

From: Lois Laczko December 12, 2011 12:43:59 PM  
Subject: Zoning Commission Minutes 11/21/2011 ADOPTED  
To: SimsburyCT\_ZoningMin  
Cc:

#### ZONING COMMISSION REGULAR MEETING - MINUTES - 11/21/11

##### I. CALL TO ORDER

James Gallagher, Chairman, called the regular meeting for the Zoning Board to order at 7:05PM on Monday, November 21, 2011 in the Main Meeting Room of the Simsbury Town Offices. The following members and alternates were present: Edward Pabich, Bruce Elliott, Amy Salls, Robert Pomeroy, Madeleine Gilkey and David Ryan. Others in attendance included Hiram Peck, Director of Planning, Leslie Faraci, Clerk and other interested parties.

##### II. APPOINTMENT OF ALTERNATES

Commissioner Gallagher appointed Commissioner Ryan as the alternate for Commissioner Vaughn.

##### III. APPROVAL OF MINUTES - October 17, 2011

Commissioner Elliott moved to approve the minutes of October 17, 2011 with a change he presented. The motion was seconded by Commissioner Pabich and passed unanimously.

##### IV. APPROVAL OF ZONING COMMISSION'S 2012 REGULAR MEETING SCHEDULE

The Commission discussed the proposed calendar prior to the vote and agreed that it would be best to move the meeting originally for September 17, 2012 (Rosh Hashanah) to the week before, September 10, 2012.

Commissioner Pabich moved to approve the Regular Meeting Calendar, containing one change of moving the originally scheduled September 17th meeting, to September 10th. The motion was seconded by Commissioner Pomeroy and passed unanimously.

##### V. SUBSTITUTIONS FOR DRAKE HILL PLAZA PEDESTRIAN LIGHTING

Mr. Peck gave a brief history of this situation to the Commission and told them what was going to be presented by the Design Review Board after Grove Capital, LLC had a chance to give his presentation.

Steve Walker of Grove Properties addressed the Commission and said the scale for the fixture they had originally chosen, for some lighting at

Drake Hill Plaza, was decided to be too large and there was an issue with the color. After some review, they decided that the acorn-style lighting would be better suited for this particular property, rather than the four-sided, lantern-style lighting that is currently on Hopmeadow Street. Mr. Walker said they worked with Apex Lighting in choosing the best light for the property. Mr. Walker sighted some issues with light shining into the storefronts which, he says, would be remedied by switching from the originally planned light to the acorn-style light. Mr. Walker distributed photos of similar acorn lights located throughout Town, sighting his to be consistent with others in Simsbury. Mr. Walker said they did try to communicate, via email, with the Town in order to make them aware of their intention to switch light fixtures from the originally approved lights.

Bruce Sawyer, Construction Manager at Grove Properties, told the Commission he spoke with Dale Koffler, architect, regarding the Town of Simsbury Design Guidelines and Mr. Sawyer said the acorn lights they chose were more appropriate for the property.

Commissioner Pabich then clarified that they were speaking about a secondary layer of lighting that was strictly for pedestrian lighting, which Mr. Walker confirmed was true.

Silvia Perdakis, Apex Lighting Solutions, reviewed the levels of lighting for the Commission. She highlighted the difference between the light given off by the four-sided lantern and the acorn lantern, and she explained that the acorn lantern gives off a better light for the pedestrian walkways.

Commissioner Elliott asked Ms. Perdakis if she was familiar with the Design Guidelines, which she was not. He then asked her if the acorn light was in the same family as the light that was specified within the Design Guidelines, to which she replied, no, they are not in the same family. Commissioner Elliott then asked if the lights had been specifically noted in the originally approved plans, to which Mr. Walker replied, yes, the four-sided lights were the lights that were planned and approved. Commissioner Pomeroy said while, they acorn lights are not offensive and are consistent with other fixtures in Town, there was clearly a lack of communication and this could be looked at fresh and essentially be a retro-active site plan approval or they say they have to be replaced. Commissioner Gallagher said his idea would be to insert speed bumps in the property and leave the lights alone, as there is a dangerous situation with the cars driving through the parking lot too quickly. He continued by saying that it was wrong what Grove Properties did, but he cannot see making them take the lights down. Commissioner Gilkey told Mr. Walker that what they did was wrong, but the lights are not offensive in style, so she would also be in favor of subjecting a fine in the form of making them putting in speed bumps, as Commissioner Gallagher previously suggested.

