

From: Lois Laczko February 15, 2012 10:59:59 AM
Subject: Zoning Commission Minutes 01/23/2012 SPECIAL MEETING
ADOPTED
To: SimsburyCT_ZoningMin
Cc:

ZONING COMMISSION SPECIAL MEETING - MINUTES - 1/23/12

I. CALL TO ORDER

Edward Pabich, Secretary, called the special meeting for the Zoning Board to order at 7:05PM on Monday, January 23, 2012, in the Board of Education Conference Room, of the Simsbury Town Offices. The following members were also present: David Ryan, Will Fiske, and Derek Peterson. Others in attendance included Hiram Peck, Director of Planning, Robert DeCrescenzo, Town Attorney, and Richard Sawitzke, Town Engineer/Director of Capital Projects.

II. APPOINTMENT OF ALTERNATES - No appointment of alternates were needed.

III. Consent Agenda: Approval of previously proposed parking lot expansion at Scout Hall, placement of culvert in stream and walkway construction from parking lot to Simsbury Library Property as previously presented by Town Engineer as follows.

Application of Richard L. Sawitzke, P.E. Town Engineer/Director of Capital Projects, Applicant, for a Site Plan Amendment for additional parking at Boy Scout Hall and also to construct a pedestrian walk/stream crossing between Boy Scout Hall and the Simsbury Public Library on property located at the Simsbury Library, 725 Hopmeadow Street. SC-1

Mr. Sawitzke began with an overview of the project which includes adding 10 parking spaces to the existing 18, at the Boy Scout Hall property, and then create a pedestrian walkway, with lighting and stream crossing. He then gave an overview of the changes requested by Design Review and how they would accomplish those suggested changes. Mr. Sawitzke said, when complete, the project would provide the Library with a 30% increase with regards to parking. When asked why there could not be more than 10 spaces added, Mr. Sawitzke said with the close proximity to the stream, there they are trying to minimize environmental impact. Mr. Sawitzke then spoke about the amount of flow of the stream. When asked for pictures of the design for the bridge, Mr. Sawitzke said he did not have any with him. Commissioner Pabich asked about the status of what is going on there now, as there is activity at the site. Mr. Sawitzke said they did some clearing and some rough

grading thus far. Mr. Ryan asked about the option of extending the walkway on the other side of the bridge, as proposed by the Zoning Commission at the prior meeting, but Mr. Sawitzke said Design Review Board had said they did not want that. This issue was discussed further. Commissioner Peterson asked about the length of the total path from parking lot to parking lot. Mr. Sawitzke said it is going to be 450' to the Library door. Commissioner Pabich asked the Commission to vote on the Amended Plan as is, and then they would be able to go back to find out if the extended path issue was previously stipulated as a request by the Zoning Commission. Commissioner Peterson said he would leave it as it is now because if they do put in the water feature at a future date, there will be likely be put additional pathways in at that time. Mr. Ryan said he just wanted to make sure there was a walkway all the way to the cars. Mr. Peck said it can always be revisited.

Commissioner Peterson moved to approve the Site Plan Amendment for additional parking at Boy Scout Hall and also to construct a pedestrian walk/stream crossing between Boy Scout Hall and the Simsbury Public Library on property located at the Simsbury Library, 725 Hopmeadow Street. SC-1. Commissioner Pabich seconded the motion, which unanimously passed.

IV. DISCUSSION (with Town Attorney regarding Zoning Commission duties, responsibilities and authority)

Attorney DeCrescenzo distributed a package to the Commission members titled "An Overview of Land Use Regulation". Attorney DeCrescenzo began by speaking about the origins of the Zoning Commission, it's authority and also spoke about the importance of recognizing the boundaries of that authority. Attorney DeCrescenzo spoke of the constitutional rights provided to citizens and how Zoning has to respect these given rights. He said this Commission can focus on the regulation of land through the Zoning Regulations. Attorney DeCrescenzo spoke about the two difference capacities in which the Zoning Commission acts; legislative capacity and administrative capacity. He spoke about each of these capacities and the differences between the two. Public Hearings and the protocol of those public hearings were discussed. Site Plan review was then discussed. Attorney DeCrescenzo spoke about Uses (permitted use, prohibited use, & special use). Attorney DeCrescenzo then spoke about statutory requirements and procedural requirements and the difference between the two.

