

From: Lois Laczko March 18, 2009 9:45:30 AM
Subject: Zoning Commission Minutes 03/05/2009 ADOPTED
To: SimsburyCT_ZoningMin
Cc:

ADOPTED

ZONING COMMISSION MINUTES
MARCH 5, 2009
SPECIAL MEETING

I. CALL TO ORDER

Garrett Delehanty called the Special Meeting of the Zoning Commission to order at 7:30 p.m. in the Main Meeting Room at the Simsbury Town Offices. The following members were present: Bruce Elliott, Ed Pabich, Alan Needham and Madeline Gilkey. Also in attendance were Director of Planning Hiram Peck, Town Attorney Robert DeCrescenzo, Commission Clerk Alison Sturgeon and other interested parties.

Mr. Elliott made a motion to appoint Mr. Delehanty to serve as Chairman for this meeting. Ms. Gilkey seconded the motion, which was unanimously approved.

Mr. Pabich made a motion to appoint Mr. Elliott to serve as Secretary for this meeting. Ms. Gilkey seconded the motion, which was unanimously approved.

II. APPOINTMENT OF ALTERNATES

Mr. Delehanty appointed Ms. Gilkey to serve in the absence of Mr. Barney, Mr. Needham to serve in the absence of Mr. Gallagher and Mr. Pabich to serve in the absence of Mr. Vaughn.

III. APPROVAL OF MINUTES of February 9, 2009 workshop, and February 9, 2009 special meeting

Ms. Gilkey made a motion to approve the January 9, 2009 special meeting minutes as written. Mr. Pabich seconded the motion, which was unanimously approved.

Mr. Elliott made a motion to approve the January 9, 2009 workshop minutes as written. Ms. Gilkey seconded the motion, which was unanimously

approved.

IV. PUBLIC HEARING(s)

Mr. Elliott read the call.

a. Application of Paulo R. Oliveira, Owner, for a Special Exception, pursuant to Article Ten, Section H.4 of the Simsbury Zoning Regulations for an increase in the gross floor area on property located at T-Ville Wines & Spirits, 41-45 Main Street. B-1 Zone.

Mr. Oliveira stated that he is requesting an increase in the gross floor area to the store that he is currently remodeling. He stated that it is his understanding that the store can be moved to another location as long as the gross sales area is within 10% of the existing store; he stated that he would like a bit larger area for retail.

Looking at the building from the front, Ms. Gilkey questioned what would be happening with the portion of the store to the right. Mr. Oliveira stated that he was not planning on extending that portion of the building that this time. She asked when he might be expanding that portion. He stated as soon as possible.

Ms. Gilkey questioned if there would be signage going over the larger expanse of the window. Mr. Oliveira stated that the sign would go under the overhang, although he has not yet gone to the Design Review Board. The Zoning Commission would not be dealing with the signage issues tonight. He stated that he would like the signage from the existing store be brought over to the new location if the new signage could not be done in time.

Mr. Elliott stated that the applicant is entitled to move this business to the new location and expand by up to 10% without coming to the Zoning Commission. The applicant would like to expand more than 10%, which means he needs to have an Exception approved for the business. In the context that this would be a new Special Exception that is being applied for, the Zoning Commission has a responsibility to ask about the considerations that are in the Regulations.

Mr. Elliott questioned what the need for the proposed use was. He questioned if the applicant was expecting to attract more customers because of the new location. Mr. Oliveira stated that because the new location will be visible from Route 189, he expects to attract more customers, which would increase the sales. Also, the new location would be bigger, which would allow him to offer more of a selection and variety to his customers. He stated that also, this location has more parking.

Regarding the existing and future character of the neighborhood, Mr.

Elliott questioned if there would be any implications to the neighborhood. Mr. Oliveira stated that he feels this will be good for Tariffville because there is a bus stop at the existing location, which residents are not happy about. The feedback he has gotten from residents is that the new location is a good thing.

Mr. Elliott questioned if there were any references to traffic implications. Mr. Oliveira stated that although he expects to increase sales, he does not believe there will be much more traffic than what is currently there now.

Mr. Pabich questioned where deliveries to the store would be made. Mr. Oliveira stated that deliveries would be made on the side of the building directly into the storage room.

