

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

**ZONING MINUTES  
REGULAR MEETING  
JULY 14, 2008 - 7:00 p.m.  
TOWN HALL**

**a. Executive Session: Pending Claims & Litigation, Smyth vs. Zoning Commission**

Vice-Chairman Jill Conklin called the meeting to order at 7:00 pm. Members Jill Conklin, Wes Smith and alternate Dan Fraro (seated for Rob Martin) were present and constituted a quorum. Town Planner Patrice Carson and Town Attorney Carl Landolina were also present.

*A motion was made by Wes Smith, seconded by Dan Fraro and unanimously voted to convene an executive session to discuss pending claims and litigation in the Smyth vs. Zoning Commission suit. Ms. Carson and Atty. Landolina were invited to attend.*

The Commission came out of executive session at 7:44 pm and no votes were taken.

**I. PUBLIC HEARING**

Vice-Chairman Jill Conklin called the public hearing to order at 7:45 pm. The legal notice was read.

**a. Renewal Of Special Use Permit Application For Office Trailer, 367 Hall Hill Road (High Ridge Estates Subdivision), Leaska Construction Co.**

Applicant Mike Leaska explained that this is an on-going project at the High Ridge subdivision and they would like the office trailer to remain for another year. The Planning Commission recommended approval of the application at their June 26, 2008 meeting. There was no one who spoke for or against the application.

*A motion was made by Wes Smith; seconded by Dan Fraro and unanimously voted to close the Public Hearing for Leaska Construction Co.'s renewal of a Special Use Permit application for an office trailer at 367 Hall Hill Road (High Ridge Estates Subdivision) at 7:48 pm.*

**b. Special Use Permit Application For Gravel Bank, South & Egypt Roads, Charter**

Vice-Chairman Jill Conklin opened this portion of the Public Hearing at 7:48 pm and the legal notice was read.

Applicant Peter Charter explained that Mr. Strauss had concerns regarding filtration and erosion control.

These problems have since been repaired to Town Engineer, Bob Cafarelli's satisfaction.

The bond requirement is in two parts: \$15,600 for location 2 off of Route 83 and \$14,400 for the pit near Egypt Road, totaling \$30,000. At their meeting of June 26, 2008, the Planning Commission recommended approval of the application if the Town Engineer's concerns were addressed. There was no one who spoke for or against the application.

*A motion was made by Dan Fraro; seconded by Wes Smith and unanimously voted to close the Public Hearing for Charter's Special Use Permit application for a gravel bank at South & Egypt Roads at 7:53 pm.*

**c. Special Use Permit Application For Gravel Bank, South Road, Bordeaux Farm**

Vice-Chairman Jill Conklin opened this portion of the Public Hearing at 7:53 pm and the legal notice was read.

Applicant Cliff Bordeaux presented a map and gave some history of the project and explained the work that is currently taking place. Mr. Strauss had expressed no concerns with the project and recommended a bond will of \$25,125. The Planning Commission recommended approval of the application at their June 26, 2008 meeting. No one spoke for or against the application.

*A motion was made by Wes Smith; seconded by Dan Fraro and unanimously voted to close the Public Hearing for Bordeaux Farm's Special Use Permit application for a gravel bank at South Road at 7:57 pm.*

**d. Special Use Permit Application For Gravel Bank, South Road, Pleasant View Farms Realty**

Vice-Chairman Jill Conklin opened this portion of the Public Hearing at 7:57 pm and the legal notice was read.

Louis Lipton presented a map and explained the extent of the work in the pit. He said they expect the project to be completed before the winter.

Mr. Strauss had concerns regarding the sight line on Route 83, which Mr. Lipton believes has already been cleared. The bond would be \$39,000 and the Planning Commission recommended approval of the application at their meeting on June 26, 2008. No one spoke for or against the application.