Commissioner Ryan then also said it would be tough to make them replace them, as the lights are fine and it was hopefully an honest mistake. Commissioner Salls said she would like to hear from the Design Review Board prior to making an opinion on the topic. Commissioner Elliott then asked Mr. Peck if there were a process and where it broke down in this case. Mr. Peck said there were a series of missteps in this case, but that in general, they do have a set approval process to avoid these kinds of mistakes. In this particular case, Mr. Peck said, the plans presented were originally approved and then the email, previously reference by Mr. Walker, did not contain the project name and contained a subject that was of something completely unfamiliar to them, and therefore was not given any attention or followed up on. Typically, someone would contact them to say they wanted to make a change, Mr. Peck said, and in this case, that did not happen, as the email did not cause them to take notice and address the request. Mr. Peck said that form is important and there are Design Guidelines for a reason, so they would like to make sure the Guidelines are given the proper respect. Mr. Peck then said he does not have a specific recommendation, but that clearly this type of situation needs to be avoided going forward.

Emil Dahlquist, Chairman of Design Review Board, addressed the Commission said he was surprised and disappointed by what happened in this particular case. Mr. Dahlquist explained how the Design Guidelines were formed to create uniformity and continuity, and the Town adopted these Guidelines. He said that the lantern style fixtures, which were originally in the approved plans, are much more in keeping with the Town's aesthetic, as the acorn-style lights are more urban in look and feel, more appropriate for West Hartford, for example. He said the original submission was for the lantern-style, which followed the guidelines and therefore did not cause for any further discussion. Mr. Dahlquist said he was contacted after the acorn lights had been installed. Mr. Dahlquist then described the sequence of events that followed in terms of the communication between the Town and Grove Properties. Mr. Dahlquist said that while there are some acorn-style light fixtures in Town, they are older and there is no intention to put more of them up going forward and some are actually being replaced by the current standard of lantern-style fixtures. Mr. Dahlquist said he was concerned that by letting Grove Properties keep the acorn lighting fixtures up, the Commission would be setting a bad precedence for future developers essentially saying that they can do whatever they want, regardless of Town Guidelines. Mr. Dahlquist then showed how the light could be modified by just replacing the fixture on top and keeping the pole. He said he was not sure what the cost would be, as his questions to Apex Lighting were not answered.

Commissioner Pomeroy noted that the three (3) lights lining the driveway in from Hopmeadow Street are the ones that are most contiguous to Hopmeadow

Street, so a compromise might be to replace those three (3) light fixtures. Commissioner Pomeroy said that would be his suggestion.

Commissioner Salls said she still wants to hear what the cost would be to replace the fixtures, so she can make a decision.

Commissioner Pabich said his position is; while a wrong was done, he also wants to take into consideration that there are many acorn fixtures around Town. That being said, Commissioner Pabich noted that he wanted to send a message that Guidelines do need to be followed while at the same time, not discouraging future developers by acting too severely. Commissioner Pabich said he would agree with Commissioner Pomeroy's previous suggestion.

Commissioner Elliott said that if the original plan had included these lights, the plan would not have been approved, so why should the Commission now turn their heads and allow it to happen. He said that the Guidelines need to be followed and it sends a bad message to allow them to keep the acorn lights.

Commissioner Ryan asked Mr. Peck's input in terms of specificity of certain details that the Commission can require. Mr. Peck said that the plan showed a specific light, the plan was approved and those lights were expected to be used as presented, so there was no ambiguity. Commissioner Ryan said he does not think it is a severe enough design change, and Commissioner Pomeroy's suggestion sounds reasonable.

Mr. Bill Selig, Owner Bill Selig Jewelers (tenant in Drake Hill Plaza), told the Commission he was here on behalf of the Landlord, Grove Properties. Mr. Selig said the changes at the Drake Hill Plaza are all positive, which in turn, is good for the Tenants and a service to the overall community. Mr. Selig said, in his opinion, he did not think the lantern-style lights were appropriate for this project. Mr. Selig said that the Plaza looks beautiful and the Owners should not be put through this process, even though they were wrong to go ahead with the change without notifying the Town.

The decision options were discussed amongst the Commission members.

Commissioner Pomeroy moved that the Commission require Grove Capital, LLC to replace the tops of the three (3) lights, (specific model of replacement being subject to approval by Hiram Peck) that are located along the main driveway and allow the other nine (9) lights to remain. The motion was seconded by Commissioner Ryan and was passed five (5) to one (1), Commissioner Elliott opposed.

