

From: Lois Laczko November 20, 2008 2:32:03 PM  
Subject: Zoning Commission Minutes 10/20/2008 ADOPTED  
To: SimsburyCT\_ZoningMin  
Cc:

ADOPTED

ZONING COMMISSION MINUTES  
OCTOBER 20, 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, Madeline Gilkey and Ed Pabich. Also in attendance were Director of Planning Hiram Peck, Zoning Enforcement Officer Howard Beach, Town Attorney Robert DeCrescenzo and Commission Clerk Alison Sturgeon and other interested parties.

II. APPOINTMENT OF ALTERNATES

Chairman Barney appointed Commissioner Gilkey to serve in the absence of Commissioner Vaughn.

III. APPROVAL OF MINUTES of October 6, 2008

Mr. Delehanty made a motion to approve the October 6, 2008 minutes as written. Mr. Elliott seconded the motion, which was unanimously approved.

IV. PRESENTATION(s)

a. 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 (continued from Zoning Commission meeting held on 10/6/08)

Mr. Toner, Director of Culture Parks and Recreation, stated that since the last meeting, he has gone before the Inland Wetlands Commission. They did approve the application with the condition that the access road be no more

than 15' wide. The Wetlands Commission would also like to see the application back before them if and when the road will be paved; they would like the applicant to consider pervious pavement that would encourage infiltration and reduce runoff.

Mr. Delehanty questioned if a 15' wide road would be sufficient. Mr. Toner stated that it would be sufficient for them and also for emergency vehicles that may have to enter and exit the property.

Mr. Elliott questioned if the applicant has considered creating a "Y" in the road as the road goes up to Old Farms; the road could be 2-ways for a short distance to the swimming pool and become a one-way road at the parking lot for the golf course. The "Y" in the road could lead to 2 separate areas, the golf course and also to the swimming pool, tennis, and hockey. Mr. Toner stated that this was discussed at the last meeting. The Complex Committee and the Parks and Recreation Commission both feel that the priority is the exiting of cars especially during the busy time and that there be an alternative exit. Chairman Barney stated that if the issue is to have an alternate exit, he feels that this needs to be the exit for the golf course in order to satisfy the concerns of this Commission. The notion is to keep the exiting traffic away from the play areas; this can be done by making the road one-way or creating a "Y" in the road.

Chairman Barney stated his concerns that if the new access was maintained as a dirt road, he was unsure if people would use it. Mr. Toner stated that there will be signage in this area; they have also discussed using a barricade in this area. He feels that, in time, people will learn the routine.

Mr. Barnett questioned if there was any expectation to come in for a liquor permit in the future. Mr. Toner stated that if anyone would want a liquor permit it would be the concessionaire. He stated that if the concessionaire does apply for this permit, it would be done in a timely manner. Mr. Barnett stated that he does not have any issues with the access road, although he personally, does not feel a liquor license should be granted. He stated that as a taxpayer in Simsbury, he would not want to spend the money for this access road if it is being constructed in order to get a liquor license. Mr. Toner stated that this access road needs to happen no matter what. The liquor license, if submitted, would be a separate application that would need to be judged on its own merits.

Mr. Elliott stated that the reason for this access road is for improved safety for the people using the facilities at Simsbury Farms. Although he understands Mr. Barnett's concerns, he would be interested in hearing the arguments in favor of a liquor license when the time is right.

Chairman Barney stated that the traffic pattern needs to be determined including the signage and barricades so that the traffic safety issues are being addressed properly by the users through education to make sure that Simsbury Farms ends up with a traffic pattern that is safe. He stated that he would be wary about adding liquor to the mix until Mr. Toner could certify that there was a traffic pattern and usage that precluded the potential of people going the wrong way.

Mr. Delehanty suggested that Mr. Toner look into one-way gates. He is not sure this would be practical for this area, although it might be worth checking in to. Mr. Toner stated that he is hoping that a gate or barricade would be acceptable. Regarding educating people regarding the changes, he stated that he does have the ability to communicate by e-mailing the users of the facility directly. He feels that the education process should be quick and straight forward.