*A motion was made by Dan Fraro; seconded by Wes Smith and unanimously voted to close the Public Hearing for Pleasant View Farms Realty's Special Use Permit application for a gravel bank at South Road at 8:00 pm.*

**e. Special Use Permit Application For Gravel Bank, Stafford/Root/Wood Roads, Wood Gravel Operation Llc**

Vice-Chairman Jill Conklin opened this portion of the Public Hearing at 8:00 pm and the legal notice was

read.

Jay Ussery of J.R. Russo presented a map and explained the progression of the work. Mr. Strauss had expressed concern regarding a steep vertical face. Mr. Ussery explained that the pits are also inspected by a federal agency and they do not have issues with the steep slope, as this is the nature of the business. However, Mr. Wood stated that they would reduce the incline so the faces are not so steep for extended periods of time.

At their meeting of June 26, 2008, the Planning Commission recommended approval based on Mr. Strauss' concerns being addressed and requirement of a \$51,348 bond. No one spoke for or against the application.

*A motion was made by Dan Fraro; seconded by Wes Smith and unanimously voted to close the Public Hearing for Wood Gravel Operation LLC's Special Use Permit application for a gravel bank at Stafford/Root/Wood Roads at 8:08 pm.*

**f. Special Use Permit Application For Gravel Bank, 164 Hampden Road, Grower Direct Farms**

Vice-Chairman Jill Conklin opened this portion of the Public Hearing at 8:08 pm and the legal notice was read.

Mike Mocko represented Grower Direct Farms as Mr. Van Wingerden could not attend. He said that although the plan has not changed from last year it has been revised to indicate completed work as of the date of the plan and the application. Work completed included: relocation of an access road to the Wood's gravel bank and relocation of a future farm road. The purpose of excavating the gravel is to create a level plain for outdoor growing. A construction safety fence was installed last year as requested to protect trespassers from the steep workfaces.

Mr. Mocko proposed that last year's bond amount of \$50,000 should be sufficient since half of the slope restoration has taken place and the fence was installed. However, Mr. Strauss recommended the bond to be \$54,000 and Mr. Mocko did not think this would be a problem.

Mr. Strauss had expressed concern regarding protection of a storm water drainage system that needed immediate repair. Mr. Mocko explained where and how damage had occurred and how natural vegetation growth in the swale has resolved the problem.

The floor was opened for public comment for or against the application.

**Henry Broer, 74 Hampden Road** – spoke against the application. He has lived at this address for 40 years and objects to the volume of truck traffic and noise that has been generated for the last 4 years in his neighborhood by this project. He pointed out that the work had begun illegally without the proper permits and that Grower Direct was not penalized for this when they applied for a permit. Mr. Broer said that Mr. Van Wingerden had stated on the record 3 years ago that they expected the gravel removal would be

completed in 1 to 1½ years and now says that the operation is expected to continue for another 3 years. He continued, citing that the DEP has threatened Grower Direct with fines stemming from the gravel operation. Mr. Broer wanted to know who from the Town oversees the activity when a Special Use Permit is granted. He would like this person to send him a report on a regular basis regarding the Grower Direct project. Mr. Broer would like the application to be denied and feels that one gravel operation (Wood's) in the location is enough.

**Patricia Broer, 74 Hampden Road** – expressed confirmation of what her husband said.

*A motion was made by Dan Fraro; seconded by Wes Smith and unanimously voted to close the Public Hearing for Grower Direct Farms' Special Use Permit application for a gravel bank at 164 Hampden Road at 8:24 pm.*

The Public Hearing portion of the meeting was closed at 8:24 pm.

## **II. CALL TO ORDER**

Vice-Chairman Jill Conklin called the regular meeting of the Zoning Commission to order at 8:24 pm. Members Jill Conklin, Wes Smith and alternate Dan Fraro (seated for Rob Martin) were present and constituted a quorum. Town Planner Patrice Carson was also present.

## **III. MINUTES APPROVAL:** April 7, 2008 (regular meeting) & June 16, 2008

The approval for the minutes of the April 7, 2008 meeting was deferred to the next meeting.

A motion was made by Wes Smith, seconded by Dan Fraro and unanimously voted to approve the minutes of the June 16, 2008 meeting as written.