## VI. PUBLIC HEARING(s)

Commissioner Pabich then read into record the following legal notice:

The Zoning Commission of the Town of Simsbury will hold a Public Hearing at a Regular Meeting on Monday, November 21, 2011 at 7:00PM in the Main Meeting Room at the Simsbury Town Offices, 933 Hopmeadow Street, Simsbury, Connecticut on the following:

To hear public comment and to consider adoption, of the proposed amendments to the Town of Simsbury's Zoning Regulations under:

Article Two, Establishment of Districts and Provision for Official Zoning Map

Article Five, General Provisions

Article Six, Prohibited Uses

Article Seven, Permitted Uses

Article Eight, Height and Area Requirements

At this hearing interested persons may appear and be heard and written communications will be received. A copy of the above is on file in the Office of the Town Clerk, 933 Hopmeadow Street, Simsbury, Connecticut for public inspection.

Commissioner Gallagher then invited the public audience to address the Commission. Commissioner Pabich then said that since the Town Attorney's comments had not yet been incorporated, they did not think the Commission would be able to vote on the changes tonight.

Mr. Peck then let the Commission and the public know that a copy of the proposed draft was sent to Capitol Region Council of Governments (CRCOG) and receipt was acknowledged. The comment from CRCOG was as follows; "Staff of the Regional Planning Commission of CRCOG has reviewed this referral and finds no apparent conflict with regional plans and policies or the concerns of neighboring towns." Mr. Peck said that if changes are substantial, a re-notice will be made to CRCOG.

Mr. Elliott noted that the legal notice did not include Article 4, which Mr. Peck said was an oversight.

Richard Wagner, 52 Old Farms Road, addressed the Commission first regarding the definition of "Boarding House" and said he does not think the definition listed was adequate and it was overly broad. Next Mr. Wagner said, with regards to Article 5, Section B1, there needed to be more detail with regards to the storage language. Article 5 Section H, Mr. Wagner said he had an issue with the wording of this section, noting it would prevent certain businesses from having music outside of their store. Article 7 Section C.1, Mr. Wagner questioned the replacement of "Planning" with

“Zoning”. Then Mr. Wagner said with regards to Article 7, Section F.1, he had an issue with the language saying it would disqualify potential productive uses that are appropriate for these zones.

Gail Ryan, 20 Westledge Road, addressed the Commission to speak about the changes on Article 7 Section B 6A. Ms. Ryan said the revision will prevent people from being able to have a riding ring who should be allowed to on their horse properties and therefore, will negatively affect the value of these larger parcels. Ms. Ryan assured the Commission that the dust is not an issue and should not be a factor when deciding this change.

Ashley Lane, 135 Old Farms Road, addressed the Commission said he had an issue with most of the changes. Mr. Lane started saying he had an issue with the definition of “Boarding House” and with the “Illegal Storage” section, saying it needed to be more specific. Mr. Lane also mentioned the speakers on the commercial businesses, as Mr. Wagner did, saying they should be allowed to play music outside of their business. There was some confusion over the language that Mr. Lane was looking at and Commissioner Gallagher suggested Mr. Lane go to Town Hall and look at the exact language and come up with a list of his concerns. Mr. Lane then asked about the “No Roosters or Peacocks allowed” language saying he likes the way roosters sound. Mr. Lane said he supports Ms. Ryan previous comments regarding the riding rings. Mr. Lane said the language in Article 7, Section F.1 was too vague. Mr. Lane then had an issue with the language within Article 8, Section B15.

#### VII. OTHER MATTERS AS MAY PROPERTY COME BEFORE THE COMMISSION

Mr. Peck said the consultants, on the Town Center Design Guidelines, will be in town and conducting focus groups on December 6th. On December 7th, Mr. Peck said, there will be a de-briefing for the Land Use Commissions prior to the consultants leaving town.

Mr. Peck said there was going to be a formal groundbreaking ceremony for the Dorset Crossing project on November 30th at 11:00AM

Mr. Peck then said he submitted the Town Center Code to the CT Chapter of the American Planning Association and have been given the Implementation Award for the Code.

Commissioner Gallagher thanked the Commission for working with him throughout the years and thanked Commissioner Elliott and Commissioner Gilkey for their service. Then Commissioner Pabich thanked everyone for their service and for the professionalism throughout their terms.

#### VIII. ADJOURNMENT

Commissioner Ryan moved to adjourn the Regular Meeting of the Zoning Commission at 9:00 PM. The motion was seconded by Commissioner Pomeroy and passed unanimously.

Respectfully submitted,

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Edward J. Pabich, Secretary