

From: Lois Laczko October 24, 2008 11:39:31 AM
Subject: Zoning Commission Minutes 10/06/2008 ADOPTED
To: SimsburyCT_ZoningMin
Cc:

ADOPTED

ZONING COMMISSION MINUTES
OCTOBER 6, 2008
REGULAR MEETING

I. CALL TO ORDER

Austin Barney, Chairman, called the Regular Meeting of the Zoning Commission to order at 7:00 p.m. in the Main Meeting Room of the Simsbury Town Offices. The following members were present: Garrett Delehanty, Jr., Bruce Elliott, James Gallagher, Scott Barnett, John Vaughn, Madeline Gilkey and Ed Pabich. Also in attendance were Director of Planning Hiram Peck, Zoning Enforcement Officer Howard Beach, Commission Clerk Alison Sturgeon and other interested parties.

II. APPOINTMENT OF ALTERNATES

None were needed.

Mr. Delehanty read the call.

III. APPROVAL OF MINUTES of September 15, 2008 and September 22, 2008

Several edits were made to the September 15, 2008 minutes.

Mr. Gallagher made a motion to approve the September 15, 2008 minutes as amended. Mr. Delehanty seconded the motion, which was unanimously approved.

Several edits were made to the September 22, 2008 minutes.

Mr. Elliott made a motion to approve the September 22, 2008 minutes as amended. Mr. Pabich seconded the motion, which was unanimously approved.

Mr. Delehanty stated that several Towns in Connecticut have taken their websites down because they cannot comply with the new FOI rules, which requires all draft minutes be posted on the internet within 7 days of the

meeting. Mr. Peck stated that Simsbury is able to comply, although the Commissions need to make sure the minutes of the meeting reflect what is required by FOI. He stated that more details would be left for transcript, should one be needed.

IV. PUBLIC HEARING

a. Application of Joseph Fine, MIJI of Avon, LLC - Owner, James Malin - Alton Sign, Incorporated - Agent, for a Special Exception, pursuant to Article Ten, Section 3.i of the Simsbury Zoning Regulations, to allow for additional signage on the rear of the Men's Wearhouse on property located at 6 Albany Turnpike. B-3 Zone

Jim Malin, Alto Sign Incorporated and Bill Erickson, Vice President of construction for Men's Wearhouse presented the application. Mr. Malin stated that Men's Wearhouse usually uses red faced lit channel letters, although in order to comply with Simsbury's Regulations, they are proposing black halo lit letters. Mr. Malin stated that Simsbury's Regulations state that businesses are allowed one square foot per linear foot of frontage. He stated that this is a stand-alone property. The front of the building is 64 feet wide, which allows them 64 s.f. of signage. He stated that part of this signage is a 3' x 10' monument sign. He stated that there is dead negative space, a rectangle shaped area, on either side of the word "Men's", which was calculated into the signage. This dead space appears in the monument sign and in the gable on the front of the building.

Mr. Erickson stated that approximately 20 cars per day come into the Men's Wearhouse driveway thinking that they can get access to Simsbury Commons. Mr. Barney stated that this is a traffic issue regarding the placement of both the Simsbury Commons and Men's Wearhouse monument signs.

Mr. Erickson stated that they are looking to the Zoning Commission to receive relief to use the calculations of the dead space to the left and right of the word "Men's" on the fascia and monument signs. On the fascia sign, this area would be 12.2 s.f. of signage; the area on the monument sign would be 4 s.f. He stated that they also did not use 7.2 s.f. of signage allowable on the property. This would be a total of 23.4 s.f. Mr. Erickson stated that they are looking for a variance for 4.5 s.f. of signage.

Chairman Barney stated that they do not usually allow signs on the backs or sides of buildings unless they have frontage on a road. He stated that also, this creative manipulation of the numbers could allow other businesses to creatively come up with their own numbers to allow more signage for their property. Mr. Barnett stated that the applicant should stay within the 64' with the benefit of the different math for the front of

the building. He feels this would be appropriate.