Mr. Delehanty read a letter from Brian Hall, Mr. Oliveira's landlord, into the record. The letter stated that Mr. Oliveira is an excellent and clean tenant and has always paid his rent on time.

John Nagy, 3 Red Hill, stated that moving and enlarging this store would be good for the Town. He feels that getting the store off of Winthrop Street will also be an improvement.

b. Application of the Town of Simsbury for an Amendment to Article Five, Section J., Paragraph 6 of the Town's Zoning Regulations.

Mr. Peck stated that the Town Attorney commented on this application at the last meeting. There have not been any changes since that last discussion.

Mr. Delehanty stated that they are removing the regulation saying that construction must be started within a year, the result of which the Town will be defaulting to the State Statute, which provides a 5 year sunset on the approval. Attorney DeCrescenzo stated that given the nature of a CCRC-type project and the State approvals required, it is virtually impossible to start construction within one year of the approvals because there are State requirements. He stated that this is not limited to a CCRC project; it is for any large project.

Mr. Pabich stated, that although he is agreement with this, he questioned why there is no mention of the 5-year timeframe in addition mentioning the General Statute. Attorney DeCrescenzo stated that this is for the ease of reading the Ordinance. Also, the reason the 5-years is not stated is because if State Statute 8-3i were to be amended, the Regulations would also have to be amended.

Mr. Elliott stated that he sees the value in alignment with the State Statutes, although the Statutes do not regulate when a project starts; it

sets a time limit for completion. Setting a start date is very unusual and unnecessary. Attorney DeCrescenzo urged the Commission not to set a different standard than the State Statute because then the Regulation would be in conflict with the Statute.

There was no one from the public who wished to speak regarding this application.

Ms. Gilkey made a motion to close the public hearing. Mr. Elliott seconded the motion, which was unanimously approved.

V. PRESENTATION(s)

a. Application of Paulo R. Oliveira, Owner, for a Site Plan Amendment and Signage on property located at T-Ville Wines & Spirits, 41-45 Main Street. B-1 Zone.

Mr. Peck stated that the Commission should only act on the Site Plan as presented with the exclusion of the signage.

VI. DISCUSSION AND POSSIBLE VOTE ON ANY AGENDA ITEM

Mr. Elliott made a motion to approve the application of Paulo R. Oliveira, Owner, for a Special Exception, pursuant to Article Ten, Section H.4 of the Simsbury Zoning Regulations for an increase in the gross floor area on property located at T-Ville Wines & Spirits, 41-45 Main Street. B-1 Zone as submitted based on the fact that this meets the standards in the Regulations. Mr. Pabich seconded the motion, which was unanimously approved.

Ms. Gilkey made a motion to approve the application of the Town of Simsbury for an Amendment to Article Five, Section J., Paragraph 6 of the Town's Zoning Regulations deleting the requirement that an approved Site Plan shall be void if construction is not started within one year of the date of its approval by the Zoning Commission. Mr. Needham seconded the motion, which was unanimously approved.

Ms. Gilkey made a motion to approve the application of Paulo R. Oliveira, Owner, for a Site Plan Amendment on property located at T-Ville Wines & Spirits, 41-45 Main Street. B-1 Zone. Mr. Pabich seconded the motion, which was unanimously approved.

VII. OTHER MATTERS AS MAY PROPERLY COME BEFORE THE COMMISSION

Status of Charrette Process

Mr. Peck stated that he is still working on putting together the grants that the Town anticipates coming in to add to the existing money. They are also trying to get something to go forward from each of the possible consultants to find out how much the Town will get for their money. He stated that the Town currently has \$40,000 that is allotted for this Charrette; the Town will be notified within the next several weeks whether they will get one or more of the grants that have been submitted.

Report from Zoning Enforcement Officer, Howard Beach

Mr. Peck stated that several months ago, this Commission discussed an Ordinance which revised the language so the Town could levy fines on a daily basis for violations of signs. He stated that this has been sent to the Board of Selectmen. They will be setting a public hearing date for this at their next meeting.

VIII. ADJOURNMENT

Ms. Gilkey made a motion to adjourn the meeting at 8:00 p.m. Mr. Elliott seconded the motion, which was unanimously approved.

Garrett Delehanty, Jr., Secretary