## **IV. OLD BUSINESS**

### **a. Discussion/Possible Decision: Zoning Commission's Proposed Amendments To The Zoning Regulations For Outdoor Wood Burning Furnaces (Owbf's) - Ban**

The pros and cons of OWBF's have been discussed and investigated at a number of Public Hearings and meetings with many experts providing information.

*After some discussion, a motion was made by Wes Smith and seconded by Jill Conklin to approve the Zoning Commission's proposed amendments to the Zoning regulations to ban OWBF's and that regulation would take effect the day after the legal notice was published. The vote was 1 in favor (Smith), 2 opposed (Conklin and Fraro), 0 abstentions. The motion did not pass.*

Mr. Smith explained that he endorsed the ban. However, he realized that the installation of OWBF's could be controlled by Special Use Permit. This would prevent the public from interpreting their own regulations in reference to how to install the units. By requiring a Special Use Permit, people would need

to come before the Zoning Commission and abide by the regulations and guidance of the State DEP regarding installation of OWBF's. Provisions have been made in the regulation for farm and agricultural usage, but it is the random proliferation of OWBF's that concerns Mr. Smith.

**b. Discussion/Possible Decision: Zoning Commission's Proposed Amendments To The Zoning Regulations For Outdoor Wood Burning Furnaces - Regulate**

Regulation would be per the regulation presented at the Public Hearing, which requires the units to be a minimum of 200 feet from the nearest residence not serviced by the unit, with a chimney higher than the roof peaks of residences within 500 feet. The units would only be allowed by Special Use Permit and there would be a no-burn period from April 15<sup>th</sup> to October 15<sup>th</sup>, with an allowance for the Commission to extend this period for farm or agricultural use.

*A motion was made by Dan Fraro; seconded by Jill Conklin and unanimously voted to approve the Zoning Commission's proposed amendment to the Zoning Regulations to regulate OWBF's as presented at the Public Hearing. The effective date of this regulation would be the day after the legal notice was published.*

The anticipated effective date of the regulation is July 17<sup>th</sup>. Furnaces already installed will be grandfathered but will need to comply with the no-burn period.

**c. Discussion/Possible Decision: Renewal Of Special Use Permit Application For Office Trailer, 367 Hall Hill Road (High Ridge Estates Subdivision), Leaska Construction Co.**

The Commission agreed that no discussion was necessary since this is a standard renewal. Ms. Carson suggested that the Commission may want to consider amending the Zoning Regulations to extend the initial permitted period for construction site trailers for subdivisions to five years to avoid the yearly renewals for future applicants.

*A motion was made by Wes Smith; seconded by Dan Fraro and unanimously voted to approve Leaska Construction Co.'s renewal of a Special Use Permit application for an office trailer at 367 Hall Hill Road (High Ridge Estates Subdivision) with an expiration date of July 14, 2009.*

**d. Discussion/Possible Decision: Special Use Permit Application For Gravel Bank, South & Egypt Roads, Charter**

*A motion was made by Wes Smith; seconded by Dan Fraro and unanimously voted to approve Charter's Special Use Permit application for a gravel bank at South & Egypt Roads with an expiration date of June 30, 2009, and to set the bond amount at \$30,000.*

**e. Discussion/Possible Decision: Special Use Permit Application For Gravel Bank, South Road, Bordeaux Farm**

*A motion was made by Wes Smith; seconded by Dan Fraro and unanimously voted to approve Bordeaux*

*Farm's Special Use Permit application for a gravel bank at South Road with an expiration date of June 30, 2009, and to set the bond amount at \$25,125.*

**f. DISCUSSION/POSSIBLE DECISION: SPECIAL USE PERMIT APPLICATION FOR GRAVEL BANK, SOUTH ROAD, PLEASANT VIEW FARMS REALTY**

*A motion was made by Wes Smith; seconded by Dan Fraro and unanimously voted to approve Pleasant View Farms Realty's Special Use Permit application for a gravel bank at South Road with an expiration date of June 30, 2009, a bond amount of \$39,000, and contingent on the sight line along Route 83 be cleared to the satisfaction of Mr. Strauss.*

**g. DISCUSSION/POSSIBLE DECISION: SPECIAL USE PERMIT APPLICATION FOR GRAVEL BANK, STAFFORD/ROOT/WOOD ROADS, WOOD GRAVEL OPERATION LLC**

The Commission was satisfied with the applicant's explanation regarding the steep vertical wall that had concerned Mr. Strauss.