The Commission continued to discuss the non-ability to access Simsbury Commons from the Men's Wearhouse property. Chairman Barney questioned if there was a way, for traffic and public safety reasons, to urge Simsbury Commons to connect these parcels. He stated that there is a certain level of hazard, which would be lessened if this connection was made. Mr. Peck stated that he has discussed putting this connection through with the owner of Simsbury Commons in order to avoid this kind of traffic confusion and safety issues. He was told that the tenants were not interested in this connection. Mr. Peck stated that this question could be posed to the owner again when he is before this Commission in the future for applications regarding his tenants. He stated that he has also talked with the Town Planner in Avon regarding this issue.

Mr. Peck read the Design Review Board's design consideration to the Zoning Commission members. It stated that the Design Review Board was aware that the proposed sign size exceeds the allowable amount from a Zoning standpoint; however, they feel that the Zoning Commission might want to make an exception for this case given the location, the simple façade and the absence of other signage around this particular location.

Mr. Peck stated that he does not recommend the Zoning Commission get involved with recalculating the square footage of the signage. He feels this could be done based upon Article 10, Section 3.i. of the Zoning Regulations which allows the Commission some latitude for special situations. The reason that this is unique is because the distance between the sign and where someone will be viewing the sign is substantial. He feels that this, along with the access to the site, makes this property unique.

Chairman Barney closed the hearing at this time.

V. PRESENTATION(s)

a. Application of David Richman, DARLAR - Owner, Charlie Kaylor, Kaylor Real Estate, LLC - Agent, for placement of additional signage on property located at 730 Hopmeadow Street. SCZA Zone

Mr. Kaylor, of Kaylor Real Estate, stated that he is requesting additional signage on the side of the building near the entrance. He showed several pictures to the Zoning Commission depicting the building and its entrance.

Chairman Barney questioned how many signs were currently on the building for Remax. Mr. Kaylor stated that there were 2 signs, including a monument sign.

Ms. Gilkey stated that the proposed sign looks like a sign identifying the business, not identifying an entrance. Chairman Barney questioned where the primary entrance was located. Mr. Kaylor stated that the staircase on Mall Drive was his primary entrance for Remax. Mr. Elliott questioned how he accommodated people with limited mobility. Mr. Kaylor stated that in this instance, he would meet them across the street at the Library.

b. Application of Mary Glassman, First Selectman, Town of Simsbury, - Owner, for a Site Plan Amendment for construction of an access road to the Simsbury Farms Golf Clubhouse, 100 Old Farms Road. R-40 Zone

Mr. Toner, Director of Culture Parks & Recreation, stated that they are looking for a Site Plan amendment for an access road to the Simsbury Farms golf clubhouse. He stated that this project has been in the Simsbury Farm's Master Plan since 1999. This road has also been in the Town's 6-year plan for many years. He stated that this past year, an application was submitted through the Office of Policy and Management for a grant. This grant program is an open ended program through the fiscal year. Mr. Toner stated that they are currently proposing to start construction of the road with in-house labor and having it operational for next spring.

Mr. Toner stated that the nature of the Simsbury Farms Complex has changed since it was constructed in 1972. The traffic and usage is much different. Safety is a very big problem in this area of the complex. By alleviating the exiting traffic from the golf course from the access road, they believe this will create a much better and safer situation for the users of the facility. The proposed access road would be an exit only road. The Fire Marshal has indicated that emergency vehicles will utilize this road as an entrance only in the case of an emergency.

Mr. Toner showed the Commission members a map depicting the main road, the proposed access road, and the clubhouse and maintenance buildings. He stated that in the fiscal year 2009/2010, there has been budgeted for the construction of a new facility, which would be a combined golf and park maintenance facility. If this happens, the maintenance buildings would then be demolished and made into supplemental parking.

Mr. Delehanty questioned how they would get the golf course traffic to use this access road. Mr. Toner stated that the other road will be blocked; this would be the only option to exit.

Chairman Barney questioned if the access road would be a gravel road or paved. Mr. Toner stated that if the grant is awarded to them, the road will be fully paved. If the grant is not awarded, paving of the road will be submitted into the 09/10 operating budget for consideration.

VI. DISCUSSION AND POSSIBLE VOTE ON ANY AGENDA ITEM

Chairman Barney stated that he wishes that they could solve the issue of moving the Simsbury Commons monument, which is a safety issue of much concern. Mr. Barnett suggested that Chairman Barney write a letter to the Town of Avon on behalf of the Zoning Commission.