ZBA - Attorney DeCrescenzo reviewed section B, giving an overview of the role, authority and requirements of the Zoning Board of Appeals.

Attorney DeCrescenzo then briefly reviewed sections C-E, including an overview of the following groups: Planning Commission, Inland Wetlands Agency, Conservation Commission.

The Application process was discussed and the role each of the above referenced commissions play within that process. The general rules regarding acting on an Application were then reviewed (Section II-B).

Attorney DeCrescenzo then guided the Commission through Section II-C - Improper Actions or Participation by Commission Members which, he noted, was an important section in order to meet due process requirements. The main subsections within this section include; Insufficient participation in application to decide it fairly, Predetermination, Conflict of Interest, and Consideration of Evidence After Close of Public Hearing, all of which were covered by Attorney DeCrescenzo. The role of Counsel was then briefly discussed.

Section III. - Making a Record - Attorney DeCrescenzo began summarizing the typical content of Record on Appeal. Then he reviewed the standard of review on traditional appeal. Attorney DeCrescenzo said he does think this Commission acts in good faith and takes care to ask thoughtful questions, take sufficient time and use discretion when entertaining Applications.

Attorney DeCrescenzo read sections of the Scope of Regulations.

Section IV-D - Comprehensive Plan. Attorney DeCrescenzo reviewed this section giving an overview of the comprehensive plan, including; the requirements of conforming to, the concept of, and the goal of the comprehensive plan.

Section V - Permitted Uses

Within Section V-B, under Special Permit/Special Exception Uses, Attorney DeCrescenzo, made a point to highlight the following; a Commission member cannot place conditions on a Special Exception that do not find themselves in the Regulations. He also highlighted that when you approve a Special Exception, it runs with the Land. Attorney DeCrescenzo moved on to Section V-C, Non-Conforming Uses and Structures, saying this can be a complicated area and any Applicant coming before the Commission relying a non-conforming use/non-conforming condition, needs to be scrutinized carefully to determine whether it is in the scope.

Commissioner Pabich had a question regarding Section VIII - B under The Freedom of Information Act - Statutory requirements, specifically regarding the requirement of prepayment and whether or not we have been doing that. Attorney DeCrescenzo said ordinary staff time cannot be charged for, but if it does require outside services that impose a cost, prepayment can be requested.

Attorney DeCrescenzo reminded everyone that if email correspondence,

regardless of whether or not it is on a home email account/computer, if it has to do with Town business, it is considered a public document. He said, when dealing with Zoning Commission business, there is no such thing as a private conversation. He also warned that the interaction of emails between Commission members could also count as an illegal special meeting, depending on the email contents. The process of information gathering, with regards to a FOI request, was discussed further.

Commissioner Pabich brought up the issue of what constitutes a Meeting. Specifically, he asked if three (3) of them, less than the required four (4) to make a quorum, meet at a coffee shop to discuss Zoning matters, is that acceptable? Attorney DeCrescenzo said, no, the second they start discussing Zoning Commission business, it is considered a Special Meeting because one or more of them are going to be considered a delegate for the others.

Attorney DeCrescenzo finished up by briefly discussing Section IX. - Dealing with the Press. Attorney DeCrescenzo stressed that a Commission member cannot discuss a pending application with a member of the press, other than telling them that it is pending and they are invited to attend the upcoming public hearing. Commissioner Peterson suggested having one person be the single point of contact for the press, and saying Mr. Peck should most likely be that person.

Commissioner Pabich thanked Attorney DeCrescenzo for his time.

V. ADJOURNMENT

Commissioner Ryan moved to adjourn the Special Meeting of the Zoning Commission at 9:05PM. The motion was seconded by Commissioner Peterson and passed unanimously.

Respectfully submitted,

Robert Pomeroy, Chairman