stated that environmental requirements of the DEP have been complied with and they are continuously in contact with the DEP and David Askew. With regard to traffic, there are many trucks sharing the same access road onto Hampden Road and some of them are going to other gravel banks. There is much commerce that goes along Hampden Road to provide access to Wilbraham and Hampden, Massachusetts and the truck traffic is a combination of many sources of trucks. He also noted that the operator at Grower Direct is Herbert Holden, who typically operates for a month or two and then shuts down for a few months. They do not operate continuously.

He added that he met with the foreman of the blaster, Maine Drilling and Blasting, who stated that he did get the proper permits and there was only one day of blasting. There is blasting going on over the state line in Hampden.

Regarding Mr. Clark's pond, he was unaware that there was a sediment problem but would like to visit the site with him to see if there is a situation needing correction. He asked Mr. Clark to discuss this with him. Mr. Broer offered that Mrs. Clark appeared before this Commission in the spring of 2006, sharing the same information. Mr. Mocko noted there are silting problems from the washout of the October 2005 storm and there are plans to remedy this through the State.

Mr. Clark explained that Thrasher Stream has a small tributary coming directly from the greenhouse into the stream onto his property. He's seen that loaded with something that is a milky color and wonders if it is toxic.

Mr. Mocko explained that this is a non-toxic, EPA approved material that a contractor used to paint the top of the greenhouses with. A rainstorm washed it off before it hardened and it went into the stream. Because of this incident, Grower Direct no longer uses that product.

Mrs. Carson asked if the applicant plans to do any more blasting. Mr. Mocko stated Mr. VanWingerden will have to blast to get the sloping to meet safety requirements.

Mrs. Carson added that the Conservation Commission is very involved with wetland issues on this site and David Askew and the DEP are working closely with Mr. Mocko and Mr. Van Wingerden.

Dan Fraro, a member of the Conservation Commission, noted that there are issues with that Commission in the process of being corrected. Mr. Broer stated that the corrections are taking place after the fact and that is what Mr. Askew spoke about at the last meeting.

Mr. Mocko described the outstanding issue, noting that the applicant feels he can grow mums on a field that cows used to pasture on for many years, but the issue with Conservation Commission is whether the wetlands should be mapped and whether he should have a permit to change the area from pasture to growing of mums. At this point in time they are complying with the Commission's request to map and they will conform to a permit if one is deemed necessary. But this is not an issue for the gravel permit; it's in a completely different area.

Regarding the sediment erosion controls in the gravel bank, the worst part of construction is over and now they have a large area to contain runoff water which used to be a large sloping area. The growing beds need to flood with water approximately 4 to 6 inches deep and the detention basin has to flood from 4 to 6 inches deep before water from a thunderstorm can leave the site. They have had several 2-inch rains in a 24-hour period and they have had no runoff from the gravel area. This situation will continue to improve.

In the future the slopes on the gravel area will be loamed and seeded, decreasing runoff and the growing beds will act as a flood area and absorb water into the soil.

Mr. Broer asked why Mr. Bealey had fresh photos at the end of May showing runoff on his pond. Mr. Mocko noted that in late April they had 4 to 6 inches of rain in a 24-hour period and a blowout of dyke holding in a detention and infiltration area causing the silt release.

Mr. Broer added that there have been issues continuously with the Wetlands Commission. He addressed the DEP letter and stated that the applicant complied with them only because of the large fine. He added that 30 to 40 trucks at a time is a horrendous number. He knows where the trucks are going because he has followed them.

John Clark asked if the Wetlands issues will be resolved before this application is voted upon. Mrs. Carson responded that the Zoning Commission has no authority over the wetlands issues.

Mrs. Carson reported that she has reviewed the regulations and there is nothing in them about limiting the number of trucks operating on the site.

Mr. Broer added that the gravel used to build Cabella's in East Hartford has come from Grower Direct Farms.

A motion was made by Dan Fraro, seconded by Ray Hafford and unanimously voted to close the public hearing at 7:50 p.m.

## **II. CALL TO ORDER**

Vice Chairman Jill Conklin called the regular meeting to order at 7:51 p.m. Members Jill Conklin, Ray Hafford and Alternate Member Dan Fraro (seated for Robert Martin) were present and constituted a quorum. Town Planner Patrice Carson was also present.

## **III. INTERVIEW DESIGN REVIEW BOARD CANDIDATES** – There were none.

## **IV. MINUTES APPROVAL** – This item was deferred.

A motion was made by Dan Fraro, seconded by Ray Hafford and unanimously voted to take Item d., Old Business out of order.

## **V. OLD BUSINESS**

### **d. Discussion/Possible Decision: Site Plan Application for Somers Crossing Phase II, 87 South Road, Somers Crossing, LLC**

The Planning Commission voted to recommend approval based upon this being an appropriate business in the Business Zone, and they needed to get storm system information to the Commission.