Mr. Gallagher made a motion to approve the application of Joseph Fine, MIJI of Avon, LLC - Owner, James Malin - Alton Sign, Incorporated - Agent, for a Special Exception, pursuant to Article Ten, Section 3.i of the Simsbury Zoning Regulations, to allow for additional signage on the rear of the Men's Wearhouse on property located at 6 Albany Turnpike, as submitted. Mr. Elliott seconded the motion, and it passed. Mr. Delehanty voted against the motion.

Mr. Barnett made a motion to authorize Chairman Barney to draft a letter on behalf of the Zoning Commission asking that the monument sign for Simsbury Commons be located closer to, if not in the center of, their Route 44 entrance and exit. Mr. Gallagher seconded the motion, and it passed unanimously.

Mr. Delehanty made a motion to approve the application of David Richman, DARLAR - Owner, Charlie Kaylor, Kaylor Real Estate, LLC - Agent, for placement of additional signage on property located at 730 Hopmeadow Street, as submitted. Mr. Barnett seconded the motion.

Mr. Gallagher stated that the word entrance should be added to the sign. Mr. Delehanty stated that the Commission cannot specify the content of the sign; they can only make suggestions.

The motion passed unanimously.

VII. MATTERS AS MAY PROPERLY COME BEFORE THE COMMISSION

a. Alan Needham, Liaison, from the Economic Development Commission

Chairman Barney stated that Alan Needham is the new liaison from the Economic Development Commission. He will be sitting in on Zoning Commission meetings and reporting back to the EDC.

Mr. Needham stated that the EDC has liaisons to the Land Use Boards and Commissions. The idea is to have better communication and understanding between the Boards.

b. Private school signs/advertising policy

Mr. Peck stated that this relates to sandwich board signs in Town. He stated that people do usually come in to get a permit for these signs. There has been a complaint regarding the context of a sign.

Mr. Beach stated that the complaint involves non-profit signage. He stated that last spring, Ethel Walker put up a sign on 33 Canal Street advertising school enrollment. Mr. Beach stated that a complaint was filed regarding the content of the sign. They indicated that the non-profit sign crossed over the line and became a business sign; they complained that it was advertising the business function of the school.

Mr. Beach stated that he has talked with the Town Attorney, who stated that a business sign is a business sign regardless of whether it is profit or non-profit. Mr. Barnett stated that he is not sure that this can be articulated correctly and effectively in the Regulations.

Mr. Peck stated that aside from the wording, he is looking for guidance from the Zoning Commission as to how to proceed. Mr. Barnett stated that there is a difference between profit and non-profit organizations. He feels that something that is for the benefit of an institution like Ethel Walker, profit or not, should stay on their property. If it is more of a community announcement of an event or happening, he feels that it could be put elsewhere in Town. Mr. Pabich stated that he does not feel that non-profit should be the criteria. Mr. Elliott stated that he feels the key part of the problem is the way it is worded in the Regulations. Regarding the Regulation revisions, Chairman Barney stated that there are many examples where the wording is slightly not quite complete. He stated that Town staff and Chris Wood should work on the wording. The Commission continued to discuss profit and non-profit organizations. Mr. Peck stated that he would talk to the Town Attorney regarding whether or not there is a legitimate distinction between the two.

Regarding the Charrette, Mr. Peck stated that the three consultants were interviewed. He felt that all of the interviews went well, although they were all very different. He stated that final questions from the Sub-Committee went out to the consultants today. They will get those answers and there will be a meeting on October 13th for a discussion. The next step will be a recommendation to the Board of Selectmen.

VIII. STAFF REPORTS

a. Report from Zoning Enforcement Officer, Howard Beach

Mr. Beach distributed his report to the Commission members and reported on the following properties:

" 24 West Mountain Road - Mr. Beach stated that this has been ongoing since 1985. He has met with the owners of the property. They understand the seriousness of the situation and will be resolving the issues.

" 378 West Mountain Road - The FVHD and the Town have been working together. Only 2 enforcement issues are left regarding this property. Mr. Beach stated that a new complaint might be needed for these issues.

" 16 Glenbrook -The owner of this property is running a business out of a residential zone. He stated that this has been closed.