Chairman Barney read the Inland Wetlands Commission permit letter into the record.

Chairman Barney questioned when construction would begin for the access road and when a decision would be made regarding the maintenance facility. Mr. Toner stated that they would like to start on the access road within the next 2 weeks. The current plan is for the road to go around the maintenance building, although this is in the 09/10 budget; they hope to have an indication this spring during the budget approval process.

Mr. Peck stated that he did receive a letter from Esther Derr regarding this application, which was distributed to the Commission members.

V. DISCUSSION AND POSSIBLE VOTE ON ANY AGENDA ITEM

Mr. Gallagher made a motion to approve the 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 as submitted. Mr. Delehanty seconded the motion, which was unanimously approved.

VI. OTHER MATTERS AS MAY PROPERLY COME BEFORE THE COMMISSION

a. Application of Asbjorn Gjertsen, Owner/Agent for a Sign Permit to place a directional sign in the Town's Right-Of-Way on the east side of Winslow Place adjacent to the intersection with Hopmeadow Street for The Riverview (banquet facility), 10 Winslow Place. B-1 Zone

Chairman Barney stated that the core issue is the application to put this sign in the Town's right-of-way, which the Zoning Regulations prohibit. They prohibit the placement of signs in the State or local right-of-way,

which is what they are requesting.

Mr. Peck showed the Commission members pictures of the intersection where the applicant would like to place the sign. The sign that is shown in one of the photographs was one that was put up when they were considering asking the ZBA for a variance to allow this sign to go on property of the adjacent property owner. That application never went forward because there was discussion as to whether it was appropriate for the ZBA to look at an application for a commercial sign in a residential property.

Mr. Peck stated that the Board of Selectmen have approved the placement of this sign in the Town right-of-way with the following conditions: that the applicant receive all of the rest of the Land Use permits that they need; that the applicant certifies that the sign will not obstruct any site lines; and that the applicant provide a document to the Town, which would hold the Town harmless in case of any problems with the sign.

Mr. Peck stated that there are still several issues that remain regarding this application. One issue is that this is a commercial sign in a residential zone. Another issue is that it is a unique piece of property in terms of shape, location and access to it. Because of these unique characteristics, Mr. Peck stated that, in his opinion, this application could receive a variance with the hardship of safety.

Chairman Barney questioned how the Board of Selectmen could approve a sign that is clearly a Zoning matter. Mr. Peck stated that the sign would be in the Town right-of-way. Attorney DeCrescenzo stated that he believes that this application needs a staff analysis to look at it to see what it would take to get this sign approved in this location. He stated that the Board of Selectmen approval of the location is simply an approval as a property owner to place a sign on the owner's property subject to the approval of the Zoning Commission. The Zoning Commission can only enforce the regulations; if it does not conform to the regulations, the only entity that can vary the application is the ZBA.

Chairman Barney stated that there are many anomalies. He feels that this is a very big problem. The ramifications for businesses and non-profit organizations are considerable.

The Zoning Commission discussed setting precedents. Mr. Peck did not feel that they would be setting a precedent by their decision. Attorney DeCrescenzo stated that variances are not precedents.

Chairman Barney stated that the right-of-way that the applicant would like to put this sign on is zoned as residential. He suggested that maybe they should rezone this as business. Mr. Peck stated that it would still need a

variance because the sign will not be on property that is owned by the applicant.

Chairman Barney stated his concerns regarding setting an example of business signs on residential property. There is also the concern that the sign would not be on their property and it would be in a right-of-way. The applicant would need at least these 3 variances. He stated that he would like to eliminate the need for the zoning variance so that the business sign would be on business zoned land.

Mr. Gallagher stated that getting a variance for this sign would relieve problems regarding safety in that intersection and would also help emergency vehicles find the Riverview.

Chairman Barney stated that he would like to look at this application in more detail before any decisions are made. Mr. Peck stated that although there are still issues regarding this applicant getting these variances, he feels that rezoning the property would be an excessive measure. He feels that there are more simple solutions; ZBA would be the simplest solution.