Chuck Bomley and Chet Ladd were available to answer any questions. The Town Engineer has received the photometric plans and storm drainage information meeting the 80% suspended solid requirements.

A portion of the driveway has been deleted and replaced by a landscaped area and sidewalk connecting to Phase I as recommended by staff. There are no other major changes. The landscaping and lighting is carried through from the first Phase.

A motion was made by Dan Fraro, seconded by Ray Hafford and unanimously voted to approve Somers Crossing, LLC's site plan application for Somers Crossing Phase II at 87 South Road.

### **a. Discussion/Possible Decision: Special Use Permit Application for Gravel Bank, South Road, Pleasant View Farms Realty**

The Planning Commission recommended not approving this application until the applicant has met the requirements of the Town Engineer. Mrs. Carson reviewed the site today at Mr. Strauss's request and Merv's comments have been addressed regarding the regarding of some steeper slopes. He is almost complete. Jeff Lipton stated at the Planning meeting that this will be his last year. The bond amount is \$39,000.00.

A motion was made by Dan Fraro, seconded by Ray Hafford and unanimously voted to approve Pleasant View Farms Realty's Special Use Permit application for a Gravel Bank on South Road with a bond of \$39,000.00. This permit will be valid from July 1, 2007 through June 30, 2008.

**b. Discussion/Possible Decision: Special Use Permit Application for Gravel Bank, Stafford/Root/Wood Roads, Wood Gravel Operation, LLC**

- The Planning Commission recommended approval of this application subject to terracing the slopes, placing fresh hay bales for erosion control, and making sure the stone check dams are working properly. The bond is \$73,056.00. He has begun working on these things.

A motion was made by Ray Hafford, seconded by Dan Fraro and unanimously voted to approve Wood Gravel Operation, LLC's Special Use Permit application for a Gravel Bank on Stafford/Root/Wood Roads with the condition that the applicant satisfy the Town Engineer's concerns regarding the terracing of the slopes, placing of fresh hay bales for erosion control, and making sure the stone check dams are working properly, and with a bond of \$73,056.00. This permit will be valid from July 1, 2007 through June 30, 2008.

Patrice Carson suggested that the Commission discuss having the Zoning Enforcement Officer visit each of the gravel banks every 3 or 4 months to see how they are doing.

**c. Discussion/Possible Decision: Special Use Permit Application for Gravel Bank, 164 Hampden Road, Grower Direct Farms**

- A motion was made by Dan Fraro and seconded by Ray Hafford to approve Grower Direct Farms' Special Use Permit application for a Gravel Bank at 164 Hampden Road.

Discussion followed and Mr. Fraro explained what has been going on between the Conservation Commission and the applicant regarding wetland issues.

After a brief discussion, Mr. Fraro amended the motion to include the following conditions: 1) Environmental Consultant Mike Mocko is to provide quarterly reports to the Zoning Commission; 2) the bond is to be \$50,000.00; 3) any blasting on site will require a blasting permit; 4) if the hours of operation are violated or if the zoning permit is violated, then the Zoning Enforcement Officer will take appropriate enforcement action. This permit will be valid from July 1, 2007 through June 30, 2008. This amended motion was seconded by Ray Hafford and unanimously approved.

- **e. Other** – There was no other Old Business.

**VI. NEW BUSINESS**

**a. Other** – There was no New Business.

**VII. DISCUSSION: PLAN OF CONSERVATION AND DEVELOPMENT**

- **a. Discussion: New Zoning Regulations for Somersville Center**

- After the Commissioner's went through the proposed changes as drafted, a motion was made by Ray

Hafford, seconded by Dan Fraro and unanimously voted to accept the draft of the new Zoning Regulations for Somersville Center and refer them to the Town Attorney, the Planning Commission and CRCOG for review.

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**VIII. STAFF/COMMISSIONER REPORTS**

Mrs. Carson reported on items discussed at the last meeting. She noted that portable garages are considered to be temporary structures under the building code. The Zoning Enforcement Officer intends to discuss this with the new Building Inspector for potential permitting and enforcement.

With regard to free-standing outdoor, wood-burning furnaces, Mrs. Carson reported that various towns have banned them and it was the consensus of the Commission to ask the Zoning Enforcement Officer to look into this further.

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**IX. CORRESPONDENCE AND BILLS**

Dan Fraro has received a Certificate of Completion for the Zoning Classes he took. No bills were presented.

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**X. ADJOURNMENT**

A motion was made by Ray Hafford, seconded by Dan Fraro and unanimously voted to adjourn the June 18, 2007 Zoning Commission meeting at 8:45 p.m.

Respectfully submitted,

Wesley Smith, Secretary  
Secretary

Robin Timmons, Recording

***MINUTES ARE NOT OFFICIAL UNTIL APPROVAL AT A SUBSEQUENT MEETING.***