" 24 Canal Street - Mr. Beach stated that they are making progress regarding this property. The work on the house has stalled and the yard has been cleaned up.

" Rosedale Farm - Mr. Beach stated that this is a signage issue. The owner put a sign underneath the State sign. He has been informed by the Department of Agriculture that this is illegal; they are not allowed to attach another sign to the State sign.

" 11 Nimrod Road - Mr. Beach stated that the temporary carport has still not been removed. He has sent out a C&D, although it is currently still standing.

" 499 Hopmeadow Street - This is a complaint that came up several years ago regarding a Chiropractic office in a residential zone. The office did receive home occupation approval, but the doctor no longer lives in the house. They are actively working on moving this business to another location in Town.

" 33 Canal Street - This is also a business use of a residential property.

" 9 Sand Hill Road - Mr. Beach stated that an attorney is setting up his office in a residential home. He will be investigating this prior to the next meeting.

" 4 Drumlin Road - This house has been abandoned and the yard is overgrown. A Cease and Restore order was issued for Blight.

The Commission members discussed the Simsbury Deli and the blight issues on that property. Mr. Beach stated that the business owner is claiming that, as a resident of that apartment, he has the rights that a resident would have on any piece of property. Mr. Beach stated that the zone is B-2; this is a residential component to a business neighborhood. Mr. Peck suggested letting the Economic Development Commission know about this issue because this has implications for other businesses in the area. If this business is part of the Main Street Partnership or the Chamber, they might be able to provide suggestions as to how to work with these businesses.

b. Billingsgate, Hopmeadow Place and Powder Forest annual compliance status reports

Chairman Barney questioned if these associations have fulfilled their

annual obligation regarding reporting. Mr. Peck stated that they are at least as complaint as they were last year and some are better. Mr. Beach stated that he believes Hopmeadow Place is 100% complaint. Regarding Billingsgate, he stated that there are only 2 non-conforming deeds left. They have filed an amended declaration to what the Fair Housing Act requires, which is 80%. This meets Simsbury and Federal Regulations.

Regarding the Home Connecticut Legislation, Mr. Peck stated that they have a \$50,000 grant that the Town will be using for creating an overlay zone for an 80/20 mixed income housing project in various locations in Town. This means that 80% of the units would be market rate and 20% would be mixed income.

Regarding large projects that might come before the Zoning Commission in the future, Mr. Peck stated that there is a development for a retirement community in the south end that will go before the Design Review Board on October 14th for an informal review. Mr. Giorgio has also stated that he will be back before the end of the year with a project that will fit in with what he received approval for.

Mr. Peck stated that Mr. Ritson is also anxious to go forward with his project for a building with mixed/use. Mr. Ritson is still trying to determine what the best way is to go forward. He would like to have a daycare on the first floor with second and third floor apartments. Mr. Peck stated that there have been some inquiries for Mr. Ritson to put in some apartments for the disabled.

Chairman Barney questioned what the timetable was for the new Regulations. Mr. Peck stated that there are so many potential changes, that if they wait for all of the changes to be made, the Regulations will never get adopted. He suggested that they take and consider the Regulations in pieces; this will help everything come together in the end. The Commission continued their discussion regarding some of the changes.

Mr. Elliott questioned what the timetable for the public opinion poll was. Mr. Peck stated that this survey has been completed. Regarding the topics, he stated that they were general topics that had to do with land development. The consultant took these general concerns and made them into questions. Mr. Peck stated that the poll received 400 completed responses, which make this survey statistically useful. The Town should know this week regarding the overall response to the poll.

Chairman Barney stated that the Town Attorney, Mr. Peck and himself had a meeting regarding the Hoffman conservation easements and mapping. The mapping appears to be on target; there were variations in numbers between the documents and maps, which have been straightened out. He stated that the Land Trust was uncomfortable signing on without any limitations as the

third party to those easements. The Town Attorney did have several suggestions as to how to constrict the liability and exposure, which may make the Land Trust more comfortable.

IX. ADJOURNMENT

Mr. Gallagher made a motion to adjourn the meeting at 8:40 p.m. Mr. Delehanty seconded the motion, which was unanimously approved.

Garrett Delehanty, Jr., Secretary