*A motion was made by Dan Fraro; seconded by Wes Smith and unanimously voted to approve Wood Gravel Operation LLC's Special Use Permit application for a gravel bank at Stafford/Root/Wood Roads with an expiration date of June 30, 2009, and to set the bond at \$51,348.*

**h. DISCUSSION/POSSIBLE DECISION: SPECIAL USE PERMIT APPLICATION FOR GRAVEL BANK, 164 HAMPDEN ROAD, GROWER DIRECT FARMS**

*A motion was made by Wes Smith; seconded by Dan Fraro and unanimously voted to approve Grower Direct Farms' Special Use Permit application for a gravel bank at 164 Hampden Road with an expiration date of June 30, 2009, a bond amount of \$54,000 and contingent on a satisfactory approval by Mr. Strauss on the immediate repair needed that he had observed at the site in his June 24<sup>th</sup> letter to the applicant.*

**i. OTHER** – There was no other Old Business.

**V. NEW BUSINESS**

**a. Determination Of Staff Review: Site Plan Application For Change Of Use To Dance Studio, 612 Main Street Unit 5, Bonacker**

Ms. Carson explained that the proposed dance studio would be in the old location of Curves. The use would be very similar to that of Curves and a maximum occupancy of six dance students at a time is anticipated.

It was agreed by consensus of the Commission to allow the application to be handled through staff review.

**b. MODIFICATION OF SITE PLAN APPROVAL FOR GEISSLERS, LANDSCAPING**

## **LOCATION, SOMERS CROSSING**

Ms. Carson explained the original approved plans for Geissler's landscaping. She explained that Geissler's sign is obscured by some of the trees that were planted. The applicant proposes to move the offending trees back in the same landscaping island and to plant ever-blooming roses where the trees are now.

*A motion was made by Wes Smith; seconded by Dan Fraro and unanimously voted to approve Somers Crossing's Site Plan modification for Geissler's landscaping location as presented.*

## **c. DETERMINATION OF STAFF REVIEW: SITE PLAN FOR HOME IMPROVEMENT CONTRACTOR'S OFFICE IN BUSINESS ZONE, 20 SCHOOL STREET, MASON**

Ms. Carson explained that the applicant has a building in the Somersville section in a commercial zone. He wants to run his home improvement office in a second floor space of this building. The office would be used for his paperwork only; home improvement business is typically conducted at the customer's home and not at an office.

It was agreed by consensus of the Commission to allow the application to be handled through staff review.

**d. Other** – There was no other New Business.

## **VI. DISCUSSION: PLAN OF CONSERVATION & DEVELOPMENT**

Ms. Carson suggested that at the August meeting the Commission should review the suggestions of Mr. Voboril, the forester who attended the last meeting. Wes Smith may not be available for that meeting but could submit ideas he has in writing.

## **VII. STAFF/COMMISSIONER REPORTS**

Linda Kieft-Robitaille began working as Somers' Zoning Enforcement Officer on July 1<sup>st</sup>. She will be working on Tuesdays between 8:30 – 1:30 pm. She will submit a report to the Commission, as did Ms. O'Connor. Ms. Carson would like to send her to the first class in the CAZEO series, which begins in September.

**VIII. CORRESPONDENCE AND BILLS** – There were none.

## **IX. ADJOURNMENT**

A motion was made by Wes Smith; seconded by Dan Fraro and unanimously voted to adjourn the July 14, 2009 Zoning Commission meeting at 9:04 pm.

Respectfully submitted,

Wesley Smith, Secretary

Jeanne Reed, Recording Secretary

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