Attorney DeCrescenzo stated that this sign could possibly be considered a directional sign, which are allowed in residential zones.

Chairman Barney stated that he feels this will open the Route 10 corridor to this regulation that precludes signage in the right-of-way. He feels that they should have a better handle on how big this problem is before variances are granted. There may be other signs that need to go through a similar process. Mr. Peck stated that there are at least 25 other signs in Town that would need to go through this process.

Chairman Barney stated that he feels that the proposed sign for the Riverview is too big. They already have a major sign on a stone wall on their property. If this sign will be for safety reasons, it does not need to be this big; possibly half the size. He also feels that the sign could be made more into a directional sign. Mr. Barnett stated that he does not see this as a directional sign. If the sign is put on Route 10, he feels that it will become their major sign.

Mr. Elliott stated that public safety is a real issue and it would be very helpful if they had first hand insight from the Police Department to see if there are real safety concerns in this area.

Chairman Barney stated that he would like the Zoning Commission to give instructions to the ZBA if this application goes to them. Attorney DeCrescenzo stated that this Commission can only make recommendations. He suggested that Town staff thoroughly review this application, get a report

from the Police Department and fully analyze this application in order to possibly minimize the variances that would be required.

Mr. Elliott suggested that the street name be changed. Mr. Peck stated that this suggestion was also made by the Design Review Board. He did talk to Mr. Sawitzke regarding this suggestion, although it would be very difficult because the street name is already on the maps, deeds, documents, etc. Chairman Barney suggested putting a directional sign under the current street sign. Mr. Peck stated that the State would not allow this because it would be for a commercial business, which they do not allow.

Chairman Barney stated that the Commission should take the Town Attorney's suggestion to have staff look at this application further. He stated that the Zoning Regulations are clear regarding what is permissible with regard to signs.

Mr. Beach suggested that color coded stickers be used on temporary permitted signs in order to better keep track of which signs have permits and which do not. The Commission had a short discussion regarding having only one or two designated areas in Town in which to allow signs.

Mr. Gallagher suggested asking the Chamber of Commerce if they might have a solution that would be beneficial for the Town. Mr. Peck suggested getting the EDC and Main Street Partnership involved also.

The Commission discussed sign standards for non-profit entities. They discussed Ethel Walker having both of their frontages in a State right-of-way. Chairman Barney stated that unless they put their signs behind the stone wall, they would still be in the right-of-way; this is a real hardship for them.

Chairman Barney stated that one of the underlying issues is the liability to the town. He feels that they need to better understand these issues. Attorney DeCrescenzo stated that, under the current regulations, the property owner has to consent to have the sign on their property

Chairman Barney suggested that Town staff and Attorney DeCrescenzo come up with a strategy that makes clear what the obligations are of the permit seeker and the permittee and come up with some ideas as to how signs can be better regulated. Although there is manpower assigned to this concept of zoning enforcement, he feels that they need to make it a more coherent process. The Commission continued to discuss the removal of the signs; the owner of the sign would need to consent to the removal of the sign once the expiration date has passed if they do not take the sign down themselves. Consent would make it clear that the Town has the right to remove the sign.

Mr. Beach distributed maps to the Commission members depicting the State right-of-way. Mr. Peck stated that he will be meeting with someone from DOT tomorrow and will be getting right-of-way maps for the entire Town of Simsbury. He is hopeful that he can get these maps electronically. The Commission discussed talking to the DOT to get their permission to continue to place signs in the right-of-way as long as the signs would be off the road a certain number of feet and as long as the site lines were not obstructed.

Chairman Barney stated that he would like to come up with a program that would make the enforcement of these signs rational, minimizes liability and give the Zoning Commission direction to have a conversation with people. Mr. Peck stated that the Town will continue to proceed as they have been; trying to be reasonable and fair and to make sure no site line issues are created until they come back with a proposal.

#### VII. STAFF REPORTS

There were none.

#### VIII. ADJOURNMENT

Mr. Delehanty made a motion to adjourn the meeting at 8:30 p.m. Ms. Gilkey seconded the motion and it passed unanimously.

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Garrett Delehanty, Jr., Secretary